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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code sections 2B.5A and 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay or suspension imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

Aging, Department on[17]

Replace Analysis
Replace Chapters 1 and 2
Replace Chapter 4
Replace Chapter 6
Replace Chapter 8
Replace Reserved Chapter 9 and Chapter 10 with Reserved Chapters 9 and 10
Replace Chapters 22 and 23

Utilities Division[199]

Replace Analysis
Replace Chapter 21

State Public Defender[493]

Replace Analysis
Replace Chapter 7
Replace Chapters 12 and 13

Environmental Protection Commission[567]

Replace Chapter 65

AGING, DEPARTMENT ON[17]

Prior to 5/20/87, see Commission on the Aging[20]
Delay: Effective date (June 24, 1987) of Chapters 1 to 18 delayed 70 days pursuant to Iowa Code section 17A.4(5) by the Administrative Rules Review Committee at their June 9, 1987, meeting.
[Prior to 1/27/10, see Elder Affairs Department[321]]

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CHAPTER 1
INTRODUCTION, ABBREVIATIONS AND DEFINITIONS

[Prior to 5/20/87, see Aging, Commission on the[20] Ch 1]
[Prior to 1/27/10, see Elder Affairs Department[321] Ch 1]

17—1.1(231) Authority and purpose. The rules of the Iowa department on aging are based on the authority of Iowa Code chapters 231, 231E, 235B and 249H. These rules prescribe requirements:

1. That agencies shall meet to receive grants under the Older Americans Act and other funds administered through the Iowa department on aging;
2. For planning, administration and service delivery for the department as well as the area agencies on aging;
3. Of the department's fiscal policy;
4. To request waivers or variances from administrative rules;
5. For monitoring, complaint investigation and penalties for programs under the department's jurisdiction; and
6. For operation, administration and planning of the long-term care resident's advocate/ombudsman office and other entities under the department's purview which assist in ensuring quality care and protection of Iowa's older individuals.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10]

17—1.2(231) Other regulations and order of precedence. These agency rules are based on the following federal and state regulations that are listed in the order of precedence which shall prevail in the event of conflicting or inconsistent requirements:

1. Older Americans Act of 1965.
2. Code of Federal Regulations, 5 CFR 900, Subpart F, August 14, 1979; 7 CFR 250, January 9, 1985; 28 CFR 89, March 2, 1976; 45 CFR Parts: 74, June 7, 1981; 80, December 4, 1964; 81, November 7, 1971; 84, May 4, 1977; 90, June 12, 1979; and 1321, April 1, 1985.
3. Federal Administration on Aging policy issuances and administration on aging program instructions.
4. Iowa Code chapter 231 and other Iowa Code chapters as given in 17—1.1(231) and other chapters as determined by the Iowa legislature.
5. Administrative rules published in the Iowa Administrative Code, promulgated under agency number 17.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 1532C**, IAB 7/9/14, effective 8/13/14]

17—1.3(231) Applicability. The rules set forth in the chapters under the jurisdiction of the department on aging apply to all grants awarded to any recipient through the department and to any entities regulated by the department. Compliance with these rules shall be mandatory, unless a waiver is granted in accordance with the procedure in 17—Chapter 11.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10]

17—1.4(231) Abbreviations. Abbreviations used in rules under agency number 17 are as given below unless defined and used differently in various chapters under the department's jurisdiction:

"AAA" means Area Agency on Aging, singular or plural dependent on context.

"AOA" means the Administration on Aging, the federal agency established to administer the provisions of the Act.

"CFR" means the Code of Federal Regulations.

"CMPFE" means the case management program for the frail elderly as provided in Iowa Code section 231.23A.

"DIA" means the department of inspections and appeals established in Iowa Code chapter 10A.

"IADL" means instrumental activities of daily living.

"IDA" means the Iowa department on aging established in Iowa Code chapter 231.

"NAPIS" means the National Aging Program Information System, the data collection and assimilating process used for preparation of the annual uniform state performance report under the OAA.

"OAA" means the Older Americans Act.

"RDA/AI" means recommended daily allowances/adequate intakes for purposes of nutrition standards.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 1532C**, IAB 7/9/14, effective 8/13/14]

17—1.5(231) Definitions. Words and phrases used in rules under agency number 17 are defined as below unless defined and used differently in the various chapters under the department's jurisdiction. The appearance of an acronym after a defined term indicates that the definition was taken from that source.

"Access" means the term described in Iowa Code section 231.42 and includes access to long-term care facilities, assisted living programs, elder group homes, residents, tenants, medical records, social records, and administrative records.

"Accessible" means without physical, cultural, financial, or psychological barriers to service.

"Act" or "federal act" or *"OAA"* means the Older Americans Act, 42 U.S.C. § 3001 et seq.

"Administration costs" means all direct and indirect costs incurred by a grantee in managing a grant, including but not limited to all audit and board expenses incurred in the support of an area agency on aging director.

"Administration on Aging" or *"AOA"* means the federal agency established to administer the provisions of the Act.

"ADRC coordination center" means an entity designated by the department that carries out duties and functions as mandated in rule promulgated by the department.

"ADRC local access point" means an entity designated by an ADRC coordination center that carries out duties and functions as mandated in rules promulgated by the department.

"Aggrieved party" means an individual or organization that alleges that the individual's or organization's rights have been denied by action of the department, AAA or AAA subcontractor.

"Aging and disability resource center" or *"ADRC"* means the same as "Aging and Disability Resource Center" as defined in the federal Act.

"Area agency on aging," "area agency" or *"AAA"* means the grantee agency(ies) designated by the commission in a planning and service area to develop and administer the multiyear area plan for a comprehensive and coordinated system of services for elders and to carry out the duties specified in Iowa Code chapter 231 and rules promulgated by the department on aging. These terms may be interpreted as either singular or plural form as determined by context.

"Area plan" or *"multiyear area plan"* means a document that is developed in accordance with forms or in a format prescribed by the department and that is submitted to the department every two to four years, with annual updates, by an AAA in order to receive federal funding and other support through the department.

"Civil penalty" means a civil money penalty not to exceed the amount authorized under Iowa Code section 231.42.

"Cognitive disorder" means a disorder characterized by cognitive dysfunction presumed to be the result of illness that does not meet criteria for dementia, delirium, or amnestic disorder.

"Complaint" means a report of an alleged violation of requirements of federal and state laws, rules or regulations, or a report of practices and procedures related to admission or to an individual's entitlement to care and services under federal and state laws and regulations.

"Comprehensive and coordinated system" means a system for providing all necessary supportive services, including nutrition services, in a manner designed to:

1. Facilitate accessibility to and utilization of all supportive and nutrition services provided within the geographic area served by the system by any public or private agency or organization.
2. Develop and make the most efficient use of supportive services and nutrition services to meet the needs of older individuals with a minimum of duplication.
3. Use available resources efficiently and with a minimum of duplication; and

4. Encourage and assist public and private entities that have unrealized potential for meeting the service needs of older individuals to assist the elders on a voluntary basis.

"Continuum of care" means a full range of economic, physical, psychological, social and support programs and services necessary to maintain or restore older individuals to their optimal environment.

"Contract" means an agreement between two or more persons which creates an obligation to do or not to do a permissible or an impermissible action. Its essentials are competent parties, subject matter, legal consideration, mutuality of agreement and mutuality of obligation.

"Dementia" means an illness characterized by multiple cognitive deficits which represent a decline from previous levels of functioning and include memory impairment and one or more of the following cognitive disturbances: aphasia, apraxia, agnosia, and disturbance in executive functioning.

"Dementia-specific" means a program certified under the law and regulations governing the particular program which either serves five or more persons with dementia between Stages 4 and 7 on the Global Deterioration Scale or holds itself out as providing specialized care for persons with a cognitive disorder or dementia, such as Alzheimer's disease, in a dedicated setting.

"Dietitian" or *"licensed dietitian"* means a person who maintains a license granted by the Iowa board of dietetic examiners.

"Direct costs" means those costs that can be identified specifically with a particular final cost objective.

"Disability" (OAA) means (except when such term is used in the phrase "severe disability," "developmental disabilities," "physical and mental disability," "physical and mental disabilities," or "physical disabilities") a disability attributable to mental or physical impairment, or a combination of mental or physical impairments, that results in substantial functional limitations in one or more of the following areas of major life activity: (1) self-care, (2) receptive and expressive language, (3) learning, (4) mobility, (5) self-direction, (6) capacity for independent living, (7) economic self-sufficiency, (8) cognitive functioning, and (9) emotional adjustment.

"Elder abuse" (OAA) means abuse, neglect, or exploitation of an older individual (elder) including the willful:

1. Infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or

2. Deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.

"Eligible individual" means any person who meets the federal definition of this term for the program being utilized.

"Exploitation" (OAA or 235B; dependent on the rule content, the source of the appropriate definition will be referenced in the individual chapter) means:

1. (OAA) The illegal or improper act or process of an individual, including a caregiver, using the resources of an older individual for monetary or personal benefit, profit, or gain; or

2. "Exploitation" as defined in Iowa Code chapter 235B.

"Fiscal year" or *"FY"* means the state fiscal year, July 1 through June 30, numbered according to the year in which the fiscal year ends.

"Focal point" means a facility established to encourage the maximum collocation and coordination of services for older individuals.

"Frail" (AOA Title III-D) means having a physical or mental disability, including Alzheimer's disease or a related disorder with neurological or organic brain dysfunction, that restricts the ability of an individual to perform normal daily tasks or that threatens the capacity of an individual to live independently.

"Grantee" means the legal entity to which a grant is awarded and which is accountable to the department for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the award document. The term "grantee" does not include any secondary recipients such as subgrantees or subcontractors that may receive funds from a grantee pursuant to a grant.

"Greatest economic need" means the need resulting from an income level at or below the official poverty line.

"Greatest social need" means the need caused by noneconomic factors, which include physical and mental disabilities, language barriers, and cultural, geographic or social isolation including isolation caused by racial or ethnic status, that restrict an individual's ability to perform normal daily tasks or that threaten the older individual's capacity to live independently.

"Grievance" means a report of an administrative action alleged to affect tenants or participants in an adverse manner.

"Indirect costs" means those costs that are: (1) incurred for a common or joint purpose benefiting more than one cost objective, and (2) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved.

"In-home services" means:

1. Services of homemakers and home health aides;
2. Visiting and telephone reassurance;
3. Chore maintenance;
4. In-home respite care for families, and adult day care as a respite service for families;
5. Minor modification of homes that is necessary to facilitate the ability of older individuals to remain at home and that is not available under another program (other than another program carried out under the Act);
6. Personal care services; and
7. Other in-home services as defined by the IDA in the state plan submitted in accordance with Section 307 of the Act and by the AAA in the area plan submitted in accordance with Section 306 of the Act.

"Instrumental activities of daily living" or *"IADL"* means those activities that reflect the older individual's ability to perform household and other tasks necessary to meet the older individual's needs within the community, which may include but are not limited to shopping, housekeeping, chores, and traveling within the community.

"Legal assistance" means provision of legal advice, counseling and representation by an attorney or other person acting under the supervision of an attorney.

"Local sources" means the equivalent cash value of third-party in-kind contributions (e.g., property or services which benefit a grant-supported project or program and which are contributed by nonfederal third parties without a charge to the grantee or subgrantee under the grant or subgrant) and cash resources, or both, made available by local sources (e.g., local public funds, other local cash, and program income) representing that portion of the costs of a project or program receiving funds from state appropriations.

"National Aging Program Information System" or *"NAPIS"* means the reporting system in which the Older Americans Act requires participation by providers receiving funding from the provisions of the Act.

"Neglect" (OAA) means the failure:

1. To provide for oneself the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness; or
2. Of a caregiver to provide the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.

"Nurse-delegated assistance" means those delegated tasks or activities for which a professional nurse has assumed responsibility for assessing, planning, implementing, or evaluating, and for which the nurse remains legally accountable.

"Nutrition Services Incentive Program" or *"NSIP"* means the Nutrition Services Incentive Program established under the Older Americans Act.

"Older Americans Act" or *"OAA"* means the same as "Act" defined herein.

"Options counselor" means the person(s) responsible for providing the service of options counseling.

"Person" means the same as that defined in Iowa Code section 4.1(20).

"Planning and service area" or *"PSA"* means a geographic area of the state that is designated by the commission for purposes of planning, development, delivery and overall administration of services under a multiyear area plan. "PSA" may be interpreted as either singular or plural dependent on context.

"Plan of correction" means a plan developed by an area agency on aging and approved by the department which describes the actions the area agency on aging shall take to correct deficiencies arising from the agency's failure to perform and specifies the date by which those deficiencies shall be corrected.

"Priority services" means access services (including case management, transportation, outreach, and information and assistance), in-home services, and legal assistance services.

"Program income" or *"contributions"* means gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award. Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under state-funded or federally funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds. Except as otherwise provided in the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, or discounts or interest earned on any of them. Furthermore, program income does not include taxes, special assessments, levies, and fines raised by governmental recipients.

"Provider" means any person, company, firm, association or other legal entity that provides services as delineated in any chapter under agency number 17.

"Public or private nonprofit service provider" means any government agency or private organization certified to be nonprofit by the U.S. Internal Revenue Service or an agency which was established pursuant to Iowa Code chapter 28E or chapter 504A and is composed solely of public agencies or governmental units as defined in those chapters.

"Routine" means regular, customary or not occasional or intermittent.

"Therapeutic diet" means meals served that are soft, low-fat, low-sodium or controlled calorie.

"Title III" means Title III of the federal Act for state and community programs on aging.

1. "Title III-B" means requirements and funding for supportive services.
2. "Title III-C" means requirements and funding for nutrition services.
3. "Title III-C(1)" means requirements and funding for congregate nutrition services.
4. "Title III-C(2)" means requirements and funding for home-delivered nutrition services.
5. "Title III-D" means requirements and funding for disease prevention and health promotion.
6. "Title III-E" means requirements and funding for the National Family Caregiver Support program.

"Title V" means Title V of the federal Act for the Senior Community Service Employment Program for Older Americans.

"Title VII" means Title VII of the federal Act for allotments for vulnerable elder rights protection activities.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 0619C**, IAB 3/6/13, effective 4/10/13; **ARC 0742C**, IAB 5/15/13, effective 6/19/13; **ARC 1532C**, IAB 7/9/14, effective 8/13/14; **ARC 4874C**, IAB 1/15/20, effective 2/19/20]

These rules are intended to implement Iowa Code chapters 231, 231B, 231C, 231D, 235B and 249H.

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[2] Two ARCs

CHAPTER 2
DEPARTMENT ON AGING

[Prior to 1/27/10, see Elder Affairs Department[321] Ch 2]

17—2.1(231) Mission statement. The mission of the department on aging is to develop a comprehensive, coordinated and cost-effective system of long-term living and community support services that help individuals maintain health and independence in their homes and communities.
[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 0621C**, IAB 3/6/13, effective 4/10/13]

17—2.2(231) Definitions. Words and phrases as used in this chapter are as defined in 17—Chapter 1 unless the context indicates otherwise.
[**ARC 8489B**, IAB 1/27/10, effective 1/7/10]

17—2.3(231) Department established.

2.3(1) *Authority.* The Iowa department on aging is established by Iowa Code chapter 231 and is the sole state agency responsible for administration of the federal Act.

2.3(2) *Contact information.* General correspondence, inquiries, requests for information or assistance, complaints, or petitions may be sent to or obtained from the following sources:

a. By mail addressed to: Director, Iowa Department on Aging, Jessie Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319;

b. By telephone at (515)725-3333 or 1-800-532-3213; or

c. From the website at www.iowaaging.gov.

2.3(3) *Business hours.* Business hours for the department are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays established by the state executive council.
[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 2048C**, IAB 6/24/15, effective 7/29/15]

17—2.4(231) Director. Rescinded **ARC 2048C**, IAB 6/24/15, effective 7/29/15.

17—2.5(231) Organizational units of the department. The department's activities are performed by employees within the office of the director and two divisions. Grants will be managed by the appropriate division, dependent upon the source and intended use of funds.

2.5(1) *Office of the director.* The office of the director may be comprised of the director, the assistant director, the state long-term care ombudsman, the policy coordinator, the public information officer, and other personnel. This office is responsible for the overall planning, policy, management and operations of the department.

2.5(2) *Division of programs, planning, and administration.* The responsibilities of the division of programs, planning, and administration include the development and operation of home- and community-based programs, development of program and operational budgets, providing leadership and direction for the integration of policy development, ensuring that policies are consistent with department goals and results, and accounting and administrative control of appropriation expenditures.

2.5(3) *Office of the state long-term care ombudsman.* The responsibilities of the state long-term care ombudsman include development, administration, and operation of the program and allocated budget to provide advocacy for individuals residing in long-term care.
[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 0621C**, IAB 3/6/13, effective 4/10/13; **ARC 2048C**, IAB 6/24/15, effective 7/29/15; **ARC 3713C**, IAB 3/28/18, effective 5/2/18]

17—2.6(231) Staffing. Rescinded **ARC 2048C**, IAB 6/24/15, effective 7/29/15.

17—2.7(231) Discrimination. Rescinded **ARC 2048C**, IAB 6/24/15, effective 7/29/15.

17—2.8(231) Affirmative action plans. Rescinded **ARC 2048C**, IAB 6/24/15, effective 7/29/15.

17—2.9(231) Department complaint and appeal procedures.

2.9(1) *Aggrieved party identified.* An aggrieved party is any agency, organization, or individual that alleges that the party's rights have been denied or that services provided were not in compliance

with regulations or were substandard because of an action of the department, the commission on aging, an AAA, an AAA subcontractor, or a Senior Community Service Employment Program (SCSEP) subgrantee.

2.9(2) *Complaints or appeals to the department from the AAA or SCSEP subgrantee level.*

a. Except in cases where an AAA is acting in its capacity as a Medicaid provider, complaints at the AAA or SCSEP subgrantee level by any aggrieved party shall be heard first by the AAA or SCSEP subgrantee using the AAA's or SCSEP subgrantee's procedures.

b. Local complaint procedures of an AAA or AAA subcontractor or SCSEP subgrantee shall be exhausted before the department on aging is contacted.

2.9(3) *Requests for an informal review or a contested case hearing.*

a. *Informal review.* An aggrieved party or a party appealing an AAA-level or SCSEP subgrantee-level decision has 30 calendar days from receipt of written notice of action from the AAA, the SCSEP subgrantee, or the department to request an informal review by the department or a contested case hearing.

(1) Any person who desires to pursue an informal settlement of any complaint may request a meeting with appropriate department staff. The request shall be in writing and shall be delivered to the Director, Department on Aging, Jessie M. Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319.

(2) The request must contain the subject matter(s) of the complaint and an explanation of all steps taken to resolve the matter prior to requesting an informal review.

(3) Upon receipt of the request for informal review, all formal contested case proceedings, if begun, are stayed.

(4) The department may, as a result of the informal review, negotiate a settlement of the complaint or, if appropriate, may send the matter back to the AAA or SCSEP subgrantee for reconsideration.

(5) Parties desiring informal settlement shall set forth in writing the various points of a proposed settlement, which may include a stipulated statement of facts.

(6) When signed by the parties to a controversy, a proposed settlement shall represent final disposition of the matter in place of contested case proceedings, which shall be terminated.

(7) If the parties are unable to reach agreement during the informal review, the matter may, if requested, be handled by the department as a request for a contested case proceeding under Iowa Code chapter 17A and 17—Chapter 13.

(8) A proposed settlement which is not accepted or signed by the parties shall not be admitted as evidence in the record of a contested case proceeding.

b. *Contested case proceeding.*

(1) Within 15 calendar days of receipt of a request for a contested case hearing, the department shall initiate a contested case proceeding under 17—Chapter 13.

(2) If the controversy is a matter that is subject to a contested case proceeding under Iowa Code chapter 17A, parties may request a contested case proceeding at the conclusion of an unresolved informal review pursuant to 17—Chapter 13.

2.9(4) *Appeal by applicants denied designation as a planning and service area.* Any applicant for designation as a planning and service area whose application is denied and who has been provided a hearing by the department on aging and has received a written appeal decision by the commission may appeal the denial to the assistant secretary of the Administration on Aging in writing within 30 calendar days of receipt of the commission's decision.

2.9(5) *Judicial review.* A party that seeks judicial review shall first exhaust all administrative remedies as follows:

a. A party shall appeal the decision of the administrative law judge as provided in subrule 2.9(4) and receive a decision from the commission as provided in subrule 2.9(4).

b. Petition for judicial review of the commission's decision shall be filed within 30 calendar days after the decision is issued.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4875C**, IAB 1/15/20, effective 2/19/20]

17—2.10(231) Severability. Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10]

These rules are intended to implement Iowa Code chapter 231.

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CHAPTER 4
DEPARTMENT PLANNING RESPONSIBILITIES

[Prior to 5/20/87, see Aging, Commission on the[20] Chs 3 to 5]
[Prior to 1/27/10, see Elder Affairs Department[321] Ch 4]

17—4.1(231) Definitions. Words and phrases as used in this chapter are as defined in 17—Chapter 1 unless the context indicates otherwise. The following definitions also apply to this chapter:

"Days" means calendar days unless otherwise indicated. If a term refers to a date on which a document or response is due to the department and the due date occurs on a holiday or weekend, then the due date shall be the next business day.

"Entity" means any public or private nonprofit agency or organization or a unit of general purpose local government.

"Indian" means a person who is a member of an Indian tribal organization or recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"Indian tribal organization" means the recognized governing body of any Indian tribe; or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities.

"State plan on aging" means a document developed in accordance with the Older Americans Act that is submitted to the Administration on Aging every two, three or four years, with updates as necessary, in order to receive Older Americans Act grants.

"Unit of general purpose local government" means either (1) the government of a county, municipality, township, metropolitan area, or region within the state recognized for areawide planning that functions as a political subdivision of the state whose authority is general and not limited to only one function or combination of related functions and has a population of 100,000 or more, or (2) an Indian tribal organization.

[**ARC 9863B**, IAB 11/30/11, effective 11/1/11]

17—4.2(231) State plan on aging.

4.2(1) *Authority.* The Iowa department on aging is designated as the sole state unit on aging in Iowa for developing and administering a state plan on aging or state plan amendment pursuant to the federal Older Americans Act. The Iowa commission on aging is designated as the policymaking body of the sole state unit on aging in Iowa and is authorized to approve or disapprove a state plan or state plan amendment developed by the department.

4.2(2) *State plan on aging.* The department shall develop for commission consideration a two-, three-, or four-year state plan on aging in compliance with the Older Americans Act and Iowa Code chapter 231. The department shall develop the state plan on aging in accordance with the procedures and associated instructions, guidance, and direction specified by the Administration on Aging.

4.2(3) *State plan amendment.* The department may, in its discretion, develop and submit to the commission for consideration an amendment to the state plan on aging at any time.

4.2(4) *State plan on aging and state plan amendment review process.* Once the department develops the state plan on aging or state plan amendment, the department shall comply with the following chronological review and comment process:

a. The department shall hold at least one public hearing on the proposed state plan or state plan amendment; and

b. The department shall submit the state plan or state plan amendment to the commission for consideration. The commission shall approve or disapprove the state plan or state plan amendment after reviewing the plan and public comments; and

c. The department shall submit a state plan or state plan amendment approved by the commission to the governor for approval and signature; and

d. The department shall submit a state plan or state plan amendment approved by the governor to the Administration on Aging for approval at least 45 days before the effective date of the state plan or state plan amendment.

4.2(5) *State plan on aging or state plan amendment not approved.* If a state plan or state plan amendment is not approved by the commission, the governor, or the Administration on Aging, the department may, in its discretion, table or revise the proposed state plan or state plan amendment. If the department revises the proposed state plan or state plan amendment, the department shall follow the comment and approval process outlined in subrule 4.2(4).

4.2(6) *Technical changes to state plan on aging.* The commission or the governor may, in either party's discretion, make technical corrections to a submitted state plan or state plan amendment prior to approving it.

[**ARC 9863B**, IAB 11/30/11, effective 11/1/11]

17—4.3(231) Planning and service areas.

4.3(1) *Designation.* The Older Americans Act requires the department to develop a plan dividing the state into distinct planning and service areas and to submit the plan to the commission for consideration.

4.3(2) *Change in designation.* The department may, in its discretion, submit a plan to the commission to change existing planning and service area designations for any of the following reasons:

a. A change or reduction in the number of planning and service areas is mandated by state or federal law;

b. A change occurs in the geographical distribution of older individuals in the state;

c. A change occurs in the incidence of the need for or in the distribution of resources and services outlined in the Older Americans Act;

d. A change occurs in the distribution of older individuals who have greatest economic or social need or who are Indians residing in such areas;

e. A change occurs in the location of units of general purpose local government within the state;

f. A change occurs in the boundaries of existing areas within the state which were drawn for the planning or administration of supportive service programs; or

g. Any other relevant factors as determined by the department.

4.3(3) *Designation requirements for units of general purpose local government.* The department may, in its discretion, recommend to the commission for its consideration designation of any unit of general purpose local government as a planning and service area.

4.3(4) *Process to designate or change planning and service areas.* The department's submission to the commission of a plan to divide the state into distinct planning and service areas or change an existing plan shall be acted upon by the commission only after affected parties have been provided notice and an opportunity to be heard as required by the Older Americans Act.

a. Notice.

(1) The department shall send by certified mail, return receipt requested, a written notice of intent to designate planning and service area boundaries or change existing planning and service area boundaries by mailing said notice to all area agency on aging executive directors and board chairs. The department shall also publish a notice in at least one newspaper of statewide circulation and one newspaper circulated in each county located within the affected planning and service area(s) to provide notice to affected parties, including older individuals, individuals with disabilities, service providers, and units of general purpose local government. Notice shall also be provided by posting the notice on the department's website, www.aging.iowa.gov.

(2) The notice shall document the need to designate planning and service area boundaries or change existing planning and service area boundaries and provide a process for submitting written comments to the department for consideration by the commission.

b. Public hearing.

(1) The department shall hold at least one public hearing to obtain comments and provide information on the plan to designate planning and service area boundaries or change existing planning and service area boundaries within 90 days of providing notice pursuant to paragraph 4.3(4)*"a."*

(2) Information provided by the department at the public hearing shall include, but not be limited to, the proposed planning and service area boundary designations or changes, the reason(s) for the designations or changes, legal authority to designate or change planning and service area boundaries, identification of affected individuals or groups of individuals, and procedures for appealing the proposed planning and service area designations or changes.

(3) Instructions for providing written comments to the department regarding the proposed planning and service area designations or changes shall be provided at the public hearing and shall be posted on the department's website, www.aging.iowa.gov.

4.3(5) *Review of comments.* The department shall review all public comments received and provide a summary for the commission's review.

4.3(6) *Department submission of proposed recommendation to the commission.* The department shall submit to the commission for consideration a proposed recommendation regarding the designation of or change to planning and service areas.

4.3(7) *Commission approval or disapproval of proposed designation of or change to planning and service areas.* The commission may, in its discretion, approve or disapprove the department's proposed recommendation to divide the state into distinct planning and service areas or change existing designations. If the commission disapproves the department's proposed recommendation, the department shall develop an alternate recommendation for commission consideration after notice and an opportunity for public comment as provided in subrule 4.3(4). The commission's final decision shall be posted on the department's website, www.aging.iowa.gov. The commission's final decision is other agency action for the purposes of Iowa Code section 17A.19.

4.3(8) *State appeal of commission decision.* A party aggrieved or adversely affected by the commission's final decision may seek judical review in accordance with Iowa Code section 17A.19. Such party shall serve a copy of the petition for judicial review upon the Director, Department on Aging, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319-9025.

4.3(9) *Federal appeal of commission's decision.* An adversely affected party may appeal, in writing, the commission's decision regarding a planning and service area designation or change to the Assistant Secretary for Aging of the Administration on Aging, Washington, DC 20201, on the basis of the facts and merits of the matter that is the subject of the action or proceeding or on procedural grounds within 30 days of the commission's final decision. Written requests shall state: (1) the decision for which an appeal is being made, and (2) the legal name(s), address(es), telephone number(s), and email address(es) of the individual or entity requesting the appeal. A copy of this request shall also be mailed to the Director, Department on Aging, 510 E. 12th Street, Suite 2, Des Moines, Iowa 50319. All questions regarding the federal appeal process should be addressed to the Assistant Secretary for Aging at the address provided above.

4.3(10) *Official designation.* Official designation of or change to a planning and service area shall not occur until the final disposition of all appeals.

[**ARC 9863B**, IAB 11/30/11, effective 11/1/11]

17—4.4(231) Area agencies on aging.

4.4(1) *Designation.* The department shall designate for each planning and service area an entity to serve as the area agency on aging in accordance with Older Americans Act requirements. The department may, in its discretion, designate one area agency on aging to serve more than one planning and service area.

4.4(2) *Designation requirements for units of general purpose local government.* Whenever the department designates a new area agency on aging after the date of enactment of the Older Americans Act Amendments of 1984 or dedesignates an existing area agency on aging, the department shall give the right of first refusal to a unit of general purpose local government if:

a. The unit of general purpose local government can meet the requirements established to serve as an area agency on aging pursuant to state and federal law; and

b. The unit of general purpose local government's geographical boundaries and the geographical boundaries of the planning and service area are reasonably contiguous.

4.4(3) *Qualifications to serve.* Any entity applying for designation as an area agency on aging must have the capacity to perform all functions of an area agency on aging as outlined in the Older Americans Act and Iowa Code chapter 231.

4.4(4) *Process to designate area agency on aging.*

a. The department shall send by certified mail, return receipt requested, a written notice of intent to designate an area agency on aging by mailing said notice to all area agency on aging executive directors and board chairs. The department shall also publish a notice in at least one newspaper of statewide circulation and one newspaper circulated in each county located within the affected planning and service area(s) to provide notice to affected parties, including older individuals, individuals with disabilities, service providers, and units of general purpose local government. Notice shall also be provided by posting the notice on the department's website, www.aging.iowa.gov.

b. The notice shall provide information regarding the department's intent to designate an area agency on aging and to accept requests for applications to serve as an area agency on aging in the affected planning and service area(s). The notice shall be posted and published at least 60 days prior to the request for application submission deadline.

c. The department shall hold at least one public hearing pursuant to the following process:

(1) The department shall hold at least one public hearing to obtain comments and provide information on the plan to designate an area agency on aging within 90 days of providing notice pursuant to paragraph 4.4(4)*"a."*

(2) Information provided by the department at the public hearing shall include, but not be limited to, the proposed designation, the reasons for designation, legal authority to designate, identification of affected individuals or groups of individuals, and procedures for appeal.

(3) Instructions for providing written comments to the department regarding the proposed designation of an area agency on aging shall be provided at the public hearing and shall be posted on the department's website, www.aging.iowa.gov.

d. Any entity meeting the qualification requirements outlined in the Older Americans Act and Iowa Code chapter 231 may submit an application to serve as an area agency on aging.

e. If an area agency on aging is dedesignated pursuant to rule 17—4.6(231), the department shall use a request for application process to designate a new area agency on aging for the affected planning and service area.

f. The department may, in its discretion, require applicants to submit to an on-site assessment as part of the request for application review process.

4.4(5) *Department submission of proposed recommendation for designation of area agency on aging to the commission.* Following the review of the application(s), the department shall develop and submit to the commission for consideration a proposed recommendation regarding the designation of an area agency on aging for each planning and service area.

4.4(6) *Commission approval or disapproval of proposed designation of area agency on aging.* The commission may, in its discretion, approve or disapprove the department's proposed recommendation to designate an area agency on aging. If the commission disapproves the department's proposed recommendation, the department shall develop an alternate recommendation for commission consideration after notice and an opportunity for public comment as provided in subrule 4.4(4). The final decision shall be made available on the department's website, www.aging.iowa.gov. The commission's final decision is other agency action for the purposes of Iowa Code section 17A.19.

4.4(7) *State appeal of commission decision.* A party aggrieved or adversely affected by the commission's final decision may seek judical review in accordance with Iowa Code section 17A.19. Such party shall serve a copy of the petition for judicial review upon the Director, Department on Aging, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319-9025.

4.4(8) *Official designation.* An entity shall be designated the area agency on aging upon the commission's acceptance of the department's proposed recommendation for designation, the commission's approval of the area agency on aging area plan, and execution of the associated contract

between the department and the area agency on aging. Official designation of an area agency on aging shall not occur until final disposition of all appeals.
[**ARC 9863B**, IAB 11/30/11, effective 11/1/11; **ARC 4876C**, IAB 1/15/20, effective 2/19/20]

17—4.5(231) Continuity of services in the event of appeal of designation. To ensure continuity of services in the affected planning and service area(s) while the commission's final decision regarding designation of an area agency on aging is on appeal, the existing area agency on aging shall provide services unless the department, in its discretion, elects to do any of the following individually or in combination:

1. Temporarily perform the responsibilities of the area agency on aging;
2. Assign the responsibilities of the area agency on aging to any other area agency on aging; or
3. Assign the responsibilities of the area agency on aging to another entity that is in the planning and service area and is competent to provide area agency on aging services.

The department may also submit a written request to the Administration on Aging for an extension of the continuity of services plan pursuant to this rule. The request shall document the need for an extension to provide continuity of services in the affected planning and service area(s) until a successor area agency on aging is designated after appeal.
[**ARC 9863B**, IAB 11/30/11, effective 11/1/11]

17—4.6(231) Dedesignation of area agency on aging.

4.6(1) *Dedesignation.* The department may, in its discretion, initiate action to dedesignate an area agency on aging for any of the following reasons:

a. Substantial violation of grant terms and conditions or requirements and standards set forth in federal and state law or rules promulgated by the department or other agencies having jurisdiction.

b. Inadequate performance of the responsibilities outlined in the Older Americans Act, Iowa Code chapter 231 or department rules or any other law or regulation governing administration, operation and reporting for area agencies on aging.

c. The area agency on aging has been unable or is unwilling to take timely remedial action to correct cited deficiencies within the given time frame established by the department.

d. A change or reduction in the number of area agencies on aging is mandated by state or federal law.

e. A change occurs in the designation of the planning and service area served by the area agency on aging.

4.6(2) *Process to dedesignate an area agency on aging.* The department's submission to the commission of a plan to dedesignate an existing area agency on aging shall be acted upon by the commission only after affected parties have been provided notice and an opportunity to be heard as required by the Older Americans Act.

a. *Notice.*

(1) Notice to existing area agency on aging. The department shall send by certified mail, return receipt requested, a written notice of intent to dedesignate an area agency on aging by mailing said notice to the affected area agency on aging's executive director and board chair. The written notice shall contain the reasons for the proposed dedesignation, the applicable state or federal law(s) or administrative rule(s), and the dedesignation process.

(2) Notice to other affected parties. The department shall provide notice of intent to dedesignate an existing area agency on aging to all other area agencies on aging by mailing notice to their executive directors and board chairs. The department shall also publish a notice in at least one newspaper of statewide circulation and one newspaper circulated in each county located within the affected planning and service area(s) to provide notice to affected parties, including older individuals, individuals with disabilities, service providers, and units of general purpose local government. Notice shall be provided through the department's website, www.aging.iowa.gov. The notice shall document the need to dedesignate an existing area agency on aging and provide a process for submitting written comments to the department for consideration by the commission.

b. *Public hearing.*

(1) The department shall hold at least one public hearing to obtain comments and provide information on the plan to dedesignate an existing area agency on aging within 90 days of providing notice pursuant to paragraph 4.6(2)*"a."*

(2) Information provided by the department at the public hearing shall include, but not be limited to, the proposed plan to dedesignate, the reasons for dedesignation, legal authority to dedesignate, identification of affected individuals or groups of individuals, and procedures for appeal.

(3) Instructions for providing written comments to the department regarding the proposed plan to dedesignate an existing area agency on aging shall be provided at the public hearing and shall be posted on the department's website, www.aging.iowa.gov.

4.6(3) *Review of comments.* The department shall review all public comments received and provide a summary for the commission's review.

4.6(4) *Department submission of proposed recommendation to the commission.* The department shall submit to the commission for consideration a proposed recommendation regarding the dedesignation of an existing area agency on aging.

4.6(5) *Commission approval or disapproval of proposed recommendation to dedesignate an area agency on aging.* The commission may, in its discretion, approve or disapprove the department's proposed recommendation to dedesignate an existing area agency on aging. If the commission disapproves the department's proposed recommendation, the department shall develop an alternate recommendation for commission consideration after notice and an opportunity for public comment as provided in subrule 4.6(2). The commission's final decision shall be posted on the department's website, www.aging.iowa.gov. The commission's final decision is other agency action for the purposes of Iowa Code section 17A.19.

4.6(6) *Department action subsequent to dedesignation.* When an area agency on aging is dedesignated pursuant to this rule, the department shall:

a. Notify the area agency on aging in writing that it has been dedesignated pursuant to this rule;

b. Provide a written explanation of the grounds for dedesignation;

c. Provide written notice of the right to appeal dedesignation and the procedure to be used for appeal;

d. Notify the Administration on Aging in writing of the dedesignation; and

e. If necessary, implement a plan for continuity of services in the affected planning and service area(s).

4.6(7) *State appeal of commission decision.* A party aggrieved or adversely affected by the commission's final decision may seek judical review in accordance with Iowa Code section 17A.19. Such party shall serve a copy of the petition for judicial review upon the Director, Department on Aging, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319-9025.

4.6(8) *Federal appeal of commission decision.* An adversely affected party may appeal, in writing, the commission's decision regarding dedesignation of an existing area agency on aging to the Assistant Secretary for Aging of the Administration on Aging, Washington, DC 20201, on the basis of the facts and merits of the matter that is the subject of the action or proceeding or on procedural grounds within 30 days of the commission's final decision. Written requests shall state: (1) the decision for which an appeal is being made, and (2) the legal name(s), address(es), telephone number(s), and email address(es) of the individual or entity requesting the appeal. A copy of this request shall also be mailed to the Director, Department on Aging, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319. All questions regarding the federal appeal process should be addressed to the Assistant Secretary for Aging at the address provided above.

4.6(9) *Official dedesignation.* Official dedesignation shall not occur until the final disposition of all appeals.

[**ARC 9863B**, IAB 11/30/11, effective 11/1/11]

17—4.7(231) Continuity of services in the event of dedesignation or appeal of dedesignation. To ensure continuity of services in the affected planning and service area(s) while the commission's final

decision regarding dedesignation of an area agency on aging is on appeal, the department may, in its discretion, elect to do any of the following individually or in combination:

1. Temporarily perform the responsibilities of the area agency on aging;
2. Assign the responsibilities of the area agency on aging to the existing area agency on aging;
3. Assign the responsibilities of the area agency on aging to any other area agency on aging; or
4. Assign the responsibilities of the area agency on aging to another entity that is in the planning and service area and is competent to provide area agency on aging services.

The department may also submit a written request to the Administration on Aging for an extension of the continuity of services plan pursuant to this rule. The request shall document the need for an extension to provide continuity of services in the affected planning and service area(s) until a successor area agency on aging is designated after appeal.

[**ARC 9863B**, IAB 11/30/11, effective 11/1/11]

17—4.8(231) Severability clause. Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

[**ARC 9863B**, IAB 11/30/11, effective 11/1/11]

These rules are intended to implement Iowa Code chapter 231 and 2011 Iowa Acts, House File 45.

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CHAPTER 6
AREA AGENCY ON AGING PLANNING AND ADMINISTRATION

[Prior to 5/20/87, see Aging, Commission on the[20] Ch 5]
[Prior to 1/27/10, see Elder Affairs Department[321] Ch 6]

17—6.1(231) Definitions. Words and phrases as used in this chapter are as defined in 17—Chapter 1 unless the context indicates otherwise. The following definitions also apply to this chapter:

"Access" or *"access services"* means case management, transportation, outreach, information and assistance.

"Entrepreneurial activities" means the manufacturing, processing, selling, offering for sale, renting, leasing, delivering, dispensing, distributing or advertising of goods or services for profit; or a contract or agreement that an AAA will provide specific named service(s) for third-party payees.

"Priority services" means access, in-home and legal assistance services.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10]

17—6.2(231) Area plan.

6.2(1) *Area plan.* Each AAA shall develop and administer an area plan.

6.2(2) *Duration and format of the area plan.*

a. The area plan shall be for a minimum of a two-year and a maximum of a four-year period specified by the department, with annual updates.

b. Uniform area plan format. All AAA shall submit an area plan or plan amendment to the department in accordance with the uniform area plan format, other instructions issued by the department, this chapter, and the federal Act.

6.2(3) *Comprehensive and coordinated delivery system.* The multiyear area plan shall provide for the development of a comprehensive and coordinated service delivery system for all supportive and nutrition services needed by older individuals in the planning and service area to:

a. Facilitate access to and utilization of all existing services; and

b. Develop supportive and nutrition services effectively and efficiently to meet the needs of older individuals.

6.2(4) *Requirements.* An area plan shall provide for a comprehensive and coordinated service delivery system as defined in:

a. The federal Act;

b. Older Americans Act Title III Regulations; Code of Federal Regulations, Title 45, Volume 4, Part 1200 (45 CFR 117);

c. This chapter.

6.2(5) *Plan content.* The area plan shall, at a minimum, contain the following information:

a. Assurance that the AAA agrees to abide by the requirements of the federal Act and all other applicable laws and rules; and

b. Objectives and budget for each year of the designated period and methods to obtain those objectives; and

c. Client projections. Area agencies shall project, on forms or in a format prescribed by the department, the number of older individuals who will be served within each PSA.

6.2(6) *Area plan amendments and revisions.*

a. *Amendments.* The AAA shall amend the area plan and submit it to the commission for approval when:

(1) A new or amended state or federal statute, rule or regulation requires new information or conflicts with any existing plan provisions;

(2) A United States Supreme Court decision changes the interpretation of a statute or rule;

(3) Local law, organization, policy or agency operations change and are no longer accurately reflected in the area plan;

(4) The department requires amendments;

(5) The grantee proposes to change the designation of the single organizational unit or component unit responsible for programs under the federal Act or state law; or

(6) The area agency proposes to add or delete a service category.

b. *Revision.* The AAA may be required to revise the plan and submit it to the department for approval if:

(1) A department funding source to the area agency changes; or

(2) A program requirement changes.

6.2(7) *Procedures for area plans, plan amendments and revisions.*

a. *Public hearing(s).* The AAA shall hold at least one public hearing on the area plan and all plan amendments as required in this chapter. Priority services and direct service requests shall appear as distinct agenda items for any hearing.

(1) The public hearing(s) shall be held prior to submission of the area plan or amendment(s) at a time which permits older individuals, public officials, and other interested parties reasonable opportunity to participate. The hearing(s) shall be held at a barrier-free, fully accessible location.

(2) The AAA shall provide notice, in accordance with Iowa Code section 21.4(1), of the hearing by sending notice to all known groups of older individuals, PSA public officials, and other interested parties. The notice shall be issued 14 business days prior to the public hearing and include the time, date, and location of the public hearing. The AAA shall comply with any applicable state or federal laws and regulations governing public hearing processes and procedures.

(3) The AAA shall prepare and submit to the department a written record of the public hearing in accordance with instructions issued by the department.

b. *Review and comment by the advisory council.*

(1) The AAA shall submit the area plan, amendments and revisions for review and comment to the AAA advisory council.

(2) The official representative of the AAA shall sign the plan, amendment or revision to signify that the AAA has completed all of the requirements of this chapter. The AAA shall then submit the area plan, amendment or revision to the department for review.

6.2(8) *Commission review.* Plans and plan amendments may be approved by the commission after they have been processed in accordance with the process given in this chapter. Revisions may be approved by the department after they have been processed in accordance with the process given in this chapter.

6.2(9) *Appeals.* Any person may appeal a denial of approval of an area plan, plan amendment or revision as provided in 17—Chapter 4.

6.2(10) *Area profile.* Each AAA shall submit to the department a profile in accordance with the time frame and procedures as issued by the department. The profile shall contain, but not be limited to, the following AAA information:

a. Affirmative action plan;

b. Table of organizational structure;

c. Inventory of nutrition sites and senior centers;

d. Listing of the area agency's designated community focal points; and

e. Listing of the officers of the AAA board of directors.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 0744C**, IAB 5/15/13, effective 6/19/13; **ARC 1534C**, IAB 7/9/14, effective 8/13/14; **ARC 2522C**, IAB 5/11/16, effective 6/15/16]

17—6.3(231) Area agency administration.

6.3(1) *Director.* The AAA shall employ a qualified director and may employ other staff as necessary to manage and monitor the area plan.

6.3(2) *Director's responsibility.* It is the responsibility of the AAA director to:

a. Ensure that all AAA duties as outlined in the federal Act, state law, this chapter and other rules promulgated by any agency having jurisdiction are performed;

b. Develop the area plan;

c. Implement organizational operations;

d. Budget for services and operations;

e. Coordinate implementation of services; and

f. Monitor and evaluate services.

6.3(3) *Discrimination.* The AAA shall offer equal opportunities for employment or promotion to all employees and to applicants who meet the qualifications of the open position. Discrimination against any person because of gender, race, national origin, age, political affiliation, creed, color, religion, physical or mental disability, or other nonmerit factors is prohibited during any aspect of personnel administration and during employment.

6.3(4) *Affirmative action plans.* Each AAA shall develop an affirmative action plan which shall be available for review by the department.

6.3(5) *Training and development requirements.* Each AAA shall have a plan and procedures that will support a broad program of staff development activities to ensure training of volunteers, paid personnel and providers of services to Iowa's older individual population.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 0744C**, IAB 5/15/13, effective 6/19/13; **ARC 1534C**, IAB 7/9/14, effective 8/13/14]

17—6.4(231) Confidentiality and disclosure of AAA information.

6.4(1) *Confidentiality.* AAA shall implement procedures to ensure that no information in possession of an AAA, or an entity providing services under programs funded by the department, is disclosed in a form identifiable with an individual without that individual's informed consent regardless of the source of the information.

6.4(2) *Public accessibility to manuals, guidelines, and standards.* Copies of all manuals, guidelines, and standards referred to by these rules shall be maintained by the AAA and available for public inspection.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10]

17—6.5(231) AAA contact information. Information on how to contact the appropriate AAA office may be obtained by sending a request to the Department on Aging, Jessie Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319; or by telephone at (515)725-3333; or by visiting the department's website, www.iowaaging.gov.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 2522C**, IAB 5/11/16, effective 6/15/16]

17—6.6(231) Duties of AAA.

6.6(1) General. Each AAA shall fulfill the AAA duties specified in the federal Act, Iowa Code section 231.33 and this chapter. AAA shall:

a. Carry out functions related to advocacy, planning, coordination, interagency linkages, information sharing, brokering, monitoring and evaluation designed to lead to and maintain a comprehensive and coordinated community-based system. This system shall serve the PSA so that older individuals may lead independent, meaningful and dignified lives in their own homes and communities for as long as possible;

b. Strive to offer a range of services which are readily accessible to all older individuals by utilizing public, private and voluntary entities and personal resources of the client;

c. Encourage collaborative decision making among public, private, voluntary, religious and fraternal organizations, as well as older individuals;

d. Assist in determining and providing special assistance or resources to the most vulnerable older individuals who are in danger of losing their independence; and

e. Perform all functions as delineated in the area plan.

6.6(2) Additional duties include:

a. Attempt to involve the private bar and legal services corporation in the PSA in legal assistance activities;

b. Submit all reports in accordance with the department-prescribed form or format and due dates;

c. Coordinate AAA activities with mental health services provided by community health centers and other nonprofit private or public organizations;

d. Compile and summarize information on institutions of higher education in the PSA which offer courses of study to older individuals at a no- or reduced-tuition rate and disseminate the information to older individuals at their gathering places;

e. Seek out older individuals who may be eligible to receive Supplemental Security Income benefits under Title XVI of the Social Security Act, medical assistance under Titles XVIII and XIX of the Social Security Act, and benefits under the Food Stamp Act of 1977. The AAA shall provide information on the requirements for eligibility to receive these benefits and assist in applying for appropriate assistance and benefits;

f. Coordinate planning by individuals, agencies and organizations interested in the prevention of abuse, neglect and exploitation of older individuals and assist in implementation of educational and awareness activities, in coordination with the office of the state long-term care ombudsman program;

g. Coordinate planning with other agencies and organizations to provide health promotion activities for older individuals.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 1534C**, IAB 7/9/14, effective 8/13/14; **ARC 2522C**, IAB 5/11/16, effective 6/15/16]

17—6.7(231) AAA board of directors.

6.7(1) Each designated AAA shall establish a board of directors in accordance with its individual articles of incorporation and bylaws.

6.7(2) The AAA board membership shall be representative of the geographic planning and service area.

6.7(3) Each AAA board of directors shall have board nominating and election procedures specified in its bylaws.

6.7(4) Each AAA shall specify in its bylaws the scope, function and responsibilities of the board, board committees and individual board members.

6.7(5) Each AAA shall provide an orientation process for newly elected board members that includes, at a minimum, the scope, function and responsibilities of the AAA and the responsibilities of the board, board committees and individual board members.

6.7(6) The department shall provide a minimum of four hours of training annually to AAA board members.

6.7(7) The AAA board of directors shall comply with Iowa Code chapter 504, "Revised Iowa Nonprofit Corporation Act."

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10]

17—6.8(231) AAA advisory council.

6.8(1) *Member requirements.* The AAA shall establish an advisory council composed of members, at least one-half of whom are aged 60 and older, which shall include:

a. Recipients of services under the Act, including minority older individuals and older individuals residing in rural areas;

b. Representatives of older individuals;

c. Current local elected officials;

d. The general public;

e. Representatives of health care provider organizations, including providers of veterans' health care, if appropriate;

f. Representatives of supportive and nutrition service providers; and

g. Persons with leadership experience in private and volunteer sectors.

6.8(2) *Duties.* It shall be the specific responsibility of the advisory council to advise the AAA and:

a. Advocate for older individuals in the PSA by keeping informed of all activities and proposals concerning the older individuals;

b. Review and make recommendations on the content, formulation, administration and priorities of the area plan and participate in public hearings on the area plan;

c. Serve as an information link between the AAA and providers of services to older individuals in the PSA;

d. Review and comment on community policies, programs and actions which affect older individuals;

e. Assist in generating local support for development of programs for older individuals in the area.

6.8(3) *Frequency of meetings.* The AAA advisory council shall meet at least quarterly.

6.8(4) *Staff support.* The AAA shall provide staff and assistance to the AAA advisory council.

6.8(5) *Bylaws.* The AAA advisory council bylaws shall contain at least the basic bylaws: name, purpose, members, officers, meetings, committees, parliamentary authority and procedure for amendment of bylaws. The bylaw on membership shall include, but is not limited to, the number of, selection process and length of terms for members.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10]

17—6.9(231) Emergency situations.

6.9(1) Prior to and after a natural disaster or other safety-threatening situation, each AAA shall plan and coordinate with other public and private entities for safe and timely continuity of service and the restoration of normal living conditions for older individuals. This shall include:

a. Alerting older individuals of the impending danger;

b. Assessing the needs of older individuals after the event occurs; and

c. Ensuring that identified needs are met through collaboration with other agencies.

6.9(2) To further this purpose, each AAA shall:

a. Include in the procedures manual established as required in this chapter procedures to respond to emergency or disaster situations;

b. Include in the development and training plan methods of training for staff, contractors, and other interested parties in response to emergency or disaster situations; and

c. Include in contracts provisions for responding to emergency or disaster situations including, but not limited to, shifting funds from one activity to another or from one contractor to another.

6.9(3) Services. As a part of emergency response, the AAA may plan, coordinate and provide services funded under other programs consistent with responsibilities of an AAA.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4877C**, IAB 1/15/20, effective 2/19/20]

17—6.10(231) AAA procedures manual. A procedures manual shall be developed and kept current by the AAA. The manual shall, at a minimum, establish procedures to be followed in:

6.10(1) Establishing and maintaining information and assistance availability to ensure that older individuals within the PSA will have convenient access to services;

6.10(2) Conducting periodic evaluations, which may include participant satisfaction surveys of activities carried out under the area plan;

6.10(3) Furnishing appropriate technical assistance to providers of supportive services, nutrition services, or multipurpose senior centers;

6.10(4) Establishment of a request for proposal process that includes methods of selection of providers and methods for award of grants or contracts under the area plan, including stipulations that all subcontractors comply with all applicable local, state and federal laws, rules or regulations, and, if applicable, all requirements for nonprofit entities;

6.10(5) Resolving complaints by any aggrieved party directly affected by an action or omission of the AAA. AAA appeal procedures shall be in compliance with the relevant federal and state statutes, regulations and rules and shall contain at least the following procedures and time frames for complaint resolution:

a. Acknowledgment of the complaint;

b. Process for attempting to informally resolve the complaint;

c. Time frame for sending a hearing notice;

d. Process for holding a hearing;

e. Notification of the outcome of the hearing;

f. Appeal to the next higher authority;

6.10(6) Ensuring confidentiality, so that no information about or obtained from an older individual is disclosed in a form that identifies the person without the person's informed consent;

6.10(7) The assessment and monitoring methods for programs and subcontracts funded by the AAA. This shall include documentation of quarterly monitoring of performance and on-site assessment and report at least annually;

6.10(8) Response to emergency or disaster situations;

6.10(9) Development of methods by which priority for delivery of services is determined;

6.10(10) Obtaining comments or suggestions from recipients about services provided by the AAA;

6.10(11) Determination of an individual's eligibility for home-delivered nutrition services, including specific criteria established by the AAA for:

a. Initial and subsequent six-month assessments of the individual's eligibility for home-delivered meals;

b. Determination of the number of days per week the individual has a need for home-delivered meals;

c. Determination of the individual's need for other home-delivered nutrition services;

6.10(12) Assurance that any facility housing a service will fully comply with all current federal, state or local health, fire, safety, sanitation, accessibility and licensure requirements;

6.10(13) Methods of monitoring service providers to ensure their performance is in accordance with terms, conditions and specifications for funding, including length of funding period, and the use of project income and methods of providing service;

6.10(14) If appropriate, offering a meal to individuals providing volunteer services during meal times on the same basis as meals are offered to eligible individuals;

6.10(15) Offering a meal to nonelderly individuals with disabilities who reside at home with and accompany eligible older individuals to a meal site;

6.10(16) Offering home-delivered meals to nonelderly individuals with disabilities when their elderly caregiver is eligible for a home-delivered meal;

6.10(17) Increasing public education and awareness in the prevention of abuse, neglect and exploitation of older individuals;

6.10(18) Identifying the public and private nonprofit entities involved in the prevention, identification, and treatment of abuse, neglect, and exploitation of older individuals and determining methods to respond to the needs of older individuals at risk; and

6.10(19) Offering health promotion activities and information to eligible individuals.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4877C**, IAB 1/15/20, effective 2/19/20]

17—6.11(231) Contracts.

6.11(1) A contract or agreement between an AAA and a provider of a specific service in the PSA shall not restrict the AAA from contracting with other provider(s) of similar services.

6.11(2) Contract file. AAA shall maintain a file of all current contracts with service-providing agencies or organizations. These files shall be made available for monitoring and assessment by the department.

6.11(3) Contracts with for-profit organizations. An AAA must request prior approval from the department of any proposed service contracts with for-profit organizations under an area plan.

a. A separate approval request, using the request form provided by the department, shall be filed for each contract between the AAA and a provider for a service that is proposed to be delivered by a for-profit organization.

(1) The request for approval shall be submitted to the department at least 30 days prior to the signing of the contract.

(2) All applicants to provide services for which the contract is proposed shall be listed on the request form.

b. The department may approve the contracts only if the AAA demonstrates that the for-profit organization can provide services that are in compliance with the Older Americans Act and consistent with the goals of the AAA as stated in the area plan.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 1534C**, IAB 7/9/14, effective 8/13/14; **ARC 4877C**, IAB 1/15/20, effective 2/19/20]

17—6.12(231) Direct service.

6.12(1) An AAA must submit a request to provide direct service as part of the area plan. The request may be approved by the department based on documentation of the criteria given in subrule 6.12(2). The following services may be furnished directly by the AAA and are exempt from the requirements in subrule 6.12(2):

a. Information and assistance;
b. Outreach;
c. Case management;
d. Advocacy representation;
e. Public education;
f. Employment services;
g. Mental health outreach;
h. Coordination of efforts concerning the prevention of elder abuse;
i. Options counseling.

6.12(2) Criteria. The commission may approve an AAA request to provide direct service.

a. Approval will be based upon documentation of the following as submitted by the AAA:

(1) Direct provision of service is necessary to ensure an adequate supply of the service, and no potential provider was identified during the public hearing process; or

(2) The proposed service will be of comparable quality in the view of the AAA advisory council, and will meet or exceed service standards developed by the AAA; and

(3) The AAA can provide a service of equal quality at lower cost than another provider.

b. The department may consider other factors including:

(1) The demonstrated capacity of the AAA to deliver services consistently and reliably;

(2) The economic impact of transition from a contract provider to the AAA;

(3) Consideration of any possible disruption of service;

(4) Input from the AAA advisory council; and

(5) Comments from the public.

6.12(3) Conditional approval. If the criteria for approval of a request to provide direct services are not met, a condition may be placed on the area plan approval.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 2522C**, IAB 5/11/16, effective 6/15/16]

17—6.13(231) Waivers of priority service expenditures.

6.13(1) An AAA shall request a waiver from the priority service expenditures in rule 17—5.5(231) if it does not propose sufficient funding to allow older individuals to have convenient access to a service. The waiver request shall be submitted with the plan or plan amendment pursuant to applicable procedures under 17—Chapter 11.

6.13(2) The commission, in approving an area plan or a plan amendment, may, upon recommendation of the director, waive the requirement of rule 17—5.5(231) for any category of service for which the AAA demonstrates the following:

a. That the services being furnished by other providers meet the needs of older individuals in the PSA for that category of service; or

b. That the AAA has made every reasonable effort to meet the need for a specific category of service.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 0744C**, IAB 5/15/13, effective 6/19/13]

17—6.14(231) Requirements for service providers.

6.14(1) *Contributions.* The AAA shall consult with the relevant service providers and older individuals in the PSA to determine the best method for accepting voluntary contributions. As established by contract with the AAA, each service provider, including an AAA providing direct service, shall:

a. Provide each older individual with a voluntary opportunity to contribute to the cost of the service by displaying a suggested contribution schedule that takes into consideration income ranges of eligible individuals in local communities;

b. Clearly inform each recipient that there is no obligation to contribute and that the contribution is purely voluntary;

c. Protect the privacy and confidentiality of each older individual with respect to the person's contributions;

d. Utilize appropriate procedures to safeguard and account for all contributions against loss, mishandling or theft by obtaining bonding for all employees and volunteers;

e. Use all contributions to expand the service for which such contribution is given. Nutrition service providers shall use all contributions to increase the number of meals served.

6.14(2) *Failure to contribute.* A provider that receives department funds may not deny any older individual a service because the person will not or cannot contribute to the cost.

6.14(3) *Obtain views of older individuals.* Each provider shall utilize procedures determined by the AAA for obtaining the views of participants about the services they receive. A report of procedures utilized and findings shall be issued by the AAA within six months of the signing of the contract.

6.14(4) *Seek other sources of funding.* Prior to requesting Title III funding, service providers shall demonstrate efforts to seek funds from other federal, state, and local sources.

6.14(5) *Compliance by service providers.* The AAA shall incorporate in its contract with each service provider an assurance that funds are used in compliance with federal guidelines.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 0744C**, IAB 5/15/13, effective 6/19/13; **ARC 1534C**, IAB 7/9/14, effective 8/13/14]

17—6.15(231) Entrepreneurial activities of AAA. An AAA considering entrepreneurial activities must carefully examine the activity to ensure compatibility with its designation as an AAA. The following shall apply to all AAA, unless otherwise prohibited by statute, rule or order:

6.15(1) *Demonstrated need—use of funds.* An AAA may engage in entrepreneurial activities if the activity is in response to a demonstrated need and the funds raised by such activities are used for one of the following purposes:

a. To further extend services and opportunities for older individuals; or

b. To fund new services and opportunities for older individuals provided that these services or opportunities are compatible with the AAA functions and goals.

6.15(2) *Restrictions.* The following restrictions shall apply to an AAA's engagement in entrepreneurial activities:

a. Entrepreneurial activities shall not be undertaken until they have been reviewed by the advisory council and approved by the AAA governing board.

b. An AAA that engages in entrepreneurial activities shall not create the impression that the activity is being carried on under governmental authority.

c. Funds received as a result of entrepreneurial activities shall be monitored and accounted for according to generally accepted accounting and auditing practices commensurate with the activities.

d. Entrepreneurial activities shall be pursued only if the duties and responsibilities required of AAA in this chapter are consistently provided by the AAA in a capable manner.

e. Entrepreneurial activities pursued by an AAA and groups or organizations funded by an AAA shall not have, nor present the appearance of, a conflict of interest.

f. Entrepreneurial activities shall not utilize funds received from the department for direct costs.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 0744C**, IAB 5/15/13, effective 6/19/13]

17—6.16(231) Severability. Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

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[1] Effective date of Ch 6 delayed 70 days by the Administrative Rules Review Committee.

CHAPTER 8
LONG-TERM CARE OMBUDSMAN

[Prior to 5/20/87, see Aging, Commission on the[20] rules 4.2 and 9.6]
[Prior to 1/27/10, see Elder Affairs Department[321] Ch 8]

17—8.1(231) Purpose. This chapter establishes procedures for notice and appeal of penalties imposed for interference with the official duties of a long-term care ombudsman, which are established in Iowa Code sections 231.42 and 231.45 and in accordance with Section 712 of the Older Americans Act. This chapter also establishes criteria for serving under the certified volunteer long-term care ombudsman program. The long-term care ombudsmen investigate complaints related to the actions or inactions of long-term care providers that may adversely affect the health, safety, welfare, or rights of residents and tenants who reside in long-term care facilities, assisted living programs, and elder group homes. In addition, this chapter establishes the process for representatives of the office of the state long-term care ombudsman who are local long-term care ombudsmen performing managed care ombudsman services to provide assistance and advocacy related to long-term services and supports under the Medicaid program.
[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 8939B**, IAB 7/14/10, effective 7/1/10; **ARC 1535C**, IAB 7/9/14, effective 8/13/14; **ARC 4878C**, IAB 1/15/20, effective 2/19/20]

17—8.2(231) Interference.

8.2(1) A local long-term care ombudsman or certified volunteer long-term care ombudsman who is denied access to a resident or tenant in a long-term care facility, assisted living program, or elder group home or to medical and social records while in the course of conducting official duties pursuant to Iowa Code section 231.42 or whose work is interfered with during the course of an investigation shall report such denial or interference to the office of the state long-term care ombudsman, who will report the interference to the director of the department on aging.

8.2(2) Access to facility records. Copies of a resident's medical or social records maintained by the facility, or other records of a long-term care facility, assisted living program, or elder group home, may be made with the permission of the resident, the resident's responsible party, or the legal representative of the resident. All medical and social records shall be made available to a certified volunteer long-term care ombudsman for review if:

a. The certified volunteer long-term care ombudsman has written permission from the resident, the legal representative of the resident, or the responsible party; and

b. Access to the records is necessary to investigate a complaint; and

c. The certified volunteer long-term care ombudsman obtains approval of the state long-term care ombudsman or designee.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 8939B**, IAB 7/14/10, effective 7/1/10; **ARC 9349B**, IAB 2/9/11, effective 3/16/11; **ARC 1535C**, IAB 7/9/14, effective 8/13/14]

17—8.3(231) Monetary civil penalties—basis. The director, in consultation with the state long-term care ombudsman, may impose a monetary civil penalty of not more than $1,500 on an officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home who intentionally prevents, interferes with, or attempts to impede the duties of the state, a local, or a certified volunteer long-term care ombudsman. If the director imposes a penalty for a violation under this rule, no other state agency shall impose a penalty for the same interference violation.
[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 8939B**, IAB 7/14/10, effective 7/1/10; **ARC 9349B**, IAB 2/9/11, effective 3/16/11; **ARC 1535C**, IAB 7/9/14, effective 8/13/14]

17—8.4(231) Monetary civil penalties—notice of penalty. The department on aging shall notify the officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home in writing by certified mail of the intent to impose a civil penalty. The notice shall include, at a minimum, the following information:

1. The nature of the interference and the date the action occurred.
2. The statutory basis for the penalty.
3. The amount of the penalty.
4. The date the penalty is due.

5. Instructions for responding to the notice, including information on the individual's right to appeal.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 8939B**, IAB 7/14/10, effective 7/1/10; **ARC 1535C**, IAB 7/9/14, effective 8/13/14]

17—8.5(231) Monetary civil penalties—appeals. An officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home who is assessed a monetary civil penalty for interference with the official duties of a long-term care ombudsman may appeal the penalty by informing the department of the intent to appeal in writing within ten days after receiving a notice of penalty. Appeals shall follow the procedures set forth in 17—Chapter 13.

[**ARC 8939B**, IAB 7/14/10, effective 7/1/10; **ARC 1535C**, IAB 7/9/14, effective 8/13/14]

17—8.6(231) Certified volunteer long-term care ombudsman program.

8.6(1) Application. Any individual may apply to the office of the state long-term care ombudsman program to become a certified volunteer long-term care ombudsman.

a. *Application forms.* Application forms may be obtained from the office of the state long-term care ombudsman program at the department on aging address listed in 17—subrule 2.3(2) or from other organizations designated by the department.

b. *Submission of forms.* Each applicant shall complete an application and submit it to the department address listed in 17—subrule 2.3(2).

8.6(2) Conflict of interest.

a. Prior to certification, applicants for the certified volunteer long-term care ombudsman program must not have a conflict of interest or have had a conflict of interest within the past two years in accordance with the Older Americans Act. A conflict of interest shall be defined as:

(1) Employment of the applicant or a member of the applicant's immediate family within the previous year by a long-term care facility or by the owner or operator of any long-term care facility;

(2) Current participation in the management of a long-term care facility by the applicant or a member of the applicant's immediate family;

(3) Current ownership or investment interest (represented by equity, debt, or other financial relationship) in an existing or proposed long-term care facility or long-term care service by the applicant or a member of the applicant's immediate family;

(4) Current involvement in the licensing or certification of a long-term care facility or provision of a long-term care service by the applicant or a member of the applicant's immediate family;

(5) Receipt of remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility by the applicant or a member of the applicant's immediate family;

(6) Acceptance of any gifts or gratuities from a long-term care facility or a resident or a resident's representative;

(7) Acceptance of money or any other consideration from anyone other than the office of the state long-term care ombudsman for the performance of an act in the regular course of long-term care;

(8) Provision of services while employed in a position with duties that conflict with the duties of a certified volunteer long-term care ombudsman;

(9) Provision of services to residents of a facility in which a member of the applicant's immediate family resides; or

(10) Participation in activities which negatively affect the applicant's ability to serve residents or which are likely to create a perception that the applicant's primary interest is other than as an advocate for the residents.

b. Immediate family shall be defined as father, mother, son, daughter, brother, sister, aunt, uncle, first cousin, nephew, niece, wife, husband, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepparent, stepbrother, stepchild, stepsister, half sister, half brother, grandparent or grandchild.

8.6(3) Applicants shall not be accepted into the program if:

a. It is determined that the applicant has a conflict of interest as listed in subrule 8.6(2); or

b. The applicant has unfavorable references, which shall include a DCI criminal background check and abuse check;

c. The applicant lives in any part of a continuing care retirement community, or any housing owned by the long-term care facility in which the volunteer would function.

8.6(4) Training. Prior to certification, applicants must successfully complete the required training as approved by the office of the state long-term care ombudsman. Successful completion shall be defined as completion of all assignments and tasks during training, demonstration of proper techniques and skills, and an understanding of the role of the certified volunteer long-term care ombudsman in the long-term care setting. The applicant shall complete a minimum of 12 hours of approved training, which shall include, but not be limited to:

a. History and overview of resident's advocate/ombudsman program;

b. Terminology;

c. Resident rights;

d. State and federal law, rules and regulations regarding long-term care facilities;

e. Regulatory process in long-term care facilities;

f. Aging process, common medical conditions and terminology;

g. Life in a long-term care facility and culture change;

h. Communication skills;

i. Confidentiality;

j. Problem solving and documentation, and follow-up of complaints;

k. Dynamics of abuse and neglect;

l. Ethics; and

m. Resources for certified volunteer long-term care ombudsmen.

8.6(5) Approval for certification. Final approval for certification as a certified volunteer long-term care ombudsman shall be made by the office of the state long-term care ombudsman and shall be subject to the applicant's successful completion of the required training and to a favorable report from the instructor. The office of the state long-term care ombudsman has the right to require that the applicant receive additional personal training prior to certification and has the right to deny certification to applicants not meeting the above training criteria.

8.6(6) Certification.

a. Notification. A certified volunteer long-term care ombudsman shall be notified in writing within 14 days following the conclusion of the training program if certification has been continued or revoked.

b. Certification shall initially be for one year, with recertification available following the certified volunteer's completion of a minimum of ten hours of approved continuing education in the first year and completion of a progress review by the office of the state long-term care ombudsman.

c. After the certified volunteer's successful completion of one year as a certified volunteer long-term care ombudsman, the office of the state long-term care ombudsman may recertify the certified volunteer for a two-year period.

8.6(7) Continuing education.

a. All certified volunteer long-term care ombudsmen shall complete a minimum of ten hours of continuing education the first year and a minimum of six hours of continuing education each year thereafter. Continuing education may include, but is not limited to:

(1) Scheduled telephone conference calls with representatives from the office of the state long-term care ombudsman program;

(2) Governor's conference on aging;

(3) Area Alzheimer's disease conferences;

(4) Elder abuse conferences;

(5) Courses related to aging conducted by a local community college or university or via the Internet;

(6) Other events as approved in advance by the office of the state long-term care ombudsman.

b. Certified volunteer long-term care ombudsmen are responsible for reporting continuing education hours to the office of the state long-term care ombudsman or designee within 30 days following the completion of the continuing education event.

8.6(8) Contesting an appointment. A provider who wishes to contest the appointment of a certified volunteer shall do so in writing to the office of the state long-term care ombudsman. The final determination shall be made by the office of the state long-term care ombudsman within 30 days after receipt of notification from the provider.

8.6(9) Certification revocation.

a. *Reasons for revocation.* A certified volunteer long-term care ombudsman's certification may be revoked by the office of the state long-term care ombudsman for any of the following reasons: falsification of information on the application, breach of confidentiality, acting as a certified volunteer long-term care ombudsman without proper certification, attending less than the required continuing education training, voluntary termination, unprofessional conduct, failure to carry out the duties as assigned, or actions which are found by the office of the state long-term care ombudsman to violate the rules or intent of the program.

b. *Notice of revocation.* The office of the state long-term care ombudsman shall notify the certified volunteer and the facility in writing of a revocation of certification.

c. *Request for reconsideration.* A request for reconsideration or reinstatement of certification may be made in writing to the office of the state long-term care ombudsman. The request must be filed within 14 days after receipt of the notice of revocation.

d. *Response time.* The office of the state long-term care ombudsman shall investigate and consider the request and notify the requesting party and the facility of the decision within 30 days of receipt of the written request.

8.6(10) Access.

a. *Visits to facilities.* A certified volunteer long-term care ombudsman may enter any long-term care facility without prior notice. After notifying the person in charge of the facility of the certified volunteer long-term care ombudsman's presence, the certified volunteer long-term care ombudsman may communicate privately and without restriction with any resident who consents to the communication.

b. *Visits to resident's living area.* The certified volunteer long-term care ombudsman shall not observe the private living area of any resident who objects to the observation.

8.6(11) Duties. The certified volunteer long-term care ombudsman shall assist the office of the state long-term care ombudsman or designee in carrying out the duties described in the Older Americans Act. Primary responsibilities of a certified volunteer long-term care ombudsman shall include:

a. Conducting initial inquiries regarding complaints registered with the office of the state long-term care ombudsman;

b. At the request of the office of the state long-term care ombudsman or designee, providing follow-up visits on cases investigated by the office of the state long-term care ombudsman or designee;

c. Attending, assisting with, or providing technical assistance to resident and family council meetings as needed;

d. At the request of the office of the state long-term care ombudsman or designee, making follow-up visits to a facility after a department of inspections and appeals survey or complaint investigation to monitor the progress and changes listed in the plan of correction or to monitor the correction of deficiencies;

e. Tracking, monitoring and following up on publicly available information regarding facility performance;

f. Identifying concerns in a facility;

g. Completing all reports and submitting them to the office of the state long-term care ombudsman in a timely manner; and

h. Completing exit interviews when the certified volunteer ombudsman resigns.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 8939B**, IAB 7/14/10, effective 7/1/10; **ARC 1535C**, IAB 7/9/14, effective 8/13/14; **ARC 3714C**, IAB 3/28/18, effective 5/2/18]

17—8.7(231) Managed care ombudsman program.

8.7(1) The office of the long-term care ombudsman may provide advocacy and assistance to eligible recipients, or the families or legal representatives of such eligible recipients, of long-term services and

supports provided through the Medicaid program who are receiving services in a long-term care facility or under one of the home- and community-based services waivers.

8.7(2) Representatives of the office of long-term care ombudsman providing an individual with assistance and advocacy services authorized under Iowa Code section 231.44 shall be provided access to the individual and to the individual's medical, social and administrative records related to the provision of the long-term services and supports to the individual, as authorized by the individual or the individual's legal representative, as necessary to carry out the duties specified by Iowa Code section 231.44.

8.7(3) The office of long-term care ombudsman and representatives of the office, when providing assistance and advocacy services under Iowa Code section 231.44, shall be considered a health oversight agency as defined in 45 CFR §164.501 for the purposes of health oversight activities described in 45 CFR §164.512(d). Recipient information available to the office of long-term care ombudsman and representatives of the office under this subrule shall be limited to the recipient's protected health information as defined in 45 CFR §160.103 for the purpose of recipient case resolution.

[**ARC 4878C**, IAB 1/15/20, effective 2/19/20]

These rules are intended to implement Iowa Code sections 231.42 and 231.44.

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[2] Effective date of Ch 8 delayed 70 days by the Administrative Rules Review Committee.

CHAPTER 9
RESIDENT ADVOCATE COMMITTEES

[Prior to 1/27/10, see Elder Affairs Department[321] Ch 9]

Rescinded **ARC 1536C**, IAB 7/9/14, effective 8/13/14

CHAPTER 10
OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

[Prior to 5/20/87, see Aging, Commission on the [20] rules 8.67 to 8.70]
[Prior to 1/27/10, see Elder Affairs Department[321] Ch10]

Rescinded **ARC 4879C**, IAB 1/15/20, effective 2/19/20

CHAPTER 22
OFFICE OF PUBLIC GUARDIAN

[Prior to 1/27/10, see Elder Affairs Department[321] Ch 22]

17—22.1(231E,633) Purpose. This chapter implements the office of public guardian as created in Iowa Code chapter 231E and establishes standards and procedures for those appointed as public guardians. It also establishes the qualifications of consumers eligible for services.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4880C**, IAB 1/15/20, effective 2/19/20]

17—22.2(231E,633) Definitions. Words and phrases used in this chapter are as defined in 17—Chapter 1 unless the context indicates otherwise. The following definitions also apply to this chapter:

"Assessment" means a comprehensive, in-depth evaluation to identify an individual's current situation, ability to function, strengths, problems, and care needs in the following major functional areas: physical health, medical care utilization, activities of daily living, instrumental activities of daily living, mental and social functioning, financial resources, physical environment, and utilization of services and support.

"Case opening" means the internal administrative process used by the local office in establishing a temporary or ongoing case, including, but not limited to: collecting and reviewing necessary financial, legal, medical or social history information pertaining to the consumer or the consumer's estate; opening bank or other financial accounts on the consumer's behalf; assigning staff to perform public guardianship responsibilities for the consumer; collecting and receiving property of the consumer; creating files, summaries and other documents necessary for the management of the consumer or the consumer's estate; and any other activities related to preparing for and assuming the responsibilities as a public guardian.

"Consumer" as used in this chapter means any individual receiving public guardianship services.

"Court" means the probate court having jurisdiction over the consumer.

"Department" means the department on aging established in Iowa Code section 231.21.

"Estate" means all property owned by the consumer including, but not limited to: all cash, liquid assets, furniture, motor vehicles, and any other tangible personal and real property.

"Fee" or *"fees"* means any costs assessed by the state office against a consumer for public guardianship services, including monthly fees or a one-time case-opening fee for establishment of a case.

"Financial hardship" means a living consumer who has a total value in liquid assets below $6,500; or the consumer's estate proving otherwise inadequate to obtain or provide for physical or mental care or treatment, assistance, education, training, sustenance, housing, or other goods or services vital to the well-being of the consumer or the consumer's dependents.

"Inventory" means a detailed list of the estate.

"Liquid assets" means the portion of a consumer's estate comprised of cash, negotiable instruments, or other similar property that is readily convertible to cash and has a readily ascertainable fixed value, including but not limited to: savings accounts, checking accounts, certificates of deposit, money market accounts, corporate or municipal bonds, U.S. savings bonds, stocks or other negotiable securities, and mutual fund shares.

"Local office" means a local office of public guardian.

"Local public guardian" means an individual under contract with the department to act as a guardian, conservator, or representative payee.

"Net proceeds" means the value of the property at the time of sale minus taxes, commissions and other necessary expenses.

"Program" means the services offered by the office of public guardian.

"Public guardian" means the state public guardian or a local public guardian.

"Record" means any information obtained by the state or local office in the performance of its duties.

"State office" means the state office of public guardian.

"State public guardian" means the administrator of the state office of public guardian.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4880C**, IAB 1/15/20, effective 2/19/20]

17—22.3(231E,633) Public guardian qualifications. All public guardians shall have graduated from an accredited four-year college or university and shall be certified by the Center for Guardianship Certification within 12 months of assuming duties as a public guardian. This certification shall be kept current while the person is serving as a public guardian.
[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4880C**, IAB 1/15/20, effective 2/19/20]

17—22.4(231E,633) Ethics and standards of practice. The state office adopts the National Guardianship Association Standards of Practice adopted in 2000, including any subsequent amendments thereto, as a statement of the best practices and the highest quality of practice for persons serving as guardians or conservators. The adoption of standards of practice in this document is not intended to amend or diminish the statutory scheme, but rather to supplement and enhance the understanding of the statutory obligations to be met by public guardians when serving as a public guardian. Subsequent to appointment to serve a consumer, the public guardian shall perform all duties imposed by the court or other entity having jurisdiction and imposed by applicable law and, as appropriate, shall utilize standards found in the most current edition of the National Guardianship Association Standards of Practice.
[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4880C**, IAB 1/15/20, effective 2/19/20]

17—22.5(231E,633) Staffing ratio. Local offices shall be responsible for no more than 40 consumers per full-time equivalent position at any one time. The state office shall notify the state court administrator when the maximum number of appointments is reached by a local office.

22.5(1) In its sole discretion, if the state office determines that due to the complexity of current cases a local office would have significant difficulty meeting the needs of consumers, the state office may choose to temporarily suspend acceptance of appointments. The state office shall notify the state court administrator of the suspension of services.

22.5(2) In the state office's sole discretion, a local office may exceed staffing ratios under the following circumstances:

a. A priority situation exists as defined in subrule 22.7(2), and

b. Acceptance of case(s) will not adversely affect services to current consumers.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 3484C**, IAB 12/6/17, effective 1/10/18; **ARC 4880C**, IAB 1/15/20, effective 2/19/20]

17—22.6(231E,633) Conflict of interest. A conflict of interest arises when the public guardian has any personal or agency interest that is or may be perceived as self-serving or adverse to the position or best interest of the consumer. When assigning a consumer to a public guardian, all reasonable efforts shall be made to avoid a conflict of interest or the appearance of a conflict of interest.

22.6(1) The assigned public guardian shall not:

a. Provide direct services to the consumer receiving public guardianship services;

b. Have an affiliation with or financial interest in the consumer's estate;

c. Employ friends or family to provide services to the consumer for a fee; or

d. Solicit or accept incentives from service providers.

22.6(2) The public guardian shall be independent from all service providers, thus ensuring that the public guardian remains free to challenge inappropriate or poorly delivered services and to advocate on behalf of the consumer.
[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4880C**, IAB 1/15/20, effective 2/19/20]

17—22.7(231E,633) Individuals eligible for services. The state office shall seek to restrict appointments to only those necessary. The state office will not accept an appointment based upon a voluntary petition.

22.7(1) In order to qualify for services, the individual shall meet all of the following criteria:

a. Is a resident of the state of Iowa;

b. Is aged 18 or older;

c. Does not have a suitable individual or appropriate entity willing and able to serve as guardian or conservator;

d. Is incompetent; and

e. Is an individual for whom guardianship or conservatorship services are the least restrictive means of meeting the individual's needs.

22.7(2) The following cases shall be given priority:

a. Those involving abuse, neglect or exploitation;

b. Those in which a critical medical decision must be made; or

c. Any situation which may cause serious or irreparable harm to the consumer's mental or physical health or estate.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4880C**, IAB 1/15/20, effective 2/19/20]

17—22.8(231E,633) Application and intake process—guardianship, conservatorship, and representative payee.

22.8(1) Any person may submit an application for services on behalf of an individual believed to be in need of public guardianship services. Applications are available through the state office. Completed applications shall be submitted to the Office of Public Guardian, Jessie M. Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319-9025. Incomplete applications will not be considered. Communication with the state office or local office or the submission of an application does not imply an appointment and does not create any type of fiduciary relationship between the state office and the individual on whose behalf the application is submitted.

22.8(2) The state office shall make a determination regarding eligibility of the individual and acceptance or denial of the case based on a review of the completed application.

22.8(3) The state office shall grant or deny an application for services as soon as practicable, but, in any event, shall do so within 60 days of receipt of the application.

22.8(4) Failure of the state office to grant or deny an application within the specified time period shall be deemed a denial of the application by the state office.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4880C**, IAB 1/15/20, effective 2/19/20]

17—22.9(231E,633) Case records.

22.9(1) A case record must be established for each consumer. At a minimum, the case record must contain:

a. Copies of the assessments, medical records, and updates, if any;

b. A separate financial management folder containing an inventory, an individual financial management plan, a record of all financial transactions made on behalf of the consumer by the public guardian, copies of receipts for all expenditures made by the public guardian on behalf of the consumer, and copies of all other documents pertaining to the consumer's financial situation as required by the state office;

c. Itemized statements of costs incurred in the provision of services for which the public guardian received court-authorized reimbursement directly from the consumer's estate; and

d. Other information as required by the state office.

22.9(2) All case records maintained by the public guardian shall be confidential as provided in Iowa Code section 231E.4(6)*"g."*

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4880C**, IAB 1/15/20, effective 2/19/20]

17—22.10(231E,633) Confidentiality. Notwithstanding Iowa Code chapter 22, the following provisions shall apply to records obtained by public guardians in the course of their duties.

22.10(1) Records or information obtained for use by a public guardian is confidential. All records or information obtained from federal, state or local agencies and health or mental care service providers shall be managed by the state and local offices with the same degree of confidentiality required by law or the policy utilized by the entity having control of such records or information. Such records or information shall not be disseminated without written permission from the entity having control of such records or information.

22.10(2) In its sole discretion, the state or local office may disclose a record obtained in the performance of its duties if release of the record is necessary and in the best interest of the consumer. Disclosure of a record under this rule does not affect the confidential nature of the record.

22.10(3) Information may be redacted so that personally identifiable information is kept confidential.

22.10(4) Confidential information may be disclosed to employees and agents of the department as needed for the performance of their duties. The state office shall determine what constitutes legitimate need to use confidential records. Individuals affected by this rule may include paid staff and volunteers working under the direction of the department and commission members.

22.10(5) Information concerning program expenditures and client eligibility may be released to staff of the state executive and legislative branches who are responsible for ensuring that public funds have been managed correctly. This same information may also be released to auditors from federal agencies when those agencies provide program funds.

22.10(6) The state office or a local office may enter into contracts or agreements with public or private entities in order to carry out the state or local office's official duties. Information necessary to carry out these duties may be shared with these entities. The state or local office may disclose protected health information to an entity under contract and may allow an entity to create or receive protected health information on the state or local office's behalf if the state or local office obtains satisfactory assurance that the entity will appropriately safeguard the information.

22.10(7) Release for judicial and administrative proceedings.

a. Information shall be released to the court as required by law.

b. The state or local office shall disclose protected health information in the course of any judicial or administrative proceeding in response to an order of a court or administrative tribunal. The state or local office shall disclose only the protected health information expressly authorized by the order and when the court makes the order knowing that the information is confidential.

c. If a court subpoenas other information that the state or local office is prohibited from releasing, the state or local office shall advise the court of the statutory and regulatory provisions against disclosure of the information and shall disclose the information only on order of the court.

22.10(8) Information concerning suspected fraud or misrepresentation in order to obtain public guardianship services or assistance may be disclosed to law enforcement authorities.

22.10(9) Information concerning consumers may be shared with service providers under contract.

a. Information concerning the consumer's circumstances and need for services may be shared with prospective service providers to obtain placement for the consumer. If the consumer is not accepted for service, all written information released to the service provider shall be returned to the state or local office.

b. When the information needed by the service provider is mental health information or substance abuse information, the consumer's specific consent is required.

22.10(10) After the state or local office receives a request for access to a confidential record, and before the state or local office releases such a record, the state or local office may make reasonable efforts to promptly notify any person who is a subject of that record, who is identified in that record, or whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4880C**, IAB 1/15/20, effective 2/19/20]

17—22.11(231E,633) Termination or limitation. Either a local office or the state office may seek the termination or limitation of a local office's duties under circumstances including but not limited to the following:

1. Public guardianship services are no longer needed or do not benefit the consumer;
2. The consumer's assets allow for hiring a paid guardianship or conservatorship service provider;
3. A conflict of interest or the appearance of a conflict of interest arises;

4. The state or local office lacks adequate staff or financial resources;
5. The consumer moves outside the state or outside the local office's service area;
6. The state office is no longer the last resort for assistance;
7. The local office withdraws from the service agreement;
8. Termination of the program by law; or
9. Other circumstances which indicate a need for termination or limitation.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4880C**, IAB 1/15/20, effective 2/19/20]

17—22.12(231E,633) Service fees.

22.12(1) The state public guardian and local public guardian shall be entitled to reasonable compensation for their public guardianship services as determined by using the following criteria:

a. Such compensation shall not exceed actual costs.

b. Fees may be adjusted or waived based upon the ability of the consumer to pay, upon whether financial hardship to the consumer would result, or upon a finding that collection of such fees is not economically feasible.

c. Fees shall be as established in rule 17—22.13(231E,633). The state office may collect a fee from the estate of a deceased consumer.

22.12(2) Fees shall not be assessed on income or support derived from Medicaid. Income or support derived from Social Security and other federal benefits shall be subject to assessment unless the funds have been expressly designated for another purpose. Written notice shall be given to the consumer prior to the collection of fees. The written notice shall describe the type and amount of fees assessed.

22.12(3) Case-opening fees. All consumers, except those receiving representative payee services, with liquid assets valued at $6,500 or more on the date of the public guardian's appointment shall be assessed a one-time case-opening fee for establishment of the case by the local office. Case-opening fees shall be assessed for each appointment, including a reappointment more than six months after the termination of a prior appointment as public guardian for the same consumer which involves similar powers and duties.

22.12(4) Monthly fees.

a. A monthly fee for public guardianship services other than the sale or management of real or personal property shall be assessed against all consumers with liquid assets valued at $6,500 or more on any one day during the month. Monthly fees shall be collected by the state office on a pro rata basis on the first of each month. A monthly fee shall be assessed when a public guardian is appointed to guardianship, conservatorship, or representative payee duties.

b. In all cases where the state office serves as representative payee under programs administered by the Social Security Administration, Railroad Retirement Board, or similar programs, the monthly fee for providing representative payee services shall be as established by the federal governmental agency which appoints the representative payee.

22.12(5) Additional fees.

a. Fees for the sale of a consumer's real or personal property shall be in addition to case-opening and monthly service fees.

b. Fees for the sale of real or personal property shall be 10 percent of the net proceeds resulting from the sale of the property and shall be paid at the time the sale is completed.

c. Such further allowances as are just and reasonable may be made by the court to public guardians for actual, necessary and extraordinary expenses and services.

22.12(6) Preparation and filing of state or federal income tax returns. Fees for the preparation and filing of a consumer's state or federal income tax return may be assessed at the time of filing of a return for each tax year in which a return is filed.

22.12(7) Settlement of a personal injury cause of action. Fees for the settlement of a consumer's personal injury cause of action may be collected upon court approval of the settlement.

22.12(8) Establishment of a recognized trust. Fees for establishing a recognized trust for the purpose of conserving or protecting a consumer's estate and for petitioning the court for the approval of the trust may be collected at the time of court approval of establishment of the trust.

22.12(9) Extraordinary expenses and services. The state office may collect fees pursuant to court order for other actual, necessary and extraordinary expenses or services. Necessary and extraordinary services shall be construed to also include services in connection with real estate, tax matters, and litigated matters.

22.12(10) Impact on creditors. The state office may collect fees even when claims of creditors of the consumer may be compromised.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4880C**, IAB 1/15/20, effective 2/19/20]

17—22.13(231E,633) Fee schedule. The following fees are applicable to services provided by a public guardian unless reduced or waived pursuant to paragraph 22.12(1)*"b."*

Action or Responsibility	**Fee**
One-time case opening: Guardianship Conservatorship Guardianship and conservatorship	 $200 $300 $500
Monthly public guardianship services except representative payee. Total value of liquid assets: $6,500 – $9,999 $10,000 – $19,999 $20,000 – $29,999 $30,000 – $39,999 $40,000 – $49,999 $50,000 – $59,999 $60,000 – $69,999 $70,000 – $79,999 $80,000 – $89,999 $90,000 – $99,999 $100,000 or above	 $100 $125 $150 $175 $200 $225 $250 $275 $300 $325 $350
Preparation and filing of income tax returns: Each federal return Each state return	 $50 $25
Settlement of a personal injury cause of action: Each cause of action approved by the probate court	 $250
Establishment of a recognized trust for the consumer's financial estate: Each trust	 $250
Representative payee—monthly fee	As determined by the federal governmental agency that appoints the representative payee

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4880C**, IAB 1/15/20, effective 2/19/20]

17—22.14(231E,633) Denial of services—appeal. An appeal from a consumer regarding denial of services shall be made pursuant to 17—Chapter 13.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4880C**, IAB 1/15/20, effective 2/19/20]

17—22.15(231E,633) Contesting the actions of a guardian or conservator.

22.15(1) Consumers who wish to contest the actions of a guardian or conservator may express their concerns to the state office in writing or verbally.

22.15(2) Within two working days of receipt of the concern, the state office shall notify the consumer of its decision to uphold or change the course of action taken by the guardian or conservator. The state office shall notify the consumer both verbally and in writing.

22.15(3) The state office shall explain to the consumer, in a manner that the consumer fully understands, that the consumer has the right to counsel and the right to appeal the state office's decision pursuant to 17—Chapter 13.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4880C**, IAB 1/15/20, effective 2/19/20]

17—22.16(231E,633) Severability. Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

[**ARC 8489B**, IAB 1/27/10, effective 1/7/10; **ARC 4880C**, IAB 1/15/20, effective 2/19/20]

These rules are intended to implement Iowa Code chapters 231E and 633.

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[Filed ARC 4880C (Notice ARC 4550C, IAB 7/17/19), IAB 1/15/20, effective 2/19/20]

CHAPTER 23
AGING AND DISABILITY RESOURCE CENTER

17—23.1(231) Authority. The department has been given authority to administer aging and disability resource centers (ADRCs) by Iowa Code section 231.64.
[**ARC 0624C**, IAB 3/6/13, effective 4/10/13; **ARC 4881C**, IAB 1/15/20, effective 2/19/20]

17—23.2(231) Aging and disability resource centers. The department shall administer aging and disability resource centers and shall do all of the following:

1. Perform all duties mandated by federal and state law.
2. Designate ADRCs.
3. Provide technical assistance to ADRCs.
4. Provide oversight of ADRCs to ensure compliance with federal and state law and applicable rules and regulations.

[**ARC 0624C**, IAB 3/6/13, effective 4/10/13; **ARC 4881C**, IAB 1/15/20, effective 2/19/20]

17—23.3(231) ADRC. An ADRC designated by the department shall perform all duties mandated by federal and state law and applicable rules and regulations. Services provided under this chapter shall be included in the Area Agencies on Aging Area Plan in accordance with 17—Chapter 6 and as described in the Area Agencies on Aging Reporting Manual.

[**ARC 0624C**, IAB 3/6/13, effective 4/10/13; **ARC 4881C**, IAB 1/15/20, effective 2/19/20]

17—23.4(231) Population served. An aging and disability resource center shall assist individuals in accordance with Iowa Code section 231.64(2).
[**ARC 0624C**, IAB 3/6/13, effective 4/10/13; **ARC 4881C**, IAB 1/15/20, effective 2/19/20]

17—23.5(231) Options counselors. An ADRC shall ensure that options counselors meet the requirements of this chapter and applicable federal and state law.

23.5(1) *Background checks.* All ADRCs shall establish and maintain background check policies and procedures that include, but are not limited to, the following:

a. A requirement that, prior to beginning employment, all options counselors, whether full-time, part-time, or unpaid, shall undergo criminal and abuse background checks.

b. A background check includes, at a minimum, a request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks of the applicant in this state.

c. Protocol for how to proceed in the event that an options counselor applicant is found to have a criminal history or history of child or dependent adult abuse.

23.5(2) *Mandatory reporters.* All options counselors shall be considered mandatory reporters pursuant to Iowa Code chapter 235B and shall adhere to federal and state law and applicable rules and regulations for mandatory reporters.

23.5(3) *Options counselor duties.* An options counselor shall provide options counseling that is person-directed and interactive and that allows the consumer to make informed choices about long-term living services and community supports based upon the consumer's preferences, strengths and values.

23.5(4) *Options counselor minimum qualifications.* An options counselor shall possess the following minimum qualifications:

a. Bachelor's degree in a human services field; or

b. License to practice as a registered nurse; or

c. Bachelor's degree and two years of experience working in the areas of aging, disabilities, community health, or hospital discharge planning; or

d. Associate's degree and four years of experience working in the areas of aging, disabilities, community health, or hospital discharge planning; or

e. License to practice as a licensed practical nurse and four years of experience working in the areas of aging, disabilities, community health, or hospital discharge planning.

23.5(5) *Position-specific training.* The options counselor shall provide to the ADRC documentation of successful completion of the person-centered counseling core curriculum provided by Elsevier, or an equivalent that is approved by the department, within 30 days of employment as an options counselor. Documentation shall be included in the individual's personnel record.

23.5(6) *Continuing education requirements for an options counselor.* An options counselor shall:

a. Obtain during the term of employment eight hours of relevant training annually as required by the department.

b. Document training related to the provision of options counseling if eight hours of training are not obtained in accordance with paragraph 23.7(6)*"a."* Documentation shall be included in the individual's personnel record.

[**ARC 1537C**, IAB 7/9/14, effective 8/13/14; **ARC 3485C**, IAB 12/6/17, effective 1/10/18; **ARC 4881C**, IAB 1/15/20, effective 2/19/20]

These rules are intended to implement Iowa Code section 231.64.

[Filed ARC 0624C (Notice ARC 0507C, IAB 12/12/12), IAB 3/6/13, effective 4/10/13]
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[Filed ARC 4881C (Notice ARC 4548C, IAB 7/17/19), IAB 1/15/20, effective 2/19/20]

UTILITIES DIVISION[199]

Former Commerce Commission[250] renamed Utilities Division[199]
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[Prior to 10/8/86, Commerce Commission[250]]

DIVISION I
GENERAL PROVISIONS

199—21.1(476) Application of rules.

21.1(1) *Application of rules.* This chapter applies to any water, sanitary sewage, or storm water drainage utility operating within the state of Iowa under the jurisdiction of the Iowa utilities board and is established under Iowa Code chapter 476.

a. *Purpose.* These rules are intended to establish standards of service to the public by utilities providing water by piped distribution systems and utilities providing sanitary sewage or storm water drainage disposal by piped collection systems which are subject to the jurisdiction of the Iowa utilities board, and to provide standards for uniform practices by those utilities.

b. *Organization.* This rule and rule 199—21.2(476) apply to water, sanitary sewage, and storm water drainage utilities. Rules 199—21.3(476) through 199—21.10(476) apply only to water utilities. Rules 199—21.11(476) through 199—21.17(476) apply only to sanitary sewage utilities. Rules 199—21.18(476) through 199—21.21(476) apply only to storm water drainage utilities.

c. *Board.* The term "board" as used in this chapter means the Iowa utilities board.

d. *Utility.* The term "utility" or "utilities," when not more specifically described, means a water, sanitary sewage, or storm water drainage public utility as defined in Iowa Code section 476.1(3)*"c"* and *"d."* The term does not include a county or an entity organized pursuant to Iowa Code chapter 28E which is comprised entirely of counties.

e. *Waiver.* A utility or customer may file for a waiver of these rules in accordance with the provisions of rule 199—1.3(17A,474,476).

f. *Other laws.* These rules shall not relieve a utility from its duties under the laws of this state.

21.1(2) *Authorization of rules.* Iowa Code chapter 476 provides that the Iowa utilities board shall establish all needful, just, and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, content, and filing of reports, documents, and other papers necessary to carry out the provisions of Iowa Code chapter 476.

[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

199—21.2(476) Records and reports for water, sanitary sewage, and storm water drainage utilities.

21.2(1) *Location and retention of records.* Unless otherwise specified in this chapter, all records required by these rules shall be kept and preserved in accordance with the applicable provisions of 199—Chapter 18.

21.2(2) *Tariffs.* The utility shall maintain its tariff filing in a current status.

The rates and rules of all utilities subject to the rules in this chapter shall be filed with the board.

The form, identification and content of tariffs shall be in accordance with these rules.

a. *Form and identification.*

(1) The tariff shall be on 8½ × 11-inch pages so as to result in a clear and permanent record. Tariffs shall be filed electronically in compliance with 199—Chapter 14.

(2) The tariff shall conform to the following requirements:

1. The first page shall be the title page, which will show the name of the utility, the type of utility service being provided, and the words "Iowa Utilities Board."

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

Tariff No. _____
Supersedes Tariff No. _____

3. When a tariff sheet in a tariff is revised, amended, or eliminated, the tariff sheet shall indicate in the top right corner the number of the revision to that tariff sheet.

4. Any tariff sheet modifications shall be marked in the right margin with symbols as described below to indicate the place, nature, and extent of the change in text. The marked version shall show all added language marked with underlined text and all deleted language with strike-through.

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

5. All sheets except the title page shall have the following information located at the top left of the tariff sheet:

- Company name.
- Type of utility tariff.
- The words "Filed with board."

6. All sheets except the title page shall have the following information located at the top right of the tariff sheet:

- Tariff part identification, if any.
- Tariff sheet number, original or revised.
- Canceled tariff sheet number, original or revised.

7. All sheets except the title page shall have the following information located at the bottom left of the tariff sheet:

- The issued date.
- The name of the person responsible for the issuance.

8. All sheets except the title page shall have the following information located at the bottom right of the tariff sheet:

- An effective date field.
- Proposed effective date for the tariff sheet.

(3) The issued date is the date the tariff or the revised sheet content was filed by the utility in the board's electronic filing system.

(4) The effective date may be left blank by the utility and shall be determined by the board. The utility may propose an effective date.

b. Content of tariffs. A tariff filed with the board shall contain a table of contents and rates, including all rates of utilities for service with indication for each rate of the type of service and the class of customers to which each rate applies as approved by the board. There shall also be shown the prices per unit of service, the number of units per billing period to which the prices apply, the period of billing, the minimum bill, the method of measuring demands and consumptions, including method of calculating or estimating loads or minimums, and any special terms and conditions applicable. Any discount for prompt payment or penalty for late payment and the period during which the net amount may be paid shall be specified and shall be in accordance with subrule 21.4(4).

21.2(3) *List of persons authorized to receive board inquiries.* Each utility shall file with the board in the annual report required by 199—subrule 23.1(2) a list of names, titles, addresses, and telephone numbers of persons authorized to receive, act upon, and respond to communications from the board in connection with: (1) general management duties; (2) customer relations (complaints); (3) engineering operations; and (4) meter tests and repairs, if meters are used. Each utility shall file with the board a telephone contact number where the board can obtain current information 24 hours a day about interruptions of service from a knowledgeable person. The contact information required by this subrule shall be kept current.

[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

DIVISION II
WATER UTILITIES

199—21.3(476) General water service requirements.

21.3(1) *Water service.*

a. Metered measurement of water. All water sold by a utility shall be on the basis of metered measurement except that the utility may at its option provide flat rate or estimated service for the following:

(1) Temporary service where the water use can be readily estimated.

(2) Public and private fire protection service.

(3) Water used for street sprinkling and sewer flushing.

b. Separate metering for premises. Separate premises shall be separately metered and billed. Submetering shall not be permitted.

21.3(2) *Temporary service.* When the utility renders temporary service to a customer, it may require that the customer bear all the costs of installing and removing the service in excess of any salvage realized.

21.3(3) *Water meter requirements.*

a. Water meter installation. Each water utility shall adopt a written standard method of meter installation. Copies of standard methods shall be made available upon request. All meters shall be set in place by the utility.

b. Records of water meters and associated metering devices. Each water utility shall maintain for each meter and associated metering device the following applicable data.

(1) Meter identification.

1. Manufacturer.
2. Meter type, catalog number, and serial number.
3. Meter capacity.
4. Registration unit of measurement (gallons or cubic feet).
5. Number of moving digits or dials on register.
6. Number of fixed zeros on register.
7. Pressure rating of the meter.

(2) Meter location history.

1. Dates of installation and removal from service.
2. Location of installations.
3. All customer names with readings and read out dates.

Remote register readings shall be maintained identical to readings of the meter register.

c. Registration devices for meters. Where remote meter reading is used, the customer shall have a readable meter register at the meter.

d. Water meter readings.

(1) Water meter reading interval. Reading of all meters used for determining charges to customers shall be scheduled at least quarterly. An effort shall be made to read meters on corresponding days of each meter reading period. The meter reading date may be advanced or postponed no more than ten days without adjustment of the billing for the period.

(2) Customer water meter reading. The utility may permit the customer to supply the meter readings on a form supplied by the utility or, in the alternative, may permit the customer to supply the meter reading information by telephone, or electronically, provided a utility representative reads the meter at least once every 12 months and when there is a change of customer.

(3) Readings and estimates in unusual situations. When a customer is connected or disconnected, or the regular meter reading date is substantially revised causing a given billing period to be longer or shorter than usual, the bill shall be prorated on a daily basis.

(4) Estimated bill. An estimated bill may be rendered in the event that access to a meter cannot be gained and a meter reading form left with the customer is not returned in time for the billing operation. Only in unusual cases shall more than three consecutive estimated bills be rendered.

21.3(4) *Filing published meter and service installation rules.* A copy of the utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, plumbing contractors, etc., covering meter and service installation shall be filed with the board.

21.3(5) *Extensions to customers.*

a. Definitions. The following definitions shall apply to the terms used in this subrule:

"Advances for construction costs" means cash payments or surety bonds or an equivalent surety made to the utility by an applicant for an extension, portions of which may be refunded depending on any subsequent connections made to the extension. Cash payments, surety bonds, or equivalent sureties shall include a grossed-up amount for the income tax effect of such revenue.

"Agreed-upon attachment period" means a period of not less than 30 days nor more than one year mutually agreed upon by the utility and the applicant within which the customer will attach. If no time period is mutually agreed upon, the agreed-upon attachment period shall be deemed to be 30 days.

"Contribution in aid of construction" means a nonrefundable cash payment covering the costs of an extension that are in excess of utility-funded allowances. Cash payments shall be grossed-up for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

"Customer advance for construction record" means a separate record established and maintained by the utility, which includes by depositor, the amount of advance for construction provided by the customer, whether the advance is by cash or surety bond or equivalent surety, and if by surety bond, all relevant information concerning the bond or equivalent surety, the amount of refund, if any, to which the depositor is entitled, the amount of refund, if any, which has been made to the customer, the amount unrefunded, and the construction project on which or work order pursuant to which the extension was installed.

"Estimated annual revenues" means an estimated calculation of annual revenue based upon the following factors, including but not limited to: the size of the facility to be used by the customer, the size and type of equipment to be used by the customer, the average annual amount of service required by the equipment, and the average number of hours per day and days per year the equipment will be in use.

"Estimated construction costs" means an estimated calculation of construction costs using average costs in accordance with good engineering practices and based upon the following factors: amount of service required or desired by the customer requesting the extension; size, location and characteristics of the extension, including all appurtenances; and whether or not the ground is frozen or whether other adverse conditions exist. The average cost per foot shall be calculated utilizing the prior calendar year costs, to the extent such cost basis does not exceed the current costs using current construction cost methodologies, resources and material, and working conditions, divided by the total feet of extensions by size of pipe for the prior calendar year. In no event shall estimated construction costs include costs associated with facilities built for the convenience of the utility.

"Extensions" means a distribution main extension.

"Similarly situated customer" means a customer whose annual consumption or service requirements, as defined by estimated annual revenue, are approximately the same as the annual consumption or service requirements of other customers.

b. Terms and conditions. The utility shall extend service to new customers under the following terms and conditions:

(1) The utility shall provide all water plant additions at its cost and expense without requiring an advance for construction or contribution in aid of construction from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served or where the customer will not attach within the agreed-upon attachment period after completion of construction. In such instances, the utility shall require, no more than 30 days prior to commencement of construction, the customer or developer to advance funds which are subject to refund as additional customers are attached. A contract between the utility and the customer which requires an advance by the customer to make plant additions shall be available for board inspection.

(2) Where the customer will attach within 30 days after completion of the distribution main extension, the following shall apply:

1. If the estimated construction cost to provide a distribution main extension is less than or equal to five times the estimated annual revenue calculated on the basis of similarly situated customers, the utility shall finance and make the extension without requiring an advance for construction.

2. If the estimated construction cost to provide a distribution main extension is greater than five times the estimated annual revenue calculated on the basis of similarly situated customers, the applicant for such an extension shall contract with the utility and deposit no more than 30 days prior to commencement of construction an advance for construction equal to the estimated construction cost less five times the estimated annual revenue to be produced by the customer.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the distribution main extension, the customer requesting the extension shall contract with the utility and deposit no more than 30 days prior to the commencement of construction an advance for construction equal to the estimated construction cost.

(4) Advance payments for plant additions or extensions are subject to refund for a ten-year period and may be made by cash, surety bond, or equivalent surety. In the event a surety bond or an equivalent surety is used, the bonded amount shall have added to it a surcharge equal to the annual interest rate paid by the utility on customer bill deposits times the bonded amount. The bond shall be called by the utility at the end of one year or when the earned refunds are equal to the bonded amount, less the surcharge, whichever occurs first. If, upon termination of the surety bond, there are sufficient earned refunds to offset the amount of the surety bond, less the surcharge, the depositors shall provide the utility the amount of the surcharge. If, upon termination of the surety bond, there are not sufficient earned refunds to offset the full amount of the surety bond, less the surcharge, the depositors shall provide the utility a cash deposit equal to the amount of the surety bond, less refunds accumulated during the bonded period, plus the surcharge, or the depositor may pay the interest on the previous year's bond and rebond the balance due to the utility for a second or third one-year period. Upon receipt of such cash deposit, the utility shall release the surety bond. The cash deposit, less the surcharge, shall be subject to refund by the utility for the remainder of the ten-year period.

c. *Refunds.* The utility shall refund to the depositor for a period of ten years from the date of the original advance, a pro-rata share for each service attachment to the distribution main extension. The pro-rata refund shall be computed in the following manner:

(1) If the combined total of five times the estimated annual revenue for the depositor and each customer who has attached to the distribution main extension exceeds the total estimated construction cost to provide the extension, the entire amount of the advance provided by the depositor shall be refunded to the depositor.

(2) If the combined total of five times the estimated annual revenue for the depositor and each customer who has attached to the distribution main extension is less than the total estimated construction cost to provide the extension, the amount to be refunded to the depositor shall equal five times the estimated annual revenue of the customer attaching to the extension.

(3) In no event shall the total amount to be refunded to a depositor exceed the amount of the advance for construction made by the depositor. Any amounts subject to refund shall be paid by the utility without interest. At the expiration of the above-described ten-year period, the customer advance for construction record shall be closed and the remaining balance shall be credited to the respective plant account.

d. *Extensions not required.* Utilities shall not be required to make extensions as described in this subrule unless the extension shall be of a permanent nature.

e. *More favorable methods permitted.* Subrule 21.3(5) shall not be construed as prohibiting any utility from making a contract with a customer in a different manner, if the contract provides a more favorable method of extension to the customer, so long as no discrimination is practiced among customers or depositors.

f. *Connections to utility-owned equipment.* Subrule 21.3(5) shall not be construed as prohibiting an individual, partnership, or company from constructing its own extension. An extension constructed by a nonutility entity must meet at a minimum the applicable portions of the standards in subrules 21.5(1)

and 21.5(2) and such other reasonable standards as the utility may employ in constructing extensions, so long as the standards do not mandate a particular supplier. All connections to the utility-owned equipment or facilities shall be made by the utility at the applicant's expense. At the time of attachment to the utility-owned equipment or facilities, the applicant shall transfer ownership of the extension to the utility and the utility shall book the original cost of construction of the extension as an advance for construction, and refunds shall be made to the applicant in accordance with paragraph 21.3(5)*"c."* The utility shall be responsible for the operation and maintenance of the extension after attachment.

g. *Reimbursement of extension construction cost.* If the utility requires the applicant to construct the extension to meet service requirements greater than those necessary to serve the applicant's service needs, the utility shall reimburse the applicant for the difference in cost between the extension specifications required by the utility and the extension specifications necessary to meet the applicant's service needs.

21.3(6) *Water service connections.* The utility shall supervise the installation and maintenance of that portion of the water service pipe from its main to and including the customer's meter. A curb stop shall be installed at a convenient place between the property line and the curb. All services shall include a curb stop and curb box or meter vault. In installations where meters are installed in meter vaults incorporating a built-in valve and are installed between the property line and curb, no separate curb stop and curb box is required.

21.3(7) *Location of meters.* Meters may be installed outside or inside as mutually agreed upon by the customer and the utility.

a. *Outside meters.* Meters installed out-of-doors shall be readily accessible for maintenance and reading, and so far as practicable the location should be mutually acceptable to the customer and the utility. The meter shall be installed so as to be unaffected by climatic conditions and reasonably secure from injury.

b. *Inside meters.* Meters installed inside the customer's building shall be located as near as possible to the point where the service pipe enters the building and at a point reasonably secure from injury and readily accessible for reading and testing. In cases of multiple buildings, such as two-family dwellings or apartment buildings, the meter(s) shall be located within the premises served or in a common location accessible to the customers and the utility.

[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

199—21.4(476) Customer relations for water service.

21.4(1) *Customer information.*

a. Each utility shall:

(1) Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rates and rules relating to the service of the utility are available for public inspection.

(2) Maintain up-to-date maps, plans, or records of its entire water system.

(3) Upon request, assist the customer or prospective customers in selecting the most economic rate schedule available for the proposed type of service.

(4) Upon request, inform the customer as to the method of reading meters and the method of computing the customer's bill.

(5) Notify customers affected by a change in rates or rate classification as directed in the board's rules of practice and procedures.

b. Inquiries for information or complaints to a utility shall be resolved promptly and courteously. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer which will enable the customer to reach that employee again if needed.

c. Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name)

does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling 1-877-565-4450, by writing to 1375 E. Court Avenue, Des Moines, Iowa 50319-0069, or by email to customer@iub.iowa.gov."

d. The bill insert or notice on the bill will be provided no less than annually. Any utility which does not use the standard statement described in this subrule shall file its proposed statement in its tariff for approval. A utility which bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information set forth above.

21.4(2) *Customer deposits.*

a. *Deposit required.* Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service.

b. *Amount of deposit.* The total deposit shall not be less than $5 nor more in amount than the maximum estimated charge for service for 90 days or as may reasonably be required by the utility in cases involving service for short periods or special occasions.

c. *New or additional deposit.* A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice shall be mailed advising the customer of any new or additional deposit requirement. The customer shall have no less than 12 days from the date of mailing to comply. No written notice is required to be given of a deposit required as a prerequisite for commencing initial service.

d. *Customer's deposit receipt.* The utility shall issue a receipt of deposit to each customer from whom a deposit is received.

e. *Interest on customer deposits.* Interest shall be paid by the utility to each customer required to make a deposit. Utilities shall compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods shall be computed at the rate specified by the rule in effect for the period in question. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent is the most recent date the account is treated as uncollectible.

f. *Deposit refund.* The deposit shall be refunded after 12 consecutive months of prompt payment, unless the utility has evidence to indicate that the deposit is necessary to ensure payment of bills for service. In any event, the deposit shall be refunded upon termination of the customer's service.

g. *Unclaimed deposits.* The utility shall make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility shall maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4 at which time the record and deposit, together with accrued interest, less any lawful deductions, shall be sent to the state treasurer pursuant to Iowa Code section 556.13.

21.4(3) *Customer bill forms.* The utility shall bill each customer as promptly as possible following the reading of the customer's meter. Each bill, including the customer's receipt, shall show:

a. The date and the reading of the meter at the beginning and at the end of the period or the period for which the bill is rendered.

b. The number of units metered when applicable.

c. Identification of the applicable rates.

d. The gross and net amount of the bill.

e. The late payment charge and the latest date on which the bill may be paid without incurring a penalty.

f. A distinct marking to identify an estimated bill.

21.4(4) *Bill payment terms.* The bill shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill shall be considered rendered when delivered to the last-known address of the party responsible for payment. There shall

be not less than 20 days between the rendering of a bill and the date by which the account becomes delinquent.

a. *Late payment charge.* A utility's late payment charge shall not exceed 1.5 percent per month of the past due amount.

b. *Charge forgiveness.* Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified that the eligibility has been used.

21.4(5) *Customer records.* The utility shall retain customer billing records for the length of time necessary to permit the utility to comply with 21.4(6), but not less than three years.

21.4(6) *Adjustment of bills.* Bills which are incorrect due to meter or billing errors are to be adjusted as follows:

a. *Fast meters.* Whenever a meter in service is tested and found to have overregistered more than 2 percent, the utility shall adjust the customer's bill for the excess amount paid. The estimated amount of overcharge is to be based on the period the error first developed or occurred. If that period cannot be definitely determined, it will be assumed that the overregistration existed for a period equal to one-half the time since the meter was last tested, or one-half the time since the meter was installed unless otherwise ordered by the board. If the recalculated bill indicates that more than $5 is due an existing customer, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. If a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last-known address.

b. *Nonregistering meters.* Whenever a meter in service is found not to register, the utility may render an estimated bill.

c. *Slow meters.* Whenever a meter is found to be more than 2 percent slow, the utility may bill the customer for the amount the test indicates the customer has been undercharged for the period of inaccuracy, or a period as estimated in 21.4(6)*"a"* unless otherwise ordered by the board.

d. *Overcharges.* When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. The time period for which the utility is required to adjust, refund, or credit the customer's bill shall not exceed five years unless otherwise ordered by the board.

e. *Undercharges.* When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the tariff may provide for billing the amount of the undercharge to the customer. The time period for which the utility may adjust for the undercharge need not exceed five years unless otherwise ordered by the board. The maximum bill shall not exceed the billing for like charges (e.g., usage-based, fixed, or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

21.4(7) *Refusal or disconnection of service.* Service may be refused or discontinued only for the reasons listed in paragraphs 21.4(7)*"a"* through *"f"* below. Unless otherwise stated, the customer shall be permitted at least 12 days, excluding Sundays and legal holidays, following mailing of notice of disconnect in which to take necessary action before service is discontinued. When a person is refused service, the utility shall notify the person promptly of the reason for the refusal to serve and of the person's right to file a complaint about the utility's decision with the board.

a. Without notice in the event of an emergency.

b. Without notice in the event of tampering with the equipment furnished and owned by the utility or obtaining water by fraudulent means.

c. For violation of or noncompliance with the utility's rules on file with the board.

d. For failure of the customer to permit the utility reasonable access to its equipment.

e. For nonpayment of bill, provided that the utility has: (1) made a reasonable attempt to effect collection; (2) given the customer written notice that the customer has at least 12 days, excluding Sundays

and legal holidays, in which to make settlement of the account; and (3) given the customer the written statement of the customer's rights and responsibilities to avoid a shutoff, as required by subrule 21.4(8). In the event there is dispute concerning a bill, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid discontinuance of service for nonpayment of the disputed bill for up to 45 days after the rendering of the bill. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board.

f. For failure to pay a debt owed to a city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment. Disconnection of water service pursuant to this paragraph shall only be allowed if the governing body of a city utility, city enterprise, combined city utility, or combined city enterprise has entered into a written agreement with the utility that includes provisions:

(1) Requiring that a notice of disconnection of water service for failure to pay a debt owed to the city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment be made by the utility and allow the customer 12 days, excluding Sundays and legal holidays, after the mailing of the notice to take necessary action to satisfy the debt.

(2) Providing for prompt notice from the city utility, city enterprise, combined city utility, or combined city enterprise to the utility that the debt for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment has been satisfied and providing that, once notified of the payment of the debt, the utility shall reconnect water service to the customer as provided for in the utility's tariff.

(3) Requiring the city utility, city enterprise, combined city utility, or combined city enterprise, prior to contacting the utility for disconnection of water service to a customer, to have completed the disconnection notification procedures established in the tariffs or ordinances of the city utility, city enterprise, combined city utility, or combined city enterprise.

(4) Providing that the customer may be charged a fee for disconnection and reconnection of water service by the utility for failure of the customer to pay a debt owed to the city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment, that the fee be no greater than the rates or charges established for reconnection and disconnection of water service in the utility's tariffs approved by the board, and that recovery of lost revenue by the utility as a result of disconnection of water service pursuant to this paragraph is not authorized under these rules.

21.4(8) *Statement of customer rights and responsibilities.* In addition to providing the written notice of disconnect required by subrule 21.4(7), a utility shall, prior to refusing water service due to nonpayment of a bill, provide the customer a written statement of rights and responsibilities to avoid shutoff. Any utility which does not use the standard form set forth below shall electronically submit its proposed form to the board for approval. A utility which is preparing to disconnect water service due to nonpayment of a bill for sanitary sewage disposal service or storm water drainage service shall replace the words "water service" in the form below with the words "sanitary sewage disposal service" or "storm water drainage service" as appropriate. The utility shall provide the customer with the written statement of customer rights and responsibilities at the same time it provides the customer the written notice of disconnect.

CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF WATER SERVICE FOR NONPAYMENT

1. What can I do if I receive a notice from the utility that says my water service will be shut off because I have a past due bill?

a. Pay the bill in full; or

b. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #2 below).

2. What should I do if I believe my bill is not correct?

You may dispute your utility bill. You must tell the utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45 days from the date the bill was mailed while you and the utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Board for assistance in resolving the dispute. (See #6 below.)

3. When can the utility shut off my utility service because I have not paid my bill?

The utility will not shut off your service for up to 45 days from the rendering of the bill if you have notified the utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct. The 45 days will be extended by up to 60 days if requested of the utility by the Utilities Board in the event you file a written complaint with the Utilities Board.

4. How will I be told the utility is going to shut off my service?

You must be given a written notice at least 12 days before the utility service can be shut off for nonpayment. The 12-day period does not include Sundays and legal holidays.

5. If service is shut off, when will it be turned back on?

a. The utility must turn your service back on promptly if you pay the whole amount you owe or, in the event that you dispute a portion of the bill, if you pay the portion of the bill that is not under dispute (see #2 above).

b. The utility may charge you a fee to turn your service back on. Those fees may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

6. Is there any other help available besides my utility?

If the utility has not been able to help you with your problem, you may contact the Iowa Utilities Board toll-free at 877-565-4450. You may also write the Iowa Utilities Board at 1375 E. Court Avenue, Des Moines, Iowa 50319-0069, or by email at customer@iub.iowa.gov. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid, and may contact Legal Aid at 1-800-532-1275.

21.4(9) *Reconnection and charges.* In all cases of discontinuance of service where the cause of discontinuance has been corrected, the utility shall promptly restore service to the customer. The utility may make a reasonable charge applied uniformly for reconnection of service.

21.4(10) *Insufficient reasons for denying service.* The following shall not constitute sufficient cause for refusal of service to a present or prospective customer:

a. Delinquency in payment for service by a previous occupant of the premises to be served.

b. Failure to pay the bill of another customer as guarantor thereof.

c. Failure to pay for a different type or class of utility service, except sanitary sewage disposal service or storm water drainage service. Disconnection of water service pursuant to the provisions of paragraph 21.4(7)*"f"* is not considered a different type or class of public utility service for purposes of subrule 21.4(10).

d. Delinquency in payment for service arising more than ten years prior, as measured from the most recent of the last date of service, the physical disconnection of service, or the last payment or promise of payment made by the customer.

21.4(11) *Customer complaints.* A "complaint" shall mean any objection to the charge, facilities, or quality of service of a utility.

a. Each utility shall investigate promptly and thoroughly and keep a record of all complaints received from its customers that will enable it to review its procedures and actions. The record shall show the name and address of the complainant, the date and nature of the complaint, and its disposition and the date resolved.

b. All complaints caused by a major service interruption shall be summarized in a single report.

c. A record of the original complaint shall be kept for a period of three years after final settlement of the complaint.

[Editorial change: IAC Supplement 12/29/10; **ARC 1959C**, IAB 4/15/15, effective 5/20/15; **ARC 4873C**, IAB 1/15/20, effective 2/19/20]

199—21.5(476) Engineering practice for water service.

21.5(1) *Requirement of good engineering practice.* The design and construction of the utility's plant and distribution system shall conform to good standard engineering practice.

21.5(2) *Inspection.* Each utility shall adopt and follow a program of inspection of its plant and distribution system in order to determine the necessity for replacement and repair. The frequency of the various inspections shall be based on the utility's experience and accepted good practice.

[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

199—21.6(476) Meter testing for water service.

21.6(1) *Periodic and routine tests.* Each utility shall adopt schedules approved by the board for periodic and routine tests and repair of its meters.

21.6(2) *Meter test facilities and equipment.* Each utility furnishing metered service shall provide the necessary standard facilities, instruments, and other equipment for testing its meters, or contract for test of its meters by another utility or agency equipped to test meters subject to approval by the board.

21.6(3) *Accuracy requirements.* All meters shall be in good mechanical condition. All meters shall be accurate to the following standards:

a. *Test flow limits.* For determination of minimum test flow and normal test flow limits, the utility shall use as a guide the appropriate standard specifications of the American Water Works Association for the various types of meters.

b. *Accuracy limits.* A meter shall not be placed in service if it registers less than 95 percent of the volume passed through it at the minimum test flow, or overregisters or underregisters more than 1.5 percent at the intermediate or maximum limit.

21.6(4) *Initial test and storage of meters.* Every meter shall be tested prior to its installation either by the manufacturer, the utility, or an organization equipped for meter testing.

If a meter is not stored as recommended by the manufacturer, the meter shall be tested immediately before installation.

21.6(5) *As found tests.* To determine the average meter error in accordance with these rules for periodic or complaint tests, meters shall be tested in the condition as found in the customer's service. Tests shall be made at intermediate and maximum rates of flow, and the meter error shall be the algebraic average of the errors of the two tests.

21.6(6) *Request tests.* A utility shall test any meter upon written request of a customer. The utility will not be required to perform request tests more than once each 18 months. The customer shall be given the opportunity to be present at the request tests.

21.6(7) *Board-ordered tests.* The board shall order tests of meters as follows:

a. *Application.* Upon written application to the board by a customer or a utility, a test shall be made of the customer's meter as soon as practicable.

b. *Guarantee.* The application shall be sent by certified or registered mail and accompanied by a certified check or money order made payable to the utility in the amount indicated below:

(1) Capacity of 80 gallons per minute or less $24

(2) Capacity over 80 gallons, up to 120 gallons per minute $26

(3) Capacity of over 120 gallons per minute $30

c. *Conduct of test.* On receipt of a request from a customer, the board shall forward the deposit to the utility and notify the utility of the requirement for the test. The utility shall not knowingly remove or adjust the meter until tested. The utility shall furnish all instruments, load devices, and other facilities necessary for the test and shall perform the test and shall furnish verification of the accuracy of test instruments used.

d. *Test results.* If the tested meter is found to overregister to an extent requiring a refund under the provisions of 21.4(6)*"a,"* the amount paid to the utility shall be returned to the customer by the utility.

e. *Notification.* The utility shall notify the customer in advance of the date and time of the board-ordered test.

f. *Utility report.* The utility shall make a written report of the results of the test. The report shall be sent to the customer and to the board.

21.6(8) *Sealing of meters.* Upon completion of adjustment and test of any water meter the utility shall place a suitable register seal on the meter in a manner that adjustment or registration of the meter cannot be changed without breaking the seal.

21.6(9) *Record of meter tests.* Meter test records shall include:

a. The date and reason for the test.

b. The meter reading prior to any test.

c. The accuracy as found at each of the flow rates required by 21.6(3)*"a."*

d. The accuracy as left at each of the flow rates required by 21.6(3)*"a."*

e. Statement of any repairs.

f. If the meter test is made using a standard meter, the utility shall retain all data taken at the time of the test sufficient to permit the convenient checking of the test method, calculations, and traceability to the National Bureau of Standards' volumetric standardization.

The test records of each meter shall be retained for two consecutive periodic tests or at least for two years. A record of the test made at the time of the meter's retirement, if any, shall be retained for a minimum of three years.

[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

199—21.7(476) Standards of quality of water service.

21.7(1) *Water pressures.* Under normal condition of water usage, the pressure (pound per square inch gauge) at a customer's service line shall be not less than 35 PSIG and not more than 125 PSIG.

At regular intervals, a utility shall make a survey of pressures in its water system. The survey shall be of sufficient magnitude to indicate the quality of service being rendered at representative points on its system. The survey shall be conducted during periods of high usage at or near the maximum usage during the year. The pressure charts for these surveys shall show the date and time of beginning and end of the test and the test location. Records of these pressure surveys shall be maintained at the utility's principal office in the state and made available to the board upon request.

21.7(2) *Interruption of water service.*

a. A utility shall make a reasonable effort to prevent interruptions of water service. When an emergency interruption occurs, the utility shall reestablish service with the shortest possible delay consistent with the safety of its customers and the general public. If an emergency interruption affects fire protection service, the utility shall immediately notify the fire chief or other responsible local official.

b. When a utility finds it necessary to schedule an interruption of water service, it shall make a reasonable effort to notify all customers to be affected by the interruption. The notice shall include the time and anticipated duration of the interruption. Interruptions shall be scheduled at hours which create the least inconvenience to the customer.

c. A utility shall retain records of interruptions for a period of at least five years.

21.7(3) *Water supply shortage.* The utility shall attempt to furnish a continuous and adequate supply of water to its customers and to avoid any shortage or interruption of water delivery.

a. If a utility finds that it is necessary to restrict the use of water due to a shortage, it shall equitably apportion its available water supply among its customers. The utility shall notify its customers and the board of the following:

(1) The reason for the restriction.

(2) The nature and extent of the restriction.

(3) The effective date of the restriction.

(4) The probable date of termination of the restriction.

b. The water use restriction shall not take effect unless approved by the board, except in cases of emergency.

[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

199—21.8(476) Applications for water costs for fire protection services.

21.8(1) *Definition.* For purposes of this rule, "water costs for fire protection service" shall be defined as all or a part of the utility's costs of fire hydrants and other improvements, maintenance, and

operations for the purpose of providing adequate water production, storage, and distribution for public fire protection, as reflected in the utility's current tariff for public fire protection water service.

21.8(2) *Utility requirements.* A utility which provides public fire protection water service to a city preparing an application pursuant to subrule 21.8(3) shall provide the city all necessary information and affidavits to enable the city to meet its application filing requirements.

21.8(3) *Application contents.* Any city filing an application with the board requesting inclusion of all or a part of the water costs for fire protection service in a utility's rates or charges to customers covered by the city's fire protection service shall submit, at the time the application is filed, the following information with supporting testimony:

a. A statement showing (1) the proposed method of allocating costs to affected customers, and (2) both the proposed per-customer rate increase and the average percentage increase by customer class, based on the utility's current tariff, if the costs for fire protection water service are included in rates charged to affected customers;

b. Copies of all bills rendered to the city by the utility for public fire protection water service during the preceding 24-month period;

c. The current number of utility customers served within the city's corporate limits, by customer class, with an affidavit from the utility verifying the information;

d. A map illustrating both (1) the city's corporate limits, and (2) the portion of the utility's customer service area within the city's corporate limits, with an affidavit from the utility verifying the customer service area;

e. An affidavit from the utility showing that the notice required by Iowa Code section 476.6(14)*"c"* and subrule 21.8(4) has been provided and paid for by the applicant and mailed by the utility to all affected customers.

21.8(4) *Customer notification.*

a. *Prior approval.* The city shall file with the board for its approval, not less than 30 days before providing notification to affected customers, a copy of the proposed notice.

b. *Required content of notification.* The notice shall advise affected customers of the proposed increase in rates and charges, the proposed effective date of the increase, and the percentage increase by customer class. It shall advise customers that the city is requesting the increase and that customers have the right to file with the board a written objection to the proposed increase and to request a public hearing. It shall also include a written explanation of the reason for the increase.

c. *Notice of deficiencies.* Within 30 days of the filing of the proposed notice, the city shall be notified either of the approval of the notice or of any deficiencies in the notice and the corrective measures required for approval.

d. *Distribution.* The city shall provide to the utility, for mailing, a sufficient number of copies of the approved notice. The city shall direct the utility either to (1) include the notice with the utility's next regularly scheduled mailing to the affected customers; or (2) make a separate mailing of the notice to affected customers within 30 days of receiving from the city the requisite number of copies of the notice. The city shall pay all expenses incurred by the utility in providing notice to affected customers. The utility may require payment prior to the mailing.

e. *Delivery.* The written notice to affected customers shall be mailed or delivered by the utility not more than 90 days before the application is filed and no later than the date the application is filed.

21.8(5) *Procedure.*

a. *Filing of application.* The applicant shall file the application with the board.

b. *Docketing.* Within 30 days of the filing of the application, the board shall either approve the application or docket the case as a formal proceeding and establish a procedural schedule.

c. *Rules.* If the case is docketed as a formal proceeding, the rules in 199—Chapter 7, if not inconsistent, shall apply.

d. *Decision.* The board shall render its decision within six months of the date of the application. If the application is approved, the board shall order the utility providing the water service to the city to file tariffs implementing the board's decision. The utility shall include annually a bill insert explaining

to customers that they are being charged for water-related fire protection costs. The city shall pay all costs incurred by the utility to file and implement the required tariff.
[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

199—21.9(476) Incident reports regarding water service.

21.9(1) *Notification.* A water utility shall notify the board about any incident involving:

a. The occurrence of a waterborne illness;

b. The issuance of a boil water advisory;

c. A contamination event;

d. A low-pressure event (less than 20 psi) that negatively affects the quality of water service;

e. A flood event affecting the utility's plant or distribution system; or

f. A cyberattack affecting the well-being of the utility, its customers, or the environment.

21.9(2) *Information required.* The utility shall notify the board immediately, or as soon as practical, of any reportable incident by emailing the duty officer at dutyofficer@iub.iowa.gov or, when email is not available, by calling the board duty officer at (515)745-2332. The person sending the email shall leave the telephone number of a person who can provide the following information:

a. The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.

b. The location of the incident.

c. The time of the incident.

d. The number of deaths or personal injuries and the extent of those injuries, if any.

e. The number of services interrupted.

f. A summary of the significant information available to the utility regarding the likely cause of the incident and the estimated extent of damage.

21.9(3) *Normal service restored.* The utility shall notify the board when the incident has ended and normal water service has been restored.
[**ARC 1359C**, IAB 3/5/14, effective 4/9/14; **ARC 1623C**, IAB 9/17/14, effective 10/22/14; **ARC 4873C**, IAB 1/15/20, effective 2/19/20]

199—21.10(476) Separate books for acquired water service assets. A utility acquiring the whole or any substantial part of a water system with a fair market value of $500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(4) shall maintain separate books and records for the acquired system until the utility's next general rate case, unless otherwise ordered by the board.
[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

DIVISION III
SANITARY SEWAGE UTILITIES

199—21.11(476) General sanitary sewage disposal service requirements.

21.11(1) *Sanitary sewage disposal service.*

a. *Metered measurement of sanitary sewage.* All sanitary sewage disposal service sold by a utility shall be on the basis of metered measurement except that the utility may at its option, pursuant to board-approved tariffs, provide flat rate or estimated service for the following:

(1) Temporary service; or

(2) The disposal at the sewage treatment plant of delivered sewage where the amount of sewage can be readily estimated.

b. *Sanitary sewage meter requirements.* Sanitary sewage disposal service provided by a utility may be based upon the amount of water used by the customer as measured pursuant to rule 199—21.3(476) or separately metered in substantial conformity with the requirements of rule 199—21.3(476). The method of measuring sanitary sewage disposal service shall be filed in the utility's tariff and approved by the board. A proposed tariff which includes provisions for separate sanitary sewage meters shall describe the circumstances under which separate meters will be used.

c. *Customer classes.* In establishing customer classes, the utility may consider the characteristics of the sewage generated by that customer class and the existence of any industrial pretreatment agreements. Customer classes shall be established pursuant to board-approved tariffs.

21.11(2) *Temporary service.* When the utility renders temporary service to a customer, it may require that the customer bear all of the costs of installing and removing the service in excess of any salvage realized, pursuant to board-approved tariffs.

21.11(3) *Sewage meter requirements.*

a. *Sewage meter installation.* Each sanitary sewage utility shall adopt a written standard method or a method preapproved by the board for meter installation. Copies of standard methods shall be made available upon request. All meters shall be set in place by the utility.

b. *Records of sewage meters and associated metering devices.* Each sanitary sewage utility shall maintain for each meter and associated metering device the following applicable data:

(1) Meter identification.

1. Manufacturer.
2. Meter type, catalog number, and serial number.
3. Meter capacity.
4. Registration unit of measurement (gallons or cubic feet).
5. Number of moving digits or dials on register.
6. Number of fixed zeros on register.
7. Pressure rating of the meter.

(2) Meter location history.

1. Dates of installation and removal from service.
2. Location of installation.
3. All customer names with readings and read out dates.

Remote register readings shall be maintained identical to readings of the meter register.

c. *Registration devices for meters.* Where remote meter reading is used, the customer shall have a readable meter register at the meter.

d. *Sewage meter readings.*

(1) Sewage meter reading interval. Reading of all meters used for determining charges to customers shall be scheduled at least quarterly. An effort shall be made to read meters on corresponding days of each meter reading period. The meter reading date may be advanced or postponed no more than ten days without adjustment of the billing for the period.

(2) Customer sewage meter reading. The utility may permit the customer to supply the meter readings on a form supplied by the utility or, in the alternative, may permit the customer to supply the meter reading information by telephone, or electronically, provided a utility representative reads the meter at least once every 12 months and when there is a change of customer.

(3) Readings and estimates in unusual situations. When a customer is connected or disconnected, or the regular meter reading date is substantially revised causing a given billing period to be longer or shorter than usual, such bills shall be prorated on a daily basis.

(4) Estimated bill. An estimated bill may be rendered in the event that access to a meter cannot be gained and a meter reading form left with the customer is not returned in time for the billing operation. Only in unusual cases shall more than three consecutive estimated bills be rendered.

21.11(4) *Filing published meter and service installation rules.* A copy of the utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, plumbing contractors, etc., covering meter and service installation shall be filed with the board.

21.11(5) *Extensions to customers.*

a. *Definitions.* The following definitions shall apply to the terms used in subrule 21.11(5):

"Advances for construction costs" means cash payments or surety bonds or an equivalent surety made to the utility by an applicant for an extension, portions of which may be refunded depending on any subsequent connections made to the extension. Cash payments, surety bonds, or equivalent sureties shall include a grossed-up amount for the income tax effect of such revenue.

"Agreed-upon attachment period" means a period of not less than 30 days nor more than one year mutually agreed upon by the utility and the applicant within which the customer will attach. If no time period is mutually agreed upon, the agreed-upon attachment period shall be deemed to be 30 days.

"Contribution in aid of construction" means a nonrefundable cash payment covering the costs of an extension that are in excess of utility-funded allowances. Cash payments shall be grossed-up for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

"Customer advance for construction record" means a separate record established and maintained by the utility, which includes by depositor, the amount of advance for construction provided by the customer, whether the advance is by cash or surety bond or equivalent surety, and if by surety bond, all relevant information concerning the bond or equivalent surety, the amount of refund, if any, to which the depositor is entitled, the amount of refund, if any, which has been made to the customer, the amount unrefunded, and the construction project on which or work order pursuant to which the extension was installed.

"Estimated annual revenues" means an estimated calculation of annual revenue based upon the following factors, including but not limited to: the size of the facility to be used by the customer, the size and type of equipment to be used by the customer, the average annual amount of service required by the equipment, and the average number of hours per day and days per year the equipment will be in use.

"Estimated construction cost" means an estimated calculation of construction costs using average costs in accordance with good engineering practices and based upon the following factors: amount of service required or desired by the customer requesting the extension; size, location and characteristics of the extension, including all appurtenances; and whether or not the ground is frozen or whether other adverse conditions exist. The average cost per foot shall be calculated utilizing the prior calendar year costs, to the extent such cost basis does not exceed the current costs using current construction cost methodologies, resources and material, and working conditions, divided by the total feet of extensions by size of pipe for the prior calendar year. In no event shall estimated construction costs include costs associated with facilities built for the convenience of the utility.

"Extensions" means a sanitary sewer main extension.

"Similarly situated customer" means a customer whose annual consumption or service requirements, as defined by estimated annual revenue, are approximately the same as the annual consumption or service requirements of other customers.

b. Terms and conditions. The utility shall extend service to new customers under the following terms and conditions:

(1) The utility shall provide all sewage treatment plant additions at its cost and expense without requiring an advance for construction or contribution in aid of construction from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served or where the customer will not attach within the agreed-upon attachment period after completion of construction. In such instances, the utility shall require, no more than 30 days prior to commencement of construction, the customer or developer to advance funds which are subject to refund as additional customers are attached. A contract between the utility and the customer which requires an advance by the customer to make plant additions shall be available for board inspection.

(2) Where the customer will attach within 30 days after completion of the sewer main extension, the following shall apply:

1. If the estimated construction cost to provide a sewer main extension is less than or equal to five times the estimated annual revenue calculated on the basis of similarly situated customers, the utility shall finance and make the extension without requiring an advance for construction.

2. If the estimated construction cost to provide a sewer main extension is greater than five times the estimated annual revenue calculated on the basis of similarly situated customers, the applicant for such an extension shall contract with the utility and deposit no more than 30 days prior to commencement of construction an advance for construction equal to the estimated construction cost less five times the estimated annual revenue to be produced by the customer.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the sewer main extension, the customer requesting the extension shall contract with the utility and

deposit no more than 30 days prior to the commencement of construction an advance for construction equal to the estimated construction cost.

(4) Advance payments for plant additions or extensions are subject to refund for a ten-year period and may be made by cash, surety bond, or equivalent surety. In the event a surety bond or an equivalent surety is used, the bonded amount shall have added to it a surcharge equal to the annual interest rate paid by the utility on customer bill deposits times the bonded amount. The bond shall be called by the utility at the end of one year or when the earned refunds are equal to the bonded amount, less the surcharge, whichever occurs first. If, upon termination of the surety bond, there are sufficient earned refunds to offset the amount of the surety bond, less the surcharge, the depositors shall provide the utility the amount of the surcharge. If, upon termination of the surety bond, there are not sufficient earned refunds to offset the full amount of the surety bond, less the surcharge, the depositors shall provide the utility a cash deposit equal to the amount of the surety bond, less refunds accumulated during the bonded period, plus the surcharge, or the depositor may pay the interest on the previous year's bond and rebond the balance due to the utility for a second or third one-year period. Upon receipt of such cash deposit, the utility shall release the surety bond. The cash deposit, less the surcharge, shall be subject to refund by the utility for the remainder of the ten-year period.

c. *Refunds.* The utility shall refund to the depositor for a period of ten years from the date of the original advance, a pro-rata share for each service attachment to the sewer main extension. The pro-rata refund shall be computed in the following manner:

(1) If the combined total of five times the estimated annual revenue for the depositor and each customer who has attached to the sewer main extension exceeds the total estimated construction cost to provide the extension, the entire amount of the advance provided by the depositor shall be refunded to the depositor.

(2) If the combined total of five times the estimated annual revenue for the depositor and each customer who has attached to the sewer main extension is less than the total estimated construction cost to provide the extension, the amount to be refunded to the depositor shall equal five times the estimated annual revenue of the customer attaching to the extension.

(3) In no event shall the total amount to be refunded to a depositor exceed the amount of the advance for construction made by the depositor. Any amounts subject to refund shall be paid by the utility without interest. At the expiration of the above-described ten-year period, the customer advance for construction record shall be closed and the remaining balance shall be credited to the respective plant account.

d. *Extensions not required.* Utilities shall not be required to make extensions as described in subrule 21.11(5), unless the extension shall be of a permanent nature.

e. *More favorable methods permitted.* Subrule 21.11(5) shall not be construed as prohibiting any utility from making a contract with a customer in a different manner, if the contract provides a more favorable method of extension to the customer, so long as no discrimination is practiced among customers or depositors.

f. *Connections to utility-owned equipment.* Subrule 21.11(5) shall not be construed as prohibiting an individual, partnership, or company from constructing its own extension. An extension constructed by a nonutility entity must meet at a minimum the applicable portions of the standards in subrules 21.13(1) and 21.13(2) and such other reasonable standards as the utility may employ in constructing extensions, so long as the standards do not mandate a particular supplier. All connections to the utility-owned equipment or facilities shall be made by the utility at the applicant's expense. At the time of attachment to the utility-owned equipment or facilities, the applicant shall transfer ownership of the extension to the utility and the utility shall book the original cost of construction of the extension as an advance for construction, and refunds shall be made to the applicant in accordance with paragraph 21.11(5)*"c."* The utility shall be responsible for the operation and maintenance of the extension after attachment.

g. *Reimbursement of extension construction cost.* If the utility requires the applicant to construct the extension to meet service requirements greater than those necessary to serve the applicant's service needs, the utility shall reimburse the applicant for the difference in cost between the extension specifications required by the utility and the extension specifications necessary to meet the applicant's service needs.

21.11(6) *Sanitary sewer service connections.* The utility shall supervise the installation and maintenance of that portion of the sanitary sewer service line from the main to and including the customer's meter or, if the customer does not have a separate meter for sanitary sewage disposal service, to the point where the sanitary sewage line exits the customer's residence or building.

21.11(7) *Location of meters.* Meters may be installed outside or inside as mutually agreed upon by the customer and utility.

a. *Outside meters.* Meters installed out-of-doors shall be readily accessible for maintenance and reading, and so far as practicable the location should be mutually acceptable to the customer and the utility. The meter shall be installed so as to be unaffected by climatic conditions and reasonably secure from injury.

b. *Inside meters.* Meters installed inside the customer's building shall be located as near as possible to the point where the service pipe enters the building and at a point reasonably secure from injury and readily accessible for reading and testing. In cases of multiple buildings, such as two-family dwellings or apartment buildings, the meter(s) shall be located within the premises served or in a common location accessible to the customers and the utility.

[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

199—21.12(476) Customer relations for sanitary sewage disposal service.

21.12(1) *Customer information.*

a. Each utility shall:

(1) Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rates and rules relating to the service of the utility are available for public inspection.

(2) Maintain up-to-date maps, plans, or records of its entire system.

(3) Upon request, assist the customer or prospective customers in selecting the most economic rate schedule available for the proposed type of service.

(4) Upon request, inform the customer as to the method of reading meters and the method of computing the customer's bill.

(5) Notify customers affected by a change in rates or rate classification as directed in the board's rules of practice and procedures.

b. Inquiries for information or complaints to a utility shall be resolved promptly and courteously. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer which will enable the customer to reach that employee again if needed.

c. Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling 877-565-4450; by writing to 1375 E. Court Avenue, Des Moines, Iowa 50319-0069; or by email to customer@iub.iowa.gov."

d. The bill insert or notice on the bill will be provided no less than annually. Any utility which does not use the standard form contained herein shall file its proposed form in its tariff for approval. A utility which bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information set forth above.

21.12(2) *Customer deposits.*

a. *Deposit required.* Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service.

b. *Amount of deposit.* The total deposit shall not be less than $5 nor more in amount than the maximum estimated charge for service for 90 days or as may reasonably be required by the utility in cases involving service for short periods or special occasions.

c. *New or additional deposit.* A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice shall be mailed advising the customer of any new or additional deposit requirement. The customer shall have no less than 12 days from the date of mailing to comply. No written notice is required to be given of a deposit required as a prerequisite for commencing initial service.

d. *Customer's deposit receipt.* The utility shall issue a receipt of deposit to each customer from whom a deposit is received.

e. *Interest on customer deposits.* Interest shall be paid by the utility to each customer required to make a deposit. Utilities shall compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods shall be computed at the rate specified by the rule in effect for the period in question. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent is the most recent date the account is treated as uncollectible.

f. *Deposit refund.* The deposit shall be refunded after 12 consecutive months of prompt payment unless the utility has evidence to indicate that the deposit is necessary to ensure payment of bills for service. In any event, the deposit shall be refunded upon termination of the customer's service.

g. *Unclaimed deposits.* The utility shall make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility shall maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4, at which time the record and deposit, together with accrued interest, less any lawful deductions, shall be sent to the state treasurer pursuant to Iowa Code section 556.13.

21.12(3) *Customer bill forms.* The utility shall bill each customer as promptly as possible following the reading of the customer's meter. Each bill, including the customer's receipt, shall show:

a. The date and the reading of the meter at the beginning and at the end of the period or the period for which the bill is rendered.

b. The number of units metered when applicable.

c. Identification of the applicable rates.

d. The gross and net amounts of the bill.

e. The late payment charge and the latest date on which the bill may be paid without incurring a penalty.

f. A distinct marking to identify an estimated bill.

21.12(4) *Bill payment terms.* The bill shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill shall be considered rendered when delivered to the last-known address of the party responsible for payment. There shall be not less than 20 days between the rendering of a bill and the date by which the account becomes delinquent.

a. *Late payment charge.* A utility's late payment charge shall not exceed 1.5 percent per month of the past due amount.

b. *Charge forgiveness.* Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified that the eligibility has been used.

21.12(5) *Customer records.* The utility shall retain customer billing records for the length of time necessary to permit the utility to comply with subrule 21.12(6), but not less than three years.

21.12(6) *Adjustment of bills.* Bills which are incorrect due to meter or billing errors are to be adjusted as follows:

a. *Fast meters.* Whenever a meter in service is tested and found to have overregistered more than 2 percent, the utility shall adjust the customer's bill for the excess amount paid. The estimated amount

of overcharge is to be based on the period the error first developed or occurred. If that period cannot be definitely determined, it will be assumed that the overregistration existed for a period equal to one-half the time since the meter was last tested, or one-half the time since the meter was installed unless otherwise ordered by the board. If the recalculated bill indicates that more than $5 is due an existing customer, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. If a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last-known address.

b. *Nonregistering meters.* Whenever a meter in service is found not to register, the utility may render an estimated bill.

c. *Slow meters.* Whenever a meter is found to be more than 2 percent slow, the utility may bill the customer for the amount the test indicates the customer has been undercharged for the period of inaccuracy, or a period as estimated in paragraph 21.12(6)*"a"* unless otherwise ordered by the board.

d. *Overcharges.* When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. The time period for which the utility is required to adjust, refund, or credit the customer's bill shall not exceed five years unless otherwise ordered by the board.

e. *Undercharges.* When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the tariff may provide for billing the amount of the undercharge to the customer. The time period for which the utility may adjust for the undercharge need not exceed five years unless otherwise ordered by the board. The maximum bill shall not exceed the billing for like charges (e.g., usage-based, fixed, or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

21.12(7) *Refusal of service.* Service may be refused only for the reasons listed in paragraphs 21.12(7)*"a"* through *"e"* below. Unless otherwise stated, the customer shall be permitted at least 12 days, excluding Sundays and legal holidays, following mailing of notice of refusal in which to take necessary action before service is refused. When a person is refused service, the utility shall notify the person promptly of the reason for the refusal to serve and of the person's right to file a complaint about the utility's decision with the board. Refusal of service shall be pursuant to tariffs approved by the board.

a. Without notice in the event of an emergency.

b. Without notice in the event of tampering with the equipment furnished and owned by the utility or obtaining service by fraudulent means.

c. For violation of or noncompliance with the utility's rules on file with the board.

d. For failure of the customer to permit the utility reasonable access to its equipment.

e. For nonpayment of bill.

21.12(8) *Method of refusing service.* A utility may refuse sanitary sewage disposal service to a residential customer by disconnecting water service or by arranging for the disconnection of water service pursuant to an agreement with the entity providing water service. Except in the event of an emergency or with prior written authorization from the Board, a utility shall not refuse sanitary sewage disposal service to a residential customer by physically disconnecting the customer's sanitary sewage service connection.

21.12(9) *Reconnection and charges.* In all cases of discontinuance of sanitary sewage disposal service where the cause of discontinuance has been corrected, the utility shall promptly restore service to the customer. The utility may make a reasonable charge applied uniformly for reconnection of service.

21.12(10) *Insufficient reasons for denying service.* The following shall not constitute sufficient cause for refusal of service to a present or prospective customer:

a. Delinquency in payment for service by a previous occupant of the premises to be served.

b. Failure to pay the bill of another customer as guarantor thereof.

c. Failure to pay for a different type or class of utility service.

d. Delinquency in payment for service arising more than ten years prior, as measured from the most recent of the last date of service, the physical disconnection of service, or the last payment or promise of payment made by the customer.

21.12(11) *Customer complaints.* A "complaint" shall mean any objection to the charge, facilities, or quality of service of a utility.

a. Each utility shall investigate promptly and thoroughly and keep a record of all complaints received from its customers that will enable it to review its procedures and actions. The record shall show the name and address of the complainant, the date and nature of the complaint, and its disposition and the date resolved.

b. All complaints caused by a major service interruption shall be summarized in a single report.

c. A record of the original complaint shall be kept for a period of three years after final settlement of the complaint.

[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

199—21.13(476) Engineering practice for sanitary sewage disposal service.

21.13(1) *Requirement of good engineering practice.* The design and construction of the utility's plant and collection system shall conform to good standard engineering practice.

21.13(2) *Inspection.* Each utility shall adopt and follow a program of inspection of its plant and collection system in order to determine the necessity for replacement and repair. The frequency of the various inspections shall be based on the utility's experience and accepted good practice.

[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

199—21.14(476) Meter testing for sanitary sewage disposal service. If a utility uses separate meters to measure the volume of sewage disposal, the separate meters shall be tested in substantial conformity with the requirements of rule 199—21.6(476).

[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

199—21.15(476) Standards of quality of sanitary sewage disposal service.

21.15(1) *Operation and maintenance.* The utility shall maintain and operate any sewage treatment facility with adequate capacity and equipment to convey all sewage to the plant and to treat the sewage to the quality required by all applicable laws and regulations.

21.15(2) *Design and construction.* The design and construction of the utility's collection system, treatment facility, and all additions and modifications shall conform to the requirements prescribed by law.

21.15(3) *Reasonable efforts to prevent.* The utility shall make reasonable efforts to eliminate or prevent the entry of surface water or groundwater into its sanitary sewage system or the unlawful release of untreated sanitary sewage. The utility may request assistance from any appropriate state, county, or municipal authorities, but such a request does not relieve the utility of its responsibility to make reasonable efforts to eliminate or prevent the entry of surface water or groundwater and to contain sewage. The utility shall notify the board when it requests assistance from other state or local agencies.

21.15(4) *Bypass and upset.* The utility shall comply with the bypass and upset provisions of rule 567—63.6(455B).

21.15(5) *Interruption of sanitary sewage disposal service.*

a. A utility shall make a reasonable effort to prevent interruptions of sanitary sewage service. When an emergency interruption occurs, the utility shall reestablish service with the shortest possible delay consistent with the safety of its customers and the general public.

b. When a utility finds it necessary to schedule an interruption of service, it shall make a reasonable effort to notify all customers to be affected by the interruption. The notice shall include the time and anticipated duration of the interruption. Interruptions shall be scheduled at hours which create the least inconvenience to the customer. The utility shall notify the board when sanitary sewage service is interrupted. Except for emergencies, a utility shall not interrupt sanitary sewage disposal service unless water service has been disconnected at least 24 hours prior.

c. A utility shall retain records of interruptions for a period of at least five years.

21.15(6) *Separate class.* Sanitary sewage service shall be considered a separate class of service for ratemaking purposes.
[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

199—21.16(476) Incident reports regarding sanitary sewage disposal service.

21.16(1) *Notification.* A sanitary sewage utility shall notify the board about any incident involving:

a. An unlawful or uncontained release of sewage into the environment;

b. A flood event affecting the utility's plant or collection system;

c. A cyberattack affecting the well-being of the utility, its customers, or the environment; or

d. Any event that causes serious adverse impact on the health of people or the environment or interrupts service to the customer.

21.16(2) *Information required.* The utility shall notify the board immediately, or as soon as practical, of any reportable incident by emailing the duty officer at dutyofficer@iub.iowa.gov or, when email is not available, by calling the board duty officer at (515)745-2332. The person sending the email shall leave the telephone number of a person who can provide the following information:

a. The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.

b. The location of the incident.

c. The time of the incident.

d. The number of deaths or personal injuries and the extent of those injuries, if any.

e. The number of services interrupted.

f. A summary of the significant information available to the utility regarding the likely cause of the incident and the estimated extent of damage.

21.16(3) *Normal service restored.* The utility shall notify the board when the incident has ended and normal sanitary sewage service has been restored.
[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

199—21.17(476) Separate books for acquired sanitary sewage disposal service assets. A utility acquiring the whole or any substantial part of a sanitary sewage system with a fair market value of $500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(4) shall maintain separate books and records for the acquired system until the utility's next general rate case, unless otherwise ordered by the board.
[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

DIVISION IV
STORM WATER DRAINAGE UTILITIES

199—21.18(476) Standards of quality of storm water drainage service.

21.18(1) *Design and maintenance.* Systems for storm water drainage by piped collection shall be designed and maintained in conformance with good engineering practices. Such systems shall be designed and maintained so as to minimize flooding and ponding outside of areas designed to retain storm water and to reasonably provide for the drainage of normally anticipated rainfall events.

21.18(2) *Inspection.* Storm water drainage systems shall be inspected on a routine basis to identify and correct the blockage or obstruction of intake structures. The frequency of such inspections shall be based upon the utility's experience and be pursuant to tariffs approved by the board.

21.18(3) *Connections.* Utilities providing piped storm water drainage shall control the installation and maintenance of the piped connection up to and including all storm water intakes. Connections shall be adequate to receive all storm water drainage from properties upgradient of the storm water drainage connection unless other upgradient connections are provided. Connections shall be pursuant to tariffs approved by the board.

21.18(4) *Rates.* Rates for storm water drainage service provided by a utility may be based upon the acreage drained, or by some other method pursuant to tariffs approved by the board.

21.18(5) *Separate class.* Storm water drainage service shall be considered a separate class of service for ratemaking purposes.
[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

199—21.19(476) Customer relations for storm water drainage service.

21.19(1) *Customer information.*

a. Each utility shall:

(1) Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rates and rules relating to the service of the utility are available for public inspection.

(2) Maintain up-to-date maps, plans, or records of its entire storm water drainage system.

(3) Upon request, assist the customer or prospective customers in selecting the most economic rate schedule available for the proposed type of service.

(4) Upon request, inform the customer as to the method of computing the customer's bill.

(5) Notify customers affected by a change in rates or rate classification as directed in the board rules of practice and procedures.

b. Inquiries for information or complaints to a utility shall be resolved promptly and courteously. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer which will enable the customer to reach that employee again if needed.

c. Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling 877-565-4450; by writing to 1375 E. Court Avenue, Des Moines, Iowa 50319-0069; or by email to customer@iub.iowa.gov."

d. The bill insert or notice on the bill will be provided no less than annually. Any utility which does not use the standard form contained herein shall file its proposed form in its tariff for approval. A utility which bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information set forth above.

21.19(2) *Customer deposits.*

a. *Deposit required.* Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service.

b. *Amount of deposit.* The total deposit shall not be less than $5 nor more in amount than the maximum estimated charge for service for 90 days or as may reasonably be required by the utility in cases involving service for short periods or special occasions.

c. *New or additional deposit.* A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice shall be mailed advising the customer of any new or additional deposit requirement. The customer shall have no less than 12 days from the date of mailing to comply. No written notice is required to be given of a deposit required as a prerequisite for commencing initial service.

d. *Customer's deposit receipt.* The utility shall issue a receipt of deposit to each customer from whom a deposit is received.

e. *Interest on customer deposits.* Interest shall be paid by the utility to each customer required to make a deposit. Utilities shall compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods shall be computed at the rate specified by the rule in effect for the period in question. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or

the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent is the most recent date the account is treated as uncollectible.

f. *Deposit refund.* The deposit shall be refunded after 12 consecutive months of prompt payment, unless the utility has evidence to indicate that the deposit is necessary to ensure payment of bills for service. In any event, the deposit shall be refunded upon termination of the customer's service.

g. *Unclaimed deposits.* The utility shall make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility shall maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4, at which time the record and deposit, together with accrued interest, less any lawful deductions, shall be sent to the state treasurer pursuant to Iowa Code section 556.13.

[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

199—21.20(476) Incident reports regarding storm water drainage service.

21.20(1) *Notification.* A utility shall notify the board about any incident involving:

a. A non-storm water discharge from the storm water drainage system;

b. A flood event affecting the storm water drainage system;

c. A cyberattack affecting the well-being of the utility, its customers, or the environment; or

d. Any event that causes serious adverse impact on the health of people or the environment or interrupts service to the customer.

21.20(2) *Information required.* The utility shall notify the board immediately, or as soon as practical, of any reportable incident by emailing the duty officer at dutyofficer@iub.iowa.gov or, when email is not available, by calling the board duty officer at (515)745-2332. The person sending the email shall leave the telephone number of a person who can provide the following information:

a. The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.

b. The location of the incident.

c. The time of the incident.

d. The number of deaths or personal injuries and the extent of those injuries, if any.

e. The number of services interrupted.

f. A summary of the significant information available to the utility regarding the likely cause of the incident and the estimated extent of damage.

21.20(3) *Normal service restored.* The utility shall notify the board when the incident has ended and normal storm water drainage service has been restored.

[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

199—21.21(476) Separate books for acquired storm water drainage service assets. A utility acquiring the whole or any substantial part of a storm water drainage system with a fair market value of $500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(4) shall maintain separate books and records for the acquired system until the utility's next general rate case, unless otherwise ordered by the board.

[**ARC 4873C**, IAB 1/15/20, effective 2/19/20]

These rules are intended to implement Iowa Code sections 17A.3, 474.5, 476.1, 476.2, 476.6(18), 476.8, and 546.7.

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STATE PUBLIC DEFENDER[493]

Created within the Department of Inspections and Appeals[481] by Iowa Code section 13B.2

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CHAPTER 7
DEFINITIONS

493—7.1(13B,815) Definitions. As used in these rules, unless the context otherwise requires, the following definitions apply:

"Affidavit of financial status" means a full written disclosure of all income, assets, liabilities, dependents, and other information required to determine if an applicant qualifies for legal assistance by an appointed attorney.

"Appeal" means a proceeding, other than an interlocutory appeal, application for discretionary review, or juvenile court petition on appeal, filed with the Iowa supreme court.

"Applicant" means a person requesting legal assistance by an appointed attorney.

"Appointed attorney" means an attorney appointed by the court to represent an indigent person.

"Assets" means all resources or possessions of the applicant.

"Attorney" means an individual licensed to practice law in Iowa.

"Attorney time" means the total time the attorney appointed to a case spends on in-court time, out-of-court time, and in travel time attributable to that specific case. Attorney time does not include time spent performing clerical activities.

"Case" means all charges or allegations arising from the same transaction or occurrence or contained in the same trial information or indictment in a criminal proceeding or in the same petition in a civil or juvenile proceeding. A probation violation or contempt proceeding is a case separate from the case out of which the violation or contempt arose and separate from a criminal case alleging new criminal charges. Multiple probation revocation proceedings pending at the same time, involving the same client, and arising from the same transaction or occurrence are a single "case."

"Child" or *"juvenile"* means a person so defined in Iowa Code chapter 232.

"Claim" means an application or request for payment.

"Claimant" means an appointed attorney or other person seeking reimbursement of costs or fees payable from the indigent defense fund.

"Claims for other professional services" means claims submitted by nonattorneys, including but not limited to investigators, foreign language interpreters, experts, certified shorthand reporters, and persons conducting medical or psychological evaluations.

"Contract" means a written agreement between the state public defender and an attorney to provide legal services to an indigent person. The contract may be for the provision of legal services at either the trial court level or the appellate court level.

"County base" means the amount of expenses in juvenile cases for which the county remains liable pursuant to Iowa Code section 232.141(2).

"Court-appointed attorney" means an attorney appointed by the court to represent an indigent person.

"Department" means the department of inspections and appeals.

"Expert witness" or *"expert"* means a person who is retained to render an opinion regarding an issue relevant to a case, whether or not the person actually testifies in court.

"Family" or *"household"* means the applicant, applicant's spouse, including a common-law spouse, and applicant's children living in the same residence.

"Fee limitations" means the attorney fee limitations established by the state public defender for specific classes of cases as specified in rule 493—12.6(13B,815), together with out-of-pocket expenses approved by the state public defender, whether submitted by a public defender, by an appointed attorney pursuant to 493—Chapter 12, or by another professional pursuant to 493—Chapter 13.

"Fees" means the consideration paid to an appointed attorney to represent an indigent person.

"Fiscal year" means the 12-month period beginning July 1 and ending June 30.

"Governmental assistance program" means any public assistance program from which a person is receiving assistance.

"Income" means any money received from any source, including but not limited to remuneration for labor, products or services; money received from governmental assistance programs; tax refunds; prize winnings; pensions; investments; and money received from any other source.

"In-court time" means time spent by an appointed attorney engaged before a judge or jury including, but not limited to, arraignments, bail hearings, pretrial conferences, pretrial motion hearings, evidentiary hearings, jury selection, trial, plea proceedings, posttrial hearings, and probation violation hearings. In-court time does not include time spent at foster care review board hearings, staffings, family drug court, or any other meetings with other state agencies.

"Indigent" means a person entitled to an appointed attorney pursuant to Iowa Code section 815.9.

"Juvenile proceeding" means a case in juvenile court wherein the attorney acts as guardian ad litem for the child in interest or provides legal counsel for the child, parent, guardian or custodian.

"Liabilities" means all living, business or farming expenses and fixed debts.

"Local public defender" means an attorney in the trial division of the state public defender system who performs the duties outlined in Iowa Code section 13B.9.

"Notice of action letter" means a letter sent by the state public defender to notify the claimant that the claimant's fees or expenses were reduced.

"Out-of-court time" means time actually spent by the attorney appointed to the case in drafting documents, case preparation, depositions and other discovery, client or witness interviews, investigation, research, brief drafting, conferences or negotiations with opposing counsel or the court, reviewing records, and other productive case-related time that is not in-court time or travel time. Out-of-court time does not include clerical activities.

"Paralegal time," which is payable from the indigent defense fund, means time spent in a Class A felony case at the trial court level in which only one attorney is appointed preparing pleadings and motions, reviewing transcripts, performing legal research, and interviewing witnesses and may include time spent in court assisting the appointed attorney. Paralegal time does not include typing, scheduling, answering the telephone, talking on the telephone except when interviewing witnesses, or other clerical activities or activities that duplicate work performed by the appointed attorney. Paralegal time is not payable in any other cases or in Class A felony cases in which two attorneys are appointed.

"Person" means an individual, corporation, limited liability company, government or governmental subdivision or association, or any legal entity.

"Poverty income guidelines" means the annual poverty income guidelines established by the U.S. Department of Health and Human Services (DHHS).

"Returned fee claim letter" means a letter in which the state public defender returns the claim and notifies the claimant as to the reason the claim was returned.

"Rules of criminal procedure" means the rules prescribed by the supreme court that govern criminal actions and proceedings in all courts in the state.

"State public defender" means the state public defender appointed pursuant to Iowa Code chapter 13B and those other persons authorized to act on behalf of the state public defender.

"State public defender system" means a system for providing defense services within the state by means of a centrally administered organization having a full-time staff.

"Written" as used in these rules may include electronically transmitted communication except where a statute or rule expressly requires an original signature, mailing or any other special form of delivery other than electronic transmission.

This rule is intended to implement Iowa Code chapters 13B and 815.

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CHAPTER 12
CLAIMS FOR INDIGENT DEFENSE SERVICES

493—12.1(13B,815) Scope. This chapter sets forth the rules for submission, payment and court review of indigent defense fee claims. See 493—Chapter 7 for definitions of terms used in this chapter.

12.1(1) The state public defender will pay from the indigent defense fund attorney fees and costs for the following types of cases: commitment of sexually violent predators under Iowa Code chapter 229A; contempts; postconviction relief proceedings to the extent authorized under Iowa Code chapter 822; juvenile justice under Iowa Code section 232.141(3)(c); guardians ad litem for children in juvenile court under Iowa Code chapter 600 or respondents under Iowa Code chapter 600A; fees for appellate attorneys under Iowa Code section 814.11; fees to attorneys under Iowa Code section 815.7; fees for court-appointed counsel under Iowa Code section 815.10; violation of probation or parole under Iowa Code chapter 908; indigent's right to transcript on appeal under Iowa Code section 814.9; indigent's application for transcript in other cases under Iowa Code section 814.10; and special witnesses for indigents under Iowa Code section 815.4.

12.1(2) The state public defender will not pay for the costs for any type of administrative proceeding or any other proceeding under Iowa Code chapter 598, 600, 600A, 633, or 915 or other provisions of the Iowa Code.

12.1(3) The Iowa Code requires the state public defender to approve only those indigent defense fee claims that are reasonable and appropriate under applicable statutes. In exercising this duty, the state public defender publishes rules and makes judgments considering what is statutorily permitted, fair for claimants, fair for indigent clients (who, by law, are required to reimburse the state for the costs of their defense to the extent they are reasonably able to pay such costs), and consistent with good stewardship of public appropriations.

[**ARC 1512C**, IAB 6/25/14, effective 7/30/14]

493—12.2(13B,815) Submission and payment of attorney claims.

12.2(1) *Required claim documents.* Court-appointed attorneys shall submit written indigent defense fee claims to the state public defender for review, approval and payment. These claims shall include the following:

a. A completed fee claim on a form promulgated by the state public defender.

(1) Adult fee claims, including all trial-level criminal and postconviction relief proceedings, misdemeanor appeals to district court, and applications for discretionary review or applications for interlocutory appeals to the Iowa supreme court, must be submitted on an Adult form. Juvenile fee claims, including petitions on appeal and applications for interlocutory appeals, must be submitted on a Juvenile form. Appellate fee claims, including claims for all criminal and postconviction relief appeals, work performed after the granting of an application for discretionary review or for interlocutory appeal, and work performed after full briefing is ordered following a juvenile petition on appeal, must be submitted on an Appellate form. For paper claims submitted on or before December 31, 2016, the claim forms may be downloaded from the state public defender website: spd.iowa.gov.

(2) Claims submitted on or after January 1, 2017, shall be submitted electronically via the online claims website: spdclaims.iowa.gov. Effective January 1, 2017, any reference in these rules to forms for Adult, Juvenile, or Appellate claims means the respective electronic claims submission page on the online claims website. The state public defender, at the state public defender's sole discretion, may grant limited exceptions to the requirement that claims be submitted electronically via the online claims website.

b. A copy of all orders appointing the attorney to the case.

(1) The appointment order must be signed by the court and either dated by the court or have a legible file-stamp.

(2) If, at the time of appointment, the attorney does not have a contract to represent indigent persons in the type of case and the county in which the action is pending, the appointment order must include either a finding that no attorney with a contract to represent indigent persons in that specific type of case

and that county is available or a finding that the state public defender was consulted and consented to the appointment.

(3) Claims for probation or parole violations and contempt actions are considered new cases, and the attorney must submit a copy of an appointment order for these cases. Appointment orders in parole violation cases must also contain the following findings:

1. The alleged parole violator requests appointment of counsel;

2. The alleged parole violator is indigent as defined in Iowa Code section 815.9;

3. The alleged parole violator, because of lack of skill or education, would have difficulty in presenting the alleged violator's version of a disputed set of facts, particularly when presentation requires the examining or cross-examining of witnesses or the offering or dissecting of complex documentary evidence; and

4. The alleged parole violator has a colorable claim that the alleged violation has not been committed, or there are substantial reasons which justify or mitigate the violation and make revocation inappropriate.

(4) If the venue is changed in a juvenile case, an order appointing the attorney in the new county must be submitted.

(5) A new appointment order is not necessary for trial counsel to request or resist an interlocutory appeal or an application for discretionary review.

(6) A new appointment order is not necessary to pursue or respond to a juvenile petition on appeal if the attorney was properly appointed to represent the client in juvenile court. If the original trial counsel withdraws or is removed from the case, the new appellate counsel must attach an order appointing the attorney for the appeal.

(7) An appointment order is not necessary if the state public defender determines the appointment order is unnecessary.

c. A copy of any application and court order authorizing the attorney to exceed the attorney fee limitations.

d. A copy of any court order that affects the amount to be paid or the client's right to counsel.

e. A copy of the dispositional order, the order granting a motion to withdraw prior to disposition, procedendo, or other court order documenting the "date of service" for the claim.

f. An itemization detailing all work performed on the case for which the attorney seeks compensation and all expenses incurred for which the attorney seeks reimbursement.

(1) The itemization must state the date and amount of time spent on each activity. Time must be reported in tenths of an hour. Time shall be rounded to the nearest tenth of an hour. For example, an attorney spending ten minutes performing an activity shall bill 0.2 hours, while an attorney spending seven minutes performing an activity shall bill 0.1 hours. The time spent on each activity must be separately itemized, except that one or more activities on the same day, each taking less than 0.1 hours, must be aggregated together with other activities so that the aggregate amount billed is at least 0.1 hours. If an attorney performs only a single activity taking less than 0.1 hours for a client on a day, the attorney may bill 0.1 hours regardless of the precise length of time spent on the activity. If an attorney performs multiple related activities on the same day, such as multiple email or telephone exchanges, the activities must be aggregated together if separately itemizing the activities would result in claiming more time than the attorney actually spent performing the activities.

(2) The itemization shall separately designate time claimed for in-court time, out-of-court time, paralegal time and travel time.

(3) If another attorney performed any of the work, the itemization shall specify the name of the attorney performing each activity. It is permissible to use initials representing the name, so long as an explanation is provided as to the full name for each set of initials with the itemization.

(4) The itemization must be in chronological order.

(5) If the attorney seeks reimbursement for expenses incurred, the itemization must separately state each expense incurred, including any specific information required by rule 493—12.8(13B).

(6) For paper claims submitted on or before December 31, 2016, the itemization must be typed in at least 10-point type on 8½″ × 11″ paper. For claims submitted on or after January 1, 2017, the itemization

shall be submitted electronically via the Attorney Hours grid on the appropriate claims submission page on the online claims website. Separate electronic attachments of itemizations will not be accepted.

g. If the attorney was privately retained to represent the client prior to appointment, a copy of any representation agreement, written notice of the dollar amount paid to the attorney, and an itemization of services performed and how any funds provided were spent during the period prior to the court appointment. The state public defender will review the amount paid and hours spent before and after the court appointment in determining the appropriate attorney compensation on the claim.

12.2(2) *Failure to submit required documents.* Submitted claims for which the entire claim form has not been properly completed or which do not include the documents required by subrule 12.2(1) may be returned to the attorney for additional information and resubmission within the time required by paragraph 12.2(3)*"d."* If the attorney fails to submit all the required documentation to support a claim, the state public defender may request additional information or may deny all or a portion of the claim.

12.2(3) *Timely claims required.* Claims submitted prior to the date of service shall be returned to the claimant unpaid and may be resubmitted to the state public defender after the date of service. Claims that are not submitted within 45 days of the date of service as defined in this subrule may be denied, in whole or in part, as untimely unless the delay in submitting the claim is excused by paragraph 12.2(3)*"f."* Attorney fees and expenses that are submitted on a claim denied as untimely under this subrule may be resubmitted on a subsequent claim that is timely submitted with respect to a subsequent date of service in the same case. For purposes of this subrule, a probation, parole, or contempt proceeding is not the "same case" as the underlying proceeding.

a. *Adult claims.* For adult claims, "date of service" means the date of filing of an order indicating that the case was dismissed or the client was acquitted, the date of the expiration of the time for appeal from a judgment of conviction, the date of filing of an order granting a deferred judgment or prosecution, the date of filing of a final order in a postconviction relief case, the date of mistrial, the date on which a warrant was issued for the client, or the date of filing of a court order authorizing the attorney's withdrawal from a case prior to the date of a dismissal, acquittal, sentencing, or mistrial. The filing of a notice of appeal is not a date of service; however, if a notice of appeal is filed after a conviction and the attorney moves to withdraw to have appellate counsel appointed, the date of service is the date of filing of the withdrawal order. If a motion for reconsideration is filed, either the date of filing of the motion or the date on which the court rules on that motion is the date of service. In a probation, parole or contempt proceeding, the date of service is the date of filing of the disposition order or an order granting a continued disposition. In a subsequent review or compliance proceeding under the same appointment, a new date of service is created if the new proceeding generates an order. In a probation revocation proceeding that results in the revocation of a deferred judgment, a judgment of conviction is entered and the date of service is the date of the expiration of the time for appeal. For interim adult claims authorized by subrule 12.3(3) or 12.3(4), the date of service is the last day on which the attorney claimed time on the itemization of services.

b. *Juvenile claims.* For juvenile claims, "date of service" means the date of filing of an order as a result of the dispositional hearing or most recent postdispositional hearing that occurs while the client is still an active party in the case, the date on which the client ceased to be a party, the date of a court order authorizing the attorney's withdrawal from a case prior to the filing of the final ruling with respect to the client, the date jurisdiction is waived to adult court, the date on which the venue is changed, the date of dismissal, or the file-stamped date of a procedendo resulting from a petition on appeal. The date of a family drug court meeting, family team meeting, staffing, or foster care review board hearing is not a date of service.

c. *Appellate claims.* For appellate claims, "date of service" means the date of a court order authorizing the attorney's withdrawal prior to the filing of the proof brief, the date on which the proof brief was filed, or the date on which the procedendo was issued.

d. *Notices of action and returned claims.* For claims of any type that are filed as a result of a notice of action letter or a returned fee claim letter, "date of service" means the date of the notice of action letter or returned fee claim letter. But a claim that is denied as untimely does not become timely merely because it was resubmitted within 45 days of a returned fee claim letter. A timely claim returned

to the attorney for additional information shall continue to be deemed timely only if resubmitted with the required information within 45 days of being returned by the state public defender.

e. Court orders. For claims of any type that are filed as a result of a court order after hearing for review of the fee claim, "date of service" means the file-stamped date of the order.

f. Exceptions to the 45-day rule. The state public defender may in the state public defender's sole discretion approve a claim that was not submitted within 45 days of the date of service only if the delay in submitting the claim was caused by one of the following circumstances:

(1) The death of the attorney;

(2) The death of the spouse of the attorney, a child of the attorney, or an employee of the attorney who was responsible for assisting in the preparation of the attorney's fee claims;

(3) A serious illness, injury, or other medical condition that prevents the attorney from working for more than 3 consecutive days and occurs in the last 5 days before the expiration of the 45-day period for timely claims;

(4) The attorney's need to care for the attorney's spouse or child with a serious illness, injury, or other medical condition that prevents the spouse or child from working, attending school, or performing other regular daily activities for more than 3 consecutive days and occurs in the last 5 days before the expiration of the 45-day period for timely claims.

(5) Other circumstances in which the state public defender determines, in the sole discretion of the state public defender, that enforcement of the 45-day rule would impose an undue burden and that payment of the claim should in fairness be made, in whole or in part. The state public defender, in the exercise of such discretion, may consider factors including, but not limited to:

1. The extent to which the 45-day rule was violated;
2. The justification provided by the attorney;
3. The attorney's claim history;
4. The extent of prejudice likely to be experienced by the attorney, the state public defender, and any party to the proceeding, including the attorney's client.

Any claim submitted pursuant to subparagraph (1) must be submitted within 45 days of the death of the attorney. Any claim submitted pursuant to subparagraph (2) must be submitted within 30 days of the death that caused the delay. Any claim submitted pursuant to subparagraph (3) or (4) must be submitted within 15 days of the end of the illness, injury, or medical condition that caused the delay. An attorney claiming an exception to the 45-day rule shall submit with the claim a letter explaining the applicable exception and written documentation supporting the exception.

12.2(4) *Valid appointment required.* Claims for compensation from an attorney appointed as counsel or guardian ad litem may be denied if the attorney was appointed contrary to Iowa Code section 814.11 or 815.10. Claims for which court-appointed counsel at state expense is not statutorily authorized or which are not payable from the indigent defense fund created by Iowa Code section 815.11 shall be denied.

a. Appellate appointments. Claims for compensation from an attorney whose appointment as counsel or guardian ad litem at the appellate level does not comply with Iowa Code section 814.11 may be denied in whole or in part.

b. Trial-level designations. Claims by an attorney whose appointment in a case as counsel or guardian ad litem at the trial level was made on or after July 1, 2009, may be denied in whole or in part if the state public defender filed a designation effective at the time of the appointment designating a local public defender, nonprofit corporation, or attorney to represent indigent persons in that type of case in the county in which the case was filed, unless the appointment order and any supporting documentation submitted with the claim demonstrate that:

(1) The state public defender's designee and any successor designee have withdrawn from the case or have been offered and declined to take the case; or

(2) The state public defender's designee and any successor designee would have withdrawn from or would have declined to take the case had the appointment been offered.

c. Trial-level contract attorney preference. Claims by an attorney whose appointment in a case as counsel or guardian ad litem at the trial level was made on or after February 1, 2012, may be denied in whole or in part unless:

(1) At the time of the appointment, the attorney had a contract with the state public defender to represent indigent persons in that specific type of case and that county in which the action was pending; or

(2) The appointment order includes a specific finding that no attorney with a contract to represent indigent persons in that specific type of case and that county in which the action was pending is available or a finding that the state public defender was consulted and consented to the appointment; or

(3) After the appointment, the attorney entered into a contract with the state public defender, or amended the attorney's existing contract, to represent indigent persons in the specific type of case and the county in which the action was pending, in which case only the portion of the claim for the services performed prior to the effective date of the contract shall be denied.

12.2(5) *Scope of appointment.* Claims shall only be paid for services rendered and expenses incurred within the scope of the attorney's court appointment. Any other fees or expenses claimed shall be denied.

a. Services prior to appointment. Claims for services rendered or expenses incurred prior to the effective date of the attorney's appointment are not payable within the scope of the attorney's appointment and shall be denied.

b. Representation of parents after termination of parental rights. Claims for services rendered or expenses incurred by an attorney for representing a parent in a child in need of assistance case or termination of parental rights case for work performed after the date on which the termination of that parent's parental rights becomes final, either on appeal or because no appeal was taken, are not payable within the scope of the attorney's appointment and shall be denied.

c. Guardian ad litem for children over the age of 18. Claims for services rendered or expenses incurred by a guardian ad litem for a child who is aged 18 or older and involved in a juvenile court proceeding are only within the scope of appointment if the court enters an order appointing the guardian ad litem for the limited purposes of continuing a relationship with the child and to provide advice to the child relating to the child's transition plan under Iowa Code section 232.2 beyond the child's eighteenth birthday. The appointment shall end on the date a court order relieving the guardian ad litem of further duties or the date of a court order closing the juvenile case, whichever occurs first, and claims for services rendered or expenses incurred after such date shall be denied. Neither a parent nor guardian of the child in interest is entitled to court-appointed counsel during the post-age 18 transition period.

12.2(6) *Rate of compensation.* Claims for compensation in excess of the applicable rate of compensation established by rule 493—12.4(13B,815) or in the attorney's contract with the state public defender are not payable and shall be reduced to the applicable rate of compensation.

12.2(7) *Excessive claims.* The amount of a claim for services provided or expenses incurred that is excessive shall be reduced by the state public defender to an amount which is not excessive. Only reasonable and necessary compensation and expenses will be approved for payment.

12.2(8) *Review of claims after contract termination for improper billing practices.* A claim submitted by an attorney whose contract with the state public defender is terminated for improper billing practice shall be paid only to the extent that the claim is supported by authentic, independent, written documentation originating from sources other than the attorney, even if such a claim would otherwise be payable under this chapter. Any portion of a claim for a service performed or expense incurred that is not independently verified by such documentation is not payable under the contract and shall be denied.

a. Acceptable documentation. Independent, written documentation that may support a claim for services performed or expenses incurred by the attorney includes, but is not limited to:

(1) Affidavits of clients, witnesses, prosecutors, service providers, department of human services staff, court staff, or other persons who can verify that the attorney performed a service for a specific length of time on a specific day. Affidavits from employees of the attorney or the attorney's firm, family members of the attorney, or other attorneys within the same law firm as the attorney are not independent documentation and are insufficient to confirm a claim for a service performed or expense incurred.

(2) Court orders or other documents in the court file that verify the attorney's attendance at a court proceeding, as well as the date, time, duration, and location of the proceeding.

(3) Deposition transcripts and other records of the certified shorthand reporter that verify the attorney's attendance at a deposition, as well as the date, time, duration, and location of the deposition.

(4) Records of a jail or correctional facility that document the date, time, and duration of visits, telephone calls, or videoconferencing sessions with clients or witnesses in custody in the facility.

(5) Records of a telecommunication provider that verify the length of telephone calls, long-distance expenses, or fax expenses.

(6) Records of an online legal research service that document the date, time, duration, and nature of legal research performed.

(7) Calculations from mapping software, such as MapQuest or Google Maps, of the distance traveled to a location where a verified service was provided.

(8) Original printed receipts for expenses incurred.

b. Pending claims. Any claims submitted by an attorney that have not yet been approved by the state public defender when the attorney's contract with the state public defender is terminated for improper billing practices shall be returned to the attorney. The attorney may resubmit any claim returned in its entirety, or a portion thereof, within the time required by paragraph 12.2(3)*"d,"* with the additional documentation required by this subrule confirming all time and expenses claimed on the itemization. The resubmitted claim shall be reviewed consistent with the requirements of this subrule. Any claim not resubmitted within the time required by paragraph 12.2(3)*"d"* shall be denied.

c. Court review. An attorney whose claim is denied or reduced pursuant to this subrule may seek court review of the state public defender's action on that claim by filing a motion for court review as provided for by rule 493—12.9(13B,815). But if the attorney has sought review of the state public defender's decision to terminate the attorney's contract for improper billing practices, the court shall stay proceedings on the attorney's motion until the attorney has exhausted all administrative remedies, final judgment has been entered in any judicial review action under Iowa Code chapter 17A, and any appeal of such judgment is decided. The final judgment of any judicial review action under Iowa Code chapter 17A regarding the termination of the attorney's contract conclusively determines the applicability of this subrule. If the attorney fails to seek judicial review of the state public defender's decision to terminate the attorney's contract, the state public defender's notice to the attorney that the state public defender is terminating the attorney's contract for improper billing practices is conclusive evidence that this subrule applies, and the attorney may not challenge the termination decision or the applicability of this subrule in the motion for review of the state public defender's action on the fee claim under rule 493—12.9(13B,815).

12.2(9) *Approval of claims.* Claims shall be forwarded to the department for final processing and payment only after the state public defender has determined that payment of the claim is appropriate under this chapter and under Iowa law. No payments shall be made from the indigent defense fund except with the authorization of the state public defender.

[**ARC 8090B**, IAB 9/9/09, effective 9/15/09; **ARC 8372B**, IAB 12/16/09, effective 1/20/10; **ARC 9293B**, IAB 12/29/10, effective 12/7/10; **ARC 9447B**, IAB 4/6/11, effective 5/11/11; **ARC 9938B**, IAB 12/28/11, effective 2/1/12; **ARC 1512C**, IAB 6/25/14, effective 7/30/14; **ARC 2378C**, IAB 2/3/16, effective 3/9/16; **ARC 2783C**, IAB 10/26/16, effective 11/30/16; **ARC 2926C**, IAB 2/1/17, effective 3/8/17; **ARC 4872C**, IAB 1/15/20, effective 3/1/20]

493—12.3(13B,815) Interim claims. Claims will be paid at the earlier of the conclusion of the case or when legal representation of the client under the original court appointment is concluded, except as provided for in subrule 12.3(1), 12.3(2), 12.3(3), or 12.3(4).

12.3(1) *Juvenile cases.* An initial claim for services in a juvenile case may be submitted after the dispositional hearing, if any. Subsequent claims may be submitted after each court hearing that is a date of service held in the case. A court hearing does not include family drug court, family team meetings, staffings or foster care review board hearings.

12.3(2) *Appellate cases.* A claim for work performed may be submitted in appellate cases after the filing of the attorney's proof brief. A subsequent claim may be submitted after the procedendo is filed.

12.3(3) *Class A felonies.* Interim claims in Class A felony cases may be submitted once every three months, with the first claim submitted at least 90 days following the effective date of the attorney's appointment.

12.3(4) *Other cases.* In all other cases, claims filed prior to the conclusion of the case will not be paid except with prior written consent of the state public defender.

12.3(5) *Change of employment.* A change of employment is not a basis for submitting an interim claim. An attorney changing firms must wait to submit a claim until the conclusion of the case unless the attorney withdraws from the case or subrule 12.3(1), 12.3(2), or 12.3(3) applies. Because indigent defense contracts are with the attorney and not with the law firm, the state public defender shall send payments to whatever person or law firm the departing attorney directs.

12.3(6) *Approval of interim claims.* Approval of any interim claims shall not affect the right of the state public defender to review subsequent claims or the aggregate amount of the claims submitted.

[**ARC 1512C**, IAB 6/25/14, effective 7/30/14; **ARC 4872C**, IAB 1/15/20, effective 3/1/20]

493—12.4(13B,815) Rate of compensation.

12.4(1) Unless the attorney has a contract that provides for a different manner or rate of payment, the following hourly rates shall apply to payment of all claims for cases to which the attorney was appointed after June 30, 1999, and before July 1, 2006:

Attorney time:	Class A felonies	$60/hour
	Class B felonies	$55/hour
	All other criminal cases	$50/hour
	All other cases	$50/hour
Paralegal time:		$25/hour

Unless the attorney has a contract that provides for a different manner or rate of payment, the following hourly rates shall apply to payment of all claims for cases to which the attorney was appointed after June 30, 2006, and before July 1, 2007:

Attorney time:	Class A felonies	$65/hour
	All other criminal cases	$60/hour
	All other cases	$55/hour
Paralegal time:		$25/hour

Unless the attorney has a contract that provides for a different manner or rate of payment, the following hourly rates shall apply to payment of all claims for cases to which the attorney was appointed after June 30, 2007, and before July 1, 2019:

Attorney time:	Class A felonies	$70/hour
	Class B felonies	$65/hour
	All other criminal cases	$60/hour
	All other cases	$60/hour
Paralegal time:		$25/hour

Unless the attorney has a contract that provides for a different manner or rate of payment, the following hourly rates shall apply to payment of all claims for cases to which the attorney was appointed after June 30, 2019:

Attorney time:	Class A felonies	$73/hour
	Class B felonies	$68/hour
	All other criminal cases	$63/hour
	All other cases	$63/hour
Paralegal time:		$25/hour

12.4(2) Payable paralegal time is limited in rule 493—7.1(13B,815).

12.4(3) As used in this rule, the term "all other cases" includes appeals, juvenile cases, contempt actions, representation of material witnesses, and probation/parole violation cases, postconviction relief cases, restitution, extradition, and sentence reconsideration proceedings without regard to the level of the underlying charge.
[**ARC 1512C**, IAB 6/25/14, effective 7/30/14; **ARC 4872C**, IAB 1/15/20, effective 3/1/20]

493—12.5(13B,815) Payable attorney time.

12.5(1) *Maximum daily hours.* An attorney appointed as counsel or guardian ad litem must not perform services for indigent persons or submit claims to the state public defender for payment for such services for more than 12 hours of the attorney's time in any calendar day except as provided in this subrule.

a. An attorney may perform services for indigent persons and submit claims to the state public defender for payment for such services for more than 12 hours and less than or equal to 16 hours in a calendar day if and only if the attorney is in trial or other contested court hearing lasting more than one day or the attorney is preparing for such a trial or hearing that will be occurring within the next seven days.

b. If an attorney performs services for indigent persons and submits claims to the state public defender for payment for such services for more than 12 hours and less than or equal to 16 hours in a calendar day, the attorney shall include with each claim form submitted to the state public defender that claims time for that date, even if the amount claimed on that claim form is less than 12 hours, a letter specifying the total hours worked for indigent persons, any additional time billed to other private clients on that date or certifying that no other time was billed to any other client, and explaining the need to work more than 12 hours.

c. Any time claimed by an attorney appointed as counsel or guardian ad litem in excess of 12 hours on a calendar day, except as permitted by this subrule, and any time claimed in excess of 16 hours on a calendar day, shall not be paid. If the time is claimed on multiple claims, the most recently submitted claim claiming time on a particular calendar day shall be reduced so as not to pay more than the maximum authorized daily hours. If more than the maximum authorized amount is inadvertently paid by the state public defender, the attorney shall reimburse the state public defender upon written notice of the improper payment.

12.5(2) *Standardized and estimated billing prohibited.* All time submitted on the itemization of services must be the actual time worked providing services to the client. Attorneys are prohibited from using standardized billing estimates for tasks, such as billing 0.1 for every page of a document reviewed or 0.2 for every email sent or received, or 1.0 hour for every court proceeding. Attorneys must also not use standardized billing for cases, such as billing the same set of standard tasks in every case regardless of whether the task was actually performed.

12.5(3) *Nonbillable time.* The following activities are not reasonable and necessary legal services for the indigent client, and therefore time and expenses for such activities are not payable under the attorney's appointment and shall be denied:

a. Clerical work, including but not limited to opening and closing files; making photocopies; opening or sending mail; sending cover letters; transmitting copies of documents to a client, another party or clerk of court; sending faxes; picking up or delivering documents; drafting internal file memos; giving instructions to support staff; or billing;

b. Preparation of motions to withdraw from a case, and other time related to withdrawing from a case, when the withdrawal is made in order to retire from the practice of law, discontinue or reduce indigent defense representation, pursue another job, or is otherwise for the attorney's personal benefit;

c. Overhead, including time spent managing the operations of the attorney's law practice, office lease payments, or support staff salaries;

d. Preparation of the fee claim, itemization of services, or other time-keeping activities;

e. Preparation of an application or proposed order to exceed the fee limitations, court time obtaining such an order, or review of the order granting or denying the application;

f. Preparation of a motion for judicial review of the state public defender's action on an attorney fee claim, preparation for or attendance at a hearing on such a motion, review of an order granting or denying the motion, preparation of appellate briefs or other documents in an appeal of such a court order, preparation for or participation in oral arguments in the appeal, or review of an appellate decision regarding such a court order.

12.5(4) *Travel time.* Time spent by an attorney or guardian ad litem traveling is only payable when the travel is reasonable and necessary to represent the indigent client and the attorney or guardian ad litem is traveling:

a. To and from the scene of a crime in a criminal case or juvenile delinquency proceeding;

b. To and from the location of a pretrial hearing, trial, or posttrial hearing in a criminal case if the venue has been changed from the county in which the crime occurred or if the location of the court hearing has been changed, without changing venue, to a different county for the convenience of the court;

c. To and from the place of incarceration of a client in a postconviction relief case, criminal appeal, or postconviction relief appeal;

d. To and from the place of detention of a client in a juvenile delinquency or criminal case if the place of detention is located outside the county in which the action is pending;

e. To and from the location of the placement of a child in a juvenile case if the guardian ad litem is required by statute to visit the placement and the placement is located in Iowa, but outside the county in which the case is pending;

f. To and from the location of the placement of a child in a juvenile case if the guardian ad litem is required by statute and court order to visit the placement and the placement is outside the state of Iowa;

g. To and from the location of a family team meeting, if the place of the meeting is located outside the county in which the action is pending and the court approves that the location of the meeting is appropriate;

h. To and from a court of appeals or supreme court argument;

i. To and from the location where the deposition of an expert witness is being taken; or

j. To other locations for which travel authorization is obtained from the state public defender.

12.5(5) *Substitute counsel time.* Work performed by substitute counsel on behalf of an attorney appointed as counsel or guardian ad litem is payable only as provided for under this subrule. The appointed attorney is at all times personally responsible for the representation of the client and must ensure that substitute counsel is qualified to perform the work directed and that the client is effectively represented at all times. The appointed attorney is responsible for compensating substitute counsel. Claims for payment directly by substitute counsel or claims for payment by the appointed attorney that are inconsistent with this subrule shall be denied.

a. *Court time.* An attorney appointed as counsel or guardian ad litem must handle all court appearances unless the appointed attorney has a scheduling conflict, an illness, or other personal emergency, in which case the matter may be covered by substitute counsel. Substitute counsel may never cover for oral arguments in appellate cases.

b. *Out-of-court time.* Substitute counsel may perform out-of-court legal services, except that time spent by substitute counsel that duplicates work performed by the appointed attorney and time spent receiving direction from or conferencing with the appointed attorney are not payable.

c. *Exceptional circumstances.* Substitute counsel may be used in situations that would otherwise be impermissible if the state public defender concludes that use of such substitute counsel would be in the best interest of the client and the administration of justice and provides prior written consent to the appointed attorney.

d. *Supervisory time.* Time spent by the appointed attorney directing, reviewing, or correcting the work of substitute counsel is not payable.

e. *Qualification of substitute counsel.* Unless the state public defender has given prior written consent to use the attorney as substitute counsel, substitute counsel must have an active contract with the state public defender to perform indigent defense services, although the contract need not cover the type of case or county of the case for which the claim is submitted.

f. Inapplicability to co-counsel in Class A felonies. The previous paragraphs of this subrule do not apply to a co-counsel who is separately appointed in a Class A felony. Each separately appointed co-counsel in a Class A felony shall submit a separate indigent defense fee claim that claims only the work actually performed by the appointed attorney submitting the claim. The use of substitute counsel is not permissible in a Class A felony in which co-counsel has been separately appointed.

[**ARC 9293B**, IAB 12/29/10, effective 12/7/10; **ARC 9447B**, IAB 4/6/11, effective 5/11/11; **ARC 1512C**, IAB 6/25/14, effective 7/30/14; **ARC 2378C**, IAB 2/3/16, effective 3/9/16]

493—12.6(13B,815) Attorney fee limitations.

12.6(1) *Adult cases.* The state public defender establishes attorney fee limitations for the number of hours of combined attorney time and paralegal time that may be claimed for the following categories of adult cases:

Class A felonies	258
Class B felonies	56
Class C felonies	30
Class D felonies	20
Aggravated misdemeanors	20
Serious misdemeanors	10
Simple misdemeanors	5
Simple misdemeanor appeals to district court	5
Contempt/show cause proceedings	5
Proceedings under Iowa Code chapter 229A	167
Probation/parole violation	5
Extradition	5
Postconviction relief—the greater of 17 hours or one-half of the fee limitation for the conviction from which relief is sought.	

Nothing in this subrule is intended to in any manner diminish, increase, or modify the state public defender's authority to review any and all claims for services as authorized by the Iowa Code.

The fee limitations are applied separately to each case, as that term is defined in rule 493—7.1(13B,815). If more than one charge is included within a case, the charge with the higher fee limitation will apply to the entire case.

For example, in an adult criminal proceeding, if an attorney were appointed to represent a client charged with four counts of forgery arising at four separate times, and if the client were charged in four separate trial informations, the fee limitations for each charge would apply separately. If all four charges were contained in one trial information, the fee limitation would be 30 hours even if there were more than one separate occurrence. Similarly, if the attorney were appointed to represent a person charged with a drug offense and failure to possess a tax stamp, the fee limitation would be the limitation for the offense with the higher limitation, not the total of the limitations. As a further example, multiple probation revocation proceedings pending at the same time, involving the same client, and arising from the same transaction or occurrence are still a single "case" for purposes of this rule, and the five-hour fee limitation applies.

If the Iowa Code section listed on the claim form defines multiple levels of crimes and the claimant does not list the specific level of crime on the claim form, the state public defender will use the least serious level of crime in reviewing the claim.

For example, Iowa Code section 321J.2 defines crimes ranging from a serious misdemeanor to a Class D felony. If the attorney does not designate the subsection defining the level of the crime, the state public defender will deem the charge to be a serious misdemeanor.

12.6(2) *Juvenile cases.* The state public defender establishes attorney fee limitations for the number of hours of attorney time that may be claimed for the following categories of juvenile cases:

Delinquency (through disposition)	20
Child in need of assistance (CINA) (through disposition)	20
Termination of parental rights (TPR) (through disposition)	30
Juvenile court review and other postdispositional court hearings	5
Judicial bypass hearings	3
Juvenile commitment hearings	3
Juvenile petition on appeal	10
Motion for further review after petition on appeal	5

Nothing in this subrule is intended to in any manner diminish, increase, or modify the state public defender's authority to review any and all claims for services as authorized by the Iowa Code.

The fee limitations are applied separately to each case, as that term is defined in rule 493—7.1(13B,815).

For example, in a juvenile proceeding in which the attorney represents a parent whose four children are the subject of four child in need of assistance petitions, if the court handles all four petitions at the same time or the incident that gave rise to the child in need of assistance action is essentially the same for each child, the fee limitation for the attorney representing the parent is 20 hours for all four proceedings, not 20 hours for each one.

For a child in need of assistance case that becomes a termination of parental rights case, the fee limitations shall apply to each case separately. For example, the attorney could claim up to 20 hours for the child in need of assistance case and up to 30 hours for the termination of parental rights case.

In a delinquency case, if the child has multiple petitions alleging delinquency and the court handles the petitions at the same time, the fee limitation for the proceeding is the fee limitation for one delinquency.

In a juvenile case in which a petition on appeal is filed, the appointed trial attorney does not need to obtain a new appointment order to pursue a petition on appeal. The claim, through the filing of a petition on appeal, must be submitted on a Juvenile form. If an appellate court orders full briefing, the attorney fee claim for services subsequent to an order requiring full briefing must be submitted on an Appellate form and is subject to the rules governing appeals.

12.6(3) *Appellate cases.* Except as otherwise provided in this rule with respect to simple misdemeanor appeals to the district court and juvenile petitions on appeal, there is no fee limitation established for appellate cases. Nothing in this subrule is intended to in any manner diminish, increase, or modify the state public defender's authority to review any and all claims for services as authorized by the Iowa Code.

12.6(4) *Claims in excess of fee limitations.* A claim in excess of the attorney fee limitations will not be paid unless the attorney seeks and obtains authorization from the appointing court to exceed the attorney fee limitations prior to exceeding the attorney fee limitations. If authorization is granted, payment in excess of the attorney fee limitations shall be made only for services performed after the date of submission of the request for authorization.

12.6(5) *Retroactivity of authorization.* Authorization to exceed the attorney fee limitations shall be effective only as to services performed after a request for authorization to exceed the attorney fee limitations is filed with the court unless the court enters an order before submission of the claim to the state public defender specifically authorizing a late filing of the application and finding that good cause exists excusing the attorney's failure to file the application prior to the attorney's exceeding the attorney fee limitations. "Good cause" as used in this subrule means a sound, effective and truthful reason. "Good cause" is more than an excuse, plea, apology, extenuation, or some justification. Inadvertence

or oversight does not constitute good cause. Retroactive court orders entered after the date of the state public defender's action on a claim are void. See Iowa Code section 13B.4(4).
[**ARC 9293B**, IAB 12/29/10, effective 12/7/10; **ARC 9447B**, IAB 4/6/11, effective 5/11/11; **ARC 1512C**, IAB 6/25/14, effective 7/30/14; **ARC 4872C**, IAB 1/15/20, effective 3/1/20]

493—12.7(13B,815) Reimbursement for specific expenses.

12.7(1) The state public defender shall reimburse the attorney for the payments made by the attorney for necessary certified shorthand reporters, investigators, foreign language interpreters, evaluations, and experts if the following conditions are met:

a. The attorney obtained court approval for a certified shorthand reporter, investigator, foreign language interpreter, evaluation or expert prior to incurring any expenses with regard to each.

b. A copy of each of the following documents is attached to the claim:

(1) The application and court order authorizing the expenditure of funds at state expense for the certified shorthand reporter, investigator, foreign language interpreter, evaluation, or expert. If the reimbursement is for expenses incurred by a privately retained counsel representing an indigent person, the procedures and requirements of rule 493—13.7(13B,815) shall apply to the application and issuance of the order and the application and order shall be in compliance with that rule, the other requirements of 493—Chapter 13, and this rule.

(2) If the expenses are for services of investigators, foreign language interpreters, or experts, a court order setting the maximum dollar amount of the claim. If the initial court order authorizing the expenditure sets the maximum amount of the claims, a subsequent order is unnecessary.

(3) An itemization detailing the expenses incurred, the services rendered, the date(s) on which the services were rendered, the time spent on each date, and the manner in which the amount of the claim for services was calculated.

(4) If the expenses are for foreign language interpreters, the court order and itemization required by subparagraphs 12.7(1)*"b"*(2) and (3) shall be submitted on the Fee Itemization Form and Court Order Approving Claim for Court Interpreter Services form promulgated by the judicial branch.

(5) If the expenses are for a certified shorthand reporter, any additional documentation required in 493—paragraph 13.2(4)*"b"* when applicable to the services provided.

(6) Documentation that the attorney has already paid the funds to the certified shorthand reporter, investigator, foreign language interpreter, provider of an evaluation, or expert.

c. The expenses would be payable if the certified shorthand reporter, investigator, foreign language interpreter, provider of an evaluation, or an expert submitted such claim directly pursuant to 493—Chapter 13, except for the requirement that the claim be submitted on the miscellaneous claim form promulgated by the state public defender.

d. The certified shorthand reporter, investigator, foreign language interpreter, provider of an evaluation, or expert does not submit a claim for the same services.

e. In claims for the cost of an evaluation requested by an appointed attorney, the attorney shall be reimbursed for the reasonable cost of an evaluation of the client to establish a defense in the case or to determine if the client is competent to stand trial. In either instance, a copy of the court order authorizing the evaluation for one of these specific purposes and an order approving the amount of the evaluation must accompany the claim form. Claims for the cost of an evaluation to be used for any other purpose, such as sentencing or placement, will not be reimbursed.

12.7(2) Nothing contained in this rule is intended to require the attorney to provide notice to any other party prior to seeking such an order, except the notice to the state public defender expressly required in rule 493—13.7(13B,815) if the reimbursement is for expenses incurred by privately retained counsel representing an indigent person, or to require the attorney to disclose confidential information, work product, or trial strategy in order to obtain the order.

12.7(3) In an appeal, the state public defender will pay the cost of obtaining the transcript of the trial records and briefs. In such instance, subrule 12.7(1) shall apply.

12.7(4) Claims for expenses that do not meet these conditions are not payable under the attorney's appointment or rule 493—13.7(13B,815) and will be denied.
[**ARC 0137C**, IAB 5/30/12, effective 7/11/12; **ARC 4872C**, IAB 1/15/20, effective 3/1/20]

493—12.8(13B,815) Reimbursement of other expenses.

12.8(1) The state public defender shall reimburse the attorney for the following out-of-pocket expenses incurred by the attorney in the case to the extent that the expenses are reasonable and necessary:

a. Mileage for automobile travel at the rate of 39 cents per mile. The number of miles driven each day shall be separately itemized on the itemization of services, specifying the date of the travel, the origination and destination locations, the total number of miles traveled that day and, if it is not otherwise clear from the itemization, the purpose of the travel. If the travel is to perform services for multiple clients on the same trip, the mileage must be split proportionally between each client and the itemization must note the manner in which the mileage is split. The total miles traveled for the case shall also be listed on the claim form. Other forms of transportation costs incurred by the attorney may be reimbursed only with prior approval from the state public defender.

b. The actual cost of lodging, limited by the state-approved rate, is reimbursed only if the attorney is entitled to be paid for travel time for the travel associated with the lodging and the attorney is required to be away from home overnight. An itemized receipt showing the expenses incurred must be attached to the claim form.

c. The actual cost of meals, limited by the state-approved rate, is reimbursed only if the attorney is entitled to be paid for travel time for the travel associated with these meals. An itemized receipt showing the expenses incurred must be attached to the claim form.

d. Necessary photocopying at the attorney's office at the rate of 10 cents per copy. The number of copies made each day must be separately itemized in the itemization of services. The total number of copies must also be listed on the claim form.

e. Ordinary and necessary postage, toll calls, collect calls, and parking for the actual cost of these expenses. Toll and collect calls will be reimbursed at 10 cents per minute or the actual cost. A receipt for the actual cost of the toll or collect call must be attached to the claim form. A statement from a correctional facility or jail detailing a standard rate for such calls shall constitute a receipt for purposes of this paragraph. For parking expenses in excess of $5, a receipt must be attached to the claim form. Claims for the cost of a parking ticket shall be denied. Unless a receipt is provided, any postage, toll calls, collect calls, or parking expenses shall be separately itemized on the itemization of services, specifying the date on which the expense was incurred and, if it is not otherwise clear from the itemization, the purpose of the expense.

f. Receiving faxes in the attorney's office at the rate of 10 cents per page. There is no direct cost reimbursement for sending a fax unless there is a toll charge associated with it. Any fax charges claimed shall be separately itemized on the itemization of services, specifying the date on which the expense was incurred and, if it is not otherwise clear from the itemization, the purpose of the expense.

g. The actual cost of photocopying or faxing for which the attorney must pay an outside vendor. A receipt for the actual cost must be attached to the claim form.

h. Other claims for expenses such as process service, medical records, DVDs, CDs, videotapes, and photographic printing will be reimbursed for the actual cost. A receipt or invoice from an outside vendor must be attached to the claim form.

i. Other specific expenses for which prior approval by the state public defender is obtained.

None of the expenses specified in this rule shall be reimbursed to a privately retained attorney representing an indigent person unless there is prior approval by the state public defender upon a showing of reasonable necessity.

12.8(2) If the reimbursement is for expenses incurred by a privately retained counsel representing an indigent person, the procedures and requirements of rule 493—13.7(13B,815) shall apply to the application and issuance of the order, the application and order allowing reimbursement of these expenses shall be in compliance with that rule in addition to the requirements of this rule, and a copy of the application and order entered pursuant to rule 493—13.7(13B,815) shall be attached to the claim.

12.8(3) Claims for expenses other than those listed in this rule or at rates in excess of the rates set forth in this rule are not payable under the attorney's appointment or under rule 493—13.7(13B,815) and will be reduced or denied.
[**ARC 1512C**, IAB 6/25/14, effective 7/30/14; **ARC 2378C**, IAB 2/3/16, effective 3/9/16; **ARC 4872C**, IAB 1/15/20, effective 3/1/20]

493—12.9(13B,815) Court review. An attorney whose claim for compensation is denied, reduced, or otherwise modified by the state public defender, for other than mathematical errors, may seek court review of the action of the state public defender.

12.9(1) *Motions for court review.* Court review of the action of the state public defender is initiated by the filing of a motion with the trial court requesting the review. The following conditions shall apply to all such motions:

a. The motion must be filed with the court within 20 days of the action of the state public defender. This time limit is jurisdictional and will not be extended by the filing of another claim, submitting a letter or email requesting reconsideration, or obtaining a court order affecting the amount of the claim.

b. The motion must set forth each and every ground on which the attorney intends to rely in challenging the action of the state public defender.

c. The motion must have attached to it a complete copy of the claim, together with the notice of action or returned fee claim letter that the attorney seeks to have reviewed.

d. A copy of all documents filed must be provided to the state public defender.

e. It is unnecessary for the state public defender to file any response to the motion.

12.9(2) *Hearings.* The following shall apply to hearings on motions for court review:

a. The motion shall be set for hearing by the court. Notice of the hearing on the attorney's request for review shall be provided to the attorney and the state public defender at least ten days prior to the date and time set by the reviewing court.

b. Unless the state public defender appears or specifically indicates an intention to appear in person at the hearing, the state public defender shall participate by telephone. If the state public defender participates by telephone, the state public defender shall be responsible for initiating and paying for the telephone call. If the attorney intends to participate by telephone, the attorney shall notify the state public defender of this intent and provide a telephone number for the hearing at least two business days prior to the date scheduled for the hearing.

c. The burden shall be on the attorney requesting the review.

d. The court shall consider only the issues raised in the attorney's motion.

e. The court shall issue a written ruling on the issues properly presented in the request for review.

f. If a ruling is entered modifying the state public defender's action on the claim, the attorney must file a new claim with the state public defender within 45 days of the date of the court's order modifying the state public defender's action on the claim. A copy of the court's ruling and the original claim form and supporting documents must be attached to the claim form. The "date of service" for such a claim is the date of the court's order.

12.9(3) *Failure to seek review.* Failure to seek court review within 20 days of the action of the state public defender will preclude court review of the state public defender's action.

12.9(4) *Other court orders.* Any court order entered after the state public defender has taken action on a claim that affects that claim is void unless the state public defender is first notified and given an opportunity to be heard.
[**ARC 1512C**, IAB 6/25/14, effective 7/30/14]

493—12.10(13B,815) Payment errors. If an error resulting in an overpayment or double payment of a claim is discovered by the attorney, by the state public defender, by the department, or otherwise, the claimant shall reimburse the indigent defense fund for the amount of the overpayment. An overpayment shall be paid by check. The check, made payable to the "Treasurer, State of Iowa," together with a copy of the payment voucher containing the overpayment or double payment, shall be mailed to the Office of the State Public Defender, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319.
[**ARC 0137C**, IAB 5/30/12, effective 7/11/12; **ARC 1512C**, IAB 6/25/14, effective 7/30/14]

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◊ Two or more ARCs

1 12/29/04 effective date delayed 70 days by the Administrative Rules Review Committee at its meeting held 12/14/04.

CHAPTER 13
CLAIMS FOR OTHER PROFESSIONAL SERVICES

493—13.1(13B,815) Scope. This chapter sets forth the rules for submission, payment and court review of claims for other professional services. See 493—Chapter 7 for definitions of terms used in this chapter.

493—13.2(815) Claims for other professional services. The state public defender shall review and approve claims for necessary and reasonable expenses for investigators, foreign language interpreters, expert witnesses, certified shorthand reporters, and medical/psychological evaluations if the claimant has a form W-9 on file with the department and the claim conforms to the requirements of this rule. Claims that do not comply with this rule will be returned.

13.2(1) *Claims for investigative services.* The state public defender shall review, approve and forward for payment claims for necessary and reasonable expenses for investigators if the following conditions are met:

a. Court approval to hire the investigator was obtained before any expenses for the investigator were incurred.

b. One copy of each of the following documents is attached to the claim:

(1) The application and order granting authority to hire the investigator.

(2) The order appointing counsel. This order is unnecessary if the attorney is not court-appointed and there is an order attached approving payment of the investigative services pursuant to rule 493—13.7(13B,815).

(3) An itemization of the investigator's services detailing the expenses incurred, the services rendered, the date(s) on which the services were rendered, the time spent on each date, the hourly rate, and the manner in which the amount of the claim for services was calculated. Except in exceptional circumstances and with the prior approval of the state public defender upon a showing of reasonable necessity, an investigator's rate shall not exceed $75 per hour. Itemized receipts for expenses must be attached.

(4) A court order setting the maximum dollar amount of the claim. For purposes of this subrule, if the court order that authorizes hiring the investigator sets a limit for the claim, this court order is unnecessary.

c. Reasonable and necessary investigative services include, but are not limited to, locating witnesses, interviewing witnesses, process service, viewing the crime scene, reviewing documents or photographs, meeting with attorneys, meeting with clients, and creating investigative reports. Clerical work or running errands for the attorney or defendant is not considered investigative work.

d. Timely claims required. Claims for services are timely if submitted to the state public defender for payment within 45 days of the most recent date that investigative services were performed for the case. Claims that are not timely shall be denied.

13.2(2) *Claims for foreign language interpreters.* The state public defender shall review, approve and forward for payment claims for necessary and reasonable expenses for foreign language interpreters in accordance with the administrative directive of the state court administrator in the matter of court interpreter compensation in effect at the time the claim is made, if the following conditions are met:

a. Court approval to hire the interpreter was obtained before any expenses for the interpreter were incurred.

b. One copy of each of the following documents is attached to the claim:

(1) The application and order appointing the interpreter. This appointment is presumed to continue until the conclusion of the matter, unless limited by the court or modified by a subsequent order.

(2) The order appointing counsel. This order is unnecessary if the attorney is not court-appointed and there is an order attached approving payment of the foreign language interpreter pursuant to rule 493—13.7(13B,815).

(3) An itemization of the interpreter's services detailing the expenses incurred, the services rendered, the date(s) on which the services were rendered, the time spent on each date including the

time services began and ended on each day, and the manner in which the amount of the claim for services was calculated. With regard to expenses and services, the following shall apply:

1. Receipts for parking expenses are reimbursed pursuant to the Judicial Branch Administrative Directive on Court Interpreter and Translator Compensation Policies.

2. Claims for translating documents will be paid pursuant to the Judicial Branch Administrative Directive on Court Interpreter and Translator Compensation Policies.

(4) A court order setting the maximum dollar amount of the claim.

c. Timely claims required. Claims for services are timely if, within 45 days of completion of services, either the claim is submitted to the state public defender for payment or the Fee Itemization Form and Court Order Approving Claim for Court Interpreter Services are filed with the clerk of court in the case. Claims that are not timely submitted shall be denied.

13.2(3) *Claims for expert witnesses.* The state public defender shall review, approve and forward for payment claims for necessary and reasonable expenses for expert witnesses if the following conditions are met:

a. Court approval to hire the expert witness was obtained before any expenses for the expert witness were incurred.

b. One copy of each of the following documents is attached to the claim:

(1) The application and order granting authority to hire the expert witness.

(2) The order appointing counsel. This order is unnecessary if the attorney is not court-appointed and there is an order attached approving payment of the expert witness pursuant to rule 493—13.7(13B,815).

(3) An itemization of the expert witness's services detailing the expenses incurred, the services rendered, the date(s) on which the services were rendered, the time spent on each date, and the manner in which the amount of the claim for services was calculated.

(4) A court order setting the maximum dollar amount of the claim. For purposes of this subrule, if the court order that authorizes hiring the expert sets a limit for the claim, this court order is unnecessary.

(5) If the expert charges a "minimum" amount for services based on a specific time, a certification by the expert that no other services have been performed or charges made by the expert for any portion of that specific time.

13.2(4) *Claims for certified shorthand reporters.* The state public defender shall review, approve and forward for payment claims for necessary and reasonable expenses for depositions and transcripts provided by certified shorthand reporters only in accordance with the requirements of this subrule.

a. *Claim form.* When a written claim form for certified shorthand reporting is required under these rules, the certified shorthand reporter shall submit a signed original and one copy of a miscellaneous claim form containing the following information:

(1) The case name, case number and county in which the action is pending.

(2) The name of the attorney for whom the services were provided.

(3) The date on which the transcript was ordered.

(4) The date on which the transcript was delivered.

(5) The total amount of the claim.

(6) The claimant's name; address; social security number, federal tax identification number or vendor identification number; email address, if any; and telephone number.

b. *Required documentation.* One copy of each of the following documents must be attached to the claim:

(1) The court order granting authority to hire the certified shorthand reporter at state expense.

(2) The order appointing counsel. This order is unnecessary if the attorney is not court-appointed and there is an order attached approving payment of the certified shorthand reporter pursuant to rule 493—13.7(13B,815).

(3) If expedited transcript rates are claimed under subparagraph 13.2(4)*"d"*(10), an email or other written statement from the attorney explaining that expedited delivery is required.

(4) If a cancellation fee is claimed under subparagraph 13.2(4)*"d"*(6), documentation of the date and time that notice of cancellation was given.

(5) If the certified shorthand reporter is a state employee, a certification by the certified shorthand reporter that none of the time for which the claim is being submitted is time for which the certified shorthand reporter was being paid by the state.

c. Rates for court transcripts. If the certified shorthand reporter is a judicial branch employee, claims for certified shorthand reporter services for preparation of court transcripts will be limited to the rate approved by the Iowa supreme court for preparation of transcripts and other certified shorthand reporter services.

d. Rates for other transcripts. Unless the certified shorthand reporter has a contract with the state providing for a different rate or manner of payment or the certified shorthand reporter submits a claim for a lesser amount, claims for certified shorthand reporter services for a non-judicial branch employee will be paid only at the rates set forth in this paragraph:

(1) Hourly rate when no transcript ordered. Fees for attending depositions when no transcript is ordered will be paid at the rate of $45 per hour for the actual time the certified shorthand reporter is present at the depositions including setup and takedown of equipment. If multiple witnesses are deposed in a deposition session on a single day, this hourly rate shall only apply if no transcript is ordered for any of the witnesses. If the transcript is ordered for some of the witnesses, the hourly rate when a transcript is ordered shall apply for the entire deposition session.

(2) Hourly rate when transcript ordered. Fees for attending depositions when a transcript is ordered will be paid at the rate of $35 per hour for the actual time the certified shorthand reporter is present at the depositions including setup and takedown of equipment. Fees for performing a transcription of an audio or video recording will be paid at the rate of $35 per hour for the actual length of the recording transcribed.

(3) Travel time. Fees for travel time will be paid at the rate of $15 per hour for travel outside of the county of the certified shorthand reporter's office location. Travel time within the county of the certified shorthand reporter's office location will not be paid. No travel time is payable for the delivery of a transcript or related to the transcription of an audio or video recording.

(4) Transcripts. Unless expedited delivery is requested, fees will be paid at the rate of $3.50 per page for an original, one copy, and an electronic version of the transcript. Copies of a transcript for which an original has already been ordered by any party will be paid at the rate of $1 per page.

(5) Exhibits. A rate of $0.10 per page for black and white and $0.30 per page for color copies will be paid.

(6) Cancellation fees. No cancellation fees will be paid as long as the certified shorthand reporter is given notice of cancellation at least 24 hours before the time scheduled for a deposition. Weekends and state holidays shall not be included when calculating the 24-hour prior notice of cancellation contained in this subparagraph. If the deposition is canceled with less than 24 hours' notice, a fee for two hours or the actual time that the certified shorthand reporter is present at the site of the deposition including setup and takedown of equipment, whichever is greater, is payable at the rate set forth in subparagraph 13.2(4)*"d"*(1). A certified shorthand reporter is deemed to have been given notice of cancellation when an attorney or representative of the attorney delivers notice of a cancellation to the email address provided by the certified shorthand reporter or leaves a message on voicemail or with a representative of the certified shorthand reporter at the telephone number provided by the certified shorthand reporter, not when the certified shorthand reporter actually hears or reads the message. No cancellation fee will be paid related to the transcription of an audio or video recording.

(7) Minimum time. One hour minimum, exclusive of travel time, will be paid for a deposition or transcription of an audio or video recording that takes less than one hour.

(8) Other time. Except for the initial one hour minimum, all time billed at an hourly rate shall be billed in 15-minute increments.

(9) Postage. Actual postage costs that are reasonable and necessary will be paid.

(10) Expedited transcripts. Expedited transcripts are those that are required to be delivered within five business days of the date requested. Fees of $6 per page for an original, one copy, and an electronic version of the transcript will be paid for expedited transcripts. Copies of an expedited transcript for which an original has already been ordered by any party will be paid at the rate of $1 per page.

(11) Other expenses. Any additional expenses or fees for certified shorthand reporting services not set forth above will only be paid with the prior written consent of the state public defender obtained before the services are provided.

e. *Timely claims required.* Claims for services are timely if submitted to the state public defender for payment within 45 days of the date on which services are completed. For depositions, services are completed on the date the deposition transcript is delivered or on the date of disposition of the case if no transcript is ordered, whichever date is earlier. For trial transcripts or transcripts of an audio or video recording, services are completed on the date the transcript is delivered. Claims that are not timely shall be denied.

f. *Designation of preferred certified shorthand reporter.* The state public defender may enter into a contract with one or more certified shorthand reporters to provide court reporting services for depositions in one or more counties and may designate such certified shorthand reporters to be the preferred certified shorthand reporters in the respective counties. Such designations shall be provided to the chief judge of the judicial district for the respective counties and shall be summarized on the website of the state public defender, spd.iowa.gov. Claims for services provided in a county in which the state public defender has designated a certified shorthand reporter as the preferred certified shorthand reporter shall be denied unless the claims are submitted by the certified shorthand reporter pursuant to the terms of the contract or are submitted by another certified shorthand reporter and include written documentation that the designated certified shorthand reporter was unavailable to handle the deposition.

13.2(5) *Claims for court-ordered evaluations.* The state public defender shall review, approve and forward for payment claims for necessary and reasonable evaluations requested by an appointed attorney only if the purpose of the evaluation is to establish a defense, to determine whether an indigent is competent to stand trial, or to evaluate a defendant at sentencing or resentencing who has been charged as an adult for a felony alleged to have been committed while a juvenile, if the offense has a potential mandatory minimum sentence of imprisonment, and not for any other purpose nor in any other circumstance for sentencing or placement. Additionally, a claim for a court-ordered evaluation will be approved only if the following conditions are met:

a. Court approval to conduct the evaluation was obtained before any expenses for the evaluation were incurred.

b. One copy of each of the following documents is attached to the claim:

(1) The application and order granting authority to conduct the evaluation. This order must specify that the purpose of the evaluation is for a permissible purpose under this subrule.

(2) The order appointing counsel. This order is unnecessary if the attorney is not court-appointed and there is an order attached approving payment of the evaluation pursuant to rule 493—13.7(13B,815).

(3) An itemization of the evaluator's services detailing the expenses incurred, the services rendered, the date(s) on which the services were rendered, the time spent on each date, and the manner in which the amount of the claim for services was calculated.

(4) A court order setting the maximum dollar amount of the claim. For purposes of this subrule, if the court order authorizing the evaluation sets a limit for the claim, this court order is unnecessary.

(5) If the evaluator charges a "minimum" amount for services based on a specific time, a certification by the evaluator that no other services have been performed or charges made by the evaluator for any portion of that specific time.

13.2(6) The state public defender may reimburse services and expenses not specifically listed in this chapter that are payable pursuant to rules 493—12.7(13B,815) and 493—12.8(13B,815).

13.2(7) *Submission of claims.*

a. With the exception of judicial branch certified shorthand reporters, claims submitted on or after March 1, 2020, shall be submitted electronically via the online claims website: spdclaims.iowa.gov. Effective March 1, 2020, with the exception of judicial branch certified shorthand reporter claims, any reference in these rules to forms or to claims submissions shall refer to the respective claims submission page for miscellaneous claims on the online claims website. The state public defender, at the state public defender's sole discretion, may grant limited exceptions to the requirement that claims be submitted electronically via the online claims website. Other claims for professional services must be submitted,

on a form promulgated by the state public defender, to the state public defender at the following address: State Public Defender, Claims, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319.

b. Claims for the payment of services to public defenders provided either by judicial branch certified shorthand reporters or by claimants granted an exception to online claim submission, must be submitted to the local public defender office for which the services were provided. Other judicial branch certified shorthand reporter claims, claimants granted an exception to online claim submission, or claims submitted prior to March 1, 2020, must be submitted on a form, promulgated by the state public defender, to the state public defender at the following address: State Public Defender, Claims, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319.

13.2(8) *Claims from state employees.* Claims submitted by state of Iowa employees must be submitted on a form promulgated by the state public defender and on a state travel voucher form.

[**ARC 0137C**, IAB 5/30/12, effective 7/11/12; **ARC 1512C**, IAB 6/25/14, effective 7/30/14; **ARC 2378C**, IAB 2/3/16, effective 3/9/16; **ARC 4872C**, IAB 1/15/20, effective 3/1/20]

493—13.3(13B,815) Court review. A claimant whose claim for compensation is denied, reduced, or otherwise modified by the state public defender, for other than mathematical errors, may seek court review of the action of the state public defender.

13.3(1) *Motions for court review.* Court review of the action of the state public defender is initiated by filing a motion with the trial court requesting the review. The following conditions shall apply to all such motions:

a. The motion must be filed with the court within 20 days of the action of the state public defender.

b. The motion must set forth each and every ground on which the claimant intends to rely in challenging the action of the state public defender.

c. The motion must have attached to it a complete copy of the claim, together with the notice of action that the claimant seeks to have reviewed.

d. A copy of all documents filed must be provided to the state public defender.

It is unnecessary for the state public defender to file any response to the motion.

13.3(2) *Hearings.* The following shall apply to hearings on motions for court review:

a. The motion shall be set for hearing by the court. Notice of the hearing on the claimant's request for review shall be provided to the claimant and the state public defender at least ten days prior to the date and time set by the reviewing court.

b. Unless the state public defender specifically indicates an intention to appear in person at the hearing, the state public defender shall participate by telephone. If the state public defender participates by telephone, the state public defender shall be responsible for initiating and paying for the telephone call.

c. The burden shall be on the claimant requesting the review.

d. The court shall consider only the issues raised in the claimant's motion.

e. The court shall issue a written ruling on the issues properly presented in the request for review.

f. If a ruling is entered allowing additional fees, the claimant must file a new claim with the state public defender. A copy of the court's ruling must be attached to the claim form. The date of service on the claim form is the date of the court's order.

13.3(3) *Failure to seek review.* Failure to seek court review within 20 days of the action of the state public defender will preclude court review of the state public defender's action.

493—13.4(13B,815) Processing and payment. The state public defender will submit claims to the department for processing and payment. The department will submit claims that are not approved in the current fiscal year to the state appeal board for processing and payment.

493—13.5(13B,815) Payment errors. If an error resulting in an overpayment or double payment of a claim is discovered by the claimant, by the state public defender, by the department, or otherwise, the claimant shall reimburse the indigent defense fund for the amount of the overpayment. An overpayment or double payment shall be repaid by check. The check, made payable to "Treasurer, State of Iowa,"

together with a copy of the payment voucher containing the overpayment or double payment, shall be mailed to the Office of the State Public Defender, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083.
[**ARC 0137C**, IAB 5/30/12, effective 7/11/12; **ARC 1512C**, IAB 6/25/14, effective 7/30/14]

493—13.6(815) Claims submitted by a county. Rescinded IAB 1/3/07, effective 2/7/07.

493—13.7(13B,815) Payment of costs incurred by privately retained attorney representing indigent person. No payment of state funds for the costs incurred in the legal representation of an indigent person shall be authorized or paid unless the requirements of this rule are satisfied.

13.7(1) *Application for payment.* An application or motion for the payment of state funds for the costs incurred in the legal representation of an indigent person that is submitted by the privately retained attorney shall be filed with the court in the county in which the case was filed and include all of the following:

a. A copy of the attorney's fee agreement for the representation, including hourly rate, amount of retainer or other moneys received, and number of hours of work completed by the attorney to date.

b. A showing that the costs are reasonable and necessary for the representation of the indigent person in a case for which counsel could have been appointed under Iowa Code section 815.10.

c. An itemized accounting of all compensation paid to the attorney including the amount of any retainer.

d. The amount of compensation earned by the attorney.

e. Information on any expected additional costs to be paid or owed by the indigent person to the attorney for the representation.

f. A signed financial affidavit completed by the indigent person.

13.7(2) *Copy of application to state public defender.* The privately retained attorney shall submit a copy of the application or motion and all attached documents to the state public defender.

13.7(3) *Response of state public defender.* If the state public defender resists the motion in whole or in part, the state public defender shall file a response to the application or motion within ten days of the state public defender's receipt of the application or motion.

13.7(4) *Requirements for authorization and payment.* The court shall not grant the application or motion authorizing all or a portion of the payment to be made from state funds unless the court determines, after reviewing the application, any supporting documents, and any response from the state public defender pursuant to subrule 13.7(3), that all of the following apply:

a. The represented person is indigent and unable to pay for the costs sought to be paid.

b. The costs are reasonable and necessary for the representation of the indigent person in a case for which counsel could have been appointed under Iowa Code section 815.10.

c. The moneys paid or to be paid to the privately retained attorney by or on behalf of the indigent person are insufficient to pay all or a portion of the costs sought to be paid from state funds.

(1) In determining whether the moneys paid or to be paid to the attorney are insufficient for purposes of this paragraph, the court shall add the hours previously worked to the hours expected to be worked to finish the case and multiply that sum by the hourly rate of compensation specified in rule 493—12.4(13B,815) for the type of case in which the costs are requested.

(2) If the product calculated in subparagraph 13.7(4)*"c"*(1) is greater than the moneys paid or to be paid to the attorney by or on behalf of the indigent person, the moneys shall be considered insufficient to pay all or a portion of the costs sought to be paid from state funds.

(3) If the private attorney is retained on a flat fee agreement and a precise record of hours worked is not available, the attorney shall provide the court a reasonable estimate of the time expended to allow the court to make the calculation pursuant to this paragraph.

13.7(5) *Opportunity to request a hearing and hearing on the application.* The state public defender shall be afforded reasonable notice and opportunity to respond to the motion and participate in any hearing on the application or motion. Either the privately retained attorney for the indigent person or a

representative from the office of the state public defender may participate in a hearing on the application or motion by telephone.

13.7(6) *Protection of defense strategy and work product.* In considering and ruling on the application or motion, the court shall order appropriate procedures to protect against disclosure of defense strategy and defense work product to the prosecution, including but not limited to allowance of information or filings, or portions thereof, to be submitted in camera, ex parte hearings, sealing of any transcript or order to avoid such disclosure, protective orders, or other safeguards to protect defense strategy and work product from disclosure to the prosecution.

13.7(7) *Order on the application.* If the court finds the payment of the costs incurred or to be incurred by a privately retained attorney are reasonable and necessary, the order of the court shall specify the maximum amount of costs which the attorney may incur without further court order, and that the actual amount of such costs to be allowed are subject to review by the state public defender for reasonableness.

13.7(8) *Submission of claim for payment to state public defender.* Following entry of an order allowing costs to be incurred by a privately retained attorney representing an indigent person, the attorney or the service provider may seek payment or reimbursement for costs. The attorney shall submit a claim in accordance with rules 493—12.7(13B,815) and 493—12.8(13B,815). The service provider shall submit a claim in accordance with 493—Chapter 13.

13.7(9) *Denial of application for noncompliance.* If the privately retained attorney or claimant seeking payment or reimbursement for costs pursuant to this rule fails to comply with the requirements of this rule, the state public defender may deny all or a part of the costs requested.

13.7(10) *Applicability of rule.* This rule applies to payments to witnesses under Iowa Code section 815.4, evaluators, investigators, and certified shorthand reporters, and to other costs incurred by a privately retained attorney in the legal representation of the indigent person. This rule does not apply to payment of costs on behalf of an indigent person represented on a pro bono basis.

[**ARC 4872C**, IAB 1/15/20, effective 3/1/20]

These rules are intended to implement Iowa Code chapters 13B and 815 as amended by 2004 Iowa Acts, House File 2138.

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CHAPTER 65
ANIMAL FEEDING OPERATIONS

[Prior to 7/1/83, DEQ Ch 20]
[Prior to 12/3/86, Water, Air and Waste Management[900]]

DIVISION I
CONFINEMENT FEEDING OPERATIONS

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.

"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.

"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 floodplains 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 459.301provides 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 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 weighing 25 grams or more	0.001
15. Fish weighing less than 25 grams	0.00006

"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 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 10 percent or more 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 ownership interest is a common ownership interest when it is held directly, indirectly through a spouse or dependent child, or both. The following exceptions shall apply to this definition:

1. For an animal feeding operation structure constructed before February 19, 2020, "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.

2. This definition shall not apply to a dry bedded confinement feeding operation which is subject to the common ownership requirements in Iowa Code section 459B.103(3)*"a"*(3).

"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.

"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 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 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.
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 floodplain" 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.

"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.

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 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 website;

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 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' website at 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 website; and

g. Emergency spill line telephone number is (515)725-8694.

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16; **ARC 4426C**, IAB 5/8/19, effective 6/12/19; **ARC 4871C**, IAB 1/15/20, effective 2/19/20]

567—65.2(459,459B) Minimum manure control requirements and reporting of releases. Confinement feeding operations shall be constructed, managed and maintained to meet the minimum manure control requirements stated in subrules 65.2(1) to 65.2(8) of this rule. A release shall be reported to the department as provided in subrule 65.2(9) of this rule. Dry manure stockpiling requirements are stated in subrule 65.2(10). Dry bedded manure stockpiling requirements are stated in 65.2(11).

65.2(1) Rescinded IAB 9/14/05, effective 9/14/05.

65.2(2) Rescinded IAB 9/14/05, effective 9/14/05.

65.2(3) The minimum level of manure control for a confinement feeding operation shall be the retention of all manure produced in the confinement enclosures between periods of manure application and as specified in this rule. In no case shall manure from a confinement feeding operation be discharged directly into a water of the state or into a tile line that discharges to waters of the state.

a. Control of manure from confinement feeding operations may be accomplished through use of manure storage structures or other manure control methods. Sufficient capacity shall be provided in the manure storage structure to store all manure between periods of manure application. A confinement feeding operation, other than a small animal feeding operation, that is constructed or expanded on or after July 1, 2009, shall not surface-apply liquid manure on frozen or snow-covered ground when there is an emergency, as described in subrule 65.3(4), unless the operation has a minimum of 180 days of manure storage capacity. Additional capacity shall be provided if precipitation, manure or wastes from other sources can enter the manure storage structure.

b. Manure shall be removed from the control facilities as necessary to prevent overflow or discharge of manure from the facilities. Manure stored in unformed manure storage structures or unformed egg washwater storage structures shall be removed from the structures as necessary to maintain a minimum of two feet of freeboard in the structure, unless a greater level of freeboard is

required to maintain the structural integrity of the structure or prevent manure overflow. Manure stored in unroofed formed manure storage structures or formed egg washwater storage structures shall be removed from the structures as necessary to maintain a minimum of one foot of freeboard in the structure unless a greater level of freeboard is required to maintain the structural integrity of the structure or prevent manure overflow.

c. To ensure that adequate capacity exists in the manure storage structure to retain all manure produced during periods when manure application cannot be conducted (due to inclement weather conditions, lack of available land disposal areas, or other factors), the manure shall be removed from the manure storage structure as needed prior to these periods.

d. Dry manure or dry bedded manure originating at a confinement feeding operation may be retained as a stockpile so long as the stockpiled dry manure or dry bedded manure meets the following:

(1) Dry manure stockpiling requirements provided in subrule 65.2(10) or dry bedded manure stockpiling requirements provided in subrule 65.2(11).

(2) Applicable NPDES requirements pursuant to the Act.

(3) The dry manure or dry bedded manure is removed from the stockpile and applied in accordance with 567—65.3(459,459B) within six months after the dry manure or dry bedded manure is first stockpiled.

(4) Dry manure stockpiles are not required to meet the requirements in subparagraphs (1) to (3) above if the dry manure originates from a confinement feeding operation that was constructed prior to January 1, 2006, unless any of the following apply:

1. The confinement feeding operation is expanded after January 1, 2006.
2. Dry manure is stockpiled in violation of subrule 65.2(3).
3. Precipitation-induced runoff from the stockpile has drained off the property.

65.2(4) If site topography, operation procedures, experience, or other factors indicate that a greater or lesser level of manure control than that specified in subrule 65.2(1), 65.2(2), or 65.2(3) is required to provide an adequate level of water pollution control for a specific animal feeding operation, the department may establish different minimum manure control requirements for that operation.

65.2(5) In lieu of using the manure control methods specified in subrule 65.2(1), 65.2(2), or 65.2(3), the department may allow the use of manure treatment or other methods of manure control if it determines that an adequate level of manure control will result.

65.2(6) No direct discharge shall be allowed from an animal feeding operation into a publicly owned lake, a sinkhole, or an agricultural drainage well.

65.2(7) All manure removed from an animal feeding operation or its manure control facilities shall be land-applied in a manner which will not cause surface or groundwater pollution. Application in accordance with the provisions of state law, and the rules and guidelines in this chapter, shall be deemed as compliance with this requirement.

65.2(8) As soon as practical but not later than six months after the use of an animal feeding operation is discontinued, all manure shall be removed from the discontinued animal feeding operation and its manure control facilities and be land-applied.

65.2(9) A release, as defined in 567—65.1(459,459B), shall be reported to the department as provided in this subrule. This subrule does not apply to land application of manure in compliance with these rules.

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'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."*

b. Verbal report. The verbal report of such a release should provide information on as many items listed in 65.2(9)*"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 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.

(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 allegedly released (e.g., formed storage, earthen storage).

(7) The estimated or known volume of manure 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.

65.2(10) Dry manure stockpiling requirements for a confinement feeding operation.

a. Requirements for terrain, other than karst terrain. Dry manure stockpiled on terrain, other than karst terrain, for more than 15 consecutive days shall comply with either of the following:

(1) Dry manure shall be stockpiled using any of the following:

1. A qualified stockpile structure; or

2. A qualified stockpile cover. Long-term stockpiles utilizing a qualified stockpile cover shall be placed on a constructed impervious base that can support the load of the equipment used under all weather conditions. The coefficient of permeability of the impervious base shall be less than 1×10^{-7} cm/sec (0.00028 feet/day). Permeability results shall be submitted to the department prior to use of the stockpile site.

(2) A stockpile inspection statement shall be delivered to the department as follows:

1. The department must receive the statement by the fifteenth day of each month.

2. The stockpile inspection statement shall provide the location of the stockpile and document the results of an inspection conducted during the previous month. The inspection must evaluate whether precipitation-induced runoff is draining away from the stockpile and, if so, describe actions taken to prevent the runoff. If an inspection by the department documents that precipitation-induced runoff is draining away from a stockpile, the dry manure must be immediately removed from the stockpile or comply with all directives of the department to prevent the runoff.

3. The stockpile inspection statement must be in writing and may be on a form prescribed by the department.

b. Requirements for karst terrain. Dry manure stockpiled on karst terrain or an area that drains into a known sinkhole shall comply with all of the following:

(1) A minimum 5-foot layer of low permeability soil or rock between the bottom of the stockpile and underlying limestone, dolomite or other soluble rock is required. A professional engineer licensed in Iowa, NRCS qualified staff or a qualified organization shall submit a soil report, based on the results

from soil borings or test pits or representative well data, describing the subsurface materials and vertical separation distance from the proposed bottom of the stockpile and the underlying limestone, dolomite or soluble rock. A minimum of two soil borings or test pits at each end of the proposed stockpile site are required if acceptable well data are not available. After soil exploration is complete, each boring or test pit shall be properly plugged with concrete grout, bentonite or similar materials and that action shall be documented in the soil report.

(2) Dry manure stockpiled for more than 15 consecutive days shall use any of the following:

1. A qualified stockpile structure; or

2. A qualified stockpile cover. Long-term stockpiles utilizing a qualified stockpile cover shall be placed on a reinforced concrete slab at least 5 inches thick conforming to the requirements of 65.15(14)*"a"*(2), numbered paragraphs "1," "3," "4," "6," "8" and "12."

c. Dry manure stockpile siting prohibitions.

(1) Grassed waterway. A stockpile or stockpile structure shall not be placed in a grassed waterway.

(2) Sloping land. A stockpile or stockpile structure shall not be placed on land having a slope of more than 3 percent, unless the dry manure is stockpiled using methods, structures, or practices that contain the stockpile, including but not limited to silt fences, temporary earthen berms, or other effective measures, and that prevent or diminish precipitation-induced runoff from the stockpile.

65.2(11) Dry bedded manure stockpiling requirements for a dry bedded confinement feeding operation.

a. Prohibitions and siting restrictions.

(1) Prohibition in a grassed waterway. A stockpile or stockpile structure shall not be placed in a grassed waterway, where water pools on the soil surface, or in any location where surface water will enter the stockpile.

(2) Siting restrictions. A stockpile or stockpile structure shall not be placed on land having a slope of more than 3 percent, unless the dry manure or dry bedded manure is stockpiled using methods, structures, or practices that contain the stockpile, including but not limited to hay bales, silt fences, temporary earthen berms, or other effective measures that prevent or diminish precipitation-induced runoff from the stockpile.

b. Requirements for karst terrain or alluvial aquifer areas. Dry bedded manure stockpiled on karst terrain or an alluvial aquifer area shall comply with all of the following:

(1) A minimum 5-foot layer of low permeability soil or rock between the bottom of the stockpile and underlying limestone, dolomite or other soluble rock in karst terrain or the underlying sand and gravel aquifer in an alluvial aquifer area is required. A professional engineer licensed in Iowa, NRCS qualified staff or a qualified organization shall submit a soil report, based on the results from soil borings or test pits, determining the vertical separation distance from the proposed bottom of the stockpile and the underlying limestone, dolomite or soluble rock. A minimum of two soil borings or test pits at each end of the proposed site are required if acceptable well data are not available. After soil exploration is complete, each boring or test pit shall be properly plugged with concrete grout, bentonite or similar materials and that action shall be documented in the soil report.

(2) Stockpiles shall be placed on a reinforced concrete slab that is a minimum of 5 inches thick conforming to the requirements of 65.15(14)*"a"*(2), numbered paragraphs "1," "3," "4," "6," "8" and "12."

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.3(459,459B) Requirements and recommended practices for land application of manure.

65.3(1) *Application rate based on crop nitrogen use.* A confinement feeding operation that is required to submit a manure management plan to the department under rule 567—65.16(459,459B) shall not apply manure in excess of the nitrogen use levels necessary to obtain optimum crop yields. Calculations to determine the maximum manure application rate allowed under this subrule shall be performed pursuant to rule 567—65.17(459,459B).

65.3(2) *General requirements for application rates and practices.*

a. For confinement feeding operations required to submit a manure management plan to the department under rule 567—65.16(459,459B), application rates and practices shall be determined pursuant to rule 567—65.17(459,459B).

b. For manure originating from an anaerobic lagoon or aerobic structure, application rates and practices shall be used to minimize groundwater or surface water pollution resulting from application, including pollution caused by runoff or other manure flow resulting from precipitation events. In determining appropriate application rates and practices, the person land-applying the manure shall consider the site conditions at the time of application including anticipated precipitation and other weather factors, field residue and tillage, site topography, the existence and depth of known or suspected tile lines in the application field, and crop and soil conditions, including a good-faith estimate of the available water holding capacity given precipitation events, the predominant soil types in the application field and planned manure application rate.

c. Spray irrigation equipment shall be operated in a manner and with an application rate and timing that does not cause runoff of the manure onto the property adjoining the property where the spray irrigation equipment is being operated.

d. For manure from an earthen waste slurry storage basin, earthen manure storage basin, or formed manure storage structure, restricted spray irrigation equipment shall not be used unless the manure has been diluted with surface water or groundwater to a ratio of at least 15 parts water to 1 part manure. Emergency use of spray irrigation equipment without dilution shall be allowed to minimize the impact of a release as approved by the department.

65.3(3) *Separation distance requirements for land application of manure.* Land application of manure shall be separated from objects and locations as specified in this subrule.

a. For liquid manure from a confinement feeding operation, the required separation distance from a residence not owned by the titleholder of the land, a business, a church, a school, or a public use area is 750 feet, as specified in Iowa Code section 459.204. The separation distance for application of manure by spray irrigation equipment shall be measured from the actual wetted perimeter and the closest point of the residence, business, church, school, or public use area.

b. The separation distance specified in paragraph 65.3(3)*"a"* shall not apply if any of the following apply:

(1) The liquid manure is injected into the soil or incorporated within the soil not later than 24 hours after the original application.

(2) The titleholder of the land benefitting from the separation distance requirement executes a written waiver with the titleholder of the land where the manure is applied.

(3) The liquid manure originates from a small animal feeding operation.

(4) The liquid manure is applied by low-pressure spray irrigation equipment pursuant to paragraph 65.3(3)*"d."*

c. Separation distance for spray irrigation from property boundary line. Spray irrigation equipment shall be set up to provide for a minimum distance of 100 feet between the wetted perimeter as specified in the spray irrigation equipment manufacturer's specifications and the boundary line of the property where the equipment is being operated. The actual wetted perimeter, as determined by wind speed and direction and other operating conditions, shall not exceed the boundary line of the property where the equipment is being operated. For property which includes a road right-of-way, railroad right-of-way or an access easement, the property boundary line shall be the boundary line of the right-of-way or easement.

d. Distance from structures for low-pressure irrigation systems. Low-pressure irrigation systems shall have a minimum separation distance of 250 feet between the actual wetted perimeter and the closest point of a residence, a business, church, school or public use area.

e. Variances. Variances to paragraph *"c"* of this subrule may be granted by the department if sufficient and proposed alternative information is provided to substantiate the need and propriety for such action. Variances may be granted on a temporary or permanent basis. The request for a variance shall be in writing and include information regarding:

(1) The type of manure storage structure from which the manure will be applied by spray irrigation equipment.

(2) The spray irrigation equipment to be used in the application of manure.

(3) Other information as the department may request.

f. Agricultural drainage wells. Manure shall not be applied by spray irrigation equipment on land located within an agricultural drainage well area.

g. Designated areas. A person shall not apply manure on land within 200 feet from a designated area, or in the case of a high-quality water resource, within 800 feet, unless one of the following applies:

(1) The manure is land-applied by injection or incorporation on the same date as the manure was land-applied.

(2) An area of permanent vegetation cover, including filter strips and riparian forest buffers, exists for 50 feet surrounding the designated area other than an unplugged agricultural drainage well or surface intake to an unplugged agricultural drainage well, and the area of permanent vegetation cover is not subject to manure application.

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).

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 Act and also shall comply with the following requirements:

a. *Snow-covered ground.* During the period beginning December 21 and ending April 1, a person may apply liquid manure originating from a manure storage structure that is part of a confinement feeding operation on snow-covered ground only when there is an emergency.

b. *Frozen ground.* During the period beginning February 1 and ending April 1, a person may apply liquid manure originating from a manure storage structure that is part of a confinement feeding operation on frozen ground only when there is an emergency.

c. *What constitutes an emergency.* For the purposes of this subrule, an emergency application is only allowed when there is an immediate need to apply manure to comply with the manure retention requirement of subrule 65.2(3) due to unforeseen circumstances affecting the storage of the liquid manure. The unforeseen circumstances must be beyond the control of the owner of the confinement feeding operation, including but not limited to natural disaster, unusual weather conditions, or equipment or structural failure. The authorization to apply liquid manure pursuant to this subrule does not apply to either of the following:

(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 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).

(2) Liquid manure originating from a confinement feeding operation constructed or expanded on or after July 1, 2009, if the confinement feeding operation has a capacity to store manure for less than 180 days.

d. *Procedure for emergency application.* A person who is authorized to apply liquid manure on snow-covered ground or frozen ground when there is an emergency shall comply with all of the following:

(1) The person must notify the appropriate department field office by telephone prior to the application. The department will not consider the notification complete unless the owner's name, facility name, facility ID number, reason for emergency application, application date, estimated number of gallons of manure to be applied, and the application fields as listed in the manure management plan are given. In cases where the emergency is not easily confirmed by weather reports, the owner must make documentation of the emergency available to the field office upon request.

(2) The liquid manure must be applied on land identified for such application in the current manure management plan maintained by the owner of the confinement feeding operation as required in subrule 65.17(12). The land must be identified in the current manure management plan prior to the application, and that change must also be reflected in the next annual update or complete manure management plan submitted to the department and county boards of supervisors following the application as required in paragraph 65.16(3)*"b."*

(3) The liquid manure must be applied on a field with a phosphorus index rating of 2 or less.

(4) Any surface water drain tile intake that is on land in the owner's manure management plan and located downgradient of the application must be temporarily blocked beginning not later than the time that the liquid manure is first applied and ending not earlier than two weeks after the completion of the application.

(5) Additional measures to contain runoff may be necessary in order to prevent violation of federal effluent standards in 567—subrule 62.4(12).

e. Exceptions. Paragraphs 65.3(4)*"a"* through *"d"* do not apply to any of the following:

(1) The application of liquid manure originating from a small animal feeding operation.

(2) The application of liquid manure injected or incorporated into the soil on the same date.

65.3(5) *Recommended practices.* Except as required by rule in this chapter, the following practices are recommended:

a. Nitrogen application rates. To minimize the potential for leaching to groundwater or runoff to surface waters, nitrogen application from all sources, including manure, legumes, and commercial fertilizers, should not be in excess of the nitrogen use levels necessary to obtain optimum crop yields for the crop being grown.

b. Phosphorous application rates. To minimize phosphorous movement to surface waters, manure should be applied at rates equivalent to crop uptake when soil tests indicate adequate phosphorous levels. Phosphorous application more than crop removal can be used to obtain maximum crop production when soil tests indicate very low or low phosphorous levels.

c. Manure application on frozen or snow-covered cropland. Application of dry or liquid manure on frozen or snow-covered cropland should be avoided where possible. If manure application must take place in the winter time, the following are guidelines to minimize runoff and subsequent loss of nutrients.

(1) Apply manure to areas where land slopes are 4 percent or less or where control practices are sufficient to prevent runoff from reaching surface water or groundwater during winter.

(2) If applying manure on a terraced field or sloping field, avoid application to areas that drain to tile intakes that directly discharge to surface water or groundwater.

(3) Do not apply manure in grassed waterways.

(4) Apply manure early in winter prior to significant snowfall.

(5) Avoid application near tile intakes, ditches, gullies, areas of concentrated flow, creeks, streams, lakes, and other surface water.

(6) Avoid application near water wells, sinkholes, losing streams, areas with shallow bedrock, agricultural drainage wells, or other pathways to groundwater.

(7) Do not apply manure on top of deeper snow cover, especially in late winter.

(8) Applying manure on soybean stubble where less snow is captured is preferable to applying manure on standing cornstalks.

(9) In late winter, wait until the snow has melted before applying manure.

(10) Avoid application during active runoff events or when rainfall, snow, or warming conditions are predicted that could cause snowmelt or runoff.

(11) Fields and tiles should be observed during snowmelt and runoff events to identify and remediate any runoff that may occur. If discolored or odorous water is being discharged, immediate efforts should be taken to prevent the water from reaching surface water or groundwater and changes should be made to prevent the discharge from recurring. Sampling and analysis of runoff for nitrogen and phosphorus may be used to better evaluate management practices in order to avoid wasting valuable nutrients or causing water quality violations.

d. *Manure application on cropland subject to flooding.* Manure application on cropland subject to flooding more than once every ten years should be injected during application or incorporated into the soil after application. Manure should not be spread on such areas during frozen or snow-covered conditions.

e. *Manure application on land adjacent to water bodies.* Unless adequate erosion controls exist on the land and manure is injected or incorporated into the soil, manure application should not be done on land areas located within 200 feet of and draining into a stream or surface intake for a tile line or other buried conduit. No manure should be spread on waterways except for the purpose of establishing seedings.

f. *Manure application on steeply sloping cropland.* Manure application on tilled cropland with greater than 10 percent slopes should be limited to areas where adequate soil erosion control practices exist. Injection or soil incorporation of manure is recommended where consistent with the established soil erosion control practices.

65.3(6) *Certified manure applicator.* A confinement feeding operation that is required to submit a manure management plan to the department pursuant to rule 567—65.16(459,459B) must use a certified commercial manure service for land application of manure as provided in rule 567—65.19(459,459B). An operation subject to this subrule that applies its own manure must comply with certification requirements in rule 567—65.19(459,459B) pertaining to confinement site manure applicators.

[**ARC 8120B**, IAB 9/9/09, effective 10/14/09; **ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 1627C**, IAB 9/17/14, effective 10/22/14; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.4(459,459B) Operation permit required. Rescinded **ARC 1627C**, IAB 9/17/14, effective 10/22/14.

567—65.5(459,459B) Departmental evaluation.

65.5(1) The department may evaluate any animal feeding operation to determine if any of the following conditions exist:

a. Manure from the operation is being discharged into a water of the state and the operation is not providing the applicable minimum level of manure control as specified in subrule 65.2(1), 65.2(2), or 65.2(3);

b. Manure from the operation is causing or may reasonably be expected to cause pollution of a water of the state; or

c. Manure from the operation is causing or may reasonably be expected to cause a violation of state water quality standards.

65.5(2) If departmental evaluation determines that any of the conditions listed in subrule 65.5(1) exist, the operation shall institute necessary remedial actions to eliminate the conditions if the operation receives a written notification from the department of the need to correct the conditions. This subrule shall apply to all permitted and unpermitted animal feeding operations, regardless of animal capacity.

[1]**65.5(3)** The department may evaluate any proposed confinement feeding operation or proposed expansion of a confinement feeding operation that requires a construction permit or manure management plan with respect to its potential adverse impacts on natural resources or the environment.

a. In conducting the evaluation, the department shall consider the following factors:

(1) The likelihood manure will be applied to frozen or snow-covered cropland.

(2) The proximity of the structures or manure application areas to sensitive areas, including but not limited to publicly owned land, designated areas, trout streams and karst terrain.

(3) Topography, slope, vegetation, potential means or routes of conveyance of manure spilled or land-applied. This factor includes but is not limited to whether the manure application areas involve

cropland with predominant slopes greater than 9 percent without a conservation plan approved by the local soil and water conservation district or its equivalent and whether manure for land application is hauled or otherwise transported more than five miles.

(4) Whether the operation or manure application area is or will be located in a two-year capture zone for a public water supply.

b. In addition to the requirements in rules 567—65.9(459,459B), 567—65.10(459,459B), 567—65.11(459,459B), 567—65.15(459,459B) and 567—65.17(459,459B), the department may deny a construction permit, disapprove a manure management plan or prohibit construction of the proposed operation at the proposed location if the director determines from the evaluation conducted pursuant to this subrule that the operation would reasonably be expected to result in any of the following impacts:

(1) Manure from the operation will cause pollution of a water of the state.

(2) Manure from the operation will cause a violation of state water quality standards.

(3) An adverse effect on natural resources or the environment will occur in a specific area due to the current concentration of animal feeding operations or the associated manure application areas.

c. The department also may establish permit conditions or require amendments to the manure management plan in addition to the minimum requirements established for such operations, on the location of structures or manure application, or other operational conditions necessary to avoid or minimize the adverse impacts.

d. A construction permit denial or condition, a manure management plan disapproval or required amendment, or a prohibition of construction pursuant to this subrule may be appealed according to the contested case procedures set forth in 561—Chapter 7.

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 1627C**, IAB 9/17/14, effective 10/22/14]

[1] Objection to 65.5(3) filed by the Administrative Rules Review Committee October 10, 2006. See text of Objection at end of Chapter 65.

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 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.

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 1627C**, IAB 9/17/14, effective 10/22/14; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.7(459,459B) Construction permits—required approvals, permits, determinations and declaratory orders. A person required to obtain a construction permit pursuant to subrule 65.7(1) or a construction approval letter pursuant to subrule 65.7(7) shall not begin construction, expansion or modification of a confinement feeding operation structure until the department issues a construction permit or a construction approval letter, as defined in 567—65.1(459,459B), for a proposed or existing confinement feeding operation. In addition, the owner of a small animal feeding operation with formed manure storage structures who is not required to obtain a construction permit pursuant to subrule 65.7(1) or a construction approval letter pursuant to subrule 65.7(7) shall comply with the applicable construction approval requirements pursuant to subrule 65.7(8).

65.7(1) *Confinement feeding operations required to obtain a construction permit.*

a. Rescinded IAB 9/17/14, effective 10/22/14.

b. Except as provided in subrule 65.7(2), a confinement feeding operation shall obtain a construction permit prior to any of the following:

(1) Constructing or modifying any unformed manure storage structure, or constructing, installing or modifying a confinement building that uses an unformed manure storage structure.

(2) Constructing, installing or modifying a confinement building or a formed manure storage structure at a confinement feeding operation if, after construction, installation or expansion, the animal unit capacity of the operation is 1,000 animal units or more. This subparagraph also applies to confinement feeding operations that store manure exclusively in a dry form.

(3) Initiating a change that would result in an increase in the volume of manure or a modification in the manner in which manure is stored in any unformed manure storage structure, even if no construction or physical alteration is necessary. Increases in the volume of manure due to an increase in animal capacity, animal weight capacity or animal unit capacity up to the limits specified in a previously issued construction permit do not require a new construction permit.

(4) Initiating a change, even if no construction or physical alteration is necessary, that would result in an increase in the volume of manure or a modification in the manner in which manure is stored in a formed manure storage structure if, after the change, the animal unit capacity of the operation is 1,000 animal units or more. Increases in the volume of manure due to an increase in animal capacity, animal weight capacity or animal unit capacity up to the limits specified in a previously issued construction permit do not require a new construction permit.

(5) Constructing or modifying any egg washwater storage structure or a confinement building at a confinement feeding operation that includes an egg washwater storage structure.

(6) Initiating a change that would result in an increase in the volume of egg washwater or a modification in the manner in which egg washwater is stored, even if no construction or physical alteration is necessary. Increases in the volume of egg washwater due to an increase in animal capacity, animal weight capacity or animal unit capacity up to the limits specified in a previously issued construction permit do not require a new construction permit.

(7) Repopulating a confinement feeding operation if it was closed for 24 months or more and if any of the following apply:

1. The confinement feeding operation uses an unformed manure storage structure or egg washwater storage structure;

2. The confinement feeding operation includes only confinement buildings and formed manure storage structures and has an animal unit capacity of 1,000 animal units or more.

(8) Installing a permanent manure transfer piping system, unless the department determines that a construction permit is not required.

(9) Initiating a remedial change, upgrade, replacement or construction when directed by the department as a result of departmental evaluation pursuant to paragraph 65.5(2)*"b"* or as required by an administrative order or court order pursuant to Iowa Code section 455B.112 or 455B.175.

Repairs to a confinement building or additions such as fans, slats, gates, roofs, or covers do not require a construction permit. In some instances, the department may determine that a construction permit is not required to increase the volume of manure or egg washwater or a modification in the manner in which manure or egg washwater is stored if the increase or modification is deemed insignificant. Plans for repairs or modifications to a manure storage structure shall be submitted to the department to determine if a permit is required.

65.7(2) *Confinement feeding operations not required to obtain a construction permit.*

a. A construction permit shall not be required for a formed manure storage structure or for a confinement building that uses a formed manure storage structure in conjunction with a small animal feeding operation. However, this paragraph shall not apply to a small animal feeding operation that uses an unformed manure storage structure.

b. A construction permit shall not be required for a confinement feeding operation structure related to research activities and experiments performed under the authority and regulations of a research college.

c. A construction permit is not required to construct a formed manure storage structure at a confinement feeding operation having an animal unit capacity of more than 500 but less than 1,000 animal units; however, a construction approval letter is required from the department pursuant to subrule 65.7(8) and 567—65.9(459,459B).

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.

65.7(3) *Operations that shall not be issued construction permits.*

a. The department shall not issue a construction permit to a person if an enforcement action by the department, relating to a violation of this chapter concerning a confinement feeding operation in which the person has an interest, is pending.

b. The department shall not issue a construction permit to a person for five years after the date of the last violation committed by a person or confinement feeding operation in which the person holds a controlling interest during which the person or operation was classified as a habitual violator under Iowa Code sections 459.317 and 459.604.

c. The department shall not issue a construction permit to expand or modify a confinement feeding operation for 120 days after completion of the last construction or modification at the operation, if a permit was not required for the last construction or modification.

d. The department shall not issue a construction permit for a confinement feeding operation structure that is proposed to be located on the one hundred year floodplain. Placing fill material on floodplain 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 floodplain for the purpose of this subrule.

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, these rules, 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.

65.7(5) *Expiration of construction permits.* A construction permit 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.

65.7(6) *Revocation of construction permits.* The department may revoke a construction permit or refuse to renew a permit expiring according to subrule 65.7(5) if it determines that the operation of the confinement feeding operation constitutes a clear, present and impending danger to public health or the environment.

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.

65.7(8) *Small animal feeding operations.* The following requirements apply to small animal feeding operations, notwithstanding construction permit exemptions in subrule 65.7(2) and limited separation distance exemptions in rule 567—65.12(459,459B):

a. A person shall not construct a confinement feeding operation structure in the one hundred year floodplain. 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 floodplain. The AFO Siting Atlas may be a tool used to assist in the one hundred year floodplain and alluvial soil determinations.

b. A person shall not construct a confinement feeding operation structure on a floodplain as provided in rule 567—71.13(455B) until the department issues a floodplain development permit pursuant to 567—Chapters 70 to 76.

c. Confinement feeding operation structures must comply with applicable separation distance requirements in rule 567—65.11(459,459B) and the applicable manure storage structure design requirements in rule 567—65.15(459,459B).

65.7(9) *Declaratory orders and floodplain determinations.* A person shall not construct a confinement feeding operation structure in the one hundred year floodplain. The AFO Siting Atlas may be a tool used to assist in the one hundred year floodplain 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 floodplain. 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 floodplain; (2) if a floodplain development permit for the operation is required; and (3) if a floodplain 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 floodplain and channel geometry. The petition for a declaratory order or determination shall be submitted to the department according to either of the following:

a. If the person is not required to apply for a construction permit pursuant to subrule 65.7(1), the person must petition the department for a declaratory order pursuant to Iowa Code section 17A.9 and 561—Chapter 6. The department shall issue a declaratory order in response to a complete petition, notwithstanding any other provision provided in Iowa Code section 17A.9 to the contrary, within 30 days from the date that the complete petition is filed with the department. The declaratory order shall state whether or not the proposed location is on the one hundred year floodplain. If the proposed location of the confinement feeding operation structure is on the one hundred year floodplain, the department shall prohibit the construction. Exception to this subrule is provided in Iowa Code section 459.310, subsection 4. Even if the proposed location of the confinement feeding operation structure is not on the one hundred year floodplain, the department may require a floodplain development permit pursuant to 567—Chapters 70 to 76.

b. If the person is required to apply for a construction permit pursuant to subrule 65.7(1), the person must petition the department for a determination. The department shall determine if the confinement feeding operation structure is proposed to be located on the one hundred year floodplain. If the proposed location of the confinement feeding operation structure is on the one hundred year floodplain, the department shall disapprove the construction permit. Exception to this subrule is provided in Iowa Code section 459.310, subsection 4. Even if the department makes a determination that the proposed location of the confinement feeding operation structure is not on the one hundred year floodplain, the department may require a floodplain development permit pursuant to 567—Chapters 70 to 76.

65.7(10) *Compliance with permit conditions.* A person who constructs, modifies or expands a confinement feeding operation structure pursuant to a construction permit shall comply with all terms and conditions of the construction permit.

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 1627C**, IAB 9/17/14, effective 10/22/14; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

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:

a. Excavation for a proposed animal feeding operation structure, excavation for footings, or filling or compacting of the soil or soil amendments for a proposed animal feeding operation structure.

b. Installation of forms for concrete for an animal feeding operation structure.

c. Installation of piping for movement of manure within, from or between confinement feeding operation structures.

65.8(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.

65.8(3) Prohibition on construction.

a. A person shall not construct or expand an animal feeding operation structure which is part of a confinement feeding operation, if the person is either of the following:

(1) A party to a pending action for a violation of this chapter concerning a confinement feeding operation in which the person has a controlling interest and the action is commenced in district court by the attorney general.

(2) A habitual violator.

b. A person shall not construct or expand a confinement feeding operation structure for five years after the date of the last violation committed by a person or a confinement feeding operation in which the person holds a controlling interest during which the person or operation was classified as a habitual violator under Iowa Code sections 459.317 and 459.604.

c. Paragraphs *"a"* and *"b"* shall not prohibit a person from completing the construction or expansion of an animal feeding operation structure, if either of the following applies:

(1) The person has an unexpired permit for the construction or expansion of the animal feeding operation structure.

(2) The person is not required to obtain a permit for the construction or expansion of the animal feeding operation structure.

d. A confinement feeding operation structure shall not be constructed on the one hundred year floodplain in a major water source. Placing fill material on floodplain 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 floodplain for the purpose of this paragraph. A person shall not construct a confinement feeding operation structure on a floodplain outside of a major water source, as provided in 567—71.13(455B) until the department issues a floodplain 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 NRCS, and determined according to subrule 65.9(4), unless the person has received a declaratory order or a determination from the department that the proposed location of the structure is not on the one hundred year floodplain, pursuant to subrule 65.7(9).

f. A person shall not construct or expand an unformed manure storage structure within an agricultural drainage well area as specified in Iowa Code sections 459.310 and 460.205.

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.9(459,459B) Preconstruction submittal requirements. Prior to beginning construction, expansion or modification of a confinement feeding operation structure, a person shall obtain from the department a construction permit pursuant to subrule 65.7(1), a construction approval letter pursuant to subrule 65.7(7) or approval of a secondary containment barrier design pursuant to subrule 65.9(8), according to procedures established in this rule:

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. 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. The name of the applicant and the name of the confinement feeding operation, including mailing address and telephone number.

b. The contact person for the confinement feeding operation, including mailing address and telephone number.

c. The location of the confinement feeding operation.

d. Whether the application is for the expansion of an existing operation or the construction of a proposed confinement feeding operation, and the date when it was first constructed if an existing operation.

e. The animal unit capacity by animal species of the current confinement feeding operation to be expanded, if applicable, and of the proposed confinement feeding operation. If the confinement feeding operation includes a confinement feeding operation structure that was constructed prior to March 1, 2003, the animal weight capacity by animal species of the current confinement feeding operation to be expanded, if applicable, and of the proposed confinement feeding operation shall also be included.

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 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. Construction design statement or professional engineer design certification. A confinement feeding operation that uses a formed manure storage structure and that is below the threshold requirements for an engineer as defined in 567—65.1(459,459B) shall submit a construction design statement pursuant to subrule 65.9(6) or a professional engineer design certification pursuant to subrule 65.9(7).

h. Payment to the department of the indemnity fund fee as required in Iowa Code section 459.502.

i. If the construction permit application is for three or more confinement feeding operation structures, a drainage tile certification shall be submitted as follows:

(1) If the application is for an unformed manure storage structure, an egg washwater storage structure or a formed manure storage structure that meets the threshold requirements for an engineer as defined in 567—65.1(459,459B), a licensed professional engineer shall certify that either the construction of the structure will not impede the drainage through established drainage tile lines which cross property boundary lines or that if the drainage is impeded during construction, the drainage tile will be rerouted to reestablish the drainage prior to operation of the structure.

(2) If the application is for a formed manure storage structure that does not meet the threshold engineering requirements, a drainage tile certification shall be submitted as part of the construction design statement pursuant to subrule 65.9(6) or as part of the professional engineer design certification pursuant to subrule 65.9(7).

j. Information (e.g., maps, drawings, aerial photos) that clearly shows the proposed location of the confinement feeding operation structures, any existing confinement feeding operation structures, any locations or objects from which a separation distance is required by Iowa Code sections 459.202, 459.203 and 459.310, and that the structures will meet all applicable separation distances. For an unformed manure storage structure, an egg washwater storage structure or a formed manure storage structure that meets the threshold requirements for an engineer as defined in 567—65.1(459,459B), the maps, drawings or aerial photos must be signed by a professional engineer licensed in Iowa or be prepared by NRCS qualified staff. If applicable, a copy of a recorded separation distance waiver, pursuant to paragraph 65.12(1)*"b,"* must be included with the application. Also, if applicable, a secondary containment barrier design, pursuant to subrules 65.9(8) and 65.12(7), shall be included.

k. The names of all parties with an interest or controlling interest in the confinement feeding operation who also have an interest or controlling interest in at least one other confinement feeding operation in Iowa, and the names and locations of such other operations.

l. Copies of the manure management plan pursuant to 567—65.16(459,459B).

m. A construction permit application fee of $250 and, if applicable, the manure management plan filing fee of $250 as required in subrule 65.16(7).

n. Rescinded IAB 2/19/03, effective 3/1/03.

o. Soil information indicating whether the proposed location contains soils classified as alluvial, pursuant to subrule 65.9(4). If the proposed location contains soils classified as alluvial, a copy of the department's determination that the proposed location is not in a one hundred year floodplain, and a floodplain development permit pursuant to 567—Chapters 70 to 76, if required, shall be included.

p. A copy of any master matrix evaluation provided to the county.

q. Information indicating whether the proposed location is in karst terrain pursuant to subrule 65.9(5). If the proposed location is in karst terrain, a soils exploration study or a statement from qualified department staff that a soils exploration study is not needed shall be included.

r. A livestock odor mitigation evaluation certificate issued by Iowa State University as provided in Iowa Code section 266.49. The applicant is not required to submit the certificate if any of the following apply:

(1) The confinement feeding operation is twice the minimum separation distance required from the nearest object or location from which a separation distance is required pursuant to Iowa Code section 459.202 on the date of the application, not including a public thoroughfare.

(2) The owner of each object or location which is less than twice the minimum separation distance required pursuant to Iowa Code section 459.202 from the confinement feeding operation on the date of the application, other than a public thoroughfare, executes a document consenting to the construction.

(3) The applicant submits a document swearing that Iowa State University has failed to furnish a certificate to the applicant within 45 days after the applicant requested the University to conduct a livestock odor mitigation evaluation as provided in Iowa Code section 266.49.

(4) The application is for a permit to expand a confinement feeding operation, if the confinement feeding operation was first constructed before January 1, 2009.

(5) Iowa State University does not provide for a livestock odor mitigation evaluation effort as provided in Iowa Code section 266.49, for any reason, including because funding is not available.

s. Documentation that copies of all the construction permit application documents have been provided to the county board of supervisors or county auditor in the county where the operation or structure subject to the permit is to be located, and documentation of the date received by the county.

65.9(2) *Open feedlots.* Rescinded IAB 9/14/05, effective 9/14/05.

65.9(3) *Construction approval letter.* A confinement feeding operation that, pursuant to subrule 65.7(7), is required to obtain a construction approval letter as defined in 567—65.1(459,459B), but that is not required to obtain a construction permit pursuant to subrule 65.7(1), shall file with the department, at least 30 days prior to the date the proposed construction is scheduled to begin, all of the following:

a. A construction design statement pursuant to subrule 65.9(6). In lieu of a construction design statement, a professional engineer design certification pursuant to subrule 65.9(7) may be submitted.

b. The results of the alluvial soils information pursuant to subrule 65.9(4) or a copy of the department's declaratory order that the location is not in the one hundred year floodplain pursuant to paragraph 65.8(3)*"e"* and a copy of the department's floodplain development permit pursuant to 567—Chapters 70 to 76, if required.

c. The results of the karst terrain determination pursuant to subrule 65.9(5).

d. A copy of the manure management plan pursuant to 567—65.16(459,459B).

e. Information (e.g., maps, drawings, aerial photos) that clearly shows the intended location of the confinement feeding operation structures and animal weight capacities of any other confinement feeding operations within a distance of 2,500 feet in which the owner has an ownership interest or which the owner manages.

f. A fee of $250 for filing a manure management plan pursuant to subrule 65.16(7) and a manure storage indemnity fee pursuant to subrule 65.16(6).

g. Documentation that the board of supervisors or auditor of the county where the confinement feeding operation structure is proposed to be located received a copy of the manure management plan.

65.9(4) *One hundred year floodplain 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 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 alluvial soil determination. The one hundred year floodplain 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 floodplain or alluvial soils, the person planning the construction shall submit a printed map 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 floodplain 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 floodplain and a copy of the department's floodplain 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 floodplain and a copy of the department's floodplain 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).

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 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:

a. If the proposed location is not in karst terrain, the person planning the construction, other than a small animal feeding operation, 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 by a qualified department staff person, a soils professional normally engaged in the practice of soil investigation or NRCS qualified staff with the construction permit application documents pursuant to subrule 65.9(1) or with the construction design statement pursuant to subrule 65.9(3) if a construction permit is not required.

b. If the proposed location is in karst terrain, 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 and a copy of the soils exploration study required in paragraph 65.15(14)*"c"* with the construction permit application pursuant to subrule 65.9(1) or with the construction design statement pursuant to subrule 65.9(3) if a construction permit is not required. In lieu of a printed map, a statement from a qualified department staff person, a soils professional normally engaged in the practice of soil investigation or NRCS qualified staff explaining the karst terrain determination may be submitted.

It is recommended that the person planning the construction consult with a qualified staff person of the department before obtaining the soil borings. A formed manure storage structure, other than a small animal feeding operation, shall be constructed according to the upgraded concrete standards set forth in paragraph 65.15(14)*"c"* or Iowa Code section 459.307 if the structure is not constructed of concrete. Nonetheless, construction of an unformed manure storage structure in karst terrain is prohibited.

65.9(6) *Construction design statement.* Prior to beginning construction of a formed manure storage structure, a person planning construction at a confinement feeding operation, other than a small animal feeding operation, that is below the threshold requirements for an engineer as defined in 567—65.1(459,459B) shall file with the department a construction design statement, as follows:

a. A confinement feeding operation with an animal unit capacity of more than 500 but less than 1,000 animal units that is required to obtain a construction approval letter from the department pursuant to subrule 65.7(7) but that is not required to obtain a construction permit pursuant to subrule 65.7(1) shall file with the department a construction design statement, as required in subrule 65.9(3). Within 30 days after filing of a construction design statement, the department may issue a construction approval letter as defined in 567—65.1(459,459B) if the proposed formed manure storage structure meets the requirements of this chapter.

b. A confinement feeding operation that has an animal unit capacity of 1,000 animal units or more but that is below the threshold requirements for an engineer as defined in 567—65.1(459,459B) shall file a construction design statement as part of the construction permit application and as required in subrule 65.9(1).

c. The construction design statement shall be filed on a form provided by the department and shall include all of the following:

(1) The name of the person planning construction at the confinement feeding operation, the name of the confinement feeding operation, the location of the proposed formed manure storage structure, a detailed description of the type of confinement feeding operation structure being proposed, the dimensions of the structure, and whether the structure will be constructed of reinforced concrete or steel.

(2) A manure management plan pursuant to 567—65.16(459,459B).

(3) A certification signed by the person responsible for constructing the formed manure storage structure that the proposed formed manure storage structure will be constructed according to the minimum concrete standards set forth in subrule 65.15(14). Otherwise, if the formed manure storage structure is to be constructed of steel, including a Slurry Store tank, a certification signed by the person responsible for constructing the formed manure storage structure that the proposed formed manure storage structure will be constructed according to the requirements of Iowa Code chapter 459 and 567—Chapter 65.

(4) If the confinement feeding operation is also required to obtain a construction permit at a confinement feeding operation proposing three or more confinement feeding operation structures, the construction design statement shall include a drainage tile certification signed by the person responsible for constructing or excavating the formed manure storage structure, shall certify that construction will not impede established existing drainage, and shall verify that if existing drainage tiles are found, corrective actions will be implemented to immediately reestablish existing drainage.

d. The following operations are not required to file a construction design statement with the department:

(1) A small animal feeding operation that constructs a formed manure storage structure.

(2) A confinement feeding operation that submits a professional engineer design certification pursuant to subrule 65.9(6).

(3) A confinement feeding operation that meets or exceeds threshold requirements for an engineer as defined in 567—65.1(459,459B).

(4) A confinement feeding operation that utilizes an unformed manure storage structure or an egg washwater storage structure.

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:

a. A confinement feeding operation with an animal unit capacity of more than 500, but less than 1,000, animal units that is not required to obtain a construction permit pursuant to subrule 65.7(1) shall file with the department, at least 30 days before beginning construction of a formed manure storage structure, the professional engineer design certification as required in subrule 65.9(3). Within 30 days after filing of a professional engineer design certification, the department may issue a construction approval letter if the proposed formed manure storage structure meets the requirements of this chapter.

b. A confinement feeding operation with an animal unit capacity of 1,000 animal units or more that is required to obtain a construction permit pursuant to subrule 65.7(1) but that is below the threshold requirements for an engineer pursuant to 567—65.1(459,459B) shall file with the department the professional engineer design certification as part of the construction permit application and as required in subrule 65.9(1).

65.9(8) *Secondary containment barrier design submittal requirements.* The design for a secondary containment barrier to qualify any confinement feeding operation for the separation distance exemption provision in subrule 65.12(7) shall be filed with the department for approval prior to beginning construction of a formed manure storage structure that is part of a small animal feeding operation, shall accompany the construction design statement pursuant to subrule 65.9(3) if a construction permit is not required, or shall be filed as part of the construction permit application pursuant to subrule 65.9(1). The secondary containment barrier shall meet the design standards of subrule 65.15(17) and shall be prepared according to the following:

a. If a manure storage structure stores liquid or semiliquid 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.

b. If the manure storage structure will store only dry manure, the owner or a representative of a confinement feeding operation shall submit to the department detailed drawings of the design for a secondary containment barrier.

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.10(459,459B) Construction permit application review process, site inspections and complaint investigations.

65.10(1) *Delivery of application to county.* The applicant for a construction permit for a confinement feeding operation or related animal feeding operation structure shall deliver in person or by certified mail a copy of the permit application and manure management plan to the county board of supervisors of the county where the confinement feeding operation or related animal feeding operation structure is proposed to be constructed. Receipt of the application and manure management plan by the county auditor or other county official or employee designated by the county board of supervisors is deemed receipt of the application and manure management plan by the county board of supervisors. Documentation of the delivery or mailing of the permit application and manure management plan shall be forwarded to the department.

65.10(2) *Public notice and county comment.*

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 instructions from the department that a complete application has been received. The notice shall include all of the following:

(1) The name of the person applying to receive the construction permit;

(2) The name of the township where the confinement feeding operation structure is to be constructed;

(3) Each type of confinement feeding operation structure proposed to be constructed;

(4) The animal unit capacity of the confinement feeding operation if the construction permit were to be approved;

(5) The time when and the place where the application may be examined as provided in Iowa Code section 22.2;

(6) Procedures for providing public comments to the board as provided by the board.

The county shall submit to the department, within 30 days of receipt of the construction permit application, proof of publication to verify that the county provided public notice as required in this paragraph.

b. County comment. Regardless of whether the county board of supervisors has adopted a construction evaluation resolution, the board may submit to the department comments by the board and the public regarding compliance of the construction permit application and manure management plan with the requirements in this chapter and Iowa Code chapter 459 for obtaining a construction permit. Comments may include, but are not limited to, the following:

(1) The existence of an object or location not included in the construction permit application which benefits from a separation distance requirement as provided in Iowa Code section 459.202 or 459.310.

(2) The suitability of soils and the hydrology of the site where construction or expansion of a confinement feeding operation or related animal feeding operation structure is proposed.

(3) The availability of land for the application of manure originating from the confinement feeding operation.

(4) Whether the construction or expansion of a proposed animal feeding operation structure will impede drainage through established tile lines, laterals, or other improvements which are constructed to facilitate the drainage of land not owned by the person applying for the construction permit.

65.10(3) *Master matrix.* A county board of supervisors may adopt a construction evaluation resolution relating to the construction of a confinement feeding operation structure. The board must submit such resolution to the director of the department for filing. Adoption and filing of a construction evaluation resolution authorizes a county board of supervisors to conduct an evaluation of a construction permit application using the master matrix as follows:

a. Enrollment periods.

(1) The county board of supervisors must file an adopted construction evaluation resolution with the department between January 1 and January 31 of each year to evaluate construction permit applications received by the department between February 1 of that year and January 31 of the following year.

(2) Filed construction evaluation resolutions shall remain in effect until the applicable enrollment period expires or until such time as the county board of supervisors files with the department a resolution rescinding the construction evaluation resolution, whichever is earlier.

(3) Filing of an adopted construction evaluation resolution requires a county board of supervisors to conduct an evaluation of a construction permit application using the master matrix. However, if the board fails to submit an adopted recommendation to the department or fails to comply with the evaluation requirements in paragraph 65.10(3)*"b,"* the department shall disregard any adopted recommendation from that board until the board timely submits a new construction evaluation resolution.

b. Use of the master matrix. If a county board of supervisors has adopted and filed with the department a construction evaluation resolution, as provided in paragraph 65.10(3)*"a,"* the board shall evaluate all construction permit applications filed during the applicable period using the master matrix 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.

(2) The board shall include with the adopted recommendation a copy of the master matrix analysis, calculations, and scoring for the application. The board's adopted recommendation submitted to the

department may be based on the master matrix or on comments received by the board. The adopted recommendation shall include the specific reasons and any supporting documentation for the decision to recommend approval or disapproval of the application.

(3) The board shall not use the master matrix to evaluate a construction permit application for the construction or expansion of a confinement feeding operation structure if the construction is for expansion of a confinement feeding operation structure constructed prior to April 1, 2002, and, after the expansion of the confinement feeding operation, its animal unit capacity is 1,666 animal units or less. The board may still submit comments regarding the application.

65.10(4) *Inspection of proposed construction site.* The department may conduct an inspection of the site on which construction of the confinement feeding operation is proposed after providing a minimum of 24 hours' notice to the construction permit applicant or sooner with the consent of the applicant. If the county in which the proposed facility is located has adopted and submitted a construction evaluation resolution pursuant to subrule 65.10(3) and has not failed subsequently to submit an adopted recommendation, the county may designate a county employee to accompany a department official during the site inspection. In such cases, the department shall notify the county board of supervisors or county designee at least three days prior to conducting an inspection of the site where construction of the confinement feeding operation is proposed. The county designee shall have the same right to access to the site's real estate on which construction of the confinement feeding operation is proposed as the departmental official conducting the inspection during the period that the county designee accompanies the departmental official. The departmental official and the county designee shall comply with standard biosecurity requirements customarily required by the owner of the confinement feeding operation that are necessary in order to control the spread of disease among an animal population.

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 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 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 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 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 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 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 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 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 chapters 455B, 459, 459A and 459B, the department shall conduct an independent evaluation of the application using the master matrix. The department shall preliminarily 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 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 chapters 455B, 459, 459A and 459B.

65.10(6) *Departmental notification of permit application decision.* Within three days following the department's determination or preliminary determination to approve or disapprove the application for a construction permit, the department shall deliver a notice of the decision to the applicant.

a. If the county board of supervisors has submitted to the department an adopted recommendation for the approval or disapproval of a construction permit application, the department shall notify the board of the department's preliminary decision to approve or disapprove the application at the same time. For a preliminary decision to approve an application, the notice shall consist of a copy of the draft construction permit. For a preliminary decision to disapprove an application, the notice shall consist of a copy of the department's letter of preliminary denial. The preliminary decision to approve or disapprove an application becomes final without further proceedings if neither the county board of supervisors nor the applicant demands a hearing before the commission or appeals pursuant to 65.10(7) and 65.10(8).

b. If the county board of supervisors has not submitted to the department an adopted recommendation for the approval or disapproval of a construction permit application, the department notice shall include the construction permit or letter of denial. The applicant may appeal the permit or denial as provided in 65.10(8).

65.10(7) *County board of supervisors' demand for hearing.*

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 department in writing that the board intends to file a demand for hearing. The demand for hearing shall be sent to 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.

b. The demand for hearing shall include a statement setting forth all of the county board of supervisors' reasons why the application for a 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.

65.10(8) *Applicant's demand for hearing.* The applicant may contest the department's preliminary decision to approve or disapprove an application for permit by filing a written demand for a hearing. The applicant may elect, as part of the written demand for hearing, to have the hearing conducted before the commission pursuant to paragraph 65.10(8)*"a"* or before an administrative law judge pursuant to

paragraph 65.10(8)*"b."* If no such election is made, the demand for hearing shall be considered to be a request for hearing before the commission. If both the applicant and the county board of supervisors are contesting the department's preliminary decision, the applicant may request that the commission conduct the hearing on a consolidated basis.

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 department in writing that the applicant intends to file a demand for hearing. The demand for hearing shall be sent to 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.

b. Applicant contested case appeal before an administrative law judge. The applicant may contest the department's preliminary decision to approve or disapprove an application according to the contested case procedures set forth in 561—Chapter 7; however, if the county board of supervisors has demanded a hearing pursuant to subrule 65.10(7), the applicant shall provide facsimile notification to the department within the time frame set forth in 65.10(8)*"a"* that the applicant intends to contest the department's preliminary decision according to contested case procedures. In that event, the applicant may request that the hearings be consolidated and conducted as a contested case.

65.10(9) *Hearing and decision by the commission.*

a. Hearing before the commission.

(1) All hearings before the commission requested pursuant to subrules 65.10(7) and 65.10(8) shall be handled as other agency action and not as a contested case.

(2) Upon receipt of a timely demand for a hearing before the commission pursuant to subrule 65.10(7) or subrule 65.10(8), the director shall set a hearing during a regular meeting of the commission scheduled no more than 35 days from the date the director receives the first such request. However, if the next regular meeting of the commission will take place more than 35 days after receipt of the demand for hearing, the director shall schedule a special in-person meeting or an electronic meeting of the commission pursuant to Iowa Code section 21.8.

(3) No later than 5 days from the date the director receives a demand for hearing, the director shall post on the department's website the demand for hearing and associated documents, letters notifying the parties of the hearing date, and the department's complete file on the application under review. The director shall provide hard copies of these documents to members of the commission as requested by each member. The director shall contact the applicant and the county board of supervisors and provide copies of documents they request.

(4) No later than 15 days from the date set for hearing, the applicant, the county board of supervisors and the department shall, if any chooses to do so, send one copy of a reply brief to respond to issues raised in the demand for hearing and any supporting documentation to the department. The director shall post the briefs and associated written documents on the department's website and provide hard copies to members of the commission as requested by each member. No further briefs or documents shall be permitted except upon request and permission of the commission.

(5) No later than 15 days from the date set for hearing, any person may submit written material for the commission to review. Whether such material is accepted into the record will be the decision of the chairperson of the commission depending on whether the chairperson deems it relevant to the appeal.

(6) The commission shall use the following hearing procedures:

1. All written material accepted by the chairperson of the commission for inclusion in the record at the hearing shall be marked as coming from the person or entity presenting the document.

2. Objections to submitted written material shall be noted for the record.

3. Oral participation before the commission shall be limited to time periods specified by the chairperson of the commission and, unless otherwise determined by the commission, to presentations by representatives for the applicant, the county board of supervisors and the department and by technical consultants or experts designated by the commission. Representatives of the department shall not advocate for either the county board of supervisors or the applicant but may summarize the basis for the department's preliminary decision and respond to questions by members of the commission.

4. Members of the commission, and the commission's legal counsel, may ask questions of the representatives for the applicant, the county board of supervisors and the department and of technical consultants or experts designated by the commission. The members and counsel may also ask questions of any other person or entity appearing or in attendance at the hearing. Representatives for the applicant and the county board of supervisors may ask questions of technical consultants or experts designated by the commission. No other persons or entities may ask questions of anyone making a presentation or comment at the hearing except upon request and permission by the chairperson of the commission.

(7) The commission shall use the following hearing format:

1. Announcement by the chairperson of the commission of the permit application under review.

2. Receipt into the hearing record of the demand or demands for hearing, a copy of the department's complete file on the application under review and the briefs and written documents previously provided by the applicant and county board of supervisors pursuant to subparagraph 65.10(9)*"a"*(4).

3. Oral presentation, if any, by the applicant if that party timely requested the hearing. If the applicant did not timely request the hearing, then the county board of supervisors shall make the first presentation.

4. Oral presentation, if any, by the applicant or county board of supervisors, whichever party did not have the opportunity to make the first presentation.

5. Oral presentation, if any, by the department.

6. Oral presentation, if any, by technical consultants or experts designated by the commission to assist in its establishment of a record at the hearing. No later than seven days prior to the hearing, the commission shall notify the applicant and the board of the names, addresses and professional capacity of any such technical experts or consultants.

7. Discussion by the commission, motion and final decision on whether the application for permit is approved or disapproved.

(8) Only the issues submitted by the parties in the demand for hearing and responses shall be considered by the commission as a basis for its decision.

b. Decision by the commission. The decision by the commission shall be stated on the record and shall be final agency action pursuant to Iowa Code chapter 17A. If the commission reverses or modifies the department's decision, the department shall issue the appropriate permit or letter of denial to the applicant. The letter of decision shall contain the reasons for the action regarding the permit.

65.10(10) *Complaint investigations.* Complaints of violations of Iowa Code 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. 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.

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 chapters 455B, 459, 459A and 459B or environmental standards in regulations subject to federal law and enforced by the department.

c. 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.

d. 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.

e. 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.

f. 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.

g. 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. The county shall not have access to records required in subrule 65.17(12) or the current manure management plan maintained at the facility.

h. 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 feeding operation that is the subject of the complaint, any alleged violators if different from the animal feeding operation and the county board of supervisors of the county where the violation is alleged to have occurred.

i. 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 feeding operation, both of the following shall apply:

(1) The person may enter at any reasonable time in and upon any private or public property to investigate any actual or possible violation of this chapter or the rules or standards adopted under this chapter. However, the owner or person in charge shall be notified.

1. If the owner or occupant of any property refuses admittance to the operation, 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:

- Within ten days after its date.
- In a reasonable manner, and any property seized shall be treated in accordance with the provisions of Iowa Code chapters 808, 809, and 809A.
- Subject to any restrictions imposed by the statute, ordinance or regulation pursuant to which inspection is made.

(2) The person shall comply with standard biosecurity requirements customarily required by the animal feeding operation which are necessary in order to control the spread of disease among an animal population.

[**ARC 8517B**, IAB 2/10/10, effective 3/17/10; **ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.11(459,459B) Confinement feeding operation and stockpile separation distance requirements. All confinement feeding operation structures, stockpiles and qualified stockpile structures shall be separated from locations and objects as specified in this rule regardless of whether a construction permit is required. The separation distance requirements of this rule shall apply to all confinement feeding operation structures, unless specifically stated otherwise. If two or more confinement feeding operations are considered one operation as provided in 567—65.1(459,459B), definitions of "Adjacent—air quality" and "Adjacent—water quality," the combined animal unit capacities of the individual operations shall be used for the purpose of determining the required separation. Exemptions to the following requirements are allowed to the extent provided in 567—65.12(459,459B).

65.11(1) *Separation distance from residences, businesses, churches, schools and public use areas for new confinement feeding operations.* Separation from residences, businesses, churches, schools and public use areas shall be as specified in Iowa Code section 459.202 and summarized in Table 6 at the end of this chapter. The residence, business, church, school or public use area must exist at the time an applicant submits an application for a construction permit to the department, at the time a manure management plan or construction design statement is filed with the department if a construction permit is not required, or at the time construction of the confinement feeding operation structure begins if a construction permit or construction approval letter is not required.

65.11(2) *Separation distance from residences, businesses, churches, schools and public use areas for the expansion of prior constructed operations.* Except as provided in 567—65.12(459,459B) or as specified in Iowa Code section 459.203, an existing confinement feeding operation may be expanded if any of the following applies:

a. For a confinement feeding operation constructed prior to January 1, 1999, any construction or expansion of a confinement feeding operation structure complies with the distance requirements applying to that structure as provided in Iowa Code section 459.202, subsections 1 and 3, and summarized in Tables 6c (for swine, sheep, horses and poultry) and 6d (for beef and dairy cattle) at the end of this chapter.

b. For a confinement feeding operation constructed on or after January 1, 1999, but prior to March 1, 2003, any construction or expansion of a confinement feeding operation structure complies with the distance requirements applying to that structure as provided in Iowa Code section 459.202, subsections 2 and 3, and summarized in Tables 6a (for swine, sheep, horses and poultry) and 6b (for beef and dairy cattle) at the end of this chapter.

c. For a confinement feeding operation constructed on or after March 1, 2003, any construction or expansion of a confinement feeding operation structure complies with the distance requirements applying to that structure as provided in Iowa Code section 459.202, subsections 4 and 5, and summarized in Table 6 at the end of this chapter.

65.11(3) *Separation distance from water sources, major water sources, known sinkholes and agricultural drainage wells.* Separation distances specified in this subrule shall apply to any confinement feeding operation structure, including a small animal feeding operation. Separation distances from any confinement feeding operation structure to surface intakes, wellheads or cisterns of agricultural drainage wells, known sinkholes, water sources and major water sources shall be as specified in Iowa Code section 459.310 and summarized in Tables 6 to 6d at the end of this chapter. For the required separation distance to a major water source to apply, the major water source must be included in Table 1 at the end of this chapter at the time an applicant submits an application for a construction permit to the department, at the time a manure management plan or construction design statement is filed with the department if a construction permit is not required, or at the time construction of the animal feeding

operation structure begins (as defined in 65.8(1)) if a construction permit, manure management plan or construction design statement is not required.

65.11(4) *Separation distance from designated wetlands.* Separation distances specified in this subrule shall apply to any confinement feeding operation structure, including a small animal feeding operation. A confinement feeding operation structure shall not be constructed closer than 2,500 feet away from a "designated wetland" as defined and referenced in rule 567—65.1(459,459B). This requirement shall not apply to a confinement feeding operation structure if any of the following occur before the wetland is included in "Designated Wetlands in Iowa," effective August 23, 2006:

a. The confinement feeding operation structure already exists. This exemption also applies to additional confinement feeding operation structures constructed at the site of such an existing confinement feeding operation structure after a wetland is included in "Designated Wetlands in Iowa," effective August 23, 2006.

b. Construction of a confinement feeding operation structure has begun as provided in subrule 65.8(1).

c. An application for a permit to construct a confinement feeding operation structure has been submitted to the department.

d. A manure management plan concerning a proposed confinement feeding operation structure for which a construction permit is not required has been submitted to the department.

65.11(5) *Separation distance from water wells.* For a confinement feeding operation structure constructed after March 20, 1996, the separation distance to water wells shall be as specified in Tables 6 to 6d at the end of this chapter.

65.11(6) *Separation distance from public thoroughfares.* A confinement feeding operation structure shall not be constructed or expanded within 100 feet from a public thoroughfare.

65.11(7) *Stockpile and qualified stockpile structures—separation distance from residences.* A stockpile or qualified stockpile structure shall not be placed closer than 1,250 feet from a residence not owned by the titleholder of the land where the stockpile is located, a commercial enterprise, a bona fide religious institution, an educational institution, or a public use area.

65.11(8) *Stockpile and qualified stockpile structures—separation distance from tile inlets, designated areas, high-quality water resources, agricultural drainage wells and known sinkholes.* A stockpile or qualified stockpile structure shall not be placed within the following distances from any of the following:

a. A terrace tile inlet or surface tile inlet, 200 feet, unless the dry manure is stockpiled in a manner that does not allow precipitation-induced runoff to drain from the stockpile to the terrace tile inlet or surface tile inlet. A terrace tile inlet or surface tile inlet does not include a tile inlet that is not directly connected to a tile line that discharges directly into a water of the state.

b. Designated area, 400 feet. However, an increased separation distance of 800 feet shall apply to all of the following:

(1) A high-quality water resource.

(2) An agricultural drainage well (400 feet for dry bedded manure).

(3) A known sinkhole (400 feet for dry bedded manure).

c. Paragraph 65.11(8)*"b"* does not apply if dry manure is stockpiled in a manner that does not allow precipitation-induced runoff to drain from the stockpile to the designated area.

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 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 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.

a. Measurement to an unformed manure storage structure shall be to the point of maximum allowable level of manure pursuant to paragraph 65.2(3)*"b."*

b. Measurement to a public use area shall be to the facilities which attract the public to congregate and remain in the area for significant periods of time, not to the property line.

c. Measurement to a major water source or water source shall be to the top of the bank of the stream channel of a river or stream or the ordinary high-water mark of a lake, reservoir or designated wetland.

d. Measurement to a public thoroughfare shall be to the closest point of the right-of-way.

e. The separation distance for a confinement feeding operation structure qualifying for the exemption to separation distances under paragraphs 65.12(4)*"b"* and *"c"* shall be measured from the closest point of the confinement feeding operation structure.

f. Measurement to a cemetery shall be to the closest point of its property line.

g. Measurement to a stockpile shall be to the closest point of the stockpile.

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.12(459,459B) Exemptions and variances to confinement feeding operation and stockpile separation distance requirements and prohibition of construction on the one hundred year floodplain.

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, the separation distances required from residences, businesses, churches, schools and public use areas specified in Iowa Code sections 459.202 and 459.204B 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. A confinement feeding operation structure, other than an unformed manure storage structure, if the structure is part of a small animal feeding operation or if the stockpile consists of dry manure originating from a small animal feeding operation.

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. A confinement feeding operation structure which is constructed or expanded closer than the separation distances required in subrules 65.11(1) and 65.11(2), including Tables 6 to 6d at the end of this chapter, if the residence, business, church or school was constructed or expanded after the date that the confinement feeding operation commenced operating or if the boundaries of the public use area or the city expanded after the date that the confinement feeding operation commenced operating. A confinement feeding operation commences operating when it is first occupied by animals. A change in ownership or expansion of the confinement feeding operation does not change the date the operation commenced operating.

d. The stockpile consists of dry manure originating exclusively from a confinement feeding operation that was constructed before January 1, 2006, unless the confinement feeding operation is expanded after that date.

65.12(2) *Exemptions to separation distance requirements from public thoroughfares.* As specified in Iowa Code section 459.205, 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:

a. A confinement building or a formed manure storage structure that is part of a small animal feeding operation. However, the exemptions of this subrule shall not apply if the confinement feeding operation structure is an unformed manure storage structure.

b. If the state or a political subdivision constructing or maintaining the public thoroughfare executes a written waiver with the titleholder of the land where the confinement feeding operation structure is located. 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 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).

65.12(3) *Exemptions to separation distance requirements for prior constructed operations and for operations that expand based on prior separation distance requirements.* As specified in Iowa Code section 459.203, a confinement feeding operation constructed or expanded prior to the date that a distance requirement became effective under Iowa Code section 459.202 and which does not comply with the statute's distance requirement may continue to operate regardless of the distance requirement and may expand as provided in subrule 65.11(2).

65.12(4) *Exemptions to separation distance requirements for prior constructed operations that expand and cannot comply with prior separation distance requirements.* As specified in Iowa Code section 459.203, a confinement feeding operation constructed or expanded prior to the date that a distance requirement became effective under Iowa Code section 459.202 and which does not comply with the distance requirements established in 567—65.11(459,459B) and the exemption in subrule 65.12(3) may be expanded if all of the following apply to the expansion:

a. No portion of the confinement feeding operation after expansion is closer than before expansion to a location or object for which separation is required in Iowa Code section 459.202.

b. For a confinement feeding operation that includes a confinement feeding operation structure constructed prior to March 1, 2003, the animal weight capacity of the confinement feeding operation as expanded is not more than the lesser of the following:

(1) Double its animal weight capacity on the following dates:

1. May 31, 1995, for a confinement feeding operation that includes a confinement feeding operation structure constructed prior to January 1, 1999.

2. January 1, 1999, for a confinement feeding operation that only includes a confinement feeding operation structure constructed on or after January 1, 1999, but does include a confinement feeding operation structure constructed prior to March 1, 2003.

(2) Either of the following:

1. An animal weight capacity of 625,000 pounds for animals other than cattle.

2. An animal weight capacity of 1,600,000 pounds for cattle.

c. For a confinement feeding operation that does not include a confinement feeding operation structure constructed prior to March 1, 2003, the animal unit capacity of the confinement feeding operation as expanded is not more than the lesser of the following:

(1) Double its animal unit capacity on March 1, 2003.

(2) 1,000 animal units.

65.12(5) *Exemptions to separation distance requirements for prior constructed operations that replace an unformed manure storage structure.* As specified in Iowa Code section 459.203, a confinement feeding operation that includes a confinement feeding operation structure that is constructed prior to March 1, 2003, may be expanded by replacing one or more unformed manure storage structures with one or more formed manure storage structures if all of the following apply:

a. The animal weight capacity or animal unit capacity, whichever is applicable, is not increased for that portion of the confinement feeding operation that utilizes all replacement formed manure storage structures.

b. Use of each replaced unformed manure storage structure is discontinued within one year after the construction of the replacement formed manure storage structure.

c. The capacity of all replacement formed manure storage structures does not exceed the amount required to store manure produced by that portion of the confinement feeding operation utilizing the formed manure storage structures during any 14-month period.

d. No portion of the replacement formed manure storage structure is closer to an object or location for which separation is required under Iowa Code section 459.202 than any other confinement feeding operation structure which is part of the operation.

65.12(6) *Exemption to separation distance requirements from cemeteries.* As specified in Iowa Code section 459.205, the separation distance required between a confinement feeding operation structure and a cemetery shall not apply if any of the following apply:

a. The confinement feeding operation structure was constructed or expanded prior to January 1, 1999.

b. The construction or expansion of the confinement feeding operation structure began prior to January 1, 1999.

65.12(7) *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, subsection 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 a confinement building, a manure storage structure or an egg washwater storage 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 confinement feeding operation structure.

65.12(8) *Exemptions to prohibition on one hundred year floodplain 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 floodplain 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) The animal weight capacity or animal unit capacity, whichever is applicable, is not increased for that portion of the confinement feeding operation that utilizes all replacement formed manure storage structures.

(2) The use of each replaced unformed manure storage structure is discontinued within one year after the construction of the replacement formed manure storage structure.

(3) The capacity of all replacement formed manure storage structures does not exceed the amount required to store manure produced by that portion of the confinement feeding operation utilizing the replacement formed manure storage structures during any 18-month period.

(4) No portion of the replacement formed manure storage structure is closer to the location or object from which separation is required under subrules 65.11(3) and 65.11(4) than any other confinement feeding operation structure which is part of the operation.

(5) The replacement formed manure storage structure meets or exceeds the requirements of Iowa Code section 459.307 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) The replacement formed manure storage structure replaces the confinement feeding operation's existing manure storage and handling facilities.

(2) The replacement formed manure storage structure complies with standards adopted pursuant to Iowa Code section 459.307 and subrule 65.15(14).

(3) The replacement formed manure storage structure more likely than not provides a higher degree of environmental protection than the confinement feeding operation's existing manure storage and handling facilities. If the formed manure storage structure will replace any existing manure storage structure, the department shall, as a condition of granting the variance, require that the replaced manure storage structure be properly closed.

65.12(9) *Variances.* Variances to the water well separation requirements in subrule 65.11(5) 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 required separation distance or provides improved or greater protection for the water well. Petition for a variance shall be made in writing at the time an application is submitted. The denial of a petition for variance may be appealed to the environmental protection commission.

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.13(455B) Separation distances from certain lakes, rivers and streams. Rescinded IAB 4/7/99, effective 5/12/99.

567—65.14(455B) Well separation distances for open feedlots. Rescinded IAB 4/12/06, effective 5/17/06.

567—65.15(459,459B) Manure storage structure design requirements. The requirements in this rule apply to all confinement feeding operation structures unless specifically stated otherwise.

65.15(1) *Drainage tile removal for new construction of a manure storage structure.* Prior to constructing a manure storage structure, other than storage of manure in an exclusively dry form, the site for the animal feeding operation structure shall be investigated for drainage tile lines as provided in this subrule. All applicable records of known drainage tiles shall be examined for the existence of drainage tile lines.

a. One of the following procedures shall be performed prior to excavation for an unformed manure storage structure:

(1) An inspection trench of at least ten inches wide shall be dug around the structure to a depth of at least 6 feet below the original grade and at least 50 feet beyond the structure's projected outside liquid surface at the high-water level.

(2) A core trench shall be dug to a depth of at least 6 feet below the original grade at the projected center of the berm. After investigation for tile lines and any discovered tile lines are removed, an additional containment barrier shall be constructed underneath the center of the berm. The additional containment barrier shall meet the same percolation standards as the structure with the lateral flow potential restricted to one-sixteenth of an inch per day.

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. All other drainage tile lines discovered shall be rerouted, capped, or plugged with concrete, Portland cement concrete grout or similar materials.

c. The applicant for a construction permit for a formed manure storage structure shall investigate for tile lines during excavation for the structure. Drainage tile lines discovered upgrade from the structure shall be rerouted around the formed manure storage structure to continue the flow of drainage. All other drainage tile lines discovered shall be rerouted, capped, plugged with concrete, Portland cement concrete

grout or similar materials. Drainage tile lines installed at the time of construction to lower a groundwater table may remain where located.

d. A confinement feeding operation required to obtain a construction permit pursuant to subrule 65.7(1) or to follow the upgraded concrete standards set forth in paragraph 65.15(14)*"c"* shall install a sample port device to allow monitoring of the water in the drainage tile lines installed to lower the groundwater table. In addition, 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 formed manure storage structure is located.

e. Other proven methods approved by the department may be utilized to discover drainage tile lines.

f. Variances to this subrule 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 this subrule or provides improved effectiveness or protection as required by this subrule. Petition for a variance shall be made in writing at the time the application is submitted or prior to investigating for drainage tile, whichever is earlier. The denial of a variance may be appealed to the commission.

g. The requirements of this subrule do not apply if sufficient information is provided that allows the department to conclude that the location does not have a history of drainage tile.

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 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 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.

a. Inspection shall be by digging an inspection trench of at least ten inches wide around the structure to a depth of at least 6 feet from the original grade and at least 50 feet from the outside edge of the berm. The owner first shall inspect the area where trenching is to occur and manure management records to determine if there is any evidence of leakage and, if so, shall contact the department for further instructions as to proper inspection procedures. The owner of a confinement feeding operation shall either obtain permission from an adjoining property owner or trench up to the boundary line of the property if the distance of 50 feet would require the inspection trench to go onto the adjoining property.

b. The owner of the confinement feeding operation may utilize other proven methods approved by the department to discover drainage tile lines.

c. The drainage tile lines discovered near an aerobic structure, anaerobic lagoon, earthen manure storage basin or earthen waste slurry storage basin, other than an egg washwater storage structure, shall be removed within 50 feet of the outside edge of the berm. Drainage tile lines discovered upgrade from the aerobic structure, anaerobic lagoon or earthen manure storage basin shall be rerouted outside of 50 feet from the berm to continue the flow of drainage. All other drainage tile lines discovered shall be rerouted, capped, plugged with concrete, Portland cement concrete grout or similar materials, or reconnected to upgrade tile lines. Drainage tile lines that were installed at the time of construction to lower a groundwater table may either be avoided if the location is known or may remain at the location if discovered.

d. The owner of an aerobic structure, anaerobic lagoon, earthen manure storage structure or an earthen waste slurry storage basin with a tile drainage system to artificially lower the groundwater table shall have a device to allow monitoring of the water in the drainage tile lines that lower the groundwater table and to allow shutoff of the drainage tile lines if the drainage tile lines do not have a surface outlet accessible on the property where the aerobic structure, anaerobic lagoon, earthen manure storage basin or earthen waste slurry storage basin is located.

e. If the owner of the confinement feeding operation discovers drainage tile that projects underneath the berm, it shall follow one of the following options:

(1) Contact the department to obtain permission to remove the drainage tile under the berm. The manure in the structure must be lowered to a point below the depth of the tile prior to removing the drainage tile from under the berm. Prior to using the structure, a new percolation test must be submitted to the department and approval received from the department.

(2) Grout the length of the tile under the berm to the extent possible. The material used to grout shall include concrete, Portland cement concrete grout or similar materials.

f. Variances to this subrule may be granted by the director if the applicant provides an alternative that is substantially equivalent to the subrule or provides improved effectiveness or protection as required by the subrule. A request for a variance shall be made in writing. The denial of a variance may be appealed to the commission.

g. A waiver to this subrule may be granted by the director if sufficient information is provided that the location does not have a history of drainage tile.

h. A written record describing the actions taken to determine the existence of tile lines, the findings, and actions taken to comply with this subrule shall be prepared and maintained as part of the manure management plan records.

65.15(3) *Guidelines for drainage tile removal around an existing manure storage structure.*

a. It is recommended that a manure storage structure, other than the storage of manure in an exclusively dry form, that is part of a confinement feeding operation with a construction permit granted before May 31, 1985, be inspected for drainage tile lines as provided in this subrule, and all applicable records of known drainage tiles may be examined. For an aerobic structure, anaerobic lagoon, earthen manure storage basin or earthen waste slurry storage basin, inspection may be by digging an inspection trench of at least ten inches wide around the structure at a depth of at least 6 feet from the original grade and at least 50 feet from the projected outside edge of the berm. The owner first should inspect the area where trenching is to occur and manure management records to determine if there is any evidence of leakage and, if so, shall contact the department for further instructions as to proper inspection procedures.

b. The drainage tile lines discovered may be removed within 50 feet of the outside edge of the berm. Drainage tile lines discovered upgrade from the structure may be rerouted outside of 50 feet from the berm to continue the flow of drainage. Drainage tile lines that were installed at the time of construction to lower a groundwater table may either be avoided if the location is known or may remain at the location if discovered. All other drainage tile lines discovered may be rerouted, capped, plugged with concrete, Portland cement concrete grout or similar materials or reconnected to upgrade tile lines. The owner of a confinement feeding operation should either obtain permission from an adjoining property owner or trench up to the boundary line of the property if the distance of 50 feet would require the inspection trench to go onto the adjoining property.

c. If the owner of a confinement feeding operation discovers drainage tile that projects underneath the berm, it may follow one of the following options:

(1) Contact the department to obtain permission to remove the drainage tile under the berm. The manure in the structure must be lowered to a point below the depth of the tile prior to removing the drainage tile from under the berm. Prior to using the structure, a new percolation test must be submitted to the department and approval received from the department.

(2) Grout the length of the tile under the berm to the extent possible. The material used to grout may include concrete, Portland cement concrete grout or similar materials.

d. The owner of a confinement feeding operation with a formed manure storage structure other than dry manure storage may inspect for tile lines. Drainage tile lines discovered upgrade from the structure may be rerouted around the formed manure storage structure to continue the flow of drainage. Drainage tile lines put in place during or after construction of the formed manure storage structure to relieve hydrologic pressure may remain where located. All other drainage tile lines discovered may

be rerouted, capped, plugged with concrete, Portland cement concrete grout or similar materials or reconnected to upgrade tile line.

65.15(4) *Earthen waste slurry storage basins.* An earthen waste slurry storage basin shall have accumulated manure removed at least twice each year unless there is sufficient basin capacity to allow removal of manure once each year and maintain freeboard as determined pursuant to 65.2(3)*"b."*

65.15(5) *Earthen manure storage basins.* An earthen manure storage basin shall have accumulated manure removed at least once each year. An earthen manure storage basin may have enough manure storage capacity to contain the manure from the confinement feeding operation for up to 14 months and maintain freeboard as determined pursuant to 65.2(3)*"b."*

65.15(6) *Soil testing for earthen structures.* Applicants for construction permits for earthen manure storage structures shall submit soils information according to this subrule for the site of the proposed structure. All subsurface soil classification shall be based on American Society for Testing and Materials Designations D 2487-92 or D 2488-90. Soil corings shall be taken to determine subsurface soil characteristics and groundwater elevation and direction of flow of the proposed site for an anaerobic lagoon, aerobic structure, earthen egg washwater storage structure, or earthen manure storage basin. Soil corings shall be conducted by a qualified person normally engaged in soil testing activities. Data from the soil corings shall be submitted with a construction permit application and shall include a description of the geologic units encountered, a discussion of the effects of the soil and groundwater elevation and direction of flow on the construction and operation of the anaerobic lagoon, aerobic structure, earthen egg washwater storage structure, or earthen manure storage basin and a discussion that addresses the suitability of the proposed structure at the site. All soil corings shall be taken by a method that identifies the continuous soil profile and does not result in the mixing of soil layers. The number and location of the soil corings will vary on a case-by-case basis as determined by the designing engineer and accepted by the department. The following are minimum requirements:

a. A minimum of four soil corings reflecting the continuous soil profile is required for each anaerobic lagoon, aerobic structure, earthen egg washwater storage structure, or earthen manure storage basin. Corings which are intended to represent soil conditions at the corner of the structure must be located within 50 feet of the bottom edge of the structure and spaced so that one coring is as close as possible to each corner. Should there be no bottom corners, corings shall be equally spaced around the structure to obtain representative soil information for the site. An additional coring will be required if necessary to ensure that one coring is at the deepest point of excavation. For an anaerobic lagoon, aerobic structure, earthen egg washwater storage structure, or earthen manure storage basin larger than 4 acres water surface area, one additional coring per acre is required for each acre above 4 acres surface area.

b. All corings shall be taken to a minimum depth of ten feet below the bottom elevation of the anaerobic lagoon, aerobic structure, earthen egg washwater storage structure, or earthen manure storage basin.

c. At least one coring shall be taken to a minimum depth of 25 feet below the bottom elevation of the anaerobic lagoon, aerobic structure, earthen egg washwater storage structure, or earthen manure storage basin or into bedrock, whichever is shallower.

d. Upon abandonment of the 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.

65.15(7) *Hydrology.*

a. *Groundwater table.* A minimum separation of four feet between the top of the liner for any unformed manure storage structure or earthen egg washwater storage structure and the groundwater table is recommended; however, in no case shall the top of the liner for an unformed manure storage structure or earthen egg washwater storage structure be below the groundwater table. If the groundwater table is less than two feet below the top of the liner for an unformed manure storage structure or earthen egg washwater storage structure, the unformed manure storage structure or earthen egg washwater storage structure shall be provided with a synthetic liner as described in paragraph 65.15(12)*"f."*

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 if a drainage system for artificially lowering the groundwater table will be installed. 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 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(7)*"b"*(1) for monitoring and shutoff requirements for drainage tile lines installed to lower the groundwater table.)

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 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. A minimum of three temporary monitoring wells shall be 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) The seasonal high-water table shall be determined by measuring the groundwater level in the temporary monitoring wells not earlier than seven days following installation and shall include consideration of 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 65.15(7)*"b,"* the level to which the groundwater table will be lowered will be considered to represent the seasonal high-water table.

65.15(8) *Karst terrain and alluvial aquifer areas.*

a. An unformed manure storage structure or unformed egg washwater storage structure shall not be located on karst terrain.

b. Dry bedded confinement feeding operation structures constructed on karst terrain or in an alluvial aquifer area shall comply with all of the following:

(1) A minimum 5-foot layer of low permeability soil or rock between the bottom of the floor of the dry bedded confinement feeding operation structure and the underlying limestone, dolomite or other soluble rock in karst terrain or the underlying sand and gravel aquifer in an alluvial aquifer area is required. A professional engineer licensed in Iowa, NRCS qualified staff or a qualified organization shall submit a soil report, based on the results from soil borings or test pits, describing the subsurface materials and vertical separation distance from the proposed bottom of the dry bedded confinement feeding operation structure and the underlying limestone, dolomite or soluble rock. A minimum of two soil borings or test pits, at each end of the proposed structure, are required if acceptable well data are not available. After soil exploration is complete, each boring or test pit shall be properly plugged with concrete grout, bentonite or similar materials and documented in the soil report.

(2) The dry bedded confinement feeding operation structure shall be constructed with a floor consisting of reinforced concrete at least five inches thick conforming to the requirements of 65.15(14)*"a"*(2), numbered paragraphs "1," "3," "4," "6," "8" and "12."

65.15(9) *Bedrock separation.* A minimum of four feet of separation between an unformed manure storage structure bottom and any bedrock formation is required. A ten-foot separation is recommended. A synthetic liner is required if the unformed structure is to be located less than ten feet above a carbonate or limestone formation.

65.15(10) *Flooding protection.*

a. A confinement feeding operation structure proposed to be constructed on land that would be inundated by Q100 shall meet requirements as specified in 567—Chapters 70 to 76, unless otherwise prohibited according to paragraph 65.15(10)*"b."*

b. A confinement feeding operation structure shall not be constructed on the one hundred year floodplain.

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 shall not 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.

65.15(12) *Unformed manure storage structure and unformed egg washwater storage structure liner design and construction standards.* An unformed manure storage structure or unformed egg washwater storage structure which receives a construction permit after January 21, 1998, shall comply with the following minimum standards in addition to subrule 65.15(11).

a. If the location of the proposed unformed manure storage structure or unformed egg washwater storage structure contains suitable materials as determined by the soil corings taken pursuant to subrule 65.15(6), those materials shall be compacted to establish a minimum of a 12-inch liner. A minimum initial overexcavation of 6 inches of material shall be required. The underlying material shall be scarified,

reworked and compacted to a depth of 6 inches. The overexcavated materials shall be replaced and compacted.

b. If the location of the proposed unformed manure storage structure or unformed egg washwater storage structure does not contain suitable materials as determined by the soil corings taken pursuant to subrule 65.15(6), suitable materials shall be obtained from another location approved by the department and shall be compacted to establish a minimum of a 24-inch liner.

c. Where sand seams, gravel seams, organic soils or other materials that are not suitable are encountered during excavation, the area where they are discovered shall be overexcavated a minimum of 24 inches and replaced with suitable materials and compacted.

d. All loose lift material must be placed in lifts of nine inches or less and compacted. The material shall be compacted at or above optimum moisture content and meet a minimum of 95 percent of the maximum density as determined by the Standard Proctor test after compaction.

e. For purposes of this rule, suitable materials means soil, soil combinations or other similar material that is capable of meeting the permeability and compaction requirements. Sand seams, gravel seams, organic soils or other materials generally not suitable for unformed manure storage structure or unformed egg washwater storage structure construction are not considered suitable liner materials.

f. As an alternative to the above standards, a synthetic liner may be used. If the use of a synthetic liner is planned for an unformed manure storage structure or unformed egg washwater storage structure, the permit application shall outline how the site will be prepared for placement of the liner, the physical, chemical, and other pertinent properties of the proposed liner, and information on the procedures to be used in liner installation and maintenance. In reviewing permit applications which involve use of synthetic liners, the department will consider relevant synthetic liner standards adopted by industry, governmental agencies, and professional organizations as well as technical information provided by liner manufacturers and others.

65.15(13) *Anaerobic lagoon design standards.* An anaerobic lagoon shall meet the requirements of this subrule.

a. General.

(1) Depth. Liquid depth shall be at least 8 feet but 15 to 20 feet is preferred if soil and other site conditions allow.

(2) Inlet. One subsurface inlet at the center of the lagoon or dual (subsurface and surface) inlets are preferred to increase dispersion. If a center inlet is not provided, the inlet structure shall be located at the center of the longest side of the anaerobic lagoon.

(3) Shape. Long, narrow anaerobic lagoon shapes decrease manure dispersion and should be avoided. Anaerobic lagoons with a length-to-width ratio of greater than 3:1 shall not be allowed.

(4) Aeration. Aeration shall be treatment as an "add-on process" and shall not eliminate the need for compliance with all anaerobic lagoon criteria contained in these rules.

(5) Manure loading frequency. The anaerobic lagoon shall be loaded with manure and dilution water at least once per week.

(6) Design procedure. Total anaerobic lagoon volume shall be determined by summation of minimum stabilization volume; minimum dilution volume (not less than 50 percent of minimum stabilization volume); manure storage between periods of disposal; and storage for 8 inches of precipitation.

(7) Manure storage period. Annual or more frequent manure removal from the anaerobic lagoon, preferably prior to May 1 or after September 15 of the given year, shall be practiced to minimize odor production. Design manure storage volume between disposal periods shall not exceed the volume required to store 14 months' manure production. Manure storage volume shall be calculated based on the manure production values found in Table 5 at the end of this chapter.

b. Minimum stabilization volume and loading rate.

(1) For all animal species other than beef cattle, there shall be 1000 cubic feet minimum design volume for each 5 pounds of volatile solids produced per day if the volatile solids produced per day are 6000 pounds or fewer and for each 4 pounds if the volatile solids produced per day are more than 6000

pounds. For beef cattle, there shall be 1000 cubic feet minimum design volume for each 10 pounds of volatile solids produced per day.

(2) In Lyon, Sioux, Plymouth, Woodbury, Osceola, Dickinson, Emmet, Kossuth, O'Brien, Clay, Palo Alto, Cherokee, Buena Vista, Pocahontas, Humboldt, Ida, Sac, Calhoun, and Webster Counties for all animal species other than beef there shall be 1000 cubic feet minimum design volume for each 4.5 pounds of volatile solids per day if the volatile solids produced per day are 6000 pounds or fewer. However, if a water analysis as required in 65.15(13)*"c"*(2) below indicates that the sulfate level is below 500 milligrams per liter, then the rate is 1000 cubic feet for each 5.0 pounds of volatile solids per day.

(3) Credit shall be given for removal of volatile solids from the manure stream prior to discharge to the lagoon. The credit shall be in the form of an adjustment to the volatile solids produced per day. The adjustments shall be at the rate of 0.50 pound for each pound of volatile solids removed. For example, if a swine facility produces 7000 pounds of volatile solids per day, and if 2000 pounds of volatile solids per day are removed, the volatile solids produced per day would be reduced by 1000 pounds, leaving an adjusted pounds of volatile solids produced per day of 6000 pounds (for which the loading rate would be 5 pounds according to subparagraph (1) above).

(4) Credit shall be given for mechanical aeration if the upper one-third of the lagoon volume is mixed by the aeration equipment and if at least 50 percent of the oxygen requirement of the manure is supplied by the aeration equipment. The credit shall be in the form of an increase in the maximum loading rate (which is the equivalent of a decrease in the minimum design volume) in accordance with Table 8.

(5) If a credit for solids removal is given in accordance with subparagraph (3) above, the credit for qualified aeration shall still be given. The applicant shall submit evidence of the five-day biochemical oxygen demand (BOD5) of the manure after the solids removal so that the aeration credit can be calculated based on an adjustment rate of 0.50 pound for each pound of solids removed.

(6) American Society of Agricultural Engineers (ASAE) standards, "Manure Production and Characteristics," D384.1, or Midwest Plan Service-18 (MWPS-18), Table 2-1, shall be used in determining the BOD5 production and volatile solid production of various animal species.

c. Water supply.

(1) The source of the dilution water discharged to the anaerobic lagoon shall be identified.

(2) The sulfate concentration of the dilution water to be discharged to the anaerobic lagoon shall be identified. The sulfate concentration shall be determined by standard methods as defined in 567—60.2(455B).

(3) A description of available water supplies shall be provided to prove that adequate water is available for dilution. It is recommended that, if the sulfate concentration exceeds 250 mg/l, then an alternate supply of water for dilution should be sought.

d. Initial lagoon loading. Prior to the discharge of any manure to the anaerobic lagoon, the lagoon shall be filled to a minimum of 50 percent of its minimum stabilization volume with fresh water.

e. Lagoon manure and water management during operation. Following initial loading, the manure and water content of the anaerobic lagoon shall be managed according to either of the following:

(1) For single cell lagoons or multicell lagoons without a site-specific lagoon operation plan. The total volume of fresh water for dilution added to the lagoon annually shall equal one-half the minimum stabilization volume. At all times, the amount of fresh water added to the lagoon shall equal or exceed the amount of manure discharged to the lagoon.

(2) For a two or three cell anaerobic lagoon. The manure and water content of the anaerobic lagoon may be managed in accordance with a site-specific lagoon operation plan approved by the department. The lagoon operation plan must describe in detail the operational procedures and monitoring program to be followed to ensure proper operation of the lagoon. Operational procedures shall include identifying the amounts and frequencies of planned additions of manure, fresh water and recycle water, and amount and frequencies of planned removal of solids and liquids. Monitoring information shall include locations and intervals of sampling, specific tests to be performed, and test parameter values used to indicate proper lagoon operation. As a minimum, annual sampling and testing of the first lagoon cell for electrical

conductivity (EC) and either chemical oxygen demand (COD) or total ammonia (NH3 + NH4) shall be required.

f. *Manure removal.* If the anaerobic lagoon is to be dewatered once a year, manure should be removed to approximate the annual manure volume generated plus the dilution water used. If the anaerobic lagoon is to be dewatered more frequently, the anaerobic lagoon liquid level should be managed to maintain adequate freeboard.

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 NRCS. (CAVEAT : These standards are not intended to address other site-related engineering and construction considerations beyond the department's jurisdiction.)

a. *Nondry manure storage.* The following minimum concrete standards are required for a formed manure storage structure other than that used for the storage of manure exclusively in a dry form. A formed manure storage structure must be designed in accordance with one of the following design methods:

(1) Engineering report, plans and specifications prepared and sealed by a PE or an NRCS engineer. Design considerations shall be in conformance with the American Concrete Institute (ACI) Building Code ACI 318, ACI 360 or ACI 350; or Portland Cement Association (PCA) publication EB075, EB001 or IS072; or MidWest Plan Service (MWPS) publication MWPS-36 or MWPS TR-9, and shall include all of the following:

1. The floors shall be a minimum of 5 inches thick. Nondestructive methods to verify the floor slab thickness may be required by the department. The results shall indicate that at least 95 percent of the floor slab area meets the minimum required thickness. In no case shall the floor slab thickness be less than 4½ inches.

2. Wire mesh shall not be used as primary reinforcement for a formed manure storage structure with a depth of 4 feet or more. Fiber shall not be used as reinforcement.

3. Waterstops shall be installed in all areas where fresh concrete meets hardened concrete. Waterstops shall be made of plastic, rolled bentonite or similar materials approved by the department.

4. The vertical steel of all walls shall be extended into the footing and be bent at 90° or a separate dowel shall be installed. As an alternate to the 90° bend, the dowel may be extended at least 12 inches into the footing, with a minimum concrete cover of 3 inches at the bottom. In lieu of dowels, mechanical means or alternate methods may be used as anchorage of interior walls to footings.

(2) If a formed manure storage structure is not designed and sealed by a PE or an NRCS engineer, the design and specifications shall be in conformance with MWPS-36 (for a belowground rectangular tank) or MWPS TR-9 (for a circular tank); or in accordance with Appendix D at the end of this chapter (for a belowground, laterally braced rectangular tank). In addition, all of the following concrete standards shall apply:

1. The finished subgrade of a formed manure storage structure shall be graded and compacted to provide a uniform and level base and shall be free of vegetation, manure and debris. For the purpose of this subrule, "uniform" means a finished subgrade with similar soils.

2. When the groundwater table, as determined in 65.15(7)*"c,"* is above the bottom of the formed structure, a drain tile shall be installed along the footings to artificially lower the groundwater table pursuant to 65.15(7)*"b."* The drain tile shall be placed within 3 feet of the footings as indicated in Appendix D, Figure D-1, at the end of this chapter and shall be covered with a minimum of 2 inches of gravel, granular material, fabric or a combination of these materials to prevent plugging the drain tile.

3. All concrete shall have the following minimum as-placed compressive strengths and shall meet American Society for Testing and Materials (ASTM) standard ASTM C 94:

- 4,000 pounds per square inch (psi) for walls, floors, beams, columns and pumpouts;
- 3,000 psi for the footings.

The average concrete strength by testing shall not be below design strength. No single test result shall be more than 500 psi less than the minimum compressive strength.

4. Cementitious materials shall consist of portland cement conforming to ASTM C 150. Aggregates shall conform to ASTM C 33. Blended cements in conformance with ASTM C 595 are allowed only for concrete placed between March 15 and October 15. Portland-pozzolan cement or portland blast furnace slag blended cements shall contain at least 75 percent, by mass, of portland cement.

5. All concrete placed for walls shall be consolidated or vibrated, by manual or mechanical means, or a combination, in a manner which meets ACI 309.

6. All rebar used shall be a minimum of grade 40 steel. All rebar, with the exception of rebar dowels connecting the walls to the floor or footings, shall be secured and tied in place prior to the placing of concrete.

7. All wall reinforcement shall be placed so as to have a rebar cover of 2 inches from the inside face of the wall for a belowground manure storage structure. Vertical wall reinforcement should be placed closest to the inside face. Rebar placement shall not exceed tolerances specified in ACI 318.

8. The floor slab shall be a minimum of 5 inches thick. The floor slab of any formed manure storage structure with a depth of 4 feet or more shall have primary reinforcement consisting of a minimum of #4 rebar placed a maximum of 18 inches on center in each direction placed in a single mat. The floor slab of any formed manure storage structure with a depth less than 4 feet shall have shrinkage reinforcement consisting of a minimum of 6 × 6-W1.4 × W1.4 welded wire fabric. Floor slab reinforcement shall be located in the middle of the thickness of the floor slab. Nondestructive methods to verify the floor slab thickness may be required by the department. The results shall indicate that at least 95 percent of the floor slab area meets the minimum required thickness. In no case shall the floor slab thickness be less than 4½ inches.

9. The footing or the area where the floor comes in contact with the walls and columns shall have a thickness equal to the wall thickness, but in no case be less than 8 inches, and the width shall be at least twice the thickness of the footing. All exterior walls shall have footings below the frostline. Tolerances shall not exceed -½ inch of the minimum footing dimensions.

10. The vertical steel of all walls shall be extended into the footing, and be bent at 90° or a separate dowel shall be installed as a #4 rebar that is bent at 90° with at least 20 inches of rebar in the wall and extended into the footing within 3 inches of the bottom of the footing and extended at least 3 inches horizontally, as indicated in Appendix D, Figure D-1, at the end of this chapter. As an alternative to the 90° bend, the dowel may be extended at least 12 inches into the footing, with a minimum concrete cover of 3 inches at the bottom. Dowel spacing (bend or extended) shall be the same as the spacing for the vertical rebar. In lieu of dowels, mechanical means or alternate methods may be used as anchorage of interior walls to footings.

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.

12. All concrete shall be cured for at least seven days after placing, in a manner which meets ACI 308, by maintaining adequate moisture or preventing evaporation. Proper curing shall be done by ponding, spraying or fogging water; or by using a curing compound that meets ASTM C 309; or by using wet burlap, plastic sheets or similar materials.

13. All construction joints in exterior walls shall be constructed to prevent discontinuity of steel and have properly spliced rebar placed through the joint. Waterstops shall be installed in all areas where fresh concrete will meet hardened concrete as indicated in Appendix D, Figures D-1 and D-2, at the end of this chapter. The waterstops shall be made of plastic, rolled bentonite or similar materials approved by the department.

14. Backfilling of the walls shall not start until the floor slats or permanent bracing has been installed and grouted. Backfilling shall be performed with material free of vegetation, large rocks or debris.

15. A formed manure storage structure with a depth greater than 12 feet shall be designed by a PE or an NRCS engineer.

b. Dry manure storage. A formed structure for the storage of manure exclusively in a dry form shall be designed and constructed in accordance with one of the following:

(1) Engineering report, plans and specifications prepared and sealed by a PE or an NRCS engineer. Design considerations shall be in conformance with the American Concrete Institute (ACI) Building Code ACI 318 or ACI 360; or Portland Cement Association (PCA) publication EB075, EB001 or IS072; or MidWest Plan Service (MWPS) publication MWPS-36.

(2) If a formed manure storage structure that stores manure exclusively in a dry form is to be constructed aboveground and the design is not prepared and sealed by a PE or an NRCS engineer, the requirements set forth in 65.15(14)*"a"*(2), numbered paragraphs "1," "3," "4," "5," "6," "8" and "12," shall apply. Consideration shall be given to internal and external loads including, but not limited to, wind loads, building load, manure pile and equipment vehicle loads.

(3) If the formed structure that stores manure exclusively in a dry form is to be constructed below or partially below the ground and the design is not prepared and sealed by a PE or an NRCS engineer, the requirements set forth in 65.15(14)*"a"*(2), numbered paragraphs "1" through "15," shall apply. Wall design shall be in accordance with Appendix D at the end of this chapter or in accordance with MWPS-36. Consideration shall be given to internal and external loads including, but not limited to, lateral earth pressures, hydrostatic pressures, wind loads, manure pile and equipment vehicle loads.

c. Karst terrain—upgraded standards. If the site of the proposed formed manure storage structure is located in karst terrain or an area that drains into a known sinkhole, the minimum concrete standards set forth in paragraph 65.15(14)*"a"* or *"b"* shall apply. In addition, the following requirements apply to all formed manure storage structures that store nondry or dry manure:

(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 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.

(3) If the vertical separation distance between the bottom of the proposed formed manure storage structure and limestone, dolomite, or other soluble rock is less than 5 feet, the structure shall be designed and sealed by a PE or NRCS qualified staff person who certifies the structural integrity of the structure. A 2-foot-thick layer of compacted clay liner material shall be constructed underneath the floor of the formed manure storage structure. However, it is recommended that any formed manure storage structure be constructed aboveground if the vertical separation distance between the bottom of the structure and the limestone, dolomite, or other soluble rock is less than 5 feet.

(4) Groundwater monitoring shall be performed as specified by the department.

(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.

d. Cold and hot weather concreting recommendations. If air temperature is below 40 degrees Fahrenheit, the ACI Standard 306, "Recommended Practice for Cold Weather Concreting," should be followed. If ready-mix concrete temperature is above 90 degrees Fahrenheit, the ACI Standard 305, "Recommended Practice for Hot Weather Concreting," should be followed.

65.15(15) *Berm erosion control.*

a. The following requirements apply to unformed manure storage structures and unformed egg washwater storage structures constructed after May 12, 1999.

(1) Concrete, riprap, synthetic liners or similar erosion control materials or measures shall be used on the berm surface below pipes where manure will enter the structure.

(2) Concrete, riprap, synthetic liners or similar erosion control materials or measures of sufficient thickness and area to accommodate manure removal equipment and to protect the integrity of the liner shall be placed at all locations on the berm, side slopes, and base of the structure where agitation or pumping may cause damage to the liner.

(3) Erosion control materials or measures shall be used at the corners of the structure.

(4) To control erosion, perennial (grass) vegetation must be maintained on the outer, top and inner dikes up to the two-foot freeboard level of the unformed storage structure or earthen egg washwater storage structure, unless covered by concrete, riprap, synthetic liners or similar erosion control materials or measures.

b. The owner of a confinement feeding operation with an unformed manure storage structure or an unformed egg washwater storage structure shall inspect the structure berms at least semiannually for evidence of erosion. Erosion problems found which may impact either structural stability or liner integrity shall be corrected in a timely manner.

65.15(16) *Agricultural drainage wells.* After May 29, 1997, a person shall not construct a new or expand an existing unformed manure storage structure or an unformed egg washwater storage structure within an agricultural drainage well area.

65.15(17) *Secondary containment barriers for manure storage structures.* Secondary containment barriers used to qualify any confinement feeding operation for the exemption provision in subrule 65.12(7) shall be filed with the department according to subrule 65.9(8) and shall meet the following design standards:

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 *"c"* or *"e."* If the containment barrier does not surround the manure storage structure, upland drainage must be diverted. Any dry manure retained by the secondary containment barrier shall be removed and properly disposed of within 14 days.

b. The barrier may be constructed of earth, concrete, or a combination of both. If a relief outlet or valve is installed, the relief outlet or valve shall remain closed. Any accumulated liquid due to an overflow shall be land-applied as stated in the operation's manure management plan.

c. The base shall slope to a collecting area where storm water can be pumped out. If storm water is contaminated with manure, it shall be land-applied at normal fertilizer application rates in compliance with rule 567—65.3(459,459B).

d. Secondary containment barriers constructed entirely or partially of earth shall comply with the following requirements:

(1) The soil surface, including dike, shall be constructed to prevent downward water movement at rates greater than 1×10^{-6} cm/sec and shall be maintained to prevent downward water movement at rates greater than 1×10^{-5} cm/sec.

(2) Dikes shall not be steeper than 45 degrees and shall be protected against erosion. If the slope is 19 degrees or less, grass can be sufficient protection, provided it does not interfere with the required soil seal.

(3) The top width of the dike shall be no less than 3 feet.

e. Secondary containment barriers constructed of concrete shall be watertight and comply with the following requirements:

(1) The base of the containment structure shall be designed to support the manure storage structure and its contents.

(2) The concrete shall be routinely inspected for cracks, which shall be repaired with a suitable sealant.

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.

65.15(18) *Human sanitary waste.* Human sanitary waste shall not be discharged to a manure storage structure or egg washwater storage structure.

65.15(19) *Requirements for qualified operations.* A confinement feeding operation that meets the definition of a qualified operation shall only use an aerobic structure for manure storage and treatment. This requirement does not apply to a confinement feeding operation that only handles dry manure or to an egg washwater storage structure or to a confinement feeding operation which was constructed before May 31, 1995, and does not expand.

65.15(20) *Aboveground formed manure storage structures with external outlet or inlet below the liquid level.* A formed manure storage structure which is constructed to allow the storage of manure wholly or partially above ground and which has an external outlet or inlet below the liquid level shall have all of the following:

a. Two or more shutoff valves on any external outlet or inlet below the liquid level. At least one shutoff valve shall be located inside the structure and be operable if the external valve becomes inoperable or broken off.

b. All external outlets or inlets below the liquid level shall be barricaded, encased in concrete, or otherwise protected to minimize accidental destruction.

c. Construction shall be in compliance with the manufacturer's requirements.

d. An emergency response plan for retaining manure at the site and cleanup if the manure storage structure fails or there is any other type of accidental discharge. The plan shall consist of telephone numbers to comply with 65.2(9) and list of contractors, equipment, equipment technical support, and alternative manure storage or land application sites which can be used during inclement weather.

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.16(459,459B) Manure management plan requirements.

65.16(1) In accordance with Iowa Code section 459.312, 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. An applicant for a construction permit for a confinement feeding operation. However, a manure management plan shall not be required of an applicant for an egg washwater storage structure or for a small animal feeding operation.

b. The owner of a confinement feeding operation, other than a small animal feeding operation, if one of the following applies:

(1) The confinement feeding operation was constructed or expanded after May 31, 1985, regardless of whether the confinement feeding operation structure was required to have a construction permit.

(2) The owner constructs a manure storage structure, regardless of whether the person is required to be issued a permit for the construction pursuant to Iowa Code section 459.303, or whether the person has submitted a prior manure management plan.

c. A person who applies manure in Iowa that was produced in a confinement feeding operation, other than a small operation, located outside of Iowa.

d. A new owner of a confinement feeding operation may apply manure under the most recent owner's manure management plan until the new owner develops and submits an original manure management plan. The new owner must develop and submit an original manure management plan within 60 days after acquiring the operation.

e. A research college is exempt from this subrule and the manure management plan requirements of rule 567—65.17(459,459B) for research activities and experiments performed under the authority of the research college and related to confinement feeding operations.

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.

65.16(2) The owner of a proposed confinement feeding operation who is not required to obtain a construction permit pursuant to subrule 65.7(1) but who is required to file a manure management plan pursuant to paragraph 65.16(1)*"b"* shall file a construction design statement and provide the information required in subrule 65.9(3), including the confinement feeding operation's manure management plan, to the department at least 30 days before the construction of an animal feeding operation structure begins, as defined in subrules 65.8(1) and 65.8(2).

65.16(3) Scope of manure management plan; updated plans; annual compliance fee.

a. Each confinement feeding operation required to submit a manure management plan shall be covered by a separate manure management plan.

b. The owner of a confinement feeding operation who is required to submit a manure management plan under this rule shall submit an updated manure management plan on an annual basis to the department. The updated manure management plan may be submitted by hard copy or by electronic submittal. The updated plan must reflect all amendments made during the period of time since the previous manure management plan submission.

(1) If the plan is submitted by hard copy, the submittal process shall be as follows: The owner of the animal feeding operation shall also submit the updated manure management plan on an annual basis to the board of supervisors of each county where the confinement feeding operation is located and to the board of supervisors of each county where manure from the confinement feeding operation is land-applied. If the owner of the animal feeding operation has not previously submitted a manure management plan to the board of supervisors of each county where the confinement feeding operation is located and each county where manure is land-applied, the owner must submit a complete manure management plan to each required county. The county auditor or other county official or employee designated by the county board of supervisors may accept the updated plan on behalf of the board. The updated plan shall include documentation that the county board of supervisors or other designated county official or employee received the manure management plan update.

(2) If the plan is submitted electronically, the submittal process shall be as follows: The owner of the animal feeding operation shall submit the updated manure management plan to the department through the department's electronic web application. Once the submittal has been completed, the department shall provide electronic access of the updated manure management plan to the board of supervisors of each county where the confinement feeding operation is located and each county where manure is land-applied.

(3) The department will stagger the dates by which the updated manure management plans are due and will notify each confinement feeding operation owner of the date on which the updated manure management plan is due. To satisfy the requirements of an updated manure management plan, an owner of a confinement feeding operation must submit one of the following:

1. A complete manure management plan;

2. A department-approved document stating that the manure management plan submitted in the prior year has not changed; or

3. A department-approved document listing all the changes made since the previous manure management plan was submitted and approved.

c. An annual compliance fee of $0.15 per animal unit at the animal feeding operation shall accompany an annual manure management plan update submitted to the department for approval. The annual compliance fee is based on the animal unit capacity of the confinement feeding operation stated in the updated annual manure management plan submission. If the person submitting the manure

management plan is a contract producer, as provided in Iowa Code chapter 202, the active contractor shall pay the annual compliance fee.

65.16(4) The department shall review and approve or disapprove all complete manure management plans within 60 days of the date they are received.

65.16(5) Manure shall not be removed from a manure storage structure which is part of a confinement feeding operation required to submit a manure management plan until the department has approved the plan. Manure shall be applied in compliance with rule 567—65.2(459,459B).

65.16(6) Manure storage indemnity fee. All persons required to submit a manure management plan to the department shall also pay to the department an indemnity fee as required in Iowa Code section 459.503 except those operations constructed prior to May 31, 1995, which were not required to obtain a construction permit.

65.16(7) Filing fee. Any person submitting an original manure management plan must also pay to the department a manure management plan filing fee of $250. This fee shall be included with each original manure management plan being submitted. If the confinement feeding operation is required to obtain a construction permit and to submit an original manure management plan as part of the construction permit requirements, the applicant must pay the manure management plan filing fee together with the construction permit application fee, which total $500.

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16; **ARC 3388C**, IAB 10/11/17, effective 11/15/17]

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 and as described below.

65.17(1) *General.*

a. A confinement feeding operation that is required to submit a manure management plan to the department shall not apply manure in excess of the nitrogen use levels necessary to obtain optimum crop yields. A confinement feeding operation shall not apply manure in excess of the rates determined in conjunction with the phosphorus index. Information to complete the required calculations may be obtained from the tables in this chapter, actual testing samples or from other credible sources reviewed and approved by the department including, but not limited to, Iowa State University, the United States Department of Agriculture (USDA), a licensed professional engineer, or an individual certified as a crop consultant under the American Registry of Certified Professionals in Agronomy, Crops, and Soils (ARCPACS) program, the Certified Crop Advisors (CCA) program, or the Registry of Environmental and Agricultural Professionals (REAP) program.

b. Manure management plans shall comply with the minimum manure control requirements of 567—65.2(459,459B) and the requirements for land application of manure in 567—65.3(459,459B).

c. Manure management plans shall include all of the following:

(1) The name of the owner and the name of the confinement feeding operation, including mailing address and telephone number.

(2) The name of the contact person for the confinement feeding operation, including mailing address and telephone number.

(3) The location of the confinement feeding operation identified by county, township, section, 1/4 section and, if available, the 911 address.

(4) The animal unit capacity of the confinement feeding operation and, if applicable, the animal weight capacity.

d. A person who submits a manure management plan shall include a phosphorus index as part of the manure management plan as required in subrule 65.17(17).

e. For persons who anticipate the need to apply liquid manure on frozen or snow-covered ground, manure management plans shall include a description of land identified for the application of liquid manure due to an emergency if allowed pursuant to subrule 65.3(4). The phosphorus index for each potential emergency application field must be calculated, and application rates should be calculated appropriately. Locations of downgradient surface water drain tile intakes within all fields included in

the plan should be identified by map or coordinates. Future applications of liquid manure must take the nutrients added during emergencies into consideration.

65.17(2) *Manure management plans for sales of manure.* Selling manure means the transfer of ownership of the manure for monetary or other valuable consideration. Selling manure does not include a transaction where the consideration is the value of the manure, or where an easement, lease or other agreement granting the right to use the land only for manure application is executed.

a. Confinement feeding operations that will sell dry manure as a commercial fertilizer or soil conditioner regulated by the Iowa department of agriculture and land stewardship (IDALS) under Iowa Code chapter 200 or 200A shall submit a copy of their site-specific IDALS license or documentation that manure will be sold pursuant to Iowa Code chapter 200 or 200A, along with the department-approved manure management plan form for sales of dry manure. Operations completely covered by this paragraph are not required to meet other manure management plan requirements in this rule.

b. A confinement feeding operation not fully covered by paragraph *"a"* above and that has an established practice of selling manure, or a confinement feeding operation that contains an animal species for which selling manure is a common practice, shall submit a manure management plan that includes the following:

(1) An estimate of the number of acres required for manure application calculated by one of the following methods:

1. Dividing the total phosphorus (as P_2O_5) available to be applied from the confinement feeding operation by the corn crop removal of phosphorus. The corn crop removal of phosphorus may be estimated by using the phosphorus removal rate in Table 4a at the end of this chapter and an estimate of the optimum crop yield for the property in the vicinity of the operation.

2. Totaling the quantity of manure that can be applied to each available field based on application rates determined in conjunction with the phosphorus index in accordance with 65.17(17), and ensuring that the total quantity that can be applied is equal to or exceeds the manure annually generated at the operation.

(2) The total nitrogen available to be applied from the confinement feeding operation.

(3) The total phosphorus (as P_2O_5) available to be applied from the confinement feeding operation if the phosphorus index is required in accordance with paragraph 65.17(1)*"d."*

(4) An estimate of the annual animal production and manure volume or weight produced.

(5) A manure sales form. If manure will be sold, the manure sales form shall include the following information:

1. A place for the name and address of the buyer of the manure.

2. A place for the quantity of manure purchased.

3. The planned crop schedule and optimum crop yields.

4. A place for the manure application methods and the timing of manure application.

5. A place for the location of the field including the number of acres where the manure will be applied.

6. A place for the manure application rate.

7. A place for a phosphorus index of each field receiving manure, as defined in paragraph 65.17(17)*"a,"* 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.

(6) Statements of intent if the manure will be sold. The number of acres indicated in the statements of intent shall be sufficient according to the manure management plan to apply the manure from the confinement feeding operation. The permit holder for an existing confinement feeding operation with a construction permit may submit past records of manure sales instead of statements of intent. The statements of intent shall include the following information:

1. The name and address of the person signing the statement.

2. A statement indicating the intent of the person to purchase the confinement feeding operation's manure.

3. The location of the farm where the manure can be applied including the total number of acres available for manure application.

4. The signature of the person who may purchase the confinement feeding operation's manure.

(7) The owner shall maintain in the owner's records a current manure management plan and copies of all of the manure sales forms; the sales forms must be completed and signed by each buyer of the manure and the applicant, and the copies must be maintained in the owner's records for three years after each sale. The owner shall maintain in the owner's records copies of all of the manure sales forms for five years after each sale. An owner of a confinement feeding operation shall not be required to maintain current statements of intent as part of the manure management plan.

65.17(3) *Manure management plan for nonsales of manure.* Confinement feeding operations that will not sell all of their manure shall submit the following for that portion of the manure which will not be sold:

a. Calculations to determine the land area required for manure application.

b. The total nitrogen and total phosphorus (as P_2O_5) available to be applied from the confinement feeding operation.

c. The planned crop schedule and optimum crop yields.

d. Manure application methods and timing of the application.

e. The location of manure application.

f. An estimate of the annual animal production and manure volume or weight produced.

g. Methods, structures or practices that will be used to reduce soil loss and prevent surface water pollution.

h. Methods or practices that will be utilized to reduce odor if spray irrigation equipment is used to apply manure.

i. A phosphorus index of each field in the manure management plan, as defined in paragraph 65.17(17)*"a,"* 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.

65.17(4) *Manure management plan calculations to determine land area required for manure application.*

a. The number of acres needed for manure application for each year of the crop schedule shall be determined as required in subrule 65.17(17).

b. Operations evaluated with the master matrix pursuant to 65.10(3) that claim points for additional separation distance for the land application of manure must maintain those distances for each year of the manure management plan.

65.17(5) *Total nitrogen and total phosphorus (as P_2O_5) available from the confinement feeding operation.*

a. To determine the nitrogen available to be applied per year, the factors in Table 3, "Annual Pounds of Nitrogen Per Space of Capacity," multiplied by the number of spaces shall be used. To determine total phosphorus (as P_2O_5) available to be applied per year, the factors in Table 3a, "Annual Pounds of Phosphorus Per Space of Capacity," multiplied by the number of spaces shall be used. If the tables are not used to determine the nitrogen or phosphorus available to be applied, other credible sources for standard table values or the actual nitrogen and phosphorus content of the manure may be used. The actual nitrogen and phosphorus content shall be determined by a laboratory analysis along with measured volume or weight of manure from the manure storage structure or from a manure storage structure with design and management similar to the confinement feeding operation's manure storage structure.

b. If an actual sample is used to represent the nutrient content of manure, the sample shall be taken in accordance with Iowa State University extension publication PM 1558, "Management Practices: How to Sample Manure for Nutrient Analysis." The department may require documentation of the manure sampling protocol or take a split sample to verify the nutrient content of the operation's manure.

65.17(6) *Optimum crop yield and crop schedule.*

a. To determine the optimum crop yield, the applicant may either exclude the lowest crop yield for the period of the crop schedule in the determination or allow for a crop yield increase of 10 percent. In using these methods, adjustment to update yield averages to current yield levels may be made if it can be

shown that the available yield data is not representative of current yields. The optimum crop yield shall be determined using any of the following methods for the cropland where the manure is to be applied:

(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 NRCS shall be used to determine yields based on soil map units.

(2) USDA county crop yields. The plan shall use the county yield data from the USDA Iowa Agricultural Statistics Service.

(3) Proven yield methods. Proven yield methods may only be used if a minimum of the most recent three years of yield data for the crop is used. These yields can be proven on a field-by-field or farm-by-farm basis. To be considered a farm-by-farm basis, the fields must be owned, rented or leased for crop production by the person required to keep records pursuant to subrule 65.17(13) or included in a manure application agreement in that person's manure management plan. Crop disaster years may be excluded when there is a 30 percent or more reduction in yield for a particular field or farm from the average yield over the most recent five years. Excluded years shall be replaced by the most recent nondisaster years. Proven yield data used to determine application rates shall be maintained with the current manure management plan. Any of the following proven yield methods may be used:

1. Proven yields for USDA Farm Service Agency. The plan shall use proven yield data or verified yield data for Farm Service Agency programs.

2. Proven yields for multiperil crop insurance. Yields established for the purpose of purchasing multiperil crop insurance shall be used as proven yield data.

3. Proven yields from other methods. The plan shall use the proven yield data and indicate the method used in determining the proven yield.

b. Crop schedule. Crop schedules shall include the name and total acres of the planned crop on a field-by-field or farm-by-farm basis where manure application will be made. A map may be used to indicate crop schedules by field or farm. The planned crop schedule shall name the crop(s) planned to be grown for the length of the crop rotation beginning with the crop planned or actually grown during the year this plan is submitted or the first year manure will be applied. The confinement feeding operation owner shall not be penalized for exceeding the nitrogen or phosphorus application rate for an unplanned crop, if crop schedules are altered because of weather, farm program changes, market factor changes, or other unforeseeable circumstances. However, the penalty preclusion in the previous sentence does not apply to a confinement feeding operation owner subject to the NPDES permit program.

65.17(7) *Manure application methods and timing.*

a. The manure management plan shall identify the methods that will be used to land-apply the confinement feeding operation's manure. Methods to land-apply the manure may include, but are not limited to, surface-apply dry with no incorporation, surface-apply liquids with no incorporation, surface-apply liquid or dry with incorporation within 24 hours, surface-apply liquid or dry with incorporation after 24 hours, knifed in or soil injection of liquids, or irrigated liquids with no incorporation.

b. The manure management plan shall identify the approximate time of year that land application of manure is planned. The time of year may be identified by season or month.

65.17(8) *Location of manure application.*

a. The manure management plan shall identify each farm where the manure will be applied, the number of acres that will be available for the application of manure from the confinement feeding operation, and the basis under which the land is available.

b. A copy of each written agreement executed with the owner of the land where manure will be applied shall be maintained with the current manure management plan. The written agreement shall indicate the number of acres on which manure from the confinement feeding operation may be applied and the length of the agreement. A written agreement is not required if the land is owned or rented for crop production by the owner of the confinement feeding operation. Owners of dry bedded confinement feeding operations required to have a manure management plan may execute a written agreement with

the landowner or the person renting the land for crop production where the dry bedded manure will be applied.

c. If a present location becomes unavailable for manure application, additional land for manure application shall be identified in the current manure management plan prior to the next manure application period.

65.17(9) *Estimate of annual animal production and manure volume or weight produced.* Volumes or weights of manure produced shall be estimated based on the numbers of animals, species, and type of manure storage used. The plan shall list the annually expected number of production animals by species. The volume of manure may be estimated based on the values in Table 5 at the end of this chapter and submitted as a part of the plan. If the plan does not use the table to determine the manure volume, other credible sources for standard table values or the actual manure volume from the confinement feeding operation may be used.

65.17(10) *Methods to reduce soil loss and potential surface water pollution.* The manure management plan shall indicate for each field in the plan the crop rotation, tillage practices and supporting practices used to calculate sheet and rill erosion for the phosphorus index. A copy of an NRCS RUSLE2 erosion calculation record shall satisfy this requirement. The plan shall also identify the highly erodible cropland where manure will be applied.

65.17(11) *Spray irrigation.* Requirements contained in subrules 65.3(2) and 65.3(3) regarding the use of spray irrigation equipment to apply manure shall be followed. A plan which has identified spray irrigation equipment as the method of manure application shall identify any additional methods or practices to reduce potential odor, if any other methods or practices will be utilized.

65.17(12) *Current manure management plan.* The owner of a confinement feeding operation who is required to submit a manure management plan shall maintain a current manure management plan at the site of the confinement feeding operation or at a residence or office of the owner or operator of the operation within 30 miles of the site. The plan shall include completed manure sales forms for a confinement feeding operation from which manure is sold. If manure management practices change, a person required to submit a manure management plan shall make appropriate changes consistent with this rule. If values other than the standard table values are used for manure management plan calculations, the source of the values used shall be identified.

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. 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:

a. Factors used to calculate the manure 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 manure.

(5) Phosphorus content of the manure if required in accordance with 65.17(3)*"i."* If an actual sample is used, documentation shall be provided.

b. 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.

c. Maximum allowable manure application rate.

d. Actual manure application information:

(1) Methods of application when manure from the confinement feeding operation was applied.

(2) Date(s) when the manure from the confinement feeding operation was applied.

(3) Location of the field where the manure from the confinement feeding operation was applied, including the number of acres.

(4) The manure application rate.

e. The date(s) and application rate(s) of commercial nitrogen and phosphorus on fields that received manure. 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 manure 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 manure is 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 manure.

f. A copy of the current soil test lab results for each field in the manure management plan.

g. For sales of manure under 65.17(2)*"b,"* record-keeping requirements of 65.17(2)*"b"*(7) shall be followed.

65.17(14) *Record inspection.* The department may inspect a confinement feeding operation at any time during normal working hours and may inspect the manure management plan and any records required to be maintained. As required in Iowa Code section 459.312(12), Iowa Code chapter 22 shall not apply to the records which shall be kept confidential by the department and its agents and employees. The contents of the records are not subject to disclosure except as follows:

a. Upon waiver by the owner of the confinement feeding operation.

b. In an action or administrative proceeding commenced under this chapter. Any hearing related to the action or proceeding shall be closed.

c. When required by subpoena or court order.

65.17(15) *Enforcement action.* An owner required to provide the department a manure management plan pursuant to this rule who fails to provide the department a plan or who is found in violation of the terms and conditions of the plan shall not be subject to an enforcement action other than assessment of a civil penalty pursuant to Iowa Code section 455B.191.

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, 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:

a. Acceptable soil sampling strategies include, but are not limited to, grid sampling, management zone sampling, and soil type sampling. Procedural details can be taken from Iowa State University extension publication PM 287, "Take a Good Soil Sample to Help Make Good Decisions," NCR-13 Report 348, "Soil Sampling for Variable-Rate Fertilizer and Lime Application," or other credible soil sampling publications.

b. Each soil sample must be a composite of at least ten soil cores from the sampling area, with each core containing soil from the top six inches of the soil profile.

c. Each soil sample shall represent no more than ten acres. For fields less than or equal to 15 acres, only one soil sample is necessary.

d. Soil analysis must be performed by a lab enrolled in the IDALS soil testing certification program.

e. The soil phosphorus test method must be an appropriate method for use with the phosphorus index. If soil pH is greater than or equal to 7.4, soil phosphorus data from the Bray-1 extraction method is not acceptable for use with the phosphorus index.

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 NRCS Iowa Technical Note No. 25.

a. The phosphorus index shall be used on each individual field in the manure management plan. The fields must be contiguous and shall not be divided by a public thoroughfare or a water source as each is defined in this chapter. Factors to be considered when a field is defined may include, but are not

limited to, cropping system, erosion rate, soil phosphorus concentration, nutrient application history, and the presence of site-specific soil conservation practices.

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. In all 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.)

c. The average (arithmetic mean) soil phosphorus concentration of a field shall be used in the phosphorus index.

d. Soil phosphorus concentration data is considered valid for use in the phosphorus index if the data is four years old or less and meets the requirements of 65.17(16).

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.

f. The following are the manure application rate requirements for fields that are assigned the phosphorus index site vulnerability ratings below as determined by the NRCS Iowa Technical Note No. 25 to the NRCS 590 standard rounded to the nearest one-hundredth:

(1) Very Low (0-1).

1. Manure shall not be applied in excess of a nitrogen-based rate in accordance with 65.17(18).

2. If, pursuant to 65.17(19), manure is applied at phosphorus-based rates within soil sampling periods on fields in the Very Low risk category, each soil sample may represent up to 20 acres for the next required soil sampling.

(2) Low (>1-2).

1. Manure shall not be applied in excess of a nitrogen-based rate in accordance with 65.17(18).

2. If, pursuant to 65.17(19), manure is applied at phosphorus-based rates within soil sampling periods on fields in the Low risk category, each soil sample may represent up to 20 acres for the next required soil sampling.

(3) Medium (>2-5).

1. Manure may be applied at a nitrogen-based rate in accordance with 65.17(18) if current or planned soil conservation and phosphorus management practices predict the rating of the field to be not greater than 5 for the next determination of the phosphorus index as required by 65.17(17)*"h"*(3).

2. Manure shall not be applied in excess of two times the phosphorus removed with crop harvest over the period of the crop rotation.

3. If, pursuant to 65.17(19), manure is applied at phosphorus-based rates within soil sampling periods on fields in the Medium risk category, each soil sample may represent up to 20 acres for the next required soil sampling.

(4) High (>5-15). Manure shall not be applied on a field with a rating greater than 5 and less than or equal to 15 until practices are adopted which reduce the phosphorus index to at least the Medium risk category.

(5) Very High (>15). Manure shall not be applied on a field with a rating greater than 15.

g. Additional commercial fertilizer may be applied as follows on fields receiving manure:

(1) Phosphorus fertilizer may be applied in addition to phosphorus provided by the manure up to amounts recommended by soil tests and Iowa State University extension publication PM 1688, "General Guide for Crop Nutrient Recommendations in Iowa."

(2) Nitrogen fertilizer may be applied in addition to nitrogen provided by the manure to meet the remaining nitrogen need of the crop as calculated in the current manure management plan. Additional nitrogen fertilizer may be applied up to the amounts indicated by soil test nitrogen results or crop nitrogen test results as necessary to obtain the optimum crop yield.

h. Updating the phosphorus index.

(1) When any inputs to the phosphorus index change, an operation shall recalculate the phosphorus index and adjust the application rates if necessary.

(2) If additional land becomes available for manure application, the phosphorus index shall be calculated to determine the manure application rate before manure is applied.

(3) An operation must submit a complete manure management plan using a new phosphorus index, including soil sampling as required in subrule 65.17(16), for each field in the manure management plan a minimum of once every four years.

65.17(18) *Requirements for application of a nitrogen-based manure rate to a field.*

a. Nitrogen-based application rates shall be based on the total nitrogen content of the manure unless the calculations are submitted to show that nitrogen crop usage rates based on plant-available nitrogen have not been exceeded for the crop schedule submitted.

b. The correction factor for nitrogen losses shall be determined for the method of application by the following or from other credible sources for nitrogen volatilization correction factors.

Knifed in or soil injection of liquids	0.98
Surface-apply liquid or dry with incorporation within 24 hours	0.95
Surface-apply liquid or dry with incorporation after 24 hours	0.80
Surface-apply liquids with no incorporation	0.75
Surface-apply dry with no incorporation	0.70
Irrigated liquids with no incorporation	0.60

c. Nitrogen-based application rates shall be based on the optimum crop yields as determined in 65.17(6) and crop nitrogen usage rate factor values in Table 4 at the end of this chapter or other credible sources. However, subject to the prohibition in 65.17(20), liquid manure applied to land that is currently planted to soybeans or to land where the current crop has been harvested and that will be planted to soybeans the next crop season shall not exceed 100 pounds of available nitrogen per acre. Further, the 100 pounds per acre application limitation in the previous sentence does not apply on or after June 1 of each year; in that event 65.17(6) and Table 4 would apply as provided in the first sentence of this paragraph.

d. A nitrogen-based manure rate shall account for legume production in the year prior to growing corn or other grass crops and shall account for any planned commercial fertilizer application.

65.17(19) *Requirements for application of a phosphorus-based manure rate to a field.*

a. Phosphorus removal by harvest for each crop in the crop schedule shall be determined using the optimum crop yield as determined in 65.17(6) and phosphorus removal rates of the harvested crop from Table 4a at the end of this chapter or other credible sources. Phosphorus crop removal shall be determined by multiplying optimum crop yield by the phosphorus removal rate of the harvested crop.

b. Phosphorus removal by the crop schedule shall be determined by summing the phosphorus crop removal values determined in 65.17(19)*"a"* for each crop in the crop schedule.

c. The phosphorus applied over the duration of the crop schedule shall be less than or equal to the phosphorus removed with harvest during that crop schedule as calculated in 65.17(19)*"b"* unless additional phosphorus is recommended by soil tests and Iowa State University extension publication PM 1688, "General Guide for Crop Nutrient Recommendations in Iowa."

d. Additional requirements for phosphorus-based rates.

(1) No single manure application shall exceed the nitrogen-based rate of the planned crop receiving the particular manure application.

(2) No single manure application shall exceed the rate that applies to the expected amount of phosphorus removed with harvest by the next four anticipated crops in the crop schedule.

e. If the actual crop schedule differs from the planned crop schedule, then any surplus or deficit of phosphorus shall be accounted for in the subsequent manure application.

f. Phosphorus in manure should be considered 100 percent available unless soil phosphorus concentrations are below optimum levels for crop production. If soil phosphorus concentrations are

below optimum levels for crop production phosphorus availability, values suggested in Iowa State University extension publication PMR 1003, "Using Manure Nutrients for Crop Production" or other credible sources shall be used.

65.17(20) *Liquid manure on land planted to soybeans.* Rescinded IAB 11/9/16, effective 12/14/16.
[**ARC 8120B**, IAB 9/9/09, effective 10/14/09; **ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.18(459,459B) Construction certification. A confinement feeding operation which obtains a construction permit after March 20, 1996, shall submit to the department a construction certification according to the following:

65.18(1) For a confinement feeding operation that is below the threshold requirements for an engineer as defined in 567—65.1(459,459B), prior to using a permitted confinement feeding operation structure, the person responsible for constructing a formed manure storage structure or the permittee shall submit to the department a construction certification, as specified in the construction permit.

65.18(2) For a confinement feeding operation that uses an unformed manure storage structure or an egg washwater storage structure, or an operation that meets or exceeds the threshold requirements for an engineer as defined in 567—65.1(459,459B), a certification from a licensed professional engineer that the confinement feeding operation structure was:

a. Constructed in accordance with the design plan. Any changes to the approved plans must first be authorized by the department and must include a certification that the proposed changes are consistent with the standards of these rules or statute;

b. Supervised by the licensed professional engineer or a designee of the engineer during critical points of the construction. A designee shall not be the permittee, owner of the confinement feeding operation, a direct employee of the permittee or owner, or the contractor or an employee of the contractor;

c. Inspected by the licensed professional engineer after completion of construction and before commencement of operation; and

d. Constructed in accordance with the drainage tile removal standards of subrule 65.15(1), and including a report of the findings and actions taken to comply with subrule 65.15(1).
[**ARC 8998B**, IAB 8/11/10, effective 9/15/10]

567—65.19(459,459B) Manure applicators certification.

65.19(1) A commercial manure service or a commercial manure service representative shall not transport, handle, store or apply dry or liquid manure to land unless the person is certified. A confinement site manure applicator shall not apply dry or liquid manure to land unless the person is certified. A person is not required to be certified as a confinement site manure applicator if the person applies manure which originates from a manure storage structure which is part of a small animal feeding operation. Certification of a commercial manure service representative under this rule will also satisfy the commercial license requirement under 567—Chapter 68 only as it applies to manure removal and application. Each person who operates a manure applicating vehicle or equipment must be certified individually except as allowed in subrule 65.19(7).

65.19(2) Fees.

a. *Commercial manure service.* The fee for a new or renewed certification of a service is $200. The commercial manure service shall designate one manager for the service and shall provide the department with documentation of the designation.

b. *Commercial manure service representative.* The fee for a new or renewed representative certification is $75. The manager of a commercial manure service must be certified as a commercial manure service representative, but is exempt from paying the $75 certification fee.

c. *Confinement site manure applicator.* The fee for a new or renewed certification is $100. However, the fee is not required if all of the following apply:

(1) The person indicates that the person is a family member as defined in this chapter by submitting a completed form provided by the department;

(2) The person is certified as a confinement site manure applicator within one year of the date another family member was certified or whose certification as a confinement site manure applicator was renewed;

(3) The other family member certified as a confinement site manure applicator has paid the certification fee.

d. *Educational fee.* Commercial manure service representatives, managers and confinement site manure applicators shall pay an educational fee to be determined annually by the department.

e. *Late fee.* Renewal applications received after March 1 require that an additional $12.50 fee be paid before the certification is renewed. An application is considered to be received on the date it is postmarked.

f. *Duplicate certificate.* The fee for a duplicate certificate is $15.

65.19(3) Certification requirements. To be certified by the department as a commercial manure service, a commercial manure service representative or a confinement site manure applicator, a person must do all of the following:

a. Apply for certification on a form provided by the department.

b. Pay the required fees set forth in subrule 65.19(2).

c. Pass the examination given by the department or, in lieu of the examination, attend continuing instruction courses as described in subrule 65.19(6).

65.19(4) Certification term, renewal and grace period.

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. 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.

b. *Renewal.* Application for renewal of a commercial manure service certification or a commercial manure service representative certification must be received by the department no later than March 1 of the year the certification expires. Application for renewal of a confinement site manure applicator certification must be received by the department or postmarked no later than March 1 after the year the certification expires. Application shall be on forms provided by the department and shall include:

(1) Certification renewal and educational fees.

(2) A passing grade on the certification examination or proof of attending the required hours of continuing instructional courses.

c. *Substitution of employees.* If a commercial manure service pays the certification fee for a representative, the service may substitute representatives. The substituted representative must be certified pursuant to 65.19(3). The service shall provide documentation to the department, on forms provided by the department, that the substitution is valid.

d. *Grace period.* Except as provided in this paragraph, a commercial manure service, a commercial manure service representative or a confinement site manure applicator may not continue to apply manure after expiration of a certificate. A confinement site manure applicator may continue to apply manure until March 1 following the year the certification expires, provided a complete renewal application, as provided in paragraph *"b,"* is postmarked or received by the department prior to March 1. Commercial manure services and representatives must submit an application for certification renewal by March 1 of each year.

65.19(5) Examinations.

a. A person wishing to take the examination required to become a certified commercial manure service representative or certified confinement site manure applicator may request an appointment. The applicant must have a photo identification card at the time of taking the examination.

b. If a person fails the examination, the person may retake the examination, but not on the same business day.

c. Upon written request by an applicant, the director will consider the presentation of an oral examination on an individual basis when the applicant has failed the written examination at least twice;

and the applicant has shown difficulty in reading or understanding written questions but may be able to respond to oral questioning.

65.19(6) Continuing instruction courses in lieu of examination.

a. To establish or maintain certification, between March 1 and March 1 of the next year, a commercial manure service representative must each year either pass an examination or attend three hours of continuing instructional courses.

b. To establish or maintain certification, a confinement site manure applicator must either pass an examination every three years or attend two hours of continuing instructional courses each year. A confinement site manure applicator who chooses to attend instructional courses but fails to attend instructional courses each year must pass an examination as provided in subrule 65.19(5) to maintain certification.

65.19(7) Exemption from certification.

a. Certification as a commercial manure service representative is not required of a person who is any of the following:

(1) Actively engaged in farming and who trades work with another such person.

(2) Employed by a person actively engaged in farming not solely as a manure applicator but who applies manure as an incidental part of the person's general duties.

(3) Engaged in applying manure as an incidental part of a custom farming operation.

(4) Engaged in applying manure as an incidental part of the person's duties.

(5) Applying, transporting, handling or storing manure within a period of 30 days from the date of initial employment as a commercial manure service representative if the person applying the manure is acting under direct instructions and control of a certified commercial manure service representative who is physically present at the manure application site by being in sight or immediate communication distance of the supervised person where the certified commercial service representative can communicate with the supervised person at all times.

(6) Employed by a research college to apply manure from animal feeding operations that are part of the research activities or experiments of the research college.

b. Certification as a confinement site manure applicator is not required of a person who is either of the following:

(1) A part-time employee or family member of a confinement site manure applicator and is acting under direct instruction and control of a certified confinement site manure applicator who is physically present at the manure application site by being in sight or hearing distance of the supervised person where the certified confinement site manure applicator can physically observe and communicate with the supervised person at all times.

(2) Employed by a research college to apply manure from an animal feeding operation that is part of the research activities or experiments of the research college.

65.19(8) Certified commercial manure services have the following obligations:

a. Maintain the following records of manure disposal operations for a period of three years:

(1) A copy of instructions for manure application provided by the owner of the animal feeding operation.

(2) Dates that manure was applied or sold.

(3) The manure application rate.

(4) Location of fields where manure was applied.

b. Comply with the provisions of the manure management plan (MMP) prepared for the confinement feeding operation and the requirements of 567—65.2(459,459B) and 567—65.3(459,459B). If a manure management plan does not exist, the requirements of 567—65.2(459,459B) and 567—65.3(459,459B) must still be met.

c. Any tanks or equipment used for hauling manure shall not be used for hauling hazardous or toxic wastes, as defined in 567—Chapter 131, or other wastes detrimental to land application and shall not be used in a manner that would contaminate a potable water supply or endanger the food chain or public health.

d. Pumps and associated piping on manure handling equipment shall be installed with watertight connections to prevent leakage.

e. Any vehicle used by a certified commercial manure service or commercial manure service representative to transport manure on a public road shall display the certification number of the commercial manure service with three-inch or larger letters and numbers on the side of the tank or vehicle. The name and address of the certified commercial manure service representative designated as the manager shall also be prominently displayed on the side of the tank or vehicle.

f. Direct connection shall not be made between a potable water source and the tank or equipment on the vehicle.

65.19(9) Discipline of certified applicators.

a. Disciplinary action may be taken against a certified commercial manure service, a commercial manure service representative or a confinement site manure applicator on any of the following grounds:

(1) Violation of state law or rules applicable to a certified commercial manure service, a commercial manure service representative, or a confinement site manure applicator or the handling or application of manure.

(2) Failure to maintain required records of manure application or other reports required by this rule.

(3) Knowingly making any false statement, representation, or certification on any application, record, report or document required to be maintained or submitted under any applicable permit or rule of the department.

b. Disciplinary sanctions allowable are:

(1) Revocation of a certificate.

(2) Probation under specified conditions relevant to the specific grounds for disciplinary action. Additional training or reexamination may be required as a condition of probation.

c. The procedure for discipline is as follows:

(1) The director shall initiate disciplinary action.

(2) Written notice shall be given to an applicator against whom disciplinary action is being considered. The notice shall state the informal and formal procedures available for determining the matter. The applicator shall be given 20 days to present any relevant facts and indicate the person's position in the matter and to indicate whether informal resolution of the matter may be reached.

(3) An applicator who receives notice shall communicate verbally or in writing or in person with the director, and efforts shall be made to clarify the respective positions of the applicator and director.

(4) Failure to communicate facts and position relevant to the matter by the required date may be considered when determining appropriate disciplinary action.

(5) If agreement as to appropriate disciplinary sanction, if any, can be reached with the applicator and the director, a written stipulation and settlement between the department and the applicator shall be entered. The stipulation and settlement shall recite the basic facts and violations alleged, any facts brought forth by the applicator, and the reasons for the particular sanctions imposed.

(6) If an agreement as to appropriate disciplinary action, if any, cannot be reached, the director may initiate formal hearing procedures. Notice and formal hearing shall be in accordance with 561—Chapter 7 related to contested and certain other cases pertaining to license discipline.

65.19(10) Revocation of certificates.

a. Upon revocation of a certificate, application for commercial manure service representative or confinement site applicator certification may be allowed after two years from the date of revocation. Any such applicant must successfully complete an examination and be certified in the same manner as a new applicant.

b. Upon revocation of a certificate, application for a commercial manure service certification may be allowed after three years from the date of revocation. Any such applicant must successfully complete an examination and be certified in the same manner as a new applicant.

65.19(11) Record inspection. The department may inspect, with reasonable notice, the records maintained by a commercial manure service. If the records are for an operation required to maintain records to demonstrate compliance with a manure management plan, the confidentiality provisions

of subrule 65.17(14) and Iowa Code section 459.312 shall extend to the records maintained by the commercial manure service.

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.20(459,459B) Manure storage indemnity fund. The manure storage indemnity fund created in Iowa Code section 459.501 will be administered by the department. Moneys in the fund shall be used for the exclusive purpose of administration of the fund and the cleanup of eligible facilities at confinement feeding operation sites.

65.20(1) *Eligible facility site.* The site of a confinement feeding operation which contains one or more animal feeding operation structures is an eligible site for reimbursement of cleanup costs if one of the following conditions exists:

a. A county has acquired title to real estate containing the confinement feeding operation following nonpayment of taxes and the site includes a manure storage structure which contains stored manure or site contamination originating from the confinement feeding operation.

b. A county or the department determines that the confinement feeding operation has caused a clear, present and impending danger to the public health or environment.

65.20(2) *Site cleanup.* Site cleanup includes the removal and land application or disposal of manure from an eligible facility site according to manure management procedures approved by the department. Cleanup may include remediation of documented contamination which originates from the confinement feeding operation. Cleanup may also include demolishing and disposing of animal feeding operation structures if their existence or further use would contribute to further environmental contamination and their removal is included in a cleanup plan approved by the department. Buildings and equipment must be demolished or disposed of according to rules adopted by the department in 567—Chapter 101 which apply to the disposal of farm buildings or equipment by an individual or business organization.

65.20(3) *Claims against the fund.* Claims for cleanup costs may be made by a county which has acquired real estate containing an eligible facility site pursuant to a tax deed. A county claim shall be signed by the chairperson of the county board of supervisors. Cleanup may be initiated by the department or may be authorized by the department based on a claim by a county.

a. *Advance notice of claim.* Prior to or after acquiring a tax deed to an eligible facility site, a county shall notify the department in writing of the existence of the facility and the title acquisition. The county shall request in this notice that the department evaluate the site to determine whether the department will order or initiate cleanup pursuant to its authority under Iowa Code chapter 455B.

b. *Emergency cleanup condition.* If a county determines that there exists at a confinement feeding operation site a clear, present and impending danger to the public health or environment, the county shall notify the department of the condition. The danger should be documented as to its presence and the necessity to avoid delay due to its increasing threat. If no cleanup action is initiated by the department within 24 hours after being notified of an emergency condition requiring cleanup, the county may provide cleanup and submit a claim against the fund.

65.20(4) *Contents of a claim against the fund.*

a. A county claim against the fund for an eligible site acquired by a county following nonpayment of taxes shall be submitted to the department for approval prior to the cleanup action and shall contain the following information:

(1) A copy of the advance notice of claim as described in paragraph 65.20(3)*"a."*

(2) A copy of a bid by a qualified person, other than a governmental entity, to perform a site cleanup. The bid shall include a summary of the qualifications of the bidder including but not limited to prior experience in removal of hazardous substances or manure, experience in construction of confinement feeding operation facilities or manure storage structures, equipment available for conducting the cleanup, or any other qualifications bearing on the ability of the bidder to remove manure from a site. The bid must reference complying with a cleanup plan. The bid shall include a certification that the bidder has liability insurance in an amount not less than $1 million.

(3) A copy of the tax deed to the real estate containing the eligible facility site.

(4) Name and address, if known, of the former owner(s) of the site. The claim shall also include a description of any efforts to contact the former owner regarding the removal of manure and any other necessary cleanup at the site.

(5) A response to the request in the advance notice described in paragraph 65.20(3)*"a"* that the department will not initiate cleanup action at the site, or that 60 days have passed from the advance notice and request.

(6) A proposed cleanup plan describing all necessary activity including manure to be removed, application rates and sites, any planned remediation of site contamination, and any structure demolition and justification.

b. A county claim against the fund for an emergency cleanup condition may be submitted following the cleanup and shall contain the following information:

(1) A copy of a bid as described in subparagraph 65.20(4)*"a"*(2).

(2) Name and address of the owner(s), or former owner(s), of the site or any other person who may be liable for causing the condition.

(3) Information on the response from the department to the notice given as described in paragraph 65.20(3)*"b,"* or if none was received, documentation of the time notice was given to the department.

(4) A cleanup plan or description of the cleanup activities performed.

65.20(5) *Department processing of claims against the fund.*

a. Processing of claims. The department will process claims in the order they are received.

b. The cleanup plan will be reviewed for acceptability to accomplish necessary actions according to subrule 65.20(2).

c. Review of bid. Upon receipt of a claim, the department will review the bid accompanying the claim. The department may consult with any person in reviewing the bid. Consideration will be given to the experience of the bidder, the bid amount, and the work required to perform the cleanup plan. If the department is satisfied that the bidder is qualified to perform the cleanup and costs are reasonable, the department will provide written approval to the county within 60 days from the date of receipt of the claim.

d. Obtaining a lower bid. If the department determines that it should seek a lower bid to perform the cleanup, it may obtain the names of qualified persons who may be eligible to perform the cleanup. One or more of those persons will be contacted and invited to view the site and submit a bid for the cleanup. If a lower bid is not received, the original bid may be accepted. If a bid is lower than the original bid submitted by the county, the department will notify the county that it should proceed to contract with that bidder to perform the cleanup.

65.20(6) *Certificate of completion.* Upon completion of the cleanup, the county shall submit a certificate of completion to the department. The certificate of completion shall indicate that the manure has been properly land-applied according to the cleanup plan and that any site contamination identified in the approved cleanup plan has been remediated and any approved structure demolition has been performed.

65.20(7) *Payment of claims.* Upon receipt of the certificate of completion, the department shall promptly authorize payment of the claim as previously approved. Payments will be made for claims in the order of receipt of certificates of completion.

65.20(8) *Subrogation.* The fund is subrogated to all county rights regarding any claim submitted or paid as provided in Iowa Code section 459.505.

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10]

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.
[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.22(459,459B) Validity of rules. If any part of these rules is declared unconstitutional or invalid for any reason, the remainder of said rules shall not be affected thereby and shall remain in full force and effect, and to that end, these rules are declared to be severable.
[**ARC 8998B**, IAB 8/11/10, effective 9/15/10]

These rules are intended to implement Iowa Code sections 455B.101, 455B.103, 455B.134(3)*"f,"* and 455B.171; Iowa Code chapter 459; and 2009 Iowa Acts, House File 735 and Senate File 432.

567—65.23 to **65.99** Reserved.

DIVISION II
OPEN FEEDLOT OPERATIONS

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.
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 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.

"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.

"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 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 website;

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 website; and

e. Spill line telephone number is (515)725-8694.

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

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).

65.101(1) All settleable solids from open feedlot effluent shall be removed prior to discharge into a water of the state.

a. The settleable solids shall be removed by use of a solids settling facility. The construction of a solids settling facility is not required where existing site conditions provide for removal of settleable solids prior to discharge into a water of the state.

b. The removal of settleable solids shall be deemed to have occurred when the velocity of flow of the open feedlot effluent has been reduced to less than 0.5 feet per second for a minimum of five minutes. A solids settling facility shall have sufficient capacity to store settleable solids between periods of land application and to provide required flow-velocity reduction for open feedlot effluent flow volumes resulting from a precipitation event of less intensity than a ten-year, one-hour frequency event. A solids settling facility which receives open feedlot effluent shall provide a minimum of one square foot of surface area for each eight cubic feet of open feedlot effluent per hour resulting from a ten-year, one-hour frequency precipitation event.

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 the open feedlot operation is designed, constructed, operated, and maintained to comply with the requirements of 567—subrule 62.4(12) and 40 CFR Part 412.

b. If the open feedlot operation is designed, constructed, and operated in accordance with the requirements of 567—subrule 62.4(12) and in accordance with any of the manure control alternatives listed in Appendix A of these rules or the AT system requirements in rule 567—65.110(459A), the operation shall be considered to be in compliance with this rule, unless a discharge from the operation causes a violation of state water quality standards. If water quality standards violations occur, the department may impose additional open feedlot effluent control requirements upon the operation, as specified in subrule 65.101(3).

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 CAFO, or a designated CAFO,

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.

65.101(4) Alternative control practices. If, because of topography or other factors related to the site of an open feedlot operation, it is economically or physically impractical to comply with open feedlot effluent control requirements using an open feedlot control method in subrule 65.101(2), the department shall allow an open feedlot operation covered by the NPDES permit application requirements of 567—65.102(455B,459A) or 567—65.103(455B,459A) to use other open feedlot effluent control practices, provided the open feedlot operation satisfactorily demonstrates by appropriate methods that those practices will provide an equivalent level of open feedlot effluent control that would be achieved by using an open feedlot control method as provided in 65.101(2).

65.101(5) No direct discharge of open feedlot effluent shall be allowed from an open feedlot operation into a publicly owned lake, a known sinkhole, or an agricultural drainage well.

65.101(6) Land application.

a. General requirements. Open feedlot effluent shall be land-applied in a manner which will not cause pollution of surface water or groundwater. Application in accordance with the provisions of state law and the rules in this chapter shall be deemed as compliance with this requirement.

b. Designated areas. A person shall not apply manure on land within 200 feet from a designated area or, in the case of a high-quality water resource, within 800 feet, unless one of the following applies:

(1) The manure is land-applied by injection or incorporation on the same date as the manure was land-applied.

(2) An area of permanent vegetation cover, including filter strips and riparian forest buffers, exists for 50 feet surrounding the designated area other than an unplugged agricultural drainage well or surface intake to an unplugged agricultural drainage well, and the area of permanent vegetation cover is not subject to manure application.

c. CAFOs.

(1) Land application discharges from a CAFO are subject to NPDES permit requirements. The discharge of manure, process wastewater, settled open feedlot effluent, settleable solids and open feedlot effluent to waters of the United States from a CAFO as a result of the application of that manure, process wastewater, settled open feedlot effluent, settleable solids and open feedlot effluent by the CAFO to land areas under its control is a discharge from that CAFO subject to NPDES permit requirements, except where the discharge is an agricultural storm water discharge as provided in 33 U.S.C. 1362(14). For the purpose of this paragraph, where the manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent has been applied in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, process wastewater, settled open feedlot effluent, settleable solids and open feedlot effluent as specified in 65.112(8), a precipitation-related discharge of manure, process wastewater, settled open feedlot effluent, settleable solids and open feedlot effluent from land areas under the control of a CAFO is an agricultural storm water discharge.

(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).

65.101(7) The owner of an open feedlot operation who discontinues the use of the operation shall remove and land-apply in accordance with state law all manure, process wastewater and open feedlot effluent from the open feedlot operation structures as soon as practical but not later than six months following the date the open feedlot operation is discontinued. The owner of a CAFO shall maintain

compliance with all requirements in the CAFO's NPDES permit until all manure, process wastewater and open feedlot effluent has been removed and land-applied pursuant to the CAFO's NMP.

65.101(8) Stockpiling of scraped solids and settleable solids. Stockpiles of solids scraped from open feedlot operations and stockpiles of settleable solids shall comply with the following requirements.

a. Stockpiles must be land-applied in accordance with subrule 65.101(6) 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.

65.101(9) A release, as defined in rule 567—65.100(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'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. Verbal report. The verbal report of such a release should provide information on as many items listed in 65.101(9)*"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.

(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, open feedlot effluent, settled open feedlot effluent or settleable solids allegedly released (e.g., settled open feedlot effluent basin).

(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) 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.

[**ARC 8120B**, IAB 9/9/09, effective 10/14/09; **ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 1627C**, IAB 9/17/14, effective 10/22/14; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

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.

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.103(455B,459A) Departmental evaluation; CAFO designation; remedial actions.

65.103(1) The department may evaluate any animal feeding operation that is not defined as a large or medium CAFO, and designate it as a CAFO if, after an on-site inspection, it is determined to be a significant contributor of manure or process wastewater to waters of the United States. In making this determination, the department shall consider the following factors:

a. The size of the operation and the amount of manure or process wastewater reaching waters of the United States;

b. The location of the operation relative to waters of the United States;

c. The means of conveyance of manure or process wastewater to waters of the United States;

d. The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of manure or process wastewater into waters of the United States; and

e. Other relevant factors.

65.103(2) No animal feeding operation with an animal capacity less than that specified for a medium CAFO shall be designated as a CAFO unless manure or process wastewater from the operation is discharged into a water of the United States:

a. Through a man-made ditch, flushing system, or other similar man-made device; or

b. Which originates outside of and passes over, across or through the facility or otherwise comes into direct contact with animals confined in the operation.

65.103(3) The owner or operator of a designated CAFO shall apply for an NPDES permit no later than 90 days after receiving written notice of the designation.

65.103(4) If departmental evaluation determines that any of the conditions listed in paragraph 65.103(4)*"a," "b,"* or *"c"* exist, the open feedlot operation shall institute necessary remedial actions within a time specified by the department to eliminate the conditions warranting the determination, if the operation receives a written notification from the department of the need to correct the conditions.

a. Settled open feedlot effluent, settleable solids from the open feedlot operation, or open feedlot effluent is being discharged into a water of the state and the operation is not providing the applicable minimum level of manure control as specified in rule 567—65.101(459A);

b. Settled open feedlot effluent, settleable solids from the open feedlot operation, or open feedlot effluent is causing or may reasonably be expected to cause pollution of a water of the state; or

c. Settled open feedlot effluent, settleable solids from the open feedlot operation, or open feedlot effluent is causing or may reasonably be expected to cause a violation of state water quality standards.

[1]**65.103(5)** The department may evaluate any proposed open feedlot operation or proposed expansion of an open feedlot operation that requires a construction permit with respect to its potential adverse impacts on natural resources or the environment. For the purpose of this subrule, open feedlot effluent includes manure, process wastewater, settled open feedlot effluent and settleable solids.

a. In conducting the evaluation, the department shall consider the following factors:

(1) The likelihood open feedlot effluent will be applied to frozen or snow-covered cropland.

(2) The proximity of the open feedlot operation structures or open feedlot effluent application areas to sensitive areas, including but not limited to publicly owned land, designated areas, trout streams and karst terrain.

(3) Topography, slope, vegetation, potential means or routes of conveyance of open feedlot effluent spilled or land-applied. This factor includes but is not limited to whether the open feedlot effluent application areas involve cropland with predominant slopes greater than 9 percent without a conservation plan approved by the local soil and water conservation district or its equivalent and whether open feedlot effluent for land application is hauled or otherwise transported more than five miles.

(4) Whether the operation or open feedlot effluent application area is or will be located in a two-year capture zone for a public water supply.

b. In addition to the requirements in rules 567—65.105(459A), 567—65.109(459A) and 567—65.112(459A), the department may deny a construction permit, disapprove a nutrient management plan or prohibit construction of the proposed operation at the proposed location if the director determines from the evaluation conducted pursuant to this subrule that the operation would reasonably be expected to result in any of the following impacts:

(1) Open feedlot effluent from the operation will cause pollution of a water of the state.

(2) Open feedlot effluent from the operation will cause a violation of state water quality standards.

(3) An adverse effect on natural resources or the environment will occur in a specific area due to the current concentration of animal feeding operations or the associated open feedlot effluent application areas.

c. The department also may establish permit conditions or require amendments to the nutrient management plan in addition to the minimum requirements established for such operations, on the location of structures or open feedlot effluent application, or other operational conditions necessary to avoid or minimize the adverse impacts.

d. A construction permit denial or condition, a nutrient management plan disapproval or required amendment, or a prohibition of construction pursuant to this subrule may be appealed according to the contested case procedures set forth in 561—Chapter 7.

[1] Objection to 65.103(5) filed by the Administrative Rules Review Committee October 10, 2006. See text of Objection at end of Chapter 65.

567—65.104(455B,459A) NPDES permits.

65.104(1) *Existing animal feeding operations holding an NPDES permit.* Animal feeding operations which hold a valid NPDES permit issued prior to September 14, 2005, are not required to reapply for an NPDES permit. However, the operations are required to apply for permit renewal in accordance with subrule 65.104(10).

65.104(2) *Existing animal feeding operations not holding an NPDES permit.* Animal feeding operations in existence prior to April 14, 2003, which were defined as CAFOs under rules that were in effect prior to April 14, 2003, but which have not obtained a permit, should have applied for an NPDES permit by April 14, 2003. Animal feeding operations in existence on April 14, 2003, which were not defined as CAFOs under rules that were in effect prior to April 14, 2003, shall apply for an NPDES permit no later than July 31, 2007.

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.

65.104(5) *Permits required as a result of departmental designation.* An animal feeding operation which is required to apply for an NPDES permit as a result of departmental designation (in accordance with the provisions of 567—65.103(455B,459A)) shall apply for an NPDES permit within 90 days of receiving written notification of the need to obtain a permit. Once application has been made, the animal feeding operation is authorized to continue to operate without a permit until the application has either been approved or disapproved by the department, provided that the owner or operator has submitted all requested information and promptly taken all steps necessary to obtain coverage.

65.104(6) *Voluntary permit applications.* Rescinded IAB 11/9/16, effective 12/14/16.

65.104(7) *Application forms and requirements.* An application for an NPDES permit shall be made on a form provided by the department. The application shall be complete and shall contain information required by the department. Applications shall include a nutrient management plan as required in rule 567—65.112(459A). Applications involving AT systems shall include results of predictive computer modeling as required by 65.110(6)*"a."* The application shall be signed by the person who is legally responsible for the animal feeding operation and its associated manure or process wastewater control system.

65.104(8) *Compliance schedule.* When necessary to comply with a standard which must be met at a future date, an NPDES permit shall include a schedule for modification of the permitted facility to meet the standard. The schedule shall not relieve the permittee of the duty to obtain a construction permit pursuant to rule 567—65.105(459A).

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 Iowa Code 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. CAFOs that seek to obtain coverage under an NPDES permit shall have a nutrient management plan developed and implemented upon the date of permit coverage.

b. *Inspections and record keeping.*

(1) Visual inspections. Routine visual inspections of the CAFO production area must be conducted. At a minimum the following must be visually inspected:

1. Weekly inspections of all storm water diversion, runoff diversion structures, and devices channelling contaminated storm water to the open feedlot structure.

2. Daily inspection of water lines, including drinking water or cooling water lines.

(2) Corrective actions. Any deficiencies found as a result of the inspections required in 65.104(9)*"b"*(1) or as a result of the liquid level reporting required in 65.104(9)*"e"* must be corrected as soon as possible.

(3) The following records must be maintained on site for a period of five years from the date they are created and must be made available to the department upon request:

1. Records documenting the inspections required in 65.104(9)*"b"*(1).

2. Records of weekly liquid level observations as required in 65.104(9)*"e."*

3. Records documenting any actions taken to correct deficiencies as required in 65.104(9)*"b"*(2).

c. Large CAFOs—transfer of manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent. Prior to transferring manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent to other persons, a large CAFO must provide the recipient of the manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent with the most current nutrient analysis. A large CAFO must retain for five years records of the date, recipient name and address, nutrient analysis and approximate amount of manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent transferred to another person.

d. Minimum monitoring requirements for AT systems. During the first five years of operation of an AT system, the following minimum monitoring will be required:

(1) Discharge monitoring. An effluent collection point must be established at the outlet of the AT system, and the flow volume recorded and an effluent sample collected on each day a discharge from the AT system occurs. Discharge samples must be submitted to a certified laboratory and analyzed for: total Kjeldahl N, NH4 N, total P, COD, total suspended solids, and chloride.

(2) Discharge monitoring—tile lines. If the AT system includes a tile system installed to enhance infiltration within the VTA in accordance with 65.110(6)*"h"* or 65.110(7)*"h,"* water samples shall be collected from a sampling point located downgradient of the VTA on each individual tile line or combination of tile lines on the following schedule:

1. Quarterly sampling. One sample shall be taken from each sampling point once each quarter (January - March, April - June, July - September, October - December), and the level of flow in the tile system recorded at the time of sampling. The sample shall be collected at least ten days after a rainfall event of one inch or greater; and samples must be taken at least two, but not more than four, months apart. If there is no discharge from the tile line at a time that meets these requirements, documentation on appropriate department forms can be substituted for the sample and analysis. Collected samples shall be submitted to a certified laboratory and analyzed for: total Kjeldahl N, NH4 N, total P, COD, total suspended solids, and chloride.

2. Event sampling. Each year, two rainfall event related tile flow samples shall be collected from each sampling point. For each sampling event, one sample shall be taken from each sampling point three to five days following a rainfall event of one inch or greater, and the level of flow in the tile system recorded at the time of sampling. Collected samples shall be submitted to a certified laboratory and analyzed for: total Kjeldahl N, NH4 N, total P, COD, total suspended solids, and chloride.

(3) Groundwater monitoring. A minimum of two groundwater monitoring wells or piezometers (one upgradient and one downgradient) must be established at each AT system. Additional wells or piezometers may be required if the department determines they are necessary to adequately assess the impacts the AT system is having on groundwater. Samples must be collected from these wells quarterly and analyzed for: NH4 N, NO3 N, and chloride.

(4) Soil sampling.

1. Initial and permit renewal sampling. Soil sampling shall be conducted prior to initial discharge of open feedlot effluent into the AT system and repeated prior to renewal of the NPDES permit, as outlined below:

- VTA. A minimum of two sampling sites shall be established within each VTA cell, one located where runoff enters the VTA and one where runoff is discharged from the VTA. Soil samples shall be taken from these sites to a depth of 4 feet, with separate samples taken to represent the 0 to 6-inch depth, the 6- to 12-inch depth, and in one-foot increments thereafter. All samples shall be analyzed for NO3 N, NH4 N, P by either the Olsen or Mehlich-3 method, and pH.

If the length of effluent flow through the VTA exceeds 400 feet, an additional soil sample representing the 0 to 6-inch depth should be taken for each additional 200 feet of VTA length. Samples shall be analyzed for NO3 N, NH4 N, P by either the Olsen or Mehlich-3 method, and pH.

- VIB. One sampling site shall be established where open feedlot effluent enters the VIB. Soil samples at this site shall be taken to a depth of 4 feet, with separate samples taken to represent the 0

to 6-inch depth, the 6- to 12-inch depth, and in one-foot increments thereafter. These samples shall be analyzed for NO3 N, NH4 N, P by either the Olsen or Mehlich-3 method, and pH.

An additional sampling site shall be established where open feedlot effluent is discharged from the VIB through the tile system. Soil samples shall be taken at this site to represent the 0 to 6-inch depth, and analyzed for NO3 N, NH4 N, P by either the Olsen or Mehlich-3 method, and pH.

2. Annual sampling. One sampling site shall be established in each cell of a VTA and VIB in an area which is expected to receive the greatest amount of open feedlot effluent. Soil samples shall be taken from each site prior to initiating discharge of open feedlot effluent into the VTA or VIB and shall be repeated annually. Each sample shall represent a composite of 10 to 12 individual samples taken to a 6-inch depth, and analyzed for P using either the Olsen or Mehlich-3 method and for pH.

Monitoring requirements for an AT system following the initial two-year operation period will be determined at the time the NPDES permit for the operation is due for renewal.

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 precipitation of the 25-year, 24-hour precipitation event.

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) The number and type of animals in the open feedlot operation;

(2) Estimated amount of manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent generated by the CAFO in the previous 12 months (tons/gallons);

(3) Estimated amount of total manure transferred to other persons by the CAFO in the previous 12 months (tons/gallons);

(4) Total number of acres for land application covered by the nutrient management plan and the total number of acres under control of the CAFO that were used for land application of manure in the previous 12 months;

(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;

(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;

(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. Quarterly reporting requirements for CAFOs with AT systems. A permittee with an AT system must submit quarterly reports by April 10, July 10, October 10, and January 10, following the respective calendar quarters. The quarterly reports shall provide all of the following information:

(1) Daily precipitation.

(2) Dates on which manure, process wastewater, settled open feedlot effluent, open feedlot effluent, or settleable solids were removed from the production area and estimated amounts of manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent removed (tons/gallons).

(3) Dates on which discharges from the production area or the AT system occurred and the estimated duration and volume of discharge on each discharge date.

(4) Results of laboratory analyses of discharge samples for each date a discharge from the production area or the AT system occurred. If the results of laboratory analyses are not available by the due date of the quarterly report, the results shall be provided with the following quarter's report.

(5) Results of laboratory analyses of samples taken from the groundwater monitoring wells or piezometers. If the results of laboratory analyses are not available by the due date of the quarterly report, the results shall be provided with the following quarter's report.

h. Annual reporting requirements for CAFOs with AT systems. A permittee shall submit an annual report by January 10 of the following year. The annual report must include all of the following:

(1) The number and type of animals in the open feedlot operation.

(2) Estimated amount of total manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent generated by the CAFO in the previous 12 months (tons/gallons).

(3) Estimated amount of total manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent transferred to other persons by the CAFO in the previous 12 months (tons/gallons).

(4) Total number of acres for land application covered by the nutrient management plan and the total number of acres under control of the CAFO that were used for land application of manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent in the previous 12 months.

(5) Summary of all manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent discharges from the production area or AT system that have occurred in the previous 12 months, including date, time, and approximate volume.

(6) Harvest dates and estimated amounts of forage removed from the AT system during the previous 12 months.

(7) Results of soil and groundwater sampling within the AT system during the previous 12 months.

(8) A statement indicating whether the current version of the CAFO's nutrient management plan was developed or approved by a certified nutrient management planner.

65.104(10) *Permit renewal.*

a. General requirements. An NPDES permit may be issued for any period of time not to exceed five years. An application for renewal of an NPDES permit must be submitted to the department at least 180 days prior to the date the permit expires. Each permit to be renewed shall be subject to the rules of the department in effect at the time of renewal. A permitted animal feeding operation which ceases to be a CAFO will be exempted from the need to retain an NPDES permit if the permittee can demonstrate to the satisfaction of the department that there is no remaining potential for a discharge of manure that was generated while the operation was a CAFO, other than agricultural storm water from land application areas.

b. Permits involving use of AT systems.

(1) Renewal of 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) If departmental review of an AT system indicates the system is not meeting the equivalent performance standard, the permittee may either be required to make needed system modifications to enable compliance with this standard or be required to install a conventional runoff containment system. Open feedlot operations found to be in compliance with the equivalent performance standard will be issued a five-year NPDES permit which allows continued use of the AT system.

65.104(11) *Permit modification, suspension or revocation.* The department may modify, suspend, refuse to renew or revoke in whole or part any NPDES permit for cause. Any more stringent requirement pursuant to 40 CFR Section 122.62, 122.63 or 122.64 shall control. Cause for modification, suspension or revocation of a permit may include the following:

a. Violation of any term or condition of the permit.

b. Obtaining a permit by misrepresentation of fact or failure to disclose fully all material facts.

c. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

d. Failure to retain, make available, or submit the records and information that the department requires in order to ensure compliance with the operation and discharge conditions of the permit.

e. A determination by the department that the continued operation of a CAFO constitutes a clear, present and impending danger to public health or the environment.
[**ARC 8120B**, IAB 9/9/09, effective 10/14/09; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.105(459A) Construction permits.

65.105(1) *Open feedlot operations required to obtain a construction permit.* An open feedlot operation must obtain a construction permit prior to any of the following:

a. Constructing or expanding a settled open feedlot effluent basin or AT system or installing a settled open feedlot effluent transfer piping system if the open feedlot operation is required to be issued an NPDES permit.

b. Increasing the animal unit capacity of the open feedlot operation to more than the animal unit capacity approved by the department in a previous construction permit.

c. Increasing the volume of settled open feedlot effluent, settleable solids or open feedlot effluent stored at the open feedlot operation to more than the volume approved by the department in a previous construction permit.

d. Repopulating the open feedlot operation if it was discontinued for 24 months or more and the animal unit capacity will be 1,000 animal units or more.

65.105(2) *When a construction permit is not required.*

a. *Research colleges.* A construction permit is not required for construction of a settled open feedlot effluent basin or AT system if the basin or system is part of an open feedlot operation which is owned by a research college conducting research activities as provided in Iowa Code section 459A.105.

b. *Solids settling facilities.* If only solids settling facilities are being constructed, a construction permit is not required. If solids settling facilities are proposed as part of a project that includes facilities that require a construction permit, then the proposed solids settling facilities are subject to a construction permit.

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. A nutrient management plan as provided in rule 567—65.112(459A).

b. An engineering report, construction plans, and specifications prepared by a professional engineer or NRCS certifying that the design of the settled open feedlot effluent basin or AT system complies with the construction design standards required in Division II of this chapter.

65.105(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, 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. *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.

65.105(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. 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.

65.105(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 permit expiring according to subrule 65.105(5) if it determines that the operation of the open feedlot operation constitutes a clear, present and impending danger to public health or the environment.

65.105(7) *Permit prior to construction.* An applicant for a construction permit shall notify the department prior to the start of construction for any open feedlot operation structure not required to be covered by a construction permit. The applicant shall not begin construction of a settled open feedlot effluent basin or AT system, or begin installation of a settled open feedlot effluent transfer piping system until the person has been granted a permit for the construction by the department.

[**ARC 8120B**, IAB 9/9/09, effective 10/14/09; **ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.106(459A) Construction. For purposes of these rules:

65.106(1) Construction of an animal feeding operation structure begins or an animal feeding operation structure is constructed when any of the following occurs:

a. Excavation commences for a proposed open feedlot operation structure or proposed expansion of an existing open feedlot operation structure.

b. Installation of forms for concrete for a proposed open feedlot operation structure or the proposed expansion of an existing open feedlot operation structure.

c. Installation of piping for movement of settled open feedlot effluent or open feedlot effluent within or between open feedlot operation structures as proposed or proposed to be expanded.

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 at the site.

d. Installation of temporary utility services.

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.107(459A) Construction permit application. An open feedlot operation required to obtain a construction permit in accordance with the provisions of 65.105(1) shall apply for a construction permit at least 90 days before the date that construction, installation, or modification is scheduled to start.

65.107(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.

65.107(2) Application for a construction permit for an open feedlot 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 settled open feedlot effluent basin or AT system to achieve the level of control required of the open feedlot. A construction permit application shall include the following:

a. The name of the owner of the open feedlot operation and the name of the open feedlot operation, including the owner's mailing address and telephone number.

b. The name of the contact person for the open feedlot operation, including the person's mailing address and telephone number.

c. The location of the open feedlot operation.

d. A statement providing that the application is for any of the following:

(1) The construction or expansion of a settled open feedlot effluent basin or AT system for an existing open feedlot operation which is not expanding;

(2) The construction or expansion of a settled open feedlot effluent basin or AT system for an existing open feedlot operation which is expanding;

(3) The construction of a settled open feedlot effluent basin or AT system for a proposed new open feedlot operation.

e. The animal unit capacity for each animal species in the open feedlot operation before and after the proposed construction.

f. An engineering report, construction plans and specifications prepared by a professional engineer or by NRCS personnel for the settled open feedlot effluent basin or AT system.

g. A report on the soil and hydrogeologic information for the site, as described in subrules 65.109(2) and 65.110(4).

h. Information including, but not limited to, maps, drawings and aerial photos that clearly show the location of all the following:

(1) The open feedlot operation and all existing and proposed settled open feedlot effluent basins or AT systems, clean water diversions, and other pertinent features or structures.

(2) Any other open feedlot operation under common ownership or common management and located within 1,250 feet of the open feedlot operation.

(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 open feedlot operation required by rule 567—65.108(455B,459A). Information shall also be provided as to whether the proposed settled open feedlot effluent basin or AT system will meet all applicable separation distances.

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.108(455B,459A) Water well separation distances for open feedlot operations.

65.108(1) *Unformed settled open feedlot effluent basins.* 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) *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.

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

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 Iowa Code section 459A.205 shall meet the design and construction requirements set forth in this rule.

65.109(1) *Drainage tile investigation and removal.* Prior to constructing a settled open feedlot effluent basin, the owner of the open feedlot operation shall investigate the site for the basin for a drainage tile line. The investigation shall be made by digging a core trench to a depth of at least six feet deep from ground level at the projected center of the berm of the basin. A written record of the investigation shall be submitted as part of the construction certification required in 567—65.111(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 basin at a distance of least 25 feet horizontally separated from the outside toe of the berm of the basin. For an area of the basin where there is not a berm, the drainage tile line shall be rerouted at least 50 feet horizontally separated from the edge of the basin.

b. The drainage tile line shall be replaced with a nonperforated tile line under the basin 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 basin floor.

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. 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 basin.

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 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) 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 basin, including conditions found near the corners and the deepest point of the proposed basin. The soils investigation shall be conducted to a minimum depth of ten feet below the proposed bottom elevation of the basin.

(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 settled open feedlot effluent basin 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 65.109(3)*"a"*(1) and measuring the water levels in these wells no earlier than seven days after installation as provided in 65.109(3)*"a"*(2).

(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 basin liner.

65.109(3) *Hydrology.*

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 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 either a formed settled open feedlot effluent basin or an unformed settled open feedlot effluent basin. Three temporary monitoring wells shall be developed according to 567—subrule 110.11(8). 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 settled open feedlot effluent basin, or to at least two feet below the proposed bottom of the footings of a formed settled open feedlot effluent basin. In addition, the wells must be installed as follows:

1. Unformed basins. For an unformed settled open feedlot effluent basin, the monitoring wells may be installed in the soil core holes developed as part of conducting the soils investigation required in paragraph 65.109(2)*"c."*

2. Formed basins. For a formed settled open feedlot effluent basin, 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 settled open feedlot effluent basin 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 65.109(3)*"c,"*the level to which the groundwater table will be lowered will be considered to represent the seasonal high-water table.

b. The settled open feedlot effluent basin shall be constructed with a minimum separation of two feet between the top of the liner of the basin 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 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. 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 open feedlot operation shall not use a nongravity mechanical system that uses pumping equipment.

(2) If the open feedlot operation 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 open feedlot operation that expands the area of its open feedlot 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 a settled open feedlot effluent basin, if all of the following conditions are satisfied:

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 settled open feedlot effluent basin is located.

2. Drainage tile lines are installed horizontally at least 25 feet away from the outside toe of the berm of the settled open feedlot effluent basin. 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.

65.109(4) *Karst terrain.*

a. Construction prohibited. Settled open feedlot effluent basins 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 structure bottom and carbonated bedrock or limestone or dolomite.

b. The use of formed structures is required to store liquid or dry manure 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 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 settled open feedlot effluent 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) *Bedrock separation.* A settled open feedlot effluent basin shall be constructed with at least four feet of separation between the bottom of the basin and a bedrock formation.

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 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 department permits, as specified in 567—71.3(455B) and 567—72.3(455B).

65.109(7) *Liner design and construction.* The liner of a settled open feedlot effluent basin 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 basin 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 paragraph, 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 basin. 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 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 65.109(7)*"a"*(1).

65.109(8) *Berm erosion inspection and repair.* The owner of an open feedlot operation using a settled open feedlot effluent basin shall inspect the berms of the basin at least semiannually for evidence of erosion. If the inspection reveals erosion which may impact the basin's structural stability or the integrity of the basin's liner, the owner shall repair the berms.

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.

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.110(459A) AT systems—design requirements.

65.110(1) *Containment volume.*

a. Adequate capacity must be provided within the AT system or within the solids settling facility for the open feedlot operation to contain expected open feedlot effluent from November 1 to March 30 or to hold the precipitation event as required by 65.101(2)*"a,"* whichever is greater. Controls on the solids

settling facility or the AT system shall prevent release of collected open feedlot effluent to waters of the United States during the period from November 1 to March 30.

b. If the containment volume required in 65.110(1)*"a"* is provided in an open feedlot operation structure whose primary purpose is to remove settleable solids from open feedlot effluent prior to discharge into an AT system, the basin shall not be required to comply with the liner design and construction requirements of 65.109(7), provided the basin does not retain collected open feedlot effluent for more than seven consecutive days following a precipitation event during the period from March 30 to November 1.

65.110(2) *Solids settling.* Settleable solids shall be removed from open feedlot effluent prior to discharge of the effluent into an AT system. Solids settling shall be conducted in conformance with the requirements of paragraph 65.101(1)*"b."*

65.110(3) *Drainage tile investigation and removal.* Prior to constructing an AT system, the owner of the open feedlot operation shall investigate the site for the AT system for drainage tile lines. 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 AT system. A written record of the investigation shall be submitted as part of the construction certification required in rule 567—65.111(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 AT system at a distance of least 25 feet horizontally separated from the toe of the outside berm of the AT system. For an area of the system where there is not a berm, the drainage tile line shall be rerouted at least 50 feet horizontally separated from the edge of the system.

b. The drainage tile line shall be replaced with a nonperforated tile line under the AT system. The nonperforated tile line shall be continuous and without connecting joints. There must be a minimum of three feet of separation between the nonperforated tile line and the soil surface of the AT system.

65.110(4) *Soils and hydrogeologic report.* An AT system 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. 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 AT system.

b. 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 proposed AT system for AT systems of five acres or less, with one additional soils investigation site utilized for each additional three acres of surface area or fraction thereof. The soils investigation results shall be used in determining subsurface soil characteristics and groundwater elevation and direction of flow at the proposed AT system 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 AT system. The soils investigation shall be conducted to a minimum depth of ten feet below the elevation of the soil surface of the proposed AT system.

(3) By methods which identify the continuous soil profile and do not result in mixing of soil layers. Investigation methods may include soil corings using hollow stem augers, soil test pits, or other suitable methods.

(4) If located in karst terrain, at least one soil coring shall be taken to a minimum depth of 25 feet below the elevation of the soil surface of the proposed AT system or into bedrock, whichever is shallower. The department may accept well log 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) Soil core holes may be used to determine current groundwater levels by completing the core holes as temporary monitoring wells and measuring the water levels in these wells not earlier than seven days after installation.

(6) Upon abandonment of the 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 soil test pits or other 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 AT system.

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 NRCS. If a construction permit is required, the department must approve the groundwater table determination.

a. Groundwater level measurements. Groundwater levels shall be measured using at least one of the following methods:

(1) Temporary monitoring wells. Three temporary monitoring wells shall be developed to a minimum of ten feet below the surface of the proposed AT system and constructed in accordance with requirements of 567—subrule 110.11(8). The top of the well screen shall be within five feet of the ground surface. These monitoring wells may be installed in the soil core holes developed as part of conducting the soils investigation required in paragraph 65.110(4)*"c."*

(2) Test pits. Test pits may be used in lieu of temporary monitoring wells to determine the seasonal high-water table or prior to the construction of an AT system to ensure the required separation distance to the seasonal high-water table is being met. The bottom of each pit shall be a minimum of five feet below the proposed surface of the AT system. However, if the test pit is also being used to conduct the soils investigation required in 65.110(4)*"c,"* the bottom of the pit shall be a minimum of ten feet below the surface of the proposed AT system. 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. Adequate protection (temporary berms and covers) shall be provided to prevent surface runoff from entering the test pits. Test pits shall be located as needed to provide an accurate assessment of soil materials and seasonal high groundwater levels throughout the area of the proposed AT system. 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;
- Weather conditions both prior to and during the period in which test pits are open.

b. Determination of seasonal high-water table. The seasonal high-water table shall be determined by considering all relevant data, including the groundwater levels measured in the temporary monitoring wells or test pits not earlier than seven days following installation, NRCS soil survey information, soil characteristics such as color and mottling found in soil cores and test pits, 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 65.110(6)*"g"* or 65.110(7)*"g,"* the level to which the groundwater table will be lowered will be considered to represent the seasonal high-water table.

65.110(6) *Vegetative infiltration basin followed by vegetative treatment area.*

a. Computer modeling. Results of predictive computer modeling for the proposed AT system shall be used to determine suitability of the proposed site for the AT system and to predict performance of the AT system as compared to the use of a 25-year, 24-hour runoff containment system, over a 25-year period. A summary of the computer modeling results shall be provided to the department.

b. Size. The computer model used to determine if the proposed AT system will meet the equivalent performance standard shall also be used to establish the minimum required size of the VIB and VTA. However, the size of the VIB shall not be less than 30 percent of the total drainage area (feedlot and other) served by the basin, and the size of the VTA shall not be less than 30 percent of the surface area of the VIB.

c. *Slope.* The following slope requirements apply to the constructed system components.

(1) VIB. The maximum slope of the constructed VIB shall not exceed 1 percent.

(2) VTA. The constructed VTA shall be level in one dimension and have a slight slope (maximum of 5 percent) in the other dimension.

d. *Berming.*

(1) VIB. The VIB must be bermed to prevent inflow of surface water from outside the VIB and prevent surface outflow of feedlot effluent from the VIB.

(2) VTA. The VTA must be bermed to prevent inflow of surface water from outside areas.

e. *Spreaders.* 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 uniform flow of settled open feedlot effluent across the width of the VTA as flow moves downslope through the VTA.

f. *Soil permeability.* Soil permeability within the VIB and VTA must be from 0.6 to 2.0 inches per hour throughout the soil profile to a depth of five feet. Soil permeability must be verified by conducting on-site or laboratory soil permeability testing.

g. *Groundwater lowering system.* The seasonal high-water table within the VIB and the VTA must be capable of being lowered to a depth of four to five feet with a perimeter tile system installed outside of the VIB or VTA. Design information must be provided which demonstrates the adequacy of the proposed groundwater lowering system. The tile system must satisfy the following requirements:

(1) If the tile system does not have a surface outlet accessible on the property where the AT system is located, a device to allow monitoring of the water in the tile system and a device to allow shutoff of the flow in the tile system must be installed.

(2) Tile lines in the system must be installed horizontally at least 25 feet away from the outside toe of the berm of the VIB or VTA.

h. *Tile system to enhance infiltration within the VTA.* A tile system may be installed at the perimeter of the VTA cells to enhance infiltration within the VTA. The tile system must satisfy the following requirements:

(1) Tile lines shall be installed at the centerline of the berms of the VTA cells.

(2) The tile lines shall be constructed such that no settled open feedlot effluent can enter the lines except through infiltration through the soil profile.

(3) A shutoff valve and sampling point located downslope of the VTA cell shall be provided for each individual tile line. However, if multiple tile lines are brought together into a common tile line, a single shutoff valve and sampling point may be utilized.

(4) Monitoring of the tile lines must be conducted in accordance with the requirements of 65.104(9)*"d"*(2).

i. *Depth to sands, gravels, or glacial outwash.*

(1) VIB. A VIB is not allowed if the depth to sands, gravels, or glacial outwash is less than ten feet.

(2) VTA. A VTA is not allowed if the depth to sands, gravels, or glacial outwash is less than six feet.

(3) A soils investigation that documents sands found are in isolated sand lenses that will not have a significant impact on subsurface water flow or groundwater quality shall not prohibit use of the site.

j. *Depth to bedrock.* A minimum of ten feet of overburden or loose material must exist between the surface of the constructed VIB or VTA and underground bedrock.

k. *Flooding.* Both the VIB and the VTA must be constructed in areas which are not subject to flooding more frequently than once in 25 years.

l. *Distance to water bodies.* The following distances, measured along the path of water flow, shall be provided between the point of discharge from the VTA and the receiving water body.

(1) Designated use streams referenced in 567—subrule 61.3(5). A minimum distance of 500 feet or one-half foot distance per animal unit capacity of the open feedlot area which drains to the VTA, whichever is greater, shall be provided.

(2) All other uncrossable intermittent streams. A minimum distance of 200 feet shall be provided.

65.110(7) *Stand-alone VTA.*

a. Computer modeling. Results of predictive computer modeling for the proposed alternative technology system shall be used to determine suitability of the proposed site for the system and to predict performance of the alternative technology system as compared to the use of a 25-year, 24-hour runoff containment system, over a 25-year period. A summary of the computer modeling results shall be provided to the department.

b. Size. The computer model used to determine if the proposed AT system will meet the equivalent performance standard shall also be used to establish the minimum required size of the VTA. However, in no case shall the size of the VTA be less than the following:

(1) 50 percent of the total drainage area (feedlot and other) served if the soil permeability is from 0.6 to 2.0 inches per hour.

(2) 100 percent of the total drainage area (feedlot and other) served if the soil permeability is from 0.2 to 0.6 inches per hour.

c. Slope. The constructed VTA shall be level in one dimension and have a slight slope (maximum of 5 percent) in the other dimension.

d. Berming. The VTA must be bermed to prevent inflow of surface water from outside areas.

e. Spreaders. 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 uniform flow of settled open feedlot effluent across the width of the VTA as flow moves downslope through the VTA.

f. Soil permeability. Soil permeability within the VTA must be from 0.2 to 2.0 inches per hour throughout the soil profile to a depth of five feet. Soil permeability must be verified by conducting on-site or laboratory soil permeability testing.

g. Groundwater lowering system. The seasonal high-water table within the VTA must be capable of being lowered to a depth of four to five feet with a perimeter tile system installed outside of the VTA. Design information must be provided which demonstrates the adequacy of the proposed groundwater lowering system. The tile system must satisfy the following requirements:

(1) If the tile system does not have a surface outlet accessible on the property where the AT system is located, a device to allow monitoring of the water in the tile system and a device to allow shutoff of the flow in the tile system must be installed.

(2) Tile lines in the system must be installed horizontally at least 25 feet away from the outside toe of the berm of the VTA.

h. Tile system to enhance infiltration within the VTA. A tile system may be installed at the perimeter of the VTA cells to enhance infiltration within the VTA. The tile system must satisfy the following requirements:

(1) Tile lines shall be installed at the centerline of the berms of the VTA cells.

(2) The tile lines shall be constructed such that no settled open feedlot effluent can enter the lines except through infiltration through the soil profile.

(3) A shutoff valve and sampling point located downslope of the VTA cell shall be provided for each individual tile line. However, if multiple tile lines are brought together into a common tile line, a single shutoff valve and sampling point may be utilized.

(4) Monitoring of the tile lines must be conducted in accordance with the requirements of 65.104(9)*"d"*(2).

i. Depth to sands, gravels, or glacial outwash. A VTA is not allowed if the depth to sands, gravels, or glacial outwash is less than six feet. A soils investigation that documents sands found are in isolated sand lenses that will not have a significant impact on subsurface water flow or goundwater quality shall not prohibit use of the site.

j. Depth to bedrock. A minimum of ten feet of overburden or loose material must exist between the surface of the constructed VTA and underground bedrock.

k. Flooding. The VTA must be constructed in areas which are not subject to flooding more frequently than once in 25 years.

l. Distance to water bodies. The following distances, measured along the path of water flow, shall be provided between the point of discharge from the VTA and the receiving water body.

(1) Designated use streams referenced in 567—subrule 61.3(5). A minimum distance of 500 feet or one-half foot distance per animal unit capacity of the feedlot area which drains to the VTA, whichever is greater, shall be provided.

(2) All other uncrossable intermittent streams. A minimum distance of 200 feet shall be provided.
[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

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) 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) A written record of an investigation for drainage tile lines, including the findings of the investigation and actions taken to comply with 65.109(1) or 65.110(3), shall be submitted as part of the construction certification.
[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

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 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) Not more than one open feedlot operation shall be covered by a single nutrient management plan. For an open feedlot operation that is required to have an NPDES permit and the animal feeding operation includes an open feedlot operation and a confinement feeding operation, the nutrient management plan must include both the open feedlot operation and the confinement feeding operation if the confinement feeding operation does not have a manure management plan. If the confinement feeding operation portion of the animal feeding operation does have a manure management plan as required in 567—65.16(455B) and 567—65.17(455B), the confinement feeding operation portion shall not be included in the nutrient management plan; however, in that event, the manure management plan must be amended to include the information specified in 65.112(8)*"e."*

65.112(3) A person shall not remove manure, process wastewater or open feedlot effluent from an open feedlot operation structure which is part of an open feedlot operation for which a nutrient management plan is required under this rule, unless the department approves a nutrient management plan as required in this rule.

65.112(4) The department shall not approve an application for a permit to construct a settled open feedlot effluent basin or AT system unless the owner of the open feedlot operation applying for approval submits a nutrient management plan together with the application for the construction permit as provided in rule 567—65.105(459A). The owner shall also submit proof that the owner has published a notice for public comment as provided in 65.112(7).

65.112(5) If a construction permit is required as provided in rule 567—65.105(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 the nutrient management plan within 60 days from the date that the department receives the nutrient management plan.

65.112(6) Prior to approving or disapproving a nutrient management plan as required in this rule, the department may receive comments exclusively to determine whether the nutrient management plan is submitted according to procedures required by the department and that the nutrient management plan complies with the provisions of this rule.

65.112(7) Public notice.

a. The owner of the open feedlot operation shall publish a notice for public comment in a newspaper having a general circulation in the county where the open feedlot operation is or is proposed to be located and in the county where manure, process wastewater, or open feedlot effluent which originates from the open feedlot operation may be applied under the terms and conditions of the nutrient management plan.

b. The notice for public comment shall include all of the following:

(1) The name of the owner of the open feedlot operation submitting the nutrient management plan.

(2) The name of the township where the open feedlot operation is or is proposed to be located and the name of the township where manure, process wastewater, or open feedlot effluent originating from the open feedlot operation may be applied.

(3) The animal unit capacity of the open feedlot operation.

(4) The time when and the place where the nutrient management plan may be examined as provided in Iowa Code section 22.2.

(5) Procedures for providing public comment to the department. The notice shall also include procedures for requesting a public hearing conducted by the department. The department is not required to conduct a public hearing if it does not receive a request for the public hearing within ten days after the first publication of the notice for public comment as provided in this subrule. If such a request is received, the public hearing must be conducted within 30 days after the first date that the notice for public comment was published.

(6) A statement that a person may acquire information relevant to making comments under this subrule by accessing the department's Internet website. The notice for public comment shall include the address of the department's Internet website as required by the department.

65.112(8) Except as provided in 65.112(8)*"f,"* a nutrient management plan shall include all of the following:

a. Restrictions on the application of open feedlot 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 P_2O_5) available to be applied from the open feedlot operation shall be included.

(2) Calculations necessary to determine the land area required for the application of manure, process wastewater and open feedlot effluent from an open feedlot operation based on nitrogen or phosphorus use levels (as determined by 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). The 100 pounds of available nitrogen per acre limitation specified in paragraph 65.17(18)*"c"* (applicable to open feedlot operations and combined open feedlot and confinement operations with an NPDES permit because of requirements in subrule 65.17(4)) pertaining to liquid manure applied to land currently planted to soybeans or to land where a soybean crop is planned applies only to liquid manure, process wastewater or settled open feedlot effluent.

b. Information relating to the application of the manure, process wastewater and open feedlot effluent, including all of the following:

(1) Nutrient concentration of the manure, process wastewater and open feedlot effluent.

(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 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. An estimate of the manure, process wastewater and open feedlot effluent volume or weight produced by the open feedlot operation.

e. Information which shows all of the following:

(1) There is adequate storage for manure, process wastewater, stockpiled manure and open feedlot effluent, including procedures to ensure proper operation and maintenance of the storage structures.

(2) The proper management of animal mortalities to prevent discharge of pollutants to surface water and to ensure that animals are not disposed of in an open feedlot operation structure or a treatment system that is not specifically designed to treat animal mortalities.

(3) Surface drainage prior to contact with an open feedlot structure is diverted, as appropriate, from the open feedlot operation.

(4) Animals kept in the open feedlot operation do not have direct contact with any waters of the United States.

(5) Chemicals or other contaminants handled on site are not disposed of in manure, process wastewater, an open feedlot operation structure or a treatment system that is not specifically designed to treat such chemicals or contaminants.

(6) Equipment used for the land application of manure, process wastewater or open feedlot effluent must be periodically inspected for leaks.

(7) 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.

(8) Protocols for appropriate testing of manure, process wastewater, open feedlot effluent and soil.

(9) Protocols to land-apply manure, process wastewater or open feedlot effluent in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, process wastewater or open feedlot effluent.

(10) Identification of specific records that will be maintained to document the implementation and management of the requirements in this subrule.

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) If an open feedlot operation uses an alternative technology system as provided in rule 567—65.110(459A), the nutrient management plan is not required to provide for settled open feedlot effluent that enters the AT system.

65.112(10) Current nutrient management plan, record keeping and inspections.

a. *Current nutrient management plan.* The owner of an open feedlot operation who is required to submit a nutrient management plan shall maintain a current nutrient management plan at the site of the open feedlot operation 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 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) Factors used to calculate the manure, process wastewater and open feedlot 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 manure, process wastewater and open feedlot effluent.

5. Phosphorus content of the manure, process wastewater and open feedlot effluent as required in 65.17(3)*"i"*(1) and (2). If an actual sample is used, documentation shall be provided.

(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 manure, process wastewater and open feedlot effluent application rate.

(4) Actual manure, process wastewater and open feedlot effluent application information:

1. Method(s) of application when manure, process wastewater or open feedlot effluent from the open feedlot operation was applied.

2. Date(s) when the manure, process wastewater or open feedlot effluent from the open feedlot operation was applied.

3. Weather conditions at time of application and for 24 hours prior to and following the application.

4. Location of the field where the manure, process wastewater or open feedlot effluent from the open feedlot operation was applied, including the number of acres.

5. The manure, process wastewater or open feedlot 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 manure, process wastewater or open feedlot 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 65.112(8)*"e"*(7).

c. Record inspection. The department may inspect an open feedlot operation at any time during normal working hours and may inspect the nutrient management plan and any records required to be maintained.

[**ARC 8120B**, IAB 9/9/09, effective 10/14/09; **ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.113(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.

65.113(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.

65.113(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 455B, 459, 459A, or 459B or environmental standards in regulations subject to federal law and enforced by the department.

65.113(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.

65.113(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.

65.113(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.

65.113(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.

65.113(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.

65.113(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 open feedlot operation that is the subject of the complaint, any alleged violators if different from the open feedlot operation and the county board of supervisors of the county where the violation is alleged to have occurred.

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 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 operation, 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.

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 open feedlot operation which are necessary in order to control the spread of disease among an animal population.

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

567—65.114(455B,459A) Transfer of legal responsibilities or title. If title or legal responsibility for a permitted open feedlot operation and its open feedlot operation 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 sections 455B.171 to 455B.191, 459.314, and 459.601 and 2005 Iowa Code Supplement chapter 459A.

567—65.115 to **65.199** Reserved.

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 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 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 website;

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 website; and

e. Spill line telephone number is (515)725-8694.

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

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.

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.

(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.

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

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:

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.

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

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.

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.

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

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.

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.

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

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.

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

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).

(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:

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 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).

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

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.

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

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 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 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.

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

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.

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.

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.
[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

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.
[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

These rules are intended to implement Iowa Code chapters 455B and 459A.

APPENDIX A

OPEN FEEDLOT EFFLUENT CONTROL ALTERNATIVES FOR OPEN FEEDLOT OPERATIONS

Introduction: Water pollution control requirements for animal feeding operations are given in 567—65.101(459A). Under these rules, open feedlots meeting the NPDES permit application requirements of rule 567—65.104(455B,459A) must also comply with the minimum open feedlot effluent control requirements of subrule 65.101(2). Subrule 65.101(2) requires that all feedlot runoff and other open feedlot effluent flows resulting from precipitation events less than or equal to the 25-year, 24-hour rainfall event be collected and land-applied. For the purpose of this appendix, open feedlot effluent includes manure, process wastewater, settled open feedlot effluent and settleable solids.

This appendix describes five feedlot runoff control systems that meet the requirements of subrule 65.101(2). The systems differ in the volume of open feedlot effluent storage provided and in the frequency of open feedlot effluent application. In general, the time interval between required applications increases with increased storage volume.

A feedlot operator who constructs and operates an open feedlot effluent control facility in accordance with the requirements of any of these five systems will not have additional open feedlot effluent control requirements imposed, unless open feedlot effluent discharges from the facility cause state water quality standards violations. In describing the five systems, the major features of each are first reviewed, followed by detailed information on the construction and operation requirements of the system. The system descriptions are presented in this appendix as follows:

	System
System 1:	One Open Feedlot Effluent Application Period Per Year
System 2:	July and October Open Feedlot Effluent Application
System 3:	April, July, and October Open Feedlot Effluent Application
System 4:	Application After Each Significant Precipitation Event
System 5:	April/May and October/November Open Feedlot Effluent Application
Figures 1-4	

SYSTEM 1: ONE OPEN FEEDLOT EFFLUENT APPLICATION PERIOD PER YEAR

MAJOR SYSTEM FEATURES:

- Adequate capacity must be provided to collect and store the average annual runoff from all feedlot and nonfeedlot areas which drain into the open feedlot effluent control system (additional storage is required if open feedlot effluent from other sources also drains into the control system).

- Collected open feedlot effluent must be removed from the control system and land-applied at least once annually (interval between successive applications cannot exceed 12 months).

DETAILED SYSTEM REQUIREMENTS:

Open Feedlot Effluent Control System: The open feedlot effluent control system must be constructed to meet or exceed the following requirements:

1. Solids Settling Facilities: Solids settling facilities which meet or exceed the requirements of subrule 65.101(1) must precede the feedlot runoff control system.

2. Feedlot Runoff Control System: The feedlot runoff control system shall, as a minimum, have adequate capacity to store the total wastewater volume determined by summing the following:

A. The volume determined by multiplying the unpaved feedlot area which drains into the control system by the appropriate runoff value from Figure 1.

B. The volume determined by multiplying the paved feedlot area which drains into the control system by 1.5 times the appropriate runoff value from Figure 1.

C. The volume determined by multiplying the total area of cropland, pasture and woodland draining into the control system by the greater of the following:

- The amount of runoff expected from these areas as a result of the 25-year, 24-hour precipitation event.*

- The average annual runoff expected from these areas.*

D. The volume determined by multiplying the total roof, farmstead, and driveway area draining into the control system by the average annual runoff expected from these areas.*

E. The volume of process wastewater which drains into the control system during a 12-month period.

F. The volume of open feedlot effluent from other sources which discharges into the control system during a 12-month period.

*Expected 25-year, 24-hour and average annual runoff values shall be determined using runoff prediction methodologies of the NRCS (or equivalent methodologies).

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. Solids Settling Facilities: Collected settleable solids must be removed from the solids settling facilities as necessary to maintain adequate capacity to handle future runoff events. As a minimum, settleable solids shall be removed at least once annually.

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.

- Precipitation has not exceeded the water-holding capacity of the soil to accept the manure application without the possibility of runoff.

SYSTEM 2: JULY AND OCTOBER OPEN FEEDLOT EFFLUENT APPLICATION

MAJOR SYSTEM FEATURES:

- Adequate capacity must be provided to collect and store the average runoff expected to occur over the nine-month period from November 1 through July 31 from all feedlot and nonfeedlot areas which drain into the open feedlot effluent control system (additional storage is required if open feedlot effluent from other sources also drains into the control system).

- Collected open feedlot effluent may be removed from the control system and land-applied during any period of the year that conditions are suitable. While application during other periods will minimize the need for July and October application, sufficient open feedlot effluent must still be disposed of during July and October to reduce the volume of open feedlot effluent remaining in the control system during these months to less than 10 percent of the system's design open feedlot effluent storage volume.

DETAILED SYSTEM REQUIREMENTS:

Open Feedlot Effluent Control System: The open feedlot effluent control system must be constructed to meet or exceed the following requirements:

1. Solids Settling Facilities: Open feedlot effluent solids settling facilities which meet or exceed the requirements of subrule 65.101(1) must precede the feedlot runoff control system.

2. Feedlot Runoff Control System: The feedlot runoff control system shall, as a minimum, have adequate capacity to store the total wastewater volume determined by summing the following:

A. The volume determined by multiplying the unpaved feedlot area which drains into the control system by the appropriate runoff value from Figure 2.

B. The volume determined by multiplying the paved feedlot area which drains into the control system by 1.5 times the appropriate runoff value from Figure 2.

C. The volume determined by multiplying the total area of cropland, pasture and woodland draining into the control system by the greater of the following:

- The amount of runoff expected from these areas as a result of the 25-year, 24-hour precipitation event.*

- The average runoff expected to occur from these areas during the nine-month period from November 1 to July 31.*

D. The volume determined by multiplying the total roof, farmstead and driveway area draining into the control system by the average runoff expected to occur from these areas during the nine-month period from November 1 to July 31.*

E. The volume of process wastewater which drains into the control system during the nine-month period from November 1 through July 31.

F. The volume of open feedlot effluent from other sources which discharges into the control system during the nine-month period from November 1 through July 31.

*Expected 25-year, 24-hour runoff and average runoff for the nine-month period from November 1 through July 31 shall be determined using runoff prediction methodologies of the NRCS (or equivalent methodologies).

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. Solids Settling Facilities: Collected settleable solids must be removed from the solids settling facilities as necessary to maintain adequate capacity to handle future runoff events. As a minimum, settleable solids shall be removed at least once annually.

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 the water-holding capacity of the soil to accept the manure application without the possibility of runoff.

B. 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 July and October, the feedlot operator will still need to dispose of sufficient open

feedlot effluent during July and October to reduce the open feedlot effluent volume remaining in the runoff control system during these months to less than 10 percent of the system's design open feedlot effluent storage capacity.

A feedlot operator who does not limit open feedlot effluent application operations to the months of July and October is not required to comply with the specific open feedlot effluent application requirements which apply when application is limited to those months. However, this does not relieve the feedlot operator of the responsibility to conduct application operations at rates and times which are sufficient to ensure that the open feedlot effluent volume remaining in the runoff control system during July and October will be reduced to less than 10 percent of the system's design open feedlot effluent storage capacity.

SYSTEM 3: APRIL, JULY AND OCTOBER OPEN FEEDLOT EFFLUENT APPLICATION

MAJOR SYSTEM FEATURES:

- Adequate capacity must be provided to collect and store the average runoff expected to occur during the six-month period from November 1 through April 30 from all feedlot and nonfeedlot areas which drain into the open feedlot effluent control system (additional storage is required if open feedlot effluent from other sources also drains into the control system).

- Collected open feedlot effluent may be removed from the control system and land-applied during any period of the year that conditions are suitable. While application during other periods will minimize the need for application during the specified application months, sufficient open feedlot effluent must still be disposed of during April, July and October to reduce the volume of open feedlot effluent remaining in the control system during these months to less than 10 percent of the system's design open feedlot effluent storage volume.

DETAILED SYSTEM REQUIREMENTS:

Open Feedlot Effluent Control System: The open feedlot effluent control system must be constructed to meet or exceed the following requirements:

1. Solids Settling Facilities: Solids settling facilities which meet or exceed the requirements of subrule 65.101(1) must precede the feedlot runoff control system.

2. Feedlot Runoff Control System: The feedlot runoff control system shall, as a minimum, have adequate capacity to store the total wastewater volume determined by summing the following:

A. The volume determined by multiplying the unpaved feedlot area which drains into the control system by the appropriate runoff value from Figure 3.

B. The volume determined by multiplying the paved feedlot area which drains into the control system by 1.5 times the appropriate runoff value from Figure 3.

C. The volume determined by multiplying the total area of cropland, pasture and woodland draining into the control system by the greater of the following:

- The amount of runoff expected from these areas as a result of the 25-year, 24-hour precipitation event.*

- The average annual runoff expected to occur from these areas during the six-month period from November 1 to April 30.*

D. The volume determined by multiplying the total roof, farmstead, and driveway area draining into the control system by the average runoff expected to occur from these areas during the six-month period from November 1 to April 30.*

E. The volume of process wastewater which drains into the control system during the six-month period from November 1 through April 30.

F. The volume of open feedlot effluent from other sources which discharges into the control system during the six-month period from November 1 through April 30.

*Expected 25-year, 24-hour runoff and average runoff for the six-month period from November 1 through April 30 shall be determined using runoff prediction methodologies of the NRCS (or equivalent methodologies).

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. Solids Settling Facilities: Collected settleable solids must be removed from the solids settling facilities as necessary to maintain adequate capacity to handle future runoff events. As a minimum, settleable solids shall be removed at least once annually.

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 the water-holding capacity of the soil to accept the manure application without the possibility of runoff.

B. 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 April, July and October, the feedlot operator will still need to dispose of sufficient open feedlot effluent during April, July and October to reduce the open feedlot effluent volume remaining in the runoff control system during these months to less than 10 percent of the system's design open feedlot effluent storage capacity.

A feedlot operator who does not limit open feedlot effluent application operations to the months of April, July and October is not required to comply with the specific open feedlot effluent application requirements which apply when application is limited to those months. However, this does not relieve the feedlot operator of the responsibility to conduct application operations at rates and times which are sufficient to ensure that the open feedlot effluent volume remaining in the runoff control system during April, July and October will be reduced to less than 10 percent of the system's design open feedlot effluent storage capacity.

SYSTEM 4: OPEN FEEDLOT EFFLUENT APPLICATION AFTER EACH SIGNIFICANT PRECIPITATION EVENT

MAJOR SYSTEM FEATURES:

- Adequate capacity must be provided to collect and store the runoff expected to occur as a result of the 25-year, 24-hour precipitation event from all feedlot and nonfeedlot areas which drain into the open feedlot effluent control system (additional storage is required if open feedlot effluent from other sources also drains into the control system).

- Collected open feedlot effluent must be removed from the control system and land-applied whenever the available (unoccupied) storage capacity remaining in the control system is less than 90 percent of that needed to store runoff from the 25-year, 24-hour precipitation event; land application must begin on the first day that conditions are suitable and must continue until application is completed.

DETAILED SYSTEM REQUIREMENTS:

Open Feedlot Effluent Control System: The open feedlot effluent control system must be constructed to meet or exceed the following requirements:

1. Solids Settling Facilities: Solids settling facilities which meet or exceed the requirements of subrule 65.101(1) must precede the feedlot runoff control system.

2. Feedlot Runoff Control System: The feedlot runoff control system shall, as a minimum, have adequate capacity to store the total wastewater volume determined by summing the following:

A. The volume determined by multiplying the total feedlot area which drains into the control system by the amount of runoff expected to occur from this area as a result of the 25-year, 24-hour precipitation event.*

B. The volume determined by multiplying the total area of cropland, pasture and woodland draining into the control system by the amount of runoff expected to occur from these areas as a result of the 25-year, 24-hour precipitation event.*

C. The volume determined by multiplying the total roof, farmstead and driveway area draining into the control system by the amount of runoff expected to occur from these areas as a result of the 25-year, 24-hour precipitation event.*

D. The volume of process wastewater which drains into the control system during the six-month period from November 1 through April 30.

E. The volume of open feedlot effluent from other sources which discharges into the control system during the six-month period from November 1 through April 30.

*Expected 25-year, 24-hour runoff shall be determined by using runoff prediction methodologies of the NRCS (or equivalent methodologies).

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. Solids Settling Facilities: Collected settleable solids must be removed from the solids settling facilities as necessary to maintain adequate capacity to handle future runoff events. As a minimum, settleable solids shall be removed at least once annually.

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 the water-holding capacity of the soil to accept the manure application without the possibility of runoff.

SYSTEM 5: APRIL/MAY AND OCTOBER/NOVEMBER OPEN FEEDLOT EFFLUENT APPLICATION

MAJOR SYSTEM FEATURES:

- Adequate capacity must be provided to collect and store the average runoff expected to occur over the eight-month period from October 1 through May 31 from all feedlot and nonfeedlot areas which drain into the open feedlot effluent control system (additional storage is required if open feedlot effluent from other sources also drains into the control system).

- Collected open feedlot effluent may be removed from the control system and land-applied 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 the October/November periods, sufficient open feedlot effluent must still be disposed of during each of these two-month periods to reduce the volume of open feedlot effluent remaining in the control system during these periods to less than 10 percent of the system's design open feedlot effluent storage volume.

DETAILED SYSTEM REQUIREMENTS:

Open Feedlot Effluent Control System: The open feedlot effluent control system must be constructed to meet or exceed the following requirements:

1. Solids Settling Facilities: Open feedlot effluent solids settling facilities which meet or exceed the requirements of subrule 65.101(1) must precede the feedlot runoff control system.

2. Feedlot Runoff Control System: The feedlot runoff control system shall, as a minimum, have adequate capacity to store the total open feedlot effluent volume determined by summing the following:

A. The volume determined by multiplying the unpaved feedlot area which drains into the control system by the appropriate runoff value from Figure 4.

B. The volume determined by multiplying the paved feedlot area which drains into the control system by 1.5 times the appropriate runoff value from Figure 4.

C. The volume determined by multiplying the total area of cropland, pasture and woodland draining into the control system by the greater of the following:

- The amount of runoff expected from these areas as a result of the 25-year, 24-hour precipitation event.*

- The average runoff expected to occur from these areas during the eight-month period from October 1 to May 31.*

D. The volume determined by multiplying the total roof, farmstead, and driveway draining into the control system by the average runoff expected to occur from these areas during the eight-month period from October 1 to May 31.*

E. The volume of process wastewater which drains into the control system during the eight-month period from October 1 through May 31.

F. The volume of open feedlot effluent from other sources which discharges into the control system during the eight-month period from October 1 through May 31.

*Expected 25-year, 24-hour runoff and average runoff for the eight-month period from October 1 through May 31 shall be determined using runoff prediction methodologies of the NRCS (or equivalent methodologies).

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. Solids Settling Facilities: Collected settleable solids must be removed from the solids settling facilities as necessary to maintain adequate capacity to handle future runoff events. As a minimum, settleable solids shall be removed at least once annually.

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 the water-holding capacity of the soil to accept the manure application without the possibility of runoff.

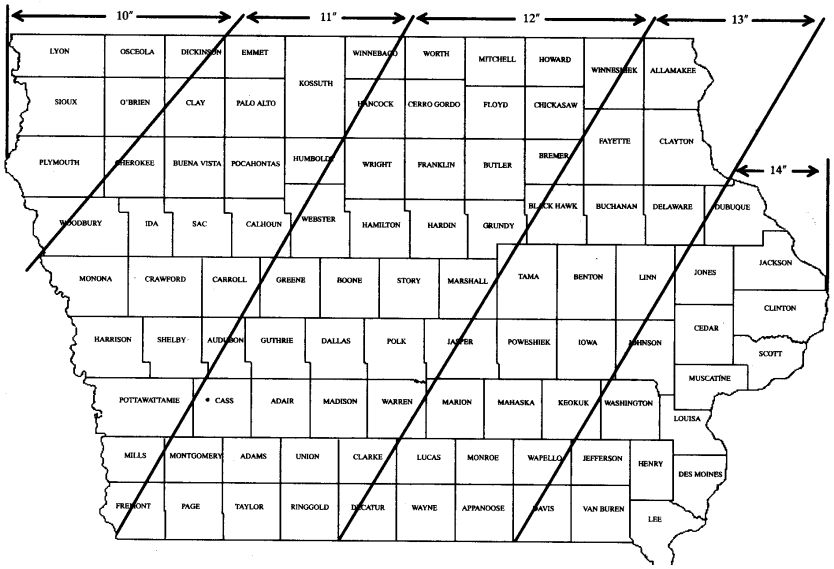

FIGURE 1. – Feedlot runoff value, in inches, for determining required capacity of the "System 1: One Open Feedlot Effluent Application Period Per Year" manure control system.

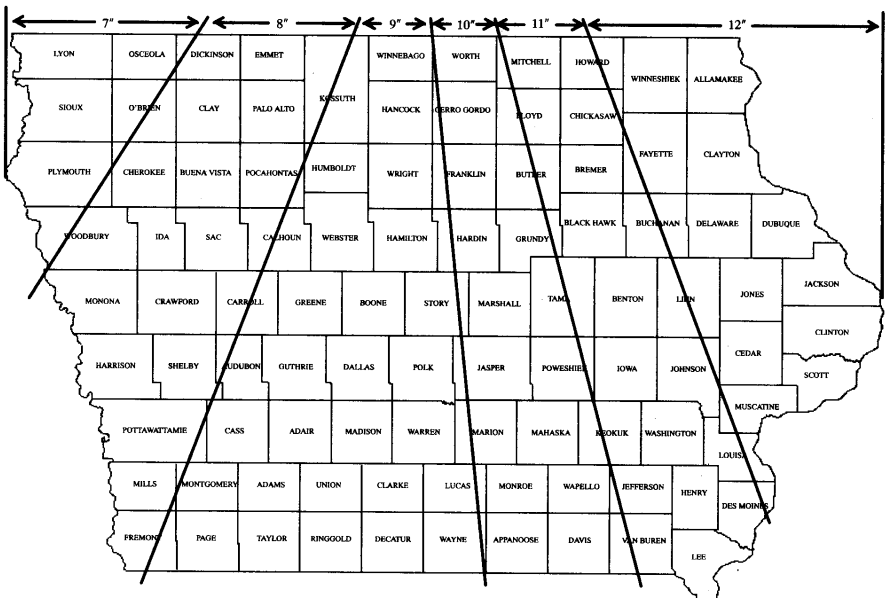

FIGURE 2. – Feedlot runoff value, in inches, for determining required capacity of the "System 2: July and October Open Feedlot Effluent Application" manure control system.

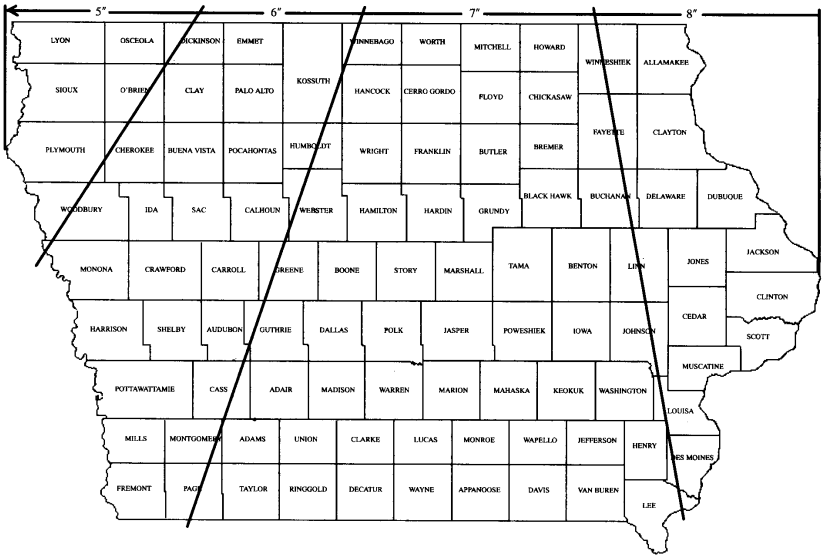

FIGURE 3. – Feedlot runoff value, in inches, for determining required capacity of the "System 3: April, July, and October Open Feedlot Effluent Application" manure control system.

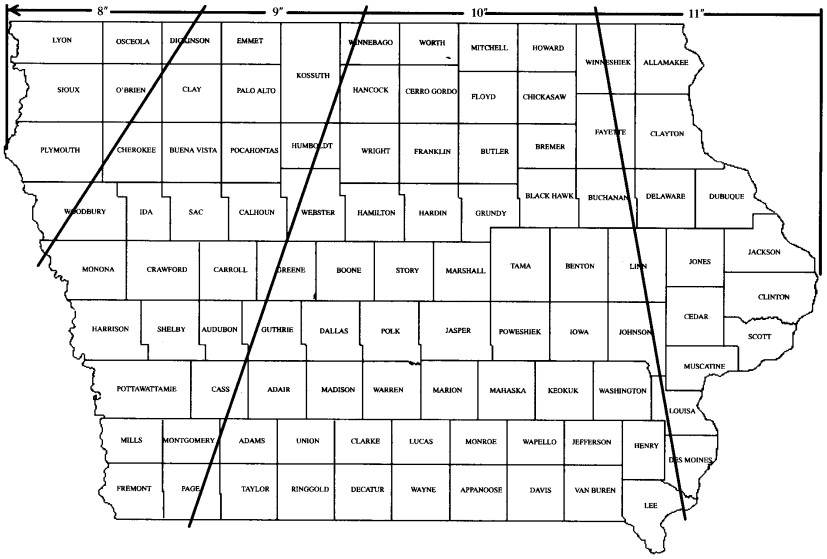

FIGURE 4. – Feedlot runoff value, in inches, for determining required capacity of the "System 5: April/May and October/November Open Feedlot Effluent Application" manure control system.

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

APPENDIX B
LAND DISPOSAL OF ANIMAL MANURE
Rescinded IAB 2/14/96, effective 3/20/96

APPENDIX C
MASTER MATRIX

Proposed Site Characteristics

The following scoring criteria apply to the site of the proposed confinement feeding operation. Mark one score under each criterion selected by the applicant. The proposed site must obtain a minimum overall score of 440 and a score of 53.38 in the "air" subcategory, a score of 67.75 in the "water" subcategory and a score of 101.13 in the "community impacts" subcategory.

1. Additional separation distance, above minimum requirements, from proposed confinement structure to the closest:
* Residence not owned by the owner of the confinement feeding operation,
* Hospital,
* Nursing home, or
* Licensed or registered child care facility.

	Score	Air	Water	Community
250 feet to 500 feet	25	16.25		8.75
501 feet to 750 feet	45	29.25		17.50
751 feet to 1,000 feet	65	42.25		22.75
1,001 feet to 1,250 feet	85	55.25		29.75
1,251 feet or more	100	65.00		35.00

(A) Refer to the construction permit application package to determine the animal unit capacity (or animal weight capacity if an expansion) of the proposed confinement feeding operation. Then refer to Table 6 of 567—Chapter 65 to determine minimum required separation distances.
(B) The department will award points only for the single building, of the four listed above, closest to the proposed confinement feeding operation.
(C) "Licensed or registered child care facility" - a facility licensed or registered by the department of human services providing child care or preschool services for six or more children as provided in Iowa Code chapter 237A.
(D) A full listing of licensed and registered child care facilities is available at county offices of the department of human services.

2. Additional separation distance, above minimum requirements, from proposed confinement structure to the closest public use area.

	Score	Air	Water	Community
250 feet to 500 feet	5	2.00		3.00
501 feet to 750 feet	10	4.00		6.00
751 feet to 1,000 feet	15	6.00		9.00
1,001 feet to 1,250 feet	20	8.00		12.00
1,251 feet to 1,500 feet	25	10.00		15.00
1,501 feet or more	30	12.00		18.00

(A) Refer to the construction permit application package to determine the animal unit capacity (or animal weight capacity if an expansion) of the proposed confinement feeding operation. Then refer to Table 6 of 567—Chapter 65 to determine minimum required separation distances.
(B) "Public use area" - a 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, shelter houses, playground equipment, lakes as listed in Table 2 of 567—Chapter 65, and swimming beaches. 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.

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3. Additional separation distance, above minimum requirements, from proposed confinement structure to the closest:
* Educational institution,
* Religious institution, or
* Commercial enterprise.

	Score	Air	Water	Community
250 feet to 500 feet	5	2.00		3.00
501 feet to 750 feet	10	4.00		6.00
751 feet to 1,000 feet	15	6.00		9.00
1,001 feet to 1,250 feet	20	8.00		12.00
1,251 feet to 1,500 feet	25	10.00		15.00
1,501 feet or more	30	12.00		18.00

(A) Refer to the construction permit application package to determine the animal unit capacity (or animal weight capacity if an expansion) of the proposed confinement feeding operation. Then refer to Table 6 of 567—Chapter 65 to determine minimum required separation distances.
(B) The department will award points only for the single building, of the three listed above, closest to the proposed confinement feeding operation.
(C) "Educational institution" - 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 education agencies, community colleges, institutions of higher education under the control of the state board of regents, and accredited independent colleges and universities.
(D) "Religious institution" - a building in which an active congregation is devoted to worship.
(E) "Commercial enterprise" - 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.

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4. Additional separation distance, above the minimum requirement of 500 feet, from proposed confinement structure to the closest water source.

	Score	Air	Water	Community
250 feet to 500 feet	5		5.00	
501 feet to 750 feet	10		10.00	
751 feet to 1,000 feet	15		15.00	
1,001 feet to 1,250 feet	20		20.00	
1,251 feet to 1,500 feet	25		25.00	
1,501 feet or more	30		30.00	

"Water source" - 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 an outlet to which only one landowner is riparian.

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5. Separation distance of 300 feet or more from the proposed confinement structure to the nearest thoroughfare.

	Score	Air	Water	Community
300 feet or more	30	9.00		21.00

(A) "Thoroughfare" - a road, street, bridge, or highway open to the public and constructed or maintained by the state or a political subdivision.
(B) The 300-foot distance includes the 100-foot minimum setback plus an additional 200 feet.

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6. Additional separation distance, above minimum requirements, from proposed confinement structure to the closest critical public area.

	Score	Air	Water	Community
500 feet or more	10	4.00		6.00

(A) All critical public areas as defined in 567—65.1(459,459B) are public use areas and therefore subject to public use area minimum separation distances.
(B) Refer to the construction permit application package to determine the animal unit capacity (or animal weight capacity if an expansion) of the proposed confinement feeding operation. Then refer to Table 6 of 567—Chapter 65 to determine minimum required separation distances.

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7. Proposed confinement structure is at least two times the minimum required separation distance from all private and public water wells.

	Score	Air	Water	Community
Two times the minimum separation distance	30		24.00	6.00

Refer to Table 6 of 567—Chapter 65 for minimum required separation distances to wells.

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8. Additional separation distance, above the minimum requirement of 1,000 feet, from proposed confinement structure to the closest:
* Agricultural drainage well,
* Known sinkhole, or
* Major water source.

	Score	Air	Water	Community
250 feet to 500 feet	5	0.50	2.50	2.00
501 feet to 750 feet	10	1.00	5.00	4.00
751 feet to 1,000 feet	15	1.50	7.50	6.00
1,001 feet to 1,250 feet	20	2.00	10.00	8.00
1,251 feet to 1,500 feet	25	2.50	12.50	10.00
1,501 feet to 1,750 feet	30	3.00	15.00	12.00
1,751 feet to 2,000 feet	35	3.50	17.50	14.00
2,001 feet to 2,250 feet	40	4.00	20.00	16.00
2,251 feet to 2,500 feet	45	4.50	22.50	18.00
2,501 feet or more	50	5.00	25.00	20.00

(A) The department will award points only for the single item, of the three listed above, closest to the proposed confinement feeding operation.
(B) "Agricultural drainage wells" - include surface intakes, cisterns and wellheads of agricultural drainage wells.
(C) "Major water source" - a lake, reservoir, river or stream located within the territorial limits of the state, or any marginal river area adjacent to the state which can support 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 Tables 1 and 2 in 567—Chapter 65.

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9. Distance between the proposed confinement structure and the nearest confinement facility that has a submitted department manure management plan.

	Score	Air	Water	Community
Three-quarters of a mile or more (3,960 feet)	25	7.50	7.50	10.00

Confinement facilities include swine, poultry, and dairy and beef cattle.

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10. Separation distance from proposed confinement structure to closest:
* High quality (HQ) waters,
* High quality resource (HQR) waters, or
* Protected water areas (PWA)
is at least two times the minimum required separation distance.

	Score	Air	Water	Community
Two times the minimum separation distance	30		22.50	7.50

(A) The department will award points only for the single item, of the three listed above, closest to the proposed confinement feeding operation.
(B) HQ waters are identified in 567—Chapter 61.
(C) HQR waters are identified in 567—Chapter 61.
(D) A listing of PWAs is available at www.state.ia.us/government/dnr/organiza/ppd/prowater.htm#Location%20of%20PWA's%20in.

11. Air quality modeling results demonstrating an annoyance level less than 2 percent of the time for residences within two times the minimum separation distance.

	Score	Air	Water	Community
University of Minnesota OFFSET model results demonstrating an annoyance level less than 2 percent of the time	10	6.00		4.00

(A) OFFSET can be found at www.extension.umn.edu/distribution/livestocksystems/DI7680.html. For more information, contact Dr. Larry Jacobson, University of Minnesota, (612)625-8288, jacob007@tc.umn.edu.
(B) A residence that has a signed waiver for the minimum separation distance cannot be included in the model.
(C) Only the OFFSET model is acceptable until the department recognizes other air quality models.

12. Liquid manure storage structure is covered.

	Score	Air	Water	Community
Covered liquid manure storage	30	27.00		3.00

(A) "Covered" - 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.
(B) The design, operation and maintenance plan for the manure cover must be in the construction permit application and made a condition in the approved construction permit.

13. Construction permit application contains design, construction, operation and maintenance plan for emergency containment area at manure storage structure pump-out area.

	Score	Air	Water	Community
Emergency containment area	20		18.00	2.00

(A) The emergency containment area must be able to contain at least 5 percent of the total volume capacity of the manure storage structure.
(B) The emergency containment area must be constructed on soils that are fine-grained and have low permeability.
(C) If manure is spilled into the emergency containment area, the spill must be reported to the department within six hours of onset or discovery.
(D) The design, construction, operation and maintenance plan for the emergency containment area must be in the construction permit application and made a condition in the approved construction permit.

14. Installation of a filter(s) designed to reduce odors from confinement building(s) exhaust fan(s).

	Score	Air	Water	Community
Installation of filter(s)	10	8.00		2.00

The design, operation and maintenance plan for the filter(s) must be in the construction permit application and made a condition in the approved construction permit.

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15. Utilization of landscaping around confinement structure.

	Score	Air	Water	Community
Utilization of landscaping	20	10.00		10.00

The design, operation and maintenance plan for the landscaping must be in the construction permit application and made a condition in the approved construction permit. The design should contain at least three rows of trees and shrubs, of both fast- and slow-growing species that are well suited for the site.

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16. Enhancement, above minimum requirements, of structures used in stockpiling and composting activities, such as an impermeable pad and a roof or cover.

	Score	Air	Water	Community
Stockpile and compost facility enhancements	30	9.00	18.00	3.00

(A) The design, operation and maintenance plan for the stockpile or compost structure enhancements must be in the construction permit application and made a condition in the approved construction permit.
(B) The stockpile or compost structures must be located on land adjacent or contiguous to the confinement building.

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17. Proposed manure storage structure is formed.

	Score	Air	Water	Community
Formed manure storage structure	30		27.00	3.00

(A) “Formed manure storage structure” - 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.
(B) The design, operation and maintenance plan for the formed manure storage structure must be in the construction permit application and made a condition in the approved construction permit.

18. Manure storage structure is aerated to meet departmental standards as an aerobic structure, if aeration is not already required by the department.

	Score	Air	Water	Community
Aerated manure storage structure	10	8.00		2.00

(A) "Aerobic structure" - 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.
(B) The design, operation and maintenance plan for the aeration equipment must be in the construction permit application and made a condition in the approved construction permit.

19. Proposed confinement site has a suitable truck turnaround area so that semitrailers do not have to back into the facility from the road.

	Score	Air	Water	Community
Truck turnaround	20			20.00

(A) The design, operation and maintenance plan for the truck turnaround area must be in the construction permit application and made a condition in the approved construction permit.
(B) The turnaround area should be at least 120 feet in diameter and be adequately surfaced for traffic in inclement weather.

20. Construction permit applicant's animal feeding operation environmental and worker protection violation history for the last five years at all facilities in which the applicant has an interest.

	Score	Air	Water	Community
No history of Administrative Orders in last five years	30			30.00

(A) "Interest" - 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. Ownership interest is an interest when it is held either directly, indirectly through a spouse or dependent child, or both.
(B) An environmental violation is a final Administrative Order (AO) from the department or final court ruling against the construction permit applicant for environmental violations related to an animal feeding operation. A Notice of Violation (NOV) does not constitute a violation.

21. Construction permit applicant waives the right to claim a Pollution Control Tax Exemption for the life of the proposed confinement feeding operation structure.

	Score	Air	Water	Community
Permanent waiver of Pollution Control Tax Exemption	5			5.00

(A) Waiver of Pollution Control Tax Exemption is limited to the proposed structure(s) in the construction permit application.
(B) The department and county assessor will maintain a record of this waiver, and it must be in the construction permit application and made a condition in the approved construction permit.

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22. Construction permit applicant can lawfully claim a Homestead Tax Exemption on the site where the proposed confinement structure is to be constructed
- OR -
the construction permit applicant is the closest resident to the proposed confinement structure.

	Score	Air	Water	Community
Site qualifies for Homestead Tax Exemption or permit applicant is closest resident to proposed structure	25			25.00

(A) Proof of Homestead Tax Exemption is required as part of the construction permit application.
(B) Applicant includes persons who have ownership interests. "Interest" - 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. Ownership interest is an interest when it is held either directly, indirectly through a spouse or dependent child, or both.

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23. Construction permit applicant can lawfully claim a Family Farm Tax Credit for agricultural land where the proposed confinement feeding operation is to be located pursuant to Iowa Code chapter 425A.

	Score	Air	Water	Community
Family Farm Tax Credit qualification	25			25.00

Applicant includes persons who have ownership interests. "Interest" - 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. Ownership interest is an interest when it is held either directly, indirectly through a spouse or dependent child, or both.

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24. Facility size.

	Score	Air	Water	Community
1 to 2,000 animal unit capacity	20			20.00
2,001 to 3,000 animal unit capacity	10			10.00
3,001 animal unit capacity or more	0			0.00

(A) Refer to the construction permit application package to determine the animal unit capacity of the proposed confinement structure at the completion of construction.
(B) If the proposed structure is part of an expansion, animal unit capacity (or animal weight capacity) must include all animals confined in adjacent confinement structures.
(C) 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. In addition, for purposes of determining whether two or more confinement feeding operations are adjacent, all of the following must apply:
(a) At least one confinement feeding operation structure must be constructed on and after May 21, 1998.
(b) A confinement feeding operation structure which is part of one confinement feeding operation is separated by less than a minimum required distance from a confinement feeding operation structure which is part of the other confinement feeding operation. The minimum required distance shall be as follows:
(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 animal units or more.

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25. Construction permit application includes livestock feeding and watering systems that significantly reduce manure volume.

	Score	Air	Water	Community
Wet/dry feeders or other feeding and watering systems that significantly reduce manure volume	25		12.50	12.50

The design, operation and maintenance plan for the feeding system must be in the construction permit application and made a condition in the approved construction permit.

Proposed Site Operation and Manure Management Practices

The following scoring criteria apply to the operation and manure management characteristics of the proposed confinement feeding operation. Mark one score under each criterion that best reflects the characteristics of the submitted manure management plan.

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26. Liquid or dry manure (choose only one subsection from subsections "a" - "e" and mark only one score in that subsection).

		Score	Air	Water	Community
a.	Bulk dry manure is sold under Iowa Code chapter 200A and surface-applied	15		15.00	
	Bulk dry manure is sold under Iowa Code chapter 200A and incorporated on the same date it is land-applied	30	12.00	12.00	6.00
b.	Dry manure is composted and land-applied under the requirements of a manure management plan	10	4.00	4.00	2.00
	Dry manure is composted and sold so that no manure is applied under the requirements of a manure management plan	30	12.00	12.00	6.00

c.

Methane digester is used to generate energy from manure and remaining manure is surface-applied under the requirements of a manure management plan	10	3.00	3.00	4.00
After methane digestion is complete, manure is injected or incorporated on the same date it is land-applied under the requirements of a manure management plan	30	12.00	12.00	6.00

d.

Dry manure is completely burned to generate energy and no remaining manure is applied under the requirements of a manure management plan	30	9.00	9.00	12.00
Some dry manure is burned to generate energy, but remaining manure is land-applied and incorporated on the same date it is land-applied	30	12.00	12.00	6.00

e.

Injection or incorporation of manure on the same date it is land-applied	30	12.00	12.00	6.00

(A) Choose only ONE line from subsection “a,” “b,” “c,” “d,” or “e” above and mark only one score in that subsection.
(B) The injection or incorporation of manure must be in the construction permit application and made a condition in the approved construction permit.
(C) If an emergency arises and injection or incorporation is not feasible, prior to land application of manure, the applicant must receive a written approval for an emergency waiver from a department field office to surface-apply manure.
(D) Requirements pertaining to the sale of bulk dry manure pursuant to Iowa Code chapter 200A must be incorporated into the construction permit application and made a condition of the approved construction permit.
(E) The design, operation and maintenance plan for utilization of manure as an energy source must be in the construction permit application and made a condition in the approved construction permit.
(F) The design, operation and maintenance plan for composting facilities must be in the construction permit application and made a condition in the approved construction permit.

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27. Land application of manure is based on a two-year crop rotation phosphorus uptake level.

	Score	Air	Water	Community
Two-year phosphorus crop uptake application rate	10		10.00	

(A) Land application of manure cannot exceed phosphorus crop usage levels for a two-year crop rotation cycle.
(B) The phosphorus uptake application rates must be in the construction permit application and made a condition in the approved construction permit.

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28. Land application of manure to farmland that has USDA Natural Resources Conservation Service (NRCS)-approved buffer strips contiguous to all water sources traversing or adjacent to the fields listed in the manure management plan.

	Score	Air	Water	Community
Manure application on farmland with buffer strips	10		8.00	2.00

(A) The department may request NRCS maintenance agreements to ensure proper design, installation and maintenance of filter strips. If a filter strip is present but not designed by NRCS, it must meet NRCS standard specifications.
(B) The application field does not need to be owned by the confinement facility owner to receive points.
(C) On current and future manure management plans, the requirement for buffer strips on all land application areas must be in the construction permit application and made a condition in the approved construction permit.

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29. Land application of manure does not occur on highly erodible land (HEL), as classified by the USDA NRCS.

	Score	Air	Water	Community
No manure application on HEL farmland	10		10.00	

Manure application on non-HEL farmland must be in the construction permit application and made a condition in the approved construction permit.

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30. Additional separation distance, above minimum requirements (0 or 750 feet, see below), for the land application of manure to the closest:
* Residence not owned by the owner of the confinement feeding operation,
* Hospital,
* Nursing home, or
* Licensed or registered child care facility.

	Score	Air	Water	Community
Additional separation distance of 200 feet	5	3.25		1.75
Additional separation distance of 500 feet	10	6.50		3.50

(A) The department will award points only for the single building, of the four listed above, closest to the proposed confinement feeding operation.
(B) Minimum separation distance for land application of manure injected or incorporated on the same date as application: 0 feet.
(C) Minimum separation distance for land application of manure broadcast on soil surface: 750 feet.
(D) The additional separation distances must be in the construction permit application and made a condition in the approved construction permit.
(E) "Licensed or registered child care facility" - a facility licensed or registered by the department of human services providing child care or preschool services for six or more children as provided in Iowa Code chapter 237A.
(F) A full listing of licensed and registered child care facilities is available at county offices of the department of human services.

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31. Additional separation distance, above minimum requirements (0 or 750 feet, see below), for land application of manure to closest public use area.

	Score	Air	Water	Community
Additional separation distance of 200 feet	5	2.00		3.00

(A) "Public use area" - a 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, shelter houses, playground equipment, lakes as listed in Table 2 in 567—Chapter 65, and swimming beaches. 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.
(B) Minimum separation distance for land application of manure injected or incorporated on the same date as application: 0 feet.
(C) Minimum separation distance for land application of manure broadcast on soil surface: 750 feet.
(D) The additional separation distances must be in the construction permit application and made a condition in the approved construction permit.

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32. Additional separation distance, above minimum requirements (0 or 750 feet, see below), for the land application of manure to the closest:
* Educational institution,
* Religious institution, or
* Commercial enterprise.

	Score	Air	Water	Community
Additional separation distance of 200 feet	5	2.00		3.00

(A) Minimum separation distance for land application of manure broadcast on soil surface: 750 feet.
(B) Minimum separation distance for land application of manure injected or incorporated on same date as application: 0 feet.
(C) The additional separation distances must be in the construction permit application and made a condition in the approved construction permit.
(D) "Educational institution" - 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 education agencies, community colleges, institutions of higher education under the control of the state board of regents, and accredited independent colleges and universities.
(E) "Religious institution" - a building in which an active congregation is devoted to worship.
(F) "Commercial enterprise" - 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.

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33. Additional separation distance of 50 feet, above minimum requirements (0 or 200 feet, see below), for the land application of manure to the closest private drinking water well or public drinking water well
- OR -
well is properly closed under supervision of county health officials.

	Score	Air	Water	Community
Additional separation distance of 50 feet or well is properly closed	10		8.00	2.00

(A) Minimum separation distance for land application of manure injected or incorporated on the same date as application or 50-foot vegetation buffer exists around well and manure is not applied to the buffer: 0 feet.
(B) Minimum separation distance for land application of manure broadcast on soil surface: 200 feet.
(C) If applicant chooses to close the well, the well closure must be incorporated into the construction permit application and made a condition in the approved construction permit.

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34. Additional separation distance, above minimum requirements, for the land application of manure to the closest:
* Agricultural drainage well,
* Known sinkhole,
* Major water source, or
* Water source.

	Score	Air	Water	Community
Additional separation distance of 200 feet	5	0.50	2.50	2.00
Additional separation distance of 400 feet	10	1.00	5.00	4.00

(A) "Agricultural drainage wells" - include surface intakes, cisterns and wellheads of agricultural drainage wells.
(B) "Major water source" - a lake, reservoir, river or stream located within the territorial limits of the state, or any marginal river area adjacent to the state, which can support 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 Tables 1 and 2 in 567—Chapter 65.
(C) "Water source" - 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 an outlet to which only one landowner is riparian.
(D) The additional separation distances must be in the construction permit application and made a condition in the approved construction permit.

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35. Additional separation distance, above minimum requirements, for the land application of manure, to the closest:
* High quality (HQ) water,
* High quality resource (HQR) water, or
* Protected water area (PWA).

	Score	Air	Water	Community
Additional separation distance of 200 feet	5		3.75	1.25
Additional separation distance of 400 feet	10		7.50	2.50

(A) HQ waters are identified in 567—Chapter 61.
(B) HQR waters are identified in 567—Chapter 61.
(C) A listing of PWAs is available at www.state.ia.us/government/dnr/organiza/ppd/prowater.htm#Location%20of%20PWA's%20in.

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36. Demonstrated community support.

	Score	Air	Water	Community
Written approval of 100 percent of the property owners within a one-mile radius	20			20.00

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37. Worker safety and protection plan is submitted with the construction permit application.

	Score	Air	Water	Community
Submission of worker safety and protection plan	10			10.00

(A) The worker safety and protection plan must be in the construction permit application and made a condition in the approved construction permit.
(B) The worker safety and protection plan and subsequent records must be kept on site with the manure management plan records.

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38. Applicant signs a waiver of confidentiality allowing the public to view confidential manure management plan land application records.

	Score	Air	Water	Community
Manure management plan confidentiality waiver	5			5.00

The waiver of confidentiality must be in the construction permit application and made a condition in the approved construction permit. The applicant may limit public inspection to reasonable times and places.

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39. Added economic value based on quality job development (number of full-time equivalent (FTE) positions), and salary equal to or above Iowa department of workforce development median (45-2093)
- OR -
the proposed structure increases commercial property tax base in the county.

	Score	Air	Water	Community
Economic value to local community	10			10.00

The Iowa department of workforce development regional profiles are available at www.iowaworkforce.org/centers/regionalsites.htm. Select the appropriate region and then select "Regional Profile."

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40. Construction permit application contains an emergency action plan.

	Score	Air	Water	Community
Emergency action plan	5		2.50	2.50

(A) Iowa State University Extension publication PM 1859 lists the components of an emergency action plan. The emergency action plan submitted should parallel the components listed in the publication.
(B) The posting and implementation of an emergency action plan must be in the construction permit application and made a condition in the approved construction permit.
(C) The emergency action plan and subsequent records must be kept on site with the manure management plan records.

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41. Construction permit application contains a closure plan.

	Score	Air	Water	Community
Closure plan	5		2.50	2.50

(A) The closure plan must be in the construction permit application and made a condition in the approved construction permit.
(B) The closure plan must be kept on site with the manure management plan records.

42. Adoption and implementation of an environmental management system (EMS) recognized by the department.

	Score	Air	Water	Community
EMS	15	4.50	4.50	6.00

(A) The EMS must be in the construction permit application and made a condition in the approved construction permit.
(B) The EMS must be recognized by the department as an acceptable EMS for use with confinement operations.

43. Adoption and implementation of NRCS-approved Comprehensive Nutrient Management Plan (CNMP).

	Score	Air	Water	Community
CNMP	10	3.00	3.00	4.00

The implementation and continuation of a CNMP must be in the construction permit application and made a condition in the approved construction permit.

44. Groundwater monitoring wells installed near manure storage structure, and applicant agrees to provide data to the department.

	Score	Air	Water	Community
Groundwater monitoring	15		10.50	4.50

(A) Monitoring well location, sampling and data submission must meet department requirements.
(B) The design, operation and maintenance plan for the groundwater monitoring wells, and data transfer to the department, must be in the construction permit application and made a condition in the approved construction permit.

	Total Score	Air	Water	Community
Minimum score to pass:	440	53.38	67.75	101.13

APPENDIX D
DESIGN SPECIFICATIONS—FORMED MANURE STORAGE STRUCTURES

The following design specifications apply to a formed manure storage structure that is constructed belowground, is laterally braced and is not designed using MWPS-36 or by a PE or an NRCS engineer:

(1) The walls of a rectangular formed structure with a depth up to 12 feet shall be designed in accordance with the tables provided in this appendix.

(2) Consideration shall be given to internal and external loads including, but not limited to, lateral earth pressures, hydrostatic pressures, wind loads, and floor or cover, building and equipment loads.

(3) Each wall shall be braced laterally at the top of the wall.

(4) The walls shall be constructed above the groundwater table, or a drain tile shall be installed to artificially lower the groundwater table.

(5) Each wall that includes a pumpout port shall be constructed under the design consideration that vehicles will be operating within 5 feet of the wall as provided in Tables D-2 and D-4.

(6) Minimum wall thickness and minimum vertical steel reinforcement shall be in accordance with one of the following:

(a) Table D-1, if **all** of the following conditions are met:

1. There will be NO VEHICLES operating within 5 feet of the wall.

2. Backfilling is performed with gravel, sand, silt, and clay mixtures (less than 50 percent fines), with coarse sand with silt or clay (less than 50 percent fines), or cleaner granular material (see NRCS Conservation Practice Standard, "Waste Storage Facility," Code 313, Table 2, for description and unified classification or ASTM D 2488 and D 653).

APPENDIX D, TABLE D-1
Minimum Wall Thickness and Vertical Steel Reinforcement

Wall height (feet)	Wall thickness (inches)	Steel Grade			
		Grade 40		Grade 60	
		Bar	Space o.c. (inches)	Bar	Space o.c. (inches)
4 or less	6	#4	16.5	#4	18.0
		#5	18.0	#5	18.0
4 or less	8	#4	12.0	#4	13.5
		#5	18.0	#5	18.0
6	6	#4	14.5	#4	18.0
		#5	18.0	#5	18.0
6	8	#4	12.0	#4	13.5
		#5	18.0	#5	18.0
8	8	#4	9.5	#4	13.5
		#5	14.5	#5	18.0
8	10	#4	9.5	#4	11.0
		#5	15.0	#5	17.0
10	8	#4	6.5	#4	9.5
		#5	10.0	#5	13.5
10	10	#4	6.5	#4	9.5
		#5	10.0	#5	15.0
12	10	#4	5.0	#4	7.5
		#5	7.5	#5	11.5

(b) Table D-2, if **all** of the following conditions are met:

1. There will be VEHICLES operating within 5 feet of the wall.

2. Backfilling is performed with gravel, sand, silt, and clay mixtures (less than 50 percent fines), with coarse sand with silt or clay (less than 50 percent fines), or cleaner granular material (see NRCS Conservation Practice Standard, "Waste Storage Facility," Code 313, Table 2, for description and unified classification or ASTM D 2488 and D 653).

APPENDIX D, TABLE D-2

Minimum Wall Thickness and Vertical Steel Reinforcement

Wall height (feet)	Wall thickness (inches)	Steel Grade			
		Grade 40		Grade 60	
		Bar	Space o.c. (inches)	Bar	Space o.c. (inches)
4 or less	6	#4	16.5	#4	18.0
		#5	18.0	#5	18.0
4 or less	8	#4	12.0	#4	13.5
		#5	18.0	#5	18.0
6	6	#4	10.5	#4	15.5
		#5	16.5	#5	18.0
6	8	#4	12.0	#4	13.5
		#5	18.0	#5	18.0
8	8	#4	6.5	#4	10.0
		#5	10.5	#5	16.0
8	10	#4	8.5	#4	11.0
		#5	13.5	#5	17.0
10	8	#4	4.5	#4	6.5
		#5	7.0	#5	10.5
10	10	#4	5.0	#4	7.5
		#5	8.0	#5	12.0
12	10	#4	3.5	#4	5.5
		#5	5.5	#5	8.5

(c) Table D-3, if **all** of the following conditions are met:

1. There will be NO VEHICLES operating within 5 feet of the wall.

2. Backfilling is performed with low plasticity silts and clays with some sand or gravel (50 percent or more fines); or fine sands with silt or clay (less than 50 percent fines); or low to medium plasticity silts and clays with little sand or gravel (50 percent or more fines); or high plasticity silts and clays (see NRCS Conservation Practice Standard, "Waste Storage Facility," Code 313, Table 2, for description and unified classification or ASTM D 2488 and D 653).

APPENDIX D, TABLE D-3

Minimum Wall Thickness and Vertical Steel Reinforcement

Wall height (feet)	Wall thickness (inches)	Steel Grade			
		Grade 40		Grade 60	
		Bar	Space o.c. (inches)	Bar	Space o.c. (inches)
4 or less	6	#4	16.5	#4	18.0
		#5	18.0	#5	18.0
4 or less	8	#4	12.0	#4	13.5
		#5	18.0	#5	18.0
6	6	#4	10.5	#4	15.5
		#5	16.5	#5	18.0
6	8	#4	12.0	#4	13.5
		#5	18.0	#5	18.0
8	8	#4	6.5	#4	10.0
		#5	10.5	#5	16.0
8	10	#4	9.0	#4	11.0
		#5	14.0	#5	17.0
10	8	#4	4.5	#4	6.5
		#5	7.0	#5	10.0
10	10	#4	5.0	#4	7.5
		#5	8.0	#5	12.0
12	10	#4	3.5	#4	5.0
		#5	5.5	#5	8.0

(d) Table D-4, if **all** of the following conditions are met:

1. There will be VEHICLES operating within 5 feet of the wall.

2. Backfilling is performed with low plasticity silts and clays with some sand or gravel (50 percent or more fines); or fine sands with silt or clay (less than 50 percent fines); or low to medium plasticity silts and clays with little sand or gravel (50 percent or more fines); or high plasticity silts and clays (see NRCS Conservation Practice Standard, "Waste Storage Facility," Code 313, Table 2, for description and unified classification or ASTM D 2488 and D 653).

APPENDIX D, TABLE D-4

Minimum Wall Thickness and Vertical Steel Reinforcement

Wall height (feet)	Wall thickness (inches)	Steel Grade			
		Grade 40		Grade 60	
		Bar	Space o.c. (inches)	Bar	Space o.c. (inches)
4 or less	6	#4	16.5	#4	18.0
		#5	18.0	#5	18.0
4 or less	8	#4	12.0	#4	13.5
		#5	18.0	#5	18.0
6	6	#4	8.0	#4	12.0
		#5	12.5	#5	16.5
6	8	#4	9.5	#4	13.5
		#5	15.0	#5	18.0
8	8	#4	6.0	#4	9.0
		#5	9.0	#5	11.5
8	10	#4	6.0	#4	9.0
		#5	9.5	#5	14.0
10	8	#4	3.0	#4	4.5
		#5	4.5	#5	7.0
10	10	#4	4.5	#4	6.5
		#5	6.5	#5	10.0
12	10	#4	2.5	#4	4.0
		#5	4.0	#5	6.0

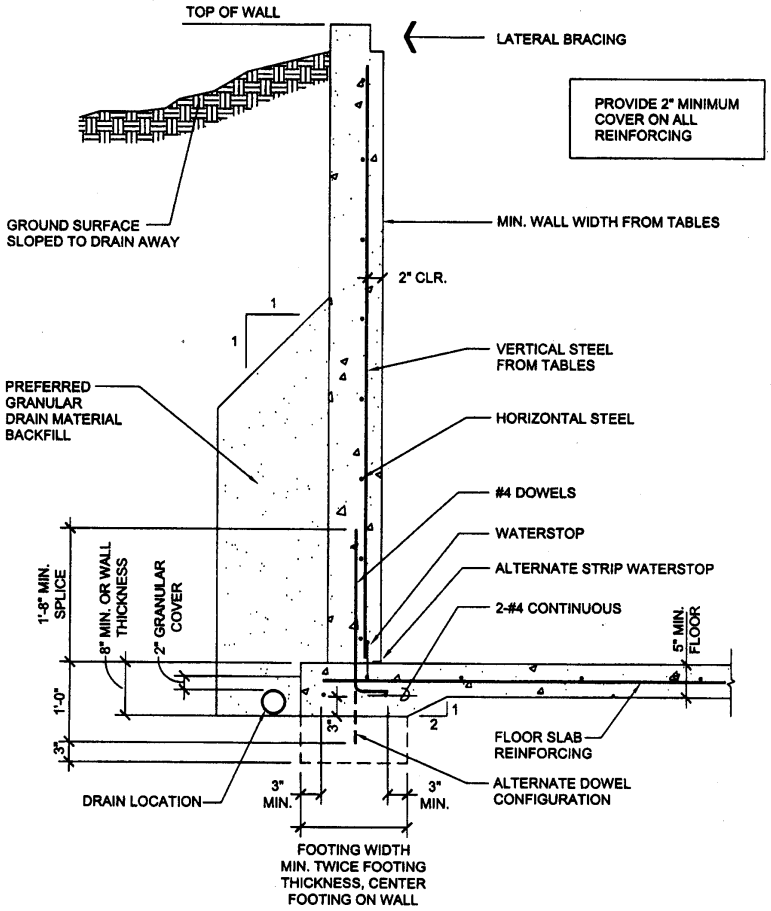
(7) Minimum horizontal steel for a rectangular tank shall be selected and placed according to Table D-5, regardless of wall height, and shall be tied to the soil side of vertical steel:

APPENDIX D, TABLE D-5

Minimum Wall Horizontal Steel Reinforcement

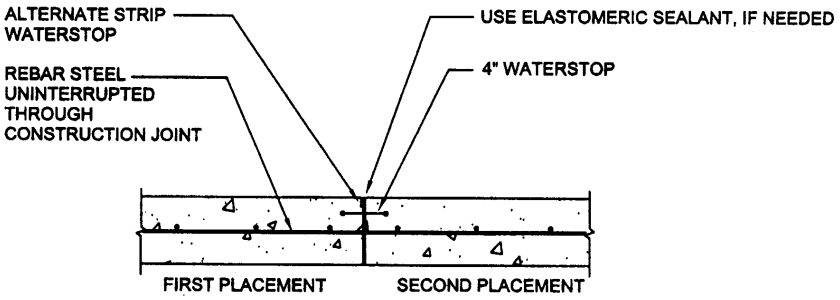
Wall thickness (inches)	Steel Grade			
	Grade 40		Grade 60	
	Bar	Space o.c. (inches)	Bar	Space o.c. (inches)
6	#4	16.5	#4	18.0
	#5	18.0	#5	18.0
8	#4	12.0	#4	13.5
	#5	18.0	#5	18.0
10	#4	9.5	#4	11.0
	#5	15.0	#5	17.0

APPENDIX D, FIGURE D-1
MONOLITHIC FOOTING FLOOR DETAIL



NOTE: For a more detailed version of this figure, contact the department, animal feeding operations.

APPENDIX D, FIGURE D-2
WALL AND FLOOR CONSTRUCTION JOINT



NOTE: For a more detailed version of this figure, contact the department, animal feeding operations.

TABLE 1

Major Water Sources—Rivers and Streams

County	River/Stream	Location
Adair	Bush Branch	East county line (S13, T75N, R30W) to confluence with unnamed tributary (S13, T75N, R30W)
	Middle Nodaway River	South county line (S31, T74N, R33W) to Hwy. 92 (S14, T75N, R32W)
	Middle River	East county line (S36, T76N, R30W) to north county line (S1, T77N, R32W)
	North Turkey Creek	Mouth (S35, T77N, R31W) to confluence with South Turkey Creek (S33, T77N, R31W)
	Shanghai Creek	South county line (S34, T74N, R32W) to confluence with unnamed tributary (SW1/4, S34, T74N, R32W)
	Thompson River	East county line (S12, T74N, R30W) to confluence with Ninemile Creek (S35, T75N, R30W)
	West Fork Middle Nodaway River	Mouth (S33, T74N, R33W) to County Road N51 (S20, T76N, R33W)
Adams	East Nodaway River	South county line (S31, T71N, R35W) to confluence with Shanghai Creek (S16, T73N, R32W)
	Middle Nodaway River	West county line (S31, T72N, R35W) to north county line (S6, T73N, R33W)
	Platte River	East line (S24, T71N, R32W) to east line (S36, T72N, R32W)
	Shanghai Creek	Mouth (S16, T73N, R32W) to north county line (S3, T73N, R32W)
Allamakee	Bear Creek	Mouth (S1, T99N, R06W) to west county line (S30, T100N, R06W)
	Mississippi River	South county line (S34, T96N, R03W) to north county line (S8, T100N, R03W)
	Paint Creek	Mouth (S9, T99N, R06W) to west county line (S18, T99N, R06W)

County	River/Stream	Location
	Paint Creek	Mouth (S15, T96N, R03W) to road crossing (S18, T97N, R04W)
	Upper Iowa River	Mouth (S19, T100N, R03W) to west county line (S31, T99N, R06W)
	Village Creek	Mouth (S33, T99N, R03W) to confluence with Erickson Spring Branch (S23, T98N, R04W)
	Waterloo Creek	Mouth (S35, T100N, R06W) to north county line (S04, T100N, R06W)
	Winnebago Creek	Mouth (S12, T100N, R04W) to north county line (S1, T100N, R04W)
	Yellow River	Mouth (S34, T96N, R03W) to west county line (S18, T96N, R06W)
Appanoose	Chariton River	South county line (S21, T67N, R16W) to west county line (S6, T70N, R19W)
	Packard Creek	Mouth (S8, T67N, R16W) to confluence with Pigeon Creek (S6, T67N, R16W)
	Soap Creek	East county line (S13, T70N, R16W) to north county line (S4, T70N, R16W)
	South Fork Chariton River	Lake Rathbun (S14, T70N, R19W) to west county line (S31, T70N, R19W)
	South Soap Creek	East county line (S25, T70N, R16W) to Lake Sundown (S29, T70N, R16W)
	Walnut Creek	Mouth (S1, T69N, R18W) to confluence with Little Walnut Creek (S1, T69N, R18W)
Audubon	Brushy Creek	East county line (S1, T81N, R34W) to north county line (S1, T81N, R34W)
	East Branch West Nishnabotna River	West county line (S18, T80N, R36W) to confluence with unnamed tributary (NW 1/4, S19, T81N, R35W)
	East Nishnabotna River	South county line (S36, T78N, R36W) to confluence with unnamed tributary (NW 1/4, S12, T81N, R35W)
	Troublesome Creek	South county line (S35, T78N, R35W) to east county line (S36, T79N, R34W)
Benton	Bear Creek	North county line (S1, T86N, R10W) to mouth (S21, T86N, R10W)
	Bear Creek	East county line (S13, T84N, R09W) to confluence of Wildcat Creek and Opossum Creek (S8, T84N, R09W)
	Blue Creek	East county line (S24, T86N, R09W) to confluence with West Branch Blue Creek (S24, T86N, R09W)
	Cedar River	East county line (S13, T85N, R09W) to north county line (S6, T86N, R10W)
	Iowa River	South county line (S31, T82N, R12W) to west county line (S31, T82N, R12W)
	Prairie Creek	Confluence with unnamed tributary (middle of S 1/2, S13, T83N, R12W) to east county line (S12, T82N, R09W)
	Salt Creek	Mouth (S6, T82N, R12W) to west county line (S6, T82N, R12W)

County	River/Stream	Location
	Walnut Creek	Mouth (S6, T82N, R12W) to south county line (S6, T82N, R12W)
	Wolf Creek	North county line (S2, T86N, R12W) to west county line (S19, T86N, R12W)
Black Hawk	Beaver Creek	Mouth (S34, T90N, R14W) to west county line (S31, T90N, R14W)
	Black Hawk Creek	Mouth (S22, T89N, R13W) to west county line (S6, T87N, R14W)
	Buck Creek	East county line (S12, T90N, R11W) to north county line (S1, T90N, R11W)
	Cedar River	East county line (S36, T87N, R11W) to north county line (S2, T90N, R14W)
	Crane Creek	Mouth (S26, T90N, R11W) to north county line (S3, T90N, R12W)
	Miller Creek	Mouth (S2, T87N, R12W) to confluence with unnamed tributary (NE 1/4, S24, T87N, R13W)
	Shell Rock River	Mouth (S4, T90N, R14W) to north county line (S4, T90N, R14W)
	Spring Creek	Mouth (S34, T87N, R11W) to confluence with East Branch Spring Creek (S11, T87N, R11W)
	Wapsipinicon River	East county line (S1, T89N, R11W) to north county line (S4, T90N, R11W)
	West Fork Cedar River	Mouth (S16, T90N, R14W) to west county line (S7, T90N, R14W)
	Wolf Creek	Mouth (S29, T87N, R11W) to south county line (S35, T87N, R12W)
Boone	Beaver Creek	Confluence with Middle Beaver Creek (S21, T83N, R28W) to south county line (S35, T82N, R28W)
	Des Moines River	South county line (S34, T82N, R26W) to north county line (S3, T85N, R27W)
	Squaw Creek	North line (S9, T85N, R25W) to east county line (S12, T84N, R25W)
Bremer	Cedar River	South county line (S35, T91N, R14W) to north county line (S5, T93N, R14W)
	Crane Creek	South county line (S34, T91N, R12W) to north line (S9, T91N, R12W)
	Dry Run	Mouth (S33, T93N, R14W) to confluence with Horton Creek (S33, T93N, R14W)
	East Branch Wapsipinicon River	Mouth (S34, T93N, R12W) to north county line (S3, T93N, R12W)
	Little Wapsipinicon River	East county line (S13, T92N, R11W) to north line (S2, T92N, R11W)
	Quarter Section Run	Mouth (S19, T91N, R13W) to confluence with unnamed tributary (SW 1/4, S35, T91N, R13W)
	Shell Rock River	South county line (S33, T91N, R14W) to west county line (S18, T91N, R14W)
	Wapsipinicon River	South county line (S33, T91N, R11W) to north county line (S1, T93N, R13W)

County	River/Stream	Location
Buchanan	Buck Creek	Mouth (S32, T90N, R10W) to west county line (S7, T90N, R10W)
	Buffalo Creek	East county line (S13, T87N, R07W) to confluence of East and West Branches (S35, T90N, R08W)
	Cedar River	South county line (S31, T87N, R10W) to west county line (S31, T87N, R10W)
	Little Wapsipinicon River	Mouth (S9, T89N, R10W) to north county line (S5, T90N, R10W)
	Otter Creek	Mouth (S19, T89N, R09W) to north county line (S4, T90N, R09W)
	South Fork Maquoketa River	East county line (S24, T90N, R07W) to confluence with Lamont Creek (S23, T90N, R07W)
	Wapsipinicon River	South county line (S31, T87N, R07W) to west county line (S6, T89N, R10W)
Buena Vista	Little Sioux River	North county line (S2, T93N, R38W) to north county line (S5, T93N, R36W)
	North Raccoon River	South county line (S36, T90N, R36W) to north line (S15, T91N, R36W)
Butler	Beaver Creek	East county line (S36, T90N, R15W) to west county line (S31, T90N, R18W)
	Boylan Creek	Mouth (S1, T91N, R18W) to confluence with Parmentar Creek (S14, T92N, R18W)
	Coldwater Creek	Mouth (S29, T93N, R16W) to west line (S5, T93N, R17W)
	Flood Creek	Mouth (S27, T93N, R16W) to north county line (S3, T93N, R16W)
	Hartgrave Creek	Mouth (S34, T92N, R18W) to west county line (S30, T92N, R18W)
	Johnson Creek	West county line (S19, T91N, R18W) to mouth (S20, T90N, R16W)
	Maynes Creek	West county line (S18, T91N, R18W) to mouth (S7, T91N, R17W)
	Shell Rock River	East county line (S13, T91N, R15W) to north county line (S2, T93N, R17W)
	South Beaver Creek	Mouth (S25, T90N, R17W) to south county line (S35, T90N, R17W)
	West Fork Cedar River	East county line (S12, T90N, R15W) to west county line (S7, T92N, R18W)
Calhoun	Camp Creek	Mouth (S7, T86N, R34W) to west line (S25, T88N, R34W)
	Cedar Creek	South county line (S34, T86N, R32W) to confluence with West Cedar Creek (S31, T87N, R31W)
	Lake Creek	Mouth (S23, T86N, R34W) to north line (S25, T87N, R33W)
	North Raccoon River	South county line (S31, T86N, R33W) to west county line (S6, T86N, R34W)

County	River/Stream	Location
Carroll	Brushy Creek	South county line (S36, T82N, R34W) to confluence with Dedham Creek (S16, T82N, R34W)
	Middle Raccoon River	South county line (S34, T82N, R33W) to confluence with unnamed tributary (NW 1/4, NW 1/4, S6, T84N, R35W)
	North Raccoon River	East county line (S12, T84N, R33W) to north county line (S6, T85N, R33W)
	West Nishnabotna River	West county line (S31, T82N, R36W) to confluence with unnamed tributary (S34, T83N, R36W)
Cass	East Nishnabotna River	West county line (S31, T75N, R37W) to north county line (S1, T77N, R36W)
	Indian Creek	Mouth (S17, T75N, R37W) to north county line (S5, T77N, R37W)
	Sevenmile Creek	South county line (S31, T74N, R36W) to confluence with unnamed tributary (center of S32, T76N, R34W)
	Troublesome Creek	Mouth (S32, T77N, R36W) to north county line (S2, T77N, R35W)
	Turkey Creek	Mouth (S2, T75N, R37W) to confluence with Lone Tree Branch (S28, T76N, R36W)
	West Nodaway River	South county line (SW 1/4, S34, T74N, R36W) to confluence with Williams Creek (S35, T74N, R36W)
Cedar	Cedar River	South county line (S31, T79N, R02W) to west county line (S18, T81N, R04W)
	Mud Creek	South county line (S34, T79N, R01W) to south county line (S35, T79N, R01W)
	Rock Creek	Road crossing north line (S1, T81N, R03W) to mouth (S3, T79N, R03W)
	Sugar Creek	Road crossing north line (S29, T81N, R02W) to south county line (S34, T79N, R02W)
	Wapsipinicon River	East county line (S12, T82N, R01W) to north county line (S1, T82N, R01W)
	West Branch Wapsinonoc Creek	South county line (S33, T79N, R04W) to confluence with unnamed tributary (NE 1/4, S32, T79N, R04W)
Cerro Gordo	Beaverdam Creek	I-35 (S8, T95N, R21W) to south county line (S35, T94N, R20W)
	East Branch Beaverdam Creek	Hwy. 65 (S9, T94N, R20W) to mouth (S21, T94N, R20W)
	Shell Rock River	East county line (S12, T96N, R19W) to north county line (S5, T97N, R19W)
	Spring Creek	County Road B15 (S9, T97N, R20W) to mouth (S28, T97N, R20W)
	West Fork Cedar River	South county line (S35, T94N, R20W) to confluence of Beaverdam Creek and East Branch Beaverdam Creek (S21, T94N, R20W)

County	River/Stream	Location
	Willow Creek	Hwy. 18 (S12, T96N, R21W) to mouth (S3, T96N, R20W)
	Winnebago River	East county line (S36, T96N, R19W) to west county line (S19, T97N, R22W)
Cherokee	Gray Creek	North line (S22, T93N, R40W) to mouth (S10, T92N, R40W)
	Little Sioux River	South county line (S31, T90N, R41W) to north county line (S3, T93N, R39W)
	Maple Creek	Mouth (S5, T91N, R39W) to confluence with unnamed tributary (S1, T91N, R39W)
	Maple River	Confluence with Maple Creek (S5, T91N, R39W) to south county line (S34, T90N, R39W)
	Mill Creek	North county line (S3, T93N, R41W) to mouth (S14, T92N, R40W)
	Perry Creek	North line (S5, T91N, R40W) to mouth (S28, T91N, R40W)
	Rock Creek	East line (S4, T91N, R41W) to mouth (S10, T90N, R41W)
	Silver Creek	Mouth (S32, T91N, R40W) to north line (S34, T90N, R40W)
	West Fork Little Sioux River	North line (S12, T92N, R42W) to west county line (S31, T91N, R42W)
	Willow Creek	North line (S30, T91N, R41W) to mouth (S30, T90N, R41W)
Chickasaw	Cedar River	South county line (S32, T94N, R14W) to west county line (S7, T94N, R14W)
	Crane Creek	East county line (S25, T95N, R11W) to north county line (S21, T97N, R12W)
	East Branch Wapsipinicon River	South county line (S34, T94N, R12W) to confluence with Plum Creek (S15, T95N, R12W)
	Little Cedar River	Mouth (S20, T94N, R14W) to west county line (S6, T95N, R14W)
	Little Turkey River	East county line (S25, T96N, R11W) to north county line (S19, T97N, R11W)
	Little Wapsipinicon River	Mouth (S3, T94N, R13W) to north county line (S24, T97N, R14W)
	Wapsipinicon River	South county line (S36, T94N, R13W) to north county line (S20, T97N, R14W)
Clarke	Squaw Creek	North county line (S1, T73N, R25W) to confluence with Walnut Creek (S3, T73N, R25W)
	White Breast Creek	East county line (S1, T71N, R24W) to confluence with South White Breast Creek (S3, T71N, R24W)
Clay	Big Muddy Creek	Mouth (S15, T96N, R36W) to confluence with Little Muddy Creek (S10, T96N, R36W)
	Little Sioux River	West county line (S30, T94N, R38W) to north county line (S5, T97N, R37W)

County	River/Stream	Location
	Ocheyedan River	Mouth (S13, T96N, R37W) to west county line (S7, T97N, R38W)
	Stony Creek	Mouth (S7, T96N, R36W) to north county line (S3, T97N, R38W)
Clayton	Bloody Run	Mouth (S15, T95N, R03W) upstream to second road bridge crossing the stream in the western portion of Basil Giard Claim No. 1
	Cox Creek	Mouth (S21, T92N, R05W) to confluence with Kleinlein Creek (S36, T92N, R06W)
	Elk Creek	Mouth (S36, T92N, R04W) to south county line (S35, T91N, R04W)
	Howard Creek	Mouth (S25, T94N, R05W) to confluence with Dry Hollow (S19, T94N, R04W)
	Little Turkey River	Mouth (S10, T91N, R02W) to confluence with White Pine Hollow (S31, T91N, R02W)
	Maquoketa River	South county line (S32, T91N, R06W) to north line (S31, T91N, R06W)
	Mink Creek	Mouth (S30, T93N, R06W) to confluence with unnamed tributary (SW 1/4, S19, T93N, R06W)
	Mississippi River	East county line (S25, T91N, R01W) to north county line (S3, T95N, R03W)
	Roberts Creek	Mouth (S25, T93N, R05W) to confluence with Silver Creek (S16, T94N, R05W)
	Sny Magill Creek	Mouth (S23, T94N, R03W) upstream to confluence with North Cedar Creek (S8, T94N, R03W)
	South Cedar Creek	Mouth (S33, T92N, R03W) to confluence with unnamed tributary (SW 1/4, NE 1/4, SE 1/4, S7, T92N, R03W)
	Turkey River	Mouth (S12, T91N, R02W) to west county line (S18, T94N, R06W)
	Volga River	Mouth (S36, T92N, R04W) to west county line (S30, T93N, R06W)
Clinton	Brophys Creek	South line (S4, T81N, R05E) to mouth (S1,T80N, R04E)
	Deep Creek	North county line (S6, T83N, R05E) to confluence with Bear Creek (S8, T83N, R05E)
	Drainage Ditch 12	West line (S30, T82N, R02E) to mouth (S13,T81N, R01E)
	Elk River	South line (S5, T83N, R06E) to mouth (S20, T83N, R07E)
	Harts Mill Creek	East line (S8, T81N, R06E) to mouth (S15, T81N, R06E)
	Mill Creek	Confluence with Harts Mill Creek (S15, T81N, R06E) to mouth (S23, T81N, R06E)
	Mississippi River	South county line (S13, T80N, R05E) to north county line (S5, T83N, R07E)

County	River/Stream	Location
	Silver Creek	South line (S22, T82N, R03E) to mouth (S6, T80N, R04E)
	Wapsipinicon River	Mouth (S13, T80N, R05E) to west county line (S7, T82N, R01E)
Crawford	Boyer River	South county line (S34, T82N, R41W) to north county line (S6, T85N, R37W)
	East Boyer River	Mouth (S10, T83N, R39W) to confluence with unnamed tributary (NW 1/4, S15, T84N, R37W)
	East Soldier River	West county line (S31, T84N, R41W) to confluence with Emigrant Creek (S23, T84N, R41W)
	Soldier River	West county line (S30, T85N, R41W) to north county line (S1, T85N, R41W)
	West Fork West Nishnabotna River	South county line (S32, T82N, R38W) to confluence with unnamed tributary (NE 1/4, S14, T82N, R38W)
	West Nishnabotna River	South county line (S35, T82N, R37W) to east county line (S36, T82N, R37W)
Dallas	Beaver Creek	East county line (S13, T80N, R26W) to north county line (S2, T81N, R28W)
	Des Moines River	East county line (S25, T81N, R26W) to north county line (S3, T81N, R26W)
	Middle Raccoon River	Mouth (S9, T78N, R29W) to west county line (S31, T79N, R29W)
	Mosquito Creek	Mouth (S34, T79N, R29W) to west county line (NW 1/4, NW 1/4, S6, T80N, R29W)
	North Raccoon River	Mouth (S21, T78N, R27W) to north county line (S5, T81N, R29W)
	Raccoon River	East county line (S25, T78N, R26W) to confluence of North and South Raccoon Rivers (S21, T78N, R27W)
	South Raccoon River	Mouth (S21, T78N, R27W) to west county line (S7, T78N, R29W)
Davis	Chequest Creek	East county line (S12, T69N, R12W) to confluence with South Chequest Creek (S12, T69N, R12W)
	Des Moines River	East county line (S12, T70N, R12W) to north county line (S2, T70N, R12W)
	Fox River	East county line (S1, T68N, R12W) to confluence with South Fox Creek (S28, T69N, R15W)
	Soap Creek	Mouth (S2, T70N, R12W) to west county line (S18, T70N, R15W)
	South Chequest Creek	Mouth (S12, T69N, R12W) to confluence with Burr Oak Creek (S15, T69N, R12W)
	South Soap Creek	Mouth (S21, T70N, R15W) to west county line (S30, T70N, R15W)
Decatur	Elk Creek	Mouth (S18, T68N, R26W) to confluence with West Elk Creek (S34, T69N, R27W)
	Little River	South county line (S25, T67N, R25W) to confluence with West Little River (S31, T69N, R25W)

County	River/Stream	Location
	Long Creek	Mouth (S8, T69N, R26W) to confluence with Bee Creek (S9, T70N, R26W)
	Steel Creek	Mouth (S10, T67N, R24W) to confluence with Hog Creek (S26, T68N, R24W)
	Thompson River	South county line (S25, T67N, R26W) to west county line (S6, T70N, R27W)
	Weldon River	South county line (S27, T67N, R24W) to Hwy. 2 (S20, T69N, R24W)
	West Elk Creek	Mouth (S34, T69N, R27W) to confluence with unnamed tributary (NE 1/4, S32, T69N, R27W)
Delaware	Buck Creek	Mouth (S11, T87N, R04W) to confluence with Lime Creek (S17, T87N, R04W)
	Buffalo Creek	South county line (S33, T87N, R06W) to west county line (S18, T87N, R06W)
	Coffins Creek	Mouth (S19, T89N, R05W) to road crossing center (S26, T89N, R06W)
	Elk Creek	North county line (S2, T90N, R04W) to confluence with Schechtman Branch (S14, T90N, R04W)
	Honey Creek	Mouth (S19, T89N, R05W) to confluence with Lindsey Creek (S3, T89N, R05W)
	Maquoketa River	South county line (S31, T87N, R03W) to north county line (S5, T90N, R06W)
	North Fork Maquoketa River	East county line (S24, T87N, R03W) to east county line (S12, T88N, R03W)
	Plum Creek	Mouth (S11, T87N, R04W) to confluence with unnamed tributary (SE 1/4, S24, T89N, R04W)
	Sand Creek	Mouth (S9, T88N, R05W) to confluence with Todds Creek (S8, T88N, R05W)
	South Fork Maquoketa River	Mouth (S16, T90N, R06W) to west county line (S19, T90N, R06W)
Des Moines	Brush Creek	South line (S5, T69N, R03W) to mouth (S2, T68N, R03W)
	Cedar Fork	West line (S31, T72N, R03W) to mouth (S25, T71N, R04W)
	Cottonwood Drain	Mouth (S1, T70N, R02W) to confluence with unnamed tributary (middle S7, T71N, R01W)
	Flint Creek	West county line (S18, T71N, R04W) to mouth (S28, T70N, R02W)
	Hawkeye Creek	East line (S30, T72N, R02W) to mouth (S19, T72N, R01W)
	Hawkeye-Dolbee Channel	Confluence with Hawkeye Creek (S19, T72N, R01W) to mouth (S22, T72N, R01W)
	Honey Creek	North county line (NE 1/4, S5, T72N, R03W) to north county line (NW 1/4, S5, T72N, R03W)
	Knotty Creek	East line (S25, T71N, R03W) to mouth (S24, T70N, R03W)

County	River/Stream	Location
	Long Creek	South line (S3, T69N, R04W) to mouth (S30, T69N, R03W)
	Mississippi River	South county line (S8, T68N, R02W) to north county line (S3, T72N, R01W)
	Running Slough Drain	East line (S24, T72N, R02W) to mouth (S31, T71N, R01W)
	Skunk River	East county line (S8, T68N, R02W) to west county line (S2, T69N, R05W)
	Smith Creek	North county line (S6, T72N, R02W) to north county line (NW 1/4, NE 1/4, S1, T72N, R03W)
	Spring Creek	South line (S15, T69N, R03W) to mouth (S32, T69N, R02W)
	Unnamed Creek	South line (S27, T71N, R03W) to mouth (S4, T70N, R03W)
Dickinson	Little Sioux River	South county line (S32, T98N, R37W) to north county line (S10, T100N, R37W)
	Milford Creek	Middle (S12, T98N, R37W) to mouth (S14, T98N, R37W)
	Stony Creek	South county line (S34, T98N, R38W) to confluence with Drainage Ditch 41 (S27, T98N, R38W)
	West Branch Little Sioux River	South line (S27, T100N, R38W) to mouth (S36, T100N, R38W)
	West Fork Little Sioux River	South line (S24, T100N, R38W) to mouth (S7, T99N, R37W)
Dubuque	Catfish Creek	Mouth (S5, T88N, R03E) to north line (S16, T88N, R02E)
	Hewitt Creek	Mouth (S30, T89N, R02W) to confluence with Hickory Creek (S21, T89N, R02W)
	Little Maquoketa River	Mouth (S26, T90N, R02E) to confluence with North Fork Little Maquoketa River (S31, T90N, R02E)
	Lytle Creek	South county line (S31, T87N, R02E) to confluence with Prairie Creek (S24, T87N, R01E)
	Mississippi River	South county line (S34, T88N, R04E) to west county line (S30, T91N, R01E)
	North Fork Little Maquoketa River	Mouth (S31, T90N, R02E) to confluence with Middle Fork Little Maquoketa River (S35, T90N, R01E)
	North Fork Maquoketa River	South county line (S32, T87N, R01W) to confluence with Hewitt Creek (S29, T89N, R02W)
	Tetes Des Morts Creek	Mouth (S34, T88N, R04E) to south county line (S34, T88N, R04E)
	Whitewater Creek	South county line (S35, T87N, R01W) to confluence with Curran Creek (S12, T87N, R01W)
Emmet	Des Moines River	South county line (S33, T98N, R33W) to north county line (S7, T100N, R34W)
	East Branch Des Moines River	Tuttle Lake (S11, T100N, R32W) to east county line (S36, T99N, R31W)

County	River/Stream	Location
Fayette	Crane Creek	Mouth (S31, T95N, R09W) to west county line (S30, T95N, R10W)
	Little Turkey River	Mouth (S18, T95N, R08W) to north county line (S5, T95N, R10W)
	Little Volga River	Mouth (S2, T92N, R09W) to confluence with unnamed tributary (S2, T92N, R09W)
	Little Wapsipinicon River	South county line (S32, T91N, R10W) to west county line (S18, T92N, R10W)
	Otter Creek	South county line (S33, T91N, R09W) to confluence with unnamed tributary (S18, T91N, R09W)
	Turkey River	East county line (S13, T94N, R07W) to north county line (S3, T95N, R09W)
	Volga River	East county line (S25, T93N, R07W) to confluence with Little Volga River (S2, T92N, R09W)
Floyd	Cedar River	East county line (S12, T94N, R15W) to north county line (S24, T97N, R17W)
	Flood Creek	South county line (S34, T94N, R16W) to road crossing (S32, T96N, R17W)
	Little Cedar River	East county line (S1, T95N, R15W) to north county line (S24, T97N, R16W)
	Rock Creek	Mouth (S24, T97N, R17W) to north county line (S22, T97N, R17W)
	Shell Rock River	Mouth (S35, T94N, R17W) to west county line (S7, T96N, R18W)
	Winnebago River	Mouth (S14, T95N, R18W) to west county line (NW 1/4, S31, T96N, R18W)
Franklin	Bailey Creek	East line (S13, T93N, R20W) to mouth (S19, T93N, R19W)
	Beaverdam Creek	North county line (S2, T93N, R20W) to mouth (S19, T93N, R19W)
	Hartgrave Creek	Confluence of Otter Creek and Spring Creek (S29, T92N, R19W) to east county line (S25, T92N, R19W)
	Iowa River	South county line (S36, T90N, R22W) to west county line (S19, T91N, R22W)
	Maynes Creek	East line (S30, T91N, R20W) to east county line (S13, T91N, R19W)
	Otter Creek	East line (S31, T93N, R20W) to mouth (S29, T92N, R19W)
	Spring Creek	Beeds Lake Outlet (S20, T92N, R20W) to mouth (S29, T92N, R19W)
	West Fork Cedar River	Confluence of Bailey Creek and Beaverdam Creek (S19, T93N, R19W) to east county line (S12, T92N, R19W)
Fremont	East Nishnabotna River	Mouth (S2, T67N, R42W) to east county line (S13, T69N, R40W)
	Missouri River	South county line (S34, T67N, R43W) to north county line (S5, T70N, R43W)

County	River/Stream	Location
	Nishnabotna River	South county line (S35, T67N, R42W) to confluence of East and West Nishnabotna Rivers (S2, T67N, R42W)
	West Nishnabotna River	Mouth (S2, T67N, R42W) to north county line (S5, T70N, R41W)
Greene	Buttrick Creek	Mouth (S26, T83N, R30W) to confluence of East Branch and West Branch (S25, T84N, R30W)
	Cedar Creek	Mouth (S33, T85N, R32W) to north county line (S3, T85N, R32W)
	North Raccoon River	South county line (S32, T82N, R29W) to west county line (S18, T84N, R32W)
	Willow Creek	South county line (S31, T82N, R32W) to confluence with Drainage Ditch 117 (S21, T82N, R32W)
Grundy	Black Hawk Creek	East line (S35, T88N, R17W) to east county line (S1, T87N, R15W)
	Middle Fork South Beaver Creek	Mouth (S28, T89N, R17W) to confluence with North Fork South Beaver Creek (S28, T89N, R17W)
	North Black Hawk Creek	NE 1/4, S8, T88N, R15W to mouth (S1, T87N, R15W)
	South Beaver Creek	E 1/2, S3, T88N, R18W to north county line (S2, T89N, R17W)
	Wolf Creek	N 1/2, S31, T86N, R17W to east county line (S36, T86N, R17W)
Guthrie	Beaver Creek	Mouth (S5, T78N, R30W) to confluence with Spring Branch (S3, T78N, R31W)
	Brushy Creek	Mouth (S22, T79N, R31W) to west county line (S35, T81N, R33W)
	Middle Raccoon River	East county line (S36, T79N, R30W) to north county line (S3, T81N, R33W)
	Middle River	South county line (S36, T78N, R32W) to County Road N54 (S36, T79N, R33W)
	Mosquito Creek	East county line (SE 1/4, S1, T80N, R30W) to Hwy. 4 (S17, T81N, R30W)
	South Raccoon River	East county line (S12, T78N, R30W) to confluence with Frost Creek (S18, T80N, R32W)
	Troublesome Creek	West county line (S31, T79N, R33W) to confluence with North Branch Troublesome Creek (S20, T79N, R33W)
	Willow Creek	Mouth (S27, T81N, R32W) to north county line (S6, T81N, R32W)
Hamilton	Boone River	West county line (S30, T87N, R26W) to north county line (S3, T89N, R26W)
	Brewers Creek	Mouth (S6, T88N, R25W) to County Road R27 (S12, T88N, R26W)
	Eagle Creek	Mouth (S6, T89N, R25W) to north county line (S6, T89N, R25W)
	South Skunk River	South county line (S31, T86N, R23W) to County Road D41 (S36, T88N, R24W)

County	River/Stream	Location
	White Fox Creek	Mouth (S33, T89N, R25W) to north county line (S3, T89N, R25W)
Hancock	East Branch Iowa River	South county line (S32, T94N, R23W) to Hwy. 18 (S25, T96N, R24W)
	West Branch Iowa River	South county line (S35, T94N, R24W) to County Road B55 (S31, T95N, R24W)
	Winnebago River	East county line (S24, T97N, R23W) to north county line (S1, T97N, R24W)
Hardin	Elk Creek	Mouth (S28, T88N, R19W) to County Road D35 (S27, T88N, R19W)
	Honey Creek	South county line (S31, T86N, R19W) to County Road D65 (S24, T86N, R20W)
	Iowa River	South county line (SW 1/4, S35, T86N, R19W) to north county line (NW 1/4, NW 1/4, S1, T89N, R22W)
	South Fork Iowa River	Mouth (S4, T86N, R19W) to Hwy. 359 (S11, T88N, R22W)
Harrison	Boyer River	South county line (S33, T78N, R44W) to north county line (S3, T81N, R41W)
	Little Sioux River	Mouth (S27, T81N, R45W) to north county line (S5, T81N, R44W)
	Missouri River	South county line (S32, T78N, R45W) to north county line (S1, T81N, R46W)
	Monona Harrison Ditch	Mouth (S22, T81N, R45W) to north county line (S1, T81N, R45W)
	Soldier River	Mouth (S16, T80N, R45W) to north county line (S1, T81N, R44W)
Henry	Big Creek	South county line (S31, T72N, R05W) to mouth (S19, T70N, R05W)
	Brush Creek	West county line (S31, T72N, R07W) to mouth (S30, T72N, R07W)
	Cedar Creek	West county line (S6, T70N, R07W) to mouth (S6, T71N, R07W)
	Crooked Creek	West county line (S6, T73N, R07W) to north county line (S6, T73N, R07W)
	East Fork Crooked Creek	North county line (S1, T73N, R06W) to east county line (S36, T73N, R05W)
	Little Cedar Creek	South county line (S33, T70N, R07W) to mouth (S17, T70N, R07W)
	Mud Creek	South line (S15, T70N, R05W) to mouth (S34, T70N, R05W)
	Skunk River	South county line (S35, T70N, R05W) to west county line (S19, T73N, R07W)
Howard	Crane Creek	South county line (S16, T97N, R12W) to Hwy. 9 (S29, T99N, R13W)
	Little Wapsipinicon River	South county line (S13, T97N, R14W) to northwest line (S23, T98N, R14W)
	North Branch Turkey River	Mouth (S31, T99N, R11W) to Hwy. 9 (S25, T99N, R12W)
	Turkey River	East county line (S12, T98N, R11W) to west line (S1, T98N, R12W)

County	River/Stream	Location
	Upper Iowa River	East county line (S12, T100N, R11W) to north county line (NW 1/4, NE 1/4, S11, T100N, R14W)
	Wapsipinicon River	South county line (S17, T97N, R14W) to west county line (S18, T98N, R14W)
Humboldt	Des Moines River	South county line (S31, T91N, R28W) to west county line (S6, T92N, R30W)
	East Branch Des Moines River	Mouth (S19, T91N, R28W) to north county line (S1, T93N, R29W)
	Prairie Creek	West county line (S25, T93N, R27W) to north county line (S4, T93N, R27W)
Ida	Little Sioux River	West county line (S7, T89N, R41W) to north county line (S6, T89N, R41W)
	Maple River	West county line (S7, T86N, R41W) to north county line (S3, T89N, R39W)
	Odebolt Creek	Mouth (S15, T87N, R40W) to confluence with unnamed tributary (S24, T87N, R39W)
	Soldier River	South county line (S36, T86N, R41W) to confluence with unnamed tributary (NW 1/4, SE 1/4, S20, T86N, R40W)
Iowa	Big Bear Creek	West county line (S18, T80N, R12W) to mouth (S24, T81N, R11W)
	English River	South county line (S31, T78N, R09W) to west county line (S19, T79N, R12W)
	Honey Creek	Mouth (S12, T81N, R12W) to confluence with unnamed tributary (NE 1/4, SW 1/4, S28, T81N, R12W)
	Iowa River	East county line (S36, T81N, R09W) to north county line (S6, T81N, R12W)
	Old Mans Creek	West line (S35, T79N, R10W) to east county line (S36, T79N, R09W)
	Price Creek	Mouth (S36, T81N, R09W) to confluence with Mill Race (S26, T81N, R09W)
	Walnut Creek	North county line (S6, T81N, R12W) to west county line (S6, T81N, R12W)
Jackson	Bear Creek	Mouth (S13, T84N, R01E) to west county line (S30, T84N, R01E)
	Brush Creek	North line (S23, T85N, R03E) to Hwy. 62 bridge (S11, T85N, R03E)
	Deep Creek	Mouth (S18, T84N, R05E) to south county line (S31, T84N, R05E)
	Little Mill Creek	Mouth (S13, T86N, R04E) to west line (S23, T86N, R04E)
	Lytle Creek	Mouth (S8, T85N, R02E) to north county line (S6, T86N, R02E)
	Maquoketa River	Mouth (S7, T85N, R06E) to west county line (S18, T85N, R01E)
	Mill Creek	Mouth (S19, T86N, R05E) to west line (S9, T86N, R04E)
	Mississippi River	South county line (S32, T84N, R07E) to north county line (S3, T87N, R04E)

County	River/Stream	Location
	North Fork Maquoketa River	West county line (S31, T86N, R01E) to mouth (S13, T84N, R02E)
	Prairie Creek	Mouth (S17, T84N, R03E) to Hwy. 64 (S20, T84N, R03E)
	Tetes Des Morts Creek	North county line (S3, T87N, R04E) to confluence with unnamed tributary (S23, T87N, R03E)
Jasper	Clear Creek	Mouth (S2, T80N, R21W) to confluence with Mud Creek (S24, T81N, R21W)
	Indian Creek	Mouth (S32, T80N, R20W) to west county line (S18, T81N, R21W)
	North Skunk River	East county line (S13, T78N, R17W) to north county line (S6, T81N, R19W)
	South Skunk River	South county line (S32, T78N, R18W) to west county line (S30, T80N, R21W)
	Squaw Creek	Mouth (S2, T79N, R21W) to confluence with unnamed tributary (S10, T79N, R21W)
Jefferson	Brush Creek	South line (S18, T72N, R08W) to east county line (S36, T72N, R08W)
	Cedar Creek	South county line (S35, T71N, R08W) to west county line (S18, T72N, R11W)
	Competine Creek	West county line (S31, T73N, R11W) to mouth (S28, T72N, R11W)
	Crooked Creek	Mouth (S1, T73N, R08W) to east county line (S1, T73N, R08W)
	Lick Creek	South county line (S32, T71N, R10W) to confluence with East Branch Lick Creek (S30, T71N, R10W)
	Middle Walnut Creek	Mouth (S26, T73N, R09W) to east line (S22, T73N, R09W)
	Skunk River	East county line (S13, T72N, R08W) to north county line (S1, T73N, R08W)
	Walnut Creek	Confluence of South and Middle Walnut Creeks (S26, T73N, R09W) to mouth (S2, T72N, R08W)
Johnson	Buck Creek	Mouth (S2, T77N, R06W) to confluence with Pechman Creek (S2, T77N, R06W)
	Cedar River	East county line (S13, T81N, R05W) to north county line (S3, T81N, R05W)
	Clear Creek	West county line (S30, T80N, R08W) to mouth (S8, T79N, R06W)
	Iowa River	South county line (S32, T77N, R05W) to west county line (S31, T81N, R08W)
	Old Mans Creek	West county line (S31, T79N, R08W) to mouth (S27, T78N, R06W)
	Rapid Creek	Mouth (S34, T80N, R06W) to confluence with unnamed tributary (S21, T80N, R05W)
Jones	Bear Creek	East county line (S25, T84N, R01W) to confluence with Little Bear Creek (S30, T84N, R01W)

County	River/Stream	Location
	Buffalo Creek	West county line (S19, T85N, R04W) to mouth (S10, T84N, R04W)
	Maquoketa River	East county line (SE 1/4, S24, T85N, RO1W) to north county line (S6, T86N, R03W)
	North Fork Maquoketa River	East county line (SE 1/4, S36, T86N, R01W) to north county line (S6, T86N, R01W)
	Silver Creek	Mouth (S8, T86N, R03W) to confluence with Grove Creek (S11, T86N, R04W)
	Walnut Creek	Mouth (S18, T83N, R02W) to confluence of North and South Fork Walnut Creeks (S13, T83N, R04W)
	Wapsipinicon River	South county line (S36, T83N, R01W) to west county line (S6, T84N, R04W)
	Whitewater Creek	Mouth (S10, T86N, R01W) to north county line (S2, T86N, R01W)
Keokuk	Bridge Creek	South line (S23, T76N, R12W) to mouth (S18, T75N, R11W)
	Cedar Creek	East line (S19, T76N, R13W) to mouth (S15, T75N, R12W)
	North Skunk River	West county line (S6, T75N, R13W) to mouth (S5, T74N, R10W)
	Rock Creek	South line (S21, T76N, R12W) to mouth (S9, T75N, R12W)
	Skunk River	East county line (S12, T74N, R10W) to confluence of North and South Skunk Rivers (S5, T74N, R10W)
	South English River	East county line (S12, T77N, R10W) to west county line (S6, T77N, R13W)
	South Skunk River	West county line (S30, T75N, R13W) to mouth (S5, T74N, R10W)
Kossuth	Buffalo Creek	West line (S4, T97N, R27W) to mouth (S21, T97N, R28W)
	East Branch Des Moines River	South county line (S36, T94N, R29W) to west county line (S31, T99N, R30W)
	Prairie Creek	South county line (S33, T94N, R27W) to confluence with Drainage Ditch 177 (S5, T94N, R27W)
Lee	Des Moines River	Mouth (S34, T65N, R05W) to west county line (S19, T67N, R07W)
	Lost Creek	South line (S32, T69N, R04W) to mouth (S36, T68N, R04W)
	Mississippi River	South county line (S34, T65N, R05W) to north county line (S8, T68N, R02W)
	Pitman Creek	South line (S10, T68N, R05W) to mouth (S29, T68N, R05W)
	Skunk River	Mouth (S8, T68N, R02W) to north county line (S2, T69N, R05W)
	Sugar Creek	South line (S24, T68N, R07W) to mouth (S25, T65N, R06W)

County	River/Stream	Location
	Sugar Creek	South line (S26, T69N, R06W) to mouth (S26, T67N, R05W)
Linn	Bear Creek	West county line (S18, T84N, R08W) to mouth (S21, T84N, R08W)
	Big Creek	Mouth (S9, T82N, R06W) to confluence with Abbe Creek (S34, T83N, R06W)
	Blue Creek	Mouth (S18, T85N, R08W) to west county line (S19, T86N, R08W)
	Buffalo Creek	East county line (S24, T85N, R05W) to north county line (S4, T86N, R06W)
	Cedar River	South county line (S34, T82N, R05W) to west county line (S18, T85N, R08W)
	Indian Creek	Mouth (S30, T83N, R06W) to confluence with Dry Creek (S1, T83N, R07W)
	Prairie Creek	West county line (S7, T82N, R08W) to mouth (S34, T83N, R07W)
	Wapsipinicon River	East county line (S1, T84N, R05W) to north county line (S6, T86N, R07W)
Louisa	Big Slough Creek	East line (S7, T74N, R05W) to mouth (S14, T74N, R05W)
	Buffington Creek	Mouth (S13, T74N, R05W) to west line (S18, T74N, R05W)
	Cedar River	Mouth (S20, T75N, R04W) to north county line (S5, T75N, R04W)
	East Fork Crooked Creek	West county line (S31, T73N, R04W) to south county line (S32, T73N, R04W)
	Goose Creek	West county line (S19, T76N, R05W) to mouth (S27, T76N, R05W)
	Honey Creek	Mouth (S1, T75N, R05W) to east county line (S25, T76N, R05W)
	Honey Creek	Mouth (S14, T73N, R03W) to south county line (S32, T73N, R03W)
	Indian Creek	Mouth (S7, T74N, R03W) to south line (S1, T75N, R04W)
	Iowa River	Mouth (S31, T74N, R01W) to north county line (NW 1/4, S6, T76N, R05W)
	Johnny Creek	Mouth (S12, T74N, R05W) to east line (S6, T74N, R04W)
	Long Creek	West line (S30, T75N, R05W) to mouth (S1, T74N, R04W)
	Mississippi River	South county line (S34, T73N, R01W) to north county line (S3, T75N, R02W)
	Muscatine Slough	North county line (S1, T75N, R03W) to county road bridge (S31, T75N, R02W)
	Muskrat Lake	Mouth at the Iowa River (S16, T74N, R03W) to SE 1/4, S16, T74N, R03W
	Otter Creek	Mouth (S19, T73N, R02W) to middle (S16, T73N, R04W)
	Roff Creek	Mouth (S1, T73N, R04W) to south county line (S36, T73N, R04W)

County	River/Stream	Location
	Short Creek	Mouth (S19, T75N, R04W) to west county line (S6, T75N, R05W)
	Smith Creek	Mouth (S28, T73N, R02W) to south county line (S35, T73N, R03W)
Lucas	Chariton River	Rathbun Lake (S36, T71N, R20W) to Hwy. 14 (S32, T72N, R21W)
	Otter Creek	North county line (S5, T73N, R23W) to confluence with South Otter Creek (S8, T73N, R23W)
	White Breast Creek	North county line (S2, T73N, R22W) to west county line (S6, T71N, R23W)
Lyon	Big Sioux River	South county line (S31, T98N, R48W) to north county line (S11, T100N, R49W)
	Kanaranzi Creek	Mouth (S28, T100N, R45W) to north county line (S11, T100N, R45W)
	Little Rock River	East county line (S25, T100N, R43W) to mouth (S35, T98N, R46W)
	Mud Creek	Mouth (S26, T98N, R46W) to confluence with first unnamed tributary (SW 1/4, S29, T99N, R46W)
	Otter Creek	Mouth (S21, T98N, R44W) to west county line (S36, T98N, R43W)
	Rock River	South county line (S35, T98N, R46W) to north county line (S8, T100N, R45W)
	Tom Creek	Mouth (S4, T99N, R45W) to confluence with unnamed tributary (S22, T100N, R44W)
Madison	Badger Creek	East county line (S24, T77N, R26W) to confluence with Cherry Creek (S13, T77N, R26W)
	Bush Branch	Mouth (S8, T75N, R29W) to west county line (S18, T75N, R29W)
	Clanton Creek	East county line (S12, T75N, R26W) to confluence of North Fork and South Fork Clanton Creek (S15, T74N, R27W)
	Middle River	West county line (NW 1/4, S31, T76N, R29W) to east county line (S25, T76N, R26W)
	North Branch North River	Mouth (S35, T77N, R27W) to west county line (S7, T77N, R29W)
	North River	East county line (S1, T76N, R26W) to east line (S17, T76N, R28W)
	South Fork Clanton Creek	Mouth (S15, T74N, R27W) to confluence with Bird Creek (S15, T74N, R27W)
	Thompson River	South county line (S34, T74N, R29W) to west county line (S7, T74N, R29W)
	West Branch Creek	Mouth (S34, T74N, R29W) to confluence with unnamed tributary (S19, T74N, R29W)
Mahaska	Cedar Creek	West county line (S31, T75N, R17W) to mouth (S33, T75N, R17W)
	Coal Creek	Mouth (S1, T74N, R17W) to confluence with North Coal Creek (S1, T74N, R17W)

County	River/Stream	Location
	Des Moines River	South county line (S36, T74N, R16W) to west county line (S18, T75N, R17W)
	English Creek	Mouth (S18, T75N, R17W) to west county line (S18, T75N, R17W)
	Middle Creek	Mouth (S35, T76N, R14W) to confluence with unnamed tributary (S16, T76N, R15W)
	Moon Creek	Mouth (S30, T77N, R14W) to north county line (S1, T77N, R15W)
	Muchakinock Creek	South county line (S36, T74N, R16W) to confluence with Little Muchakinock Creek (S34, T75N, R16W)
	North Skunk River	East county line (S1, T75N, R14W) to north county line (S1, T77N, R16W)
	South English River	East county line (S1, T77N, R14W) to confluence with unnamed tributary (S1, T77N, R14W)
	South Skunk River	East county line (S25, T75N, R14W) to west county line (S19, T77N, R17W)
Marion	Carruthers Creek	Mouth (S33, T74N, R19W) to confluence with Hickory Creek (S33, T74N, R19W)
	Cedar Creek	East county line (S36, T75N, R18W) to south county line (S31, T74N, R18W)
	Coal Creek	West county line (S7, T76N, R21W) to confluence with Coon Creek (S29, T76N, R21W)
	Des Moines River	East county line (S13, T75N, R18W) to west county line (S7, T77N, R21W)
	English Creek	East county line (S13, T75N, R18W) to confluence with Long Branch (S16, T74N, R20W)
	North Cedar Creek	Mouth (S15, T74N, R18W) to confluence with Carruthers Creek (S33, T74N, R19W)
	South Skunk River	East county line (S24, T77N, R18W) to north county line (S5, T77N, R18W)
	White Breast Creek	West county line (S18, T74N, R21W) to mouth (S16, T76N, R19W)
Marshall	Honey Creek	North county line (S6, T85N, R19W) to mouth (S27, T85N, R19W)
	Iowa River	East county line (S1, T83N, R17W) to north county line (S2, T85N, R19W)
	Minerva Creek	Mouth (S2, T84N, R19W) to NW 1/4, S9, T85N, R20W
	South Timber Creek	Mouth (S17, T83N, R17W) to confluence with Brush Creek (S32, T83N, R17W)
	Timber Creek	County road bridge (S24, T83N, R18W) to mouth (S3, T83N, R17W)
	Wolf Creek	North county line (S2, T85N, R17W) to north county line (S2, T85N, R17W)
Mills	Farm Creek	Mouth (S9, T73N, R40W) to north county line (S1, T73N, R40W)

County	River/Stream	Location
	Keg Creek	Mouth (S6, T71N, R43W) to confluence with Snake Creek (S8, T73N, R42W)
	Missouri River	South county line (S32, T71N, R43W) to north county line (S2, T73N, R44W)
	Silver Creek	Mouth (S21, T71N, R41W) to north county line (S6, T73N, R41W)
	West Nishnabotna River	South county line (S32, T71N, R41W) to north county line (S3, T73N, R40W)
Mitchell	Cedar River	South county line (S13, T97N, R17W) to north county line (S8, T100N, R18W)
	Deer Creek	Mouth (S23, T99N, R18W) to west county line (S6, T99N, R18W)
	Little Cedar River	South county line (S13, T97N, R16W) to north county line (S9, T100N, R16W)
	Otter Creek	Mouth (S21, T100N, R18W) to north county line (S11, T100N, R18W)
	Rock Creek	South county line (S14, T97N, R17W) to west line (S7, T97N, R17W)
	Spring Creek	Mouth (S13, T97N, R17W) to north line (S29, T98N, R16W)
	Turtle Creek	Mouth (S23, T99N, R18W) to north line (S8, T99N, R17W)
	Wapsipinicon River	East county line (S13, T98N, R15W) to north line (S20, T100N, R15W)
Monona	East Soldier River	Mouth (S34, T84N, R42W) to east county line (S36, T84N, R42W)
	Farmers Garretson Outlet Ditch	Mouth (S9, T85N, R45W) to north county line (S5, T85N, R45W)
	Haitz Ditch	Mouth (S12, T84N, R45W) to north county line (S2, T85N, R45W)
	Little Sioux River	South county line (S32, T82N, R44W) to north county line (S2, T85N, R44W)
	Maple River	Mouth (S16, T83N, R44W) to north county line (S5, T85N, R42W)
	Missouri River	South county line (S36, T82N, R46W) to north county line (S6, T85N, R47W)
	Monona Harrison Ditch	South county line (S31, T82N, R44W) to confluence of West Fork Ditch and Haitz Ditch (S12, T84N, R45W)
	Soldier River	South county line (S31, T82N, R43W) to east county line (S25, T85N, R42W)
	West Fork Ditch	Mouth (S12, T84N, R45W) to north county line (S4, T85N, R45W)
Monroe	Cedar Creek	North county line (S6, T73N, R18W) to confluence with Mormon Branch (S5, T71N, R18W)
	Des Moines River	East county line (S1, T73N, R16W) to north county line (S1, T73N, R16W)
	Mormon Branch	Mouth (S5, T71N, R18W) to confluence with Moffatt Branch (S21, T71N, R18W)
	Muchakinock Creek	East county line (S1, T73N, R16W) to north county line (S1, T73N, R16W)

County	River/Stream	Location
	Soap Creek	South county line (S32, T71N, R16W) to confluence with Mormon Creek (S31, T71N, R16W)
	Whites Creek	Mouth (S21, T73N, R18W) to confluence with English Branch (S30, T73N, R18W)
Montgomery	East Nishnabotna River	South county line (S36, T71N, R39W) to north county line (S1, T73N, R38W)
	Middle Nodaway River	Mouth (S33, T71N, R36W) to east county line (S36, T72N, R36W)
	Sevenmile Creek	Mouth (S33, T73N, R36W) to north county line (S6, T73N, R36W)
	Tarkio River	South county line (S32, T71N, R37W) to confluence with Little Tarkio Creek (S4, T71N, R37W)
	West Nodaway River	South county line (S33, T71N, R36W) to north county line (S2, T73N, R36W)
Muscatine	Cedar River	South county line (S32, T76N, R04W) to north county line (S6, T78N, R02W)
	Mississippi River	South county line (S34, T76N, R02W) to east county line (S24, T77N, R01E)
	Mud Creek	Mouth (S10, T78N, R02W) to west line (S5, T78N, R01E)
	Muscatine Slough	South county line (S36, T76N, R03W) to south line (S5, T76N, R02W)
	Pike Run	Mouth (S19, T77N, R03W) to south line (S34, T78N, R03W)
	Pine Creek	Mouth (S21, T77N, R01E) to confluence with East Branch Pine Creek (S17, T77N, R01E)
	Sugar Creek	Mouth (S17, T78N, R02W) to north county line (S3, T78N, R02W)
	Wapsinonoc Creek	Mouth (S19, T77N, R03W) to confluence of East Branch and Middle Branch (S6, T78N, R03W)
	Weise Slough	S19, T78N, R02W
	West Branch Wapsinonoc Creek	Mouth (S24, T78N, R04W) to north county line (S4, T78N, R04W)
O'Brien	Floyd River	West county line (S30, T97N, R42W) to confluence with North Fork Floyd River (S9, T97N, R41W)
	Little Sioux River	South county line (S34, T94N, R39W) to east county line (S25, T94N, R39W)
	Mill Creek	South county line (S34, T94N, R41W) to confluence with West Branch Mill Creek (S4, T95N, R41W)
	Ocheyedan River	East county line (S12, T97N, R39W) to north county line (S2, T97N, R39W)
	Waterman Creek	Mouth (S26, T94N, R39W) to confluence with Little Waterman Creek (S4, T95N, R39W)
Osceola	Little Rock River	West county line (S30, T100N, R42W) to north county line (S7, T100N, R42W)

County	River/Stream	Location
	Ocheyedan River	South county line (S35, T98N, R39W) to north county line (S12, T100N, R41W)
	Otter Creek	West county line (S31, T98N, R42W) to confluence with Cloverdale Creek (S31, T99N, R41W)
Page	East Nishnabotna River	West county line (S18, T69N, R39W) to north county line (S1, T70N, R39W)
	East Nodaway River	Mouth (S7, T67N, R36W) to east county line (S1, T69N, R36W)
	Nodaway River	South county line (S31, T67N, R36W) to confluence of East and West Nodaway Rivers (S7, T67N, R36W)
	Tarkio River	South county line (S32, T67N, R38W) to north county line (S5, T70N, R37W)
	West Nodaway River	Mouth (S7, T67N, R36W) to north county line (S4, T70N, R36W)
Palo Alto	Cylinder Creek	Mouth (S28, T94N, R31W) to confluence with Dry Ditch (S24, T95N, R32W)
	Des Moines River	South county line (S35, T94N, R31W) to north county line (S4, T97N, R33W)
	Jack Creek	Mouth (S35, T97N, R33W) to west line (S11, T97N, R33W)
Plymouth	Big Sioux River	South county line (S34, T90N, R48W) to north county line (S5, T93N, R48W)
	Broken Kettle Creek	Mouth (S9, T90N, R48W) to confluence with Bull Run (S25, T92N, R48W)
	Deep Creek	Mouth (S2, T92N, R45W) to confluence with unnamed tributary (SE 1/4, NW 1/4, S28, T93N, R43W)
	Floyd River	South county line (S31, T90N, R46W) to north county line (S6, T93N, R44W)
	Indian Creek	Mouth (S9, T93N, R48W) to north county line (S4, T93N, R47W)
	Mink Creek	Mouth (S35, T92N, R46W) to confluence with unnamed tributary (S16, T92N, R46W)
	Perry Creek	South county line (S33, T90N, R47W) to confluence with West Branch Perry Creek (S33, T90N, R47W)
	West Branch Floyd River	Mouth (S2, T91N, R46W) to north county line (S5, T93N, R45W)
	West Fork Little Sioux River	South county line (S34, T90N, R44W) to east county line (S36, T91N, R43W)
	Whiskey Creek	Mouth (S36, T91N, R43W) to confluence with unnamed tributary (NE 1/4, NW 1/4, S2, T91N, R43W)
	Willow Creek	Mouth (S9, T92N, R45W) to confluence with Deep Creek (S2, T92N, R45W)
Pocahontas	Des Moines River	East county line (S1, T92N, R31W) to north county line (S2, T93N, R31W)
	Lizard Creek	East county line (S13, T90N, R31W) to west line (S2, T90N, R31W)

County	River/Stream	Location
	North Branch Lizard Creek	Mouth (S2, T90N, R31W) to north line (S6, T91N, R31W)
	Pilot Creek	Mouth (S1, T92N, R31W) to west line (S4, T92N, R31W)
Polk	Beaver Creek	Mouth (S17, T79N, R24W) to west county line (S18, T80N, R25W)
	Des Moines River	East county line (S12, T77N, R22W) to west county line (S30, T81N, R25W)
	Fourmile Creek	Mouth (S16, T78N, R23W) to south line (S1, T80N, R24W)
	Indian Creek	East county line (S13, T81N, R22W) to north county line (S3, T81N, R22W)
	North River	Mouth (S36, T78N, R23W) to south county line (SW 1/4, SW 1/4, S34, T78N, R23W)
	Raccoon River	Mouth (S10, T78N, R24W) to west county line (S30, T78N, R25W)
	South River	Mouth (S12, T77N, R22W) to south county line (S12, T77N, R22W)
	South Skunk River	East county line (S25, T80N, R22W) to north county line (S3, T81N, R23W)
	Walnut Creek	Mouth (S13, T78N, R25W) to west county line (S30, T79N, R25W)
Pottawattamie	Boyer River	Mouth (S20, T77N, R44W) to north county line (S4, T77N, R44W)
	East Branch West Nishnabotna River	Mouth (S29, T77N, R39W) to north county line (S3, T77N, R39W)
	East Nishnabotna River	South county line (S36, T74N, R38W) to east county line (S36, T75N, R38W)
	Farm Creek	South county line (S36, T74N, R40W) to confluence with Jordan Creek (S31, T74N, R39W)
	Missouri River	South county line (S35, T74N, R44W) to north county line (S3, T77N, R45W)
	Mosquito Creek	Mouth (S30, T74N, R43W) to confluence with unnamed tributary (NW 1/4, S10, T76N, R42W)
	Pigeon Creek	Mouth (S3, T75N, R44W) to confluence with Potato Creek (S23, T77N, R43W)
	Pony Creek	Mouth (S30, T74N, R43W) to confluence with unnamed tributary (center of S28, T74N, R43W)
	Silver Creek	South county line (S31, T74N, R41W) to confluence with Middle Silver Creek (S31, T74N, R41W)
	West Nishnabotna River	South county line (S34, T74N, R40W) to north county line (S5, T77N, R39W)
Poweshiek	Big Bear Creek	East county line (S13, T80N, R13W) to confluence with unnamed tributary (NW 1/4, S8, T80N, R14W)
	English River	East county line (S24, T79N, R13W) to confluence with Dugout Creek (S15, T79N, R14W)

County	River/Stream	Location
	Moon Creek	South county line (S36, T78N, R15W) to confluence with unnamed tributary (NE 1/4, S26, T78N, R15W)
	North Skunk River	South county line (S36, T78N, R16W) to west county line (S18, T78N, R16W)
	Sugar Creek	Mouth (S20, T78N, R16W) to confluence with unnamed tributary (NW 1/4, S31, T79N, R16W)
	Walnut Creek	East county line (S1, T81N, R13W) to confluence with North Walnut Creek (S7, T81N, R13W)
Ringgold	East Fork Grand River	South county line (S25, T67N, R30W) to confluence with Hackberry Creek (S13, T70N, R29W)
	Grand River	South county line (S30, T67N, R31W) to confluence with Plum Creek (S29, T70N, R30W)
	Platte River	West county line (S31, T68N, R31W) to north county line (S6, T70N, R31W)
	Thompson River	East county line (S1, T70N, R28W) to north county line (S1, T70N, R28W)
Sac	Boyer River	South county line (S31, T86N, R37W) to west line (S5, T89N, R37W)
	Cedar Creek	Mouth (S25, T88N, R36W) to west line (S10, T88N, R35W)
	Drainage Ditch 57	Mouth (S23, T87N, R36W) to east line (S35, T87N, R36W)
	Indian Creek	Mouth (S24, T87N, R36W) to north line (S7, T87N, R36W)
	North Raccoon River	East county line (S1, T86N, R35W) to north county line (S1, T89N, R36W)
Scott	Hickory Creek	Mouth (S31, T80N, R02E) to confluence with unnamed tributary (S8, T79N, R02E)
	Lost Creek	Mouth (S15, T80N, R05E) to east line (S32, T80N, R05E)
	Mississippi River	West county line (S19, T77N, R02E) to north county line (S13, T80N, R05E)
	Mud Creek	Mouth (S12, T80N, R02E) to county road bridge (S11, T79N, R01E)
	Wapsipinicon River	Mouth (S13, T80N, R05E) to north county line (S1, T80N, R01E)
Shelby	East Branch West Nishnabotna River	South county line (S34, T78N, R39W) to east county line (S13, T80N, R37W)
	Indian Creek	South county line (S32, T78N, R37W) to confluence with unnamed tributary (S8, T78N, R37W)
	West Fork West Nishnabotna River	Mouth (S17, T79N, R38W) to north county line (S5, T81N, R38W)
	West Nishnabotna River	South county line (S32, T78N, R39W) to north county line (S2, T81N, R37W)
Sioux	Big Sioux River	South county line (S32, T94N, R48W) to west county line (S6, T97N, R48W)

County	River/Stream	Location
	Floyd River	South county line (S31, T94N, R44W) to east county line (S25, T97N, R43W)
	Indian Creek	South county line (S33, T94N, R47W) to confluence with unnamed tributary (S33, T94N, R47W)
	Otter Creek	North county line (S2, T97N, R44W) to north county line (S1, T97N, R43W)
	Rock River	Mouth (S1, T95N, R48W) to north county line (S2, T97N, R46W)
	Sixmile Creek	Mouth (S28, T94N, R48W) to confluence with unnamed tributary (S19, T95N, R46W)
	West Branch Floyd River	South county line (S32, T94N, R45W) to confluence with unnamed tributary (S8, T96N, R44W)
Story	East Indian Creek	Mouth (S16, T82N, R22W) to Hwy. 30 (S14, T83N, R22W)
	Indian Creek	Mouth (S34, T82N, R22W) to confluence of East and West Indian Creeks (S16, T82N, R22W)
	South Skunk River	South county line (S34, T82N, R23W) to north county line (S6, T85N, R23W)
	Squaw Creek	Mouth (S12, T83N, R24W) to west county line (S7, T84N, R24W)
	West Indian Creek	Mouth (S16, T82N, R22W) to Hwy. 30 (S18, T83N, R22W)
Tama	Deer Creek	Mouth (S34, T83N, R15W) to confluence with Crystal Creek (S10, T84N, R16W)
	East Branch Salt Creek	Mouth (S34, T84N, R13W) to confluence with Stein Creek (S26, T84N, R13W)
	Iowa River	East county line (S36, T82N, R13W) to west county line (S6, T83N, R16W)
	Salt Creek	East county line (S36, T82N, R13W) to confluence with Simpson Creek (S18, T84N, R13W)
	Stein Creek	Mouth (S26, T84N, R13W) to confluence with unnamed tributary (S24, T84N, R13W)
	Twelvemile Creek	Mouth (S19, T86N, R13W) to confluence with Rock Creek (S23, T86N, R14W)
	Wolf Creek	East county line (S24, T86N, R13W) to west county line (S31, T86N, R16W)
Taylor	East Fork One Hundred Two River	South county line (S31, T67N, R34W) to Hwy. 49 (S1, T69N, R33W)
	East Nodaway River	West county line (S6, T69N, R25W) to north county line (S6, T70N, R35W)
	Platte River	South county line (S28, T67N, R32W) to east county line (S36, T68N, R32W)
	West Branch One Hundred Two River	Mouth (S10, T68N, R35W) to confluence with Middle Branch One Hundred Two River (S6, T69N, R34W)

County	River/Stream	Location
	West Fork One Hundred Two River	South county line (S34, T67N, R35W) to confluence with West Branch One Hundred Two River (S10, T68, R35W)
Union	Platte River	South county line (S31, T71N, R31W) to S2, T73N, R31W
	Thompson River	South county line (S36, T71N, R28W) to north county line (S3, T73N, R29W)
	Threemile Creek	Mouth (S18, T72N, R28W) to confluence with Twomile Creek (S11, T72N, R29W)
	West Branch Creek	North county line (NE 1/4, S3, T73N, R29W) to north county line (NW 1/4, S3, T73N, R29W)
Van Buren	Cedar Creek	East county line (SE 1/4, S12, T70N, R08W) to north county line (S5, T70N, R08W)
	Chequest Creek	Mouth (S27, T69N, R10W) to west county line (S7, T69N, R11W)
	Des Moines River	East county line (S13, T67N, R08W) to west county line (S7, T70N, R11W)
	Fox River	South county line (S17, T67N, R09W) to west county line (S6, T68N, R11W)
	Lick Creek	Mouth (S1, T69N, R10W) to north county line (S5, T70N, R10W)
Wapello	Cedar Creek	East county line (S13, T72N, R12W) to confluence with Spring Creek (S17, T73N, R13W)
	Des Moines River	South county line (S35, T71N, R12W) to west county line (S6, T73N, R15W)
	Muchakinock Creek	Mouth (S6, T73N, R15W) to west county line (S6, T73N, R15W)
	Soap Creek	South county line (S35, T71N, R12W) to south county line (S34, T71N, R12W)
Warren	Badger Creek	Mouth (S33, T77N, R25W) to west county line (S19, T77N, R25W)
	Clanton Creek	Mouth (S28, T76N, R25W) to west county line (S7, T75N, R25W)
	Coal Creek	Mouth (S14, T77N, R22W) to east county line (S12, T76N, R22W)
	Des Moines River	East county line (S12, T77N, R22W) to north county line (S6, T77N, R22W)
	Middle River	Mouth (S9, T77N, R22W) to west county line (S30, T76N, R25W)
	North River	North county line (S2, T77N, R23W) to west county line (S6, T76N, R25W)
	Otter Creek	Mouth (S34, T76N, R23W) to south county line (S32, T74N, R23W)
	South River	Mouth (S12, T77N, R22W) to west county line (S19, T74N, R25W)
	Squaw Creek	Mouth (S2, T75N, R24W) to south county line (S36, T74N, R25W)
	White Breast Creek	East county line (S13, T74N, R22W) to south county line (S35, T74N, R22W)

County	River/Stream	Location
Washington	Camp Creek	Mouth (S17, T77N, R07W) to north line (S33, T77N, R07W)
	Clemons Creek	Mouth (S14, T75N, R08W) to west line (S9, T75N, R08W)
	Crooked Creek	South county line (S31, T74N, R07W) to confluence of East and West Forks (S24, T74N, R07W)
	Dutch Creek	Mouth (S8, T74N, R09W) to south line (S21, T75N, R09W)
	East Fork Crooked Creek	Mouth (S24, T74N, R07W) to south county line (S35, T74N, R06W)
	English River	East county line (S11, T77N, R06W) to north county line (S6, T77N, R09W)
	Goose Creek	East county line (S24, T76N, R06W) to east line (S22, T76N, R06W)
	Honey Creek	Mouth (S9, T74N, R09W) to Lake Darling (S21, T74N, R09W)
	Iowa River	East county line (S36, T77N, R06W) to north county line (S3, T77N, R06W)
	Lime Creek	Mouth (S9, T77N, R08W) to confluence with Smith Creek (S16, T77N, R08W)
	Long Creek	East county line (S25, T75N, R06W) to confluence of North and South Forks (S26, T75N, R06W)
	North Fork Long Creek	Mouth (S26, T75N, R06W) to east line (S3, T75N, R07W)
	Skunk River	South county line (S36, T74N, R08W) to west county line (S6, T74N, R09W)
	Smith Creek	Mouth (S16, T77N, R08W) to west county line (S19, T77N, R09W)
	South English River	Mouth (S6, T77N, R09W) to west county line (S7, T77N, R09W)
	South Fork Long Creek	Mouth (S26, T75N, R06W) to County Road W61 (S4, T75N, R07W)
	West Fork Crooked Creek	Mouth (S24, T74N, R07W) to east line (S28, T76N, R09W)
	Williams Creek	Mouth (S31, T74N, R07W) to south county line (S32, T74N, R06W)
Wayne	Chariton River	East county line (S1, T70N, R20W) to north county line (S1, T70N, R20W)
	South Fork Chariton River	East county line (S36, T70N, R20W) to confluence with Dick Creek (S16, T69N, R22W)
Webster	Boone River	Mouth (S36, T87N, R27W) to east county line (S25, T87N, R27W)
	Brushy Creek	Mouth (S15, T87N, R27W) to north line (S8, T88N, R27W)
	Deer Creek	Mouth (S24, T90N, R29W) to north line (S16, T90N, R29W)
	Des Moines River	South county line (S34, T86N, R27W) to north county line (S6, T90N, R28W)

County	River/Stream	Location
	Lizard Creek	Mouth (S19, T89N, R28W) to west county line (S18, T90N, R30W)
	Prairie Creek	Mouth (S35, T88N, R28W) to west line (S29, T88N, R28W)
	South Branch Lizard Creek	Mouth (S23, T89N, R29W) to west county line (S7, T89N, R30W)
Winnebago	Winnebago River	South county line (S36, T98N, R24W) to north county line (S9, T100N, R23W)
Winneshiek	Bear Creek	East county line (S25, T100N, R07W) to confluence of North and South Bear Creeks (S25, T100N, R07W)
	Canoe Creek	Mouth (S25, T99N, R07W) to west line (S8, T99N, R08W)
	Little Turkey River	South county line (S32, T96N, R10W) to west county line (S30, T96N, R10W)
	North Bear Creek	Mouth (S25, T100N, R07W) to confluence with Middle Bear Creek (S14, T100N, R07W)
	Paint Creek	East county line (S13, T99N, R07W) to west line (S11, T99N, R07W)
	South Bear Creek	Mouth (S25, T100N, R07W) to confluence with unnamed tributary (NW 1/4, S34, T100N, R07W)
	Turkey River	South county line (S34, T96N, R09W) to west county line (S7, T98N, R10W)
	Upper Iowa River	East county line (NE 1/4, NE 1/4, S25, T99N, R07W) to west county line (S7, T100N, R10W)
	Yellow River	East county line (S13, T96N, R07W) to confluence with North Fork Yellow River (S13, T96N, R07W)
Woodbury	Big Sioux River	Mouth (S31, T89N, R47W) to north county line (S3, T89N, R48W)
	Farmers Ditch	Mouth (S32, T86N, R45W) to confluence with Big Whiskey Creek (S31, T88N, R46W)
	Farmers Garretson Outlet Ditch	South county line (S32, T86N, R45W) to confluence with Farmers Ditch (S32, T86N, R45W)
	Floyd River	Mouth (S33, T89N, R47W) to north county line (S6, T89N, R46W)
	Garretson Ditch	Mouth (S32, T86N, R45W) to confluence with Camp Creek (S15, T87N, R46W)
	Haitz Ditch	South county line (S35, T86N, R45W) to confluence with Cottonwood Hollow (S35, T86N, R45W)
	Little Sioux River	South county line (S35, T86N, R44W) to east county line (S12, T89N, R42W)
	Maple River	South county line (S32, T86N, R42W) to east county line (S13, T86N, R42W)
	Missouri River	South county line (S31, T86N, R47W) to confluence with Big Sioux River (S31, T89N, R47W)

County	River/Stream	Location
	Perry Creek	Mouth (S32, T89N, R47W) to north county line (S4, T89N, R47W)
	West Fork Ditch	South county line (S33, T86N, R45W) to confluence with West Fork Little Sioux River (S9, T86N, R45W)
	West Fork Little Sioux River	Confluence with West Fork Ditch (S9, T86N, R45W) to north county line (S2, T89N, R44W)
	Wolf Creek	South county line (S35, T86N, R45W) to confluence with East Fork Wolf Creek (S30, T87N, R44W)
Worth	Beaver Creek	Mouth (S34, T98N, R22W) to Hwy. 9 (S28, T98N, R22W)
	Deer Creek	East county line (S1, T99N, R19W) to County Road S56 (S17, T100N, R19W)
	Elk Creek	Mouth (S27, T99N, R20W) to Hwy. 105 (S5, T99N, R22W)
	Shell Rock River	South county line (S32, T98N, R19W) to north county line (S12, T100N, R21W)
	Willow Creek	Mouth (S32, T98N, R21W) to Hwy. 9 (S20, T98N, R21W)
	Winans Creek	Mouth (S36, T98N, R22W) to Hwy. 9 (S24, T98N, R22W)
	Winnebago River	South county line (SE 1/4, SW 1/4, S32, T98N, R21W) to south county line (S34, T98N, R22W)
Wright	Boone River	South county line (S34, T90N, R26W) to north county line (S2, T93N, R26W)
	Eagle Creek	South county line (S31, T90N, R25W) to County Road R33 (S30, T91N, R25W)
	East Branch Iowa River	Mouth (S19, T93N, R23W) to north county line (S6, T93N, R23W)
	Iowa River	East county line (S13, T90N, R23W) to confluence of East Branch Iowa River and West Branch Iowa River (S19, T93N, R23W)
	Otter Creek	Mouth (S29, T92N, R26W) to west line (S11, T92N, R26W)
	Prairie Creek	Mouth (S30, T93N, R26W) to west county line (S30, T93N, R26W)
	West Branch Iowa River	Mouth (S19, T93N, R23W) to north county line (S2, T93N, R24W)
	White Fox Creek	South county line (S34, T90N, R25W) to County Road R38 (S36, T91N, R25W)

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	
	West Lake Corning	354797.09	4540213.74	North edge of Corning
Allamakee	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	

County	Lake Name	Easting	Northing	Location
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
	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	

County	Lake Name	Easting	Northing	Location
	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	
	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	
	Pickerel 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	

County	Lake Name	Easting	Northing	Location
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	
	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	

County	Lake Name	Easting	Northing	Location
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
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	

County	Lake Name	Easting	Northing	Location
	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	
	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

County	Lake Name	Easting	Northing	Location
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	
	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

County	Lake Name	Easting	Northing	Location
	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	
	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	

County	Lake Name	Easting	Northing	Location
	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	
	Spring Lake	393381.93	4657295.83	4 miles northwest of Grand Junction
Grundy	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
	Stoehr Lake (Wellsburg)	509535.39	4693577.21	4 miles southeast of Wellsburg
Guthrie	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
Hardin	Alden	469050	4707733	
	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
Harrison	DeSoto Bend at DeSoto National Wildlife Refuge	247652.14	4603538.94	5 miles west of Missouri Valley at DeSoto National Wildlife Refuge
	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

County	Lake Name	Easting	Northing	Location
	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
Henry	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	
	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
	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	

County	Lake Name	Easting	Northing	Location
	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	
	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

County	Lake Name	Easting	Northing	Location
	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
	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

County	Lake Name	Easting	Northing	Location
	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	
	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

County	Lake Name	Easting	Northing	Location
	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	
	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

County	Lake Name	Easting	Northing	Location
	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
	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	

County	Lake Name	Easting	Northing	Location
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	
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	

County	Lake Name	Easting	Northing	Location
	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
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

County	Lake Name	Easting	Northing	Location
	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
	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
Pottawattamie	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

County	Lake Name	Easting	Northing	Location
	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	
	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	

County	Lake Name	Easting	Northing	Location
	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
	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	

County	Lake Name	Easting	Northing	Location
	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	
	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	

County	Lake Name	Easting	Northing	Location
	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	
	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

County	Lake Name	Easting	Northing	Location
	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	Ambroson Pit (east)	448224	4796718	3½ miles north of Forest City
	Ambroson Pit (middle)	448083.53	4796806.07	3½ miles north of Forest City
	Ambroson Pit (north)	448219	4797019	3½ miles north of Forest City
	Ambroson Pit (west)	447981	4796879	3½ miles north of Forest City
	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 Moville
	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

County	Lake Name	Easting	Northing	Location
	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

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

TABLE 3

Annual Pounds of Nitrogen Per Space of Capacity

Confinement Operations

Swine	Space	Liquid, Pit* or Basin**	Liquid, Lagoon***	Solid Manure
Nursery, 25 lb.	1 head	2	1	5
Wean-finish, 130 lb.				
Formed storage*				
Dry feeders	1 head	15		34
Wet/dry feeders	1 head	13		34
Grow-finish, 150 lb.				
Formed storage*				
Dry feeders	1 head	21		29
Wet/dry feeders	1 head	19		29
Earthen storage**	1 head	14		
Lagoon***	1 head		6	
Gestation, 400 lb.	1 head	27	5	39
Sow & Litter, 450 lb.	1 crate	32	11	86
Farrow-nursery	Per sow in breeding herd	22	8	85
Farrow-finish	Per sow in breeding herd	150	44	172

Dairy, Confined	Space	Liquid, Pit* or Basin**	Liquid, Lagoon***	Solid Manure
Cows, 1200 & up lb.	1 head	164	59	140
Heifers, 900 lb.	1 head	81	44	65
Calves, 500 lb.	1 head	45	24	15
Veal calves, 250 lb.	1 head	22	12	10
Dairy herd	Per productive cow in herd	169	87	180

Beef, Confined	Space	Liquid, Pit* or Basin**	Liquid, Lagoon***	Solid Manure
Mature cows, 1000 lb.	1 head	105	23	147
Finishing, 900 lb.	1 head	95	19	132
Feeder calves, 500 lb.	1 head	53	11	73

Poultry	Space	Dry Manure
Layer, cages	1000 head	367
Broiler, litter	1000 head	585
Turkeys, litter	1000 head	1400

Open Feedlot Operations

		Runoff – liquids		
Species	Space	Earthen lots	Concrete lots	Solids-scraped
Beef, 400 sq. ft./hd.	1 head	5	3	66
Dairy, 1000 sq. ft./hd.	1 head	15	7	127
Swine, 50 sq. ft./hd.	1 head	1	3	18

* Formed manure storage structure

** Earthen manure storage basin

*** Anaerobic lagoon

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10]

TABLE 3a

Annual Pounds of Phosphorus (as P_2O_5) Per Space of Capacity

Confinement Operations

Swine	Space	Liquid, Pit* or Basin**	Liquid, Lagoon***	Solid Manure
Nursery, 25 lb.	1 head	1	0.7	3
Wean-finish, 130 lb.				
Formed storage*				
Dry feeders	1 head	12		21
Wet/dry feeders	1 head	9		21
Grow-finish, 150 lb.				
Formed storage*				
Dry feeders	1 head	18		18
Wet/dry feeders	1 head	13		18
Earthen storage**	1 head	10		
Lagoon***	1 head		5	
Gestation, 400 lb.	1 head	27	4	25
Sow & Litter, 450 lb.	1 crate	26	8	55
Farrow-nursery	Per sow in breeding herd	18	6	55
Farrow-finish	Per sow in breeding herd	109	33	110

Dairy, Confined	Space	Liquid, Pit* or Basin**	Liquid, Lagoon***	Solid Manure
Cows, 1200 & up lb.	1 head	78	44	42
Heifers, 900 lb.	1 head	38	33	20
Calves, 500 lb.	1 head	22	18	5
Veal calves, 250 lb.	1 head	10	9	3
Dairy herd	Per productive cow in herd	80	66	80

Beef, Confined	Space	Liquid, Pit* or Basin**	Liquid, Lagoon***	Solid Manure
Mature cows, 1000 lb.	1 head	66	17	73
Finishing, 900 lb.	1 head	59	14	66
Feeder calves, 500 lb.	1 head	33	8	37

Poultry	Space	Dry Manure
Layer, cages	1000 head	840
Broiler, litter	1000 head	585
Turkeys, litter	1000 head	1400

Open Feedlot Operations

		Runoff – liquids		
Species	Space	Earthen lots	Concrete lots	Solids-scraped
Beef, 400 sq. ft./hd.	1 head	2	1	48
Dairy, 1000 sq. ft./hd.	1 head	5	2	69
Swine, 50 sq. ft./hd.	1 head	0.3	1	17

* Formed manure storage structure

** Earthen manure storage basin

*** Anaerobic lagoon

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10]

TABLE 4

Crop Nitrogen Usage Rate Factors

Corn	Zone 1	0.9 lbs/bu	Orchard grass	38.0 lbs/ton
	Zone 2	1.1 lbs/bu	Tall fescue	38.0 lbs/ton
	Zone 3	1.2 lbs/bu	Switch grass	21.0 lbs/ton
Corn silage		7.5 lbs/ton	Vetch	56.0 lbs/ton
Soybeans		3.8 lbs/bu	Red clover	43.0 lbs/ton
Oats		0.75 lbs/bu	Perennial rye grass	24.0 lbs/ton
Alfalfa		50.0 lbs/ton	Timothy	25.0 lbs/ton
Wheat		1.3 lbs/bu	Wheat straw	13.0 lbs/ton
Smooth brome		40.0 lbs/ton	Oat straw	12.0 lbs/ton
Sorghum or Sudan grass		40.0 lbs/ton		

The following map outlines the three zones for the corn nitrogen usage rates indicated in the Table 4. Zone 1 corresponds to the Moody soil association. Zone 2 corresponds to the Marshall, Monona-Ida-Hamburg, and Galva-Primghar-Sac soil associations. Zone 3 corresponds to the remaining soil associations.

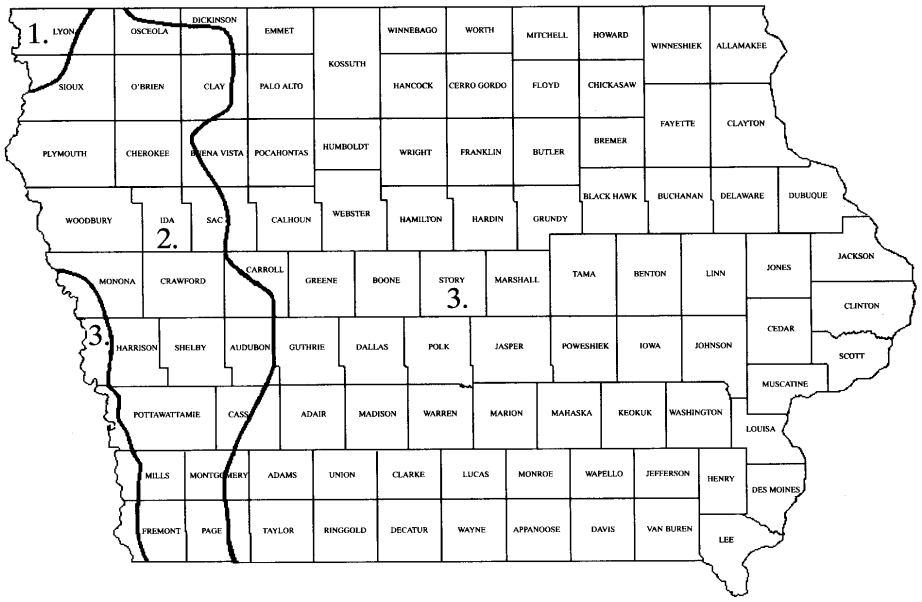


TABLE 4a

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_2O_5 (pounds/unit)
Corn	bu.	0.32
Corn silage	ton (65% H_2O)	3.5
Soybeans	bu.	0.72
Alfalfa, alfalfa grass	ton	13
Oat	bu.	0.294
Wheat	bu.	0.55
Smooth brome	ton	7.9
Orchard grass	ton	12
Tall fescue	ton	11
Switch grass	ton	11
Sorghum-Sudan	ton	11
Red clover-grass	ton	11
Perennial rye grass	ton	11
Timothy	ton	7.9
Wheat straw	ton	3.7
Oat straw	ton	6.4

[**ARC 2798C**, IAB 11/9/16, effective 12/14/16]

TABLE 5

Manure Production Per Space of Capacity

		Daily		Yearly
Swine	Space	Liquid, Pit* or Basin**	Liquid, Lagoon***	Solid Manure
Nursery, 25 lb.	1 head	0.2 gal	0.7 gal	0.34 tons
Wean-finish, 130 lb.				
Formed storage*				
Dry feeders	1 head	0.86 gal		2.39 tons
Wet/dry feeders	1 head	0.66 gal		2.39 tons
Grow-finish, 150 lb.				
Formed storage*				
Dry feeders	1 head	1.2 gal		2.05 tons
Wet/dry feeders	1 head	0.90 gal		2.05 tons
Earthen storage**	1 head	1.2 gal		2.05 tons
Lagoon***	1 head		4.1 gal	2.05 tons
Gestation, 400 lb.	1 head	3.0 gal	3.7 gal	2.77 tons
Sow & Litter, 450 lb.	1 crate	3.5 gal	7.5 gal	6.16 tons
Farrow-nursery	Per sow in breeding herd	2.2 gal	5.4 gal	6.09 tons
Farrow-finish	Per sow in breeding herd	9.4 gal	30 gal	12.25 tons
Dairy, Confined	Space	Liquid, Pit* or Basin**	Liquid, Lagoon***	Solid Manure
Cows, 1200 & up lb.	1 head	18.0 gal	40.1 gal	14 tons
Heifers, 900 lb.	1 head	8.8 gal	29.9 gal	6.5 tons
Calves, 500 lb.	1 head	4.9 gal	16.5 gal	1.5 tons
Veal calves, 250 lb.	1 head	2.5 gal	8.2 gal	1.1 tons
Dairy herd	Per productive cow in herd	18.5 gal	59.8 gal	20 tons
Beef, Confined	Space	Liquid, Pit* or Basin**	Liquid, Lagoon***	Solid Manure
Mature cows, 1000 lb.	1 head	7.2 gal	15.7 gal	12.23 tons
Finishing, 900 lb.	1 head	6.5 gal	13.1 gal	11.00 tons
Feeder calves, 500 lb.	1 head	3.6 gal	7.3 gal	6.11 tons
Poultry	Space			Dry Manure
Layer, cages	1000 head			10.5 tons
Broiler, litter	1000 head			9.00 tons
Turkeys, litter	1000 head			35.00 tons

* Formed manure storage structure

** Earthen manure storage basin

*** Anaerobic lagoon

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10]

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 BUILDINGS AND PUBLIC USE AREAS[1]				
Type of Structure	Animal Unit (AU) Capacity	Residences, Businesses, Churches, Schools		Public Use Areas
		Unincorporated Areas	Incorporated Areas	
Anaerobic lagoons and uncovered earthen manure storage basins	500 AU or less	1,875 feet	1,875 feet	1,875 feet
	>500 AU to <1,000 AU	1,875 feet	1,875 feet	1,875 feet
	1,000 AU to <3,000 AU	2,500 feet	2,500 feet	2,500 feet
	3,000 AU or more	3,000 feet	3,000 feet	3,000 feet
Covered earthen manure storage basins	500 AU or less	1,250 feet	1,875 feet	1,875 feet
	>500 AU to <1,000 AU	1,250 feet	1,875 feet	1,875 feet
	1,000 AU to <3,000 AU	1,875 feet	2,500 feet	2,500 feet
	3,000 AU or more	2,375 feet	3,000 feet	3,000 feet
Uncovered formed manure storage structures	500 AU or less	None	None	None
	>500 AU to <1,000 AU	1,500 feet	1,875 feet	1,875 feet
	1,000 AU to <3,000 AU	2,000 feet	2,500 feet	2,500 feet
	3,000 AU or more	2,500 feet	3,000 feet	3,000 feet
Confinement buildings and covered formed manure storage structures	500 AU or less	None	None	None
	>500 AU to <1,000 AU	1,250 feet	1,875 feet	1,875 feet
	1,000 AU to <3,000 AU	1,875 feet	2,500 feet	2,500 feet
	3,000 AU or more	2,375 feet	3,000 feet	3,000 feet
Egg washwater storage structures	500 AU or less	None	None	None
	>500 AU to <1,000 AU	1,000 feet	1,875 feet	1,875 feet
	1,000 AU to <3,000 AU	1,500 feet	2,500 feet	2,500 feet
	3,000 AU or more	2,000 feet	3,000 feet	3,000 feet

DISTANCES TO WATER WELLS				
Type of Structure	Public Well		Private Well	
	Shallow	Deep	Shallow	Deep
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

OTHER DISTANCES FOR CONFINEMENT FEEDING OPERATION STRUCTURES regardless of animal unit capacity	
Surface intake of an agricultural drainage well or water source other than major (Excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided)	500 feet*
Wellhead or cistern of agricultural drainage well, known sinkhole or major water source (Excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided)	1,000 feet
Designated wetlands pursuant to subrule 65.11(4) and Iowa Code section 459.310	2,500 feet
Right-of-way of a thoroughfare maintained by a political subdivision (Exemptions provided in subrule 65.12(2))	100 feet

[1]See rule 567—65.12(459,459B) for exemptions available from the above distances.
*200 feet from a water source required for a dry bedded confinement feeding operation structure.

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

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 BUILDINGS AND PUBLIC USE AREAS[1]				
Type of Structure	Animal Unit (AU) Capacity and Animal Weight Capacity	Residences, Businesses, Churches, Schools		Public Use Areas
		Unincorporated Areas	Incorporated Areas	
Anaerobic lagoons and uncovered earthen manure storage basins	500 AU or less	1,250 feet	1,250 feet	1,250 feet
	>500 AU to <625,000 lbs	1,250 feet	1,250 feet	1,250 feet
	625,000 lbs to <1,250,000 lbs	1,875 feet	1,875 feet	1,875 feet
	1,250,000 lbs or more	2,500 feet	2,500 feet	2,500 feet
Covered earthen manure storage basins	500 AU or less	1,000 feet	1,250 feet	1,250 feet
	>500 AU to <625,000 lbs	1,000 feet	1,250 feet	1,250 feet
	625,000 lbs to <1,250,000 lbs	1,250 feet	1,875 feet	1,875 feet
	1,250,000 lbs or more	1,875 feet	2,500 feet	2,500 feet
Uncovered formed manure storage structures	500 AU or less	None	None	None
	>500 AU to <625,000 lbs	1,250 feet	1,250 feet	1,250 feet
	625,000 lbs to <1,250,000 lbs	1,500 feet	1,875 feet	1,875 feet
	1,250,000 lbs or more	2,000 feet	2,500 feet	2,500 feet
Confinement buildings and covered formed manure storage structures	500 AU or less	None	None	None
	>500 AU to <625,000 lbs	1,000 feet	1,250 feet	1,250 feet
	625,000 lbs to <1,250,000 lbs	1,250 feet	1,875 feet	1,875 feet
	1,250,000 lbs or more	1,875 feet	2,500 feet	2,500 feet
Egg washwater storage structures	500 AU or less	None	None	None
	>500 AU to <625,000 lbs	750 feet	1,250 feet	1,250 feet
	625,000 lbs to <1,250,000 lbs	1,000 feet	1,875 feet	1,875 feet
	1,250,000 lbs or more	1,500 feet	2,500 feet	2,500 feet

DISTANCES TO WATER WELLS				
Type of Structure	Public Well		Private Well	
	Shallow	Deep	Shallow	Deep
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

OTHER DISTANCES FOR CONFINEMENT FEEDING OPERATION STRUCTURES regardless of animal unit capacity	
Surface intake of an agricultural drainage well or water source other than major (Excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided)	500 feet
Wellhead or cistern of agricultural drainage well, known sinkhole or major water source (Excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided)	1,000 feet
Designated wetlands pursuant to subrule 65.11(4) and Iowa Code section 459.310	2,500 feet
Right-of-way of a thoroughfare maintained by a political subdivision (Exemptions provided in subrule 65.12(2))	100 feet

[1]See rule 567—65.12(459,459B) for exemptions available from the above distances.

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

TABLE 6b

Required Separation Distances for Confinement Feeding Operations Constructed on or after January 1, 1999, but prior to March 1, 2003—Beef and Dairy Cattle

DISTANCES TO BUILDINGS AND PUBLIC USE AREAS[1]				
Type of Structure	Animal Unit (AU) Capacity and Animal Weight Capacity	Residences, Businesses, Churches, Schools		Public Use Areas
		Unincorporated Areas	Incorporated Areas	
Anaerobic lagoons and uncovered earthen manure storage basins	500 AU or less	1,250 feet	1,250 feet	1,250 feet
	>500 AU to <1,600,000 lbs	1,250 feet	1,250 feet	1,250 feet
	1,600,000 lbs to <4,000,000 lbs	1,875 feet	1,875 feet	1,875 feet
	4,000,000 lbs or more	2,500 feet	2,500 feet	2,500 feet
Covered earthen manure storage basins	500 AU or less	1,000 feet	1,250 feet	1,250 feet
	>500 AU to <1,600,000 lbs	1,000 feet	1,250 feet	1,250 feet
	1,600,000 lbs to <4,000,000 lbs	1,250 feet	1,875 feet	1,875 feet
	4,000,000 lbs or more	1,875 feet	2,500 feet	2,500 feet
Uncovered formed manure storage structures	500 AU or less	None	None	None
	>500 AU to <1,600,000 lbs	1,250 feet	1,250 feet	1,250 feet
	1,600,000 lbs to <4,000,000 lbs	1,500 feet	1,875 feet	1,875 feet
	4,000,000 lbs or more	2,000 feet	2,500 feet	2,500 feet
Confinement buildings and covered formed manure storage structures	500 AU or less	None	None	None
	>500 AU to <1,600,000 lbs	1,000 feet	1,250 feet	1,250 feet
	1,600,000 lbs to <4,000,000 lbs	1,250 feet	1,875 feet	1,875 feet
	4,000,000 lbs or more	1,875 feet	2,500 feet	2,500 feet

DISTANCES TO WATER WELLS				
Type of Structure	Public Well		Private Well	
	Shallow	Deep	Shallow	Deep
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

OTHER DISTANCES FOR CONFINEMENT FEEDING OPERATION STRUCTURES regardless of animal unit capacity	
Surface intake of an agricultural drainage well or water source other than major (Excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided)	500 feet
Wellhead or cistern of agricultural drainage well, known sinkhole or major water source (Excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided)	1,000 feet
Designated wetlands pursuant to subrule 65.11(4) and Iowa Code section 459.310	2,500 feet
Right-of-way of a thoroughfare maintained by a political subdivision (Exemptions provided in subrule 65.12(2))	100 feet

[1]See rule 567—65.12(459,459B) for exemptions available from the above distances.

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

TABLE 6c

Required Separation Distances for Confinement Feeding Operations Constructed prior to January 1, 1999—Swine, Sheep, Horses and Poultry

DISTANCES TO BUILDINGS AND PUBLIC USE AREAS[1]				
Type of Structure	Animal Unit (AU) Capacity and Animal Weight Capacity	Residences, Businesses, Churches, Schools		Public Use Areas
		Unincorporated Areas	Incorporated Areas	
Anaerobic lagoons and uncovered earthen manure storage basins	500 AU or less	1,250 feet	1,250 feet	1,250 feet
	>500 AU to <625,000 lbs	1,250 feet	1,250 feet	1,250 feet
	625,000 lbs to <1,250,000 lbs	1,875 feet	1,875 feet	1,875 feet
	1,250,000 lbs or more	2,500 feet	2,500 feet	2,500 feet
Covered earthen manure storage basins	500 AU or less	750 feet	1,250 feet	1,250 feet
	>500 AU to <625,000 lbs	750 feet	1,250 feet	1,250 feet
	625,000 lbs to <1,250,000 lbs	1,000 feet	1,875 feet	1,875 feet
	1,250,000 lbs or more	1,500 feet	2,500 feet	2,500 feet
Uncovered formed manure storage structures	500 AU or less	None	None	None
	>500 AU to <625,000 lbs	1,000 feet	1,250 feet	1,250 feet
	625,000 lbs to <1,250,000 lbs	1,500 feet	1,875 feet	1,875 feet
	1,250,000 lbs or more	2,000 feet	2,500 feet	2,500 feet
Confinement buildings and covered formed manure storage structures	500 AU or less	None	None	None
	>500 AU to <625,000 lbs	750 feet	1,250 feet	1,250 feet
	625,000 lbs to <1,250,000 lbs	1,000 feet	1,875 feet	1,875 feet
	1,250,000 lbs or more	1,500 feet	2,500 feet	2,500 feet
Egg washwater storage structures	500 AU or less	None	None	None
	>500 AU to <625,000 lbs	750 feet	1,250 feet	1,250 feet
	625,000 lbs to <1,250,000 lbs	1,000 feet	1,875 feet	1,875 feet
	1,250,000 lbs or more	1,500 feet	2,500 feet	2,500 feet

DISTANCES TO WATER WELLS				
Type of Structure	Public Well		Private Well	
	Shallow	Deep	Shallow	Deep
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

OTHER DISTANCES FOR CONFINEMENT FEEDING OPERATION STRUCTURES regardless of animal unit capacity	
Surface intake of an agricultural drainage well or water source other than major (Excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided)	500 feet
Wellhead or cistern of agricultural drainage well, known sinkhole or major water source (Excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided)	1,000 feet
Designated wetlands pursuant to subrule 65.11(4) and Iowa Code section 459.310	2,500 feet
Right-of-way of a thoroughfare maintained by a political subdivision (Exemptions provided in subrule 65.12(2))	100 feet

[1]See rule 567—65.12(459,459B) for exemptions available from the above distances.

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

TABLE 6d

Required Separation Distances for Confinement Feeding Operations Constructed prior to January 1, 1999—Beef and Dairy Cattle

DISTANCES TO BUILDINGS AND PUBLIC USE AREAS[1]				
Type of Structure	Animal Unit (AU) Capacity and Animal Weight Capacity	Residences, Businesses, Churches, Schools		Public Use Areas
		Unincorporated Areas	Incorporated Areas	
Anaerobic lagoons and uncovered earthen manure storage basins	500 AU or less	1,250 feet	1,250 feet	1,250 feet
	>500 AU to <1,600,000 lbs	1,250 feet	1,250 feet	1,250 feet
	1,600,000 lbs to <4,000,000 lbs	1,875 feet	1,875 feet	1,875 feet
	4,000,000 lbs or more	2,500 feet	2,500 feet	2,500 feet
Covered earthen manure storage basins	500 AU or less	750 feet	1,250 feet	1,250 feet
	>500 AU to <1,600,000 lbs	750 feet	1,250 feet	1,250 feet
	1,600,000 lbs to <4,000,000 lbs	1,000 feet	1,875 feet	1,875 feet
	4,000,000 lbs or more	1,500 feet	2,500 feet	2,500 feet
Uncovered formed manure storage structures	500 AU or less	None	None	None
	>500 AU to <1,600,000 lbs	1,000 feet	1,250 feet	1,250 feet
	1,600,000 lbs to <4,000,000 lbs	1,500 feet	1,875 feet	1,875 feet
	4,000,000 lbs or more	2,000 feet	2,500 feet	2,500 feet
Confinement buildings and covered formed manure storage structures	500 AU or less	None	None	None
	>500 AU to <1,600,000 lbs	750 feet	1,250 feet	1,250 feet
	1,600,000 lbs to <4,000,000 lbs	1,000 feet	1,875 feet	1,875 feet
	4,000,000 lbs or more	1,500 feet	2,500 feet	2,500 feet

DISTANCES TO WATER WELLS				
Type of Structure	Public Well		Private Well	
	Shallow	Deep	Shallow	Deep
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

OTHER DISTANCES FOR CONFINEMENT FEEDING OPERATION STRUCTURES regardless of animal unit capacity	
Surface intake of an agricultural drainage well or water source other than major (Excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided)	500 feet
Wellhead or cistern of agricultural drainage well, known sinkhole or major water source (Excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided)	1,000 feet
Designated wetlands pursuant to subrule 65.11(4) and Iowa Code section 459.310	2,500 feet
Right-of-way of a thoroughfare maintained by a political subdivision (Exemptions provided in subrule 65.12(2))	100 feet

[1]See rule 567—65.12(459,459B) for exemptions available from the above distances.

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

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
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

[1]Manure 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.
[2]See subparagraph 65.2(3)*"d"*(4) and paragraph 65.11(8)*"c"* for exemptions pertaining to dry manure stockpiles.
[3]For stockpiles from dry manure confinement operations, the separation distance is 800 feet to agricultural drainage wells and known sinkholes.

[**ARC 8998B**, IAB 8/11/10, effective 9/15/10; **ARC 2798C**, IAB 11/9/16, effective 12/14/16]

TABLE 8

Summary of Credit for Mechanical Aeration

	Pounds Volatile Solids per 1000 cubic feet			
% of Oxygen Supplied	Beef	Other than Beef		
	Daily max in all counties	Less than or equal to 6000 lb vs. daily max	Less than or equal to 6000 lb vs. daily max in counties listed in 65.15(13)*"b"*(2) above	Greater than 6000 lb vs. daily max in all counties
0-50	10.0	5.0	4.5	4.0
50	12.5	6.3	5.6	5.0
60	13.3	6.6	6.1	5.5
70	14.0	7.0	6.5	6.0
80	14.8	7.4	6.9	6.5
90	15.5	7.8	7.4	7.0
100	16.3	8.1	7.8	7.5
110	17.0	8.5	8.3	8.0
120	17.8	8.9	8.7	8.5
130	18.5	9.3	9.1	9.0
140	19.3	9.6	9.6	9.5
150	20.0	10.0	10.0	10.0

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[1] Effective date of Chapter 65 [DEQ, ch 20] delayed by the Administrative Rules Review Committee until October 25, 1976, pursuant to Iowa Code section 17A.4 amended by S.F. 1288, §8.

[2] Effective date of 65.17(13)*"e"* delayed 70 days by the Administrative Rules Review Committee at its meeting held August 11, 2004.

OBJECTION

At its August 8, 2006, meeting, the Administrative Rules Review Committee voted to object to the provisions of **ARC 5243B***, rules 567 IAC 65.5(3) and 65.103(5), on the grounds they are beyond the authority delegated to the Department of Natural Resources (Department). This filing was adopted by the Environmental Protection Commission (EPC) and published in IAB Vol. XXIX, No. 2 (7-19-2006). The Committee takes this action pursuant to the authority of Code section 17A.4, subsection 5.

This filing allows the Department to evaluate proposed animal feeding operation sites based on a number of factors that are specifically set out in the rules. After completing its evaluation, the adopted rules authorize the director of the Department to take a variety of actions to condition or deny a construction permit, to modify or disapprove a manure management plan, or to prohibit construction of a proposed confinement feeding operation that is otherwise in compliance with the provisions of Chapter 65 of the EPC rules.

It is the opinion of the Committee that Code chapters 459 and 459A establish the procedures and standards relating to the issuance of construction permits and the approval of manure management plans, and that the Department does not have authority to create additional procedures and standards by rule. The master matrix was created by Code section 459.305 in order "...to provide a *comprehensive* [emphasis added] assessment mechanism in order to produce a statistically verifiable basis for determining whether to approve or disapprove an application for the construction, including expansion, of a confinement feeding operation structure..." Section 459.305, subsection 1, paragraph "a", further states:

> "The master matrix shall be used to establish conditions for the construction of a confinement feeding operation structure and for the implementation of manure management practices, which conditions shall be included in the approval of the construction permit or the original manure management plan as applicable."

The Committee believes this statutory language demonstrates a clear legislative intent that the matrix is the exclusive mechanism for the evaluation and approval of an application for the construction or expansion of a confinement feeding operation structure and for the implementation of manure management practices.

*Objection to 567 IAC 65.5(3) and 65.103(5) filed October 10, 2006.