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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 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 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

### **Architectural Examining Board[193B]**

Replace Analysis  
Replace Chapters 2 and 3

### **Utilities Division[199]**

Replace Chapter 2  
Replace Chapter 10  
Replace Chapters 19 to 21  
Replace Chapter 25

### **Economic Development Authority[261]**

Replace Analysis  
Replace Chapter 31

### **Environmental Protection Commission[567]**

Replace Analysis  
Replace Chapters 64 and 65



**ARCHITECTURAL EXAMINING BOARD[193B]****CHAPTER 1****DESCRIPTION OF ORGANIZATION**

- 1.1(544A,17A) Duties
- 1.2(544A,17A) Office of the board
- 1.3(544A,17A) Meetings
- 1.4(544A,17A) Certificates

**CHAPTER 2****REGISTRATION**

- 2.1(544A,17A) Definitions
- 2.2(544A,17A) Application by reciprocity
- 2.3(544A,17A) Application for registration by examination
- 2.4(544A,17A) Examination
- 2.5(17A,272C,544A) Renewal of certificates of registration
- 2.6(544A,17A) Reinstatement of lapsed certificate of registration to active status
- 2.7(544A,17A) Reinstatement of lapsed certificate of registration to inactive status
- 2.8(544A) Reinstatement from inactive status or retired status to active status
- 2.9(544A,17A) Finding of probable cause for unlicensed practice
- 2.10 Reserved
- 2.11(544A,17A) Fee schedule
- 2.12(544A,272C) Transition provisions

**CHAPTER 3****CONTINUING EDUCATION**

- 3.1(544A,272C) Continuing education
- 3.2(544A,272C) Definitions
- 3.3(544A,272C) Basic requirements
- 3.4(544A,272C) Authorized structured educational activities
- 3.5(544A,272C) Exemptions
- 3.6(544A,272C) Transition provisions

**CHAPTER 4****RULES OF CONDUCT**

- 4.1(544A,17A) Rules of conduct

**CHAPTER 5****EXCEPTIONS**

- 5.1(544A) Definitions
- 5.2(544A) Exceptions
- 5.3(544A) Building use takes priority over size
- 5.4(544A) Exceptions matrix

**CHAPTER 6****DISCIPLINARY ACTION AGAINST REGISTRANTS**

- 6.1(544A,272C) Disciplinary action
- 6.2(544A,272C) Investigation of complaints
- 6.3(544A,272C) Peer investigative committee
- 6.4(544A,272C) Investigation report
- 6.5(544A,272C) Informal discussion
- 6.6(544A,272C) Decisions

CHAPTER 7

DISCIPLINARY ACTION—UNLICENSED PRACTICE

- 7.1(544A,272C) Disciplinary action
- 7.2(544A,272C) Investigation of complaints
- 7.3(544A) Civil penalties against nonregistrant

## CHAPTER 2 REGISTRATION

[Prior to 7/13/88, see Architectural Examiners, Board of[80]]

**193B—2.1(544A,17A) Definitions.** The following definitions apply as used in Iowa Code chapter 544A, and this chapter of the architectural examining board rules, unless the context otherwise requires.

“*Applicant*” means an individual who has submitted an application for registration to the board.

“*Architectural Intern*” means an individual who holds a professional degree from an NAAB-accredited program, has completed or is currently enrolled in the NCARB Intern Development Program and intends to actively pursue registration by completing the Architect Registration Examination.

“*ARE*” means the current Architect Registration Examination, as prepared and graded by the National Council of Architectural Registration Boards (NCARB).

“*Examination*” means the current Architect Registration Examination (ARE) accepted by the board.

“*IDP*” means Intern Development Program.

“*IDP applicant*” means an individual who has completed the IDP training requirements set forth in the NCARB Handbook for Interns and Architects and has submitted an application for registration to the board.

“*Inactive*” means that an architect is not engaged in Iowa in any practice for which a certificate of registration is required.

“*Intern Architect*” has the same meaning as “Architectural Intern.”

“*Issuance*” means the date of mailing of a decision or order or the date of delivery if service is by other means unless another date is specified in the order.

“*NAAB*” means the National Architectural Accrediting Board.

“*NCARB*” means the National Council of Architectural Registration Boards.

“*NCARB Handbook for Interns and Architects*” means the most current edition of a document by the same title published by the National Council of Architectural Registration Boards. The document outlines the requirements for examination and registration as an architect and is available through the National Council of Architectural Registration Boards, 1801 K Street NW, Suite 1100, Washington, D.C. 20006; NCARB’s Web site [www.ncarb.org](http://www.ncarb.org); the architectural examining board or the state law library.

“*Retired*” means that an architect is not engaged in the practice of architecture or earning monetary compensation by providing professional architectural services in any licensing jurisdiction of the United States or a foreign country.

**193B—2.2(544A,17A) Application by reciprocity.** Applicants for registration are required to make application to the National Council of Architectural Registration Boards (NCARB) for a certificate. A completed state application form (available on the board’s Web site) and a completed NCARB certificate shall be filed in the board office before an application will be considered by the board.

**2.2(1) Registration requirements.** The board or its executive officer may waive examination requirements for applicants who, at the time of application, are registered as architects in a different jurisdiction, where the applicant’s qualifications for registration are substantially equivalent to those required of applicants for initial registration in this state. All such applicants who hold an active NCARB certificate shall be deemed to possess qualifications that are substantially equivalent to those required of applicants for initial registration in this state.

**2.2(2) Applicants seeking architectural commission in Iowa.** A person seeking an architectural commission in this state may be admitted to this state for the purpose of offering to provide architectural services, and for that purpose only, without first being registered in this state if:

- a. The person holds an NCARB certificate; and
- b. The person holds a current and valid registration issued by a registration authority recognized by this state; and
- c. The person notifies the board in writing on a form provided by the board that the person:

- (1) Holds an NCARB certificate and a current and valid registration issued by a registration authority recognized by this state,
  - (2) Is not currently registered in this state but will be present in this state for the purpose of offering to provide architectural services on a temporary basis, and
  - (3) Has no previous or pending disciplinary action by any registration authority; and
    - d. The person delivers a copy of the notice referred to in paragraph “c” to every potential client to whom the person offers to provide architectural services; and
    - e. The person provides the board with a sworn statement of intent to apply immediately to the board for registration if selected as the architect for a project in this state.
- The person is prohibited from actually providing architectural services until the person has been issued a valid registration in this state.

**2.2(3) Board refusal to issue registration.** The board may refuse to issue a certificate of registration to any person otherwise qualified upon any of the grounds for which a certificate of registration may be revoked or suspended or may otherwise discipline a registrant based upon a suspension, revocation, or other disciplinary action taken by a licensing authority in this or another jurisdiction. For purposes of this subrule, “disciplinary action” includes the voluntary surrender of a registration to resolve a pending disciplinary investigation or proceeding. A certified copy of the record or order of suspension, revocation, voluntary surrender, or other disciplinary action is prima facie evidence of such fact.  
[ARC 7737B, IAB 5/6/09, effective 6/10/09]

**193B—2.3(544A,17A) Application for registration by examination.**

**2.3(1)** To be admitted to the examination, an applicant for registration shall have completed the eligibility requirements of the education standards for NCARB certification which include a professional degree from a program accredited by the National Architectural Accrediting Board (NAAB) or the Canadian Architectural Certification Board (CACB) and shall be enrolled in the NCARB Intern Development Program. NCARB shall notify the testing service of the applicant’s eligibility prior to the applicant’s scheduling of an examination.

**2.3(2)** Documentation of IDP training units shall be submitted on IDP report forms, published by NCARB, verified by signatures of registered architects serving as (1) the intern architect’s supervisor in accordance with the requirements outlined in the NCARB Handbook for Interns and Architects, and (2) the intern architect’s mentor, usually outside the intern’s firm, with whom the intern has met for guidance and evaluation of the intern’s progress in the IDP. The completed IDP report form shall demonstrate attainment of an aggregate of the minimum number of value units in each training area and shall be submitted to NCARB for evaluation.

**2.3(3)** All eligibility requirements shall have been verified and satisfied in accordance with the NCARB Handbook for Interns and Architects. The Handbook is available through NCARB, the architectural examining board or the state law library.

**2.3(4)** Applicants who have passed one or more but not all divisions of the ARE shall have a rolling five-year period to pass each of the remaining divisions. A passing grade for any remaining division shall be valid for five years, after which time the division must be retaken if all remaining divisions have not been passed. The rolling five-year period shall commence on the date when the first division that has been passed is administered.

**2.3(5)** To be eligible for registration, all applicants shall have passed all divisions of the ARE prepared and provided by NCARB, have completed the NCARB Intern Development Program, and have attained an NCARB council record. A completed NCARB council record shall be transmitted to and filed in the board office. Upon receipt of the council record, the board shall provide the applicant with an application for registration form. The board shall issue a registration number to the applicant upon receipt of the completed application form and appropriate fee.

**2.3(6)** The board may refuse to issue a certificate of registration to any person otherwise qualified upon any of the grounds for which a registration may be revoked or suspended or may otherwise discipline a registrant based upon a suspension, revocation, or other disciplinary action taken by a licensing authority in this or another jurisdiction. For purposes of this subrule, “disciplinary action”

includes the voluntary surrender of a registration to resolve a pending disciplinary investigation or proceeding. A certified copy of the record or order of suspension, revocation, voluntary surrender, or other disciplinary action is prima facie evidence of such fact.

[ARC 8638B, IAB 4/7/10, effective 5/12/10; ARC 1624C, IAB 9/17/14, effective 10/22/14]

**193B—2.4(544A,17A) Examination.** Examinations for registration as an architect shall be conducted by the board or its authorized representative.

**2.4(1) Content and grading of the examination.** The board shall make use of the ARE prepared and graded by NCARB under a plan of cooperation with the architectural examining boards of all states and territories of the United States.

**2.4(2) Testing service.** The board may make use of a testing service selected by NCARB to administer the examination, provided the examination is held in at least one location within the boundaries of this state.

**193B—2.5(17A,272C,544A) Renewal of certificates of registration.**

**2.5(1) Active status.** Certificates of registration expire annually on December 31. In order to maintain authorization to practice in Iowa, a registrant is required to renew the certificate of registration prior to the expiration date. A registrant who fails to renew by the expiration date is not authorized to practice architecture in Iowa until the certificate is reinstated as provided in rule 193B—2.6(544A,17A).

*a.* It is the policy of the board to send to each registrant a notice of the pending expiration date at the registrant's last-known address approximately one month prior to the date the certificate of registration is scheduled to expire. The notice, when provided, may be by e-mail communication or in the quarterly newsletter. Failure to receive this notice does not relieve the registrant of the responsibility to timely renew the certificate and pay the renewal fee. A registrant should contact the board office if the registrant does not receive a renewal notice prior to the date of expiration.

*b.* Upon the board's receipt of a timely and sufficient renewal application as provided in 193—subrule 7.40(3), the board's administrator shall issue a new certificate of registration reflecting the next expiration date, unless grounds exist for denial of the application. However, the board will accept an otherwise sufficient renewal application that is untimely if the board receives the application and late fee within 30 days of the date of expiration.

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

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

*e.* The board may notify a registrant whose certificate of registration has expired. The failure of the board to provide this courtesy notification or the failure of the registrant to receive the notification shall not extend the date of expiration.

*f.* A registrant who continues to practice architecture in Iowa after the registration has expired shall be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a registrant's application for reinstatement.

**2.5(2) Inactive status.** This subrule establishes a procedure under which a person issued a certificate of registration as an architect may apply to the board to register as inactive. Registration under this subrule is available to a certificate holder residing within or outside the state of Iowa who is not engaged in Iowa in any practice for which a certificate of registration as an architect is required. A person eligible to register as inactive may, as an alternative to such registration, allow the certificate of registration to lapse. During any period of inactive status, a person shall not use the title "architect" or any other title that might imply that the person is offering services as an architect by such an action in violation of Iowa Code section 544A.15. The board will continue to maintain a data base of persons registered as inactive, including information which is not routinely maintained after a certificate has lapsed through the person's failure to renew. A person who registers as inactive will accordingly receive renewal applications, board newsletters and other mass communications from the board.

*a. Affirmation.* The renewal application form shall contain a statement in which the applicant affirms that the applicant will not engage in any of the practices in Iowa that are listed in Iowa Code section 544A.16 without first complying with all rules governing reinstatement to active status. A person in inactive status may reinstate to active status at any time pursuant to rule 193B—2.8(544A).

*b. Renewal.* A person registered as inactive may renew the person's certificate of registration on the biennial schedule described in 193B—2.5(17A,272C,544A). This person shall be exempt from the continuing education requirements and will be charged a reduced renewal fee as provided in 193B—2.11(544A,17A). An inactive certificate of registration shall lapse if not timely renewed. However, the board will accept an otherwise sufficient renewal application that is untimely if the board receives the application and late fee within 30 days of the date of expiration.

*c. Permitted practices.* A person may, while registered as inactive, perform for a client, business, employer, government body, or other entity those services which may lawfully be provided by a person to whom a certificate of registration has never been issued. Such services may be performed as long as the person does not in connection with such services use the title "architect" or any other title restricted for use only by architects pursuant to Iowa Code section 544A.15 (with or without additional designations such as "inactive" or "retired"). Restricted titles may be used only by active architects who are subject to continuing education requirements to ensure that the use of such titles is consistently associated with the maintenance of competency through continuing education.

*d. Prohibited practices.* A person who, while registered as inactive, engages in any of the practices described in Iowa Code sections 544A.15 and 544A.16 is subject to disciplinary action.

**2.5(3) Retired status.** A person who held a registration as an architect and who does not reasonably expect to return to the workforce in any capacity for which a certificate of registration is required due to bona fide retirement or disability may apply to the board for retired status and, if granted, may use the title "architect retired" in the context of non-income-producing personal activities. If the board determines an applicant is eligible, the retired status would become effective on the first scheduled registration renewal date. Applicants do not need to reinstate an expired registration to be eligible for retired status. Applicants may apply for retired status on forms provided by the board. The board will not provide a refund of biennial registration fees if an application for retired status is granted in a biennium in which the applicant has previously paid the biennial fees for either active or inactive status. Persons registered in retired status are exempt from the renewal requirement.

*a. Affirmation.* The retired status application form shall contain a statement in which the applicant affirms that the applicant will not engage in any of the practices in Iowa that are listed in Iowa Code section 544A.16 without first complying with all rules governing reinstatement to active status. A person in retired status may reinstate to active status at any time pursuant to rule 193B—2.8(544A).

*b. Permitted practices.* Persons registered in retired status may engage in the practices identified in paragraph 2.5(2)“c.” Such persons may also provide services as technical experts before a court, including prelitigation preparation, discovery, and testimony, on matters directly related to architectural services provided by such persons prior to registering with the board in retired status.

*c. Exemption.* A person whose registration as an architect has been placed on probation, suspended, revoked, or voluntarily surrendered in connection with a disciplinary investigation or proceeding shall not be eligible for retired status unless, upon appropriate application, the board first reinstates the registration to good standing.

[ARC 1210C, IAB 12/11/13, effective 1/15/14; ARC 1504C, IAB 6/25/14, effective 7/30/14; ARC 1624C, IAB 9/17/14, effective 10/22/14]

**193B—2.6(544A,17A) Reinstatement of lapsed certificate of registration to active status.** An individual may reinstate a lapsed certificate of registration to active status as follows:

**2.6(1)** If the individual’s registration has been lapsed for up to 12 months, the individual may reinstate the registration by selecting either Option 1 or Option 2 as follows:

*a. Option 1.* The individual shall:

- (1) Pay the reinstatement fee of \$25 per month of expired registration;
- (2) Pay the current renewal fee;
- (3) Provide a written statement outlining the professional activities of the applicant during the period of nonregistration. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant; and

- (4) Submit documented evidence of completion of 12 continuing education hours for each year or portion of a year of expired registration in compliance with requirements in 193B—Chapter 3 in addition to the 12 hours which should have been reported on the December 31 renewal date on which the applicant failed to renew. The continuing education hours used for reinstatement may not be used again at the next renewal. Out-of-state residents may submit a statement from their resident state’s licensing board as documented evidence of compliance with their resident state’s mandatory continuing education requirements during the period of nonregistration. The statement shall bear the seal of the licensing board. Out-of-state residents whose resident state has no mandatory continuing education shall comply with the documented evidence requirements outlined in this subrule.

*b. Option 2.* The individual shall:

- (1) File a new application for registration as prescribed in rules 193B—2.2(544A,17A) and 193B—2.3(544A,17A), particularly subrules 2.2(1) and 2.3(3); and

- (2) Provide a written statement outlining the professional activities of the applicant during the period of nonregistration. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant.

**2.6(2)** If an individual’s registration has been lapsed for more than 12 months, the individual may reinstate the registration by selecting either Option 1 or Option 2 as follows:

*a. Option 1.* The individual shall:

- (1) Pay the reinstatement fee of \$25 per month of expired registration, up to a maximum of \$300;
- (2) Pay the current renewal fee;
- (3) Provide a written statement outlining the professional activities of the applicant during the period of nonregistration. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant; and

- (4) Submit documented evidence of completion of 12 continuing education hours for each year or portion of a year of expired registration in compliance with requirements in 193B—Chapter 3 up to a maximum of 24 continuing education hours. The continuing education hours used for reinstatement may not be used again at the next renewal. Out-of-state residents may submit a statement from their resident state’s licensing board as documented evidence of compliance with their resident state’s mandatory continuing education requirements during the period of nonregistration. The statement shall bear the seal of the licensing board. Out-of-state residents whose resident state has no mandatory continuing education shall comply with the documented evidence requirements outlined in this subrule.

*b. Option 2.* The individual shall:

(1) File a new application for registration as prescribed in rules 193B—2.2(544A,17A) and 193B—2.3(544A,17A), particularly subrules 2.2(1) and 2.3(3); and

(2) Provide a written statement outlining the professional activities of the applicant during the period of nonregistration. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant.

[ARC 1624C, IAB 9/17/14, effective 10/22/14]

**193B—2.7(544A,17A) Reinstatement of lapsed certificate of registration to inactive status.** An individual may reinstate a lapsed certificate of registration to inactive status as follows:

1. Pay the reinstatement fee of \$25 per month of expired registration up to a maximum of \$300;
2. Pay the current renewal fee;
3. Provide a written statement in which the applicant affirms that the applicant has not engaged

in any of the practices in Iowa that are listed in Iowa Code section 544A.16 during the period of lapsed registration.

[ARC 1624C, IAB 9/17/14, effective 10/22/14]

**193B—2.8(544A) Reinstatement from inactive status or retired status to active status.**

**2.8(1)** An individual may reinstate an inactive registration or retired registration to active registration as follows:

*a.* Pay the current active registration fee. If reinstating to active status at a date that is less than six months from the next annual renewal date, one-half of the current active registration fee shall be paid.

*b.* Submit documented evidence of completion of 12 continuing education hours in compliance with requirements in 193B—Chapter 3. The hours used to reinstate to active status cannot again be used to renew.

**2.8(2)** An individual shall not be allowed to reinstate to inactive status from retired status.

[ARC 1624C, IAB 9/17/14, effective 10/22/14]

**193B—2.9(544A,17A) Finding of probable cause for unlicensed practice.** The board may find probable cause to file charges for unlicensed practice if the individual continues to offer services defined as the practice of architecture outlined in Iowa Code section 544A.16 while using the title “architect,” “architectural designer,” or similar designation during the period of lapsed registration.

**193B—2.10(544A) Practice by business entities.** Rescinded ARC 1624C, IAB 9/17/14, effective 10/22/14.

**193B—2.11(544A,17A) Fee schedule.** Under the authority provided in Iowa Code chapter 544A, the following fees are hereby adopted:

Examination fees:

Fees for examination subjects shall be paid directly to the testing service selected by NCARB

Initial registration fee	\$ 50
(plus \$5 per month until renewal)	
Reciprocal application and registration fee	\$100
Annual renewal fee	\$100

Annual renewal fee (inactive)	\$ 50
Retired status	None
Reinstatement of lapsed individual registration (per month)	\$ 25
Duplicate wall certificate fee	\$ 50
Late renewal fee	\$ 25

(for renewals postmarked on or after January 1 and before January 30)

[ARC 1210C, IAB 12/11/13, effective 1/15/14; ARC 1504C, IAB 6/25/14, effective 7/30/14; ARC 1624C, IAB 9/17/14, effective 10/22/14]

### **193B—2.12(544A,272C) Transition provisions.**

**2.12(1)** The registration provisions of this chapter and the continuing education provisions of 193B—Chapter 3 shall first apply to those registrants whose registrations expire June 30, 2015, and shall thereafter apply to each renewal cycle. The board is transitioning from a biennial renewal cycle to an annual renewal cycle and from a June 30 expiration date to a December 31 expiration date. The board is taking this action as part of a broader national effort by architectural licensing authorities to sustain the same renewal cycles to facilitate mobility and cross-jurisdiction practice.

**2.12(2)** The last biennial cycle starts July 1, 2014, and ends June 30, 2016, for registrants whose last names begin with A-K. In order to convert all registrants to an annual renewal cycle, the following provisions shall apply:

*a.* Registrants whose last names begin with L-Z and whose registrations will expire June 30, 2015, shall renew for an 18-month period expiring December 31, 2016. The registration renewal fee shall be \$150 for this 18-month period. When these registrants renew for the January 1, 2017, annual renewal cycle, they shall report as a condition for renewal a total of 18 continuing education hours (CEHs) taken between July 1, 2015, and December 31, 2016. Thereafter, the provisions of this chapter shall fully apply.

*b.* Registrants whose last names begin with A-K and whose registrations will expire June 30, 2016, shall renew for a 6-month period expiring December 31, 2016. The registration renewal fee shall be \$50 for this 6-month period. When these registrants renew for the January 1, 2017, annual renewal cycle, they shall report as a condition for renewal a total of 6 CEHs taken between July 1, 2016, and December 31, 2016. Thereafter, the provisions of this chapter shall fully apply.

[ARC 1624C, IAB 9/17/14, effective 10/22/14]

These rules are intended to implement Iowa Code chapters 544A and 17A.

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[Filed 2/6/95, Notice 12/7/94—published 3/1/95, effective 4/5/95]

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CHAPTER 3  
CONTINUING EDUCATION  
[Prior to 7/13/88, see Architectural Examiners, Board of[80]]

**193B—3.1(544A,272C) Continuing education.** The following rules adopted by the architectural examining board are in compliance with Iowa Code chapter 544A and section 272C.2 requiring professional and occupational licensees to participate in a continuing education program as a condition of registration renewal.

[ARC 1625C, IAB 9/17/14, effective 10/22/14]

**193B—3.2(544A,272C) Definitions.** The following definitions apply as used in Iowa Code chapter 544A and this chapter of the architectural examining board rules, unless the context otherwise requires.

“*Continuing education*” or “*CE*” means postlicensure learning that enables a registered architect to increase or update knowledge of and competence in technical and professional subjects related to the practice of architecture to safeguard the public’s health, safety, and welfare.

“*Continuing education hour*” or “*CEH*” means one continuous instructional hour (50 to 60 minutes of contact) spent in structured educational activities intended to increase or update the architect’s knowledge and competence in health, safety, and welfare subjects. If the provider of the structured educational activities prescribes a customary time for completion of such an activity and if the prescribed time is not deemed unreasonable by the board, then such prescribed time shall be accepted for CEH purposes as the architect’s time irrespective of actual time spent on the activity.

“*Distance learning*” means any education process based on the geographical separation of student and instructor. “Distance learning” includes computer-generated programs, webinars, and home-study/correspondence programs.

“*Health, safety, and welfare subjects*” means technical and professional subjects that the board deems appropriate to safeguard the public and that are within the following enumerated areas necessary for the proper evaluation, design, construction, and utilization of buildings and the built environment.

1. Building systems: structural, mechanical, electrical, plumbing, communications, security, and fire protection.
2. Construction contract administration: contracts, bidding, and contract negotiations.
3. Construction documents: drawings, specifications, and delivery methods.
4. Design: urban planning, master planning, building design, site design, interiors, safety and security measures.
5. Environmental: energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, and insulation.
6. Legal: laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, and insurance to protect owners and the public.
7. Materials and methods: construction systems, products, finishes, furnishings, and equipment.
8. Occupant comfort: air quality, lighting, acoustics, and ergonomics.
9. Predesign: land use analysis, programming, site selection, site and soils analysis, and surveying.
10. Preservation: historic, reuse, and adaptation.

“*Not engaged in active practice*” means that an architect is not engaged in the practice of architecture or earning monetary compensation by providing professional architectural services in any licensing jurisdiction of the United States or a foreign country.

“*Retired from active practice*” has the same meaning as “not engaged in active practice.”

“*Structured educational activities*” means educational activities in which at least 75 percent of an activity’s content and instructional time is to be devoted to health, safety, and welfare subjects related to the practice of architecture, including courses of study or other activities under the areas identified as health, safety, and welfare subjects and provided by qualified individuals or organizations, whether the courses of study or other activities are delivered by direct contact or distance learning methods.

[ARC 1625C, IAB 9/17/14, effective 10/22/14]

**193B—3.3(544A,272C) Basic requirements.**

**3.3(1)** To renew registration, an architect must, in addition to meeting all other requirements, complete a minimum of 12 CEHs each calendar year or be exempt from these continuing education requirements as provided in rule 193B—3.5(544A,272C). Failure to comply with these requirements may result in nonrenewal of the architect's registration.

**3.3(2)** All 12 CEHs must be completed in health, safety, and welfare subjects acquired in structured educational activities. CEHs may be acquired at any location. Excess CEHs cannot be credited to a future calendar year.

**3.3(3)** An architect shall complete and submit forms as required by the board certifying that the architect has completed the required CEHs. Forms may be audited by the board for verification of compliance with these requirements. Documentation of reported CEHs shall be maintained by the architect for two years after the period for which the form was submitted. If the board disallows any CEHs, the architect shall have 60 days from notice of such disallowance to either provide further evidence of having completed the CEHs disallowed or remedy the disallowance by completing the required number of CEHs (provided that such CEHs shall not again be used for the next calendar year). If the board finds, after proper notice and hearing, that the architect willfully disregarded these requirements or falsified documentation of required CEHs, the architect may be subject to disciplinary action.

**3.3(4)** An architect who holds registration in Iowa for less than 12 months from the date of initial registration shall not be required to report CEHs at the first registration renewal.

[ARC 1625C, IAB 9/17/14, effective 10/22/14]

**193B—3.4(544A,272C) Authorized structured educational activities.** The following list may be used by all registrants in determining the types of activities which may fulfill CE requirements if the activities are conducted as structured educational activities on health, safety, and welfare subjects:

1. Short courses or seminars sponsored by colleges or universities.
2. Technical presentations held in conjunction with conventions or at seminars sponsored or accredited by the American Institute of Architects (AIA), Construction Specifications Institute, Construction Products Manufacturers Council, National Council of Architecture Registration Boards (NCARB), or similar organizations devoted to architectural education.
3. Distance learning sponsored by the AIA, NCARB, or similar organizations.
4. College or university credit courses. Each semester hour shall equal 12 CEHs. A quarter hour shall equal 8 CEHs.

[ARC 1625C, IAB 9/17/14, effective 10/22/14]

**193B—3.5(544A,272C) Exemptions.**

**3.5(1)** As provided in Iowa Code section 272C.2(4), a registered architect shall be deemed to have complied with the continuing education requirements set forth in this chapter if the architect attests in the required affidavit that for not less than ten months of the preceding one-year period of registration, the architect:

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

**3.5(2)** Architects who so attest on their affidavits that they are retired from active practice or are not engaged in active practice may maintain their registrations in retired or inactive status without satisfying CE requirements. Such architects may, however, reenter practice only after satisfying the board of their proficiency. Proficiency may be established by any one of the following:

- a. Submitting verifiable evidence of compliance with the aggregate continuing education requirements for the reporting periods attested as retired from active practice or not engaged in active practice up to a maximum of 48 CEHs.

- b. Retaking the architectural registration examination.
- c. Fulfilling alternative reentry requirements determined by the board which serve to assure the board of the current competency of the architect to engage in the practice of architecture.

**3.5(3)** The board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. See Iowa Administrative Code 193—Chapter 5.

[ARC 1625C, IAB 9/17/14, effective 10/22/14]

**193B—3.6(544A,272C) Transition provisions.**

**3.6(1)** The CE provisions of this chapter shall first apply to those registrants whose registrations expire June 30, 2015, and shall thereafter apply to each renewal cycle. The board is transitioning from a biennial renewal cycle to an annual renewal cycle and from a June 30 expiration date to a December 31 expiration date. The board is taking this action as part of a broader national effort by architectural licensing authorities to sustain the same renewal cycles to facilitate mobility and cross-jurisdiction practice.

**3.6(2)** The last biennial cycle starts July 1, 2014, and ends June 30, 2016, for registrants whose last names begin with A-K. In order to convert all registrants to an annual renewal cycle, the following provisions shall apply:

- a. Registrants whose last names begin with L-Z and whose registrations will expire June 30, 2015, shall renew for an 18-month period expiring December 31, 2016. The registration renewal fee shall be \$150 for this 18-month period. When these registrants renew for the January 1, 2017, annual renewal cycle, they shall report as a condition for renewal a total of 18 CEHs taken between July 1, 2015, and December 31, 2016. Thereafter, the provisions of this chapter shall fully apply.

- b. Registrants whose last names begin with A-K and whose registrations will expire June 30, 2016, shall renew for a 6-month period expiring December 31, 2016. The registration renewal fee shall be \$50 for this 6-month period. When these registrants renew for the January 1, 2017, annual renewal cycle, they shall report as a condition for renewal a total of 6 CEHs taken between July 1, 2016, and December 31, 2016. Thereafter, the provisions of this chapter shall fully apply.

[ARC 1625C, IAB 9/17/14, effective 10/22/14]

These rules are intended to implement Iowa Code section 272C.2.

[Filed 9/27/78, Notice 8/23/78—published 10/18/78, effective 11/22/78]

[Filed 3/2/82, Notice 1/6/82—published 3/31/82, effective 5/5/82]

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[Filed 9/12/01, Notice 6/27/01—published 10/3/01, effective 11/7/01]

[Filed ARC 1625C (Notice ARC 1500C, IAB 6/11/14), IAB 9/17/14, effective 10/22/14]



CHAPTER 2  
FORMS

[Prior to 10/8/86, Commerce Commission[250]

**199—2.1(17A,474) Forms—general.**

**2.1(1) Purpose and scope.** These rules shall govern all forms prescribed by the Iowa utilities board (hereinafter referred to as board) for use in all proceedings before the board, provided however, that the board may prescribe additional or different forms to be utilized in a specific case as necessary.

**2.1(2) Forms compliance.** All papers filed with the board shall substantially conform with the requirements set forth below. The board, without prejudice to any party to a proceeding, may reject a paper which does not substantially conform with the requirements of this chapter, giving a statement of reasons for the rejection.

**2.1(3) General requirements.** Documents filed with the board shall be printed, typewritten, or otherwise mechanically reproduced and double spaced, except that long quotations may be single spaced and indented. All papers, except exhibits, shall be cut or folded so as not to exceed 8½ inches by 11 inches in size with inside margins not less than 1 inch in width. Whenever practical, all exhibits of a documentary character should conform to the foregoing requirements of size and margin. Papers should contain the name and address of the party filing the paper and, if represented by an attorney, the name and office address of such attorney. Except as otherwise provided in these rules, the original of all papers and exhibits should be filed with the board. The person filing the paper or exhibit shall also furnish additional copies for each respondent or party to be served by the board and such other copies as the board may request.

This rule is intended to implement Iowa Code section 474.5.

**199—2.2(17A,474) Specific forms.**

**2.2(1) Petition for rule making.**

STATE OF IOWA  
BEFORE THE IOWA UTILITIES BOARD

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IN RE: (insert present board rule number  
and short title, if any, or short title of  
subject for proposed new rule)



DOCKET NO. \_\_\_\_\_  
(completed by board)

PETITION FOR RULE MAKING

---

COMES NOW (insert name of petitioner) and for (insert pronoun) petition states:  
(The petition shall then set forth in separately numbered paragraphs:

1. The text of any proposed rule or amendment, identifying the section or sections of the law or rule involved, or the rule sought to be repealed.
2. The reasons for requesting the action, including any relevant facts, views, data, or arguments.
3. A concise statement of the petitioner’s interest in the subject matter.)

WHEREFORE, (insert petitioner’s name) prays that the board institute a rule-making proceeding to (adopt, amend, or repeal) (insert board rule number or the proposed rule) as hereinbefore set forth.

Respectfully submitted,

---

(signature of petitioner)  
(name)  
(address and zip code)

**2.2(2)** *Statement of position.*

STATE OF IOWA  
BEFORE THE IOWA UTILITIES BOARD

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(insert title of proceeding as set forth in board order commencing rule making)	}	DOCKET NO. (insert docket No., if known) STATEMENT OF POSITION
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COMES NOW, (insert name of person filing statement) and for (insert pronoun) statement of position submits:

(The statement shall then set forth in an organized manner any data, views, or arguments relevant to the adoption, amendment, or repeal of the rule.)

Respectfully submitted,

---

(signature)  
(name)  
(address and zip code)

**2.2(3)** *Counter-statement of position.*

STATE OF IOWA  
BEFORE THE IOWA UTILITIES BOARD

---

(insert title of proceeding as set forth in board order commencing rule making)	}	DOCKET NO. (insert docket No., if known) COUNTER-STATEMENT OF POSITION
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COMES NOW, (insert name of person filing counter-statement) and for (insert pronoun) response to the statement of position of (insert name of person filing statement of position) states:

(The statement shall then set forth in an organized manner a response to any data, views, or arguments set forth in the statement of position.)

Respectfully submitted,

---

(signature)  
(name)  
(address and zip code)

**2.2(4)** *Request for rule-making oral presentation.*

STATE OF IOWA  
BEFORE THE IOWA UTILITIES BOARD

---

(insert title of proceeding as set forth in board order commencing rule making)	}	DOCKET NO. (insert docket No., if known) REQUEST FOR ORAL PRESENTATION
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COMES NOW (insert name(s) of persons or the organization or agency requesting oral presentation) and for (insert pronoun) request for oral presentation state(s):

(The request shall then set forth in separately numbered paragraphs:

1. The facts which show the person, persons, organization or agency is/are authorized to request oral presentation on rule making in accordance with Iowa Code section 17A.4.
2. The reasons for requesting oral presentation.
3. A concise statement of the party's interest in the subject matter (if the party is not the administrative rules review committee.)

WHEREFORE, (insert party's name) requests the board to schedule oral presentation in this proceeding.

Respectfully submitted,

---

(signatures, addresses and zip codes of 25 interested persons; or signature, address and zip code of head of governmental subdivision, chairman of the administrative rules review committee, head of an agency, or authorized representative of an association having not less than 25 members)

**2.2(5) Request for rule-making statement.**

STATE OF IOWA  
BEFORE THE IOWA UTILITIES BOARD

---

(insert title of proceeding as set forth in board order commencing rule making)	}	DOCKET NO. (insert docket No., if known) REQUEST FOR STATEMENT
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---

COMES NOW (insert name of person requesting statement) and for (insert pronoun) request states:  
(The request shall then set forth in separately numbered paragraphs:

1. A concise statement that on (insert date) the board issued an order (adopting, amending or repealing) (insert rule number) (or terminating rule-making proceeding, Docket No.) (insert Docket number).
2. A concise statement of the party’s interest in the subject matter.)

WHEREFORE, (insert party’s name) requests the board to issue a formal statement in support of its decision pursuant to Iowa Code section 17A.4(1)“b.”

Respectfully submitted,

---

(signature)  
(name)  
(address and zip code)

2.2(6) *Petition for declaratory ruling.*

STATE OF IOWA  
BEFORE THE IOWA UTILITIES BOARD

---

IN RE: THE PETITION OF (insert petitioner's name) FOR A DECLARATORY RULING ON (insert rule number, statute, etc., for which interpretation sought)	}	DOCKET NO. _____ (completed by board) PETITION FOR DECLARATORY RULING
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COMES NOW (insert name of petitioner) and requests a declaratory ruling on (state rule number, statute, order, decision, or other written statement of law or policy for which an interpretation is sought), and in support of which petitioner states:

(The petition shall then set forth in separately numbered paragraphs:

1. A clear and concise statement of all relevant facts on which the ruling is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory ruling and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
8. Any request by petitioner for a meeting provided for by rule 4.4(17A).)

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.)

WHEREFORE, (insert petitioner's name) prays that the board issue a declaratory ruling on (insert proposed subject of ruling).

**2.2(7) Complaint.**

STATE OF IOWA  
BEFORE THE IOWA UTILITIES BOARD

---

(insert name of complainant), Complainant,	}	DOCKET NO. _____ (completed by board)
v.	}	COMPLAINT
(insert name of respondent), Respondent.		

---

COMES NOW (insert name of complainant) and for (insert pronoun) complainant states:

(The complaint shall then set forth in separately numbered paragraphs:

1. The name and address of the party against whom the complaint is made.
2. A clear, concise, and complete statement of the facts forming the basis for the conclusion that the respondent has violated a specific statute administered by the board, a specific rule of the board, a tariff of the respondent, or order issued by the board.)

WHEREFORE, (insert complainant's name) prays (insert specific relief sought).

Respectfully submitted,

---

(signature of complainant)  
(name)  
(address and zip code)

**2.2(8) Answer:**

STATE OF IOWA  
BEFORE THE IOWA UTILITIES BOARD

---

(insert name of complainant), Complainant,	}	DOCKET NO. (insert docket No.)
v.	}	ANSWER
(insert name of respondent), Respondent.		

---

COMES NOW (insert name of respondent) and for (insert pronoun) answer to the complaint filed by (insert complainant's name) states:

(The answer shall then set forth in separately numbered paragraphs:

1. Clear, concise statements which admit, deny, or otherwise answer all material allegations of the complaint and which set forth the affirmative grounds relied upon to support such answer.
2. The statements, insofar as possible, should respond directly to the separately numbered paragraphs of the complaint.)

WHEREFORE, (insert respondent's name) prays (insert prayer for dismissal of complaint or other relief sought).

Respectfully submitted,

---

(signature of respondent)  
(name)  
(address and zip code)

**2.2(9) Counter-complaint.**

STATE OF IOWA  
BEFORE THE IOWA UTILITIES BOARD

(insert name of complainant), Complainant,	}	DOCKET NO. (insert docket No.)
v.		COUNTER-COMPLAINT
(insert name of respondent), Respondent.		

COMES NOW (insert name of respondent) and for (insert pronoun) counter-complaint states:

(The counter-complaint shall then set forth in separately numbered paragraphs:

1. The name and address of the party against whom the counter-complaint is made.
2. A clear, concise and complete statement of the facts forming the basis for the conclusion that the complainant has violated a specific statute administered by the board, a specific rule of the board, a tariff of the complainant, or order issued by the board.)

WHEREFORE, (insert respondent's name) prays (insert specific relief sought).

Respectfully submitted,

---

(signature of respondent)  
(name)  
(address and zip code)

**2.2(10)** *Petition to intervene.*

STATE OF IOWA  
BEFORE THE IOWA UTILITIES BOARD

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(insert case title)	}	DOCKET NO. (insert docket No.) PETITION TO INTERVENE
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COMES NOW (insert name of petitioner) and for (insert pronoun) petition states:

(The petition shall then set forth in separately numbered paragraphs:

1. A clear and concise statement of facts specifying the nature of the petitioner’s alleged interest.
2. A clear and concise statement of how the petitioner’s interests are unique and require representation in addition to the existing parties. (If the petitioner’s interests will be represented by the existing parties, the petition will be considered for permissive intervention.) If a petition for intervention is initially denied, the petitioner may provide further information to the board to establish the unique nature of his/her interests.

3. Specific and detailed admissions or denials of each material allegation of fact or law asserted in the proceeding, citing, where appropriate, the statutory provisions or authority relied on. The admissions or denials should give a clear and concise statement of the position of the petitioner so as to apprise the parties and the board of the specific issues of law or fact to be raised or controverted.

4. Outline the extent to which the petitioner intends to participate in the proceedings:

Whether the petitioner intends to submit prepared direct testimony and exhibits.

Whether the petitioner intends to participate in hearings before the board including the cross-examination of expert witnesses.

Whether the petitioner will be represented by an attorney at law admitted to practice or seeks approval of the board to appear and be heard in his/her own behalf.)

WHEREFORE, (insert petitioner’s name) prays for leave to intervene and be treated as a party to the proceeding (if affirmative relief is sought, include specific prayer for such relief).

Respectfully submitted,

---

(signature of petitioner)  
(name)  
(address and zip code)

**2.2(11)** *Response to petition to intervene.*

STATE OF IOWA  
BEFORE THE IOWA UTILITIES BOARD

(insert case title)	}	DOCKET NO. (insert docket No.)  (resistance, response) TO PETITION TO INTERVENE
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COMES NOW (insert name of person filing resistance or response) and in (response, resistance) to the Petition to Intervene filed by (insert petitioner’s name) states:

(The response should then set forth in separately numbered paragraphs:

1. Objections, if any, supported by specific reasons, to granting the petitioner the right of intervention.
2. A request, if any, supported by specific reasons, to limit the right of intervention to particular issues or to a particular stage of proceeding.
3. Insofar as possible, a direct response to the specific issues of law or fact raised in the petition to intervene.)

WHEREFORE, (insert name of person filing response) prays (insert specific relief sought).

Respectfully submitted,

---

(signature)  
(name)  
(address and zip code)

**2.2(12)** *Motion to reopen hearing.*

STATE OF IOWA  
BEFORE THE IOWA UTILITIES BOARD

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(insert case title)	}	DOCKET NO. (insert docket No.) MOTION TO REOPEN HEARING
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COMES NOW (insert name of party) and moves the board to reopen the record for the purpose of taking additional evidence and in support thereof states:

(The motion shall then set forth in separately numbered paragraphs:

A clear and concise statement of the facts claimed to constitute grounds requiring reopening of the proceeding, including material changes of fact or law alleged to have occurred since the conclusion of the hearing.)

WHEREFORE, (insert name of party) prays that the board reopen said hearing.

Respectfully submitted,

---

(signature of party)  
(name)  
(address and zip code)

**2.2(13)** *Application for rehearing.*

STATE OF IOWA  
BEFORE THE IOWA UTILITIES BOARD

---

(insert case title)



DOCKET NO. (insert docket No.)

APPLICATION FOR REHEARING

---

COMES NOW (insert name of party) and for (insert pronoun) application for rehearing states:  
(The application shall then set forth in separately numbered paragraphs:

1. Each finding of fact and conclusion of law claimed to be erroneous, with a brief statement of the grounds of error.

2. Any application for rehearing asserting evidence which has arisen since the final order was issued as a ground for rehearing shall present the evidence by affidavit which includes an explanation of the competence of the person to sponsor the evidence and a brief description of the evidence sought to be included.)

WHEREFORE, (insert name of party) prays the board grant rehearing on the issues specified.

Respectfully submitted,

---

(signature of party)  
(name)  
(address and zip code)

**2.2(14) Motion.**

STATE OF IOWA  
BEFORE THE IOWA UTILITIES BOARD

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(insert case title)	}	DOCKET NO. (insert docket No.)  MOTION FOR (insert subject matter of motion)
---------------------	---	--

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COMES NOW (insert name of moving party) and moves the board to (insert specific relief sought) and in support thereof states:

(The motion shall then set forth in separately numbered paragraphs the grounds relied on in making the motion, including specific statutory or other authority.)

WHEREFORE, (insert name of moving party) prays the board to (insert specific relief or order sought).

Respectfully submitted,

---

(signature)  
(name)  
(address and zip code)

**2.2(15) Written appearance.**

STATE OF IOWA  
BEFORE THE IOWA UTILITIES BOARD

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(insert case title)	}	DOCKET NO. (insert docket No.)  APPEARANCE
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COMES NOW (insert name of person filing appearance) and enters (insert pronoun) appearance on behalf of (insert name(s), address(es) and zip code(s) of person(s) on behalf of whom the appearance is filed) in this matter.

Respectfully submitted,

---

(signature)  
(name)  
(address and zip code)

**2.2(16) Certificate of service.**

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of the rules of the Iowa utilities board.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

By \_\_\_\_\_

(signature)  
(name)  
(address and zip code)

**2.2(17) Waiver request.**

STATE OF IOWA  
BEFORE THE IOWA UTILITIES BOARD

(insert case title)	}	DOCKET NO. (insert docket No.) WAIVER REQUEST
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COMES NOW (insert name of person requesting the waiver), and files this request for a waiver, and in support states:

1. (Insert the specific waiver requested, including a citation to the specific rule the requester wants to be waived, and the precise scope and operative period of the requested waiver. If the request is for a permanent waiver, state the reasons why a temporary waiver would be impractical.)

2. (Insert the relevant facts and reasons that show each of the following: (a) the application of the rule would pose an undue hardship on the person for whom the waiver is requested; (b) the waiver would not prejudice the substantial legal rights of any person; (c) the provisions of the rule subject to a petition for waiver are not specifically mandated by statute or another provision of law; and (d) substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the rule for which the waiver is requested.)

3. (Insert the names of the persons who may be adversely impacted by the grant of the waiver, if known.)

WHEREFORE, (insert name of requester) prays the board grant the request for a waiver of the rule specified above.

Respectfully submitted,

\_\_\_\_\_  
(signature of requester)  
(name)  
(address and zip code)

**2.2(18)** *Application forms for certification of competitive natural gas providers.* Application forms for persons wishing to request a certificate to provide service as a competitive natural gas provider or aggregator in Iowa pursuant to Iowa Code sections 476.86 and 476.87, and 199—19.14(476), can be accessed on the board's Web site, <http://iub.iowa.gov>, or may be obtained upon request from the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319. Filing requirements applicable to all persons wishing to request a competitive natural gas certificate are located at 199—subrule 19.14(3).

This rule is intended to implement Iowa Code sections 17A.9A, 476.86 and 476.87.  
[ARC 1623C, IAB 9/17/14, effective 10/22/14]

**199—2.3** Rescinded, effective 9/8/86.

**199—2.4(17A,474) Forms.** The following forms for proceedings under Iowa Code chapters 478, 479, and 479B are available upon request:

1. Petition for Electric Line Franchise.
2. Petition for Amendment of Electric Line Franchise.
3. Petition for Extension of Electric Franchise.
4. Exhibit C, Overhead Transmission Line: Typical Engineering Specifications.
5. Exhibit C-UG, Engineering Specifications for Underground Transmission Line.
6. Petition for Permit to Construct, Operate, and Maintain a Pipeline.
7. Petition for Renewal of Permit to Construct, Operate, and Maintain a Pipeline.
8. Exhibit C, Specifications for Pipeline.
9. Petition for Permit for Hazardous Liquid Pipeline.

These rules are intended to implement Iowa Code sections 474.1, 474.5, 474.6, 474.10, 476.6, 476.8 and 546.7.

[Filed 2/11/76, Notice 7/14/75—published 2/23/76, effective 3/29/76]

[Filed 8/28/81, Notice 7/8/81—published 9/16/81, effective 10/21/81]

[Filed 2/12/82, Notice 10/28/81—published 3/3/82, effective 4/7/82]

[Filed emergency 9/18/86—published 10/8/86, effective 9/18/86]

[Filed 1/6/89, Notice 7/27/88—published 1/25/89, effective 3/1/89]

[Filed 3/3/89, Notice 8/24/88—published 3/22/89, effective 4/26/89]

[Published 6/17/98 to correct board name]

[Filed 10/13/99, Notice 5/19/99—published 11/3/99, effective 12/8/99]

[Filed 10/12/00, Notice 8/23/00—published 11/1/00, effective 12/6/00]

[Filed 3/1/01, Notice 7/12/00—published 3/21/01, effective 4/25/01]

[Filed ARC 1623C (Notice ARC 1460C, IAB 5/14/14), IAB 9/17/14, effective 10/22/14]



CHAPTER 10  
INTRASTATE GAS AND UNDERGROUND GAS STORAGE  
[Prior to 10/8/86, Commerce Commission[250]]

**199—10.1(479) General information.**

**10.1(1) Authority.** The standards relating to intrastate gas and underground gas storage in this chapter are prescribed by the Iowa utilities board (board) pursuant to Iowa Code section 479.17.

**10.1(2) Purpose.** The purpose of this chapter is to establish standards for a petition for a permit to construct, maintain, and operate an intrastate gas pipeline and for the underground storage of gas. In addition, the rules in this chapter set forth safety standards for the construction, maintenance, and condition of pipelines, underground storage facilities, and equipment used in connection with pipelines and facilities.

**10.1(3) Definitions.** Technical terms not defined in this chapter shall be as defined in the appropriate standard adopted in rule 199—10.12(479). For the administration and interpretation of this chapter, the following words and terms, when used in these rules, shall have the meanings indicated below:

“*Approximate right angle*” means within 5 degrees of a 90 degree angle.

“*Board*” means the utilities board within the utilities division of the department of commerce.

“*Multiple line crossing*” means a point at which a proposed pipeline will either overcross or undercross an existing pipeline.

“*Permit*” means a new, amended, or renewal permit issued after appropriate application to and determination by the board.

“*Pipeline*” means any pipe, pipes, or pipelines used for the intrastate transportation or transmission of any solid, liquid, or gaseous substance, except water.

“*Pipeline company*” means any person, firm, copartnership, association, corporation, or syndicate engaged in or organized for the purpose of owning, operating, or controlling pipelines for the intrastate transportation or transmission of any solid, liquid, or gaseous substance, except water.

“*Renewal permit*” means the extension and reissuance of a permit after appropriate application to and determination by the board.

“*Underground storage*” means storage of gas in a subsurface stratum or formation of the earth.

**10.1(4) Railroad crossings.** Where these rules call for the consent or other showing of right from a railroad for a railroad crossing, an affidavit filed by a petitioner which states that proper application for approval of railroad crossing has been made, that a one-time crossing fee has been paid as provided for in rule 199—42.3(476), and that 35 days have passed since mailing of the application and payment with no claim of special circumstance or objection from the railroad will be accepted as a showing of consent for the crossing.

**199—10.2(479) Petition for permit.**

**10.2(1)** A petition for a permit shall be made to the board upon the form prescribed and shall include all required exhibits. The petition shall be considered as filed upon receipt at the office of the board. An original and two copies of the petition and exhibits shall be filed, unless the petition and exhibits are filed electronically pursuant to the board’s electronic filing rules at 199—Chapter 14. Required exhibits shall be in the following form:

*a. Exhibit A.* A legal description showing, at minimum, the general direction of the proposed route through each quarter section of land to be crossed, including township and range and whether on private or public property, public highway or railroad right-of-way, together with such other information as may be deemed pertinent. Construction deviation of 660 feet (one-eighth mile) from proposed routing will be permitted.

If it becomes apparent that there will be deviation of greater than 660 feet (one-eighth mile) in some area from the proposed route as filed with the board, construction of the line in that area shall be suspended. Exhibits A, B, E, and F reflecting the deviation shall be filed, and the procedures hereinafter set forth to be followed upon the filing of a petition for permit shall be followed.

*b. Exhibit B.* Maps showing the proposed routing of the pipeline. Strip maps will be acceptable. Two copies of such maps shall be filed. The maps may be to any scale appropriate for the level of detail to be shown, but not smaller than one inch to the mile. The following minimum information shall be provided:

(1) The route of the pipeline which is the subject of the petition, including the starting and ending points, and when paralleling a road or railroad, which side it is on. Multiple pipelines on the same right-of-way shall be indicated.

(2) The name of the county, county and section lines, and section, township and range numbers.

(3) The location and identity of public roads, railroads, major streams or bodies of water, and other pertinent natural or man-made features influencing the route.

(4) The name and corporate limits of cities, and the name and boundaries of any public lands or parks.

(5) Other pipelines and the identity of the owner.

*c. Exhibit C.* A showing on forms prescribed by this board of engineering specifications covering the engineering features, materials and manner of construction of the proposed pipeline, its approximate length, diameter and the name and location of each railroad and primary highway and the number of secondary highways to be crossed, if any, and such other information as may be deemed pertinent.

*d. Exhibit D.* Satisfactory attested proof of solvency and financial ability to pay damages in the sum of \$250,000 or more; or surety bond satisfactory to this board in the penal sum of \$250,000 with surety approved by this board, conditioned that the petitioner will pay any and all damages legally recovered against it growing out of the operation of its pipeline or gas storage facilities in the state of Iowa; security satisfactory to this board as a guarantee for the payment of damages in the sum of \$250,000; or satisfactory proofs that the company has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000.

*e. Exhibit E.* Consent or other showing of right of appropriate public highway authorities, or railroad companies, where the pipeline will be placed longitudinally on, over or under, or at other than an approximate right angle to railroad tracks or highway, when such consent is obtained prior to filing of the petition and hearing shall be filed with the petition.

If the exact and specific route is uncertain at the time of petition, a statement shall be made by petitioner that all consents or other showing of right will be obtained prior to construction and copies filed with this board.

*f. Exhibit F.* This exhibit shall contain the following:

(1) A statement of the purpose of the project and a description of how the services rendered by the pipeline will promote the public convenience and necessity.

(2) A general statement covering each of the following topics: the nature of the lands, waters, and public or private facilities to be crossed; the possible use of alternative routes; the relationship of the proposed pipeline to present and future land use and zoning ordinances; and the inconvenience or undue injury which may result to property owners as a result of the proposed project.

(3) For an existing pipeline, the year of original construction and a description of any amendments or reportable changes since the permit or latest renewal permit was issued.

*g. Exhibit G.* If informational meetings were required, an affidavit that such meetings were held in each county affected by the proposed project and the time and place of each meeting. Copies of the mailed notice letter and the published notice(s) of the informational meeting shall be attached to the affidavit.

*h. Exhibit H.* This exhibit is required only if the petition requests the right of eminent domain. The extent of the eminent domain request may be uncertain at the time the petition is filed. However, this exhibit must be in final form before a hearing is scheduled. It shall consist of a map of the route showing the location of each property for which the right of eminent domain is sought and for each such property:

(1) The legal description of the property.

(2) The legal description of the desired easement.

(3) A specific description of the easement rights being sought.

(4) The names and addresses of the owners of record and parties in possession of the property.

(5) A map drawn to an appropriate scale showing the boundaries of the property, the boundaries and dimensions of the proposed easement, the location of pipelines or pipeline facilities within the proposed easement, the location of and distance to any building within 300 feet of the proposed pipeline, and any other features pertinent to the location of the line to the rights being sought.

*i. Exhibit I.* If pipeline construction on agricultural land as defined in 199—subrule 9.1(3) is proposed, a land restoration plan shall be prepared and filed as provided in rule 199—9.2(479,479A,479B).

*j. Underground storage.* If permission is sought to construct, maintain and operate facilities for underground storage of gas, the petition shall include the following information, in addition to that stated above:

(1) A description of the public or private highways, grounds and waters, streams and private lands of any kind under which the storage is proposed, together with a map.

(2) Maps showing the location of proposed machinery, appliances, fixtures, wells, and stations necessary for the construction, maintenance, and operation of the facilities.

*k. Other exhibits.* The board may require filing of additional exhibits if further information on a particular project is deemed necessary.

**10.2(2)** Petitions proposing new pipeline construction on an existing easement where the company has previously constructed a pipeline shall include a statement indicating whether any unresolved damage claims remain from the previous pipeline construction, and if so shall provide the name of each landowner or tenant, a legal description of the property involved, and the status of proceedings to settle the claim.

A petition for permit proposing a new pipeline construction on an existing easement where the company has previously constructed a pipeline will not be acted upon by the board if a damage claim from the installation of its previous pipeline has not been determined by negotiation, arbitration, or court action. This paragraph will not apply if the damage claim is under litigation or arbitration.

**10.2(3)** Statement of damage claims.

*a.* A petition for permit proposing new pipeline construction will not be acted upon by the board if the company does not have on file with the board a written statement as to how damages resulting from the construction of the pipeline shall be determined and paid.

The statement shall contain the following information: the type of damages which will be compensated for, how the amount of damages will be determined, the procedures by which disputes may be resolved, and the manner of payment.

The statement shall be amended as necessary to reflect changes in the law, company policy, or the needs of a specific project.

*b.* A copy of this statement shall be mailed with the notice of informational meeting as provided for in Iowa Code section 479.5. Where no informational meeting is required, a copy shall be provided to each affected party prior to entering into negotiations for payment of damages.

*c.* Nothing in this rule shall prevent a party from negotiating with the company for terms which are different, more specific, or in addition to the statement filed with the board.

This rule is intended to implement Iowa Code sections 479.5, 479.17, 479.26, 479.42, and 479.43.

**199—10.3(479) Informational meetings.** Informational meetings shall be held for any proposed pipeline project over five miles in length, including both the current project and future anticipated extensions, and which is to be operated at a pressure of over 150 pounds per square inch. A separate informational meeting shall be held in each county in which real property or rights therein would be affected. Informational meetings shall be held not less than 30 days nor more than two years prior to the filing of the petition for pipeline permit and shall comply with the following:

**10.3(1) Facilities.** Prospective petitioners for a permit shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility which is in substantial compliance with the requirements of the Americans with Disabilities Act Accessibility Guidelines, Chapter 4, where such a building or facility is reasonably available.

**10.3(2) Location.** The informational meeting location shall be reasonably accessible to all persons, companies or corporations which may be affected by the granting of a permit.

**10.3(3) Route deviation.** Prospective petitioners desiring a route corridor to permit minor route deviations beyond the proposed permanent right of way width shall include as affected all parties within the desired corridor. Prospective petitioners may also provide notice to affected parties on alternative route corridors.

**10.3(4) Notices.** Announcement by mailed and published notice of the meeting shall be given to affected parties of interest in real estate. Affected parties of interest in real estate are those persons, companies or corporations listed on the tax assessment roles as responsible for payment of real estate taxes and parties in possession of or residing on the property over which the prospective petitioner will seek easements.

*a.* The notice shall set forth the name of the applicant; the applicant's principal place of business; the general description and purpose of the proposed project; the general nature of the right-of-way desired; the possibility that the right-of-way may be acquired by condemnation if approved by the board; a map showing the route of the proposed project; a description of the process used by the board in making a decision on whether to approve a permit including the right to take property by eminent domain; that the landowner has a right to be present at such meeting and to file objections with the board; and designation of the time and place of the meeting; and contain the following statement: Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)725-7300 in advance of the scheduled date to request that appropriate arrangements be made. Mailed notices shall also include a copy of the statement of damage claims as required by 10.2(3) "b."

*b.* The prospective petitioner shall cause a written copy of the meeting notice to be served, by certified United States mail with return receipt requested, on all affected parties whose address is known. The certified meeting notice shall be deposited in the U.S. mails not less than 30 days prior to the date of the meeting.

*c.* The prospective petitioner shall cause the meeting notice, including the map, to be published once in a newspaper of general circulation in the county at least one week and not more than three weeks prior to the date of the meeting. Publication shall be considered as notice to affected parties whose residence is not known provided a good-faith effort to notify can be demonstrated by the pipeline company.

**10.3(5) Personnel.** The prospective petitioner shall provide qualified personnel to speak for it in matters relating to the following:

- a.* Service requirements and planning which have resulted in the proposed project.
- b.* When the pipeline will be constructed.
- c.* In general terms, the elements involved in pipeline construction.
- d.* In general terms, the rights which the prospective petitioner will seek to acquire through easements.
- e.* Procedures to be followed in contacting affected parties for specific negotiations in acquiring voluntary easements.
- f.* Methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount for each component.
- g.* Manner in which voluntary easement payments are made, including discussion of conditional easements, signing fees and time of payment.
- h.* Other factors or damages not included in the easement for which compensation is made, including features of interest to affected parties but not limited to computation of amounts and manner of payment.

**10.3(6) Coordinating with board.** The date, time, and location of the informational meeting shall be selected after consultation with the board to allow for scheduling of presiding officers.

This rule is intended to implement Iowa Code section 479.5.

[Editorial change: IAC Supplement 12/29/10]

**199—10.4(479) Notice of hearing.**

**10.4(1)** When a proper petition for permit is received by the board, it shall be docketed for hearing and the petitioner shall be advised of the time and place of hearing, except as provided for in rule 199—10.8(479). Petitioner shall also be furnished copies of the official notice of hearing which petitioner shall cause to be published once each week for two consecutive weeks in a newspaper of general circulation in each county in or through which construction is proposed. The second publication shall be not less than 10 nor more than 30 days prior to the date of the hearing. Proof of such publication shall be filed prior to or at the hearing.

The published notice shall include a map showing either the pipeline route or the area affected by underground gas storage, or a telephone number and an address through which interested persons can obtain a copy of a map from petitioner at no charge. If a map other than that filed as Exhibit B will be published or provided, a copy shall be filed with the petition.

**10.4(2)** If a petition for permit seeks the right of eminent domain, petitioner shall, in addition to the published notice of hearing, serve a copy of the notice of hearing to the owners and parties in possession of lands over which eminent domain is sought. A copy of the Exhibit H filed with the board for the affected property shall accompany the notice. Service shall be by certified United States mail, return receipt requested, addressed to their last known address, and this notice shall be mailed not later than the first day of publication of the official notice of hearing on the petition. Not less than five days prior to the date of the hearing, the petitioner shall file with the board a certificate of service showing all addresses to which notice was sent by certified mail and the date of the mailing.

**10.4(3)** If a petition does not seek the right of eminent domain, but all required interests in private property have not yet been obtained, a copy of the notice of hearing shall be served upon the owners and parties in possession of those lands. Service shall be by ordinary mail, addressed to the last known address, mailed not later than the first day of publication of the official notice. A copy of each letter of notification, or one copy of the letter accompanied by a written statement listing all parties to which it was mailed and the date of mailing, shall be filed with the board not less than five days prior to the hearing.

**199—10.5(479) Objections.** All whose rights or interests may be affected by the object of a petition may file written objection thereto. Such written objection shall be filed with the secretary of this board not less than five days prior to date of hearing. This board may, for good cause shown, permit filing of objections less than five days prior to hearing, but in such event petitioner shall be granted a reasonable time to meet such objections.

**199—10.6(479) Hearing.** Hearing shall be not less than 10 or more than 30 days from the date of last publication of notice of hearing.

Petitioner shall be represented by one or more duly authorized representatives or counsel or both. This board may examine the proposed route of the pipeline or location of the underground storage facilities which are the object of the petition or may cause examination to be made on its behalf by an engineer of its selection. One or more members of this board or a duly appointed administrative law judge shall consider the petition and any objections filed thereto and may hear testimony deemed appropriate. One or more petitions may be considered at the same hearing. Petitions may be consolidated. Hearing shall be held in the office of this board or at any other place within the state of Iowa as this board may designate. Any hearing permitted by these rules in which there are no objections, interventions or material issues in dispute may be conducted by telephonic means. Notice of the telephonic hearings shall be given to parties within a reasonable time prior to the date of hearing.

**199—10.7(479) Pipeline permit.** If after hearing and appropriate findings of fact it is determined a permit should be granted, a pipeline permit shall be issued. Otherwise the petition shall be dismissed with or without prejudice. Where proposed construction has not been established definitely, the permit will be issued on the route or location as set forth in the petition, subject to deviation of up to 660 feet (one-eighth mile) on either side of the proposed route. If the proposed construction is not completed

within two years from the date of issue, subject to extension at the discretion of the board, the permit shall be void and of no further force or effect. Upon completion of the proposed construction, maps accurately showing the final routing of the pipeline shall be filed with the board.

A pipeline permit shall normally expire 25 years from date of issue. No permit shall ever be granted for a longer period than 25 years.

**199—10.8(479) Renewal permits.** A petition for renewal of an original or previously renewed pipeline permit may be filed at any time subsequent to issuance of the permit and prior to expiration of the permit. The petition shall be made on the form prescribed by the board. Instructions for the petition are included as a part of the form. The procedure for petition for permit shall be followed with respect to publication of notice, objections, and assessment of costs. If review of the petition finds unresolved issues of fact or law, or if an objection is filed within 20 days of the second publication of the published notice, the matter will be set for hearing. If a hearing is not required, a renewal permit will be issued upon the filing of the proof of publication required by 199—10.4(479). Renewal permits shall normally expire 25 years from date of issue. No permit shall be granted for a period longer than 25 years. The same procedure shall be followed for subsequent renewals.

This rule is intended to implement Iowa Code sections 476.2 and 479.23.

**199—10.9(479) Amendment of permits.**

**10.9(1)** An amendment of pipeline permit by the board is required in any of the following circumstances:

- a. Construction of a pipeline paralleling an existing line of petitioner;
- b. Extension of an existing pipeline of petitioner by more than 660 feet (one-eighth mile);
- c. Relocation of an existing pipeline of petitioner which:
  - (1) Relocates the pipeline more than 660 feet (one-eighth mile) from the route approved by the board; or
  - (2) Involves relocation requiring new or additional interests in property for five miles or more of pipe to be operated at over 150 psig. Informational meetings as provided for by rule 199—10.3(479) shall be held for these relocations.
- d. Contiguous extension of an underground storage area of petitioner; or
- e. Modification of any condition or limitation placed on the construction or operation of the pipeline in the final order granting the pipeline permit.

**10.9(2)** Petition for amendment. The petition for amendment of an original or renewed pipeline permit shall include the docket number and issue date of the permit for which amendment is sought and shall clearly state the purpose of the petition. If the petition is for construction of additional pipeline facilities or expansion of an underground storage area, the same exhibits as required for a petition for permit shall be attached.

The applicable procedures for petition for permit, including hearing, shall be followed. Upon appropriate determination by this board, an amendment to the permit will be issued. Such amendment shall be subject to the same conditions with respect to completion of construction within two years and the filing of final routing maps as attached to pipeline permits.

This rule is intended to implement Iowa Code sections 476.2 and 479.23.

**199—10.10(479) Fees and expenses.**

**10.10(1)** *Permit expenses.* The petitioner shall pay the actual unrecovered cost incurred by the board attributable to the processing, investigation, and inspection related to a petition requesting a pipeline permit action.

Any moneys collected by the board from other sources for chargeable activities will be deducted from billings for actual expenses submitted to the petitioner.

**10.10(2)** *Construction inspection.* The petitioner shall reimburse the board for the actual unrecovered expenses incurred due to inspection of pipeline construction or testing activities following from a permit action.

Any moneys collected by the board from other sources for chargeable activities will be deducted from billings for actual expenses submitted to the petitioner.

**10.10(3) Annual inspection fee.** A pipeline company shall pay an annual inspection fee on all pipelines under permit of 50 cents per mile of pipeline or fraction thereof for each inch of diameter of the pipeline located in the state of Iowa. The fee shall be paid for the calendar year in advance between January 1 and February 1 of each year. When new pipeline subject to the fee is installed, the fee shall be paid beginning the following calendar year. Pipelines removed from service shall remain subject to the fee until the calendar year following the year the board is notified of the removal from service in accordance with rule 199—10.18(479).

**199—10.11(479) Inspections.** This board shall from time to time examine the construction, maintenance and condition of pipelines, underground storage facilities and equipment used in connection with pipelines or facilities in the state of Iowa to determine if the same are unsafe or dangerous and whether they comply with the appropriate standards of pipeline safety. One or more members of this board, or one or more duly appointed representatives of the board may enter upon the premises of any pipeline company within the state of Iowa for the purpose of making the inspections.

**199—10.12(479) Standards for construction, operation and maintenance.**

**10.12(1)** All pipelines, underground storage facilities, and equipment used in connection therewith shall be designed, constructed, operated, and maintained in accordance with the following standards:

- a. 49 CFR Part 191, “Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports,” as amended through April 9, 2014.
- b. 49 CFR Part 192, “Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards,” as amended through April 9, 2014.
- c. 49 CFR Part 199, “Drug and Alcohol Testing,” as amended through April 9, 2014.
- d. ASME B31.8 - 2007, “Gas Transmission and Distribution Piping Systems.”
- e. 199—Chapter 9, “Restoration of Agricultural Lands During and After Pipeline Construction.”
- f. At railroad crossings, 199—42.7(476), “Engineering standards for pipelines.”

Conflicts between the standards established in paragraphs 10.12(1)“a” through “f” or between the requirements of rule 199—10.12(479) and other requirements which are shown to exist by appropriate written documentation filed with the board shall be resolved by the board.

**10.12(2)** If review of Exhibit C, or inspection of facilities which are the subject of a permit petition, finds noncompliance with the standards adopted in this rule, no final action will be taken by the board on the petition without a satisfactory showing by the petitioner that the noncompliance has been or will be corrected.

**10.12(3)** Pipelines in tilled agricultural land shall be installed with a minimum cover of 48 inches.  
[ARC 7962B, IAB 7/15/09, effective 8/19/09; ARC 9501B, IAB 5/18/11, effective 6/22/11; ARC 1359C, IAB 3/5/14, effective 4/9/14]

**199—10.13(479) Minimum safety standards.** Rescinded IAB 2/21/90, effective 3/28/90.

**199—10.14(479) Crossings of highways, railroads, and rivers.**

**10.14(1)** Iowa Code chapter 479 gives the Iowa utilities board primary authority over the routing of pipelines. However, highway and railroad authorities and environmental agencies may have a jurisdictional interest in the routing of the pipeline, including requirements that permits or other authorizations be obtained prior to construction for crossings of highway or railroad right-of-way, or rivers or other bodies of water.

Except for other than approximate right angle crossings of highway or railroad right-of-way, the approval of other authorities need not be obtained prior to petitioning the board for a pipeline permit. It is recommended the appropriate other authorities be contacted well in advance of construction to determine what restrictions or conditions may be placed on the crossing, and to obtain information on any proposed reconstruction or relocation of existing facilities which may impact the routing of the pipeline.

**10.14(2)** Pipeline routes which include crossings of highway or railroad right-of-way at other than an approximate right angle, or longitudinally on such right-of-way, shall not be constructed unless a showing

of consent by the appropriate authority has been provided by the petitioner as required in paragraph 10.2(1)“e.”

**199—10.15(479) River crossings.** Rescinded IAB 3/6/91, effective 4/10/91.

**199—10.16(479) When a permit is required.** A pipeline permit shall be required for any pipeline which will be operated at a pressure of over 150 pounds per square inch gage or which, regardless of operating pressure, is a transmission line as defined in ASME B31.8 or 49 CFR Part 192. Questions on whether a pipeline requires a permit are to be resolved by the board.

**199—10.17(479) Reports to federal agencies.**

**10.17(1)** Upon submission of any incident, annual, or other report to the U.S. Department of Transportation pursuant to 49 CFR Part 191, Part 192, or Part 199, a copy of the report shall be filed with the board. The board shall also be advised of any telephonic incident report made.

**10.17(2)** In addition to incident reports required by 49 CFR Part 191, the board shall be notified of any incident or accident where the economic damage exceeds \$15,000 or which results in loss of service to 50 or more customers.

**10.17(3)** Utilities operating in other states shall provide to the board data for Iowa only.

**10.17(4)** The board shall be notified, as soon as practical, of any reportable incident by e-mail to the duty officer at [dutyofficer@iub.iowa.gov](mailto:dutyofficer@iub.iowa.gov) or, if e-mail is not available, by calling the board duty officer at (515)745-2332.

[ARC 7962B, IAB 7/15/09, effective 8/19/09; ARC 9501B, IAB 5/18/11, effective 6/22/11; ARC 1359C, IAB 3/5/14, effective 4/9/14; ARC 1623C, IAB 9/17/14, effective 10/22/14]

**199—10.18(479) Reportable changes to pipelines under permit.**

**10.18(1)** The board shall receive prior notice of any of the following actions affecting a pipeline under permit:

- a. Abandonment or removal from service.
- b. Relocation of more than 300 feet from the original alignment, or any relocation that would bring the pipeline within 300 feet of an occupied residence. Relocations of 660 feet (one-eighth mile) or more shall require the filing of a petition for permit.
- c. Pressure test, uprating, or increase in operating pressure.
- d. Change in product being transported.
- e. Replacement of a pipeline or significant portion thereof, not including short repair sections of pipe at least as strong as the original pipe.
- f. Extensions of existing pipelines by 660 feet (one-eighth mile) or less.

**10.18(2)** The notice shall include the docket and permit numbers of the pipeline, the location involved, a description of the proposed activity, anticipated dates of commencement and completion, revised maps and technical specifications, where appropriate, and the name and telephone number of a person to contact for additional information.

**199—10.19(479) Sale or transfer of permit.**

**10.19(1)** No permit shall be sold without prior written approval of the board. A petition for approval shall be jointly filed by the buyer and seller, shall include assurances that the buyer is authorized to transact business in the state of Iowa; is willing and able to construct, operate, and maintain the pipeline in accordance with these rules; and if the sale is prior to completion of construction of the pipeline shall show that the buyer has the financial ability to pay up to \$250,000 in damages.

**10.19(2)** No transfer of pipeline permit prior to completion of pipeline construction shall be effective until the person to whom the permit was issued files notice with the board of the transfer. The notice shall include the date of the transfer and the name and address of the transferee.

**10.19(3)** The board shall receive notice from the transferor of any other transfer of a pipeline permit after completion of construction.

For the purposes of this rule, reassignment of a pipeline permit as part of a corporate restructuring, with no change in pipeline operating personnel or procedures, is considered a transfer.

**199—10.20(479) Amendments to rules.** Rescinded IAB 6/25/03, effective 7/30/03.

These rules are intended to implement Iowa Code sections 476.2, 479.5, 479.17, 479.23, 479.26, 479.42, 479.43 and 546.7.

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CHAPTER 19  
SERVICE SUPPLIED BY GAS UTILITIES  
[Prior to 10/8/86, Commerce Commission [250]]

**199—19.1(476) General information.**

**19.1(1) *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, contents and filing of reports, documents and other papers necessary to carry out the provisions of this law.

Iowa Code chapter 479 provides that the Iowa utilities board shall have full authority and power to promulgate rules as it deems proper and expedient in the supervision of the transportation or transmission and underground storage of gas within the state of Iowa.

The application of the rules in this chapter to municipally owned utilities furnishing gas is limited by Iowa Code section 476.1B.

**19.1(2) *Application of rules.*** The rules shall apply to any gas utility operating within the state of Iowa as defined in Iowa Code chapter 476 and shall supersede any tariff on file with this board which is in conflict with these rules. These rules are intended to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities. A request to waive the application of any rule on a permanent or temporary basis may be made in accordance with rule 199—1.3(17A,474,476,78GA,HF2206). The adoption of these rules shall in no way preclude the board from altering or amending them, pursuant to statute, or from making such modifications with respect to their application as may be found necessary to meet exceptional conditions. These regulations shall in no way relieve any utility from any of its duties under the laws of this state.

**19.1(3) *Definitions.*** The following words and terms, when used in these rules shall have the meaning indicated below:

The abbreviations used, and their meanings, are as follows:

Btu—British thermal unit

LP-Gas—Liquefied Petroleum Gas

psig—Pounds per Square Inch, Gauge

W.C.—Water Column

“*Appliance*” refers to any device which utilizes gas fuel to produce light, heat or power.

“*Board*” means the Iowa utilities board.

“*Complaint*” as used in these rules is a statement or question by anyone, whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or utility failure to fulfill an obligation.

“*Cubic foot*” of gas has the following meanings:

1. Where gas is supplied and metered to customers at the pressure (as defined in 19.7(2)) normally used for domestic customers’ appliances, a cubic foot of gas shall be that quantity of gas which, at the temperature and pressure existing in the meter, occupies one cubic foot, except that where a temperature compensated meter is used, the temperature base shall be 60°F.

2. When gas is supplied to customers at other than the pressure in (1) above, the utility shall specify in its rules the base for measurement of a cubic foot of gas (see 19.2(4) “*c*”(6)). Unless otherwise stated by the utility, such cubic foot of gas shall be that quantity of gas which, at a temperature of 60°F and a pressure of 14.73 pounds per square inch absolute, occupies one cubic foot.

3. The standard cubic foot of gas for testing the gas itself for heating value shall be that quantity of gas, saturated with water vapor, which, at a temperature of 60°F and a pressure of 30 inches of mercury, occupies one cubic foot. (Temperature of mercury = 32°F acceleration due to gravity = 32.17 ft. per second per second density = 13.595 grams per cubic centimeter.)

“*Customer*” means any person, firm, association, or corporation, any agency of the federal, state or local government, or legal entity responsible by law for payment for the gas service or heat from the gas utility.

*“Delinquent”* or *“delinquency”* means an account for which a service bill or service payment agreement has not been paid in full on or before the last day for timely payment.

*“Gas,”* unless otherwise specifically designated, means manufactured gas, natural gas, other hydrocarbon gases, or any mixture of gases produced, transmitted, distributed or furnished by any gas utility.

*“Gas plant”* means all facilities including all real estate, fixtures and property owned, controlled, operated or managed by a gas utility for the production, storage, transmission and distribution of gas and heat.

*“Heating and calorific values.”* The following values shall be used:

1. *“British thermal unit”* (Btu) is the quantity of heat that must be added to one avoirdupois pound of pure water to raise its temperature from 58.5°F to 59.5°F under standard pressure.

2. *“Dry calorific value”* of a gas (total or net) is the value of the total or the net calorific value of the gas divided by the volume of dry gas in a standard cubic foot.

NOTE: The amount of dry gas in a standard cubic foot is .9826 cubic foot.

3. *“Net calorific value”* of a gas is the number of British thermal units evolved by the complete combustion, at constant pressure, of one standard cubic foot of gas with air, the temperature of the gas, air, and products of combustion being 60°F and all water formed by the combustion reaction remaining in the vapor state.

NOTE: The net calorific value of a gas is its total calorific value minus the latent heat of evaporation at standard temperature of the water formed by the combustion reaction.

4. *“Therm”* means 100,000 British thermal units.

5. *“Total calorific value”* of a gas is the number of British thermal units evolved by the complete combustion, at constant pressure, of one standard cubic foot of gas with air, the temperature of the gas, air and products of combustion being 60°F and all water formed by the combustion reaction condensed to the liquid state.

*“Interruption of service”* means any disturbance of the gas supply whereby gas service to a customer cannot be maintained.

*“Loss factor”* as used in rule 199—19.10(476) means test-year purchases less test-year sales. A five-year average of purchases less sales may be used if the test year is determined by the board to be abnormal.

*“Main”* means a gas pipe, owned, operated, or maintained by a utility, which is used for the purpose of transmission or distribution of gas, but does not include “service line”.

*“Meter,”* without other qualification, shall mean any device or instrument which is used by a utility in measuring a quantity of gas.

*“Meter shop”* is a shop where meters are inspected, repaired and tested, and may be at a fixed location or may be mobile.

*“Pressure,”* unless otherwise stated, is expressed in pounds per square inch above atmospheric pressure, i.e., gauge pressure (abbreviation-psig).

*“Rate-regulated utility”* means any utility as defined in the definition of “utility” below which is subject to rate regulation provided for in Iowa Code chapter 476.

*“Service line”* means a distribution line that transports gas from a common source of supply to a customer meter or the connection to a customer’s piping, whichever is farther downstream, or the connection to a customer’s piping if there is not a customer meter. A customer meter is the meter that measures the transfer of gas from a utility to a customer.

*“Tap”* or *“town border station”* means the delivery point or measuring station at which a gas distribution utility receives gas from a natural gas transmission company.

*“Tariff”* means the entire body of rates, tolls, rentals, charges, classifications, rules, procedures, policies, etc., adopted and filed with the board by a gas utility in fulfilling its role of furnishing gas service.

*“Timely payment”* is a payment on a customer’s account made on or before the date shown on a current bill for service or on a form which records an agreement between the customer and a utility for

a series of partial payments to settle a delinquent account, as the date which determines application of a late payment charge to the current bill or future collection efforts.

“Utility” means any person, partnership, business association, or corporation, domestic or foreign, owning or operating any facilities for furnishing gas or heat to the public for compensation.

**199—19.2(476) Records, reports, and tariffs.**

**19.2(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 Chapter 18 of the board’s rules, Utility Records.

**19.2(2) Tariffs to be filed with the board.** The schedules of rates and rules of rate-regulated gas utilities shall be filed with the board and shall be classified, designated, arranged and submitted so as to conform to the requirements of this chapter. Provisions of the schedules shall be definite and so stated as to minimize ambiguity or the possibility of misinterpretation. The form, identification and content of tariffs shall be in accordance with these rules.

Utilities which are not subject to the rate regulation provided for by Iowa Code chapter 476 shall not be required to file schedules of rates, rules, or contracts primarily concerned with a rate schedule with the board, but nothing contained in these rules shall be deemed to relieve any utility of the requirement of furnishing any of these same schedules or contracts which are needed by the board in the performance of the board’s duties upon request to do so by the board.

**19.2(3) Form and identification.** All tariffs shall conform to the following rules:

*a.* The tariff shall be printed, typewritten or otherwise reproduced on 8½- × 11- inch sheets of durable white paper so as to result in a clear and permanent record. The sheets of the tariff should be ruled or spaced to set off a border on the left side suitable for binding. In the case of utilities subject to regulation by any federal agency the format of sheets of tariff as filed with the board may be the same format as is required by the federal agency provided that the rules of the board as to title page; identity of superseding, replacing or revision sheets; identity of amending sheets; identity of the filing utility, issuing official, date of issue, effective date; and the words, “Gas Tariff Filed with Board” shall apply in the modification of the federal agency format for the purposes of filing with this board.

*b.* The title page of every tariff and supplement shall show:

(1) The first page shall be the title page which shall show:

(Name of Public Utility)

Gas Tariff

Filed with

Iowa Utilities Board

(date)

(This requirement does not apply to tariffs or amendments filed with the board prior to April 1, 1982.)

(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. \_\_\_\_\_

(This requirement does not apply to tariffs or amendments filed with the board prior to April 1, 1982.)

(3) When a new part of a tariff eliminates an existing part of a tariff it shall so state and clearly identify the part eliminated.

(4) Any tariff modifications as defined in “3” above replacing tariff sheets shall be marked in the right margin with symbols as herein described to indicate the place, nature and extent of the change in text.

<i>Symbol</i>	<i>Meaning</i>
(C)	A change in regulation
(D)	A discontinued rate, treatment or regulation
(I)	An increased rate or new treatment resulting in increased rate
(N)	A new rate, treatment or regulation
(R)	A reduced rate or new treatment resulting in a reduced rate
(T)	A change in text but no change in rate, treatment or regulation

c. All sheets except the title page shall have, in addition to the above-stated requirements, the following information:

(1) Name of utility under which shall be set forth the words "Filed with Board." If the utility is not a corporation, and a trade name is used, the name of the individual or partners must precede the trade name.

(2) Issuing official and issue date.

(3) Effective date (to be left blank by rate-regulated utilities).

d. All sheets except the title page shall have the following form:

(Company Name)	(Part identification)
Gas Tariff	(This sheet identification)
Filed with board	(Canceled sheet identification, if any)
	(Content of tariff)
Issued: (Date)	Effective:
Issued by: (Name, title)	(Proposed Effective Date:)

The issued date is the date the tariff or the amended sheet content was adopted by the utility.

The effective date will be left blank by rate-regulated utilities and shall be determined by the board.

The utility may propose an effective date.

**19.2(4) Content of tariffs.** A tariff filed with the board shall contain:

a. A table of contents containing a list of rate schedules and other sections in the order in which they appear showing the sheet number of the first page of each section.

b. All rates of utilities subject to rate regulation for service with indication of each rate for the type of gas and the class of customers to which each rate applies. 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 the method of calculating or estimating loads or minimums, delivery pressure, and any special terms or conditions applicable. All rates should be separated into "gas" and "nongas" components, and books and records shall be maintained on this basis. Books and records shall be available to the board for audits upon request. The gas components will be the result of the utility's periodic review of gas procurement practices rule (199—19.11(476)) and PGA (rule 199—19.10(476)) proceeding. The nongas components will be established through rate case proceedings under Iowa Code section 476.3 or 476.6. The period during which the net amount may be paid before the account becomes delinquent shall be specified. In any case where net and gross amounts are billed, the difference between net and gross is a late payment charge and shall be so specified.

Customer charges for all special services relating to providing the basic utility service including, but not limited to, reconnect charge and different categories of service calls shall be specified.

c. A copy of the utility's rules, or terms and conditions, describing the utility's policies and practices in rendering service shall include:

(1) A statement as to the equivalent total heating value of the gas in Btu's per cubic foot on which their customers are billed. If necessary, this may be listed by district, division or community.

(2) The list of the items which the utility furnishes, owns, and maintains on the customer's premises, such as service pipe, meters, regulators, vents and shut-off valves.

- (3) General statement indicating the extent to which the utility will provide service in the adjustment of customer appliances at no additional customer charge.
- (4) General statement of the utility's policy in making adjustments for wastage of gas when such wastage occurs without the knowledge of the customer.
- (5) A statement indicating the minimum number of days allowed for payment after the due date of the customer's bill before service will be discontinued for nonpayment.
- (6) A statement indicating the volumetric measurement base to which all sales of gas at other than standard delivery pressure are corrected.
- (7) Forms of standard contracts required of customers for the various types of service available.
- (8) All tariffs must provide that, notwithstanding any other provision of this tariff or contract with reference thereto, all rates and charges contained in this tariff or contract with reference thereto may be modified at any time by a subsequent filing made pursuant to the provisions of Iowa Code chapter 476.
- (9) A copy of each type of customer bill.
- (10) Definitions of classes of customer.
- (11) Rules for extending service in accordance with 19.3(10).
- (12) Rules with which prospective customers must comply as a condition of receiving service, and the terms of contracts required.
- (13) Rules governing the establishment and maintenance of credit by customers for payment of service bills.
- (14) Rules governing disconnecting and reconnecting service.
- (15) Notice required from customer for having service discontinued.
- (16) Rules covering temporary, emergency, auxiliary, and stand-by service.
- (17) Rules shall show any limitations on loads and cover the type of equipment which may or may not be connected.
- (18) Rate-regulated utilities shall include a list of service areas and the applicable rates in such form as to facilitate ready determination of the rates available in each municipality and in such unincorporated communities as have service.
- (19) Rules on meter reading, billing periods, bill issuance, timely customer payment, notice of delinquency and service disconnection for nonpayment of bill.
- (20) Rules on how a customer or prospective customer should file a complaint with the utility, and how the complaint will be processed.
- (21) Rules on how a customer, disconnected customer or potential customer for residential service may negotiate for a payment agreement on amount due, determination of even payment amounts, and time allowed for payments.
- (22) If a sliding scale or automatic adjustment is applicable to regulated rates or charges of billed customers, the manner and method of such adjustment calculation shall be covered through a detailed explanation.

**19.2(5)** *Annual, periodic and other reports to be filed with the board.*

*a. System map verification.* A utility shall file annually with the board a verification that it has a correct set of utility system maps for each operating or distribution area. The maps shall show:

- (1) Peak shaving facilities location.
- (2) Feeder and distribution mains indicating size and pressure.
- (3) System metering (town border stations and other supply points).
- (4) Regulator stations in system indicating inlet and outlet pressures.
- (5) Calorimeter location.
- (6) State boundary crossing.
- (7) Franchise area.
- (8) Names of all communities (post offices) served.

*b. Incident reports.* Rescinded IAB 1/30/08, effective 3/5/08.

*c. Construction programs.* Rescinded IAB 11/19/97, effective 12/24/97.

*d. Reports of gas service.* Each utility shall compile a monthly record of gas service. The record shall be completed within 30 days after the end of the month covered. The compilation is to be kept

available, for inspection by the board or its staff, at the utility's principal office within the state of Iowa. Such record shall contain:

- (1) The daily and monthly average of total heating values of gas in accordance with 19.7(6).
- (2) The monthly acquisition and disposition of gas.
- (3) Interruptions of service occurring during the month in accordance with 19.7(7). If there were no interruptions, then it should be so stated.
- (4) The number of customer pressure investigations made and the results.
- (5) The number of customer meters tested and test results tabulated as follows: The number that falls into limits 0 to + 2%, + 2 to + 4%, 0 to - 2%, - 2 to - 4%, over + 4%, under - 4%, and "Does Not Register" in accuracy.
- (6) Progress on leak survey programs including the number of leaks found classified as to hazard and nature, and if known, the cause and type of pipe involved.
- (7) Number of district regulators checked and nature of repairs required.
- (8) Number of house regulators checked and nature of repairs required.
- (9) Description of any unusual operating difficulties.
- (10) Type of odorant and monthly average pounds per million cubic feet used in each individual distribution system.

A summary of the 12 monthly gas service records for each calendar year shall be attached to and submitted with the utility's annual fiscal plan and statistical report to the board.

*e. 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.

*f. Filing customer bill forms.* A copy of each type of customer bill form in current use shall be filed with the board.

*g. Reports to federal agencies.* Copies of reports submitted to the U.S. Department of Transportation pursuant to 49 CFR Part 191, Part 192, or Part 199, as amended through April 9, 2014, shall be filed with the board. Utilities operating in other states shall provide to the board data for Iowa only.

*h. Change in rate.* A notification to the board shall be made of any planned change in rate of service by a utility even though the change in rate of service is provided for in its tariff filing with the board. This information shall reflect the amount of increase or decrease and the effective date of application. An up-to-date tariff sheet shall be supplied to the Iowa utilities board for its copy of the tariff showing the current rates.

*i. 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; (4) meter tests and repairs; (5) pipeline permits (gas). Each utility shall file with the board a telephone contact number or numbers where the board can obtain current information 24 hours a day about incidents and interruptions of service from a knowledgeable person. The contact information required by this paragraph shall be kept current as changes or corrections are made.

*j. Residential customer statistics.* Each rate-regulated gas utility shall file with the board on or before the fifteenth day of each month one copy of the following residential customer statistics for the preceding month:

- (1) Number of accounts;
- (2) Number of accounts certified as eligible for energy assistance since the preceding October 1;
- (3) Number of accounts past due;
- (4) Number of accounts eligible for energy assistance and past due;
- (5) Total revenue owed on accounts past due;
- (6) Total revenue owed on accounts eligible for energy assistance and past due;
- (7) Number of disconnection notices issued;
- (8) Number of disconnection notices issued on accounts eligible for energy assistance;

- (9) Number of disconnections for nonpayment;
- (10) Number of reconnections;
- (11) Number of accounts determined uncollectible; and
- (12) Number of accounts eligible for energy assistance and determined uncollectible.

*k. Monthly, periodic and annual reports.* Each utility shall file such other monthly, periodic and annual reports as are requested by the board. Monthly and periodic reports shall be due in the board's office within 30 days after the end of the reporting period. All annual reports shall be filed with this board by April 1 of each year for the preceding calendar year.

This rule is intended to implement Iowa Code section 476.2.

[ARC 7962B, IAB 7/15/09, effective 8/19/09; ARC 9501B, IAB 5/18/11, effective 6/22/11; ARC 1359C, IAB 3/5/14, effective 4/9/14]

### 199—19.3(476) General service requirements.

**19.3(1) Disposition of gas.** The meter and any service line pressure regulator shall be owned by the utility. The utility shall place a visible seal on all meters and service line regulators in customer use, such that the seal must be broken to gain entry.

*a.* All gas sold by a utility shall be on the basis of meter measurement except:

- (1) Where the consumption of gas may be readily computed without metering; or
- (2) For temporary service installations.

*b.* The amount of all gas delivered to multioccupancy premises within a single building, where units are separately rented or owned, shall be measured on the basis of individual meter measurement for each unit, except in the following instances:

- (1) Where gas is used in centralized heating, cooling or water-heating systems;
- (2) Where a facility is designated for elderly or handicapped persons;
- (3) Where submetering or resale of service was permitted prior to 1966; or
- (4) Where individual metering is impractical. “Impractical” means: (1) where conditions or structural barriers exist in the multioccupancy building that would make individual meters unsafe or physically impossible to install; (2) where the cost of providing individual metering exceeds the long-term benefits of individual metering; or (3) where the benefits of individual metering (reduced and controlled energy consumption) are more effectively accomplished through a master meter arrangement.

If a multioccupancy building is master-metered, the end-user occupants may be charged for natural gas as an unidentified portion of the rent, condominium fee, or similar payment, or, if some other method of allocating the cost of the gas service is used, the total charge for gas service shall not exceed the total gas bill charged by the utility for the same period.

If a multioccupancy building is master-metered, the end-user occupants may be charged for natural gas as an unidentified portion of the rent, condominium fee, or similar payment, or, if some other method of allocating the cost of the gas service is used, the total charge for gas service shall not exceed the total gas bill charged by the utility for the same period.

*c.* Master metering to multiple buildings is prohibited, except for multiple buildings owned by the same person or entity. Multioccupancy premises within a multiple building complex may be master-metered pursuant to this paragraph only if the requirements of paragraph 19.3(1)“*b*” have been met.

*d.* For purposes of this subrule, a “master meter” means a single meter used in determining the amount of natural gas provided to a multioccupancy building or multiple buildings.

*e.* This rule shall not be construed to prohibit any utility from requiring more extensive individual metering than otherwise required by this rule if pursuant to tariffs filed with and approved by the board.

*f.* All gas consumed by the utility shall be on the basis of meter measurement except where consumption may be readily computed without metering or where metering is impractical.

**19.3(2) Condition of meter.** Rescinded IAB 11/12/03, effective 12/17/03. See 199 IAC 19.6(7).

**19.3(3) Meter reading records.** The meter reading records shall show:

- a.* Customer's name, address, rate schedule, or identification of rate schedule.
- b.* Identifying number or description of the meter(s).
- c.* Meter readings.
- d.* If the reading has been estimated.
- e.* Any applicable multiplier or constant, or reference thereto.

**19.3(4) Meter charts.** All charts taken from recording meters shall be marked with the initial and final date and hour of the record, the meter identification, customer's name and location and the chart multiplier.

**19.3(5) Meter register.** If it is necessary to apply a multiplier to the meter readings, the multiplier must be marked on the face of the meter register or stenciled in weather resistant paint upon the front cover of the meter. Where remote meter reading is used, whether outdoor on-premises or off-premises-automated, the customers shall have a readable meter register at the meter as a means of verifying the accuracy of bills presented to them.

**19.3(6) Prepayment meters.** Prepayment meters shall not be geared or set so as to result in the charge of a rate or amount higher than would be paid if a standard type meter were used, except under such special rate schedule as may be filed under 19.2(4).

**19.3(7) Meter reading and billing interval.** Readings of all meters used for determining charges and billings to customers shall be scheduled at least monthly and for the beginning and termination of service. Bills to larger customers may, for good cause, be rendered weekly or daily for a period not to exceed one month. Intervals other than monthly shall not be applied to smaller customers, or to larger customers after the initial month provided above, without an exemption from the board. A waiver request must include the information required by 199—1.3(17A,474,476,78GA,HF2206). If the board denies a waiver, or if a waiver is not sought with respect to a large volume customer after the initial month, that customer's bill shall be rendered monthly for the next 12 months, unless prior approval is received from the board for a shorter interval. The group of larger customers to which shorter billing intervals may be applied shall be specified in the utility's tariff sheets, but shall not include residential customers.

An effort shall be made to obtain readings of the meters on corresponding days of each meter-reading period. The utility rules may permit the customer to supply the meter readings by telephone or on a form supplied by the utility. The utility may arrange for customer meter reading forms to be delivered to the utility by United States mail, electronically, or by hand delivery. Unless the utility has a plan to test check meter readings, a utility representative shall physically read the meter at least once each 12 months and when the utility is notified there is a change of customer.

The utility may arrange for the meter to be read by electronic means. Unless the utility has a plan to test check electronic meter readings, a utility representative shall physically read the meter at least once every 12 months.

**19.3(8) Readings and estimates.** When a customer is connected or disconnected or the meter reading date causes a given billing period to deviate by more than 10 percent (counting only business days) from the normal meter reading period, such bill shall be prorated on a daily basis.

When access to meters cannot be gained, the utility may leave with the customer a meter reading form. The customer may provide the meter reading by telephone, electronic mail (if it is allowed by the utility), or by mail. If the meter reading information is not returned in time for the billing operation, an estimated bill may be rendered. If an actual meter reading cannot be obtained, the utility may render an estimated bill without reading the meter or supplying a meter reading form to the customer. Only in unusual cases or when approval is obtained from the customer shall more than three consecutive estimated bills be rendered.

The utility shall incorporate normalized weather data in its calculation of an estimated bill.

Utilities shall file with the board their procedures for calculating estimated bills, including their procedures for determining the reasonable degree-day data to use in the calculations. Utilities shall inform the board when changes are made to the procedures for calculating estimated bills.

**19.3(9) Temporary service.** When the utility renders a temporary service to a customer it may require that the customer bear all the cost of installing and removing the service in excess of any salvage realized.

**19.3(10) Plant additions, distribution main extensions, and service lines.**

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

*"Advance for construction,"* as used in this subrule, means cash payments or equivalent surety made to the utility by an applicant for an extensive plant addition or a distribution main extension, portions of which may be refunded depending on any subsequent service line attached to the extensive plant addition or distribution main extension. Cash payments or equivalent surety shall include a grossed-up amount

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.

*“Agreed-upon attachment period,”* as used in this subrule, 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,”* as used in this subrule, means a nonrefundable cash payment grossed-up for the income tax effect of such revenue covering the costs of a distribution main extension or service line that are in excess of costs paid by the utility. 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.

*“Distribution main extension,”* as used in this subrule, means a segment of pipeline installed to convey gas to individual service lines or other distribution mains.

*“Estimated annual revenues,”* as used in this subrule, shall be calculated 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 base revenues,”* as used in this subrule, shall be calculated by subtracting the cost of purchased gas and energy efficiency charges from estimated annual revenues.

*“Estimated construction costs,”* as used in this subrule, shall be calculated using average current costs in accordance with good engineering practices and upon the following factors: amount of service required or desired by the customer requesting the distribution main extension or service line; size, location, and characteristics of the distribution main extension or service line, including appurtenances; and whether the ground is frozen or whether other adverse conditions exist. In no event shall estimated construction costs include costs associated with facilities built for the convenience of the utility. The customer shall be charged actual permit fees in addition to estimated construction costs. Permit fees are to be paid regardless of whether the customer is required to pay an advance for construction or a nonrefundable contribution in aid of construction, and the cost of any permit fee is not refundable.

*“Plant addition,”* as used in this subrule, means any additional plant, other than a distribution main or service line, required to be constructed to provide service to a customer.

*“Service line,”* as used in this subrule, means the piping that extends from the distribution main to the meter set riser.

*“Similarly situated customer,”* as used in this subrule, 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.

*“Utility,”* as used in this subrule, means a rate-regulated utility.

*b. Plant additions.* The utility shall provide all gas plant at its cost and expense without requiring an advance for construction from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served. A written contract between the utility and the customer which requires an advance for construction by the customer to make plant additions shall be available for board inspection.

*c. Distribution main extensions.* Where the customer will attach to the distribution main extension within the agreed-upon attachment period after completion of the distribution main extension, the following shall apply:

(1) The utility shall finance and make the distribution main extension for a customer without requiring an advance for construction if the estimated construction costs to provide a distribution main extension are less than or equal to three times estimated base revenue calculated on the basis of similarly situated customers. The utility may use a feasibility model, rather than three times estimated base revenue, to determine what, if any, advance for construction is required of the customer. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility’s tariff. Whether or not the construction of the distribution main extension would

otherwise require a payment from a customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(2) If the estimated construction cost to provide a distribution main extension is greater than three times estimated base revenue calculated on the basis of similarly situated customers, the applicant for a distribution main extension shall contract with the utility and make, no more than 30 days prior to commencement of construction, an advance for construction equal to the estimated construction cost less three times estimated base revenue to be produced by the customer. The utility may use a feasibility model to determine whether an advance for construction is required. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the distribution main extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the distribution main extension, the applicant for the distribution main extension shall contract with the utility and make, no more than 30 days prior to the commencement of construction, an advance for construction equal to the estimated construction cost. The utility may use a feasibility model to determine the amount of the advance for construction. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the distribution main extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(4) Advances for construction may be paid by cash or equivalent surety and shall be refundable for ten years. The customer has the option of providing an advance for construction by cash or equivalent surety unless the utility determines that the customer has failed to comply with the conditions of a surety in the past.

(5) Refunds. When the customer is required to make an advance for construction, 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 line attached to the distribution main extension. The pro-rata refund shall be computed in the following manner:

1. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the distribution main extension and each service line attached to the distribution main extension exceeds the total estimated construction cost to provide the distribution main extension, the entire amount of the advance for construction shall be refunded.

2. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the distribution main extension and each service line attached to the distribution main extension is less than the total estimated construction cost to provide the distribution main extension, the amount to be refunded shall equal three times estimated base revenue, or the amount allowed by the feasibility model, when a service line is attached to the distribution main extension.

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

(6) The utility shall keep a record of each work order under which the distribution main extension was installed, to include the estimated revenues, the estimated construction costs, the amount of any payment received, and any refunds paid.

*d. Service lines.*

(1) The utility shall finance and construct a service line without requiring a nonrefundable contribution in aid of construction or any payment by the applicant where the length of the service line to the riser is up to 50 feet on private property or 100 feet on private property if polyethylene plastic pipe is used.

(2) Where the length of the service line exceeds 50 feet on private property or 100 feet if polyethylene plastic pipe is used, the applicant shall be required to provide a nonrefundable contribution in aid of construction, within 30 days after completion, for that portion of the service line on private property, exclusive of the riser, in excess of 50 feet or in excess of 100 feet if polyethylene plastic pipe is used. The nonrefundable contribution in aid of construction for that portion of the service line shall be computed as follows:

(Estimated Construction Costs) ×

$$\frac{\text{(Total Length in Excess of 50 Feet) or (Total Length in Excess of 100 Feet)}}{\text{(Total Length of Service Line)}}$$

(3) A utility may adopt a tariff or rule that allows the utility to finance and construct a service line of more than 50 feet, or 100 feet if polyethylene plastic pipe is used, without requiring a nonrefundable contribution in aid of construction from the customer if the tariff or rule applies equally to all customers.

(4) Whether or not the construction of the service line would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees.

*e. Extensions not required.* Utilities shall not be required to make distribution main extensions or attach service lines as described in this subrule, unless the distribution main extension or service line shall be of a permanent nature.

*f. Different payment arrangement.* This subrule shall not be construed as prohibiting any utility from making a contract with a customer using a different payment arrangement, if the contract provides a more favorable payment arrangement to the customer, so long as no discrimination is practiced among customers.

**19.3(11) Cooperation and advance notice.** In order that full benefit may be derived from this chapter and in order to facilitate its proper application, all utilities shall observe the following cooperative practices:

*a.* Every utility shall give to other public utilities in the same general territory advance notice of any construction or change in construction or in operating conditions of its facilities concerned or likely to be concerned in situations of proximity, provided, however, that the requirements of this chapter shall not apply to routine extensions or minor changes in the local underground distribution facilities.

*b.* Every utility shall assist in promoting conformity with this chapter. An arrangement should be set up among all utilities whose facilities may occupy the same general territory, providing for the interchange of pertinent data and information including that relative to proposed and existing construction and changes in operating conditions concerned or likely to be concerned in situations of proximity.

This rule is intended to implement 42 U.S.C.A. §8372, 10 CFR 516.30, and Iowa Code section 476.8. [ARC 7584B, IAB 2/25/09, effective 4/1/09]

### **199—19.4(476) Customer relations.**

**19.4(1) Customer information.** Each utility shall:

*a.* Maintain up-to-date maps, plans or records of its entire transmission and distribution systems, with such other information as may be necessary to enable the utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving customers in its service area.

*b.* Assist the customer or prospective customer in selecting the most economical rate schedule available for the proposed type of service.

*c.* Notify customers affected by a change in rates or schedule classification in the manner provided in the rules of practice and procedure before the board. (199—7.4(476))

*d.* 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 rate schedules and rules relating to the service of the utility, as filed with the board, are available for public inspection. If the utility provides access to its rate schedules and rules for service on its Web site, the notice should include the Web site address.

- e.* Upon request, inform its customers as to the method of reading meters.
- f.* State, on the bill form, that tariff and rate schedule information is available upon request at the utility's local business office.
- g.* Upon request, transmit a statement of either the customer's actual consumption, or degree day adjusted consumption, at the company's option, of natural gas for each billing period during the prior 12 months.
- h.* Furnish such additional information as the customer may reasonably request.
- i.* Promptly and courteously resolve inquiries for information or complaints. 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 that will enable the customer to reach that employee again if needed.

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 (515)725-7321 or toll-free 1-877-565-4450, or by writing to 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by E-mail to [customer@iub.iowa.gov](mailto:customer@iub.iowa.gov)."

The bill insert or notice for municipal utilities shall include the following statement: "If your complaint is related to service disconnection, safety, or renewable energy, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll-free 1-877-565-4450, by writing to 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by E-mail to [customer@iub.iowa.gov](mailto:customer@iub.iowa.gov)."

The bill insert or notice on the bill shall be provided monthly by utilities serving more than 50,000 Iowa retail customers and no less than annually by all other natural gas utilities. Any utility which does not use the standard statement described in this paragraph shall file its proposed statement in its tariff for approval. A utility that 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.

**19.4(2) Customer deposits.**

*a.* Each utility may require from any customer or prospective customer a deposit intended to guarantee partial payment of bills for service. Each utility shall allow a person other than the customer to pay the customer's deposit. In lieu of a cash deposit, the utility may accept the written guarantee of a surety or other responsible party as surety for an account. Upon termination of a guarantee contract, or whenever the utility deems the contract insufficient as to amount or surety, a cash deposit or a new or additional guarantee may be required for good cause upon reasonable written notice.

*b.* 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. The new or additional deposit shall be payable at any of the utility's business offices or local authorized agents. An appropriate receipt shall be provided. No written notice is required to be given of a deposit required as a prerequisite for commencing initial service.

*c.* No deposit shall be required as a condition for service other than determined by application of either credit rating or deposit calculation criteria, or both, of the filed tariff.

*d.* The total deposit for any residential or commercial customer for a place which has previously received service shall not be greater than the highest billing of service for one month for the place in the previous 12-month period. The deposit for any residential or commercial customer for a place which has not previously received service or for an industrial customer, shall be the customer's projected one-month usage for the place to be served as determined by the utility, or as may be reasonably required by the utility in cases involving service for short periods or special occasions.

**19.4(3) Interest on customer deposits.** Interest shall be paid by the rate-regulated utility to each customer required to make a deposit. On or after April 21, 1994, rate-regulated 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, relative to an account treated as an uncollectible account, is the most recent date the account became delinquent.

**19.4(4) *Customer deposit records.*** Each utility shall keep records to show:

- a. The name and address of each depositor.
- b. The amount and date of the deposit.
- c. Each transaction concerning the deposit.

**19.4(5) *Customer's receipt for a deposit.*** Each utility shall issue a receipt of deposit to each customer from whom a deposit is received, and shall provide means whereby a depositor may establish claim if the receipt is lost.

**19.4(6) *Deposit refund.*** A deposit shall be refunded after 12 consecutive months of prompt payment (which may be 11 timely payments and one automatic forgiveness of late payment), unless the utility is entitled to require a new or additional deposit. For refund purposes, the account shall be reviewed after 12 months of service following the making of the deposit and for each 12-month interval terminating on the anniversary of the deposit. However, deposits received from customers subject to the exemption provided by subrule 19.3(7), including surety deposits, may be retained by the utility until final billing. Upon termination of service, the deposit plus accumulated interest, less any unpaid utility bill of the customer, shall be reimbursed to the person who made the deposit.

**19.4(7) *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 556.11.

**19.4(8) *Customer bill forms.*** Each customer shall be informed as promptly as possible following the reading of the customer's meter, on bill form or otherwise, the following:

- a. The reading of the meter at the beginning and at the end of the period for which the bill is rendered.
- b. The dates on which the meter was read at the beginning and end of the billing period.
- c. The number and kind of units metered.
- d. The applicable rate schedule or identification of the applicable rate schedule.
- e. The account balance brought forward and the amount of each net charge for rate-schedule-priced utility service, sales tax, other taxes, late payment charge, and total amount currently due. In the case of prepayment meters, the amount of money collected shall be shown.
- f. The last date for timely payment shall be clearly shown and shall be not less than 20 days after the bill is rendered.
- g. A distinct marking to identify an estimated bill.
- h. A distinct marking to identify a minimum bill.
- i. Any conversions from meter reading units to billing units, or any calculations to determine billing units from recording or other devices, or any other factors, such as sliding scale or automatic adjustment and amount of sales tax adjustments used in determining the bill.

**19.4(9) *Customer billing information alternate.*** A utility serving fewer than 5000 gas customers may provide the information in 19.4(8) on bill form or otherwise. If the utility elects not to provide the information of 19.4(8) on the bill form, it shall advise the customer, on the bill form or by bill insert, that such information can be obtained by contacting the utility's local office.

**19.4(10) *Payment agreements.***

- a. *Availability of a first payment agreement.* When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the utility for residential utility service and

is not in default of a payment agreement with the utility, a utility shall offer the customer an opportunity to enter into a reasonable payment agreement.

*b. Reasonableness.* Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The utility may require the person to confirm financial difficulty with an acknowledgment from the department of human services or another agency.

*c. Terms of payment agreements.*

(1) *First payment agreement.* The utility shall offer customers who have received a disconnection notice or have been disconnected 120 days or less and who are not in default of a payment agreement the option of spreading payments evenly over at least 12 months by paying specific amounts at scheduled times. The utility shall offer customers who have been disconnected more than 120 days and who are not in default of a payment agreement the option of spreading payments evenly over at least 6 months by paying specific amounts at scheduled times.

1. The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with these rules. The utility may also require the customer to enter into a level payment plan to pay the current bill.

2. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.

3. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility shall render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement. The document will be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last-known address of the person responsible for payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free or collect telephone number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement or electronic agreement.

4. Each customer entering into a first payment agreement shall be granted at least one late payment that is made four days or less beyond the due date for payment and the first payment agreement shall remain in effect.

(2) *Second payment agreement.* The utility shall offer a second payment agreement to a customer who is in default of a first payment agreement if the customer has made at least two consecutive full payments under the first payment agreement. The second payment agreement shall be for the same term as or longer than the term of the first payment agreement. The customer shall be required to pay for current service in addition to the monthly payments under the second payment agreement and may be required to make the first payment up-front as a condition of entering into the second payment agreement. The utility may also require the customer to enter into a level payment plan to pay the current bill. The utility may offer additional payment agreements to the customer.

*d. Refusal by utility.* A customer may offer the utility a proposed payment agreement. If the utility and the customer do not reach an agreement, the utility may refuse the offer orally, but the utility must render a written refusal of the customer's final offer, stating the reason for the refusal, within three days of the oral notification. The written refusal shall be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal shall be considered rendered to the customer when handed

to the customer or when delivered to the last-known address of the person responsible for the payment for the service.

A customer may ask the board for assistance in working out a reasonable payment agreement. The request for assistance must be made to the board within ten days after the rendering of the written refusal. During the review of this request, the utility shall not disconnect the service.

**19.4(11) 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. Bills for customers on more frequent billing intervals under subrule 19.3(7) may not be considered delinquent less than 5 days from the date of rendering. However, a late payment charge may not be assessed if payment is received within 20 days of the date the bill is rendered.

*a.* The date of delinquency for all residential customers or other customers whose consumption is less than 250 ccf per month shall be changeable for cause in writing; such as, but not limited to, 15 days from approximate date each month upon which income is received by the person responsible for payment. In no case, however, shall the utility be required to delay the date of delinquency more than 30 days beyond the date of preparation of the previous bill.

*b.* In any case where net and gross amounts are billed to customers, the difference between net and gross is a late payment charge and is valid only when part of a delinquent bill payment. A utility's late payment charge shall not exceed 1.5 percent per month of the past due amount. No collection fee may be levied in addition to this late payment charge. This rule does not prohibit cost-justified charges for disconnection and reconnection of service.

*c.* If the customer makes partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment shall be credited pro rata between the bill for utility services and related taxes.

*d.* 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. Complete forgiveness prohibits any effect upon the credit rating of the customer or collection of late payment charge.

*e.* Level payment plan. Utilities shall offer a level payment plan to all residential customers or other customers whose consumption is less than 250 ccf per month. A level payment plan should be designed to limit the volatility of a customer's bill and maintain reasonable account balances. The level payment plan shall include at least the following:

- (1) Be offered to each eligible customer when the customer initially requests service.
- (2) Allow for entry into the level payment plan anytime during the calendar year.
- (3) Provide that a customer may request termination of the plan at any time. If the customer's account is in arrears at the time of termination, the balance shall be due and payable at the time of termination. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new level payment plan to a customer for six months after the customer has terminated from a level payment plan.

- (4) Use a computation method that produces a reasonable monthly level payment amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements in 19.4(11)"e"(4). The computation method used by the utility shall be described in the utility's tariff and shall be subject to board approval. The utility shall give notice to customers when it changes the type of computation method in the level payment plan.

The amount to be paid at each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan and shall be recomputed at least annually. The level payment amount may be recomputed monthly, quarterly, when requested by the customer, or whenever price, consumption, or a combination of factors results in a new estimate differing by 10 percent or more from that in use.

When the level payment amount is recomputed, the level payment plan account balance shall be divided by 12, and the resulting amount shall be added to the estimated monthly level payment amount. Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be given the option of applying any credit to payments of subsequent months' level payment amounts due or of obtaining a refund of any credit in excess of \$25.

Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be notified of the recomputed payment amount not less than one full billing cycle prior to the date of delinquency for the recomputed payment. The notice may accompany the bill prior to the bill that is affected by the recomputed payment amount.

(5) Irrespective of the account balance, a delinquency in payment shall be subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the level payment amount. If the account balance is a credit, the level payment plan may be terminated by the utility after 30 days of delinquency.

**19.4(12) Customer records.** The utility shall retain customer billing records for the length of time necessary to permit the utility to comply with 19.4(13) but not less than three years.

**19.4(13) Adjustment of bills.** Bills which are incorrect due to billing errors or faulty metering installation are to be adjusted as follows:

*a.* Fast metering. Whenever a metering installation is tested and found to have overregistered more than 2 percent, the utility shall recalculate the bills for service.

(1) The bills for service shall be recalculated from the time at which the error first developed or occurred if that time can be definitely determined.

(2) If the time at which the error first developed or occurred cannot be definitely determined, it shall be assumed that the overregistration has existed for the shortest time period calculated as one-half the time since the meter was installed or one-half the time elapsed since the last meter test unless otherwise ordered by the board.

(3) If the recalculated bills indicate that \$5 or more is due an existing customer or \$10 or more is due a person no longer a customer of the utility, the tariff shall provide for refunding of the full amount of the calculated difference between the amount paid and the recalculated amount. Refunds shall be made to the two most recent customers who received service through the metering installation during the time the error existed. In the case of a previous customer who is no longer a customer of the utility, a notice of the amount subject to refund shall be mailed to such previous customer at the last-known address, and the utility shall, upon demand made within three months thereafter, refund the same.

Refunds shall be completed within six months following the date of the metering installation test.

*b.* Slow metering. Whenever a meter is found to be more than 2 percent slow, the tariff may provide for back billing the customer for the amount the test indicates has been undercharged for the period of inaccuracy.

When the average error cannot be determined by test because of failure of part or all of the metering equipment, the tariff may provide for use of the registration of check metering installation, if any, or for estimating the quantity consumed based on available data. The customer must be advised of the failure and of the basis for the estimate of quantity billed.

(1) The utility may not back bill due to underregistration unless a minimum back bill amount is specified in its tariff. The minimum amount specified for back billing shall not be less than, but may be greater than, \$5 for an existing customer or \$10 for a former customer. All recalculations resulting in an amount due equal or greater than the tariff specified minimum shall result in issuance of a back bill.

(2) The period for back billing shall not exceed the last six months the meter was in service unless otherwise ordered by the board.

(3) Back billings shall be rendered no later than six months following the date of the metering installation test.

*c.* Billing adjustments due to fast or slow meters shall be calculated on the basis that the meter should be 100 percent accurate. For the purpose of billing adjustment the meter error shall be one-half of the algebraic sum of the error at full-rated flow plus the error at check flow.

*d.* 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 meter, 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 meter, or other similar reasons, the amount of the undercharge may be billed to the customer. The period for which the utility may adjust for the undercharge shall not exceed five years unless otherwise ordered by the board. The maximum back bill shall not exceed the dollar amount equivalent to the tariffed rate 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.

**19.4(14) Credits and explanations.** Credits due a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be separately identified.

**19.4(15) Refusal or disconnection of service.** A utility shall refuse service or disconnect service to a customer, as defined in subrule 19.1(3), in accordance with tariffs that are consistent with these rules.

*a.* The utility shall give written notice of pending disconnection except as specified in paragraph 19.4(15) "b." The notice shall set forth the reason for the notice and final date by which the account is to be settled or specific action taken. The notice shall be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice shall be considered rendered when delivered to the last-known address of the person responsible for payment for the service. The date for disconnection of service shall be not less than 12 days after the notice is rendered. The date for disconnection of service for customers on shorter billing intervals under subrule 19.3(7) shall not be less than 24 hours after the notice is posted at the service premises.

One written notice, including all reasons for the notice, shall be given where more than one cause exists for disconnection of service. In determining the final date by which the account is to be settled or other specific action taken, the days of notice for the causes shall be concurrent.

*b.* Service may be disconnected without notice:

- (1) In the event of a condition determined by the utility to be hazardous.
- (2) In the event of customer use of equipment in a manner which adversely affects the utility's equipment or the utility's service to others.
- (3) In the event of tampering with the equipment furnished and owned by the utility. For the purposes of this subrule, a broken or absent meter seal alone shall not constitute tampering.
- (4) In the event of unauthorized use.

*c.* Service may be disconnected or refused after proper notice:

- (1) For violation of or noncompliance with the utility's rules on file with the board.
- (2) For failure of the customer to furnish the service equipment, permits, certificates, or rights-of-way which are specified to be furnished, in the utility's rules filed with the board, as conditions of obtaining service, or for the withdrawal of that same equipment, or for the termination of those same permissions or rights, or for the failure of the customer to fulfill the contractual obligations imposed as conditions of obtaining service by any contract filed with and subject to the regulatory authority of the board.

(3) For failure of the customer to permit the utility reasonable access to the utility's equipment.

*d.* Service may be refused or disconnected after proper notice for nonpayment of a bill or deposit, except as restricted by subrules 19.4(16) and 19.4(17), provided that the utility has complied with the following provisions when applicable:

(1) Given the customer a reasonable opportunity to dispute the reason for the disconnection or refusal;

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities available. Customers billed more frequently

than monthly pursuant to subrule 19.3(7) shall be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities. All written notices shall include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each utility representative must provide the representative's name and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) The summary of the rights and responsibilities must be approved by the board. Any utility providing gas service and defined as a public utility in Iowa Code section 476.1 which does not use the standard form set forth below for customers billed monthly shall submit to the board an original and six copies of its proposed form for approval. A utility billing a combination customer for both gas and electric service may modify the standard form to replace each use of the word "gas" with the words "gas and electric" in all instances.

#### **CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF GAS SERVICE FOR NONPAYMENT**

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

- a. Pay the bill in full; or
- b. Enter into a reasonable payment plan with the utility (see #2 below); or
- c. Apply for and become eligible for low-income energy assistance (see #3 below); or
- d. Give the utility a written statement from a doctor or public health official stating that shutting off your gas service would pose an especial health danger for a person living at the residence (see #4 below); or
- e. 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 #5 below).

##### **2. How do I go about making a reasonable payment plan? (Residential customers only)**

- a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility may offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.
- b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.
- c. If you do not make the payments you promise, the utility may shut off your utility service on one day's notice unless all the money you owe the utility is paid or you enter into another payment agreement.

##### **3. How do I apply for low-income energy assistance? (Residential customers only)**

- a. Contact the local community action agency in your area (see attached list); or
- b. Contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-0859. To prevent disconnection, you must contact the utility prior to disconnection of your service.
- c. To avoid disconnection, you must apply for energy assistance before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.
- d. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.

##### **4. What if someone living at the residence has a serious health condition? (Residential customers only)**

Contact the utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your utility service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the utility office within 5 days of when your doctor or public health official notifies the utility of the health condition; otherwise, your utility service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if payment arrangements have not been made.

**5. 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 #9 below.)

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

- a. Your utility can shut off service between the hours of 6 a.m. and 2 p.m., Monday through Friday.
- b. The utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.
- c. The utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).
- d. The utility will not shut off your service if the temperature is forecasted to be 20 degrees Fahrenheit or colder during the following 24-hour period, including the day your service is scheduled to be shut off.
- e. If you have qualified for low-income energy assistance, the utility cannot shut off your service from November 1 through April 1. However, you will still owe the utility for the service used during this time.
- f. The utility will not shut off your service 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.
- g. If one of the heads of household is a service member deployed for military service, utility service cannot be shut off during the deployment or within 90 days after the end of deployment. In order for this exception to disconnection to apply, the utility must be informed of the deployment prior to disconnection. However, you will still owe the utility for service used during this time.

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

- a. You must be given a written notice at least 12 days before the utility service can be shut off for nonpayment. This notice will include the reason for shutting off your service.
- b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.
- c. The utility must also try to reach you by telephone or in person before it shuts off your service. From November 1 through April 1, if the utility cannot reach you by telephone or in person, the utility will put a written notice on the door of your residence to tell you that your utility service will be shut off.

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

- a. The utility will turn your service back on if you pay the whole amount you owe or agree to a reasonable payment plan (see #2 above).
- b. If you make your payment during regular business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after regular business hours, the utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility must do it by 11 a.m. the next day.
- c. 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.

**9. 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 1-877-565-4450. You may also write the Iowa Utilities Board at 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by E-mail at [customer@iub.iowa.gov](mailto: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.

(4) When disconnecting service to a residence, made a diligent attempt to contact, by telephone or in person, the customer responsible for payment for service to the residence to inform the customer of the pending disconnection and the customer's rights and responsibilities. During the period from November 1 through April 1, if the attempt at customer contact fails, the premises shall be posted at least one day

prior to disconnection with a notice informing the customer of the pending disconnection and rights and responsibilities available to avoid disconnection.

If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected.

If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

(5) Disputed bill. If the customer has received notice of disconnection and has a dispute concerning a bill for natural gas service, 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 disconnection of service. A utility shall delay disconnection for nonpayment of the disputed bill for up to 45 days after the rendering of the bill if the customer pays the undisputed amount. 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 in compliance with 199—Chapter 6.

(6) Reconnection. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day.

(7) Severe cold weather. A disconnection may not take place where gas is used as the only source of space heating or to control or operate the only space heating equipment at the residence on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will be 20 degrees Fahrenheit or colder. In any case where the utility has posted a disconnect notice in compliance with subparagraph 19.4(15)“d”(4) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises above 20 degrees Fahrenheit and is forecasted to be above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provision of paragraph 19.4(15)“d.”

(8) Health of a resident. Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises. An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation.

The utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

Verification shall postpone disconnection for 30 days. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period

that the unpaid balance is to be retired, the customer is subject to disconnection pursuant to paragraph 19.4(15) "f."

(9) Winter energy assistance (November 1 through April 1). If the utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date the utility is notified to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the community action agency as eligible for either the low-income home energy assistance program or weatherization assistance program.

(10) Deployment. If the utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

*e.* Abnormal gas consumption. A customer who is subject to disconnection for nonpayment of bill, and who has gas consumption which appears to the customer to be abnormally high, may request the utility to provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. The utility shall provide assistance by discussing patterns of gas usage which may be readily identifiable, suggesting that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance which may be available to the customer.

*f.* A utility may disconnect gas service without the written 12-day notice for failure of the customer to comply with the terms of a payment agreement, except as provided in numbered paragraph 19.4(10) "c"(1)"4," provided the utility complies with the provisions of paragraph 19.4(15) "d."

*g.* The utility shall, prior to November 1, mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and must contain the information set out by the state agency administering the assistance program. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing. A utility serving fewer than 6,000 customers may publish the notice in an advertisement in a local newspaper of general circulation or shopper's guide.

**19.4(16) *Insufficient reasons for denying service.*** The following shall not constitute sufficient cause for refusal of service to a customer:

- a.* Delinquency in payment for service by a previous occupant of the premises to be served.
- b.* Failure to pay for merchandise purchased from the utility.
- c.* Failure to pay for a different type or class of public utility service.
- d.* Failure to pay the bill of another customer as guarantor thereof.
- e.* Failure to pay the back bill rendered in accordance with paragraph 19.4(13) "b" (slow meters).
- f.* Failure to pay adjusted bills based on the undercharges set forth in paragraph 19.4(13) "e."
- g.* Failure of a residential customer to pay a deposit during the period November 1 through April 1 for the location at which the customer has been receiving service.
- h.* Delinquency in payment for service by an occupant, if the customer applying for service is creditworthy and able to satisfy any deposit requirements.

**19.4(17) *When disconnection prohibited.***

*a.* No disconnection may take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program.

*b.* If the utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

**19.4(18) *Change in character of service.*** The following shall apply to a material change in the character of gas service:

*a.* *Changes under the control of the utility.* The utility shall make such changes only with the approval of the board, and after adequate notice to the customers (see 19.7(6) "a").

*b. Changes not under control of the utility or customer.* The utility shall adjust appliances to attain the proper combustion of the gas supplied. Due consideration shall be given to the gas heating value and specific gravity (see 19.7(6)“b”).

*c. Appliance adjustment charge.* The utility shall make any necessary adjustments to the customer’s appliances without charge and shall conduct the adjustment program with a minimum of inconvenience to the customers.

**19.4(19) Customer complaints.** Each utility shall investigate promptly and thoroughly and keep a record of written complaints and all other reasonable complaints received by it from its customers in regard to safety, service, or rates, and the operation of its system as will enable it to review and analyze 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 thereof. All complaints caused by a major outage or interruption shall be summarized in a single report.

*a.* Each utility shall provide in its filed tariff a concise, fully informative procedure for the resolution of customer complaints.

*b.* The utility shall take reasonable steps to ensure that customers unable to travel shall not be denied the right to be heard.

*c.* The final step in a complaint hearing and review procedure shall be a filing for board resolution of the issues.

This rule is intended to implement Iowa Code sections 476.2, 476.6, 476.8, 476.20 and 476.54.  
[ARC 9101B, IAB 9/22/10, effective 10/27/10; Editorial change: IAC Supplement 12/29/10]

### **199—19.5(476) Engineering practice.**

**19.5(1) Requirement for good engineering practice.** The gas plant of the utility shall be constructed, installed, maintained and operated in accordance with accepted good engineering practice in the gas industry to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

**19.5(2) Standards incorporated by reference.**

*a.* The design, construction, operation, and maintenance of gas systems and liquefied natural gas facilities shall be in accordance with the following standards where applicable:

(1) 49 CFR Part 191, “Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports,” as amended through April 9, 2014.

(2) 49 CFR Part 192, “Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards,” as amended through April 9, 2014.

(3) 49 CFR Part 193, “Liquefied Natural Gas Facilities: Federal Safety Standards,” as amended through April 9, 2014.

(4) 49 CFR Part 199, “Drug and Alcohol Testing,” as amended through April 9, 2014.

(5) ASME B31.8 - 2007, “Gas Transmission and Distribution Piping Systems.”

(6) NFPA 59-2008, “Utility LP-Gas Plant Code.”

(7) At railroad crossings, 199—42.7(476), “Engineering standards for pipelines.”

*b.* The following publications are adopted as standards of accepted good practice for gas utilities:

(1) ANSI Z223.1/NFPA 54-2012, “National Fuel Gas Code.”

(2) NFPA 501A-2013, “Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities.”

**19.5(3) Adequacy of gas supply.** The natural gas regularly available from supply sources supplemented by production or storage capacity must be sufficiently large to meet all reasonable demands for firm gas service.

**19.5(4) Gas transmission and distribution facilities.** The utility’s gas transmission and distribution facilities shall be designed, constructed and maintained as required to reliably perform the gas delivery burden placed upon them. Each utility shall be capable of emergency repair work on a scale consistent with its scope of operation and with the physical conditions of its transmission and distribution facilities.

In appraising the reliability of the utility's transmission and distribution system, the board will consider, as principal factors, the condition of the physical property and the size, training, supervision, availability, equipment and mobility of the maintenance forces.

**19.5(5) *Inspection of gas plant.*** Each utility shall adopt a program of inspection of its gas plant 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. Each utility shall keep sufficient records to give evidence of compliance with its inspection program.

[ARC 7962B, IAB 7/15/09, effective 8/19/09; ARC 9501B, IAB 5/18/11, effective 6/22/11; ARC 1359C, IAB 3/5/14, effective 4/9/14]

### **199—19.6(476) Metering.**

**19.6(1) *Inspection and testing program.*** Each utility shall adopt a written program for the inspection and testing of its meters to determine the necessity for adjustment, replacement or repair. The frequency of inspection and methods of testing shall be based on the utility's experience, manufacturer's recommendations, and accepted good practice. The board considers the publications listed in 19.6(3) to be representative of accepted good practice. Each utility shall maintain inspection and testing records for each meter and associated device until three years after its retirement.

**19.6(2) *Program content.*** The written program shall, at minimum, address the following subject areas:

- a. Classification of meters by capacity, type, and any other factor considered pertinent.
- b. Checking of new meters for acceptable accuracy before being placed in service.
- c. Testing of in-service meters, including any associated instruments or corrective devices, for accuracy, adjustments or repairs. This may be accomplished by periodic tests at specified intervals or on the basis of a statistical sampling plan, but shall include meters removed from service for any reason.
- d. Periodic calibration or testing of devices or instruments used by the utility to test meters.
- e. Leak testing of meters before return to service.
- f. The limits of meter accuracy considered acceptable by the utility.
- g. The nature of meter and meter test records maintained by the utility.

**19.6(3) *Accepted good practice.*** The following publications are considered to be representative of accepted good practice in matters of metering and meter testing:

- a. American National Standard for Gas Displacement Meters (500 Cubic Feet Per Hour Capacity and Under), ANSI B109.1-2000.
- b. American National Standard for Diaphragm Type Gas Displacement Meters (Over 500 Cubic Feet Per Hour Capacity), ANSI B109.2-2000.
- c. American National Standard for Rotary Type Gas Displacement Meters, ANSI B109.3-2000.
- d. Measurement of Gas Flow by Turbine Meters, ANSI/ASME MFC-4M-1986 (Reaffirmed 2008).
- e. Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids, API MPMS Chapter 14.3, Parts 1-4.

**19.6(4) *Meter adjustment.*** All meters and associated metering devices shall, when tested, be adjusted as closely as practicable to the condition of zero error.

**19.6(5) *Request tests.*** Upon request by a customer, a utility shall test the meter servicing that customer. A test need not be made more frequently than once in 18 months.

A written report of the test results shall be mailed to the customer within ten days of the completed test and a record of each test shall be kept on file at the utility's office. The utility shall give the customer or a representative of the customer the opportunity to be present while the test is conducted.

If the test finds the meter is accurate within the limits accepted by the utility in its meter inspection and testing program, the utility may charge the customer \$25 or the cost of conducting the test, whichever is less. The customer shall be advised of any potential charge before the meter is removed for testing.

**19.6(6) *Referee tests.*** Upon written request by a customer or utility, the board will conduct a referee test of a meter. A test need not be made more frequently than once in 18 months. The customer request shall be accompanied by a \$30 deposit in the form of a check or money order made payable to the utility.

Within 5 days of receipt of the written request and payment, the board shall forward the deposit to the utility and notify the utility of the requirement for a test. The utility shall, within 30 days after notification of the request, schedule the date, time and place of the test with the board and customer. The meter shall not be removed or adjusted before the test. The utility shall furnish all testing equipment and facilities for the test. If the tested meter is found to be more than 2 percent fast or 2 percent slow, the deposit will be returned to the party requesting the test and billing adjustments shall be made as required in 19.4(13). The board shall issue its report within 15 days after the test is conducted, with a copy to the customer and the utility.

**19.6(7) Condition of meter.** No meter that is known to be mechanically defective, has an incorrect correction factor, or has not been tested and adjusted, if necessary, in accordance with 19.6(2) “b,” “c,” and “e,” shall be installed or continued in service. The capacity of the meter and the index mechanism shall be consistent with the gas requirements of the customer.

[ARC 7962B, IAB 7/15/09, effective 8/19/09]

### **199—19.7(476) Standards of quality of service.**

**19.7(1) Purity requirements.** All gas supplied to customers shall be substantially free of impurities which may cause corrosion of mains or piping or from corrosive or harmful fumes when burned in a properly designed and adjusted burner.

**19.7(2) Pressure limits.** The maximum allowable operating pressure for a low-pressure distribution system shall not be so high as to cause the unsafe operation of any connected and properly adjusted low-pressure gas-burning equipment.

**19.7(3) Adequacy for pressure.** Each utility shall have a substantially accurate knowledge of the pressures inside its piping. Periodic pressure measurements shall be taken during periods of high demand at remote locations in distribution systems to determine the adequacy of service. Records of such measurements including the date, time, and location of the measurement shall be maintained not less than two years.

**19.7(4) Standards for pressure measurements.**

*a. Secondary standards.* Each utility shall own or have access to a dead weight tester. This instrument must be maintained in an accurate condition.

*b. Working standards.* Each utility must have or have access to water manometers, laboratory quality indicating pressure gauges, and field-type dead weight pressure gauges as necessary for the proper testing of the indicating and recording pressure gauges used in determining the pressure on the utility’s system. Working standards must be checked periodically by comparison with a secondary standard.

**19.7(5) Handling of standards.** Extreme care must be exercised in the handling of standards to ensure that their accuracy is not disturbed. Each standard shall be accompanied at all times by a certificate or calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

**19.7(6) Heating value.**

*a. Awareness.* Each utility shall have a substantially accurate knowledge of the heating value of the gas being delivered to customers at all times.

*b. Natural and LP-gas.* The heating value of natural gas and undiluted, commercially pure LP-gas shall be considered as being not under the control of the utility. The utility shall determine the allowable range of monthly average heating values within which its customers’ appliances may be expected to function properly without repeated readjustment of the burners. If the monthly average heating value is above or below the limits of the allowable range for three successive months, the customers’ appliances must be readjusted in accordance with 19.4(18) “c.”

*c. Peak shaving or other mixed gas.* The heating value of gas in a distribution system which includes gas from LP or LNG peak shaving facilities, or gas from a source other than a pipeline supplier, shall be considered within the control of the utility. The average daily heating value of mixed gas shall be at least 95 percent of that normally delivered by the pipeline supplier. All mixed gas shall have a specific gravity of less than 1.000, and heating value shall not be so high as to cause improper operation of properly adjusted customer equipment.

*d. Heating value determination and records.* Unless acceptable heating value information is available for all periods from other sources, including the pipeline supplier, the utility shall provide and maintain equipment, or shall have a method of computation, by which the heating value of the gas in a distribution system can be accurately determined. The type, accuracy, operation and location of equipment, and the accuracy of computation methods, shall be in accordance with accepted industry practices and equipment manufacturer's recommendations and shall be subject to review by the board.

**19.7(7) Interruptions of service.**

*a.* Each utility shall make reasonable efforts to avoid interruptions of service, but when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety. Each utility shall maintain records for not less than two years of interruptions of service as required to be reported in 19.17(1) and shall periodically review these records to determine steps to be taken to prevent recurrence.

*b.* Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers. Interruptions shall be preceded by adequate notice to those who will be affected.

**199—19.8(476) Safety.**

**19.8(1) Acceptable standards.** As criteria of accepted good safety practice the board will use the applicable provisions of the standard listed in 19.5(2).

**19.8(2) Protective measures.** Each utility shall exercise reasonable care to reduce hazards inherent in connection with utility service to which its employees, its customers, and the general public may be subjected and shall adopt and execute a safety program designed to protect the public, fitted to the size and type of its operations. The utility shall give reasonable assistance to the board in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents. Each utility shall maintain a summary of all reportable accidents arising from its operations.

**19.8(3) Turning on gas.** Each utility upon the installation of a meter and turning on gas or the act of turning on gas alone shall take the necessary steps to assure itself that there exists no flow of gas through the meter which is a warning that the customer's piping or appliances are not safe for gas turn on (Ref. Sec. 8.2.3 and Annex D, ANSI Z223.1/NFPA 54-2009).

**19.8(4) Gas leaks.** A report of a gas leak shall be considered as an emergency requiring immediate attention.

**19.8(5) Odorization.** Any gas distributed to customers through gas mains or gas services or used for domestic purposes in compressor plants, which does not naturally possess a distinctive odor to the extent that its presence in the atmosphere is readily detectable at all gas concentrations of one-fifth of the lower explosive limit and above, shall have an odorant added to it to make it so detectable. Odorization is not necessary, however, for such gas as is delivered for further processing or use where the odorant would serve no useful purpose as a warning agent. Suitable tests must be made to determine whether the odor meets the standards of subrule 19.5(2). Prompt remedial action shall be taken if odorization levels do not meet the prescribed limits for detectability.

**19.8(6) Burial near electric lines.** Each pipeline shall be installed with at least 12 inches of clearance from buried electrical conductors. If this clearance cannot be maintained, protection from damage or introduction of current from an electrical fault shall be provided by other means.

[ARC 7962B, IAB 7/15/09, effective 8/19/09]

**199—19.9(476) Energy conservation strategies.** Rescinded IAB 11/12/03, effective 12/7/03.

**199—19.10(476) Purchased gas adjustment (PGA).**

**19.10(1) Purchased gas adjustment clause.** Purchased gas adjustments shall be computed separately for each customer classification or grouping previously approved by the board. Purchased gas adjustments shall use the same unit of measure as the utility's tariffed rates. Purchased gas adjustments shall be calculated using factors filed in annual or periodic filings according to the following formula:

$$PGA = \frac{(C \times Rc) + (D \times Rd) + (Z \times Rz) + Rb + E}{S}$$

PGA is the purchased gas adjustment per unit.

S is the anticipated yearly gas commodity sales volume for each customer classification or grouping.

C is the volume of applicable commodity purchased or transported for each customer classification or grouping required to meet sales, S, plus the expected lost and unaccounted for volumes.

Rc is the weighted average of applicable commodity prices or rates, including appropriate hedging tools costs, to be in effect September 1 corresponding to purchases C.

D is the total volume of applicable entitlement reservation purchases required to meet sales, S, for each customer classification or grouping.

Rd is the weighted average of applicable entitlement reservation charges to be in effect September 1 corresponding to purchases D.

Z is the total quantity of applicable storage service purchases required to meet sales, S, for each customer classification or grouping.

Rz is the weighted average of applicable storage service rates to be in effect September 1 corresponding to purchases Z.

Rb is the adjusted amount necessary to obtain the anticipated balance for the remaining PGA year calculated by taking the anticipated PGA balance divided by the forecasted volumes, including storage, for one or more months of the remaining PGA year.

E is the per unit overcollection or undercollection adjustment as calculated under subrule 19.10(7).

The components of the formula shall be determined as follows for each customer classification or grouping:

a. The actual sales volumes S for the prior 12-month period ending May 31, with the necessary degree-day adjustments, and further adjustments approved by the board.

Unless a utility receives prior board approval to use another methodology, a utility shall use the same weather normalization methodology used in prior approved PGA and rate case.

b. The annual expected lost and unaccounted for factors shall be calculated by determining the actual difference between sales and purchase volumes for the 12 months ending May 31 or from the current annual IG-1 filing, but in no case will this factor be less than 0.

c. The purchases C, D, and Z which will be necessary to meet requirements as determined in 19.10(1).

d. The purchased gas adjustments shall be adjusted prospectively to reflect the final decision issued by the board in a periodic review proceeding.

**19.10(2) Annual purchased gas adjustment filing.** Each rate-regulated utility shall file on or before August 1 of each year, for the board's approval, a purchased gas adjustment for the 12-month period beginning September 1 of that year.

The annual filing shall restate each factor of the formula stated in subrule 19.10(1).

The annual filing shall be based on customer classifications and groupings previously approved by the board unless new classifications or groupings are proposed.

The annual filing shall include all worksheets and detailed supporting data used to determine the purchased gas adjustment volumes and factors. The utility shall provide an explanation of the calculations of each factor. Information already on file with the board may be incorporated by reference in the filing.

**19.10(3) Periodic changes to purchased gas adjustment clause.** Periodic purchased gas adjustment filings shall be based on the purchased gas adjustment customer classifications and groupings previously approved by the board. Changes in the customer classification and grouping on file are not automatic and require prior approval by the board.

Periodic filings shall include all worksheets and detailed supporting data used to determine the amount of the adjustment.

Changes in factors S or C may not be made in periodic purchased gas filings. A change in factor D or Z may be made in periodic filings and will be deemed approved if it conforms to the annual purchased gas filing or if it conforms to the principles set out in 19.10(6).

The utility shall implement automatically all purchased gas adjustment changes which result from changes in Rc, Rd, or Rz with concurrent board notification with adequate information to calculate and

support the change. The purchased gas adjustment shall be calculated separately for each customer classification or grouping.

Unless otherwise ordered by the board, a rate-regulated utility's purchased gas adjustment rate factors shall be adjusted as purchased gas costs change and shall recover from the customers only the actual costs of purchased gas and other currently incurred charges associated with the delivery, inventory, or reservation of natural gas. Such periodic changes shall become effective with usage on or after the date of change.

**19.10(4) Factor Rb.** Each utility has the option of filing an Rb calculation with its October-January PGA filings but shall file an Rb calculation with its February filing and subsequent monthly filings in the PGA year. If the anticipated PGA balance represents costs in excess of revenues, factor Rb shall be assigned a positive value; if the anticipated balance represents revenues in excess of costs, factor Rb shall be assigned a negative value.

**19.10(5) Take-or-pay adjustment.** Rescinded IAB 11/12/03, effective 12/17/03.

**19.10(6) Allocations of changes in contract pipeline transportation capacity obligations.** Any change in contractual pipeline transportation capacity obligations to transportation or storage service providers serving Iowa must be reported to the board within 30 days of receipt. The change must be applied on a pro-rata basis to all customer classifications or groupings, unless another method has been approved by the board. Where a change has been granted as a result of the utility's request based on the needs of specified customers, that change may be allocated to the specified customers. Where the board has approved anticipated sales levels for one or more customer classifications or groupings, those levels may limit the pro-rata reduction for those classifications or groupings.

**19.10(7) Reconciliation of underbillings and overbillings.** The utility shall file with the board on or before October 1 of each year a purchased gas adjustment reconciliation for the 12-month period which began on September 1 of the previous year. This reconciliation shall be the actual net invoiced costs of purchased gas and appropriate financial hedging tools costs less the actual revenue billed through its purchased gas adjustment clause net of the prior year's reconciliation dollars for each customer classification or grouping. Actual net costs for purchased gas shall be the applicable invoice costs from all appropriate sources associated with the time period of usage.

Negative differences in the reconciliation shall be considered overbilling by the utility and positive differences shall be considered underbilling. This reconciliation shall be filed with all worksheets and detailed supporting data for each particular purchased gas adjustment clause. Penalty purchases shall only be includable where the utility clearly demonstrates a net savings.

*a.* The annual reconciliation filing shall include the following information concerning the hedging tools used by the utility:

- (1) The type and volume of physical gas being hedged.
- (2) The reason the hedge was undertaken (e.g., to hedge storage gas, a floating price contract).
- (3) A detailed explanation of the hedging strategy (e.g., costless collar, straddled costless collar, purchasing or selling options).
- (4) The date the futures contract or option was purchased or the date the swap was entered into.
- (5) The spot price of gas at the time the hedge was made, including an explanation of how the spot price was determined including the index or indices used.
- (6) The amount of all commissions paid and to whom those payments were made.
- (7) All administrative costs associated with the hedge.
- (8) The name(s) of all marketers used and the amount of money paid to each marketer.
- (9) The amount of savings or costs resulting from the hedge.
- (10) The amount of money tied up in margin accounts for futures trading and the cost of that money.
- (11) The premium paid for each option.
- (12) The strike price of each option.
- (13) The contracting costs for each swap transaction.
- (14) The name of the fixed-price payer in a swap transaction.
- (15) A statement as to how the hedge is consistent with the LDC's natural gas procurement plan.

(16) An explanation as to why the LDC believes the hedge was in the best interest of general system customers.

(17) All invoices, work papers, and internal reports associated with the hedge.

b. Any underbilling determined from the reconciliation shall be collected through ten-month adjustments to the appropriate purchased gas adjustment. The underbilling generated from each purchased gas adjustment clause shall be divided by the anticipated sales volumes for the prospective ten-month period beginning November 1 (based upon the sales determination in subrule 19.10(1)).

The quotient, determined on the same basis as the utility's tariff rates, shall be added to the purchased gas adjustment for the prospective ten-month period beginning November 1.

c. Any overbilling determined from the reconciliation shall be refunded to the customer classification or grouping from which it was generated. The overbilling shall be divided by the annual cost of purchased gas subject to recovery for the 12-month period which began the prior September 1 for each purchased gas adjustment clause and applied as follows:

(1) If the net overbilling from the purchased gas adjustment reconciliation exceeds 3 percent of the annual cost of purchased gas subject to recovery for a specific customer classification or grouping, the utility shall refund the overbilling by bill credit or check starting on the first day of billing in the November billing cycle of the current year. The minimum amount to be refunded by check shall be \$10. Interest shall be calculated on amounts exceeding 3 percent from the PGA year midpoint to the date of refunding. The interest rate shall be the dealer commercial paper rate (90-day, high-grade unsecured notes) quoted in the "Money Rates" section of the Wall Street Journal on the last working day of August of the current year.

(2) If the net overbilling from the purchased gas adjustment reconciliation does not exceed 3 percent of the annual cost of purchased gas subject to recovery for a specific customer classification or grouping, the utility may refund the overbilling by bill credit or check starting on the first day of billing in the November billing cycle of the current year, or the utility may refund the overbilling through ten-month adjustments to the particular purchased gas adjustment from which they were generated. The minimum amount to be refunded by check shall be \$10. This adjustment shall be determined by dividing the overcollection by the anticipated sales volume for the prospective ten-month period beginning November 1 as determined in subrule 19.10(1) for the applicable purchased gas adjustment clause. The quotient, determined on the same basis as the utility's tariff rates, shall be a reduction to that particular purchased gas adjustment for the prospective ten-month period beginning November 1.

d. When a customer has reduced or terminated system supply service and is receiving transportation service, any liability for overcollections and undercollections shall be determined in accordance with the utility's gas transportation tariff.

**19.10(8) Refunds related to gas costs charged through the PGA.** The utility shall file a refund plan with the board within 30 days of the receipt of any refund related to gas costs charged through the PGA.

a. The utility shall refund to customers by bill credit or check an amount equal to any refund, plus accrued interest, if the refund exceeds \$10 per average residential customer under the applicable customer classification or grouping. The utility may refund lesser amounts through the applicable customer classification or grouping or retain undistributed refund amounts in special refund retention accounts for each customer classification or grouping under the applicable PGA clause until such time as additional refund obligations or interest cause the average residential customer refund to exceed \$10. Any obligations remaining in the retention accounts on September 1 shall become a part of the annual PGA reconciliation.

b. The utility shall file with the refund plan the following information:

- (1) A statement of reason for the refund.
- (2) The amount of the refund with support for the amount.
- (3) The balance of the appropriate refund retention accounts.
- (4) The amount due under each customer classification or grouping.
- (5) The intended period of the refund distribution.
- (6) The estimated interest accrued for each refund through the proposed refund period, with complete interest calculations and supporting data as determined in paragraph 19.10(8) "d."

(7) The total amount to be refunded, the amount to be refunded per customer classification or grouping, and the refund per ccf or therm.

(8) The estimated interest accrued for each refund received and for each amount in the refund retention accounts through the date of the filing with the complete interest calculation and support as determined in paragraph 19.10(8)“d.”

(9) The total amount to be retained, the amount to be retained per customer classification or grouping, and the level per ccf or therm.

(10) The calculations demonstrating that the retained balance is less than \$10 per average residential customer with supporting schedules for all factors used.

c. The refund to each customer shall be determined by dividing the amount in the appropriate refund retention account, including interest, by the total ccf or therm of system gas consumed by affected customers during the period for which the refundable amounts are applicable and multiplying the quotient by the ccf or therms of system supply gas actually consumed by the customer during the appropriate period. The utility may use the last available 12-month period if the use of the actual period generating the refund is impractical. The utility shall file complete support documentation for all figures used.

d. The interest rate on refunds distributed under this subrule, compounded annually, shall be the dealer commercial paper rate (90-day, high-grade unsecured notes) quoted in the “Money Rates” section of the Wall Street Journal on the day the refund obligation vests. Interest shall accrue from the date the rate-regulated utility receives the refund or billing from the supplier or the midpoint of the first month of overcollection to the date the refund is distributed to customers.

e. The rate-regulated utility shall make a reasonable effort to forward refunds, by check, to eligible recipients who are no longer customers.

f. The minimum amount to be refunded by check shall be \$5.

This rule is intended to implement Iowa Code section 476.6(11).

### **199—19.11(476) Periodic review of gas procurement practices [476.6(15)].**

**19.11(1) Procurement plan.** The board shall periodically conduct a contested case proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility’s natural gas procurement and contracting practices. The board shall provide the utilities 90 days’ notice of the requirement to file a procurement plan. In the years in which the board does not conduct a contested case proceeding, the board may require the utilities to file certain information for the board’s review. In years in which the board conducts a full proceeding, a rate-regulated utility shall file prepared direct testimony and exhibits in support of a detailed 12-month plan and a 3-year natural gas procurement plan. A utility’s procurement plan shall be organized as follows and shall include:

a. An index of all documents and information filed in the plan and identification of the board files in which documents incorporated by reference are located.

b. All contracts and gas supply arrangements executed or in effect for obtaining gas and all supply arrangements planned for the future 12-month and 3-year periods.

c. An organizational description of the officer or division responsible for gas procurement and a summary of operating procedures and policies for procuring and evaluating gas contracts.

d. A summary of the legal and regulatory actions taken to minimize purchased gas costs.

e. All studies or investigation reports considered in gas purchase contract or arrangement decisions during the plan periods.

f. A complete list of all contracts executed since the last procurement review.

g. A list of other unbundled services available (for example, storage services if offered).

h. A description of the supply options selected and an evaluation of the reasonableness and prudence of its decisions. This evaluation should show the relationship between forecast and procurement.

**19.11(2) Gas requirement forecast.** Rescinded IAB 4/3/91, effective 3/15/91.

**19.11(3) Annual review proceeding.** Rescinded IAB 2/9/00, effective 3/15/00.

**19.11(4) *Evaluation of the plan.*** The burden shall be on the utility to prove it is taking all reasonable actions to minimize its purchased gas costs. The board will evaluate the reasonableness and prudence of the gas procurement plan.

**19.11(5) *Disallowance of costs.*** The board shall disallow any purchased gas costs in excess of costs incurred under responsible and prudent policies and practices. The PGA factor shall be adjusted prospectively to reflect the disallowance.

**19.11(6) *Executive summary.*** On or before August 1, 2003, each natural gas utility shall file an executive summary and index of all standard and special contracts in effect for the purchase, sale or interchange of gas. On or before August 1 each year thereafter, each natural gas utility shall file an update of the executive summary and index showing the standard and special contracts in effect on that date for the purchase, sale or interchange of gas. The executive summary shall include the following information:

- a. The contract number;
- b. The start and end date;
- c. The parties to the contract;
- d. The total estimated dollar value of the contract;
- e. A description of the type of service offered (including volumes and price).

This rule is intended to implement Iowa Code section 476.6(15).

### **199—19.12(476) Flexible rates.**

**19.12(1) *Purpose.*** This subrule is intended to allow gas utility companies to offer, at their option, incentive or discount rates to their sales and transportation customers.

#### **19.12(2) *General criteria.***

a. Natural gas utility companies may offer discounts to individual customers, to selected groups of customers, or to an entire class of customer. However, discounted rates must be offered to all directly competing customers in the same service territory. Customers are direct competitors if they make the same end product (or offer the same service) for the same general group of customers. Customers that only produce component parts of the same end product are not directly competing customers.

b. In deciding whether to offer a specific discount, the utility shall evaluate the individual customer's, group's, or class's situation and perform a cost-benefit analysis before offering the discount.

c. Any discount offered should be such as to significantly affect the customer's or customers' decision to stay on the system or to increase consumption.

d. The consequences of offering the discount should be beneficial to all customers and to the utility. Other customers should not be at risk of loss as a result of these discounts; in addition, the offering of discounts shall in no way lead to subsidization of the discounted rates by other customers in the same or different classes.

**19.12(3) *Tariff requirements.*** If a company elects to offer flexible rates, the utility shall file for review and approval tariff sheets specifying the general conditions for offering discounted rates. The tariff sheets shall include, at a minimum, the following criteria:

a. The cost-benefit analysis must demonstrate that offering the discount will be more beneficial than not offering the discount.

b. The ceiling for all discounted rates shall be the approved rate on file for the customer's rate class.

c. The floor for the discount sales rates shall be equal to the cost of gas. Therefore, the maximum discount allowed under the sales or transportation tariffs is equal to the nongas costs of serving the customer.

d. No discount shall be offered for a period longer than five years, unless the board determines upon good cause shown that a longer period is warranted.

e. Discounts should not be offered if they will encourage deterioration in the load characteristics of the customer receiving the discount.

f. Customer charges may be discounted.

**19.12(4) Reporting requirements.** Each natural gas utility electing to offer flexible rates shall file annual reports with the board within 30 days of the end of each 12 months. Reports shall include the following information:

*a.* Section 1 of the report concerns discounts initiated in the last 12 months. For all discounts initiated in the last 12 months, the report shall include:

- (1) The identity of the new customers (by account number, if necessary);
- (2) The value of the discount offered;
- (3) The cost-benefit analysis results;
- (4) The cost of alternate fuels available to the customer, if relevant;
- (5) The volume of gas sold to or transported for the customer in the preceding 12 months; and
- (6) A copy of all new or revised flexible rate contracts executed between the utility and its customers.

*b.* Section 2 of the report relates to overall program evaluation. For all discounts currently being offered, the report shall include:

- (1) The identity of each customer (by account number, if necessary);
- (2) The total volume of gas sold or transported in the last 12 months to each customer at discounted rates, by month;
- (3) The volume of gas sold or transported to each customer in the same 12 months of the preceding year, by month;
- (4) The dollar value of the discount in the last 12 months to each customer, by month;
- (5) The dollar value of volumes sold or transported to each customer for each of the previous 12 months; and
- (6) If customer charges are discounted, the dollar value of the discount shall be separately reported.

*c.* Section 3 of the report concerns discounts denied or discounts terminated. For all customers specifically evaluated and denied or having a discount terminated in the last 12 months, the report shall include:

- (1) Customer identification (by account number, if necessary);
- (2) The volume of gas sold or transported in the last 12 months to each customer, by month;
- (3) The volume of gas sold or transported to each customer in the same 12 months of the preceding year, by month; and
- (4) The dollar value of volumes sold or transported to each customer for each of the past 12 months.

*d.* No report is required if the utility had no customers receiving a discount during the relevant period and had no customers which were evaluated for the discount and rejected during the relevant period.

**19.12(5) Rate case treatment.** In a rate case, 50 percent of any identifiable increase in net revenues will be used to reduce rates for all customers; the remaining 50 percent of the identifiable increase in net revenues may be kept by the utility. If there is a decrease in revenues due to the discount, the utility's test year revenues will be adjusted to remove the effects of the discount by assuming that all sales or transportation services or customer charges were provided at full tariffed rate for the customer class. Determining the actual amount will be a factual determination to be made in the rate case.

### **199—19.13(476) Transportation service.**

**19.13(1) Purpose.** This subrule requires gas distribution utility companies to transport natural gas owned by an end-user on a nondiscriminatory basis, subject to the capacity limitations of the specific system. System capacity is defined as the maximum flow of gas the relevant portion of the system is capable of handling. Capacity availability shall be determined using the total current firm gas flow, including both system and transportation gas.

**19.13(2) End-user rights.** The end-user purchasing transportation services from the utility shall have the following rights and be subject to the following conditions:

*a.* The end-user shall have the right to receive, pursuant to agreement, 100 percent of the gas delivered by it or on its behalf to the transporting utility (adjusted for a reasonable volume of lost, unaccounted-for, and company-used gas).

b. The volumes which the end-user is entitled to receive shall be subject to curtailment or interruption due to limitations in the system capacity of the transporting utility. Curtailment of the transportation volumes will take place according to the priority class, subdivision, or category which the end-user would have been assigned if it were purchasing gas from the transporting utility.

c. During periods of curtailment or interruption, the party is entitled to a credit equal to the difference between the volumes delivered to the utility and those received by the end-user, adjusted for lost, unaccounted-for, and company-used gas. The credit shall be available at any time, within the conditions of the agreement.

d. The end-user shall be responsible for all costs associated with any additional plant required for providing transportation services to the end-user.

**19.13(3) *Transportation service charges.*** Transportation service shall be offered to at least the following classes:

- a. Interruptible service with system supply reserve.
- b. Interruptible service without system supply reserve.
- c. Firm service with system supply reserve.
- d. Firm service without system supply reserve.

**19.13(4) *Transportation service charges and rates.*** All rates and charges for transportation shall be based on the cost of providing the service.

a. "System supply reserve" service shall entitle the end-user to return to the system service to the extent of the capacity purchased. The charge shall be at least equal to the administrative costs of monitoring the service, plus any other costs (including but not limited to gas demand costs which are directly assignable to the end-user).

b. End-users without system supply reserve service may only return to system service by paying an additional charge and are subject to the availability of adequate system capacity. An end-user wishing to receive transportation service without system supply reserve must pay the utility for the discounted value of any contract between the utility and the end-user remaining in effect at the time of beginning transportation service. The discounted values shall include all directly assignable and identifiable costs (including but not limited to gas costs).

c. The utility may require a reconnection charge when an end-user receiving transportation service without system supply reserve service requests to return to the system supply. The end-user shall return to the system and receive service under the appropriate classification as determined by the utility.

d. The end-user electing to receive transportation service shall pay reasonable rates for any use of the facilities, equipment, or services of the transporting utility.

e. Small volume transportation service. Rescinded IAB 4/28/04, effective 6/2/04.

f. Optional plan filing. Rescinded IAB 4/28/04, effective 6/2/04.

**19.13(5) *Reporting requirements.*** A natural gas utility shall file with the board two copies of each transportation contract entered into within 30 days of the date of execution. The utility may delete any information identifying the end-user and replace it with an identification number. The utility shall promptly supply the deleted information if requested by the board staff. The deleted information may be filed with a request for confidentiality, pursuant to 199 Iowa Administrative Code rule 1.9(22).

**19.13(6) *Written notice of risks.*** The utility must notify its large volume users as defined in 19.14(1) contracting for transportation service in writing that unless the customer buys system supply reserve service from the utility, the utility is not obligated to supply gas to the customer. The notice must also advise the large volume user of the nature of any identifiable penalties, any administrative or reconnection costs associated with purchasing available firm or interruptible gas, and how any available gas would be priced by the utility. The notice may be provided through a contract provision or separate written instrument. The large volume user must acknowledge in writing that it has been made aware of the risks and accepts the risks.

**199—19.14(476) Certification of competitive natural gas providers and aggregators.**

**19.14(1) *Definitions.*** The following words and terms, when used in these rules, shall have the meanings indicated below:

“*Competitive natural gas provider*” or “*CNGP*” means a person who takes title to natural gas and sells it for consumption by a retail end user in the state of Iowa, and it also means an aggregator as defined in Iowa Code section 476.86. CNGP includes an affiliate of an Iowa public utility. CNGP excludes the following:

1. A public utility which is subject to rate regulation under Iowa Code chapter 476.

2. A municipally owned utility which provides natural gas service within its incorporated area or within the municipal natural gas competitive service area, as defined in Iowa Code section 437A.3(21) “a”(1), in which the municipally owned utility is located.

“*Competitive natural gas services*” means natural gas sold at retail in this state excluding the sale of natural gas by a rate-regulated public utility or a municipally owned utility as provided in the definition of CNGP in 19.14(1).

“*Large volume user*” means any end user whose usage exceeds 25,000 therms in any month or 100,000 therms in any consecutive 12-month period.

“*Small volume user*” means any end user whose usage does not exceed 25,000 therms in any month and does not exceed 100,000 therms in any consecutive 12-month period.

“*Vehicle fuel provider*” or “*VFP*” means a competitive natural gas provider or aggregator as defined in Iowa Code section 476.86 that owns or operates facilities to sell natural gas as vehicle fuel to a retail end user.

**19.14(2) General requirement to obtain certificate.** A CNGP shall not provide competitive natural gas services to an Iowa retail end user without a certificate approved by the board pursuant to Iowa Code section 476.87. An exception to this requirement is a CNGP that has provided service to retail customers before April 25, 2001. A CNGP subject to this exception shall file for a certificate under the provisions of this rule on or before June 1, 2001, to continue providing service pending the approval of the certificate.

**19.14(3) Filing requirements and application process.** Applications for a certificate to provide service as a competitive natural gas provider shall be filed electronically through the board’s electronic filing system. Instructions for making an electronic filing can be found on the board’s electronic filing system Web site at <http://efs.iowa.gov>. Application forms can be found on the board’s Web site at <http://iub.iowa.gov> or may be requested from the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319.

a. An application fee of \$125 must be included with the application to cover the administrative costs of accepting and processing a filing. In addition, each applicant may be billed an hourly rate for actual time spent by the board reviewing the application. Iowa Code section 476.87(3) requires the board to allocate the costs and expenses reasonably attributable to certification and dispute resolution to applicants and participants to the proceeding.

b. Applications to provide service as a competitive natural gas provider pursuant to Iowa Code sections 476.86 and 476.87 shall contain information to reasonably demonstrate that the applicant possesses the managerial, technical, and financial capability sufficient to obtain and deliver the services the competitive natural gas provider or aggregator proposes to offer. Application forms to provide competitive natural gas service to large volume, small volume, and vehicle fuel providers can be accessed on the board’s Web site, <http://iub.iowa.gov>. All applications shall include, at a minimum, the following information:

(1) The legal name and all trade names under which the applicant will operate, a description of the business structure of the applicant, evidence of authority to do business in Iowa, and the applicant’s state of incorporation.

(2) Names, addresses, and telephone numbers of corporate officers responsible for the applicant’s operations in Iowa, and a telephone number where the applicant can be contacted 24 hours a day.

(3) Identification of the states and jurisdictions in which the applicant or an affiliate is providing natural gas service.

(4) A commitment to comply with all the applicable conditions of certification contained in subrules 19.14(5) and 19.14(6) and acknowledgment that failure to comply with all the applicable conditions of certification may result in the revocation of the competitive natural gas provider’s certificate.

*c.* A request for confidential treatment of the information required to obtain a competitive natural gas provider certificate may be filed with the board pursuant to 199—subrule 1.9(6).

*d.* An applicant shall notify the board during the pendency of the certification request of any material change in the representations and commitments made in the application within 14 days of such change. Any new legal actions or formal complaints are considered material changes in the request. Once certified, CNGPs shall notify the board of any material change in the representations and commitments required for certification within 14 days of such change.

**19.14(4) *Deficiencies and board determination.*** The board shall act on a certification application within 90 days unless it determines an additional 60 days is necessary. Applications will be considered complete and the 90-day period will commence when all required items are submitted. Applicants will be notified of deficiencies and given 30 days to complete applications. Applicants will be notified when their application is complete and the 90-day period commences.

**19.14(5) *Conditions of certification.*** CNGPs shall comply with the conditions set out in this subrule. Failure to comply with the conditions of certification may result in revocation of the certificate.

*a.* **Unauthorized charges.** A CNGP shall not charge or attempt to collect any charges from end users for any competitive natural gas services or equipment used in providing competitive natural gas services not contracted for or otherwise agreed to by the end user.

*b.* **Notification of emergencies.** Upon receipt of information from an end user of the existence of an emergency situation with respect to delivery service, a CNGP shall immediately contact the appropriate public utility whose facilities may be involved. The CNGP shall also provide the end user with the emergency telephone number of the public utility.

*c.* **Reports to the board.** Each CNGP shall file a report with the board on April 1 of each year for the 12-month period ending December 31 of the previous year. The report shall be filed on forms provided by the board, which can be accessed on the board's Web site, <http://iub.iowa.gov>. This information may be filed with a request for confidentiality, pursuant to 199—subrule 1.9(6). For each utility distribution system, the report shall include, at a minimum, total monthly and annual sales volumes, total monthly revenues, and total number of customers served each month as of December 31 of the applicable year.

*d.* Rescinded IAB 4/28/04, effective 6/2/04.

**19.14(6) *Additional conditions applicable to CNGPs providing service to small volume end users.*** All CNGPs when providing service to small volume natural gas end users shall be subject to the following conditions in addition to those listed under subrule 19.14(5):

*a.* **Customer deposits.** Compliance with the following provisions shall apply to customers whose usage does not exceed 2500 therms in any month or 10,000 therms in any consecutive 12-month period.

Customer deposits – subrule 19.4(2)

Interest on customer deposits – subrule 19.4(3)

Customer deposit records – subrule 19.4(4)

Customer's receipt for a deposit – subrule 19.4(5)

Deposit refund – subrule 19.4(6)

Unclaimed deposits – subrule 19.4(7)

*b.* **Bills to end users.** A CNGP shall include on bills to end users all the information listed in this paragraph. The bill may be sent to the customer electronically at the customer's option.

(1) The period of time for which the billing is applicable.

(2) The amount owed for current service, including an itemization of all charges.

(3) Any past-due amount owed.

(4) The last date for timely payment.

(5) The amount of penalty for any late payment.

(6) The location for or method of remitting payment.

(7) A toll-free telephone number for the end user to call for information and to make complaints regarding the CNGP.

(8) A toll-free telephone number for the end user to contact the CNGP in the event of an emergency.

(9) A toll-free telephone number for the end user to notify the public utility of an emergency regarding delivery service.

(10) The tariffed transportation charges and supplier refunds, where a combined bill is provided to the customer.

*c. Disclosure.* Each prospective end user must receive in writing, prior to initiation of service, all terms and conditions of service and all rights and responsibilities of the end user associated with the offered service. The information required by this paragraph may be provided electronically, at the customer's option.

*d. Notice of service termination.* Notice must be provided to the end user and the public utility at least 12 calendar days prior to service termination. If the notice of service termination is rescinded, the CNGP must notify the public utility. CNGPs are prohibited from physically disconnecting the end user or threatening physical disconnection for any reason.

*e. Transfer of accounts.* CNGPs are prohibited from transferring the account of any end user to another supplier except with the consent of the end user. This provision does not preclude a CNGP from transferring all or a portion of its accounts pursuant to a sale or transfer of all or a substantial portion of a CNGP's business in Iowa, provided that the transfer satisfies all of the following conditions:

- (1) The transferee will serve the affected end users through a certified CNGP;
- (2) The transferee will honor the transferor's contracts with the affected end users;
- (3) The transferor provides written notice of the transfer to each affected end user prior to the transfer;
- (4) Any affected end user is given 30 days to change supplier without penalty; and
- (5) The transferor provides notice to the public utility of the effective date of the transfer.

*f. Bond requirement.* The board may require the applicant to file a bond or other demonstration of its financial capability to satisfy claims and expenses that can reasonably be anticipated to occur as part of operations under its certificate, including the failure to honor contractual commitments. The adequacy of the bond or demonstration shall be determined by the board and reviewed by the board from time to time. In determining the adequacy of the bond or demonstration, the board shall consider the extent of the services to be offered, the size of the provider, and the size of the load to be served, with the objective of ensuring that the board's financial requirements do not create unreasonable barriers to market entry.

*g. Replacement cost for supply failure.* Each individual rate-regulated public utility shall file for the board's review tariffs establishing replacement cost for supply failure. Replacement cost revenue will be credited to the rate-regulated public utility's system purchased gas adjustment.

[Editorial change: IAC Supplement 12/29/10; ARC 1623C, IAB 9/17/14, effective 10/22/14]

### **199—19.15(476) Customer contribution fund.**

**19.15(1) Applicability and purpose.** This rule applies to each gas public utility, as defined in Iowa Code sections 476.1 and 476.1B. Each utility shall maintain a program plan to assist the utility's low-income customers with weatherization and to supplement assistance received under the federal low-income home energy assistance program for the payment of winter heating bills.

**19.15(2) Program plan.** Each utility shall have on file with the board a detailed description of its program plan. At a minimum, the plan shall include the following information:

- a.* A list of the members of the governing board, council, or committee established to determine the appropriate distribution of the funds collected. The list shall include the organization each member represents;
- b.* A sample of the customer notification with a description of the method and frequency of its distribution;
- c.* A sample of the authorization form provided to customers; and
- d.* The date of implementation.

Program plans for new customer contribution funds shall be rejected if not in compliance with this rule.

**19.15(3) Notification.** Each utility shall notify all customers of the fund at least twice a year. The method of notice which will ensure the most comprehensive notification to the utility's customers shall be employed. Upon commencement of service and at least once a year, the notice shall be mailed or personally delivered to all customers. The other required notice may be published in a local newspaper(s)

of general circulation within the utility's service territory. A utility serving fewer than 6,000 customers may publish their semiannual notices locally in a free newspaper, utility newsletter or shopper's guide instead of a newspaper. At a minimum the notice shall include:

- a. A description of the availability and the purpose of the fund;
- b. A customer authorization form. This form shall include a monthly billing option and any other methods of contribution.

**19.15(4) *Methods of contribution.*** The utility shall provide for contributions as monthly pledges, as well as one-time or periodic contributions. Each utility may allow persons or organizations to contribute matching funds.

**19.15(5) *Annual report.*** On or before September 30 of each year, each utility shall file with the board a report of all the customer contribution fund activity for the previous fiscal year beginning July 1 and ending June 30. The report shall be in a form provided by the board and shall contain an accounting of the total revenues collected and all distributions of the fund. The utility shall report all utility expenses directly related to the customer contribution fund.

**19.15(6) *Binding effect.*** A pledge by a customer or other party shall not be construed to be a binding contract between the utility and the pledgor. The pledge amount shall not be subject to delayed payment charges by the utility.

#### **199—19.16(476) Reserve margin.**

**19.16(1) *Applicability.*** All rate-regulated gas utility companies may maintain a reserve of contract services in excess of their maximum daily system demand requirement and recover the cost of the reserve from their customers through the purchased gas adjustment.

##### **19.16(2) *Definitions.***

a. *Contract services.* The amount of firm gas delivery capacity or delivery services contracted for use by a utility to satisfy its maximum daily system demand requirement, including the planned delivery capacity of the utility-owned liquefied natural gas facilities, but excluding the delivery capacity of propane storage facilities, shall be considered as contract services.

b. *Maximum daily system demand requirements.* The maximum daily gas demand requirement that the utility forecasts to occur on behalf of its system firm sales customers under peak (design day) weather conditions.

c. *Design day.* The maximum heating season forecast level of all firm sales customers' gas requirements during a 24-hour period beginning at 9 a.m. The design day forecast shall be the combined estimated gas requirements of all firm sales customers calculated by totaling the gas requirements of each customer classification or grouping. The estimated gas requirements for each customer classification or grouping shall be determined based upon an evaluation of historic usage levels of customers in each customer classification or grouping, adjusted for reasonably anticipated colder-than-normal weather conditions and any other clearly identifiable factors that may contribute to the demand for gas by firm customers. The design day calculation shall be submitted for approval by the board with the annual PGA filing required by subrule 19.10(2).

**19.16(3) *Maximum daily system demand requirements of less than 25,000 Dth per day.*** A reserve margin of 9 percent or less in excess of the maximum daily system demand requirements will be presumed reasonable.

**19.16(4) *Maximum daily system demand requirements of more than 25,000 Dth per day.*** A reserve margin of 5 percent or less in excess of the maximum daily system demand requirements will be presumed reasonable.

**19.16(5) *Rebuttable presumption.*** All contract services in excess of an amount needed to meet the maximum daily system demand requirements plus the reserve are presumed to be unjust and unreasonable unless a factual showing to the contrary is made during the periodic review of gas proceeding or in a proceeding specifically addressing the issue with an opportunity for an evidentiary hearing. All contract services less than an amount of the maximum daily system demand requirements plus the reserve are presumed to be just and reasonable unless a factual showing to the contrary can be

made during the periodic review of gas proceeding or in a proceeding specifically addressing the issue with an opportunity for an evidentiary hearing.

**19.16(6) Allocation of cost of the reserve.** Fifty percent of the reserve cost shall be collected as a demand charge allocation to noncontractual firm customers. The remaining 50 percent shall be collected as a throughput charge on customers excluding transportation customers who have elected no system supply reserve.

**199—19.17(476) Incident notification and reports.**

**19.17(1) Notification.** A utility shall notify the board immediately, or as soon as practical, of any incident involving the release of gas, failure of equipment, or interruption of facility operations, which results in any of the following:

- a. A death or personal injury necessitating in-patient hospitalization.
- b. Estimated property damage of \$15,000 or more to the property of the utility and to others, including the cost of gas lost.
- c. Emergency shutdown of a liquefied natural gas (LNG) facility.
- d. An interruption of service to 50 or more customers.
- e. Any other incident considered significant by the utility.

**19.17(2) Information required.** The utility shall notify the board by e-mail, as soon as practical, of any reportable incident at [dutyofficer@iub.iowa.gov](mailto:dutyofficer@iub.iowa.gov) or, when e-mail is not available, by calling the board duty officer at (515)745-2332. The person sending the e-mail or the caller shall leave a call-back number for 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. An initial estimate of damages.
- f. The number of services interrupted.
- g. A summary of the significant information available to the utility regarding the probable cause of the incident and extent of damages.
- h. Any oral or written report required by the U.S. Department of Transportation, and the name of the person who made the oral report or prepared the written report.

**19.17(3) Written incident reports.** Within 30 days of the date of the incident, the utility shall file a written report with the board. The report shall include the information required for telephone notice in subrule 19.17(2), the probable cause as determined by the utility, the number and cause of any deaths or personal injuries requiring in-patient hospitalization, and a detailed description of property damage and the amount of monetary damages. If significant additional information becomes available at a later date, a supplemental report shall be filed. Copies of any written reports concerning an incident or safety-related condition filed with or submitted to the U.S. Department of Transportation or the National Transportation Safety Board shall also be provided to the board.

[Editorial change: IAC Supplement 12/29/10; **ARC 1359C**, IAB 3/5/14, effective 4/9/14; **ARC 1623C**, IAB 9/17/14, effective 10/22/14]

**199—19.18(476) Capital infrastructure investment automatic adjustment mechanism.**

**19.18(1) Eligible capital infrastructure investment.** A rate-regulated natural gas utility may file for board approval a capital infrastructure investment automatic adjustment mechanism to allow recovery of certain costs from customers. To be eligible for recovery through the capital infrastructure investment automatic adjustment mechanism, the costs shall either:

- a. Meet the following criteria:
  - (1) The costs are beyond the direct control of management;
  - (2) The costs are subject to sudden, important change in level;
  - (3) The costs are an important factor in determining the total cost of capital infrastructure investment to serve customers; and

- (4) The costs are readily, precisely, and continuously segregated in the accounts of the utility; or
- b. Be costs for a capital infrastructure investment which:
  - (1) Does not serve to increase revenues by directly connecting the infrastructure replacement to new customers;
  - (2) Is in service but was not included in the gas utility's rate base in its most recent general rate case; and
  - (3) Replaces or modifies existing infrastructure required by state or local government action or is required to meet state or federal natural gas pipeline safety regulations.
- c. Recovery of additional costs for eligible infrastructure investment through an automatic adjustment mechanism under paragraph 19.18(1) "b" shall not be allowed after four years from December 7, 2011. The costs of eligible capital infrastructure investment included in rates prior to the end of the four-year period may still be recovered until the utility's next general rate proceeding filing or until the unit of capital has been depreciated to zero. The utility shall file a proposed tariff annually for recovery after the end of the four-year period.

**19.18(2) Determination of recovery factor.** The utility may recover a rate of return and depreciation expense associated with eligible capital infrastructure investments described in subrule 19.18(1). The allowed rate of return shall be the average cost of debt from the utility's last general rate review proceeding. Depreciation expense shall be based upon the depreciation rates allowed by the board in the utility's last general rate review proceeding.

**19.18(3) Recovery procedures.**

a. To recover capital infrastructure investment costs that meet the criteria in paragraph 19.18(1) "a" through an automatic adjustment mechanism, the utility is required to obtain prior board approval of the automatic adjustment mechanism. The utility shall file information in support of the proposed automatic adjustment mechanism that includes:

- (1) A description of the capital infrastructure investment and the costs that are proposed to be recovered through the automatic adjustment mechanism;
- (2) An explanation of why the costs of the capital infrastructure investment are beyond the control of the utility's management;
- (3) An exhibit that shows the changes in level of the costs of the capital infrastructure investment that are proposed to be recovered, both historical and projected;
- (4) An explanation of why these particular capital infrastructure investment costs are an important factor in determining the total cost of capital infrastructure investment to serve customers;
- (5) A description of proposed recovery procedures, if different from the procedures described in paragraphs 19.18(3) "c" and "d"; and
- (6) The length of time that the automatic adjustment mechanism will be in place.

b. Recovery of capital infrastructure investment costs that meet the requirements in paragraph 19.18(1) "b" may be made by the utility by filing a proposed tariff with a 30-day effective date. Only one tariff filing to recover capital infrastructure investment costs shall be made in a 12-month period. The utility shall file information in support of the proposed automatic adjustment rates that includes:

- (1) The government entity mandate or action, including compliance with an integrity or safety plan adopted by the gas utility to comply with any such mandate or action, that results in the gas utility project and the purpose of the project, or the safety-related reason requiring the project.
- (2) The location, description, and costs associated with the project.
- (3) The cost of debt and applicable depreciation rates from the utility's last general rate review proceeding.
- (4) The calculations showing the total costs that are eligible for recovery and the rates that are proposed to be implemented.
- (5) The utility shall provide supporting documentation, including but not limited to work orders and journal entries, to the board staff or the office of consumer advocate upon request.

(6) If the capital infrastructure investment to be included in the automatic adjustment mechanism is based upon an integrity or safety plan adopted in compliance with state or federal natural gas pipeline safety regulations, describe the relationship of the capital infrastructure investment to the integrity or

safety plan and the relationship of the integrity or safety plan to a specific state or federal regulation. Provide the date the state or federal regulation was adopted, any relevant compliance dates, and the date the integrity or safety plan was adopted by the utility and how the integrity or safety plan was developed.

*c.* The utility shall calculate the rates for the recovery of the capital infrastructure investment through the automatic adjustment mechanism over the 12-month period beginning from the effective date of the tariff, unless otherwise ordered by the board. Unless otherwise specified in an approved tariff, the capital infrastructure investment factor shall be calculated by taking the total eligible investment costs for the prior calendar year divided by the actual prior calendar year's sales volumes with the necessary degree-day adjustments. The utility may also use the degree-day adjustment that the utility utilized in the most recent purchased gas adjustment annual filing or any other appropriate degree-day adjustment. The degree-day adjustment shall not be determinative of any weather normalization adjustment in any future rate case.

*d.* The utility shall file an annual reconciliation within 60 days of the end of the 12-month period each year after the initial year in which the automatic adjustment mechanism is implemented that reconciles the actual revenue recovered through the automatic adjustment mechanism with the costs of the eligible capital infrastructure investments proposed to be recovered. The reconciliation shall be for the 12-month period beginning with the effective date of the tariff. Any over-recoveries or under-recoveries from the reconciliation shall be recovered over the ten-month period from the effective date of any adjustment required by the reconciliation.

*e.* Recovery of a return on and return of capital infrastructure investment that is eligible for recovery pursuant to an automatic adjustment mechanism approved under this rule shall continue until the effective date of temporary rates in a subsequent general rate proceeding or, if temporary rates are not implemented, until final rates approved by the board in the utility's next general rate proceeding. To continue recovery, a utility shall file a proposed tariff each year. Once final rates approved by the board in the next general rate proceeding are effective, the automatic adjustment mechanism shall reset to zero.  
[ARC 9831B, IAB 11/2/11, effective 12/7/11]

These rules are intended to implement 42 U.S.C.A. 8372, 10 CFR, 516.30, and Iowa Code sections 476.1, 476.2, 476.6, 476.8, 476.20, 476.54, 476.66, 476.86, 476.87 and 546.7.

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◇ Two or more ARCs

<sup>1</sup> Effective date of 19.3(10) “a,” “b,” (1), (2), (2)“1,” (3) and (4) delayed 70 days by administrative rules review committee.

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<sup>4</sup> Published in Notice portion of IAB 9/10/86; See IAB 10/22/86

<sup>5</sup> Effective date of 19.4(3) delayed until the adjournment of the 1994 Session of the General Assembly pursuant to Iowa Code section 17A.8(9) by the Administrative Rules Review Committee at its meeting held September 15, 1993.



CHAPTER 20  
SERVICE SUPPLIED BY ELECTRIC UTILITIES  
[Prior to 10/8/86, Commerce Commission[250]]

**199—20.1(476) General information.**

**20.1(1) *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 this law.

Iowa Code chapter 478 provides that the Iowa utilities board shall have power to make and enforce rules relating to the location, construction, operation and maintenance of certain electrical transmission lines.

The application of the rules in this chapter to municipally owned utilities furnishing electricity is limited by Iowa Code section 476.1B, and the application of the rules in this chapter to electric utilities with fewer than 10,000 customers and to electric cooperative associations is limited by the provisions of Iowa Code section 476.1A.

**20.1(2) *Application of rules.*** The rules shall apply to any electric utility operating within the state of Iowa subject to Iowa Code chapter 476, and to the construction, operation and maintenance of electric transmission lines to the extent provided in Iowa Code chapter 478, and shall supersede all tariffs on file with the board which are in conflict with these rules.

These rules are intended to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities.

A request to waive the application of any rule on a permanent or temporary basis may be made in accordance with 199—1.3(17A,474,476,78GA,HF2206).

The adoption of these rules shall in no way preclude the board from altering or amending them pursuant to statute or from making such modifications with respect to their application as may be found necessary to meet exceptional conditions.

These rules shall in no way relieve any utility from any of its duties under the laws of this state.

**20.1(3) *Definitions.*** The following words and terms when used in these rules, shall have the meaning indicated below:

*“Acid Rain Program”* means the sulfur dioxide and nitrogen oxides air pollution control program established pursuant to Title IV of the Act under 40 CFR Parts 72-78.

*“Act”* means the Clean Air Act, 42 U.S.C. Section 7401, et seq., as amended by Pub. L. 101-549, November 15, 1990.

*“Affected unit”* means a unit or source that is subject to any emission reduction requirement or limitation under the Acid Rain Program, the Clean Air Interstate Rule (CAIR) or the Clean Air Mercury Rule (CAMR), or a unit or source that opts in under 40 CFR Part 74.

*“Allowance”* means an authorization, allocated by the United States Environmental Protection Agency (EPA) under the Acid Rain Program, to emit sulfur dioxide (SO<sub>2</sub>), any SO<sub>2</sub> and nitrogen oxide (NO<sub>x</sub>) emissions subject to the Clean Air Interstate Rule (CAIR), or mercury (Hg) emissions subject to the Clean Air Mercury Rule (CAMR), during or after a specified calendar year.

*“Allowance forward contract”* is an agreement between a buyer and seller to transfer an allowance on a specified future date at a specified price.

*“Allowance futures contract”* is an agreement between a futures exchange clearinghouse and a buyer or seller to buy or sell an allowance on a specified future date at a specified price.

*“Allowance option contract”* is an agreement between a buyer and seller whereby the buyer has the option to transfer an allowance(s) at a specified date at a specified price. The seller of a call or put option will receive a premium for taking on the associated risk.

*“Board”* means the utilities board.

*“Clean Air Interstate Rule”* or *“CAIR”* means the requirements EPA published in the Federal Register (70 Fed. Reg. 25161) on May 12, 2005.

“*Clean Air Mercury Rule*” or “*CAMR*” means the requirements EPA published in the Federal Register (70 Fed. Reg. 28605) on May 18, 2005.

“*Complaint*” as used in these rules is a statement or question by anyone, whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or utility obligation.

“*Compliance plan*” means the document submitted for an affected source to the EPA which specifies the methods by which each affected unit at the source will meet the applicable emissions limitation and emissions reduction requirements.

“*Customer*” means any person, firm, association, or corporation, any agency of the federal, state or local government, or legal entity responsible by law for payment for the electric service or heat from the electric utility.

“*Delinquent*” or “*delinquency*” means an account for which a service bill or service payment agreement has not been paid in full on or before the last day for timely payment.

“*Distribution line*” means any single or multiphase electric power line operating at nominal voltage in either of the following ranges: 2,000 to 26,000 volts between ungrounded conductors or 1,155 to 15,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

“*Economy energy*” is energy bought or sold in a transaction wherein the supplier’s incremental cost is less than the buyer’s decremental cost, and the differential in cost is shared in an equitable manner by the supplier and buyer.

“*Electric plant*” includes all real estate, fixtures and property owned, controlled, operated or managed in connection with or to facilitate production, generation, transmission, or distribution, in providing electric service or heat by an electric utility.

“*Electric service*” is furnishing to the public for compensation any electricity, heat, light, power, or energy.

“*Emission for emission trade*” is an exchange of one type of emission for another type of emission. For example, the exchange of SO<sub>2</sub> emission allowances for NO<sub>x</sub> emission allowances.

“*Energy*” means electric energy measured in kilowatt hours.

“*Firm power*” is power and associated energy intended to be available at all times during the period covered by the commitment.

“*Gains and losses from allowance sales*” are calculated as the difference between the sale price of allowances sold during the month and the weighted average unit cost of inventoried allowances.

“*Meter*” means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

“*Meter shop*” is a shop where meters are inspected, repaired and tested, and may be at a fixed location or may be mobile.

“*Operating reserve*” is a reserve generating capacity required to ensure reliability of generation resources.

“*Operational control energy*” is energy supplied by a selling utility to a buying utility for the improvement of electric system operation.

“*Outage energy*” is energy purchased during emergency or scheduled maintenance outages of generation or transmission facilities, or both.

“*Participation power*” means power and associated energy or energy which is purchased or sold from a specific unit or units on the basis that its availability is subject to prorate or other specified reduction if the units are not operated at full capacity.

“*Peaking power*” is power and associated energy intended to be available at all times during the commitment and which is anticipated to have low load factor use.

“*Power*” means electric power measured in kilowatts.

“*Price hedging*” means using futures contracts or options to guard against unfavorable price changes.

“*Rate-regulated utility*” means any utility, as defined in 20.1(3), which is subject to board rate regulation under Iowa Code chapter 476.

“*Secondary line*” means any single or multiphase electric power line operating at nominal voltage less than either 2,000 volts between ungrounded conductors or 1,155 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

“*Service limitation*” means the establishment of a limit on the amount of power that may be consumed by a residential customer through the installation of a service limiter on the customer’s meter.

“*Service limiter*” or “*service limitation device*” means a device that limits a residential customer’s power consumption to 3,600 watts (or some higher level of usage approved by the board) and that resets itself automatically, or can be reset manually by the customer, and may also be reset remotely by the utility at all times.

“*Speculation*” means using futures contracts or options to profit from expectations of future price changes.

“*Tariff*” means the entire body of rates, tolls, rentals, charges, classifications, rules, procedures, policies, etc., adopted and filed with the board by an electric utility in fulfilling its role of furnishing service.

“*Timely payment*” is a payment on a customer’s account made on or before the date shown on a current bill for service, or on a form which records an agreement between the customer and a utility for a series of partial payments to settle a delinquent account, as the date which determines application of a late payment charge to the current bill or future collection efforts.

“*Transmission line*” means any single or multiphase electric power line operating at nominal voltages at or in excess of either 69,000 volts between ungrounded conductors or 40,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

“*Utility*” means any person, partnership, business association or corporation, domestic or foreign, owning or operating any facilities for providing electric service or heat to the public for compensation.

“*Vintage trade*” is an exchange of one vintage of allowances for another vintage of allowances with the difference in value between vintages being cash or additional allowances.

“*Weighted average unit cost of inventoried allowances*” equals the dollars in inventory at the end of the month divided by the total allowances available for use at the end of the month.

“*Wheeling service*” is the service provided by a utility in consenting to the use of its transmission facilities by another party for the purpose of scheduling delivery of power or energy, or both.

**20.1(4) Abbreviations.** The following abbreviations may be used where appropriate:

ANSI—American National Standards Institute, 1430 Broadway, New York, New York 10018.

DOE—Department of Energy, Washington, D.C. 20426.

EPA—United States Environmental Protection Agency.

FCC—Federal Communications Commission, 1919 M Street, Washington, D.C. 20554.

FERC—Federal Energy Regulatory Commission, Washington, D.C. 20426.

NARUC—National Association of Regulatory Utility Commissioners, P.O. Box 684, Washington, D.C. 20044.

NBS—National Bureau of Standards, Washington, D.C. 20234.

NFPA—National Fire Protection Association, 470 Atlantic Ave., Boston, Massachusetts 02210.

[ARC 7976B, IAB 7/29/09, effective 9/2/09]

## **199—20.2(476) Records, reports, and tariffs.**

**20.2(1) Location and retention of records.** Unless otherwise specified by this chapter, all records required by these rules shall be kept and preserved in accordance with the applicable provisions of 199—Chapter 18.

**20.2(2) Tariffs to be filed with the board.** The schedules of rates and rules of rate-regulated electric utilities shall be filed with the board and shall be classified, designated, arranged and submitted so as to conform to the requirements of this chapter. Provisions of the schedules shall be definite and so stated as to minimize ambiguity or the possibility of misinterpretation. The form, identification and content of tariffs shall be in accordance with these rules.

Utilities which are not subject to the rate regulation provided for by Iowa Code chapter 476 shall not be required to file schedules of rates, rules, or contracts primarily concerned with a rate schedule with the

board and shall not be subject to the provisions related to rate regulations, but nothing contained in these rules shall be deemed to relieve any utility of the requirement of furnishing any of these same schedules or contracts which are needed by the board in the performance of the board's duties upon request to do so by the board.

**20.2(3) Form and identification.** All tariffs shall conform to the following rules:

*a.* The tariff shall be printed, typewritten or otherwise reproduced on 8½- × 11- inch sheets of durable white paper so as to result in a clear and permanent record. The sheets of the tariff should be ruled or spaced to set off a border on the left side suitable for binding. In the case of utilities subject to regulation by any federal agency the format of sheets of tariff as filed with the board may be the same format as is required by the federal agency provided that the rules of the board as to title page; identity of superseding, replacing or revision sheets; identity of amending sheets; identity of the filing utility, issuing official, date of issue, effective date; and the words "Tariff with board" shall apply in the modification of the federal agency format for the purposes of filing with this board.

*b.* The title page of every tariff and supplement shall show:

(1) The first page shall be the title page which shall show:

(Name of Public Utility)

Electric Tariff

Filed with

Iowa Utilities Board

(Date)

(This requirement does not apply to tariffs or amendments filed with the board prior to July 1, 1981.)

(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 supersedes a tariff on file and the number being superseded or replaced, for example:

TARIFF NO. \_\_\_\_\_

SUPERSEDES TARIFF NO. \_\_\_\_\_

(This requirement does not apply to tariffs or amendments filed with the board prior to July 1, 1981.)

(3) When a new part of a tariff eliminates an existing part of a tariff it shall so state and clearly indicate the part eliminated.

(4) Any tariff modifications as defined above shall be marked in the right-hand margin of the replacing tariff sheet with symbols as here described to indicate the place, nature and extent of the change in text.

—Symbols—

(C)—Changed 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 reduced rate

(T)—Change in text only

*c.* All sheets except the title page shall have, in addition to the above-stated requirements, the following information:

(1) Name of utility under which shall be set forth the words "Filed with board." If the utility is not a corporation, and a trade name is used, the name of the individual or partners must precede the trade name.

(2) Issuing official and issue date.

(3) Effective date (to be left blank by rate-regulated utilities).

*d.* All sheets except the title page shall have the following form:

(Company Name)	(Part identification)
Electric Tariff	(This sheet identification)
Filed with board	(Canceled sheet identification, if any)
	(Content or tariff)
Issued: (Date)	Effective:
Issued by: (Name, title)	(Proposed Effective Date:)

The issued date is the date the tariff or the amended sheet content was adopted by the utility.

The effective date will be left blank by rate-regulated utilities and shall be determined by the board.

The utility may propose an effective date.

**20.2(4) Content of tariffs.**

*a.* A table of contents containing a list of rate schedules and other sections in the order in which they appear showing the sheet numbers of the first page of each rate schedule or other section. In the event the utility filing the tariff elects to segregate a section such as general rules from the section containing the rate schedules or other sections, it may at its option prepare a separate table of contents for each such segregated section.

*b.* A preliminary statement containing a brief general explanation of the utility's operations.

*c.* All rates for service with indication for each rate of the type and voltage of service and the class of customers to which each rate applies. There shall also be shown any limitations on loads and type of equipment which may be connected, the net prices per unit of service and the number of units per billing period to which the net prices apply, the period of billing, the minimum bill, any effect of transformer capacity upon minimum bill or upon the number of kWh in any step of the rate, method of measuring demands, method of calculating or estimating loads in cases where transformer capacity has a bearing upon minimum bill or size of rate steps, level payment plan, and any special terms or conditions applicable. The period during which the net amount may be paid before the account becomes delinquent shall be specified. In any case where net and gross amounts are billed, the difference between net and gross is a late payment charge and shall be so specified.

*d.* The voltage and type of service, (direct current or single or polyphase alternating current) supplied in each municipality, but without reference required to any particular part thereof.

*e.* Forms of standard contracts required of customers for the various types of service available.

*f.* If service to other utilities or municipalities is furnished at a standard filed rate, either a copy of each signed contract or a copy of the standard uniform contract form together with a summary of the provisions of each signed contract. The summary shall show the principal provisions of the contract and shall include the name and address of the customer, the points where energy is delivered, rate, term, minimum, load conditions, voltage of delivery and any special provisions such as rentals. Standard contracts for such sales as that of energy for resale, street lighting, municipal athletic field lighting, and for water utilities may be filed in summary form as above outlined.

*g.* Copies of special contracts for the purchase, sale, or interchange of electrical energy. All tariffs must provide that, notwithstanding any other provision of this tariff or contract with reference thereto, all rates and charges contained in this tariff or contract with reference thereto may be modified at any time by a subsequent filing made pursuant to the provisions of Iowa Code chapter 476.

*h.* A list of all communities in which service is furnished.

*i.* The list of service areas and the rates shall be filed in a form to facilitate ready determination of the rates available in each municipality and in unincorporated communities that have service. If the utility has various rural rates, the areas where the same are available shall be indicated.

*j.* Definitions of classes of customers.

*k.* Extension rules for extending service to new customers indicating what portion of the extension or cost thereof will be furnished by the utility; and if the rule is based on cost, the items of cost included.

*l.* Type of construction which the utility requires the customer to provide if in excess of the Iowa electric safety code or the requirements of the municipality having jurisdiction, whichever may be the most stringent in any particular.

*m.* Specification of such portion of service as the utility furnishes, owns, and maintains, such as service drop, service entrance cable or conductors, conduits, service entrance equipment, meter and socket. Indication of the portions of interior wiring such as range or water heater connection, furnished in whole or in part by the utility, and statement indicating final ownership and responsibility for maintaining equipment furnished by utility.

*n.* Statement of the type of special construction commonly requested by customers which the utility allows to be connected, and terms upon which such construction will be permitted, with due provision for the avoidance of unjust discrimination as between customers who request special construction and those who do not. This applies, for example, to a case where a customer desires underground service in overhead territory.

*o.* Rules with which prospective customers must comply as a condition of receiving service, and the terms of contracts required.

*p.* Rules governing the establishment and maintenance of credit by customers for payment of service bills.

*q.* Rules governing the procedure followed in disconnecting and reconnecting service.

*r.* Notice required from a customer for having service discontinued.

*s.* Rules covering temporary, emergency, auxiliary and stand-by service.

*t.* Rules covering the type of equipment which may or may not be connected, including rules such as those requiring demand-limiting devices or power-factor corrective equipment.

*u.* General statement of the method used in making adjustments for wastage of electricity when accidental grounds exist without the knowledge of the customer.

*v.* Statements of utility rules on meter reading, bill issuance, customer payment, notice of delinquency, and service discontinuance for nonpayment of bill.

*w.* Rules for extending service in accordance with 20.3(13).

*x.* If a sliding scale or automatic adjustment is applicable to regulated rates and charges of billed customers, the manner and method of such adjustment calculation shall be covered through a detailed explanation.

*y.* Rules on how a customer or prospective customer should file a complaint with the utility, and how the complaint will be processed.

*z.* Rules on how a customer, disconnected customer or potential customer for residential service may negotiate for a payment agreement on amount due, determination of even payment amounts, and time allowed for payments.

**20.2(5)** *Annual, periodic and other reports to be filed with the board.*

*a.* System map verification. The utility shall file annually a verification that it has a currently correct set of utility system maps in accordance with general requirement 20.3(11) and a statement as to the location of the utility's offices where such maps are accessible and available for examination by the board or its agents. The verification and map location information shall also be reported to the board upon other occasions when significant changes occur in either the maps or location of the maps.

*b.* Accident reports. Rescinded IAB 12/11/91, effective 1/15/92. See 199—25.5(476,478).

*c.* Rescinded IAB 11/13/02, effective 12/18/02.

*d.* Electric service record. Each utility shall compile a monthly record of electric service showing the production, acquisition and disposition of electric energy, the number of customer terminal voltage investigations made, the number of customer meters tested and such other information as may be required by the board. The monthly "Electric Service" record shall be compiled not later than 30 days after the end of the month covered and such record shall, upon and after compilation, be kept available for inspection by the board or its staff at the utility's principal office within the state of Iowa. A summary of the 12 monthly "Electric Service" records for each calendar year shall be attached to and submitted with the utility's annual report to the board.

*e.* The utility shall keep the board informed currently by written notice as to the location at which the utility keeps the various classes of records required by these rules.

*f.* A copy of the utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, electrical contractors, etc., covering meter and service installations shall be filed with the board.

*g.* A copy of each type of customer bill form in current use shall be filed with the board.

*h.* A copy of the adjustment calculation shall be provided the board prior to each billing cycle on the forms adopted by the board.

*i.* Rescinded IAB 1/9/91, effective 2/13/91.

*j.* Residential customer statistics. Each rate-regulated electric utility shall file with the board on or before the fifteenth day of each month one copy of the following residential customer statistics for the preceding month:

- (1) Number of accounts;
- (2) Number of accounts certified as eligible for energy assistance since the preceding October 1;
- (3) Number of accounts past due;
- (4) Number of accounts eligible for energy assistance and past due;
- (5) Total revenue owed on accounts past due;
- (6) Total revenue owed on accounts eligible for energy assistance and past due;
- (7) Number of disconnection notices issued;
- (8) Number of disconnection notices issued on accounts eligible for energy assistance;
- (9) Number of disconnections for nonpayment;
- (10) Number of reconnections;
- (11) Number of accounts determined uncollectible; and
- (12) Number of accounts eligible for energy assistance and determined uncollectible.

*k.* List of persons authorized to receive board inquiries. Each utility shall file with the board in the annual report required in 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; (4) meter tests and repairs; (5) franchises for electric lines; (6) certificates for electric generating plants. Each utility shall file with the board a telephone contact number where the board can obtain current information 24 hours a day about outages and interruptions of service from a knowledgeable person. The contact information required by this paragraph shall be kept current as changes or corrections are made.

This rule is intended to implement Iowa Code section 476.2.

### **199—20.3(476) General service requirements.**

**20.3(1) *Disposition of electricity.*** The meter and associated instrument transformers shall be owned by the utility. The wiring between the instrument transformers and the meter shall be owned or controlled by the utility. The utility shall place a visible seal on all meters in customer use, such that the seal must be broken to gain entry.

*a.* All electricity sold by a utility shall be on the basis of meter measurement except:

- (1) Where the consumption of electricity may be readily computed without metering; or
- (2) For temporary service installations.

*b.* The amount of all electricity delivered to multioccupancy premises within a single building, where units are separately rented or owned, shall be measured on the basis of individual meter measurement for each unit, except in the following instances:

- (1) Where electricity is used in centralized heating, cooling, water-heating, or ventilation systems;
- (2) Where a facility is designated for elderly or handicapped persons;
- (3) Where submetering or resale of service was permitted prior to 1966; or
- (4) Where individual metering is impractical. "Impractical" means: (1) where conditions or structural barriers exist in the multioccupancy building that would make individual meters unsafe or physically impossible to install; (2) where the cost of providing individual metering exceeds the long-term benefits of individual metering; or (3) where the benefits of individual metering (reduced and controlled energy consumption) are more effectively accomplished through a master meter arrangement.

If a multioccupancy building is master-metered, the end-user occupants may be charged for electricity as an unidentified portion of the rent, condominium fee, or similar payment, or, if some other method of allocating the cost of the electric service is used, the total charge for electric service shall not exceed the total electric bill charged by the utility for the same period.

c. Master metering to multiple buildings is prohibited, except for multiple buildings owned by the same person or entity. Multioccupancy premises within a multiple building complex may be master-metered pursuant to this paragraph only if the requirements of paragraph 20.3(1)“b” have been met.

d. For purposes of this subrule, a “master meter” means a single meter used in determining the amount of electricity provided to a multioccupancy building or multiple buildings.

e. This rule shall not be construed to prohibit any utility from requiring more extensive individual metering than otherwise required by this rule if pursuant to tariffs filed with and approved by the board.

f. All electricity consumed by the utility shall be on the basis of meter measurement except where consumption may be readily computed without metering, or where metering is impractical.

**20.3(2) Condition of meter.** Rescinded IAB 11/12/03, effective 12/17/03.

**20.3(3) Meter reading records.** The meter reading records shall show:

a. Customer’s name, address, and rate schedule or identification of rate schedule.

b. Identification of the meter or meters either by permanently marked utility number or by manufacturer’s name, type number and serial number.

c. Meter readings.

d. If the reading has been estimated.

e. Any applicable multiplier or constant.

**20.3(4) Meter charts.** All charts taken from recording meters shall be marked with the initial and final date and hour of the record, the meter identification, customer’s name and location and the chart multiplier.

**20.3(5) Meter register.** If it is necessary to apply a multiplier to the meter readings, the multiplier must be marked on the face of the meter register or stenciled in weather resistant paint upon the front cover of the meter. Customers shall have continuous visual access to meter registers as a means of verifying the accuracy of bills presented to them and for implementing such energy conservation initiatives as they desire, except in the individual locations where the utility has experienced vandalism to windows in the protective enclosures. Where remote meter reading is used, whether outdoor on premises or off premises automated, the customer shall also have readable meter registers at the meter.

Where magnetic tape or other delayed processing means is used the utility may comply by having readable kWh registers only, visually accessible.

In instances in which the utility has determined that readable access, to locations existing July 1, 1981, will create a safety hazard, the utility is exempted from the access provisions above.

In instances when a building owner has determined that unrestricted access to tenant metering installation would create a vandalism or safety hazard the utility is exempted from the access provision above.

Continuing efforts should be made to eliminate or minimize the number of restricted locations. The utility should assist affected customers in obtaining meter register information.

**20.3(6) Meter reading and billing interval.** Readings of all meters used for determining charges and billings to customers shall be scheduled at least monthly and for the beginning and termination of service. Bills to larger customers may, for good cause, be rendered weekly or daily for a period not to exceed one month. Intervals other than monthly shall not be applied to smaller customers, or to larger customers after the initial month provided above, without a waiver from the board. A waiver request must include sufficient information to comply with 199—1.3(17A,474,476,78GA,HF2206). If the board denies a waiver, or if a waiver is not sought with respect to a high demand customer after the initial month, that customer’s meter shall be read monthly for the next 12 months. The group of larger customers to which shorter billing intervals may be applied shall be specified in the utility’s tariff sheets, but shall not include residential customers.

An effort shall be made to obtain readings of the meters on corresponding days of each meter-reading period. When the meter reading date causes a given billing period to deviate by more than 10 percent (counting only business days) from the normal meter reading period, such bills shall be prorated on a daily basis.

The utility may permit the customer to supply the meter readings by telephone or on a form supplied by the utility. The utility may arrange for customer meter reading forms to be delivered to the utility by United States mail, electronically, or by hand delivery. The utility may arrange for the meter to be read by electronic means. Unless the utility has a plan to test check meter readings, a utility representative shall physically read the meter at least once each 12 months.

In the event that the utility leaves a meter reading form with the customer when access to meters cannot be gained and the form is not returned in time for the billing operation, an estimated bill may be rendered.

If an actual meter reading cannot be obtained, the utility may render an estimated bill without reading the meter or supplying a meter reading form to the customer. Only in unusual cases or when approval is obtained from the customer shall more than three consecutive estimated bills be rendered.

**20.3(7) Demand meter registration.** When a demand meter is used for billing, the meter installation should be designed so that the highest expected annual demand reading to be used for billing will appear in the upper half of the meter's range.

**20.3(8) Service areas.** Service areas are defined by the boundaries on service area maps, available for viewing during regular business hours at the board's offices, and available for purchase at the cost of reproduction. These service area maps are adopted as part of this rule and are incorporated in this rule by this reference.

**20.3(9) Petition for modification of service area and answers.** An exclusive service area is subject to modification through a contested case proceeding which may be commenced by filing a petition for modification of service area with the board. The board may commence a service area modification proceeding on its own motion.

Any electric utility or municipal corporation may file a petition for modification of service area which shall contain a legal description of the service area desired, a designation of the utilities involved in each boundary section, and a justification for the proposed service area modification. The justification shall include a detailed statement of why the proposed modification is in the public interest. A map showing the affected areas which complies with paragraph 20.3(11) "a" shall be attached to the petition as an exhibit.

Filing of the petition with the board, and service to other parties, shall be in accordance with 199—Chapter 14.

All parties shall file an answer which complies with 199—subrule 7.5(1).

**20.3(10) Certificate of authority.** Any electric utility or municipal corporation requesting a service territory modification pursuant to subrule 20.3(9) which would result in service to a customer by a utility other than the utility currently serving the customer must also petition the board for a certificate of authority under Iowa Code section 476.23. The electric utility or municipal corporation shall pay the party currently serving the customer a reasonable price for the facilities serving the customer.

**20.3(11) Maps.**

a. Each utility shall maintain a current map or set of maps showing the physical location of electric lines, stations, and electric transmission facilities for its service areas. The maps shall include the exact location of the following:

- (1) Generating stations with capacity designation.
- (2) Purchased power supply points with maximum contracted capacity designation.
- (3) Purchased power metering points if located at other than power delivery points.
- (4) Transmission lines with size and type of conductor designation and operating voltage designation.
- (5) Transmission-to-transmission voltage transformation substations with transformer voltage and capacity designation.

(6) Transmission-to-distribution voltage transformation substations with transformer voltage and capacity designation.

(7) Distribution lines with size and type of conductor designation, phase designation and voltage designation.

(8) All points at which transmission, distribution or secondary lines of the utility cross Iowa state boundaries.

(9) All current information required in Iowa Code section 476.24(1).

(10) All county boundaries and county names.

(11) Natural and artificial lakes which cover more than 50 acres and all rivers.

(12) Any additional information required by the board.

b. All maps shall be available for examination at the utility's designated offices during the utility's regular office hours. The maps shall be drawn with clean, uniform lines to a scale of one inch per mile. A large scale shall be used where it is necessary to clarify areas where there is a heavy concentration of facilities. All cartographic details shall be clean cut, and the background shall contain little or no coloration or shading.

**20.3(12)** Rescinded, IAB 6/29/88, effective 8/3/88.

**20.3(13)** *Plant additions, electrical line extensions and service lines.*

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

*"Advance for construction,"* as used in this subrule, means cash payments or equivalent surety made to the utility by an applicant for an extensive plant addition or an electrical line extension, portions of which may be refunded depending on the attachment of any subsequent service line made to the extensive plant addition or electrical line extension. Cash payments or equivalent surety shall include a grossed-up amount 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 tax liability.

*"Agreed-upon attachment period,"* as used in this subrule, 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,"* as used in this subrule, means a nonrefundable cash payment grossed-up for the income tax effect of such revenue covering the costs of an electrical line extension or service line that are in excess of costs paid by the utility. 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.

*"Electrical line extensions"* means distribution line extensions and secondary line extensions as defined in subrule 20.1(3), except for service lines as defined in this subrule.

*"Equivalent overhead transformer cost,"* as used in this subrule, is that transformer capitalized cost, or fraction thereof, that would be required for similarly situated customers served by a pole-mounted or platform-mounted transformer(s). For each overhead service, it shall be the capitalized cost of the transformer(s) divided by the number of customers served by that transformer(s). For each underground service, it shall be the capitalized cost of an overhead transformer(s) with the same voltage and volt-ampere rating divided by the number of customers served by that transformer(s).

*"Estimated annual revenues,"* as used in this subrule, shall be calculated 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 base revenues,"* as used in this subrule, shall be calculated by subtracting the fuel expense costs as described in the uniform system of accounts as adopted by the board and energy efficiency charges from the estimated annual revenues.

*"Estimated construction costs,"* as used in this subrule, shall be calculated using average current costs in accordance with good engineering practices and upon the following factors: amount of service required or desired by the customer requesting the electrical line extension or service line; size, location, and characteristics of the electrical line extension or service line, including appurtenances, except

equivalent overhead transformer cost; and whether the ground is frozen or whether other adverse conditions exist. In no event shall estimated construction costs include costs associated with facilities built for the convenience of the utility. The customer shall be charged actual permit fees in addition to estimated construction costs. Permit fees are to be paid regardless of whether the customer is required to pay an advance for construction or a nonrefundable contribution in aid of construction, and the cost of any permit fee is not refundable.

*“Plant addition,”* as used in this subrule, means any additional plant required to be constructed to provide service to a customer other than an electrical line extension or service line.

*“Point of attachment”* is that point of first physical attachment of the utilities’ service drop (overhead) or service lateral (underground) conductors to the customer’s service entrance conductors. For overhead services it shall be the point of tap or splice to the service entrance conductors. For underground services it shall be the point of tap or splice to the service entrance conductors in a terminal box or meter or other enclosure with adequate space inside or outside the building wall. If there is no terminal box, meter, or other enclosure with adequate space, it shall be the point of entrance into the building.

*“Service line,”* as used in this subrule, means any secondary line extension, as defined in subrule 20.1(3), on private property serving a single customer or point of attachment of electric service.

*“Similarly situated customer,”* as used in this subrule, 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.

*“Utility,”* as used in this subrule, means a rate-regulated utility.

*b. Plant additions.* The utility shall provide all electric plant at its cost and expense without requiring an advance for construction from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served. A written contract between the utility and the customer which requires an advance for construction by the customer to make plant additions shall be available for board inspection.

*c. Electrical line extensions.* Where the customer will attach to the electrical line extension within the agreed-upon attachment period after completion of the electrical line extension, the following shall apply:

(1) The utility shall finance and make the electrical line extension for a customer without requiring an advance for construction if the estimated construction costs to provide an electrical line extension are less than or equal to three times estimated base revenue calculated on the basis of similarly situated customers. The utility may use a feasibility model, rather than three times estimated base revenue, to determine what, if any, advance for construction is required by the customer. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility’s tariff. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(2) If the estimated construction cost to provide an electrical line extension is greater than three times estimated base revenue calculated on the basis of similarly situated customers, the applicant for the electrical line extension shall contract with the utility and make, no more than 30 days prior to commencement of construction, an advance for construction equal to the estimated construction cost less three times estimated base revenue to be produced by the customer. The utility may use a feasibility model to determine whether an advance for construction is required. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility’s tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the electrical line extension, the applicant for the electrical line extension shall contract with the utility and make, no more than 30 days prior to the commencement of construction, an advance for construction

equal to the estimated construction cost. The utility may use a feasibility model to determine the amount of the advance for construction. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(4) Advances for construction may be paid by cash or equivalent surety and shall be refundable for ten years. The customer has the option of providing an advance for construction by cash or equivalent surety unless the utility determines that the customer has failed to comply with the conditions of a surety in the past.

(5) Refunds. When the customer is required to make an advance for construction, 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 line attached to the electrical line extension. The pro-rata refund shall be computed in the following manner:

1. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the electrical line extension and each service line attached to the electrical line extension exceeds the total estimated construction cost to provide the electrical line extension, the entire amount of the advance for construction provided shall be refunded.

2. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the electrical line extension and each service line attached to the electrical line extension is less than the total estimated construction cost to provide the electrical line extension, the amount to be refunded shall equal three times estimated base revenue, or the amount allowed by the feasibility model, when a service line is attached to the electrical line extension.

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

(6) The utility shall keep a record of each work order under which the electrical line extension was installed, to include the estimated revenues, the estimated construction costs, the amount of any payment received, and any refunds paid.

*d. Service lines.*

(1) The utility shall finance and construct either an overhead or underground service line without requiring a nonrefundable contribution in aid of construction or any payment by the applicant where the length of the overhead service line to the first point of attachment is up to 50 feet on private property or where the cost of the underground service line to the meter or service disconnect is less than or equal to the estimated cost of constructing an equivalent overhead service line of up to 50 feet.

(2) Where the length of the overhead service line exceeds 50 feet on private property, the applicant shall be required to provide a nonrefundable contribution in aid of construction for that portion of the service line on private property, exclusive of the point of attachment, within 30 days after completion. The nonrefundable contribution in aid of construction for that portion of the service line shall be computed as follows:

$$\text{(Estimated Construction Costs)} \times \frac{\text{(Total Length in Excess of 50 Feet)}}{\text{(Total Length of Service Line)}}$$

(3) Where the cost of the underground service line exceeds the estimated cost of constructing an equivalent overhead service line of up to 50 feet, the applicant shall be required to provide a nonrefundable contribution in aid of construction within 30 days after completion equal to the difference between the estimated cost of constructing the underground service line and the estimated cost of constructing an equivalent overhead service line of up to 50 feet.

(4) A utility may adopt a tariff or rule that allows the utility to finance and construct a service line of more than 50 feet without requiring a nonrefundable contribution in aid of construction from the customer if the tariff or rule applies equally to all customers or members.

(5) Whether or not the construction of the service line would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees.

*e. Extensions not required.* Utilities shall not be required to make electrical line extensions or install service lines as described in this subrule, unless the electrical line extension or service line shall be of a permanent nature.

*f. Different payment arrangement.* This subrule shall not be construed as prohibiting any utility from making a contract with a customer using a different payment arrangement, if the contract provides a more favorable payment arrangement to the customer, so long as no discrimination is practiced among customers.

This rule is intended to implement Iowa Code section 476.8.

[ARC 7584B, IAB 2/25/09, effective 4/1/09; ARC 9501B, IAB 5/18/11, effective 6/22/11]

### **199—20.4(476) Customer relations.**

**20.4(1) Customer information.** Each utility shall:

*a.* Maintain up-to-date maps, plans, or records of its entire transmission and distribution systems, together with such other information as may be necessary to enable the utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving prospective customers in its service area.

*b.* Assist the customer or prospective customer in selecting the most economical rate schedule available for the customer's proposed type of service.

*c.* Notify customers affected by a change in rates or schedule classification in the manner provided in the rules of practice and procedure before the board. [199—7.4(476)IAC]

*d.* 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 rate schedules and rules relating to the service of the utility, as filed with the board, are available for public inspection. If the utility has provided access to its rate schedules and rules for service on its Web site, the notice should include the Web site address.

*e.* Upon request, inform its customers as to the method of reading meters.

*f.* State, on the bill form, that tariff and rate schedule information is available upon request at the utility's local business office.

*g.* Upon request, transmit a statement of either the customer's actual consumption, or degree day adjusted consumption, at the company's option, of electricity for each billing during the prior 12 months.

*h.* Furnish such additional information as the customer may reasonably request.

**20.4(2) Customer contact employee qualifications.** Each utility shall promptly and courteously resolve inquiries for information or complaints. 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 that will enable the customer to reach that employee again if needed.

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 (515)725-7321, or toll-free 1-877-565-4450, or by writing to 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by E-mail to [customer@iub.iowa.gov](mailto:customer@iub.iowa.gov)."

The bill insert or notice for municipal utilities shall include the following statement: "If your complaint is related to service disconnection, safety, or renewable energy, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll-free 1-877-565-4450, by writing to 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by E-mail to [customer@iub.iowa.gov](mailto:customer@iub.iowa.gov)."

The bill insert or notice for non-rate-regulated rural electric cooperatives shall include the following statement: "If your complaint is related to the (utility name) service rather than its rates, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll-free 1-877-565-4450, by writing to 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by E-mail to [customer@iub.iowa.gov](mailto:customer@iub.iowa.gov)."

The bill insert or notice on the bill shall be provided monthly by utilities serving more than 50,000 Iowa retail customers and no less than annually by all other electric utilities. 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 that 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.

**20.4(3) Customer deposits.**

a. Each utility may require from any customer or prospective customer a deposit intended to guarantee partial payment of bills for service. Each utility shall allow a person other than the customer to pay the customer's deposit. In lieu of a cash deposit, the utility may accept the written guarantee of a surety or other responsible party as surety for an account. Upon termination of a guarantee contract, or whenever the utility deems the contract insufficient as to amount or surety, a cash deposit or a new or additional guarantee may be required for good cause upon reasonable written notice.

b. 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. The new or additional deposit shall be payable at any of the utility's business offices or local authorized agents. An appropriate receipt shall be provided. No written notice is required to be given of a deposit required as a prerequisite for commencing initial service.

c. No deposit shall be required as a condition for service other than determined by application of either credit rating or deposit calculation criteria, or both, of the filed tariff.

d. The total deposit for any residential or commercial customer for a place which has previously received service shall not be greater than the highest billing of service for one month for the place in the previous 12-month period. The deposit for any residential or commercial customer for a place which has not previously received service, or for an industrial customer, shall be the customer's projected one-month usage for the place to be served as determined by the utility, or as may be reasonably required by the utility in cases involving service for short periods or special occasions.

**20.4(4) Interest on customer deposits.** Interest shall be paid by the rate-regulated utility to each customer required to make a deposit. On or after April 21, 1994, rate-regulated 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, relative to an account treated as an uncollectible account, is the most recent date the account became delinquent.

**20.4(5) Customer deposit records.** Each utility shall keep records to show:

a. The name and address of each depositor.

b. The amount and date of the deposit.

c. Each transaction concerning the deposit.

**20.4(6) Customer's receipt for a deposit.** Each utility shall issue a receipt of deposit to each customer from whom a deposit is received, and shall provide means whereby a depositor may establish claim if the receipt is lost.

**20.4(7) Deposit refund.** A deposit shall be refunded after 12 consecutive months of prompt payment (which may be 11 timely payments and 1 automatic forgiveness of late payment). For refund purposes the account shall be reviewed for prompt payment after 12 months of service following the making of the deposit and for each 12-month interval terminating on the anniversary of the deposit. However,

deposits received from customers subject to the exemption provided by 20.4(3) "b," including surety deposits, may be retained by the utility until final billing. Upon termination of service, the deposit plus accumulated interest, less any unpaid utility bill of the customer, shall be reimbursed to the person who made the deposit.

**20.4(8) 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 556.11.

**20.4(9) Customer bill forms.** Each customer shall be informed as promptly as possible following the reading of the customer's meter, on bill form or otherwise, of the following:

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

b. The dates on which the meter was read, at the beginning and end of the billing period.

c. The number and kind of units metered.

d. The applicable rate schedule, or identification of the applicable rate schedule.

e. The account balance brought forward and amount of each net charge for rate-schedule-priced utility service, sales tax, other taxes, late payment charge, and total amount currently due. In the case of prepayment meters, the amount of money collected shall be shown.

f. The last date for timely payment shall be clearly shown and shall be not less than 20 days after the bill is rendered.

g. A distinct marking to identify an estimated bill.

h. A distinct marking to identify a minimum bill.

i. Any conversions from meter reading units to billing units, or any calculations to determine billing units from recording or other devices, or any other factors, such as sliding scale or automatic adjustment and amount of sales tax adjustments used in determining the bill.

j. Customer billing information alternate. A utility serving less than 5000 electric customers may provide the information in 20.4(9) on bill form or otherwise. If the utility elects not to provide the information of 20.4(9), it shall advise the customer, on bill form or by bill insert, that such information can be obtained by contacting the utility's local office.

**20.4(10) Rescinded, effective 7/1/81.**

**20.4(11) Payment agreements.**

a. *Availability of a first payment agreement.* When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the utility for residential utility service and is not in default of a payment agreement with the utility, a utility shall offer the customer an opportunity to enter into a reasonable payment agreement.

b. *Reasonableness.* Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The utility may require the person to confirm financial difficulty with an acknowledgment from the department of human services or another agency.

c. *Terms of payment agreements.*

(1) *First payment agreement.* The utility shall offer customers who have received a disconnection notice or have been disconnected 120 days or less and who are not in default of a payment agreement the option of spreading payments evenly over at least 12 months by paying specific amounts at scheduled times. The utility shall offer customers who have been disconnected more than 120 days and who are not in default of a payment agreement the option of spreading payments evenly over at least 6 months by paying specific amounts at scheduled times.

1. The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with

these rules. The utility may also require the customer to enter into a level payment plan to pay the current bill.

2. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.

3. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility shall render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement. The document will be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last-known address of the person responsible for payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free or collect telephone number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement or electronic agreement.

4. Each customer entering into a first payment agreement shall be granted at least one late payment that is made four days or less beyond the due date for payment and the first payment agreement shall remain in effect.

(2) *Second payment agreement.* The utility shall offer a second payment agreement to a customer who is in default of a first payment agreement if the customer has made at least two consecutive full payments under the first payment agreement. The second payment agreement shall be for the same term as or longer than the term of the first payment agreement. The customer shall be required to pay for current service in addition to the monthly payments under the second payment agreement and may be required to make the first payment up-front as a condition of entering into the second payment agreement. The utility may also require the customer to enter into a level payment plan to pay the current bill. The utility may offer additional payment agreements to the customer.

d. *Refusal by utility.* A customer may offer the utility a proposed payment agreement. If the utility and the customer do not reach an agreement, the utility may refuse the offer orally, but the utility must render a written refusal to the customer, stating the reason for the refusal, within three days of the oral notification. The written refusal shall be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal shall be considered rendered to the customer when handed to the customer or when delivered to the last-known address of the person responsible for the payment for the service.

A customer may ask the board for assistance in working out a reasonable payment agreement. The request for assistance must be made to the board within ten days after the rendering of the written refusal. During the review of this request, the utility shall not disconnect the service.

**20.4(12) 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 not be less than 20 days between the rendering of a bill and the date by which the account becomes delinquent. Bills for customers on more frequent billing intervals under subrule 20.3(6) may not be considered delinquent less than 5 days from the date of rendering. However, a late payment charge may not be assessed if payment is received within 20 days of the date the bill is rendered.

a. The date of delinquency for all residential customers or other customers whose consumption is less than 3,000 kWh per month, shall be changeable for cause in writing; such as, but not limited to, 15 days from approximate date each month upon which income is received by the person responsible for payment. In no case, however, shall the utility be required to delay the date of delinquency more than 30 days beyond the date of preparation of the previous bill.

b. In any case where net and gross amounts are billed to customers, the difference between net and gross is a late payment charge and is valid only when part of a delinquent bill payment. A utility's late payment charge shall not exceed 1.5 percent per month of the past due amount. No collection fee may be levied in addition to this late payment charge. This rule does not prohibit cost-justified charges for disconnection and reconnection of service.

c. If the customer makes partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment shall be credited pro rata between the bill for utility services and related taxes.

d. 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. Complete forgiveness prohibits any effect upon the credit rating of the customer or collection of late payment charge.

e. Level payment plan. Utilities shall offer a level payment plan to all residential customers or other customers whose consumption is less than 3,000 kWh per month. A level payment plan should be designed to limit the volatility of a customer's bill and maintain reasonable account balances. The level payment plan shall include at least the following:

(1) Be offered to each eligible customer when the customer initially requests service.

(2) Allow for entry into the level payment plan anytime during the calendar year.

(3) Provide that a customer may request termination of the plan at any time. If the customer's account is in arrears at the time of termination, the balance shall be due and payable at the time of termination. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new level payment plan to a customer for six months after the customer has terminated from a level payment plan.

(4) Use a computation method that produces a reasonable monthly level payment amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements in 20.4(12) "e"(4). The computation method used by the utility shall be described in the utility's tariff and shall be subject to board approval. The utility shall give notice to customers when it changes the type of computation method in the level payment plan.

The amount to be paid at each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan and shall be recomputed at least annually. The level payment amount may be recomputed monthly, quarterly, when requested by the customer, or whenever price, consumption, or a combination of factors results in a new estimate differing by 10 percent or more from that in use.

When the level payment amount is recomputed, the level payment plan account balance shall be divided by 12, and the resulting amount shall be added to the estimated monthly level payment amount. Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be given the option of applying any credit to payments of subsequent months' level payment amounts due or of obtaining a refund of any credit in excess of \$25.

Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be notified of the recomputed payment amount not less than one full billing period prior to the date of delinquency for the recomputed payment. The notice may accompany the bill prior to the bill that is affected by the recomputed payment amount.

(5) Irrespective of the account balance, a delinquency in payment shall be subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the level payment amount. If the account balance is a credit, the level payment plan may be terminated by the utility after 30 days of delinquency.

**20.4(13) Customer records.** The utility shall retain records as may be necessary to effectuate compliance with 20.4(14) and 20.6(6), but not less than three years. Records for customer shall show where applicable:

a. kWh meter reading

- b. kWh consumption
- c. kW meter reading
- d. kW measured demand
- e. kW billing demand
- f. Total amount of bill.

**20.4(14) Adjustment of bills.**

a. *Meter error.* Whenever a meter creeps or whenever a metering installation is found upon any test to have an average error of more than 2.0 percent for watthour metering; or a demand metering error of more than 1.5 percent in addition to the errors allowed under accuracy of demand metering; an adjustment of bills for service for the period of inaccuracy shall be made in the case of overregistration and may be made in the case of underregistration. The amount of the adjustment shall be calculated on the basis that the metering equipment should be 100 percent accurate with respect to the testing equipment used to make the test. For watthour metering installations the average accuracy shall be the arithmetic average of the percent registration at 10 percent of rated test current and at 100 percent of rated test current giving the 100 percent of rated test current registration a weight of four and the 10 percent of rated test current registration a weight of one.

b. *Determination of adjustment.* Recalculation of bills shall be on the basis of actual monthly consumption except that if service has been measured by self-contained single-phase meters or three-wire network meters and involves no billing other than for kilowatt-hours, the recalculation of bills may be based on the average monthly consumption determined from the most recent 36 months, consumption data.

When the average error cannot be determined by test because of failure of part or all of the metering equipment, it shall be permissible to use the registration of check metering installations, if any, or to estimate the quantity of energy consumed based on available data. The customer must be advised of the failure and of the basis for the estimate of quantity billed. The periods of error shall be used as defined in immediately following subparagraphs (1) and (2).

(1) *Overregistration.* If the date when overregistration began can be determined, such date shall be the starting point for determination of the amount of the adjustment. If the date when overregistration began cannot be determined, it shall be assumed that the error has existed for the shortest time period calculated as one-half the time since the meter was installed, or one-half the time elapsed since the last meter test unless otherwise ordered by the board.

The overregistration due to creep shall be calculated by timing the rate of creeping and assuming that the creeping affected the registration of the meter for 25 percent of the time since the more recent of either metering installation or last previous test.

(2) *Underregistration.* If the date when underregistration began can be determined, it shall be the starting point for determination of the amount of the adjustment except that billing adjustment shall be limited to the preceding six months. If the date when underregistration began cannot be determined, it shall be assumed that the error has existed for one-half of the time elapsed since the more recent of either meter installation or the last meter test, except that billing adjustment shall be limited to the preceding six months unless otherwise ordered by the board.

The underregistration due to creep shall be calculated by timing the rate of creeping and assuming that this creeping affected the registration for 25 percent of the time since the more recent of either metering installation or last previous test, except that billing adjustment shall be limited to the preceding six months.

c. *Refunds.* If the recalculated bills indicate that \$5 or more is due an existing customer or \$10 or more is due a person no longer a customer of the utility, the tariff shall provide refunding of the full amount of the calculated difference between the amount paid and the recalculated amount. Refunds shall be made to the two most recent customers who received service through the metering installation found to be in error. In the case of a previous customer who is no longer a customer of the utility, a notice of the amount subject to refund shall be mailed to such previous customer at the last-known address, and the utility shall, upon demand made within three months thereafter, refund the same.

Refunds shall be completed within six months following the date of the metering installation test.

*d. Back billing.* A utility may not back bill due to underregistration unless a minimum back bill amount is specified in its tariff. The minimum amount specified for back billing shall not be less than, but may be greater than, \$5 for an existing customer or \$10 for a former customer. All recalculations resulting in an amount due equal or greater than the tariff specified minimum shall result in issuance of a back bill.

Back billings shall be rendered no later than six months following the date of the metering installation test.

*e. 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.

*f. 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 meter or other similar reasons, the amount of the undercharge may be billed to the customer. The period for which the utility may adjust for the undercharge shall not exceed five years unless otherwise ordered by the board. The maximum back bill shall not exceed the dollar amount equivalent to the tariffed rate 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.

*g. Credits and explanations.* Credits due a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be separately identified.

**20.4(15) Refusal or disconnection of service.** A utility shall refuse service or disconnect service to a customer, as defined in subrule 20.1(3), in accordance with tariffs that are consistent with these rules.

*a.* The utility shall give written notice of pending disconnection except as specified in paragraph 20.4(15) "b." The notice shall set forth the reason for the notice and the final date by which the account is to be settled or specific action taken. The notice shall be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice shall be considered rendered when delivered to the last-known address of the person responsible for payment for the service. The date for disconnection of service shall be not less than 12 days after the notice is rendered. The date for disconnection of service for customers on shorter billing intervals under subrule 20.3(6) shall not be less than 24 hours after the notice is posted at the service premises.

One written notice, including all reasons for the notice, shall be given where more than one cause exists for disconnection of service. In determining the final date by which the account is to be settled or other specific action taken, the days of notice for the causes shall be concurrent.

*b.* Service may be disconnected without notice:

- (1) In the event of a condition on the customer's premises determined by the utility to be hazardous.
- (2) In the event of customer use of equipment in a manner which adversely affects the utility's equipment or the utility's service to others.
- (3) In the event of tampering with the equipment furnished and owned by the utility. For the purposes of this subrule, a broken or absent meter seal alone shall not constitute tampering.
- (4) In the event of unauthorized use.

*c.* Service may be disconnected or refused after proper notice:

- (1) For violation of or noncompliance with the utility's rules on file with the board.
- (2) For failure of the customer to furnish the service equipment, permits, certificates, or rights-of-way which are specified to be furnished, in the utility's rules filed with the board, as conditions of obtaining service, or for the withdrawal of that same equipment, or for the termination of those same permissions or rights, or for the failure of the customer to fulfill the contractual obligations imposed as conditions of obtaining service by any contract filed with and subject to the regulatory authority of the board.

- (3) For failure of the customer to permit the utility reasonable access to the utility's equipment.

d. Service may be refused or disconnected after proper notice for nonpayment of a bill or deposit, except as restricted by subrules 20.4(16) and 20.4(17), provided that the utility has complied with the following provisions when applicable:

(1) Given the customer a reasonable opportunity to dispute the reason for the disconnection or refusal.

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities available. Customers billed more frequently than monthly pursuant to subrule 20.3(6) shall be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities. All written notices shall include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each utility representative must provide the representative's name and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) The summary of the rights and responsibilities must be approved by the board. Any utility providing electric service and defined as a public utility in Iowa Code section 476.1 which does not use the standard form set forth below for customers billed monthly shall submit to the board an original and six copies of its proposed form for approval. A utility billing a combination customer for both gas and electric service may modify the standard form to replace each use of the word "electric" with the words "gas and electric" in all instances.

#### **CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF ELECTRIC SERVICE FOR NONPAYMENT**

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

- a. Pay the bill in full; or
- b. Enter into a reasonable payment plan with the utility (see #2 below); or
- c. Apply for and become eligible for low-income energy assistance (see #3 below); or
- d. Give the utility a written statement from a doctor or public health official stating that shutting off your electric service would pose an especial health danger for a person living at the residence (see #4 below); or
- e. 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 #5 below).

##### **2. How do I go about making a reasonable payment plan? (Residential customers only)**

- a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility may offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.
- b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.
- c. If you do not make the payments you promise, the utility may shut off your utility service on one day's notice unless all the money you owe the utility is paid or you enter into another payment agreement.

##### **3. How do I apply for low-income energy assistance? (Residential customers only)**

- a. Contact the local community action agency in your area (see attached list); or
- b. Contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-0859. To prevent disconnection, you must contact the utility prior to disconnection of your service.
- c. To avoid disconnection, you must apply for energy assistance before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

d. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.

##### **4. What if someone living at the residence has a serious health condition? (Residential customers only)**

Contact the utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your utility service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the utility office within 5 days of when your doctor or public health official notifies the utility of the health condition; otherwise, your utility service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if payment arrangements have not been made.

**5. 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 #9 below.)

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

- a. Your utility can shut off service between the hours of 6 a.m. and 2 p.m., Monday through Friday.
- b. The utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.
- c. The utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).
- d. The utility will not shut off your service if the temperature is forecasted to be 20 degrees Fahrenheit or colder during the following 24-hour period, including the day your service is scheduled to be shut off.
- e. If you have qualified for low-income energy assistance, the utility cannot shut off your service from November 1 through April 1. However, you will still owe the utility for the service used during this time.
- f. The utility will not shut off your service 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.
- g. If one of the heads of household is a service member deployed for military service, utility service cannot be shut off during the deployment or within 90 days after the end of deployment. In order for this exception to disconnection to apply, the utility must be informed of the deployment prior to disconnection. However, you will still owe the utility for service used during this time.

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

- a. You must be given a written notice at least 12 days before the utility service can be shut off for nonpayment. This notice will include the reason for shutting off your service.
- b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.
- c. The utility must also try to reach you by telephone or in person before it shuts off your service. From November 1 through April 1, if the utility cannot reach you by telephone or in person, the utility will put a written notice on the door of your residence to tell you that your utility service will be shut off.

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

- a. The utility will turn your service back on if you pay the whole amount you owe or agree to a reasonable payment plan (see #2 above).
- b. If you make your payment during regular business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after regular business hours, the utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility must do it by 11 a.m. the next day.
- c. 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.

**9. 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 1-877-565-4450. You may also write the Iowa Utilities Board at 1375 E.

Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by E-mail at [customer@iub.iowa.gov](mailto: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.

(4) If the utility has adopted a service limitation policy pursuant to subrule 20.4(23), the following paragraph shall be appended to the end of the standard form for the summary of rights and responsibilities, as set forth in subparagraph 20.4(15)“d”(3):

*Service limitation:* We have adopted a limitation of service policy for customers who otherwise could be disconnected. Contact our business office for more information or to learn if you qualify.

(5) When disconnecting service to a residence, made a diligent attempt to contact, by telephone or in person, the customer responsible for payment for service to the residence to inform the customer of the pending disconnection and the customer’s rights and responsibilities. During the period from November 1 through April 1, if the attempt at customer contact fails, the premises shall be posted at least one day prior to disconnection with a notice informing the customer of the pending disconnection and rights and responsibilities available to avoid disconnection.

If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, the customer’s present location. The landlord shall also be informed of the date when service may be disconnected.

If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

(6) Disputed bill. If the customer has received notice of disconnection and has a dispute concerning a bill for electric utility service, 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 disconnection of service. A utility shall delay disconnection for nonpayment of the disputed bill for up to 45 days after the rendering of the bill if the customer pays the undisputed amount. 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 in compliance with 199—Chapter 6.

(7) Reconnection. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day.

(8) Severe cold weather. A disconnection may not take place where electricity is used as the only source of space heating or to control or operate the only space heating equipment at the residence on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will be 20 degrees Fahrenheit or colder. In any case where the utility has posted a disconnect notice in compliance with subparagraph 20.4(15)“d”(5) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises above 20 degrees Fahrenheit and is forecasted to be above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provision of paragraph 20.4(15)“d.”

(9) Health of a resident. Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises. An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person’s own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or

mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation.

The utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

Verification shall postpone disconnection for 30 days. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period that the unpaid balance is to be retired, the customer is subject to disconnection pursuant to paragraph 20.4(15) "f."

(10) Winter energy assistance (November 1 through April 1). If the utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date the utility is notified to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the community action agency as eligible for either the low-income home energy assistance program or weatherization assistance program.

(11) Deployment. If the utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

*e.* Abnormal electric consumption. A customer who is subject to disconnection for nonpayment of bill, and who has electric consumption which appears to the customer to be abnormally high, may request the utility to provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. The utility shall provide assistance by discussing patterns of electric usage which may be readily identifiable, suggesting that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance which may be available to the customer.

*f.* A utility may disconnect electric service after 24-hour notice (and without the written 12-day notice) for failure of the customer to comply with the terms of a payment agreement.

*g.* The utility shall, prior to November 1, mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and must contain the information set out by the state agency administering the assistance program. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing. A utility serving fewer than 6,000 customers may publish the notice in an advertisement in a local newspaper of general circulation or shopper's guide.

**20.4(16) *Insufficient reasons for denying service.*** The following shall not constitute sufficient cause for refusal of service to a customer:

- a.* Delinquency in payment for service by a previous occupant of the premises to be served.
- b.* Failure to pay for merchandise purchased from the utility.
- c.* Failure to pay for a different type or class of public utility service.
- d.* Failure to pay the bill of another customer as guarantor thereof.
- e.* Failure to pay the back bill rendered in accordance with paragraph 20.4(14) "d" (slow meters).
- f.* Failure to pay a bill rendered in accordance with paragraph 20.4(14) "f."
- g.* Failure of a residential customer to pay a deposit during the period November 1 through April 1 for the location at which the customer has been receiving service.
- h.* Delinquency in payment for service by an occupant if the customer applying for service is creditworthy and able to satisfy any deposit requirements.

**20.4(17)** *When disconnection prohibited.*

a. No disconnection may take place from November 1 through April 1 for a resident who has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program.

b. If the utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

**20.4(18)** *Estimated demand.* Upon request of the customer and provided the customer's demand is estimated for billing purposes, the utility shall measure the demand during the customer's normal operation and use the measured demand for billing.

**20.4(19)** *Servicing utilization control equipment.* Each utility shall service and maintain any equipment it uses on customer's premises and shall correctly set and keep in proper adjustment any thermostats, clocks, relays, time switches or other devices which control the customer's service in accordance with the provisions in the utility's rate schedules.

**20.4(20)** *Customer complaints.* Complaints concerning the charges, practices, facilities or service of the utility shall be investigated promptly and thoroughly. The utility shall keep such records of customer complaints as will enable it to review and analyze its procedures and actions.

a. Each utility shall provide in its filed tariff a concise, fully informative procedure for the resolution of customer complaints.

b. The utility shall take reasonable steps to ensure that customers unable to travel shall not be denied the right to be heard.

c. The final step in a complaint hearing and review procedure shall be a filing for board resolution of the issues.

**20.4(21)** *Temporary service.* When the utility renders temporary service to a customer it may require that the customer bear all of the cost of installing and removing the service facilities in excess of any salvage realized.

**20.4(22)** *Change in type of service.* If a change in the type of service, such as from 25- to 60-cycle or from direct or alternating current, or a change in voltage to a customer's substation, is effected at the insistence of the utility and not solely by reason of increase in the customer's load or change in the character thereof, the utility shall share equitably in the cost of changing the equipment of the customer affected as determined by the board in the absence of agreement between utility and customer. In general, the customer should be protected against or reimbursed for the following losses and expenses to an appropriate degree:

a. Loss of value in electrical power utilization equipment.

b. Cost of changes in wiring, and

c. Cost of removing old and installing new utilization equipment.

**20.4(23)** *Limitation of service.* The utility shall have the option of adopting a policy for service limitation at a customer's residence as a measure to be taken in lieu of disconnection of service to the customer. The service limiter policy shall be set out in the utility's tariff and shall contain the following conditions:

a. A service limitation device shall not be activated without the customer's agreement.

b. A service limitation device shall not be activated unless the customer has defaulted on all payment agreements for which the customer qualifies under the board's rules and the customer has agreed to a subsequent payment agreement.

c. The service limiter shall provide for usage of a minimum of 3,600 watts. If the service limiter policy provides for different usage levels for different customers, the tariff shall set out specific nondiscriminatory criteria for determining the usage levels. Electric-heating residential customers may have their service limited if otherwise eligible, but such customers shall have consumption limits set at a level that allows them to continue to heat their residences. For purposes of this rule, "electric heating" shall mean heating by means of a fixed-installation electric appliance that serves as the primary source of heat and not, for example, one or more space heaters.

*d.* A provision that, if the minimum usage limit is exceeded such that the limiter function interrupts service, the service limiter function must be capable of being reset manually by the customer, or the service limiter function must reset itself automatically within 15 minutes after the interruption. In addition, the service limiter function may also be capable of being reset remotely by the utility. If the utility chooses to use the option of resetting the meter remotely, the utility shall provide a 24-hour toll-free number for the customer to notify the utility that the limiter needs to be reset and the meter shall be reset immediately following notification by the customer. If the remote reset option is used, the meter must still be capable of being reset manually by the customer or the service limiter function must reset itself automatically within 15 minutes after the interruption.

*e.* There shall be no disconnect, reconnect, or other charges associated with service limiter interruptions or restorations.

*f.* A provision that, upon installation of a service limiter or activation of a service limiter function on the meter, the utility shall provide the customer with information on the operation of the limiter, including how it can be reset, and information on what appliances or combination of appliances can generally be operated to stay within the limits imposed by the limiter.

*g.* A provision that the service limiter function of the meter shall be disabled no later than the next working day after the residential customer has paid the delinquent balance in full.

*h.* A service limiter customer that defaults on the payment agreement is subject to disconnection after a 24-hour notice pursuant to paragraph 20.4(15)“f.”

[ARC 7976B, IAB 7/29/09, effective 9/2/09; ARC 9101B, IAB 9/22/10, effective 10/27/10; Editorial change: IAC Supplement 12/29/10]

These rules are intended to implement Iowa Code sections 476.6, 476.8, 476.20 and 476.54.

### **199—20.5(476) Engineering practice.**

**20.5(1) Requirement for good engineering practice.** The electric plant of the utility shall be constructed, installed, maintained and operated in accordance with accepted good engineering practice in the electric industry to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

**20.5(2) Standards incorporated by reference.** The utility shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the board.

- a.* Iowa Electrical Safety Code, as defined in 199—Chapter 25.
- b.* National Electrical Code, ANSI/NFPA 70-2011.
- c.* American National Standard Requirements for Instrument Transformers, ANSI/IEEE C57.13.1-2006; and C57.13.3-2005.
- d.* American National Standard for Electric Power Systems and Equipment Voltage Ratings (60 Hertz), ANSI C84.1-2011.
- e.* Grounding of Industrial and Commercial Power Systems, IEEE 142-2007.
- f.* IEEE Standard 1159-2009, IEEE Recommended Practice for Monitoring Electric Power Quality or any successor standard.
- g.* IEEE Standard 519-1992, IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems or its successor standard.
- h.* At railroad crossings, 199—42.6(476), “Engineering standards for electric and communications lines.”

**20.5(3) Adequacy of supply and reliability of service.** The generating capacity of the utility’s plant, supplemented by the electric power regularly available from other sources, must be sufficiently large to meet all normal demands for service and provide a reasonable reserve for emergencies.

In appraising adequacy of supply the board will segregate electric utilities into two classes viz., those having high capacity transmission interconnections with other electrical utilities and those which lack such interconnection and are therefore completely dependent upon the firm generating capacity of the utility’s own generating facilities.

*a.* In the case of utilities having interconnecting ties with other utilities, the board will, upon appraising adequacy of supply, take appropriate notice of the utility’s recent past record, as of the

date of appraisal, of any widespread service interruptions and any capacity shortages along with the consideration of the supply regularly available from other sources, the normal demands, and the required reserve for emergencies.

*b.* In the case of noninterconnected utilities the board will give attention to the maximum total coincident customer demand which could be satisfied without the use of the single element of plant equipment, the disability of which would produce the greatest reduction in total net plant productive capacity and also give attention to the normal demands for service and to the reasonable reserve for emergencies.

**20.5(4)** *Electric transmission and distribution facilities.* Rescinded IAB 11/13/02, effective 12/18/02.

**20.5(5)** *Inspection of electric plant.* Each utility shall adopt a written program for inspection of its electric plant in order to determine the necessity for replacement and repair in compliance with board rule 199—25.3(476,478).

This rule is intended to implement Iowa Code section 476.8 and 478.18.  
[ARC 7962B, IAB 7/15/09, effective 8/19/09; ARC 9501B, IAB 5/18/11, effective 6/22/11; ARC 1359C, IAB 3/5/14, effective 4/9/14]

### **199—20.6(476) Metering.**

**20.6(1)** *Inspection and testing program.* Each utility shall adopt a written program for the inspection and testing of its meters to determine the necessity for adjustment, replacement or repair. The frequency of inspection and methods of testing shall be based on the utility's experience, manufacturer's recommendations, and accepted good practice. The publications listed in 20.6(3) are representative of accepted good practice. Each utility shall maintain inspecting and testing records for each meter and associated device until three years after its retirement.

**20.6(2)** *Program content.* The written program shall, at minimum, address the following subject areas:

- a.* Classification of meters by capacity, type, and any other factor considered pertinent.
- b.* Checking of new meters for acceptable accuracy before being placed in service.
- c.* Testing of in-service meters, including any associated instruments or corrective devices, for accuracy, adjustments or repairs. This may be accomplished by periodic tests at specified intervals or on the basis of a statistical sampling plan, but shall include meters removed from service for any reason.
- d.* Periodic calibration or testing of devices or instruments used by the utility to test meters.
- e.* The limits of meter accuracy considered acceptable by the utility.
- f.* The nature of meter and meter test records which will be maintained by the utility.

**20.6(3)** *Accepted good practice.* The following publications are considered to be representative of accepted good practice in matters of metering and meter testing:

- a.* American National Standard Code for Electricity Metering, ANSI C12.1-2008.
- b.* and *c.* Rescinded IAB 5/23/07, effective 6/27/07.

**20.6(4)** *Meter adjustment.* All meters and associated metering devices shall, when tested, be adjusted as closely as practicable to the condition of zero error.

**20.6(5)** *Request tests.* Upon request by a customer, a utility shall test the meter servicing that customer. A test need not be made more frequently than once in 18 months.

A written report of the test results shall be mailed to the customer within ten days of the completed test and a record of each test shall be kept on file at the utility's office. The utility shall give the customer or a representative of the customer the opportunity to be present while the test is conducted.

If the test finds the meter is accurate within the limits accepted by the utility in its meter inspection and testing program, the utility may charge the customer \$25 or the cost of conducting the test, whichever is less. The customer shall be advised of any potential charge before the meter is removed for testing.

**20.6(6)** *Referee tests.* Upon written request by a customer or utility, the board will conduct a referee test of a meter. A test need not be made more frequently than once in 18 months. The customer request shall be accompanied by a \$30 deposit in the form of a check or money order made payable to the utility.

Within five days of receipt of the written request and payment, the board shall forward the deposit to the utility and notify the utility of the requirement for a test. The utility shall, within 30 days after

notification of the request, schedule the date, time and place of the test with the board and customer. The meter shall not be removed or adjusted before the test. The utility shall furnish all testing equipment and facilities for the test. If the tested meter is found to be more than 2 percent fast or 2 percent slow, the deposit will be returned to the party requesting the test and billing adjustments shall be made as required in 20.4(14). The board shall issue its report within 15 days after the test is conducted, with a copy to the customer and the utility.

**20.6(7) Condition of meter.** No meter that is known to be mechanically or electrically defective, or to have incorrect constants, or that has not been tested and adjusted if necessary in accordance with these rules shall be installed or continued in service. The capacity of the meter and the index mechanism shall be consistent with the electricity requirements of the customer.

[ARC 7962B, IAB 7/15/09, effective 8/19/09]

### **199—20.7(476) Standards of quality of service.**

**20.7(1) Standard frequency.** The standard frequency for alternating current distribution systems shall be 60 cycles per second. The frequency shall be maintained within limits which will permit the satisfactory operation of customer's clocks connected to the system.

**20.7(2) Voltage limits retail.** Each utility supplying electric service to ultimate customers shall provide service voltages in conformance with the standard at 20.5(2) "d."

**20.7(3) Voltage balance.** Where three-phase service is provided the utility shall exercise reasonable care to assure that the phase voltages are in balance. In no case shall the ratio of maximum voltage deviation from average to average voltage exceed .02.

**20.7(4) Voltage limits, service for resale.** The nominal voltage shall be as mutually agreed upon by the parties concerned. The allowable variation shall not exceed 7.5 percent above or below the agreed-upon nominal voltage without the express approval of the board.

**20.7(5) Exceptions to voltage requirements.** Voltage outside the limits specified will not be considered a violation when the variations:

- a. Arise from the action of the elements.
- b. Are infrequent fluctuations not exceeding five minutes, duration.
- c. Arise from service interruptions.
- d. Arise from temporary separation of parts of the system from the main system.
- e. Are from causes beyond the control of the utility.
- f. Do not exceed 10 percent above or below the standard nominal voltage, and service is at a distribution line or transmission line voltage with the retail customer providing voltage regulators.

**20.7(6) Voltage surveys and records.** Voltage measurements shall be made at the customer's entrance terminals. For single-phase service the measurement shall be made between the grounded conductor and the ungrounded conductors. For three-phase service the measurement shall be made between the phase wires.

**20.7(7)** Each utility shall make a sufficient number of voltage measurements, using recording voltmeters, in order to determine if voltages are in compliance with the requirements as stated in 20.7(2), 20.7(3), 20.7(4). All voltmeter records obtained under 20.7(7) shall be retained by the utility for at least two years and shall be available for inspection by the board's representatives. Notations on each chart shall indicate the following:

- a. The location where the voltage was taken.
- b. The time and date of the test.
- c. The results of the comparison with a working standard indicating voltmeter.

**20.7(8) Equipment for voltage measurements.**

a. *Secondary standard indicating voltmeter.* Each utility shall have available at least one indicating voltmeter maintained with error no greater than 0.25 percent of full scale.

b. *Working standard indicating voltmeters.* Each utility shall have at least two indicating voltmeters maintained so as to have as-left errors of no greater than 1 percent of full scale.

c. *Recording voltmeters.* Each utility must have readily available at least two portable recording voltmeters with a rated accuracy of 1 percent of full scale.

**20.7(9)** Rescinded IAB 12/11/91, effective 1/15/92.

**20.7(10)** Extreme care must be exercised in the handling of standards and instruments to assure that their accuracy is not disturbed. Each standard shall be accompanied at all times by a certificate or calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

**20.7(11)** Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers, and interruptions planned for longer than one hour shall be preceded by adequate notice to those who will be affected.

**20.7(12)** Power quality monitoring. Each utility shall investigate power quality complaints from its customers and determine if the cause of the problem is on the utility's systems. In addressing these problems, each utility shall implement to the extent reasonably practical the practices outlined in the standard given at 20.5(2) "f."

**20.7(13)** Harmonics. A harmonic is a sinusoidal component of the 60 cycles per second fundamental wave having a frequency that is an integral multiple of the fundamental frequency. When excessive harmonics problems arise, each electric utility shall investigate and take actions to rectify the problem. In addressing harmonics problems, the utility and the customer shall implement to the extent practicable and in conformance with prudent operation the practices outlined in the standard at 20.5(2) "g."

This rule is intended to implement Iowa Code sections 476.2 and 476.8.

#### **199—20.8(476) Safety.**

**20.8(1)** *Protective measures.* Each utility shall exercise reasonable care to reduce those hazards inherent in connection with its utility service and to which its employees, its customers, and the general public may be subjected and shall adopt and execute a safety program designed to protect the public and fitted to the size and type of its operations.

**20.8(2)** *Accident investigation and prevention.* The utility shall give reasonable assistance to the board in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents.

**20.8(3)** *Reportable accidents.* Each utility shall maintain a summary of all reportable accidents, as defined in 199—25.5(476,478), arising from its operations.

**20.8(4)** *Grounding of secondary distribution system.* Unless otherwise specified by the board, each utility shall comply with, and shall encourage its customers to comply with, the applicable provisions of the acceptable standards listed in 20.5(2) for the grounding of secondary circuits and equipment.

Ground connections should be tested for resistance at the time of installation. The utility shall keep a record of all ground resistance measurements.

The utility shall establish a program of inspection so that all artificial grounds installed by it shall be inspected within reasonable periods of time.

**199—20.9(476) Electric energy sliding scale or automatic adjustment.** A rate-regulated utility's sliding scale or automatic adjustment of the unit charge for electric energy shall be an energy clause.

**20.9(1)** *Applicability.* A rate-regulated utility's sliding scale or automatic adjustment of electric utility energy rates shall recover from consumers only those costs which:

- Are incurred in supplying energy;
- Are beyond direct control of management;
- Are subject to sudden important change in level;
- Are an important factor in determining the total cost to serve; and
- Are readily, precisely, and continuously segregated in the accounts of the utility.

**20.9(2)** *Energy clause for rate-regulated utility.* Prior to each billing cycle, a rate-regulated utility shall determine and file for board approval the adjustment amount to be charged for each energy unit consumed under rates set by the board. The filing shall include all journal entries, invoices (except invoices for fuel, freight, and transportation), worksheets, and detailed supporting data used to determine the amount of the adjustment. The estimated amount of fossil fuel should be detailed to reflect the amount of fuel, transportation, and other costs.

The journal entries should reflect the following breakdown for each type of fuel: actual cost of fuel, transportation, and other costs. Items identified as other costs should be described and their inclusion as fuel costs should be justified. The utility shall also file detailed supporting data:

1. To show the actual amount of sales of energy by month for which an adjustment was utilized, and
2. To support the energy cost adjustment balance utilized in the monthly energy adjustment clause filings.
  - a. The energy adjustment shall provide for change of the price per kilowatt hour consumed under rates set by the board based upon the formulas provided below. The calculation shall be:

$$E_0 = \frac{EC_0 + EC_1}{EQ_0 + EQ_1} + \frac{A_1}{EJ_0 + EJ_1} - B$$

$E_0$  is the energy adjustment charge to be used in the next customer billing cycle rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. For deliveries at voltages higher than secondary line voltages, appropriate factors should be applied to the adjustment charge to recognize the lower losses associated with these deliveries.

$EC_0$  is the estimated expense for energy in the month during which  $E_0$  will be used.

$EC_1$  is the estimated expense for energy in the month prior to the month of  $EC_0$ .

$EQ_0$  is the estimated electric energy to be consumed or delivered and entered in accounts 440, 442, 444-7, excluding energy from distinct interchange deliveries entered into account 447 and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts during the month in which  $E_0$  will be used.

$EQ_1$  is the estimated electric energy to be consumed or delivered and entered in accounts 440, 442, 444-7, excluding energy from distinct interchange deliveries entered in account 447 and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts during the month prior to  $EQ_0$ .

$EJ_0$  is the estimated electric energy to be consumed under rates set by the board in the month during which the energy adjustment charge ( $E_0$ ) will be used in bill calculations.

$EJ_1$  is the estimated electric energy to be consumed under rates set by the board in the month prior to the month of  $EJ_0$ .

$A_1$  is the beginning of the month energy cost adjustment account balance for the month of estimated consumption  $EJ_1$ . This would be the most recent month's balance available from actual accounting data.

$B$  is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

b. The estimated energy cost ( $EC_0 + EC_1$ ) shall be the estimated cost associated with  $EQ_0$  and  $EQ_1$  determined as the cost of:

- (1) Fossil and nuclear fuel consumed in the utility's own plants and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants. Fossil fuel shall include natural gas used for electric generation and the cost of fossil fuel transferred from account 151 to account 501 or 547 of the Uniform System of Accounts for Electric Utilities. Nuclear fuel shall be that shown in account 518 of the Uniform System of Accounts except that if account 518 contains any expense for fossil fuel which has already been included in the cost of fossil fuel, it shall be deducted from the account. (Paragraph C of account 518 includes the cost of other fuels used for ancillary steam facilities.)

- (2) The cost of steam purchased, or transferred from another department of the utility or from others under a joint facility operating agreement, for use in prime movers producing electric energy (accounts 503 and 521).

- (3) A deduction shall be made of the expenses of producing steam chargeable to others, to other utility departments under a joint operating agreement, or to other electric accounts outside the steam generation group of accounts (accounts 504 and 522).

- (4) The cost of water used for hydraulic power generation. Water cost shall be limited to items of account 536 of the Uniform System of Accounts. For pumped storage projects the energy

cost of pumping is included. Pumping energy cost shall be determined from the applicable costs of subparagraphs of paragraph 20.9(2) "b."

(5) The energy costs paid for energy purchased under arrangements or contracts for firm power, operational control energy, outage energy, participation power, peaking power, and economy energy, as entered into account 555 of the Uniform System of Accounts, less the energy revenues to be recovered from corresponding sales, as entered in account 447 of the Uniform System of Accounts.

(6) Purchases from AEP facilities under rule 199—15.11(476).

(7) The weighted average costs of inventoried allowances used in generating electricity.

(8) The gains and losses, as described in subrule 20.17(9), from allowance transactions occurring during the month. Allowance transactions shall include vintage trades and emission for emission trades.

(9) Eligible costs or credits associated with the utility's annual reconciliation of its alternate energy purchase program under 199—paragraph 15.17(4) "b."

c. The energy cost adjustment account balance (A) shall be the cumulative balance of any excess or deficiency which arises out of the difference between board recognized energy cost recovery and the amount recovered through application of energy charges to consumption under rates set by the board. Each monthly entry (D) into the energy cost adjustment account shall be the dollar amount determined from solution of the following equation (with proper adjustment for those deliveries at high voltage which for billing purposes recognized the lower losses associated with the high voltage deliveries).

$$D = \left[ C_2 \times \frac{J_2}{Q_2} \right] - \left[ J_2 \times (E_2 + B) \right]$$

$C_2$  is the actual expense for energy, calculated as set forth in 20.9(2) "b," in the month prior to  $EJ_1$  of 20.9(2) "a."

$J_2$  is the actual energy consumed in the prior month under rates set by the board and recorded in accounts 440, 442 and 444-6 of the Uniform System of Accounts.

$Q_2$  is the actual total energy consumed or delivered in the prior month and recorded in accounts 440, 442, 444-7, excluding energy from distinct interchange deliveries entered in account 447, and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts.

$E_2$  is the energy adjustment charge used for billing in the prior month.

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

d. Reserve account for nuclear generation. A rate-regulated utility owning nuclear generation or purchasing energy under a participation power agreement on nuclear generation may establish a reserve account. The reserve account will spread the higher cost of energy used to replace that normally received from nuclear sources. A surcharge would be added to each kilowatt hour from the nuclear source. The surcharges collected are credited to the reserve account. During an outage or reduced level of operation, replacement energy cost would be offset through debit to the reserve account. The debit would be based upon the cost differential between replacement energy cost and the average cost (including the surcharge) of energy from the nuclear capacity. A reserve account shall have credit and debit limitations equal in dollar amounts to the total cost differential for replacement energy during a normal refueling outage.

e. A rate-regulated utility desiring to collect expensed allowance costs and the gains and losses from allowance transactions through the energy adjustment must file with the board monthly reports including:

(1) The number and weighted average unit cost of allowances used during the month to offset emissions from the utility's affected units;

(2) The number and unit price of allowances purchased during the month;

(3) The number and unit price of allowances sold during the month;

(4) The weighted average unit cost of allowances remaining in inventory;

(5) The dollar amount of any gain from an allowance sale occurring during the month;

(6) The dollar amount of any loss from an allowance sale occurring during the month; and

(7) Documentation of any gain or loss from an allowance sale occurring during the month.

*f.* A rate-regulated utility which proposes a new sliding scale or automatic adjustment clause of electric utility energy rates shall conform such clause with the rules.

**20.9(3) Optional energy clause for a rate-regulated utility which does not own generation.** A rate-regulated utility which does not own generation may adopt the energy adjustment clause of this subrule in lieu of that set forth in subrule 20.9(2). Prior to each billing cycle it shall determine and file for board approval the adjustment amount to be charged for each energy unit consumed under rates set by the board. The filing shall include all journal entries, invoices (except invoices for fuel, freight, and transportation), worksheets, and detailed supporting data used to determine the amount of the adjustment. The estimated amount of fossil fuel should be detailed to reflect the amount of fuel, transportation, and other costs.

The journal entries should reflect the following breakdown for each type of fuel: actual cost of fuel, transportation, and other costs. Items identified as other costs should be described and their inclusion as fuel costs should be justified. The utility shall also file detailed supporting data:

1. To show the actual amount of sales of energy by month for which an adjustment was utilized, and
2. To support the energy cost adjustment balance utilized in the monthly energy adjustment clause filings.

*a.* The energy adjustment charge shall provide for change of the price per kilowatt-hour consumed to equal the average cost per kilowatt hour delivered by the utility's system. The calculation shall be:

$$E_0 = \frac{C_2 + C_3 + C_4}{Q_2 + Q_3 + Q_4} - B$$

$E_0$  is the energy adjustment charge to be used in the next customer billing cycle rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. For deliveries at voltages higher than secondary line voltages, appropriate factors should be applied to the adjustment charge to recognize the lower losses associated with these deliveries.

$C_2$ ,  $C_3$  and  $C_4$  are the charges by the wholesale suppliers as recorded in account 555 offset by energy revenues from distinct interchange deliveries entered in account 447 of the Uniform System of Accounts for the first three of the four months prior to the month in which  $E_0$  will be used.

$Q_2$ ,  $Q_3$  and  $Q_4$  are the total electric energy delivered by the utility system, excluding energy from distinct interchange deliveries entered in account 447 during each of the months in which the expenses  $C_2$ ,  $C_3$  and  $C_4$  were incurred.

$B$  is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

*b.* A utility purchasing its total electric energy requirements may establish an energy cost adjustment account for which the cumulative balance is the excess or deficiency arising from the difference between commission-recognized energy cost recovery and the amount recovered through application of energy charges on jurisdictional consumption.

For a utility electing to use an energy cost adjustment account the calculation shall be:

$$E_0 = \frac{C_2 + C_3 + C_4}{Q_2 + Q_3 + Q_4} + \frac{A_2}{J_2 + J_3 + J_4} - B$$

$E_0$  is the energy adjustment charge to be used in the next customer billing cycle rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. For deliveries at voltages higher than secondary line voltages, appropriate factors should be applied to the adjustment charge to recognize the lower losses associated with these deliveries.

$C_2$ ,  $C_3$  and  $C_4$  are the charges by the wholesale suppliers as recorded in account 555 offset by energy revenues from distinct interchange deliveries entered in account 447 of the Uniform System of Accounts for the first three of the four months prior to the month in which  $E_0$  will be used.

$Q_2$ ,  $Q_3$  and  $Q_4$  are the total electric energy delivered by the utility system, excluding energy from distinct interchange deliveries entered in account 447 during each of the months in which the expenses  $C_2$ ,  $C_3$  and  $C_4$  were incurred.

$A_2$  is the end of the month energy cost adjustment account balance for the month of consumption  $J_2$ . This would be the most recent month's balance available from actual accounting data.

$J_2$ ,  $J_3$  and  $J_4$  are electric energy consumed under rates set by the board in the months corresponding to  $C_2$ ,  $C_3$  and  $C_4$ .

$B$  is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

c. The end of the month energy cost adjustment account balance ( $A$ ) shall be the cumulative balance of any excess or deficiency which arises out of the difference between board recognized energy cost recovery and the amount recovered through application of energy charges to consumption under rates set by the board.

Each monthly entry ( $D$ ) into the energy cost adjustment account shall be the dollar amount determined from solution of the following equation (with proper adjustment for those deliveries at high voltage which for billing purposes recognized the lower losses associated with the high voltage deliveries).

$$D = \left[ C_2 \times \frac{J_2}{Q_2} \right] - \left[ J_2 \times (E_2 + B) \right]$$

$C_2$  is the prior month charges by the wholesale suppliers as recorded in account 555 of the Uniform System of Accounts offset by energy revenues from distinct interchange deliveries entered in account 447.

$J_2$  is the electric energy consumed under jurisdictional rates in the prior month.

$Q_2$  is the electric energy delivered by the utility system, excluding energy from distinct interchange deliveries entered in account 447 in the prior month.

$E_2$  is the energy adjustment charge used for billing in the prior month.

$B$  is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

d. A utility with special conditions may petition the board for a waiver which would recognize its unique circumstances.

e. A utility which does not own generation and proposes a new sliding scale or automatic adjustment clause of electric utility rates shall conform such clause with the rules.

**20.9(4) Annual review of energy clause.** On or before each May 1, the board will notify each utility as to the two months of the previous calendar year for which fuel, freight, and transportation invoices will be required. Two copies of these invoices shall be filed with the board no later than the subsequent November 1.

This rule is intended to implement Iowa Code section 476.6(11).

### **199—20.10(476) Ratemaking standards.**

**20.10(1) Coverage.** Standards for ratemaking shall apply to all rate-regulated utilities in the state of Iowa. The board may, by rule or by order in specific cases, exempt a utility or class of utilities from any or all ratemaking standards. The standards are recommended to all service-regulated utilities in this jurisdiction.

**20.10(2) Cost of service.** Rates charged by an electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reasonably reflect the costs of providing electric service to the class. The methods used to determine class costs of service shall to the maximum extent practical permit identification of differences in cost-incurrence, for each class of electric consumers, attributable to daily and seasonal time of use of service, and permit identification of differences in cost-incurrence attributable to differences in demand, energy, and customer components of cost.

The design of rates should reasonably approximate a pricing methodology for any individual utility that would reflect the price system that would exist in a competitive market environment. For purposes

of determining revenue requirements among customer classes, embedded costs shall be preferred. For purposes of determining rate designs within customer classes, long-run marginal cost approaches are preferred although embedded cost approaches may be considered reasonable.

Nothing in this rule shall authorize or require the recovery by an electric utility of revenues in excess of, or less than, the amount of revenues otherwise determined to be lawful by the board.

Guidelines for use in evaluating the acceptability of methods of class cost of service estimation include, but are not limited to, the following:

*a.* All usage of customer, demand, and energy components of service shall be considered new usage.

*b.* Customer classes shall be established on the primary basis of reasonably similar usage patterns within classes, even if this requires disaggregation or recombination of traditional customer classes.

*c.* Generating capacity estimates or allocations among and within classes shall recognize that utility systems are designed to serve both peak and off-peak demand, and shall attribute costs based upon both peak period demand and the contribution of off-peak period demand in determining generation mix. Generating capacity estimates and allocations among and within classes shall be based on load data for each class as described in 199—subrule 35.9(2).

*d.* Transmission and distribution capacity estimates or allocations among and within classes shall be demand-related based upon system usage patterns, and the load imposed by a class on the transmission or distribution capacity in question.

*e.* Customer cost component estimates or allocations shall include only costs of the distribution system from and including transformers, meters and associated customer service expenses.

*f.* Methods of cost estimates or allocations among customer classes shall recognize the differences in voltage levels and other service characteristics, and line losses among customer classes.

*g.* Methods of class cost of service determination which are consistent with zero customer, demand, or energy component costs or major categories of these, such as generation, transmission or distribution, shall be considered unacceptable methods.

*h.* Long-run marginal cost methods of class cost of service determination shall clearly reflect changes in total costs to the utility with respect to changes in the outputs of customer, demand, or energy components of electric services.

*i.* The use of an inverse elasticity approach to adjust long-run marginal cost-based rates to the revenue requirement shall be unacceptable. Other approaches will be considered on a case-by-case basis.

**20.10(3) Declining block rates.** The energy-related cost component of a rate, or the amount attributable to the energy-related cost component of a rate, charged by an electric utility for providing electric service during any period to any class of electric consumers, shall not decrease as kilowatt-hour consumption by such class increases during the period except to the extent that the utility demonstrates that the energy costs of providing electric service to such class decrease as consumption increases during the period.

**20.10(4) Time-of-day rates.** The rates charged by any electric utility for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the cost of providing electric service to that class of electric consumers at different times of the day unless such rates are not cost-effective with respect to the class. These rates are cost-effective with respect to a class if the long-run benefits of the rate to the electric utility and its electric consumers in the class concerned are likely to exceed the metering costs and other costs associated with the use of the rates. Cost-based time-of-day rates shall be offered on an optional basis to electric consumers who do not otherwise qualify for the rates if consumers agree to pay the additional metering costs and other costs associated with the use of the rates.

**20.10(5) Seasonal rates.** The rates charged by an electric utility for providing electric service to each class of electric consumers may be on a seasonal basis which reflects the costs of providing service to the class of consumers at different seasons of the year to the extent that costs vary seasonally for the utility, if the board determines that seasonal rates are appropriate in an individual case.

**20.10(6) *Interruptible rates.*** Each electric utility shall offer each industrial and commercial electric consumer an interruptible rate which reflects the cost of providing interruptible service to the class of which the consumer is a member.

**20.10(7) *Load management techniques.*** Rescinded IAB 11/12/03, effective 12/17/03.

**20.10(8) *Other energy conservation strategies.*** Rescinded IAB 11/12/03, effective 12/17/03.

**20.10(9) *Pilot projects.*** Rescinded IAB 11/12/03, effective 12/17/03.

**199—20.11(476) Customer notification of peaks in electric energy demand.** Each electric utility shall inform its customers of the significance of reductions in consumption of electricity during hours of peak demand.

**20.11(1) *Annual notice.*** Each electric utility shall provide its customers, on an annual basis, with a written notice explaining how growth in demand affects a utility's investment costs and why reduction of customer usage during periods of peak demand may help delay or reduce the amount of future rate increases. The notice shall be delivered to its customers between May 1 and June 15 of each year if peak demand is likely to occur during the months of June through September. If peak demand usually occurs during the months of October through February, the notice shall be delivered to its customers between August 1 and September 15.

**20.11(2) *Notification plan.*** Each investor-owned utility shall have on file with the board a plan to notify its customers of an approaching peak demand on the day when peak demand is likely to occur.

*a.* The plan shall include the following:

(1) A provision for a general notice to be given customers prior to the time when peak demand is likely to occur as prescribed in 20.11(2) "b" and an explanation of when and how notice of an approaching peak in electric demand will be given to customers.

(2) A provision for direct notice to be given customers whose load reduction will have a significant impact on the utility's peak. The utility shall provide for such notice to be given prior to the time when peak demand is likely to occur, as prescribed in 20.11(2) "b," and shall explain the criteria used to identify customers to whom notice will be given and when and how notice will be given.

(3) A statement showing the total costs, with each component thereof itemized, projected to be associated with implementing the plan. Notice should be provided in the most efficient manner available. The board may reject a plan which includes excessive costs or which specifies an ineffective method of customer notification and may direct development of a new plan.

(4) The text of the general and direct message to be given in the general notice to customers. The message shall, at a minimum, include the name of the utility or utilities providing the notice, an explanation that conditions exist which indicate a peak in demand is approaching, and a statement that reduction in usage of electricity during the period of peak demand will ease the burden placed on the utility's system by growth in peak demand and may help delay or reduce the amount of future rate increases.

(5) A designation of the U.S. weather station(s), situated within the utility's service territory, whose temperature readings and predictions will be used by the utility in applying the standard in 20.11(2) "b."

(6) A provision for joint delivery, by two or more utilities, of the general notice to customers in regions of the state where U.S. weather station(s) predict conditions specified in 20.11(2) "b" will exist on the same day.

*b.* For purposes of this rule, peak demand is likely to occur on a nonholiday weekday between June 15 and September 15 when the following conditions exist:

(1) The utility's designated weather station predicts the temperature will rise above 95° Fahrenheit (35° Celsius), and the designated weather station officially recorded a temperature above 95° Fahrenheit (35° Celsius) on the previous day, or

(2) The utility's designated weather station predicts the temperature will rise to above 90° Fahrenheit (33° Celsius) on a day following at least two consecutive days of temperatures above 95° Fahrenheit (35° Celsius), as officially recorded by the designated weather station, but

(3) If a utility can demonstrate it would have been required to provide between June 15 and September 15 a peak alert notice to customers, because of the existence of the conditions set forth in

20.11(2)“b”(1) or 20.11(2)“b”(2), on more than six days in any one of the preceding ten years, the utility may substitute a 97° Fahrenheit (36° Celsius) standard in lieu of the 95° Fahrenheit (35° Celsius) standard in the subrule.

**20.11(3) *Implementation of notification plan.*** The utility shall implement the approved plan on each day of the year when peak demand is likely to occur, as prescribed by 20.11(2)“b.”

**20.11(4) *Permissive notices.*** The standard for implementing peak alert notification in subrule 20.11(2) is a minimum standard and does not prohibit a utility or association of utilities from issuing a notice requesting customers to reduce usage at any other time.

**20.11(5) *Annual report.*** Each electric utility required by subrule 20.11(2) to file a plan for customer notification shall file, on or before April 1 of each year, a report stating the number of notices given its customers, the dates when notices were issued, the annual cost of providing both general and direct notice to customers and measures of kilowatt hour demand at the time when notice was given and at hourly intervals thereafter until kilowatt hour demand decreases to the level at which it was measured when the notice was issued. The annual report shall also include a statement of any problems experienced by the utility in providing customer notification of a peak demand and a proposal to modify the plan, if necessary, to make customer notification more effective. Modifications must be approved by the board before they are implemented.

**199—20.12(476) New structure energy conservation standards.** Rescinded IAB 11/12/03, effective 12/17/03.

**199—20.13(476) Periodic electric energy supply and cost review [476.6(16)].**

**20.13(1) *Procurement plan.*** The board shall periodically conduct a contested case proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility’s electric fuel procurement and contracting practices. By January 31 each year the board will notify a rate-regulated utility if the utility will be required to file an electric fuel procurement plan. In the years in which it does not conduct a contested case proceeding, the board may require a utility to file certain information for the board’s review. In years in which a full proceeding is conducted, a rate-regulated utility providing electric service in Iowa shall prepare and file with the board on or before May 15 of each required filing year a complete electric fuel procurement plan for an annual period commencing June 1 or, in the alternative, for the annual period used by the utility in preparing its own fuel procurement plan. A utility’s procurement plan shall be organized to include information as follows:

*a. Index.* The plan shall include an index of all documents and information required to be filed in the plan, and the identification of the board files in which the documents incorporated by reference are located.

*b. Purchase contracts and arrangements.* A utility’s procurement plan shall include detailed summaries of the following types of contracts and agreements executed since the last procurement review:

- (1) All contracts and fuel supply arrangements for obtaining fuel for use by any unit in generation;
- (2) All contracts and arrangements for transporting fuel from point of production to the site where placed in inventory, including any unit generating electricity for the utility;
- (3) All contracts and arrangements for purchasing or selling allowances;
- (4) Purchased power contracts or arrangements, including sale-of-capacity contracts, involving over 25 MW of capacity;
- (5) Pool interchange agreements;
- (6) Multiutility transmission line interchange agreements; and
- (7) Interchange agreements between investor-owned utilities, generation and transmission cooperatives, or both, not required to be filed above, which were entered into or in effect since the last filing, and all such contracts or arrangements which will be entered into or exercised by the utility during the prospective 12-month period.

All procurement plans filed by a utility shall include all of the types of contracts and arrangements listed in subparagraphs (1) and (2) of this paragraph which will be entered into or exercised by the utility

during the prospective 12-month period. In addition, the utility shall file an updated list of contracts that are or will become subject to renegotiation, extension, or termination within five years. The utility shall also update any price adjustment affecting any of the filed contracts or arrangements.

*c. Other contract offers.* The procurement plan shall include a list and description of those types of contracts and arrangements listed in paragraph 20.13(1) "b" offered to the utility since the last filing into which the utility did not enter. In addition, the procurement plan shall include a list of those types of contracts and arrangements listed in paragraph 20.13(1) "b" which were offered to the utility for the prospective 12-month period and into which the utility did not enter.

*d. Studies or investigation reports.* The procurement plans shall include all studies or investigation reports which have been considered by the utility in deciding whether to enter into any of those types of contracts or arrangements listed in paragraphs 20.13(1) "b" and "c" which will be exercised or entered into during the prospective 12-month period.

*e. Price hedge justification.* The procurement plan shall justify purchasing allowance futures contracts as a hedge against future price changes in the market rather than for speculation.

*f. Actual and projected costs.* The procurement plan shall include an accounting of the actual costs incurred in the purchase and transportation of fuel and the purchase of allowances for use in generating electricity associated with each contract or arrangement filed in accordance with paragraph 20.13(1) "b" for the previous 12-month period.

The procurement plan also shall include an accounting of all costs projected to be incurred by the utility in the purchase and transportation of fuel and the purchase of allowances for use in generating electricity associated with each contract or arrangement filed in accordance with paragraph 20.13(1) "b" in the prospective 12-month period.

If applicable, the reporting of transportation costs in the procurement plan shall include all known liabilities, including all unit train costs.

*g. Costs directly related to the purchase of fuel.* The utility shall provide a list and description of all other costs directly related to the purchase of fuels for use in generating electricity not required to be reported by paragraph "f."

*h. Compliance plans.* Each utility shall file its emissions compliance plan as submitted to the EPA. Revisions to the compliance plan shall be filed with each subsequent procurement plan.

*i. Evidence submitted.* Each utility shall submit all factual evidence and written argument in support of its evaluation of the reasonableness and prudence of the utility's procurement practice decisions in the manner described in its procurement plan. The utility shall file data sufficient to forecast fuel consumption at each generating unit or power plant for the prospective 12-month period. The board may require the submission of machine-readable data for selected computer codes or models.

*j. Additional information.* Each utility shall file additional information as ordered by the board.

**20.13(2) Periodic review proceeding.** The board shall periodically conduct a proceeding to evaluate the reasonableness and prudence of a rate-regulated utility's procurement practices. The prudence review of allowance transactions and accompanying compliance plans shall be determined on information available at the time the options or plans were developed.

*a.* On or before May 15 of a required filing year, each utility shall file prepared direct testimony and exhibits in support of its fuel procurement decisions and its fuel requirement forecast. This filing shall be in conjunction with the filing of the plans. The burden shall be on the utility to prove it is taking all reasonable actions to minimize its purchased fuel costs.

*b.* The board shall disallow any purchased fuel costs in excess of costs incurred under responsible and prudent policies and practices.

### **199—20.14(476) Flexible rates.**

**20.14(1) Purpose.** This subrule is intended to allow electric utility companies to offer, at their option, incentive or discount rates to their customers.

#### **20.14(2) General criteria.**

*a.* Electric utility companies may offer discounts to individual customers, to selected groups of customers, or to an entire class of customers. However, discounted rates must be offered to all directly

competing customers in the same service territory. Customers are direct competitors if they make the same end product (or offer the same service) for the same general group of customers. Customers that only produce component parts of the same end product are not directly competing customers.

*b.* In deciding whether to offer a specific discount, the utility shall evaluate the individual customer's, group's, or class's situation and perform a cost-benefit analysis before offering the discount.

*c.* Any discount offered should be such as to significantly affect the customer's or customers' decision to stay on the system or to increase consumption.

*d.* The consequences of offering the discount should be beneficial to all customers and to the utility. Other customers should not be at risk of loss as a result of these discounts; in addition, the offering of discounts shall in no way lead to subsidization of the discounted rates by other customers in the same or different classes.

**20.14(3) *Tariff requirements.*** If a company elects to offer flexible rates, the utility shall file for review and approval tariff sheets specifying the general conditions for offering discounted rates. The tariff sheets shall include, at a minimum, the following criteria:

*a.* The cost-benefit analysis must demonstrate that offering the discount will be more beneficial than not offering the discount.

*b.* The ceiling for all discounted rates shall be the approved rate on file for the customer's rate class.

*c.* The floor for the discount rate shall be equal the energy costs and customer costs of serving the specific customer.

*d.* No discount shall be offered for a period longer than five years, unless the board determines upon good cause shown that a longer period is warranted.

*e.* Discounts should not be offered if they will encourage deterioration in the load characteristics of the customer receiving the discount.

**20.14(4) *Reporting requirements.*** Each rate-regulated electric utility electing to offer flexible rates shall file annual reports with the board within 30 days of the end of each 12 months. Reports shall include the following information:

*a.* Section 1 of the report concerns discounts initiated in the last 12 months. For all discounts initiated in the last 12 months, the report shall include:

- (1) The identity of the new customers (by account number, if necessary);
- (2) The value of the discount offered;
- (3) The cost-benefit analysis results;
- (4) The end-use cost of alternate fuels or energy supplies available to the customer, if relevant;
- (5) The energy and demand components by month of the amount of electricity sold to the customer in the preceding 12 months.

*b.* Section 2 of the report relates to overall program evaluation. Amount of electricity refers to both energy and demand components when the customer is billed for both elements. For all discounts currently being offered, the report shall include:

- (1) The identity of each customer (by account number, if necessary);
- (2) The amount of electricity sold in the last 12 months to each customer at discounted rates, by month;
- (3) The amount of electricity sold to each customer in the same 12 months of the preceding year, by month;
- (4) The dollar value of the discount in the last 12 months to each customer, by month; and
- (5) The dollar value of sales to each customer for each of the previous 12 months.

*c.* Section 3 of the report concerns discounts denied or discounts terminated. For all customers specifically evaluated and denied or having a discount terminated in the last 12 months, the report shall include:

- (1) Customer identification (by account number, if necessary);
- (2) The amount of electricity sold in the last 12 months to each customer, by month;
- (3) The amount of electricity sold to each customer in the same 12 months of the preceding year, by month; and

(4) The dollar value of sales to each customer for each of the past 12 months.

*d.* No monthly report is required if the utility had no customers receiving a discount during the relevant period and had no customers which were evaluated for the discount and rejected during the relevant period.

**20.14(5) Rate case treatment.** In a rate case, 50 percent of any identifiable increase in net revenues will be used to reduce rates for all customers; the remaining 50 percent of the identifiable increase in net revenues may be kept by the utility. If there is a decrease in revenues due to the discount, the utility's test year revenues will be adjusted to remove the effects of the discount by assuming that all sales were made at full tariffed rates for the customer class. Determining the actual amount will be a factual determination to be made in the rate case.

**199—20.15(476) Customer contribution fund.**

**20.15(1) Applicability and purpose.** This rule applies to each electric public utility, as defined in Iowa Code sections 476.1, 476.1A, and 476.1B. Each utility shall maintain a program plan to assist the utility's low-income customers with weatherization and to supplement assistance received under the federal low-income home energy assistance program for the payment of winter heating bills.

**20.15(2) Program plan.** Each utility shall have on file with the board a detailed description of its current program plan. At a minimum, the plan shall include the following information:

*a.* A list of the members of the governing board, council, or committee established to determine the appropriate distribution of the funds collected. The list shall include the organization each member represents;

*b.* A sample of the customer notification with a description of the method and frequency of its distribution;

*c.* A sample of the authorization form provided to customers;

*d.* The date of implementation.

Program plans for new customer contribution funds shall be rejected if not in compliance with this rule.

**20.15(3) Notification.** Each utility shall notify all customers of the fund at least twice a year. The method of notice which will ensure the most comprehensive notification to the utility's customers shall be employed. Upon commencement of service and at least once a year, the notice shall be mailed or personally delivered to all customers. The other required notice may be published in a local newspaper(s) of general circulation within the utility's service territory. A utility serving fewer than 6000 customers may publish their semiannual notices locally in a free newspaper, utility newsletter or shopper's guide instead of a newspaper. At a minimum the notice shall include:

*a.* A description of the availability and the purpose of the fund;

*b.* A customer authorization form. This form shall include a monthly billing option and any other methods of contribution.

**20.15(4) Methods of contribution.** The utility shall provide for contributions as monthly pledges, as well as one-time or periodic contributions. Each utility may allow persons or organizations to contribute matching funds.

**20.15(5) Annual report.** On or before September 30 of each year, each utility shall file with the board a report of all the customer contribution fund activity for the previous fiscal year beginning July 1 and ending June 30. The report shall be in a form provided by the board and shall contain an accounting of the total revenues collected and all distributions of the fund. The utility shall report all utility expenses directly related to the customer contribution fund.

**20.15(6) Binding effect.** A pledge by a customer or other party shall not be construed to be a binding contract between the utility and the pledgor. The pledge amount shall not be subject to delayed payment charges by the utility.

**199—20.16(476) Exterior flood lighting.** Rescinded IAB 11/12/03, effective 12/17/03.

**199—20.17(476) Ratemaking treatment of emission allowances.**

**20.17(1) *Applicability and purpose.*** This rule applies to all rate-regulated utilities providing electric service in Iowa. Under Title IV of the Clean Air Act Amendments of 1990, each electric utility is required to hold sufficient emission allowances to offset emissions at all affected and new units. The acquisition and disposition of emission allowances will be treated for ratemaking purposes as defined in this rule.

**20.17(2) *Definitions.*** The following words and terms, when used in this rule, shall have the meaning indicated below:

*“Allowance futures contract”* is an agreement between a futures exchange clearinghouse and a buyer or seller to buy or sell an allowance on a specified future date at a specified price.

*“Allowance option contract”* is an agreement between a buyer and seller whereby the buyer has the option to transfer an allowance(s) at a specified date at a specified price. The seller of a call or put option will receive a premium for taking on the associated risk.

*“Auction allowances”* are allowances acquired or sold through EPA’s annual allowance auction.

*“Boot”* means something acquired or forfeited to equalize a trade.

*“Direct sale allowances”* are allowances purchased from the EPA in its annual direct sale.

*“Emission for emission trade”* is an exchange of one type of emission for another type of emission. For example, the exchange of SO<sub>2</sub> emission allowances for NO<sub>x</sub> emission allowances.

*“Fair market value”* is the amount at which an allowance could reasonably be sold in a transaction between a willing buyer and a willing seller other than in a forced or liquidation sale.

*“Historical cost”* is the amount of cash or its equivalent paid to acquire an asset, including any direct acquisition expenses. Any commissions paid to brokers shall be considered a direct acquisition expense.

*“Original cost”* is the historical cost of an asset to the person first devoting the asset to public service.

*“Statutory allowances”* are allowances allocated by the EPA at no cost to affected units under the Acid Rain Program either through annual allocations as a matter of statutory right and those for which a utility may qualify by using certain compliance options or effective use of conservation and renewables.

*“Vintage trade”* is an exchange of one vintage of allowances for another vintage of allowances with the difference in value between vintages being cash or additional allowances.

**20.17(3) *Valuing allowances for ratemaking purposes.***

- a. Statutory allowances. Valued at zero cost to electric utility.
- b. Direct sale allowances. Valued at historical cost.
- c. Auction allowances. Valued at historical cost.
- d. Purchased allowances. Valued at historical cost.

**20.17(4) *Valuing allowance inventory accounts.*** Allowance inventory accounts shall be valued at the weighted average cost of all allowances eligible for use during that year.

**20.17(5) *Valuing allowances acquired as part of a package.*** Allowances acquired as part of a package with equipment, fuel, or electricity shall be valued at their fair market value at the time the allowances were acquired.

**20.17(6) *Valuing allowances acquired through exchanges.***

a. *Exchanges without boot.* Electric utilities shall value allowances received in exchanges based on the recorded inventory value of the allowances relinquished.

b. *Exchanges with boot.* Electric utilities shall value allowances as the sum of the inventory cost of the allowances given up and the monetary consideration paid in boot for the newly acquired allowances. In determining the historical cost of allowances received, a gain (or loss) shall be recorded to the extent that the amount of boot received exceeds a proportionate share of the recorded weighted average inventory cost of the allowance surrendered. The proportionate share shall be based upon the ratio of the monetary consideration received (i.e., boot) to the total consideration received (monetary consideration plus the fair market value of the allowances received). The historical cost of the allowances received shall be equal to the amount derived by subtracting the difference between the boot received and the gain from the old inventory cost.

**20.17(7) *Valuing allowances transferred among affiliates.***

a. Allowances transferred from a utility to a parent or unregulated subsidiary. Allowances shall be transferred at the higher of historical cost or fair market value.

b. Allowances transferred from an unregulated subsidiary or parent to a utility. Allowances shall be transferred at the lesser of original cost or fair market value.

c. Allowances transferred from a utility to an affiliated utility. Allowances shall be transferred at fair market value.

**20.17(8) Expense recognition and recovery of allowance costs.**

a. *Expense recognition.* Electric utilities shall charge allowances (including fractional amounts) to expense in the month in which related emissions occur.

b. *Expense recovery.* The expense associated with allowances used for compliance shall be passed through the energy adjustment as specified in rule 199—20.9(476). The expense associated with allowances used for compliance shall include expenses associated with vintage trades and emission for emission trades.

c. *Allowance inventory shortage.* If a utility emits more emissions in a month than it has allowances in inventory, the utility shall pass the estimated cost of acquiring the needed allowances through the energy adjustment. When the needed allowances are acquired, any difference between the estimated and actual cost of the allowances shall be passed through the energy adjustment as specified in rule 199—20.9(476).

**20.17(9) Gains/losses from allowance transactions.** The gains and losses, including net gains and losses, from allowance transactions shall be passed through the energy adjustment as specified in rule 20.9(476). Allowance transactions shall include vintage trades and emission for emission trades.

**20.17(10) Allowance futures or option contracts.**

a. *Price hedging.* Electric utilities shall defer the costs or benefits from hedging transactions and include such amounts in inventory values when the related allowances are acquired, sold, or otherwise disposed of. Where the costs or benefits of hedging transactions are not identifiable with specific allowances, the amounts shall be included in inventory values when the futures contract is closed.

b. *Speculation.* Allowance transactions entered into for the purpose of speculation shall not affect allowance inventory pricing.

**20.17(11) Working capital reserve of allowances.** A working capital reserve of allowances shall be established in each utility's rate case proceeding based on the probability of forced outages, fuel quality variability, variability in load growth, nuclear exposure, the price and availability of allowances on the national market, and any other factors that the board deems appropriate. The working capital reserve will earn at the utility's authorized rate of return.

**20.17(12) Allowances banked for future use.** Allowances banked for future use shall be considered plant held for future use in utility rate proceedings if a definitive plan and schedule for use of the allowances is deemed adequate by the board.

**20.17(13) Prudence of allowance transactions.** The prudence of allowance transactions shall be determined by the board in the periodic electric energy supply and cost review. The prudency review of allowance transactions and accompanying compliance plans shall be based on information available at the time the options or plans were developed. Costs recovered from ratepayers through the energy adjustment that are deemed imprudent by the board shall be refunded with interest to ratepayers through the energy adjustment as specified in rule 199—20.9(476).

**199—20.18(476,478) Service reliability requirements for electric utilities.**

**20.18(1) Applicability.** Rule 199—20.18(476,478) is applicable to investor-owned electric utilities and electric cooperative corporations and associations operating within the state of Iowa subject to Iowa Code chapter 476 and to the construction, operation, and maintenance of electric transmission lines by electric utilities as defined in subrule 20.18(4) to the extent provided in Iowa Code chapter 478.

**20.18(2) Purpose and scope.** Reliable electric service is of high importance to the health, safety, and welfare of the citizens of Iowa. The purpose of rule 199—20.18(476,478) is to establish requirements for assessing the reliability of the transmission and distribution systems and facilities that are under the board's jurisdiction. This rule establishes reporting requirements to provide consumers, the board, and electric utilities with methodology for monitoring reliability and ensuring quality of electric

service within an electric utility's operating area. This rule provides definitions and requirements for maintenance of interruption data, retention of records, and report filing.

**20.18(3) General obligations.**

*a.* Each electric utility shall make reasonable efforts to avoid and prevent interruptions of service. However, when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety.

*b.* The electric utility's electrical transmission and distribution facilities shall be designed, constructed, maintained, and electrically reinforced and supplemented as required to reliably perform the power delivery burden placed upon them in the storm and traffic hazard environment in which they are located.

*c.* Each electric utility shall carry on an effective preventive maintenance program and shall be capable of emergency repair work on a scale which its storm and traffic damage record indicates as appropriate to its scope of operations and to the physical condition of its transmission and distribution facilities.

*d.* In appraising the reliability of the electric utility's transmission and distribution system, the board will consider the condition of the physical property and the size, training, supervision, availability, equipment, and mobility of the maintenance forces, all as demonstrated in actual cases of storm and traffic damage to the facilities.

*e.* Each electric utility shall keep records of interruptions of service on its primary distribution system and shall make an analysis of the records for the purpose of determining steps to be taken to prevent recurrence of such interruptions.

*f.* Each electric utility shall make reasonable efforts to reduce the risk of future interruptions by taking into account the age, condition, design, and performance of transmission and distribution facilities and providing adequate investment in the maintenance, repair, replacement, and upgrade of facilities and equipment.

*g.* Any electric utility unable to comply with applicable provisions of rule 199—20.18(476,478) may file a waiver request pursuant to rule 199—1.3(17A,474,476,78GA,HF2206).

**20.18(4) Definitions.** Terms and formulas when used in rule 199—20.18(476,478) are defined as follows:

“*Customer*” means (1) any person, firm, association, or corporation, (2) any agency of the federal, state, or local government, or (3) any legal entity responsible by law for payment of the electric service from the electric utility which has a separately metered electrical service point for which a bill is rendered. Electrical service point means the point of connection between the electric utility's equipment and the customer's equipment. Each meter equals one customer. Retail customers are end-use customers who purchase and ultimately consume electricity.

“*Customer average interruption duration index (CAIDI)*” means the average interruption duration for those customers who experience interruptions during the year. It is calculated by dividing the annual sum of all customer interruption durations by the total number of customer interruptions.

$$\text{CAIDI} = \frac{\text{Sum of All Customer Interruption Durations}}{\text{Total Number of Customer Interruptions}}$$

“*Distribution system*” means that part of the electric system owned or operated by an electric utility and designed to operate at a nominal voltage of 25,000 volts or less.

“*Electric utility*” means investor-owned electric utilities and electric cooperative corporations and associations owning, controlling, operating, or using transmission and distribution facilities and equipment subject to the board's jurisdiction.

“*GIS*” means a geospatial information system. This is an information management framework that allows the integration of various data and geospatial information.

“*Interrupting device*” means a device capable of being reclosed whose purpose is to interrupt faults and restore service or disconnect loads. These devices can be manual, automatic, or motor-operated.

Examples may include transmission breakers, feeder breakers, line reclosers, motor-operated switches, fuses, or other devices.

*“Interruption”* means a loss of service to one or more customers or other facilities and is the result of one or more component outages. The types of interruption include momentary event, sustained, and scheduled. The following interruption causes shall not be included in the calculation of the reliability indices:

1. Interruptions intentionally initiated pursuant to the provisions of an interruptible service tariff or contract and affecting only those customers taking electric service under such tariff or contract;
2. Interruptions due to nonpayment of a bill;
3. Interruptions due to tampering with service equipment;
4. Interruptions due to denied access to service equipment located on the affected customer’s private property;
5. Interruptions due to hazardous conditions located on the affected customer’s private property;
6. Interruptions due to a request by the affected customer;
7. Interruptions due to a request by a law enforcement agency, fire department, other governmental agency responsible for public welfare, or any agency or authority responsible for bulk power system security;
8. Interruptions caused by the failure of a customer’s equipment; the operation of a customer’s equipment in a manner inconsistent with law, an approved tariff, rule, regulation, or an agreement between the customer and the electric utility; or the failure of a customer to take a required action that would have avoided the interruption, such as failing to notify the company of an increase in load when required to do so by a tariff or contract.

*“Interruption duration”* as used herein in regard to sustained outages means a period of time measured in one-minute increments that starts when an electric utility is notified or becomes aware of an interruption and ends when an electric utility restores electric service. Durations of less than five minutes shall not be reported in sustained outages.

*“Interruption, momentary”* means single operation of an interrupting device that results in a voltage of zero. For example, two breaker or recloser operations equals two momentary interruptions. A momentary interruption is one in which power is restored automatically.

*“Interruption, momentary event”* means an interruption of electric service to one or more customers of duration limited to the period required to restore service by an interrupting device. Note: Such switching operations must be completed in a specified time not to exceed five minutes. This definition includes all reclosing operations that occur within five minutes of the first interruption. For example, if a recloser or breaker operates two, three, or four times and then holds, the event shall be considered one momentary event interruption.

*“Interruption, scheduled”* means an interruption of electric power that results when a transmission or distribution component is deliberately taken out of service at a selected time, usually for the purposes of construction, preventive maintenance, or repair. If it is possible to defer the interruption, the interruption is considered a scheduled interruption.

*“Interruption, sustained”* means any interruption not classified as a momentary event interruption. It is an interruption of electric service that is not automatically or instantaneously restored, with duration of greater than five minutes.

*“Loss of service”* means the loss of electrical power, a complete loss of voltage, to one or more customers. This does not include any of the power quality issues such as sags, swells, impulses, or harmonics. Also see definition of “interruption.”

*“Major event”* will be declared whenever extensive physical damage to transmission and distribution facilities has occurred within an electric utility’s operating area due to unusually severe and abnormal weather or event and:

1. Wind speed exceeds 90 mph for the affected area, or
2. One-half inch of ice is present and wind speed exceeds 40 mph for the affected area, or
3. Ten percent of the affected area total customer count is incurring a loss of service for a length of time to exceed five hours, or

4. 20,000 customers in a metropolitan area are incurring a loss of service for a length of time to exceed five hours.

“*Meter*” means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

“*Metropolitan area*” means any community, or group of contiguous communities, with a population of 20,000 individuals or more.

“*Momentary average interruption frequency index (MAIFI)*” means the average number of momentary electric service interruptions for each customer during the year. It is calculated by dividing the total number of customer momentary interruptions by the total number of customers served.

$$\text{MAIFI} = \frac{\text{Total Number of Customer Momentary Interruptions}}{\text{Total Number of Customers Served}}$$

“*OMS*” is a computerized outage management system.

“*Operating area*” means a geographical area defined by the electric utility that is a distinct area for administration, operation, or data collection with respect to the facilities serving, or the service provided within, the geographical area.

“*Outage*” means the state of a component when it is not available to perform its intended function due to some event directly associated with that component. An outage may or may not cause an interruption of service to customers, depending on system configuration.

“*Power quality*” means the characteristics of electric power received by the customer, with the exception of sustained interruptions and momentary event interruptions. Characteristics of electric power that detract from its quality include waveform irregularities and voltage variations, either prolonged or transient. Power quality problems shall include, but are not limited to, disturbances such as high or low voltage, voltage spikes and transients, flickers and voltage sags, surges and short-time overvoltages, as well as harmonics and noise.

“*Rural circuit*” means a circuit not defined as an urban circuit.

“*System average interruption duration index (SAIDI)*” means the average interruption duration per customer served during the year. It is calculated by dividing the sum of the customer interruption durations by the total number of customers served during the year.

$$\text{SAIDI} = \frac{\text{Sum of All Customer Interruption Durations}}{\text{Total Number of Customers Served}}$$

“*System average interruption frequency index (SAIFI)*” means the average number of interruptions per customer during the year. It is calculated by dividing the total annual number of customer interruptions by the total number of customers served during the year.

$$\text{SAIFI} = \frac{\text{Total Number of Customer Interruptions}}{\text{Total Number of Customers Served}}$$

“*Total number of customers served*” means the total number of customers served on the last day of the reporting period.

“*Urban circuit*” means a circuit where both 75 percent or more of its customers and 75 percent or more of its primary circuit miles are located within a metropolitan area.

**20.18(5) Record-keeping requirements.**

a. *Required records for electric utilities with over 50,000 Iowa retail customers.*

(1) Each electric utility shall maintain a geospatial information system (GIS) and an outage management system (OMS) sufficient to determine a history of sustained electric service interruptions experienced by each customer. The OMS shall have the ability to access data for each customer in order

to determine a history of electric service interruptions. Data shall be sortable by each of, and in any combination with, the following factors:

1. State jurisdiction;
  2. Operating area (if any);
  3. Substation;
  4. Circuit;
  5. Number of interruptions in reporting period; and
  6. Number of hours of interruptions in reporting period.
- (2) Records on interruptions shall be sufficient to determine the following:
1. Starting date and time the utility became aware of the interruption;
  2. Duration of the interruption;
  3. Date and time service was restored;
  4. Number of customers affected;
  5. Description of the cause of the interruption;
  6. Operating areas affected;
  7. Circuit number(s) of the distribution circuit(s) affected;
  8. Service account number or other unique identifier of each customer affected;
  9. Address of each affected customer location;
  10. Weather conditions at time of interruption;
  11. System component(s) involved (e.g., transmission line, substation, overhead primary main, underground primary main, transformer); and
  12. Whether the interruption was planned or unplanned.
- (3) Each electric utility shall maintain as much information as feasible on momentary interruptions.
- (4) Each electric utility shall keep information on cause codes, weather codes, isolating device codes, and equipment failed codes.
1. The minimum interruption cause code set should include: animals, lightning, major event, scheduled, trees, overload, error, supply, equipment, other, unknown, and earthquake.
  2. The minimum interruption weather code set should include: wind, lightning, heat, ice/snow, rain, clear day, and tornado/hurricane.
  3. The minimum interruption isolating device set should include: breaker, recloser, fuse, sectionalizer, switch, and elbow.
  4. The minimum interruption equipment failed code set should include: cable, transformer, conductor, splice, lightning arrester, switches, cross arm, pole, insulator, connector, other, and unknown.
  5. Utilities may augment the code sets listed above to enhance tracking.
- (5) An electric utility shall retain for seven years the records required by 20.18(5) "a"(1) through (4).
- (6) Each electric utility shall record the date of installation of major facilities (poles, conductors, cable, and transformers) installed on or after April 1, 2003, and integrate that data into its GIS database.
- b. Required records for all other electric utilities.*
- (1) Each electric utility, other than those providing only wholesale electric service, shall record and maintain sufficient records and reports that will enable it to calculate for the most recent seven-year period the average annual hours of interruption per customer due to causes in each of the following four major categories: power supplier, major storm, scheduled, and all other. Those electric utilities that provide only wholesale electric service shall provide their wholesale customers with the information necessary to allow those customers to ascertain the cause of power supply-related outages.
- The category "scheduled" refers to interruptions resulting when a distribution transformer, line, or owned substation is deliberately taken out of service at a selected time for maintenance or other reasons.
- The interruptions resulting from either scheduled or unscheduled outages on lines or substations owned by the power supplier are to be accounted for in the "power supplier" category.
- The category "major storm" represents service interruptions from conditions that cause many concurrent outages because of snow, ice, or wind loads that exceed design assumptions for the lines.

The “all other” category includes outages primarily resulting from emergency conditions due to equipment breakdown, malfunction, or human error.

(2) When recording interruptions, each electric utility, other than those providing only wholesale electric service, shall use detailed standard codes for interruption analysis recommended by the United States Department of Agriculture, Rural Utilities Service (RUS) Bulletin 1730A-119, Tables 1 and 2, including the major cause categories of equipment or installation, age or deterioration, weather, birds or animals, member (or public), and unknown. The utility shall also include the subcategories recommended by RUS for each of these major cause categories.

(3) Each electric utility, other than those providing only wholesale electric service, shall also maintain and record data sufficient to enable it to compute systemwide calculated indices for SAIFI-, SAIDI-, and CAIDI-type measurements, once with the data associated with “major storms” and once without.

c. Each electric utility shall make its records of customer interruptions available to the board as needed.

**20.18(6) Notification of major events.** Notification of major events as defined in subrule 20.18(4) shall comply with the requirements of rule 199—20.19(476,478).

**20.18(7) Annual reliability and service quality report for utilities with more than 50,000 Iowa retail customers.** Each electric utility with over 50,000 Iowa retail customers shall submit to the board and consumer advocate on or before May 1 of each year an annual reliability report for the previous calendar year for the Iowa jurisdiction. The report shall include the following information:

a. *Description of service area.* Urban and rural Iowa service territory customer count, Iowa operating area customer count, if applicable, and major communities served within each operating area.

b. *System reliability performance.*

(1) An overall assessment of the reliability performance, including the urban and rural SAIFI, SAIDI, and CAIDI reliability indices for the previous calendar year for the Iowa service territory and each defined Iowa operating area, if applicable. This assessment shall include outages at the substation, transmission, and generation levels of the system that directly result in sustained interruptions to customers on the distribution system. These indices shall be calculated twice, once with the data associated with major events and once without. This assessment should contain tabular and graphical presentations of the trend for each index as well as the trends of the major causes of interruptions.

(2) The urban and rural SAIFI, SAIDI, and CAIDI reliability average indices for the previous five calendar years for the Iowa service territory and each defined Iowa operating area, if applicable. The reliability average indices shall include outages at the substation, transmission, and generation levels of the system that directly result in sustained interruptions to customers on the distribution system. Calculation of the five-year average shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal a complete five-year average shall be available. These indices shall be calculated twice, once with the data associated with major events and once without.

(3) The MAIFI reliability indices for the previous five calendar years for the Iowa service territory and each defined Iowa operating area for which momentary interruptions are tracked. The first annual report should specify which portions of the system are monitored for momentary interruptions, identify and describe the quality of data used, and update as needed in subsequent reports.

c. *Reporting on customer outages.*

(1) The reporting electric utility shall provide tables and graphical representations showing, in ascending order, the total number of customers that experienced set numbers of sustained interruptions during the year (i.e., the number of customers who experienced zero interruptions, the number of customers who experienced one interruption, two interruptions, three interruptions, and so on). The utility shall provide this for each of the following:

1. All Iowa customers, excluding major events.
2. All Iowa customers, including major events.

(2) The reporting electric utility shall provide tables and graphical representations showing, in ascending order, the total number of customers that experienced a set range of total annual sustained

interruption duration during the year (i.e., the number of customers who experienced zero hours total duration, the number of customers who experienced greater than 0.0833 but less than 0.5 hour total duration, the number of customers who experienced greater than 0.5 but less than 1.0 hour total duration, and so on, reflecting half-hour increments of duration). The utility shall provide this for each of the following:

1. All Iowa customers, excluding major events.
2. All Iowa customers, including major events.

*d. Major event summary.* For each major event that occurred in the reporting period, the following information shall be provided:

- (1) A description of the area(s) impacted by each major event;
- (2) The total number of customers interrupted by each major event;
- (3) The total number of customer-minutes interrupted by each major event; and
- (4) Updated damage cost estimates to the electric utility's facilities.

*e. Information on transmission and distribution facilities.*

(1) Total circuit miles of electric distribution line in service at year's end, segregated by voltage level. Reasonable groupings of lines with similar voltage levels, such as but not limited to 12,000- and 13,000-volt three-phase facilities, are acceptable.

(2) Total circuit miles of electric transmission line in service at year's end, segregated by voltage level.

*f. Plans and status report.*

(1) A plan for service quality improvements, including costs, for the electric utility's transmission and distribution facilities that will ensure quality, safe, and reliable delivery of energy to customers.

1. The plan shall cover not less than the three years following the year in which the annual report was filed. A copy of the electric utility's documents and databases supporting capital investment and maintenance budget amounts required in 20.18(7)"g"(1) and 20.18(7)"h"(1), respectively, (including but not limited to transmission and distribution facilities, transmission and distribution control and communication facilities, and transmission and distribution planning, maintenance, and reliability-related computer hardware and software) shall be maintained in the utility's principal Iowa business location and shall be available for inspection by the board and office of consumer advocate. The utility's plan may reference said budget documents and databases, instead of duplicating or restating the detail therein. Copies of capital budgeting documents shall be maintained for five years.

2. The plan shall identify reliability challenges and may describe specific projects and projected costs. The filing of the plan shall not be considered as evidence of the prudence of the utility's reliability expenditures.

3. The plan shall provide an estimate of the timing for achievement of the plan's goals.

(2) A progress report on plan implementation. The report shall include identification of significant changes to the prior plan and the reasons for the changes.

*g. Capital expenditure information.* Reporting of capital expenditure information shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal five years of data shall be available in each subsequent annual report.

(1) Each electric utility shall report on an annual basis the total of:

1. Capital investment in the electric utility's Iowa-based transmission and distribution infrastructure approved by its board of directors or other appropriate authority. If any amounts approved by the board of directors are designated for use in a recovery from a major event, those amounts shall be identified in addition to the total.

2. Capital investment expenditures in the electric utility's Iowa-based transmission and distribution infrastructure. If any expenditures were utilized in a recovery from a major event, those amounts shall be identified in addition to the total.

(2) Each electric utility shall report the same capital expenditure data from the past five years in the same fashion as in 20.18(7)"g"(1).

*h. Maintenance.* Reporting of maintenance information shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal five years of data shall be available in each subsequent annual report.

(1) Total maintenance budgets and expenditures for distribution, and for transmission, for each operating area, if applicable, and for the electric utility's entire Iowa system for the past five years. If any maintenance budgets and expenditures are designated for use in a recovery from a major event, or were used in a recovery from a major event, respectively, those amounts shall be identified in addition to the totals.

(2) Tree trimming.

1. The budget and expenditures described in 20.18(7) "h"(1) shall be stated in such a way that the total annual tree trimming budget expenditures shall be identifiable for each operating area and for the electric utility's entire Iowa system for the past five years.

2. Total annual projected and actual miles of transmission line and of distribution line for which trees were trimmed for the reporting year for each operating area and for the electric utility's entire Iowa system for the reporting year, compared to the past five years. If the utility has utilized, or would prefer to utilize, an alternative method or methods of tracking physical tree trimming progress, it may propose the use of that method or methods to the board in a request for waiver.

3. In the event the utility's actual tree trimming performance, based on how the utility tracks its tree trimming as described in 20.18(7) "h"(2) "1," lags behind its planned trimming schedule by more than six months, the utility shall be required to file for the board's approval additional tree trimming status reports on a quarterly basis. Such reports shall describe the steps the utility will take to remediate its tree trimming performance and backlog. The additional quarterly reports shall continue until the utility's backlog has been reduced to zero.

*i.* The annual reliability report, starting with the reliability report for calendar year 2008, shall include the number of poles inspected, the number rejected, and the number replaced.

**20.18(8)** *Annual report for all electric utilities not reporting pursuant to 20.18(7).*

*a.* By July 1, 2003, each electric utility shall adopt and have approved by its board of directors or other governing authority a reliability plan and shall file an informational copy of the plan with the board. The plan shall be updated not less than annually and shall describe the following:

(1) The utility's current reliability programs, including:

1. Tree trimming cycle, including descriptions and explanations of any changes to schedules and procedures reportable in accordance with 199 IAC 25.3(3) "c";

2. Animal contact reduction programs, if applicable;

3. Lightning outage mitigation programs, if applicable; and

4. Other programs the electric utility may identify as reliability-related.

(2) Current ability to track and monitor interruptions.

(3) How the electric utility plans to communicate its plan with customers/consumer owners.

*b.* By April 1, 2004, and each April 1 thereafter, each electric utility shall prepare for its board of directors or other governing authority a reliability report. A copy of the annual report shall be filed with the board for informational purposes, shall be made publicly available in its entirety to customers/consumer owners, and shall report on at least the following:

(1) Measures of reliability for each of the five previous calendar years, including reliability indices if required in 20.18(5) "b"(3). These measures shall start with data from the year covered by the first Annual Reliability Report so that by the fifth Annual Reliability Report submittal reliability measures will be based upon five years of data.

(2) Progress on any reliability programs identified in its plan, but not less than the applicable programs listed in 20.18(8) "a"(1).

**20.18(9)** *Inquiries about electric service reliability.*

*a.* For electric utilities with over 50,000 Iowa retail customers. A customer may request a report from an electric utility about the service reliability of the circuit supplying the customer's own meter. Within 20 working days of receipt of the request, the electric utility shall supply the report to the customer

at a reasonable cost. The report should identify which interruptions (number and durations) are due to major events.

*b.* Other utilities are encouraged to adopt similar responses to the extent it is administratively feasible.

[ARC 8394B, IAB 12/16/09, effective 1/20/10; ARC 9501B, IAB 5/18/11, effective 6/22/11]

**199—20.19(476,478) Notification of outages.**

**20.19(1) Notification.** The notification requirements in subrules 20.19(1) and 20.19(2) are for the timely collection of electric outage information that may be useful to emergency management agencies in providing for the welfare of individual Iowa citizens. Each electric utility shall notify the board when it is projected that an outage may result in a loss of service for more than six hours and the outage meets one of the following criteria:

*a.* For all utilities, loss of service for more than six hours to substantially all of a municipality, including the surrounding area served by the same utility. A utility may use loss of service to 75 percent or more of customers within a municipality, including the surrounding area served by the utility, to meet this criterion;

*b.* For utilities with 50,000 or more customers, loss of service for more than six hours to 20 percent of the customers in a utility's established zone or loss of service to more than 5,000 customers in a metropolitan area, whichever is less;

*c.* For utilities with more than 4,000 customers and fewer than 50,000 customers, loss of service for more than six hours to 25 percent or more of the utility's customers;

*d.* A major event as defined in subrule 20.18(4); or

*e.* Any other outage considered significant by the electric utility. This includes loss of service for more than six hours to significant public health and safety facilities known to the utility at the time of the notification, even when the outage does not meet the criteria in paragraphs 20.19(1) "a" through "d."

**20.19(2) Information required.**

*a.* Notification shall be provided regarding outages that meet the requirements of subrule 20.19(1) by notifying the board duty officer by e-mail at [dutyofficer@iub.iowa.gov](mailto:dutyofficer@iub.iowa.gov) or, in appropriate circumstances, by telephone at (515)745-2332. Notification shall be made at the earliest possible time after it is determined the event may be reportable and should include the following information, as available:

- (1) The general nature or cause of the outage;
- (2) The area affected;
- (3) The approximate number of customers that have experienced a loss of electric service as a result of the outage;
- (4) The time when service is estimated to be restored; and
- (5) 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 outage.

The notice should be supplemented as more complete or accurate information is available.

*b.* The utility shall provide to the board updates of the estimated time when service will be restored to all customers able to receive service or of significant changed circumstances, unless service is restored within one hour of the time initially estimated.

[ARC 8394B, IAB 12/16/09, effective 1/20/10; Editorial change: IAC Supplement 12/29/10; ARC 9819B, IAB 11/2/11, effective 12/7/11; ARC 1359C, IAB 3/5/14, effective 4/9/14; ARC 1623C, IAB 9/17/14, effective 10/22/14]

These rules are intended to implement Iowa Code sections 17A.3, 364.23, 474.5, 476.1, 476.2, 476.6, 476.8, 476.20, 476.54, 476.66, 478.18, and 546.7.

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- <sup>1</sup> Effective date of 20.3(13) "a," "b," (1), (2), (3), (4), and "c" delayed 70 days by Administrative Rules Review Committee.
- <sup>2</sup> Effective date of 20.4(12), third unnumbered paragraph, delayed seventy days by the Administrative Rules Review Committee.
- <sup>3</sup> See IAB, Utilities Division.
- <sup>4</sup> Published in Notice portion of IAB 9/10/86; see IAB 10/22/86
- <sup>5</sup> Effective date of 20.4(4) delayed until the adjournment of the 1994 Session of the General Assembly pursuant to Iowa Code section 17A.8(9) by the Administrative Rules Review Committee at its meeting held September 15, 1993.



CHAPTER 21  
SERVICE SUPPLIED BY WATER UTILITIES  
[Prior to 10/8/86, Commerce Commission[250]]

**199—21.1(476) Application of rules.**

**21.1(1) Application of rules.** The rules apply to any water utility operating within the state of Iowa under the jurisdiction of the Iowa utilities board and are established under Iowa Code chapter 476.

These rules are intended to promote service to the public, provide standards for uniform practices by utilities, and establish a basis for determining the reasonableness of the demands made by the public upon the utilities.

A utility or customer may file for a waiver of these rules in accordance with the provisions of 199—1.3(17A,474,476,78GA,HF2206).

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 this law.

**199—21.2(476) Records and reports.**

**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 schedules of rates and rules of all rate-regulated utilities 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 printed, typewritten or otherwise reproduced on 8½ × 11 inch sheets so as to result in a clear and permanent record. The sheets of the tariff should be ruled or spaced to set off a border on the left side suitable for binding.

(2) The title page of every tariff and supplement shall specify the following:

- 1. The first page shall be the title page, which will show:

Name of Public Utility

Water Tariff

Filed With

The 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 new part of a tariff revises, amends, or eliminates an existing part of a tariff, it shall so state and identify the part revised, amended or eliminated.

4. Any tariff modifications, as defined in “3” above, replacing tariff sheets shall be marked in the right margin with symbols as described below to indicate the place, nature and extent of the change in text:

Symbol	Meaning
(C)	A change in regulation.
(D)	A discontinued or deleted rate, treatment or regulation.
(I)	An increased rate or new treatment resulting in increased rate.
(N)	A new rate, treatment or regulation.
(R)	A reduced rate or new treatment resulting in a reduced rate.
(T)	A change in text but no change in rate, treatment or regulation.

- (3) All sheets except the title page shall have, in addition to the above requirements, the issue date.  
(4) All sheets except the title page shall have the following form:

(Company Name)	(Part Identification)
Water Tariff	(This sheet identification)
Filed with board	(Canceled sheet identification, if any)
	(Content of tariff)
Issued: (Date)	Effective Date: (Proposed Effective Date:)

The issued date is the date the tariff or the amended sheet content was adopted by the utility.

The effective date is to 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:

(1) Table of contents.

(2) Rates, including all rates of utilities subject to rate regulation for service with indication for each rate of the type of water service and the class of customers to which each rate applies. There shall also be shown the prices per unit of service, and the number of units per billing period to which the prices apply, the period of billing, the minimum bill, method of measuring demands and consumptions, including method of calculating or estimating loads or minimums, and any special terms and conditions applicable. There shall be specified any discount for prompt payment or penalty for late payment and the period during which the net amount may be paid, and both shall be in accordance with subrule 21.4(4).

### **199—21.3(476) General service requirements.**

#### **21.3(1) Disposition of water.**

*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) Meter requirements.**

*a. 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 meters and associated metering devices.* Each 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, multiplier and constants.
4. Unit registration measures (gallons or cubic feet).
5. Number of moving digits or dials in register.
6. Number of stationary or pointed 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 a constant or multiplier is necessary to determine the meter reading, it shall be indicated on the face of the meter. Where remote meter reading is used, the customer shall have a readable meter register at the meter.

*d. Meter readings.*

(1) *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.

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, provided a utility representative reads the meter at least once every 24 months and when there is a change of customer.

(2) *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.

An estimated bill may be rendered in the event that access to 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 rule:

*"Advances for construction costs,"* as used in these subrules, are 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,"* as used in this subrule, 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,"* as used in these subrules, 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 advances for construction records,”* as used in this subrule, 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 or work order the extension was installed on.

*“Estimated annual revenues,”* as used in this subrule, shall be calculated 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,”* as used in this subrule, shall be calculated using average costs in accordance with good engineering practices and 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”* is a customer whose annual consumption or service requirements, as defined by estimated annual revenue, is similar to other customers with approximately the same annual consumption or service requirements.

*“Utility,”* as used in these subrules, means a rate-regulated utility.

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

(1) Plant additions. The utility will provide all water plants at its cost and expense without requiring an advance for 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) Advances for construction costs for distribution main extensions for customers who will attach within 30 days. 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 main 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 an advance for construction equal to the estimated construction cost less five times the estimated annual revenue to be produced by the customer no more than 30 days prior to commencement of construction.

(3) Advances for construction costs for distribution main extensions for customers who will not attach within the agreed-upon attachment period. Where the customer will not attach within the agreed-upon attachment period after completion of the distribution main extension, the applicant for 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.

Advance payments for plant additions or extensions which are subject to refund for a ten-year period 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 three times 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 three times 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 three times 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 rule, unless the extension shall be of a permanent nature.

*e. Extensions permitted.* This rule 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.

This rule 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 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 21.3(5) "c." The utility shall be responsible for the operation and maintenance of the extension after attachment.

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) Service connections.** In urban areas with well-defined streets, the utility shall control (supervise the installation and maintenance of) that portion of the 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 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 utility.

*a. Outside.* 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 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.

### **199—21.4(476) Customer relations.**

**21.4(1) Customer information.** Each utility shall:

*a.* 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 rate schedules and rules relating to the service of the utility are available for public inspection.

*b.* Maintain up-to-date maps, plans, or records of its entire water system.

*c.* Upon request, assist the customer or proposed customers in selecting the most economic rate schedule available for the proposed type of service.

*d.* Upon request, inform its customers as to the method of reading meters and the method of computing the customer's bill.

*e.* Notify customers affected by a change in rates or rate classification as directed in the board rules of practice and procedures.

*f.* 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.

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 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by E-mail to [customer@iub.iowa.gov](mailto:customer@iub.iowa.gov)."

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.

**21.4(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 rate-regulated utility to each customer required to make a deposit. On or after April 21, 1994, rate-regulated 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 556.11.

**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 rate schedule.

*d.* The gross and net amount of the bill.

*e.* The delayed 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 rate-regulated utility's late payment charge shall not exceed 1.5 percent per month of the past due amount.

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 company rules shall state how the customer is notified 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 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.

- 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. In the event there is dispute concerning a bill for water service, 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.* When a prospective customer is refused service, the utility shall notify the prospective customer promptly of the reason for the refusal to serve and of the applicant's right to appeal the utility's decision to the board.

**21.4(8) 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(9) Insufficient reasons for denying service.** The following shall not constitute sufficient cause for refusal of service to a present or prospective customer:

- a.* Nonpayment for service by someone who is no longer an occupant of the premises to be served, except in cases of immediate family occupation or cohabitation of adults at the premises.
- b.* Failure to pay the bill of another customer as guarantor thereof.
- c.* Failure to pay for a different type or class of public utility service.

**21.4(10) 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]

**199—21.5(476) Engineering practice.**

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

**21.5(2) Inspection of water plant.** Each utility shall adopt and follow a program of inspection of its water plant 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.

**199—21.6(476) Meter testing.**

**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 water service shall provide the necessary standard facilities, instruments and other equipment for testing its meters, or mail 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 used for measuring quantity of water delivered to a customer 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 company will 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 water 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 water 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 water 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 test which 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.

#### **199—21.7(476) Standards of quality of service.**

**21.7(1) 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 25 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. Survey should 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 supply.**

*a.* A utility shall make a reasonable effort to prevent interruptions of service. When an emergency interruption occurs the utility shall reestablish service with the shortest possible delay consistent with the safety to 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 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 should 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) 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, it shall notify its customers, and give the board notice, before the restriction becomes effective. The notification shall specify:

- (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.* During the times of threatened or actual water shortage, the utility shall equitably apportion its available water supply among its customers.

**199—21.8(476) Applications for water costs for fire protection services.**

**21.8(1) *Definition.*** For purposes of these rules, “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 rate-regulated 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 rate-regulated 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(18) “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 submit to the board for its approval, not less than 30 days before providing notification to affected customers, ten copies 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 they have a 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 of either 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. Service of application.* The applicant shall file an original plus ten copies of the application with the executive secretary's office, serve two copies of the application on the public utility and serve two copies on the consumer advocate division of the Iowa department of justice.

*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 rate-regulated 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.

**199—21.9(476) Incident reports.** A regulated public water utility shall notify the board when it notifies the Iowa department of natural resources or the local county health department about an incident involving: (1) an occurrence of waterborne emergency (e.g., treatment process malfunction, chemical/biological spill in the water supply, contamination event in the distribution system, emergency that has the potential for drinking water contamination); (2) a boil water advisory and contamination event; or (3) a low-pressure event (less than 20 psi) affecting a widespread area of the system. Notification shall be made to the board by e-mail to the board duty officer at [dutyofficer@iub.iowa.gov](mailto:dutyofficer@iub.iowa.gov) or, in appropriate circumstances, by calling (515)745-2332. The person contacting the board shall leave a call-back number for a person knowledgeable about the incident. The utility shall report to 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]

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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[Filed ARC 1623C (Notice ARC 1460C, IAB 5/14/14), IAB 9/17/14, effective 10/22/14]

- <sup>1</sup> Effective date of 21.3(12) "a," "b"(1) and (3), and "e" delayed 70 days by the Administrative Rules Review Committee.
- <sup>2</sup> Effective date of 21.4(2) "e" delayed until the adjournment of the 1994 Session of the General Assembly pursuant to Iowa Code section 17A.8(9) by the Administrative Rules Review Committee at its meeting held September 15, 1993.



CHAPTER 25  
IOWA ELECTRICAL SAFETY CODE  
[Prior to 10/8/86, Commerce Commission[250]]

**199—25.1(476,476A,478) General information.**

**25.1(1) Authority.** The standards relating to electric and communication facilities in this chapter are prescribed by the Iowa utilities board pursuant to Iowa Code sections 476.1, 476.1B, 476.2, 476A.12, 478.19, and 478.20.

**25.1(2) Purpose.** The purpose of this chapter is to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities. The rules apply to electric and communication utility facilities located in the state of Iowa and shall supersede all conflicting rules of any such utility. This rule shall in no way relieve any utility from any of its duties under the laws of this state.

**25.1(3) Definition of utility.** For the purpose of this chapter, a utility is any owner or operator of electric or communications facilities subject to the safety jurisdiction of the board.  
[ARC 9501B, IAB 5/18/11, effective 6/22/11]

**199—25.2(476,476A,478) Iowa electrical safety code defined.** The standard minimum requirements for the installation and maintenance of electric substations, generating stations, and overhead and underground electric supply or communications lines adopted below, collectively constitute the “Iowa Electrical Safety Code.”

**25.2(1) National Electrical Safety Code.** The American National Standards Institute (ANSI) C2-2012, “National Electrical Safety Code” (NESC), including issued Correction Sheets, is adopted as part of the Iowa electrical safety code, except Part 4, “Rules for Operation of Electric Supply and Communications Lines and Equipment,” which is not adopted by the board.

**25.2(2) Modifications and qualifications to ANSI C2.** The standards set forth in ANSI C2 are modified or qualified as follows:

a. Introduction to the National Electrical Safety Code. NESC 013A2 is modified to read as follows: “Types of construction and methods of installation other than those specified in the rules may be used experimentally to obtain information, if done where:

- “1. Qualified supervision is provided,
- “2. Equivalent safety is provided,
- “3. On joint-use facilities, all joint users are notified in a timely manner, and
- “4. Prior approval is obtained from the Iowa utilities board.”

b. Minimum clearances.

(1) In any instance where minimum clearances are provided in Iowa Code chapter 478 which are greater than otherwise required by these rules, the statutory clearances shall prevail.

(2) The following clearances shall apply to all lines regardless of date of construction: NESC 232, vertical clearances for “Water areas not suitable for sailboating or where sailboating is prohibited,” “Water areas suitable for sailboating . . .,” and “Established boat ramps and associated rigging areas . . .”; and NESC 234E, “Clearance of Wires, Conductors, Cables or Unguarded Rigid Live Parts Installed Over or Near Swimming Areas With No Wind Displacement.”

(3) Table 232-1, Footnote 21, is changed to read: “Where the U.S. Army Corps of Engineers or the state, or a surrogate thereof, issues a crossing permit, the clearances of that permit shall govern if equal to or greater than those required herein. Where the permit clearances are less than those required herein and water surface use restrictions on vessel heights are enforced, the permit clearances may be used.”

(4) Except for clearances near grain bins, for measurements made under field conditions, the board will consider compliance with the overhead vertical line clearance requirements of Subsection 232 and Table 232-1 of the 1987 NESC indicative of compliance with the 1990 through 2012 editions of the NESC. (For an explanation of the differences between 1987 and subsequent code edition clearances, see Appendix A of the 1990 through 2012 editions of the NESC.)

c. Reserved.

*d.* Rule 217C.1 is changed to read:

“The ground end of anchor guys exposed to pedestrian or vehicle traffic shall be provided with a substantial marker not less than eight feet long. The guy marker shall be of a conspicuous color such as yellow, orange, or red. Green, white, gray or galvanized steel colors are not reliably conspicuous against plant growth, snow, or other surroundings. Noncomplying guy markers shall be replaced as part of the utility’s inspection and maintenance plan.”

*e.* There is added to Rule 381G:

(3) Pad-mounted and other aboveground equipment not located within a fenced or otherwise protected area shall have affixed to its outside access door or cover a prominent “Warning” or other appropriate sign of highly visible color, warning of hazardous voltage and including the name of the utility. This rule shall apply to all signs placed or replaced after June 18, 2003.

*f.* There is added to the first paragraph of Rule 110.A.1, after the sentence stating, “Entrances not under observation of an authorized attendant shall be kept locked,” the following sentences:

Entrances may be unlocked while authorized personnel are inside. However, if unlocked, the entrance gate must be fully closed, and must also be latched or fastened if there is a gate-latching mechanism.

*g.* Lines crossing railroad tracks shall comply with the additional requirements of 199 IAC 42.6(476), “Engineering standards for electric and communications lines.”

**25.2(3) Grain bins.**

*a.* Electric utilities shall conduct annual public information campaigns to inform farmers, farm lenders, grain bin merchants, and city and county zoning officials of the hazards of and standards for construction of grain bins near power lines. Where drawings and formulas from the NESC are used as part of public information campaigns, they are to be based on the “Errata to 2012 Edition National Electrical Safety Code” Correction Sheet issued February 6, 2012.

*b.* An electric utility may refuse to provide electric service to any grain bin built near an existing electric line which does not provide the clearances required by the American National Standards Institute (ANSI) C2-2012 “National Electrical Safety Code,” Rule 234F. This paragraph “*b*” shall apply only to grain bins loaded by portable augers, conveyors or elevators and built after September 9, 1992, or to grain bins loaded by permanently installed augers, conveyors, or elevator systems installed after December 24, 1997.

**25.2(4) General rules.**

*a. Joint-use construction.* Where it is mutually agreeable between an electric utility and a communication or cable television company, communication circuits or cables may be buried in the same trench or attached to the same supporting structure, provided this joint use is permitted by, and is constructed in compliance with, the Iowa electrical safety code.

*b. Lines.* In order to limit the residual currents and voltages arising from line unbalances, the resistance, inductance, capacitance and leakage conductance of each phase conductor of an electric supply circuit in any section shall be as nearly equal as practical to the corresponding quantities in the other phase conductors in the same section.

The ampacity of a multigrounded neutral conductor of an electric supply circuit shall be adequate for the load which it is required to carry. The ampacity of a multigrounded neutral conductor of an electric supply circuit shall not be less than 60 percent of that of any phase conductor with which it is associated, except for three phase four wire wye circuits where it shall have ampacity not less than 50 percent of that of any associated phase conductor. In no case shall the resistance of a multigrounded neutral conductor exceed 3.6 ohms per mile. (This does not modify the mechanical strength requirements for conductors.) A multigrounded conductor installed and utilized primarily for lightning shielding of the associated phase conductors need not comply with the above percentage ampacity requirements for neutral conductors.

Where the neutral conductor of the electric supply circuit is not multigrounded or in an inductive exposure involving communication or signal circuits and equipment where the controlling frequencies are 360 Hertz or lower, any neutral conductor shall have the same ampacity as the phase conductors with which it is associated.

**25.2(5) Other references adopted.**

a. The “National Electrical Code,” ANSI/NFPA 70-2011, is adopted as a standard of accepted good practice for customer-owned electrical facilities beyond the utility point of delivery, except for installations subject to the provisions of the state fire marshal standards in 661—504.1(103).

b. “The Lineman’s and Cableman’s Handbook,” Twelfth Edition; Shoemaker, Thomas M. and Mack, James E.; New York, McGraw-Hill Book Co., is adopted as a recommended guideline to implement the “National Electrical Safety Code” or “National Electrical Code,” and for developing the inspection and maintenance plans required by 199—25.3(476,478).

[ARC 7962B, IAB 7/15/09, effective 8/19/09; ARC 9501B, IAB 5/18/11, effective 6/22/11; ARC 1359C, IAB 3/5/14, effective 4/9/14]

**199—25.3(476,478) Inspection and maintenance plans.**

**25.3(1) Filing of plan.** Each electric utility shall adopt and file with the board a written plan for inspecting and maintaining its electric supply lines and substations (excluding generating stations) in order to determine the necessity for replacement, maintenance, and repair, and for tree trimming or other vegetation management. If the plan is amended or altered, revised copies of the appropriate plan pages shall be filed.

**25.3(2) Annual report.** Each utility shall include as part of its annual report to the board, as required by 199—Chapter 23, certification of compliance with each area of the inspection plan or a detailed statement on areas of noncompliance.

**25.3(3) Contents of plan.** The inspection plan shall include the following elements:

a. *General.* A listing of all counties or parts of counties in which the utility has electric supply lines in Iowa. If the utility has district or regional offices responsible for implementation of a portion of the plan, the addresses of those offices and a description of the territory for which they are responsible shall also be included.

b. *Inspection of lines, poles, and substations.*

(1) Inspection schedules. The plan shall contain a schedule for the periodic inspection of the various units of the utility’s electric plant. The period between inspections shall be based on accepted good practice in the industry, but for lines and substations shall not exceed ten years for any given line or piece of equipment. Lines operated at 34.5 kV or above shall be inspected at least annually for damage and to determine the condition of the overhead line insulators.

(2) Inspection coverage. The plan shall provide for the inspection of all supply line and substation units within the adopted inspection periods and shall include a complete listing of all categories of items to be checked during an inspection.

(3) Conduct of inspections. Inspections shall be conducted in a manner conducive to the identification of safety, maintenance, and reliability concerns or needs.

(4) Instructions to inspectors. Copies of instructions or guide materials used by utility inspectors in determining whether a facility is in acceptable condition or in need of corrective action or further investigation.

c. *Tree trimming or vegetation management plan.*

(1) Schedule. The plan shall contain a schedule for periodic tree trimming or other measures to control vegetation growth under or along the various units of the utility’s electric plant. The period between inspections shall be based on accepted good practice in the industry and may vary depending on the nature of the vegetation at different locations.

(2) Procedures. The plan shall include written procedures for vegetation management. The procedures shall promote the safety and reliability of electric lines and facilities. Where tree trimming is employed, practices shall be adopted that will protect the health of the tree and reduce undesirable regrowth patterns.

d. *Pole inspections.* Pole inspections shall periodically include an examination of the poles that includes tests in addition to visual inspection in appropriate circumstances. These additional tests may include sounding, boring, groundline exposure, and, if applicable, pole treatment.

**25.3(4) Records.** Each utility shall keep sufficient records to demonstrate compliance with its inspection and vegetation management plans. For each inspection unit, the records of line and substation

inspections and pole inspections shall include the inspection date(s), the findings of the inspection, and the disposition or scheduling of repairs or maintenance found necessary during the inspection. For each inspection unit, the records of vegetation management shall include the date(s) during which the work was conducted. The records shall be kept until two years after the next periodic inspection or vegetation management action is completed or until all necessary repairs and maintenance are completed, whichever is longer.

**25.3(5) Guidelines.** Applicable portions of Rural Utilities Service (RUS) Bulletins 1730-1, 1730B-121, and 1724E-300 and “The Lineman’s and Cableman’s Handbook” are suggested as guidelines for the development and implementation of an inspection plan. ANSI A300 (Part 1)-2013, “Pruning,” and Section 35 of “The Lineman’s and Cableman’s Handbook” are suggested as guides for tree trimming practices.

[ARC 1359C, IAB 3/5/14, effective 4/9/14]

### **199—25.4(476,478) Correction of problems found during inspections and pole attachment procedures.**

**25.4(1)** Corrective action shall be taken within a reasonable period of time on all potentially hazardous conditions, instances of safety code noncompliance, maintenance needs, potential threats to safety and reliability, or other concerns identified during inspections. Hazardous conditions shall be corrected promptly. In addition to the general requirements stated in this subrule, pole attachments shall comply with the specific requirements and procedures established in subrule 25.4(2).

**25.4(2)** To ensure the safety of pole attachments to poles owned by utilities in Iowa, this subrule establishes requirements for attaching electric lines, communications lines, cable systems, video service lines, data lines, wireless antennae and other wireless facilities, or similar lines and facilities that are attached to the excess space on poles owned by utilities.

*a. Definitions.* The following definitions shall apply to this rule.

“*Pole*” means any pole owned by a utility that carries electric lines, communications lines, cable systems, video service lines, data service lines, wireless antennae or other wireless facilities, or similar lines and facilities.

“*Pole attachment*” means any electric line, communication circuit, cable system, video service line, data service line, antenna and other associated wireless equipment, or similar lines and facilities attached to a pole or other supporting structure subject to the safety jurisdiction of the board pursuant to the Iowa electrical safety code, 199—25.2(476,476A,478).

“*Pole occupant*” means any electric utility, telecommunications carrier, cable system provider, video service provider, data service provider, wireless service provider, or similar person or entity that constructs, operates, or maintains pole attachments as defined in this chapter.

“*Pole owner*” means a utility that owns poles subject to the safety jurisdiction of the board pursuant to the Iowa electrical safety code, 199—25.2(476,476A,478).

*b. Compliance with Iowa electrical safety code.* Pole attachments to poles shall be constructed, installed, operated, and maintained in compliance with the Iowa electrical safety code, 199—25.2(476,476A,478), and the requirements and procedures established in this subrule.

*c. Requests for access to poles; exceptions for service drops and overlashing.*

(1) A pole owner shall provide nondiscriminatory access to poles it owns, to the extent required by federal or state law. Requests for access to poles by an electric utility, telecommunications carrier, cable system operator, video service provider, data service provider, wireless service provider, or similar person or entity shall be made in writing or by any method as may be agreed upon by the pole owner and the person or entity requesting access to the pole. If access is denied, the pole owner shall explain in detail the specific reason for denial and how the denial relates to reasons of lack of capacity, safety, reliability, or engineering standards.

(2) Service drops are not subject to the notice and approval requirements in subparagraph 25.4(2) “c”(1). Instead, pole occupants shall provide notice to pole owners within 30 days of the installation of a new service drop, unless the pole occupant and pole owner have negotiated a different notification requirement.

(3) Overlapping of existing lines is not subject to the notice and approval requirements in subparagraph 25.4(2)“c”(1). Pole occupants shall provide notice to pole owners of proposed overlapping at least 7 days prior to installation of the overlapping, unless the pole occupant and pole owner have negotiated a different notification requirement.

*d. Notification of violation.* A pole owner shall notify in writing a pole occupant of an alleged violation of the Iowa electrical safety code by a pole attachment owned by the pole occupant or may provide notice by another method as may be agreed upon by the parties to a pole attachment agreement. The notice shall include the address and pole location where the alleged violation occurred, a description of the alleged violation, and suggested corrective action.

*e. Corrective action.*

(1) Upon receipt of notification from a pole owner that the pole occupant has one or more pole attachments in violation of the Iowa electrical safety code, the pole occupant shall respond to the pole owner within 60 days in writing or by another method as may be agreed upon by the pole occupant and the pole owner. The response shall provide a plan for corrective action, state that the violation has been corrected, indicate that the pole attachment is owned by a different pole occupant, or indicate that the pole occupant disputes that a violation has occurred. The violation shall be corrected within 180 days of the date notification is received unless good cause is shown for any delay in taking corrective action. A disagreement that a violation has occurred, a claim that correction is not possible within the specific time frames due to events beyond the control of the pole occupant, or a claim that a different pole occupant is responsible for the alleged violation will be considered good cause to extend the time for taking corrective action. The pole occupant and pole owner may also agree to an extension of the time for taking corrective action. The pole owner and pole occupant shall cooperate in determining the cause of a violation and an efficient and cost-effective method of correcting a violation.

(2) If the violation could reasonably be expected to endanger life or property, the pole occupant shall take the necessary action to correct, disconnect, or isolate the problem immediately upon notification. If immediate corrective action is not taken by the pole occupant for a violation that could reasonably be expected to endanger life or property, the pole owner may take the necessary corrective action and the pole occupant shall reimburse the pole owner for the actual cost of any corrective measures. If the pole owner is later determined to have caused the violation and the pole occupant has taken corrective action, the pole owner shall reimburse the pole occupant for the actual cost of the corrective action. Disputes concerning the ownership of the pole attachment should be resolved as quickly as possible.

*f. Negotiated resolution of disputes.* Parties to disputes over alleged violations of the Iowa electrical safety code, the cause of a violation, the pole occupant responsible for the violation, the cost-effective corrective action, or any other dispute regarding the provisions of subrule 25.4(2) shall attempt to resolve disputes through good-faith negotiations. Parties may file an informal complaint with the board pursuant to 199—Chapter 6 as part of negotiations.

*g. Complaints.* Complaints concerning the requirements or procedures established in subrule 25.4(2), including alleged violations of the Iowa electrical safety code, may be filed with the board by pole owners or pole occupants pursuant to the complaint procedures in 199—Chapter 6.

*h. Civil penalties.* Persons found to have violated the provisions of subrule 25.4(2) may be subject to civil penalties pursuant to Iowa Code section 476.51 or to other action by the board.

[ARC 1259C, IAB 1/8/14, effective 2/12/14]

**199—25.5(476,478) Accident reports.** This rule applies to all owners or operators of electrical facilities subject to the safety jurisdiction of the board under this chapter.

**25.5(1)** All owners and operators of electrical facilities subject to the safety jurisdiction of the board shall provide the board with a 24-hour contact number where the board can obtain immediate access to a person knowledgeable about any incidents involving contact with energized electrical facilities.

**25.5(2)** All owners and operators of electrical facilities subject to the safety jurisdiction of the board shall notify the board of any incident or accident involving contact with energized electrical facilities that meets the following conditions:

- a. An employee or other person coming in contact with energized electrical facilities which results in death or personal injury necessitating in-patient hospitalization.
- b. Estimated property damage of \$15,000 or more to the property of the utility and others.
- c. Any other incident considered significant by the company.

**25.5(3)** The board shall be notified immediately, or as soon as practical thereafter, by e-mail to the board duty officer at [dutyofficer@iub.iowa.gov](mailto:dutyofficer@iub.iowa.gov) or, in appropriate circumstances, by calling (515)745-2332. The person contacting the board shall leave a telephone number of a person who can provide the following information:

- a. The name of the company, 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 requiring in-patient hospitalization and the extent of those injuries.
- e. Initial estimate of damages.
- f. A summary of the significant information available regarding the probable cause of the incident and extent of damages.

g. Any oral or written report made to a federal agency, the agency receiving the report, and the name and telephone number of the person who made or prepared the report.

**25.5(4)** Written incident reports. Within 30 days of the date of the incident, the owner or operator shall file a written report with the board. The report shall include the information required for telephone notice in subrule 25.5(3), the probable cause as determined by the company, the number and cause of any deaths or personal injuries requiring in-patient hospitalization, and a detailed description of property damage and the amount of monetary damages. If significant additional information becomes available at a later date, a supplemental report shall be filed. Duplicate copies of any written reports filed with or submitted to a federal agency concerning the incident shall also be provided to the board.

[Editorial change: IAC Supplement 12/29/10; **ARC 1359C**, IAB 3/5/14, effective 4/9/14; **ARC 1623C**, IAB 9/17/14, effective 10/22/14]

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◇ Two or more ARCs



## **ECONOMIC DEVELOPMENT AUTHORITY[261]**

[Created by 1986 Iowa Acts, chapter 1245]

[Prior to 1/14/87, see Iowa Development Commission[520] and Planning and Programming[630]]

[Prior to 9/7/11, see Economic Development, Iowa Department of[261];  
renamed Economic Development Authority by 2011 Iowa Acts, House File 590]

### PART I

#### *DEPARTMENT STRUCTURE*

#### CHAPTER 1

#### ORGANIZATION

- 1.1(15) History and mission
- 1.2(15) Definitions
- 1.3(15) Economic development authority board
- 1.4(15) Authority structure
- 1.5(15) Information

#### CHAPTERS 2 and 3

Reserved

### PART II

#### *WORKFORCE DEVELOPMENT COORDINATION*

#### CHAPTER 4

#### WORKFORCE DEVELOPMENT ACCOUNTABILITY SYSTEM

- 4.1(15) Purpose
- 4.2(15) Compilation of information

#### CHAPTER 5

#### IOWA INDUSTRIAL NEW JOBS TRAINING PROGRAM

- 5.1(15,260E) Authority
- 5.2(15,260E) Purpose
- 5.3(15,260E) Definitions
- 5.4(15,260E) Agreements
- 5.5(15,260E) Resolution on incremental property tax
- 5.6(15,260E) New jobs withholding credit
- 5.7(15,260E) Notice of intent to issue certificates
- 5.8(15,260E) Standby property tax levy
- 5.9(15,260E) Reporting
- 5.10(15,260E) Monitoring
- 5.11(15,260E) State administration
- 5.12(15,260E) Coordination with communities
- 5.13(15,76GA,SF2351) Supplemental 1½ percent withholding

#### CHAPTER 6

Reserved

#### CHAPTER 7

#### IOWA JOBS TRAINING PROGRAM

- 7.1(260F) Authority
- 7.2(260F) Purpose
- 7.3(260F) Definitions
- 7.4(260F) Program funding
- 7.5(260F) Funding for projects which include one business
- 7.6(260F) Funding for projects which include multiple businesses
- 7.7(260F) Funding for high technology apprenticeship programs
- 7.8(260F) Matching funds requirement

7.9(260F)	Use of program funds
7.10(260F)	Use of 260F earned interest
7.11(260F)	Application fee
7.12(260F)	Separate account
7.13(260F)	Eligible business
7.14(260F)	Ineligible business
7.15(260F)	Eligible employee
7.16(260F)	Ineligible employee
7.17(260F)	Entrepreneurial training
7.18(260F)	Agreement of intent
7.19(260F)	Project commencement date
7.20(260F)	Application process
7.21(260F)	Application scoring criteria
7.22(260F)	Training contract
7.23(260F)	Special requirements for community college consortium projects
7.24(260F)	Special requirements for community college-sponsored business network projects
7.25(260F)	Special requirements for department-sponsored business network projects
7.26(260F)	Special requirements for community college-sponsored high technology apprenticeship projects
7.27(260F)	Special requirements for department-sponsored high technology apprenticeship projects
7.28(81GA, HF868, HF809)	Special requirements for job retention program projects
7.29(81GA, HF868, HF809)	Special requirements for projects funded through the grow Iowa values fund
7.30(260F)	Events of default
7.31(260F)	Options and procedures on default
7.32(260F)	Remedies upon default
7.33(260F)	Return of unused funds
7.34(260F)	Open records
7.35(260F)	Required forms

## CHAPTER 8

## WORKFORCE DEVELOPMENT FUND

8.1(15,76GA, ch1180)	Purpose
8.2(15,76GA, ch1180)	Definitions
8.3(15,76GA, ch1180)	Workforce development fund account
8.4(15,76GA, ch1180)	Workforce development fund allocation
8.5(15,76GA, ch1180)	Workforce development fund reporting
8.6(15,76GA, ch1180)	Training and retraining programs for targeted industries
8.7(15,76GA, ch1180)	Projects under Iowa Code chapter 260F
8.8(15,76GA, chs1180, 1219)	Apprenticeship programs under Iowa Code section 260C.44 (including new or statewide building trades apprenticeship programs)
8.9(15,76GA, chs1180, 1219)	Innovative skill development activities
8.10(15,76GA, ch1180)	Negotiation and award
8.11(15,76GA, ch1180)	Administration
8.12(15,76GA, ch1180)	Training materials and equipment
8.13(15,76GA, ch1180)	Redistribution of funds

## CHAPTER 9

## WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT FUNDS

9.1(15G, 260C)	Purpose
9.2(15G, 260C)	Definitions

9.3(15G,260C)	Funds allocation
9.4(15G,260C)	Community college workforce and economic development plan and progress report
9.5(15G,260C)	Use of funds
9.6(15G,260C)	Approval of projects
9.7(15G,260C)	Community college workforce and economic development plan
9.8(15G,260C)	Reporting
9.9(15G,260C)	Annual progress report approval
9.10(15G,260C)	Options upon default or noncompliance

## CHAPTER 10

Reserved

## CHAPTER 11

## CERTIFIED SCHOOL TO CAREER PROGRAM

11.1(15)	Purpose
11.2(15)	Definitions
11.3(15)	Certified program work site agreement
11.4(15)	Payroll expenditure refund

## CHAPTERS 12 to 19

Reserved

## CHAPTER 20

## ACCELERATED CAREER EDUCATION (ACE) PROGRAM

## DIVISION I - GENERAL PROVISIONS

20.1(260G)	Purpose
20.2(260G)	Definitions
20.3(260G)	ACE program eligibility and designation
20.4(260G)	Funding allocation
20.5(260G)	Eligible and ineligible business
20.6(260G)	Program agreements
20.7(260G)	Administration
20.8(260G)	Customer tracking system
20.9(260G)	Program costs recalculation

## DIVISION II - CAPITAL COSTS COMPONENT

20.10 to 20.12	Reserved
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## DIVISION III - PROGRAM JOB CREDITS

20.13(260G)	Threshold requirements—program job credits
20.14(260G)	Job credits allocation
20.15(260G)	Determination of job credits, notice, and certification
20.16(260G)	Evaluation criteria for quality assurance—program job credits
20.17(260G)	Committed funds

## DIVISION IV - ACCELERATED CAREER EDUCATION GRANTS COMPONENT

20.18(260G) ACE program serving demand occupations

## DIVISION V - WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT PROGRAM OPERATING COSTS

20.19(81GA, HF868, HF809) Grow Iowa values fund assistance

## PART III

*COMMUNITY DEVELOPMENT DIVISION*

## CHAPTER 21

## DIVISION RESPONSIBILITIES

21.1(15) Mission

21.2(15) Division responsibilities

## CHAPTER 22

Reserved

## CHAPTER 23

## IOWA COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

23.1(15) Purpose

23.2(15) Definitions

23.3(15) Eligible applicants

23.4(15) Allocation of funds

23.5(15) Common requirements for funding

23.6(15) Requirements for the competitive program

23.7(15) Requirements for the economic development set-aside fund

23.8(15) Requirements for the public facilities set-aside fund

23.9(15) Requirements for the career link program

23.10(15) Requirements for the contingency fund

23.11(15) Requirements for the housing fund program

23.12(15) Interim financing program

23.13 Reserved

23.14(15) Disaster recovery fund

23.15(15) Administration of a CDBG award

23.16(15) Requirements for the downtown revitalization fund

## CHAPTER 24

## EMERGENCY SHELTER GRANTS PROGRAM

24.1(PL100-628) Purpose

24.2(PL100-628) Definitions

24.3(PL100-628) Eligible applicants

24.4(PL100-628) Eligible activities

24.5(PL100-628) Ineligible activities

24.6(PL100-628) Application procedures

24.7(PL100-628) Application review process

24.8(PL100-628) Matching requirement

24.9(PL100-628) Grant awards

24.10(PL100-628) Restrictions placed on grantees

24.11(PL100-628) Compliance with applicable federal and state laws and regulations

24.12(PL100-628) Administration

## CHAPTER 25

## HOUSING FUND

25.1(15) Purpose

25.2(15) Definitions

- 25.3(15) Eligible applicants
- 25.4(15) Eligibility and forms of assistance
- 25.5(15) Application review
- 25.6(15) Minimum application requirements
- 25.7(15) Application review criteria
- 25.8(15) Allocation of funds
- 25.9(15) Administration of awards

#### CHAPTER 26

##### VARIANCE PROCEDURES FOR TAX INCREMENT FINANCING (TIF) HOUSING PROJECTS

- 26.1(403) Goals and objectives
- 26.2(403) Definitions
- 26.3(403) Requirements for benefit to low- and moderate-income families
- 26.4(403) Ability to request a variance
- 26.5(403) Variance request procedure
- 26.6(403) Criteria for review

#### CHAPTER 27

##### NEIGHBORHOOD STABILIZATION PROGRAM

- 27.1(15) Purpose
- 27.2(15) Definitions
- 27.3(15) Program eligibility
- 27.4(15) Allocation of funding
- 27.5(15) Application procedures
- 27.6(15) Plan and application review process
- 27.7(15) Award process
- 27.8(15) Project management

#### CHAPTER 28

##### LOCAL HOUSING ASSISTANCE PROGRAM

- 28.1(15) Purpose
- 28.2(15) Definitions
- 28.3(15) Eligible applicants
- 28.4(15) Eligible activities and forms of assistance
- 28.5(15) Application procedure
- 28.6(15) Minimum application requirements
- 28.7(15) Application review criteria
- 28.8(15) Allocation of funds
- 28.9(15) Administration of awards

#### CHAPTER 29

##### HOMELESS SHELTER OPERATION GRANTS PROGRAM

- 29.1(15) Purpose
- 29.2(15) Definitions
- 29.3(15) Eligible applicants
- 29.4(15) Eligible activities
- 29.5(15) Ineligible activities
- 29.6(15) Application procedures
- 29.7(15) Application review process
- 29.8(15) Matching requirement
- 29.9(15) Grant awards

- 29.10(15) Compliance with applicable federal and state laws and regulations  
 29.11(15) Administration

CHAPTER 30  
 JOB OPPORTUNITIES FOR  
 PERSONS WITH DISABILITIES PROGRAM

- 30.1(76GA,SF2470) Purpose  
 30.2(76GA,SF2470) Definitions  
 30.3(76GA,SF2470) Eligible applicant  
 30.4(76GA,SF2470) Project awards  
 30.5(76GA,SF2470) Eligible and ineligible use of grant funds  
 30.6(76GA,SF2470) General guidelines for applications  
 30.7(76GA,SF2470) Review and award process  
 30.8(76GA,SF2470) Program management

CHAPTER 31  
 ECONOMIC DEVELOPMENT REGION INITIATIVES

- 31.1(15E) Purpose  
 31.2(15E) Types of assistance  
 31.3(15E) Financial assistance  
 31.4(15E) Definitions

DIVISION I  
 ECONOMIC DEVELOPMENT REGION INITIATIVE—FINANCIAL ASSISTANCE

- 31.5(15E) Uses of funds under the economic development region initiative  
 31.6(15E) Application process and approval process  
 31.7(15E) Reporting requirements

DIVISION II  
 ECONOMIC ENTERPRISE AREAS

- 31.8(15E) Description  
 31.9(15E) Funding  
 31.10(15E) Eligible use of funds  
 31.11(15E) Application process and approval process  
 31.12(15E) Reporting requirements

DIVISION III  
 BUSINESS ACCELERATORS

- 31.13(15E) Description and purpose  
 31.14(15E) Definitions  
 31.15(15E) Requirements and qualifications for business accelerator entities  
 31.16(15E) Other considerations  
 31.17(15E) Application procedures  
 31.18(15E) Reporting

CHAPTER 32  
 TAX CREDITS FOR ECONOMIC DEVELOPMENT REGION REVOLVING LOAN FUND

- 32.1(81GA,HF868,HF809) Purpose  
 32.2(81GA,HF868,HF809) Definitions  
 32.3(81GA,HF868,HF809) Allocation of funds  
 32.4(81GA,HF868,HF809) Credit amount  
 32.5(81GA,HF868,HF809) Eligible contributions  
 32.6(81GA,HF868,HF809) Requests for tax credits

## CHAPTER 33

## IOWA WINE AND BEER PROMOTION GRANT PROGRAM

- 33.1(15) Purpose
- 33.2(15) Definitions
- 33.3(15) Application and review processes

## CHAPTER 34

## WELCOME CENTER PROGRAM

- 34.1(72GA,HF540) Purpose
- 34.2 and 34.3 Reserved
- 34.4(72GA,HF540) Pilot projects

## CHAPTER 35

## REGIONAL TOURISM MARKETING GRANT PROGRAM

- 35.1(82GA,SF302) Purpose
- 35.2(82GA,SF302) Definitions
- 35.3(82GA,SF302) Eligible applicants
- 35.4(82GA,SF302) Use of funds
- 35.5(82GA,SF302) Application procedures and content
- 35.6(82GA,SF302) Application review and approval procedures
- 35.7(82GA,SF302) Funding of grants; contracting

## CHAPTER 36

## FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

- 36.1(15) Purpose
- 36.2(15) Definitions
- 36.3(15) Request for registration of a film, television, or video project
- 36.4(15) IDED list of registered film, television, or video projects
- 36.5(15) Contract administration
- 36.6(15) Benefits available
- 36.7(15) Qualified expenditure tax credit
- 36.8(15) Qualified investment tax credit
- 36.9(15) Reduction of gross income due to payments received from qualified expenditures in registered projects

## CHAPTER 37

## CITY DEVELOPMENT BOARD

- 37.1(368) Expenses, annual report and rules
- 37.2(17A) Forms

## CHAPTER 38

## REGIONAL SPORTS AUTHORITY DISTRICTS

- 38.1(15E) Definitions
- 38.2(15E) Program description
- 38.3(15E) Program eligibility and application requirements
- 38.4(15E) Application scoring and certification of districts
- 38.5(15E) Contract administration
- 38.6(15E) Expenses, records, and reimbursements

## CHAPTER 39

## IOWA MAIN STREET PROGRAM

- 39.1(15) Purpose
- 39.2(15) Definitions
- 39.3(15) Program administration

39.4(15)	Eligible applicants
39.5	Reserved
39.6(15)	Selection
39.7(15)	Selection criteria
39.8	Reserved
39.9(15)	Performance reviews
39.10(15)	Noncompliance
39.11(15)	Forms

## CHAPTER 40

## IOWA JOBS MAIN STREET PROGRAM

40.1(83GA,SF2389)	Authority
40.2(83GA,SF2389)	Purpose
40.3(83GA,SF2389)	Definitions
40.4(83GA,SF2389)	Highest-priority list
40.5(83GA,SF2389)	Funding
40.6(83GA,SF2389)	Financial management
40.7(83GA,SF2389)	Reports
40.8(83GA,SF2389)	Signs
40.9(83GA,SF2389)	Noncompliance
40.10(83GA,SF2389)	Great places consideration

## CHAPTER 41

## COMMUNITY DEVELOPMENT FUND

41.1(79GA,HF718)	Purpose
41.2(79GA,HF718)	Program eligibility
41.3(79GA,HF718)	General policies for applications
41.4(79GA,HF718)	Application procedures
41.5(79GA,HF718)	Application contents
41.6(79GA,HF718)	Review process
41.7(79GA,HF718)	Award process
41.8(79GA,HF718)	Project management
41.9(79GA,HF718)	Performance reviews

## CHAPTER 42

## IOWA TOURISM GRANT PROGRAM

42.1(15)	Definitions
42.2(15)	Program description
42.3(15)	Program eligibility and application requirements
42.4(15)	Application scoring and approval process
42.5(15)	Contract administration
42.6(15)	Expenses, records, and reimbursements

## CHAPTER 43

Reserved

## CHAPTER 44

## COG ASSISTANCE

44.1(28H)	Purpose
44.2(28H)	Definitions
44.3(28H)	Eligibility
44.4(28H)	Eligible activities
44.5(28H)	Application procedure

44.6(28H)	Grant awards
44.7(28H)	Funding
44.8(28H)	Financial management standards
44.9(28H)	Record keeping and retention
44.10(28H)	Progress reports
44.11(28H)	Noncompliance
44.12(28H)	Grant closeouts
44.13(28H)	Compliance with state laws and regulations

## CHAPTER 45

Reserved

## CHAPTER 46

## ENDOW IOWA GRANTS PROGRAM

46.1(81GA, HF868)	Purpose
46.2(81GA, HF868)	Definitions
46.3(81GA, HF868)	Program procedures
46.4(81GA, HF868)	Eligible applicants
46.5(81GA, HF868)	Application and review criteria
46.6(81GA, HF868)	Reporting requirements

## CHAPTER 47

## ENDOW IOWA TAX CREDITS

47.1(15E)	Purpose
47.2(15E)	Definitions
47.3(15E)	Authorization of tax credits to taxpayers
47.4(15E)	Distribution process and review criteria
47.5(15E)	Reporting requirements

## CHAPTERS 48 and 49

Reserved

## PART IV

*BUSINESS DEVELOPMENT DIVISION*

## CHAPTER 50

## DIVISION RESPONSIBILITIES

50.1(15)	Mission
50.2(15)	Division responsibilities

## CHAPTER 51

## SELF-EMPLOYMENT LOAN PROGRAM

51.1(15)	Transition
----------	------------

## CHAPTER 52

Reserved

## CHAPTER 53

## COMMUNITY ECONOMIC BETTERMENT ACCOUNT (CEBA) PROGRAM

53.1(15)	Purpose and administrative procedures
53.2(15)	Definitions
53.3	Reserved
53.4(15)	Eligible applicants
53.5(15)	Provision of assistance
53.6(15)	Application for assistance

- 53.7(15) Selection criteria
- 53.8(15) Small business gap financing
- 53.9(15) New business opportunities and new product development components
- 53.10(15) Venture project components
- 53.11(15) Modernization project component
- 53.12(15) Comprehensive management assistance and entrepreneurial development
- 53.13 to 53.17 Reserved
- 53.18(15,83GA,SF344) Applicability of CEBA program after July 1, 2009

#### CHAPTER 54

##### IOWA TARGETED SMALL BUSINESS PROCUREMENT PROGRAM

- 54.1(73) Purpose
- 54.2(73) Definitions
- 54.3(73) Preliminary procedures
- 54.4(73) Identification of targeted small businesses
- 54.5(73) IDED administration
- 54.6(73) Certification
- 54.7(73) Request for review of certification denial
- 54.8(73) Certification review board
- 54.9(73) Decertification
- 54.10(73) Notice of solicitation for bids
- 54.11 Reserved
- 54.12(73) Determination of ability to perform
- 54.13(73) Other procurement procedures
- 54.14(73) Reporting requirements
- 54.15(73) Maintenance of records

#### CHAPTER 55

##### TARGETED SMALL BUSINESS FINANCIAL ASSISTANCE PROGRAM

- 55.1(15) Targeted small business financial assistance program (TSBFAP)
- 55.2(15) Definitions
- 55.3(15) Eligibility requirements
- 55.4(15) Loan and grant program
- 55.5(15) Loan guarantee program
- 55.6(15) Award agreement
- 55.7(15) Monitoring and reporting for loan, grant, and loan guarantee programs

#### CHAPTER 56

##### EMPLOYEE STOCK OWNERSHIP PLAN (ESOP) FORMATION ASSISTANCE

- 56.1(85GA,HF648) Purpose
- 56.2(85GA,HF648) Definitions
- 56.3(85GA,HF648) Program description
- 56.4(85GA,HF648) Program eligibility, application scoring, and funding decisions
- 56.5(85GA,HF648) Contract required

#### CHAPTER 57

##### VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES FINANCIAL ASSISTANCE PROGRAM (VAAPFAP)

- 57.1(15E) Purpose and administrative procedures
- 57.2(15E) Definitions
- 57.3(15E) General eligibility
- 57.4(15E) Program components and eligibility requirements
- 57.5(15E) Ineligible projects

57.6(15E)	Awards
57.7(15E)	Application procedure
57.8(15E)	Review process
57.9	Reserved
57.10(15E)	Evaluation and rating criteria
57.11 to 57.15	Reserved
57.16(15E,83GA,SF344)	Applicability of VAAPFAP program after July 1, 2009

#### CHAPTER 58

##### NEW JOBS AND INCOME PROGRAM

58.1(15)	Purpose
58.2(15)	Definitions
58.3(15)	Agreement prerequisites
58.4(15)	Program benefits
58.5(15)	Limitation on incentives
58.6(15)	Application
58.7(15)	Eligibility requirements
58.8(15)	Ineligibility
58.9(15)	Application
58.10(15)	Department and board action
58.11(15)	Agreement
58.12	Reserved
58.13(15)	Compliance monitoring; notice of noncompliance and penalties
58.14(15)	Repayment
58.15(15)	Amendments
58.16(81GA,HF868)	Applicability of new jobs and income program after July 1, 2005

#### CHAPTER 59

##### ENTERPRISE ZONE (EZ) PROGRAM

59.1(15E)	Purpose and administrative procedures
59.2(15E)	Definitions
59.3(15E)	Enterprise zone certification
59.4(15E)	Enterprise zone commission
59.5(15E)	Eligibility and negotiations
59.6(15E)	Eligible business
59.7	Reserved
59.8(15E)	Eligible housing business
59.9	Reserved
59.10(15E)	Commission review of businesses' applications
59.11(15E)	Other commission responsibilities
59.12(15E)	Department action on eligible applications

#### CHAPTER 60

##### ENTREPRENEURIAL VENTURES ASSISTANCE (EVA) PROGRAM

60.1(15)	Purpose and administrative procedures
60.2(15)	Definitions
60.3(15)	Eligibility requirements
60.4(15)	Financial assistance
60.5(15)	Technical assistance
60.6(15)	Application process
60.7(15)	Review criteria

60.8 and 60.9 Reserved  
60.10(15,83GA,SF344) Applicability of EVA program after July 1, 2009

#### CHAPTER 61

##### PHYSICAL INFRASTRUCTURE ASSISTANCE PROGRAM (PIAP)

61.1(15E) Purpose and administrative procedures  
61.2(15E) Eligible activities  
61.3(15E) Eligibility requirements  
61.4(15E) Application procedures  
61.5(15E) Application review criteria, performance measures  
61.6 Reserved  
61.7(15E) Forms of assistance available; award amount  
61.8 Reserved  
61.9(15E) Applicability of PIAP program after July 1, 2009

#### CHAPTER 62

##### COGENERATION PILOT PROGRAM

62.1(80GA,HF391) Purpose  
62.2(80GA,HF391) Eligible activities  
62.3(80GA,HF391) Eligibility requirements  
62.4(80GA,HF391) Application procedures  
62.5(80GA,HF391) Application review  
62.6(80GA,HF391) Award process  
62.7(80GA,HF391) Annual progress report

#### CHAPTER 63

##### UNIVERSITY-BASED RESEARCH UTILIZATION PROGRAM

63.1(80GA,HF692,HF683) Purpose  
63.2(80GA,HF692,HF683) Definitions  
63.3(80GA,HF692,HF683) Business eligibility  
63.4(80GA,HF692,HF683) Program benefits  
63.5(80GA,HF692,HF683) Funding appropriation to the regents university  
63.6(80GA,HF692,HF683) Business application  
63.7(80GA,HF692,HF683) Application and award process  
63.8(80GA,HF692,HF683) Program administration

#### CHAPTER 64

##### NEW CAPITAL INVESTMENT PROGRAM

64.1(80GA,HF677) Purpose  
64.2(80GA,HF677) Definitions  
64.3(80GA,HF677) Applying for benefits  
64.4(80GA,HF677) Benefits  
64.5(80GA,HF677) Agreement, compliance, and repayment provisions  
64.6(80GA,HF677) Amendments  
64.7(80GA,HF677) Other benefits  
64.8(81GA,HF868) Applicability of new capital investment program after July 1, 2005

#### CHAPTER 65

##### BROWNFIELD AND GRAYFIELD REDEVELOPMENT

65.1(15) Purpose  
65.2(15) Definitions  
65.3(15) Eligible applicants  
65.4(15) Eligible forms of assistance and limitations

65.5(15)	Repayment to economic development authority
65.6(15)	Application and award procedures
65.7(15)	Application
65.8(15)	Application forms
65.9(15)	Application review criteria
65.10(15)	Administration of awards
65.11(15)	Redevelopment tax credit
65.12(15)	Review, approval, and repayment requirements of redevelopment tax credit

#### CHAPTER 66

##### ASSISTIVE DEVICE TAX CREDIT

66.1(78GA,ch1194)	Purpose
66.2(78GA,ch1194)	Definitions
66.3(78GA,ch1194)	Eligibility criteria
66.4(78GA,ch1194)	Application process
66.5(78GA,ch1194)	Review, decision and award process
66.6(78GA,ch1194)	Certification
66.7(78GA,ch1194)	Monitoring and misuse of funds
66.8(78GA,ch1194)	Tax credit

#### CHAPTER 67

##### LIFE SCIENCE ENTERPRISES

67.1(78GA,ch1197)	Purpose
67.2(78GA,ch1197)	Definitions
67.3(78GA,ch1197)	Filing of notice of intent
67.4(78GA,ch1197)	Filing of life science enterprise plan
67.5(78GA,ch1197)	Review by board
67.6(78GA,ch1197)	Life science enterprise land ownership exemption
67.7(78GA,ch1197)	Amendment of plan
67.8(78GA,ch1197)	Successor enterprise
67.9(78GA,ch1197)	Filing

#### CHAPTER 68

##### HIGH QUALITY JOBS PROGRAM (HQJP)

68.1(15)	Administrative procedures and definitions
68.2(15)	Eligibility requirements
68.3(15)	Application process and review
68.4(15)	Tax incentives
68.5(15)	Project completion assistance

#### CHAPTER 69

##### LOAN AND CREDIT GUARANTEE PROGRAM

69.1(15E,81GA,HF868)	Purpose
69.2(15E,81GA,HF868)	Definitions
69.3(15E,81GA,HF868)	Application and review process
69.4(15E,81GA,HF868)	Application approval or rejection
69.5(15E,81GA,HF868)	Terms and conditions
69.6(15E,81GA,HF868)	Administrative costs and program fees
69.7(15E,81GA,HF868)	Administration of guarantees
69.8(15E,83GA,SF344)	Applicability of LCG program after July 1, 2009

CHAPTER 70  
PORT AUTHORITY GRANT PROGRAM

- 70.1(81GA,HF2782) Purpose
- 70.2(81GA,HF2782) Definitions
- 70.3(81GA,HF2782) Program procedures
- 70.4(81GA,HF2782) Eligibility
- 70.5(81GA,HF2782) Application and review criteria
- 70.6(81GA,HF2782) Monitoring, reporting and follow-up

CHAPTER 71  
TARGETED JOBS WITHHOLDING TAX CREDIT PROGRAM

- 71.1(403) Definitions
- 71.2(403) Eligibility requirements
- 71.3(403) Pilot project city application process and review
- 71.4(403) Withholding agreements
- 71.5(403) Project approval
- 71.6(403) Reporting requirements
- 71.7(403) Applicability

CHAPTER 72  
IOWA EXPORT TRADE ASSISTANCE PROGRAM

- 72.1(78GA,ch197) Purpose
- 72.2(78GA,ch197) Definitions
- 72.3(78GA,ch197) Eligible applicants
- 72.4(78GA,ch197) Eligible reimbursements
- 72.5(78GA,ch197) Applications for assistance
- 72.6(78GA,ch197) Selection process
- 72.7(78GA,ch197) Limitations
- 72.8(78GA,ch197) Forms

CHAPTER 73  
Reserved

CHAPTER 74  
GROW IOWA VALUES FINANCIAL ASSISTANCE PROGRAM

- 74.1(83GA,SF344) Purpose and administrative procedures
- 74.2(83GA,SF344) 130 percent wage component
- 74.3(83GA,SF344) 100 percent wage component
- 74.4(83GA,SF344) Entrepreneurial component
- 74.5(83GA,SF344) Infrastructure component
- 74.6(83GA,SF344) Value-added agriculture component
- 74.7(83GA,SF344) Disaster recovery component
- 74.8(15) Applicability of the grow Iowa values financial assistance program on or after July 1, 2012

CHAPTER 75  
OPPORTUNITIES AND THREATS PROGRAM

- 75.1(83GA,SF344) Purpose
- 75.2(83GA,SF344) Administrative procedures
- 75.3(83GA,SF344) Eligible applicants
- 75.4(83GA,SF344) Review criteria
- 75.5(83GA,SF344) Award criteria
- 75.6(15) Applicability of the opportunities and threats program on or after July 1, 2012

CHAPTER 76  
AGGREGATE TAX CREDIT LIMIT FOR  
CERTAIN ECONOMIC DEVELOPMENT PROGRAMS

76.1(15)	Authority
76.2(15)	Purpose
76.3(15)	Definitions
76.4(15)	Tax credit cap—exceeding the cap—reallocation of declinations
76.5(15)	Programs subject to the cap
76.6(15)	Allocating the tax credit cap
76.7	Reserved
76.8(15)	Reporting to the department of revenue

CHAPTER 77  
SITE DEVELOPMENT PROGRAM

DIVISION I  
GENERAL PROVISIONS

77.1(15E)	Purposes
77.2(15E)	Authority
77.3(15E)	Definitions
77.4 to 77.10	Reserved

DIVISION II  
CERTIFICATE OF READINESS

77.11(15E)	Eligibility
77.12(15E)	Application; review; approval
77.13(15E)	Evaluation criteria
77.14(15E)	Certificate of readiness
77.15 to 77.20	Reserved

DIVISION III  
CONSULTATION

77.21(15E)	Consultation
------------	--------------

CHAPTER 78  
SMALL BUSINESS DISASTER RECOVERY FINANCIAL ASSISTANCE PROGRAM

DIVISION I  
2008 NATURAL DISASTER SMALL BUSINESS DISASTER RECOVERY  
FINANCIAL ASSISTANCE PROGRAM

78.1(15)	Purpose
78.2(15)	Definitions
78.3(15)	Distribution of funds to administrative entities
78.4(15)	Eligible business
78.5(15)	Eligible program activities; maximum amount of assistance
78.6(15)	Allowable types of assistance to eligible businesses
78.7(15)	Program administration and reporting
78.8 to 78.10	Reserved

DIVISION II  
2010 IOWANS HELPING IOWANS BUSINESS ASSISTANCE PROGRAM

78.11(15)	Purpose
78.12(15)	Definitions
78.13(15)	Eligible business
78.14(15)	Eligible program activities; maximum amount of assistance
78.15(15)	Distribution of funds; application
78.16(15)	Form of assistance available to eligible businesses

- 78.17(15) Grants to administrative entities  
78.18(15) Award; acceptance

## CHAPTER 79

## DISASTER RECOVERY BUSINESS RENTAL ASSISTANCE PROGRAM

- 79.1(15) Purpose  
79.2(15) Definitions  
79.3(15) Eligible business; application review  
79.4(15) Eligible program activities; maximum amount of assistance  
79.5(15) Distribution of funds to administrative entities  
79.6(15) Program administration; reporting requirements

## CHAPTER 80

## IOWA SMALL BUSINESS LOAN PROGRAM

- 80.1(83GA,SF2389) Purpose  
80.2(83GA,SF2389) Authority  
80.3(83GA,SF2389) Definitions  
80.4(83GA,SF2389) Administrator  
80.5(83GA,SF2389) General loan terms  
80.6(83GA,SF2389) Eligibility  
80.7(83GA,SF2389) Application  
80.8(83GA,SF2389) Application review  
80.9(83GA,SF2389) Recommendation; loan agreement  
80.10(83GA,SF2389) Repayment  
80.11(83GA,SF2389) Default

## CHAPTERS 81 to 100

Reserved

## PART V

*INNOVATION AND COMMERCIALIZATION ACTIVITIES*

## CHAPTER 101

## MISSION AND RESPONSIBILITIES

- 101.1(15) Mission  
101.2(15) Responsibilities

## CHAPTER 102

## ENTREPRENEUR INVESTMENT AWARDS PROGRAM

- 102.1(15E) Authority  
102.2(15E) Purpose  
102.3(15E) Definitions  
102.4(15E) Program description, application procedures, and delegation of functions  
102.5(15E) Program funding  
102.6(15E) Eligibility requirements  
102.7(15E) Contract and report information required

## CHAPTER 103

## INFORMATION TECHNOLOGY TRAINING PROGRAM

- 103.1(15,83GA,SF142) Authority—program termination and transition  
103.2(15,83GA,SF142) Purpose  
103.3(15,83GA,SF142) Definitions  
103.4(15,83GA,SF142) Program funding  
103.5(15,83GA,SF142) Matching funds requirement  
103.6(15,83GA,SF142) Use of program funds

- 103.7(15,83GA,SF142) Eligible business
- 103.8(15,83GA,SF142) Ineligible business
- 103.9(15,83GA,SF142) Eligible employee
- 103.10(15,83GA,SF142) Ineligible employee
- 103.11(15,83GA,SF142) Application and review process
- 103.12(15,83GA,SF142) Application scoring criteria
- 103.13(15,83GA,SF142) Contract and reporting

#### CHAPTER 104

##### INNOVATIVE BUSINESSES INTERNSHIP PROGRAM

- 104.1(15) Authority
- 104.2(15) Purpose
- 104.3(15) Definitions
- 104.4(15) Program funding
- 104.5(15) Eligible business
- 104.6(15) Ineligible business
- 104.7(15) Eligible students
- 104.8(15) Ineligible students
- 104.9(15) Application submittal and review process
- 104.10(15) Application content and other requirements
- 104.11(15) Selection process
- 104.12(15) Application scoring criteria
- 104.13(15) Contract and reporting

#### CHAPTER 105

##### DEMONSTRATION FUND

- 105.1(15) Authority
- 105.2(15) Purpose
- 105.3(15) Definitions
- 105.4(15) Project funding
- 105.5(15) Matching funds requirement
- 105.6(15) Eligible applicants
- 105.7(15) Ineligible applicants
- 105.8(15) Application and review process
- 105.9(15) Application selection criteria
- 105.10(15) Contract and reporting

#### CHAPTER 106

##### SMALL BUSINESS INNOVATION RESEARCH AND TECHNOLOGY TRANSFER OUTREACH PROGRAM

- 106.1(15) Authority
- 106.2(15) Purpose and goals
- 106.3(15) Definitions
- 106.4(15) Program description, application procedures, and delegation of functions
- 106.5(15) Program funding
- 106.6(15) Eligibility requirements
- 106.7(15) Contract and report information required

#### CHAPTER 107

##### TARGETED INDUSTRIES NETWORKING FUND

- 107.1(82GA,ch122) Authority—fund termination and transition
- 107.2(82GA,ch122) Purpose
- 107.3(82GA,ch122) Definitions

107.4(82GA,ch122)	Program funding
107.5(82GA,ch122)	Eligible applicants
107.6(82GA,ch122)	Application and review process
107.7(82GA,ch122)	Application selection criteria
107.8(82GA,ch122)	Contract and reporting

## CHAPTER 108

## ACCELERATION AND DEVELOPMENT OF INNOVATIVE IDEAS AND BUSINESSES

108.1(15)	Authority
108.2(15)	Purpose and description of program components
108.3(15)	Definitions
108.4(15)	Program description, application procedures, and delegation of functions
108.5(15)	Program funding
108.6(15)	Contract and report information required

## CHAPTER 109

## TARGETED INDUSTRIES CAREER AWARENESS FUND

109.1(82GA,ch122)	Authority—fund termination and transition
109.2(82GA,ch122)	Purpose
109.3(82GA,ch122)	Definitions
109.4(82GA,ch122)	Program funding
109.5(82GA,ch122)	Matching funds requirement
109.6(82GA,ch122)	Eligible applicants
109.7(82GA,ch122)	Application and review process
109.8(82GA,ch122)	Application selection criteria
109.9(82GA,ch122)	Contract and reporting

## CHAPTER 110

Reserved

## CHAPTER 111

## SUPPLY CHAIN DEVELOPMENT PROGRAM

111.1(15,83GA,SF142)	Authority—program termination and transition
111.2(15,83GA,SF142)	Purpose
111.3(15,83GA,SF142)	Definitions
111.4(15,83GA,SF142)	Program funding
111.5(15,83GA,SF142)	Matching funds requirement
111.6(15,83GA,SF142)	Eligible applicants
111.7(15,83GA,SF142)	Ineligible applicants
111.8(15,83GA,SF142)	Application process
111.9(15,83GA,SF142)	Application selection criteria
111.10(15,83GA,SF142)	Intellectual property
111.11(15,83GA,SF142)	Contract and reporting

## CHAPTERS 112 and 113

Reserved

## CHAPTER 114

## IOWA INNOVATION COUNCIL

114.1(15)	Authority
114.2(15)	Purpose
114.3(15)	Definitions
114.4(15)	Iowa innovation council funding
114.5(15)	Council membership

114.6(15)	Responsibilities and deliverables
114.7(15)	Executive committee
114.8(15)	Application and review process for board-appointed council members
114.9(15)	Voting
114.10(15)	Meetings and commitment of time
114.11(15)	Nonattendance
114.12(15)	Council work groups
114.13(15)	Reporting

## CHAPTER 115

TAX CREDITS FOR INVESTMENTS IN QUALIFYING BUSINESSES AND  
COMMUNITY-BASED SEED CAPITAL FUNDS

115.1(84GA,SF517)	Tax credits for investments in qualifying businesses and community-based seed capital funds
115.2(84GA,SF517)	Definitions
115.3(84GA,SF517)	Cash investments required
115.4(84GA,SF517)	Applying for an investment tax credit
115.5(84GA,SF517)	Verification of qualifying businesses and community-based seed capital funds
115.6(84GA,SF517)	Approval, issuance and distribution of investment tax credits
115.7(84GA,SF517)	Claiming the tax credits
115.8(84GA,SF517)	Notification to the department of revenue
115.9(84GA,SF517)	Rescinding tax credits
115.10(84GA,SF517)	Additional information

## CHAPTER 116

## TAX CREDITS FOR INVESTMENTS IN CERTIFIED INNOVATION FUNDS

116.1(15E)	Tax credit for investments in certified innovation funds
116.2(15E)	Definitions
116.3(15E)	Certification of innovation funds
116.4(15E)	Maintenance, reporting, and revocation of certification
116.5(15E)	Application for the investment tax credit certificate
116.6(15E)	Approval, issuance and distribution of investment tax credits
116.7(15E)	Transferability of the tax credit
116.8(15E)	Vested right in the tax credit
116.9(15E)	Claiming the tax credits
116.10(15E)	Notification to the department of revenue
116.11(15E)	Additional information

## CHAPTER 117

## SSBCI DEMONSTRATION FUND

117.1(84GA,HF590)	Authority
117.2(84GA,HF590)	Purposes, goals, and promotion
117.3(84GA,HF590)	Definitions
117.4(84GA,HF590)	Project funding
117.5(84GA,HF590)	Leverage of financial assistance required
117.6(84GA,HF590)	Eligible applicants
117.7(84GA,HF590)	Ineligible applicants
117.8(84GA,HF590)	Application and review process
117.9(84GA,HF590)	Application selection criteria
117.10(84GA,HF590)	Contract and reporting

## CHAPTERS 118 to 162

Reserved

PART VI  
ADMINISTRATION DIVISION

CHAPTER 163  
DIVISION RESPONSIBILITIES

- 163.1(15) Mission  
163.2(15) Structure

CHAPTER 164  
USE OF MARKETING LOGO

- 164.1(15) Purpose and limitation  
164.2(15) Definitions  
164.3(15) Guidelines  
164.4(15) Review and approval of applications  
164.5(15) Licensing agreement; use of logo  
164.6(15) Denial or suspension of use of logo  
164.7(15) Request for hearing  
164.8(15) Requests for information

CHAPTER 165  
ALLOCATION OF GROW IOWA VALUES FUND

- 165.1(15G,83GA,SF344) Purpose  
165.2(15G,83GA,SF344) Definitions  
165.3(15G,83GA,SF344) Grow Iowa values fund (2009)  
165.4(15G,83GA,SF344) Allocation of annual appropriation for grow Iowa values fund moneys—\$50M  
165.5(15G,83GA,SF344) Board allocation of other moneys in fund  
165.6(15G,83GA,SF344) Annual fiscal year allocations by board  
165.7(15) Applicability of the grow Iowa values financial assistance program on or after July 1, 2012

CHAPTERS 166 to 170  
Reserved

PART VII  
ADDITIONAL APPLICATION REQUIREMENTS AND PROCEDURES

CHAPTER 171  
SUPPLEMENTAL CREDIT OR POINTS

- 171.1(15A) Applicability  
171.2(15A) Brownfield areas, blighted areas and distressed areas  
171.3(15A) Good neighbor agreements  
171.4(82GA,HF647) Iowa great places agreements

CHAPTER 172  
ENVIRONMENTAL LAW COMPLIANCE; VIOLATIONS OF LAW

- 172.1(15A) Environmental law compliance  
172.2(15A) Violations of law

CHAPTER 173  
STANDARD DEFINITIONS

- 173.1(15) Applicability  
173.2(15) Definitions

## CHAPTER 174

## WAGE, BENEFIT, AND INVESTMENT REQUIREMENTS

- 174.1(15) Applicability
- 174.2(15) Qualifying wage threshold calculations
- 174.3(15) Qualifying wage threshold requirements—prior to July 1, 2009
- 174.4 Reserved
- 174.5(15) Qualifying wage threshold requirements—on or after July 1, 2009, and on or before June 30, 2012
- 174.6(15) Qualifying wage threshold requirements—effective on or after July 1, 2012
- 174.7(15) Job obligations
- 174.8(15) Benefit requirements—prior to July 1, 2009
- 174.9(15) Sufficient benefits requirement—on or after July 1, 2009
- 174.10(15) Capital investment, qualifying investment for tax credit programs, and investment qualifying for tax credits

## CHAPTER 175

## APPLICATION REVIEW AND APPROVAL PROCEDURES

- 175.1(15) Applicability
- 175.2(15) Application procedures for programs administered by the authority
- 175.3(15) Standard program requirements
- 175.4(15) Review and approval of applications
- 175.5(15) Local match requirements for project awards

## CHAPTERS 176 to 186

Reserved

## PART VIII

*LEGAL AND COMPLIANCE*

## CHAPTER 187

## CONTRACTING

- 187.1(15) Applicability
- 187.2(15) Contract required
- 187.3(15) Project completion date and maintenance period completion date
- 187.4(15) Contract and award amendment approval procedures
- 187.5(15) Default
- 187.6(15) Compliance cost fees

## CHAPTER 188

## CONTRACT COMPLIANCE AND JOB COUNTING

- 188.1(15) Applicability
- 188.2(15) Contract compliance
- 188.3(15) Job counting and tracking
- 188.4(15) Business's employment base
- 188.5(15) Job counting using base employment analysis
- 188.6(15) Wage determination for contract compliance purposes

## CHAPTER 189

## ANNUAL REPORTING

- 189.1(15) Annual reporting by businesses required (for period ending June 30)
- 189.2(15) January 31 report by authority to legislature

## CHAPTERS 190 to 194

Reserved

## PART IX

*UNIFORM PROCEDURES: RECORDS, RULE MAKING, DECLARATORY ORDERS, RULE WAIVERS*

## CHAPTER 195

## PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

- 195.1(17A,22) Statement of policy, purpose and scope of chapter
- 195.2(17A,22) Definitions
- 195.3(17A,22) Requests for access to records
- 195.4(17A,22) Access to confidential records
- 195.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination
- 195.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records
- 195.7(17A,22) Consent to disclosure by the subject of a confidential record
- 195.8(17A,22) Notice to suppliers of information
- 195.9(17A,22) Disclosures without the consent of the subject
- 195.10(17A,22) Routine use
- 195.11(17A,22) Consensual disclosure of confidential records
- 195.12(17A,22) Release to subject
- 195.13(17A,22) Availability of records
- 195.14(17A,22) Personally identifiable information
- 195.15(17A,22) Other groups of records

## CHAPTER 196

## DEPARTMENT PROCEDURE FOR RULE MAKING

- 196.1(17A) Applicability
- 196.2(17A) Advice on possible rules before notice of proposed rule adoption
- 196.3(17A) Public rule-making docket
- 196.4(17A) Notice of proposed rule making
- 196.5(17A) Public participation
- 196.6(17A) Regulatory analysis
- 196.7(17A,25B) Fiscal impact statement
- 196.8(17A) Time and manner of rule adoption
- 196.9(17A) Variance between adopted rule and published notice of proposed rule adoption
- 196.10(17A) Exemptions from public rule-making procedures
- 196.11(17A) Concise statement of reasons
- 196.12(17A) Contents, style, and form of rule
- 196.13(17A) Department rule-making record
- 196.14(17A) Filing of rules
- 196.15(17A) Effectiveness of rules prior to publication
- 196.16(17A) Review by department of rules
- 196.17(17A) Written criticisms of department rules

## CHAPTER 197

## PETITION FOR RULE MAKING

- 197.1(17A) Petition for rule making
- 197.2(17A) Briefs
- 197.3(17A) Inquiries
- 197.4(17A) Department consideration

CHAPTER 198  
PETITION FOR DECLARATORY ORDER

198.1(17A)	Petition for declaratory order
198.2(17A)	Notice of petition
198.3(17A)	Intervention
198.4(17A)	Briefs
198.5(17A)	Inquiries
198.6(17A)	Service and filing of petitions and other papers
198.7(17A)	Consideration
198.8(17A)	Action on petition
198.9(17A)	Refusal to issue order
198.10(17A)	Contents of declaratory order—effective date
198.11(17A)	Copies of orders
198.12(17A)	Effect of a declaratory order

CHAPTER 199  
UNIFORM WAIVER AND VARIANCE RULES

199.1(ExecOrd11)	Applicability
199.2(ExecOrd11)	Director/board discretion
199.3(ExecOrd11)	Requester's responsibilities in filing a waiver or variance petition
199.4(ExecOrd11)	Notice
199.5(ExecOrd11)	Department responsibilities regarding petition for waiver or variance
199.6(ExecOrd11)	Public availability
199.7(ExecOrd11)	Voiding or cancellation
199.8(ExecOrd11)	Violations
199.9(ExecOrd11)	Defense
199.10(ExecOrd11,17A)	Appeals

PART X  
*COMMUNITY ATTRACTION AND INVESTMENT PROGRAMS*

CHAPTER 200  
REINVESTMENT DISTRICTS PROGRAM

200.1(15J)	Purpose
200.2(15J)	Definitions
200.3(15J)	Program overview
200.4(15J)	Preapplication process
200.5(15J)	Program eligibility and application requirements
200.6(15J)	Application scoring and determination of benefits
200.7(15J)	Final application and approval process
200.8(15J)	Adoption of ordinance and use of funds
200.9(15J)	Plan amendments and reporting
200.10(15J)	Cessation of deposits, district dissolution, and revenue rules

CHAPTERS 201 to 210  
Reserved

CHAPTER 211  
COMMUNITY ATTRACTION AND  
TOURISM DEVELOPMENT (CATD) PROGRAMS

DIVISION I  
GENERAL PROVISIONS

211.1(15F)	Purpose
211.2(15F)	Definitions

211.3(15F)	Program components
211.4(15F)	Eligible applicants
211.5(15F)	Eligible projects and forms of assistance
211.6(15F)	Ineligible projects
211.7(15F)	Threshold application requirements
211.8(15F)	Application review criteria
211.9(15F)	Application procedure
211.10(15F)	Administration
211.11 to 211.49	Reserved

DIVISION II  
COMMUNITY ATTRACTION AND TOURISM (CAT) FUND

211.50(15F)	Applicability
211.51(15F)	Allocation of funds
211.52 to 211.100	Reserved

DIVISION III  
RIVER ENHANCEMENT COMMUNITY ATTRACTION AND TOURISM (RECAT) FUND

211.101(15F)	Applicability
211.102(15F)	Allocation of funds

DIVISION IV  
CAT AND RECAT WAIVERS

211.103(15F)	Procedures for waiver of local or private matching moneys
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CHAPTER 212  
VISION IOWA PROGRAM

212.1(15F)	Purpose
212.2(15F)	Definitions
212.3(15F)	Allocation of funds
212.4(15F)	Eligible applicants
212.5(15F)	Eligible projects and forms of assistance
212.6(15F)	Ineligible projects
212.7(15F)	Threshold application requirements
212.8(15F)	Application review criteria
212.9(15F)	Application procedure
212.10(15F)	Administration of awards

CHAPTER 213  
VISION IOWA BOARD: UNIFORM WAIVER  
AND VARIANCE RULES

213.1(17A,ExecOrd11)	Applicability
213.2(17A,ExecOrd11)	Board discretion
213.3(17A,ExecOrd11)	Requester's responsibilities in filing a waiver or variance petition
213.4(17A,ExecOrd11)	Notice
213.5(17A,ExecOrd11)	Board responsibilities regarding petition for waiver or variance
213.6(17A,ExecOrd11)	Public availability
213.7(17A,ExecOrd11)	Voiding or cancellation
213.8(17A,ExecOrd11)	Violations
213.9(17A,ExecOrd11)	Defense
213.10(17A,ExecOrd11)	Appeals

CHAPTERS 214 to 299  
Reserved

PART XI  
RENEWABLE FUEL INFRASTRUCTURE BOARD

CHAPTERS 300 to 310  
Reserved

CHAPTER 311  
RENEWABLE FUEL INFRASTRUCTURE BOARD—ORGANIZATION

- 311.1(15G) Definitions  
311.2(15G) Renewable fuel infrastructure board

CHAPTER 312  
RENEWABLE FUEL INFRASTRUCTURE PROGRAM FOR  
RETAIL MOTOR FUEL SITES

- 312.1(15G) Purpose  
312.2(15G) Eligible applicants

CHAPTER 313  
RENEWABLE FUEL INFRASTRUCTURE PROGRAM FOR  
BIODIESEL TERMINAL GRANTS

- 313.1(15G) Purpose  
313.2(15G) Eligible applicants

CHAPTER 314  
RENEWABLE FUEL INFRASTRUCTURE PROGRAM ADMINISTRATION

- 314.1(15G) Allocation of awards by congressional district  
314.2(15G) Form of award available; award amount  
314.3(15G) Application process  
314.4(15G) Review process  
314.5(15G) Contract administration

CHAPTERS 315 to 399  
Reserved

PART XII  
ENERGY DIVISION

CHAPTER 400  
RULES APPLICABLE TO PART XII

- 400.1(84GA,HF590) Definitions  
400.2(84GA,HF590) Purpose, administrative information, and implementation

CHAPTER 401  
ADMINISTRATION OF FINANCIAL ASSISTANCE

- 401.1(84GA,HF590) Purpose  
401.2(84GA,HF590) Appropriations  
401.3(84GA,HF590) Control of fund assets  
401.4(84GA,HF590) Allocation of fund moneys  
401.5(84GA,HF590) Eligible applicants  
401.6(84GA,HF590) Eligibility criteria for financial assistance  
401.7(84GA,HF590) Forms of assistance  
401.8(84GA,HF590) Application process  
401.9(84GA,HF590) Confidentiality  
401.10(84GA,HF590) Contents of full application

- 401.11(84GA,HF590) Selection criteria
- 401.12(84GA,HF590) Contract administration

## CHAPTER 402

## ENERGY EFFICIENCY COMMUNITY GRANT PROGRAM

- 402.1(84GA,HF590) Purpose
- 402.2(84GA,HF590) Definitions
- 402.3(84GA,HF590) Requests for applications
- 402.4(84GA,HF590) Geographic distribution
- 402.5(84GA,HF590) Criteria for review
- 402.6(84GA,HF590) Project approval and award of funds

## CHAPTERS 403 to 409

Reserved

## PART XIII

*IOWA BROADBAND DEPLOYMENT GOVERNANCE BOARD*

## CHAPTER 410

Reserved

## CHAPTER 411

## IOWA BROADBAND DEPLOYMENT PROGRAM

- 411.1(83GA,SF376) Purpose
- 411.2(83GA,SF376) Definitions
- 411.3(83GA,SF376) Eligible applicants
- 411.4(83GA,SF376) Forms of assistance
- 411.5(83GA,SF376) Threshold application requirements
- 411.6(83GA,SF376) Application process
- 411.7(83GA,SF376) Application review procedures
- 411.8(83GA,SF376) Administration of awards

## CHAPTER 412

FAIR INFORMATION PRACTICES, WAIVER AND VARIANCE,  
AND PETITION FOR RULE MAKING

- 412.1(83GA,SF376) Fair information practices
- 412.2(83GA,SF376) Waiver and variance
- 412.3(83GA,SF376) Petition for rule making

CHAPTER 31  
ECONOMIC DEVELOPMENT REGION INITIATIVES

**261—31.1(15E) Purpose.** Authority resources may be available to assist an economic development region that has established a focused economic development effort. This effort shall include a regional development plan relating to one or more of the following areas:

1. Regional marketing strategies.
2. Development of the information solutions sector.
3. Development of the advanced manufacturing sector.
4. Development of the life sciences and biotechnology sector.
5. Development of the insurance or financial services sector.
6. Physical infrastructure including, but not limited to, horizontal infrastructure, water and sewer infrastructure, and telecommunications infrastructure.
7. Entrepreneurship.
8. Development of the alternative and renewable energy sector.

[ARC 1626C, IAB 9/17/14, effective 10/22/14]

**261—31.2(15E) Types of assistance.** The following types of assistance are governed by the divisions of this chapter:

1. Establishment of economic development regions.
2. Economic development revolving loan funds.
3. Business accelerators.
4. Small business development center assistance.
5. Iowa business resource assistance.

[ARC 1626C, IAB 9/17/14, effective 10/22/14]

**261—31.3(15E) Financial assistance.** Financial assistance under the economic development region initiative comes from the moneys allocated for such purposes by the authority pursuant to Iowa Code section 15.335B.

[ARC 1626C, IAB 9/17/14, effective 10/22/14]

**261—31.4(15E) Definitions.**

*“Economic development region”* shall consist of three or more contiguous counties or two or more contiguous counties and one or more public or private, nonprofit entities that have entered into an agreement to pursue mutual economic development goals with a regional focus.

*“Economic development region assistance fund”* means a fund created pursuant to Iowa Code section 15.335B.

*“Economic development region revolving fund”* means a fund established to benefit development efforts in an economic development region.

*“Regional economic development revenue sharing pilot project”* means a pilot project for one or more approved regions.

[ARC 1626C, IAB 9/17/14, effective 10/22/14]

DIVISION I  
ECONOMIC DEVELOPMENT REGION INITIATIVE—FINANCIAL ASSISTANCE

**261—31.5(15E) Uses of funds under the economic development region initiative.** Financial assistance from the economic development region assistance fund may be used for the following:

**31.5(1) Physical infrastructure.** The installation of physical infrastructure needs including, but not limited to, horizontal infrastructure, water and sewer infrastructure, and telecommunications infrastructure, related to the development of fully served business and industrial sites by one or more of the region’s economic development partners or for the installation of infrastructure related to a new business location or expansion. Match is one dollar of local funds for every two dollars received

from the economic development region assistance fund. The economic development region must demonstrate all of the following:

- a. The ability to provide matching moneys on a basis of dollars received from the economic development region assistance fund.
- b. The commitment of the specific business partner including, but not limited to, a letter of intent defining a capital commitment or a percentage of equity.
- c. That all other funding alternatives have been exhausted.

**31.5(2) *Regional economic development revenue sharing pilot project.*** Establishment and administration of a regional economic development revenue sharing pilot project for one or more regions.

**31.5(3) *Entrepreneurial initiative.*** Establishment of an approved entrepreneurial initiative. Match is one dollar of local funds for every two dollars received from the economic development region assistance fund.

**31.5(4) *Business closure due to consolidation.*** An existing business threatened with closure due to a potential consolidation to an out-of-state location. The economic development region may apply for financial assistance from the economic development region assistance fund for the purchase, rehabilitation, or marketing of a building that has become available due to the closing of an existing business as a result of a consolidation to an out-of-state location. Match is one dollar of local funds for every three dollars received from the economic development region assistance fund.

**31.5(5) *Business succession assistance program.*** Match is one dollar of local funds for every two dollars received from the economic development region assistance fund.

**31.5(6) *Unique or innovative regional projects.*** Match is on a one-to-one basis.  
[ARC 1626C, IAB 9/17/14, effective 10/22/14]

#### **261—31.6(15E) Application process and approval process.**

**31.6(1) *Application process.*** The authority will only accept competitive applications submitted during the filing window. For the purpose of this rule, the filing window shall start on July 1 and end on July 15 of any fiscal year in which the authority opens the application process. If July 15 falls on a weekend, the deadline shall be extended to the next business day. The authority has developed an application process and will post all relevant application information on [iowagrants.gov](http://iowagrants.gov).

**31.6(2) *Approval process.*** The director of the authority will establish a review committee consisting of the authority's industry partners. The committee may recommend full or partial funding or no funding of any or all applicants.  
[ARC 1626C, IAB 9/17/14, effective 10/22/14]

**261—31.7(15E) Reporting requirements.** Award recipients in economic development regions shall provide a close-out report to the authority outlining how the funds were invested in Iowa's future. The authority shall develop the reporting format for all required close-out reports.  
[ARC 1626C, IAB 9/17/14, effective 10/22/14]

#### DIVISION II ECONOMIC ENTERPRISE AREAS

**261—31.8(15E) Description.** An "economic enterprise area" means a designated "economic development region" that shall consist of at least one county containing no city with a population of more than 23,500 and shall meet at least three of the following criteria:

1. A per capita income of 80 percent or less than the national average.
2. A household median income of 80 percent or less than the national average.
3. Twenty-five percent or more of the population of the economic enterprise area with an income level of 150 percent or less of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services.
4. A population density in the economic enterprise area of less than ten people per square mile.

5. A loss of population as shown by the 2000 certified federal census when compared with the 1990 certified federal census.

6. An unemployment rate greater than the national rate of unemployment.

7. More than 20 percent of the population of the economic enterprise area consisting of people over the age of 65.

[ARC 1626C, IAB 9/17/14, effective 10/22/14]

#### **261—31.9(15E) Funding.**

**31.9(1)** Approved areas may apply for up to \$75,000 each fiscal year until June 30, 2015. The actual amount available each year will be established by the authority in the annual allocation of funds for economic development region initiatives described in 261—paragraph 2.4(7) “b.” No more than ten economic development regions may be approved by the authority as economic enterprise areas.

**31.9(2)** In order to receive financial assistance under this division, an economic enterprise area must demonstrate the ability to provide local matching moneys on a basis of a one dollar contribution of local moneys for every three dollars received from the economic development region assistance fund.

[ARC 1626C, IAB 9/17/14, effective 10/22/14]

**261—31.10(15E) Eligible use of funds.** Funds available for economic enterprise areas may be used as follows:

1. Economic development-related strategic planning and marketing for the region as a whole.
2. Economic development of fully served business sites.
3. The construction of speculative buildings on a fully served lot.
4. The rehabilitation of an existing building to marketable standards.

[ARC 1626C, IAB 9/17/14, effective 10/22/14]

#### **261—31.11(15E) Application process and approval process.**

**31.11(1)** *Application process.* The authority will only accept competitive applications submitted during the filing window. For the purpose of this rule, the filing window shall start on July 1 and end on July 15 of any fiscal year in which the authority opens the application process. If July 15 falls on a weekend, the deadline shall be extended to the next business day. The authority has developed an application process and will post all relevant application information on [iowagrants.gov](http://iowagrants.gov).

**31.11(2)** *Approval process.* The director of the authority will establish a review committee consisting of the authority’s industry partners. The committee may recommend full or partial funding or no funding of any or all applicants.

[ARC 1626C, IAB 9/17/14, effective 10/22/14]

**261—31.12(15E) Reporting requirements.** Award recipients shall provide a close-out report to the authority outlining how funds were invested in Iowa’s future.

[ARC 1626C, IAB 9/17/14, effective 10/22/14]

### DIVISION III BUSINESS ACCELERATORS

**261—31.13(15E) Description and purpose.** The authority may establish and administer a business accelerator program to provide financial assistance for the establishment and operation of a business accelerator for technology-based, value-added agricultural, information solutions, or advanced manufacturing start-up businesses or for a satellite of an existing business accelerator. The program may be designed to foster the accelerated growth of new and existing businesses through the provision of technical assistance.

[ARC 1626C, IAB 9/17/14, effective 10/22/14]

#### **261—31.14(15E) Definitions.**

“*Business accelerator*” means an organization that fosters the accelerated growth of new and existing Iowa businesses.

[ARC 1626C, IAB 9/17/14, effective 10/22/14]

**261—31.15(15E) Requirements and qualifications for business accelerator entities.** Business accelerator applicants must meet all of the following criteria:

1. The business accelerator must be a not-for-profit organization affiliated with an area chamber of commerce, a community or county organization, or an economic development region.
2. The geographic area served by a business accelerator must include more than one county.
3. The business accelerator must possess the ability to provide service to a specific type of business as well as to meet the broad-based needs of other types of start-up entrepreneurs.
4. The business accelerator must possess the ability to market business accelerator services in the region and the state.
5. The business accelerator must possess the ability to communicate with and cooperate with other business accelerators and similar service providers in the state.
6. The business accelerator must possess the ability to engage various funding sources for start-up entrepreneurs.
7. The business accelerator must possess the ability to communicate with and cooperate with various entities for purposes of locating suitable facilities for clients of the business accelerator.
8. The business accelerator must possess the willingness to accept referrals from the economic development authority.
9. The business accelerator must refer 20 businesses per year to the Venture Network of Iowa.

[ARC 1626C, IAB 9/17/14, effective 10/22/14]

**261—31.16(15E) Other considerations.** In determining whether a business accelerator qualifies for financial assistance, the authority may consider any of the following:

1. The business experience of the business accelerator's professional staff.
2. The business plan review capacity of the business accelerator's professional staff.
3. The business accelerator's professional staff with demonstrated disciplines in all aspects of business experience.
4. The business accelerator's professional staff with access to external service providers including legal, accounting, marketing, and financial services.

[ARC 1626C, IAB 9/17/14, effective 10/22/14]

**261—31.17(15E) Application procedures.**

**31.17(1)** Application process and approval process.

*a. Application process.* The authority will only accept competitive applications submitted during the filing window. For the purpose of this rule, the filing window shall start on July 1 and end on July 15 of any fiscal year in which the authority opens the application process. If July 15 falls on a weekend, the deadline shall be extended to the next business day. The authority has developed an application process and will post all relevant application information on [iowagrants.gov](http://iowagrants.gov).

*b. Approval process.* The director of the authority will establish a review committee consisting of the authority's industry partners. The committee may recommend full or partial funding or no funding of any or all applicants.

**31.17(2)** All requests for financial assistance must demonstrate the ability to provide matching moneys on the basis of a two dollar contribution of recipient moneys for every one dollar received in financial assistance from the authority.

[ARC 1626C, IAB 9/17/14, effective 10/22/14]

**261—31.18(15E) Reporting.** Business accelerators receiving financial assistance under this rule must submit an annual report to the authority documenting progress.

[ARC 1626C, IAB 9/17/14, effective 10/22/14]

DIVISION IV  
SMALL BUSINESS DEVELOPMENT CENTERS

**261—31.19(81GA, HF868, HF809) Small business development center assistance.** Rescinded ARC 1626C, IAB 9/17/14, effective 10/22/14.

DIVISION V  
IOWA BUSINESS RESOURCE CENTERS

**261—31.20(81GA, HF868, HF809) Iowa business resource centers.** Rescinded **ARC 1626C**, IAB 9/17/14, effective 10/22/14.

These rules are intended to implement 2013 Iowa Code sections 15E.231 to 15E.233; 2011 Iowa Acts, chapter 118, section 20; and 2014 Iowa Acts, Senate File 2359.

[Filed 10/21/05, Notice 8/3/05—published 11/9/05, effective 12/14/05]

[Filed ARC 1626C (Notice ARC 1540C, IAB 7/9/14), IAB 9/17/14, effective 10/22/14]



**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Former Water, Air and Waste Management[900], renamed by 1986 Iowa Acts, chapter 1245, Environmental Protection Commission under the “umbrella” of the Department of Natural Resources.

TITLE I  
*GENERAL*

## CHAPTER 1

## OPERATION OF ENVIRONMENTAL PROTECTION COMMISSION

- 1.1(17A,455A) Scope
- 1.2(17A,455A) Time of meetings
- 1.3(17A,455A) Place of meetings
- 1.4(17A,455A) Notification of meetings
- 1.5(17A,455A) Attendance and participation by the public
- 1.6(17A,455A) Quorum and voting requirements
- 1.7(17A,455A) Conduct of meeting
- 1.8(17A,455A) Minutes, transcripts, and recordings of meetings
- 1.9(17A,455A) Officers and duties
- 1.10(17A,455A) Election and succession of officers
- 1.11(68B) Sales of goods and services

## CHAPTER 2

## PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

(Uniform Rules)

- 2.1(17A,22) Adoption by reference

## CHAPTER 3

## SUBMISSION OF INFORMATION AND COMPLAINTS—INVESTIGATIONS

- 3.1(17A,455B) Adoption by reference

## CHAPTER 4

## AGENCY PROCEDURE FOR RULE MAKING

- 4.1(17A) Adoption by reference

## CHAPTER 5

## PETITIONS FOR RULE MAKING

- 5.1(17A) Adoption by reference

## CHAPTER 6

## DECLARATORY ORDERS

- 6.1(17A) Adoption by reference

## CHAPTER 7

## RULES OF PRACTICE IN CONTESTED CASES

- 7.1(17A) Adoption by reference

## CHAPTER 8

## CONTRACTS FOR PUBLIC IMPROVEMENTS AND PROFESSIONAL SERVICES

- 8.1(17A) Adoption by reference

## CHAPTER 9

## DELEGATION OF CONSTRUCTION PERMITTING AUTHORITY

- 9.1(455B) Scope
- 9.2(455B,17A) Forms
- 9.3(455B) Procedures
- 9.4(455B) Criteria for authority

CHAPTER 10  
ADMINISTRATIVE PENALTIES

- 10.1(455B) Scope
- 10.2(455B) Criteria for screening and assessing administrative penalties
- 10.3(455B) Assessment of administrative penalties

CHAPTER 11  
TAX CERTIFICATION OF POLLUTION CONTROL OR RECYCLING PROPERTY

- 11.1(427) Scope
- 11.2(427,17A) Form
- 11.3(427) Time of submission
- 11.4(427) Notice
- 11.5(427) Issuance
- 11.6(427) Criteria for determining eligibility

CHAPTER 12  
ENVIRONMENTAL SELF-AUDITS

- 12.1(455K) General
- 12.2(455K) Notice of audit
- 12.3(455K) Request for extension
- 12.4(455K) Disclosure of violation

CHAPTER 13  
WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

- 13.1(17A) Adoption by reference
- 13.2(17A) Report to commission

CHAPTER 14  
ENVIRONMENTAL COVENANTS

- 14.1(455B,455H) Definitions
- 14.2(455B,455H) Environmental covenants
- 14.3(455B,455H) Supporting documentation
- 14.4(455B,455H) Recording and approval
- 14.5(455B,455H) Mandatory provisions
- 14.6(455B,455H) Optional provisions
- 14.7(455B,455H) Modification and termination
- 14.8(455B,455H) Signatories to the environmental covenant
- 14.9(455B,455H) Notice

CHAPTER 15  
CROSS-MEDIA ELECTRONIC REPORTING

- 15.1(455B,554D) Purpose

CHAPTER 16  
REVOCATION, SUSPENSION, AND NONRENEWAL OF LICENSE  
FOR FAILURE TO PAY STATE LIABILITIES

- 16.1(272D,261) Purpose and use
- 16.2(272D,261) Definitions
- 16.3(272D,261) Requirements of the department
- 16.4(272D,261) No administrative appeal of the department's action
- 16.5(272D,261) District court hearing

CHAPTER 17  
COMPLIANCE AND ENFORCEMENT PROCEDURES

17.1(455B)	Scope
17.2(455B)	Basis
17.3(455B)	Option to respond
17.4(455B)	Department discretion

CHAPTERS 18 and 19  
Reserved

TITLE II  
*AIR QUALITY*

CHAPTER 20  
SCOPE OF TITLE—DEFINITIONS—FORMS—RULES OF PRACTICE

20.1(455B,17A)	Scope of title
20.2(455B)	Definitions
20.3(455B)	Air quality forms generally

CHAPTER 21  
COMPLIANCE

21.1(455B)	Compliance schedule
21.2(455B)	Variances
21.3(455B)	Emission reduction program
21.4(455B)	Circumvention of rules
21.5(455B)	Evidence used in establishing that a violation has or is occurring
21.6(455B)	Temporary electricity generation for disaster situations

CHAPTER 22  
CONTROLLING POLLUTION

22.1(455B)	Permits required for new or existing stationary sources
22.2(455B)	Processing permit applications
22.3(455B)	Issuing permits
22.4(455B)	Special requirements for major stationary sources located in areas designated attainment or unclassified (PSD)
22.5(455B)	Special requirements for nonattainment areas
22.6	Reserved
22.7(455B)	Alternative emission control program
22.8(455B)	Permit by rule
22.9(455B)	Special requirements for visibility protection
22.10(455B)	Permitting requirements for country grain elevators, country grain terminal elevators, grain terminal elevators and feed mill equipment
22.11 to 22.99	Reserved
22.100(455B)	Definitions for Title V operating permits
22.101(455B)	Applicability of Title V operating permit requirements
22.102(455B)	Source category exemptions
22.103(455B)	Insignificant activities
22.104(455B)	Requirement to have a Title V permit
22.105(455B)	Title V permit applications
22.106(455B)	Title V permit fees
22.107(455B)	Title V permit processing procedures
22.108(455B)	Permit content
22.109(455B)	General permits
22.110(455B)	Changes allowed without a Title V permit revision (off-permit revisions)

22.111(455B)	Administrative amendments to Title V permits
22.112(455B)	Minor Title V permit modifications
22.113(455B)	Significant Title V permit modifications
22.114(455B)	Title V permit reopenings
22.115(455B)	Suspension, termination, and revocation of Title V permits
22.116(455B)	Title V permit renewals
22.117 to 22.119	Reserved
22.120(455B)	Acid rain program—definitions
22.121(455B)	Measurements, abbreviations, and acronyms
22.122(455B)	Applicability
22.123(455B)	Acid rain exemptions
22.124	Reserved
22.125(455B)	Standard requirements
22.126(455B)	Designated representative—submissions
22.127(455B)	Designated representative—objections
22.128(455B)	Acid rain applications—requirement to apply
22.129(455B)	Information requirements for acid rain permit applications
22.130(455B)	Acid rain permit application shield and binding effect of permit application
22.131(455B)	Acid rain compliance plan and compliance options—general
22.132	Reserved
22.133(455B)	Acid rain permit contents—general
22.134(455B)	Acid rain permit shield
22.135(455B)	Acid rain permit issuance procedures—general
22.136(455B)	Acid rain permit issuance procedures—completeness
22.137(455B)	Acid rain permit issuance procedures—statement of basis
22.138(455B)	Issuance of acid rain permits
22.139(455B)	Acid rain permit appeal procedures
22.140(455B)	Permit revisions—general
22.141(455B)	Permit modifications
22.142(455B)	Fast-track modifications
22.143(455B)	Administrative permit amendment
22.144(455B)	Automatic permit amendment
22.145(455B)	Permit reopenings
22.146(455B)	Compliance certification—annual report
22.147	Reserved
22.148(455B)	Sulfur dioxide opt-ins
22.149 to 22.199	Reserved
22.200(455B)	Definitions for voluntary operating permits
22.201(455B)	Eligibility for voluntary operating permits
22.202(455B)	Requirement to have a Title V permit
22.203(455B)	Voluntary operating permit applications
22.204(455B)	Voluntary operating permit fees
22.205(455B)	Voluntary operating permit processing procedures
22.206(455B)	Permit content
22.207(455B)	Relation to construction permits
22.208(455B)	Suspension, termination, and revocation of voluntary operating permits
22.209(455B)	Change of ownership for facilities with voluntary operating permits
22.210 to 22.299	Reserved
22.300(455B)	Operating permit by rule for small sources

## CHAPTER 23

## EMISSION STANDARDS FOR CONTAMINANTS

- 23.1(455B) Emission standards
- 23.2(455B) Open burning
- 23.3(455B) Specific contaminants
- 23.4(455B) Specific processes
- 23.5(455B) Anaerobic lagoons
- 23.6(455B) Alternative emission limits (the “bubble concept”)

## CHAPTER 24

## EXCESS EMISSION

- 24.1(455B) Excess emission reporting
- 24.2(455B) Maintenance and repair requirements

## CHAPTER 25

## MEASUREMENT OF EMISSIONS

- 25.1(455B) Testing and sampling of new and existing equipment
- 25.2(455B) Continuous emission monitoring under the acid rain program
- 25.3(455B) Mercury emissions testing and monitoring

## CHAPTER 26

## PREVENTION OF AIR POLLUTION EMERGENCY EPISODES

- 26.1(455B) General
- 26.2(455B) Episode criteria
- 26.3(455B) Preplanned abatement strategies
- 26.4(455B) Actions taken during episodes

## CHAPTER 27

## CERTIFICATE OF ACCEPTANCE

- 27.1(455B) General
- 27.2(455B) Certificate of acceptance
- 27.3(455B) Ordinance or regulations
- 27.4(455B) Administrative organization
- 27.5(455B) Program activities

## CHAPTER 28

## AMBIENT AIR QUALITY STANDARDS

- 28.1(455B) Statewide standards

## CHAPTER 29

## QUALIFICATION IN VISUAL DETERMINATION OF THE OPACITY OF EMISSIONS

- 29.1(455B) Methodology and qualified observer

## CHAPTER 30

Reserved

## CHAPTER 31

## NONATTAINMENT AREAS

- 31.1(455B) Permit requirements relating to nonattainment areas
- 31.2(455B) Conformity of general federal actions to the Iowa state implementation plan or federal implementation plan

	NONATTAINMENT AREAS DESIGNATED ON OR AFTER MAY 18, 1998
31.3(455B)	Nonattainment new source review requirements for areas designated nonattainment on or after May 18, 1998
31.4(455B)	Preconstruction review permit program
31.5 to 31.8	Reserved
31.9(455B)	Actuals PALs
31.10(455B)	Validity of rules
31.11 to 31.19	Reserved
	NONATTAINMENT AREAS DESIGNATED BEFORE MAY 18, 1998
31.20(455B)	Special requirements for nonattainment areas designated before May 18, 1998 (originally adopted in 567—22.5(455B))

## CHAPTER 32

## ANIMAL FEEDING OPERATIONS FIELD STUDY

32.1(455B)	Animal feeding operations field study
32.2(455B)	Definitions
32.3(455B)	Exceedance of the health effects value (HEV) for hydrogen sulfide
32.4(455B)	Exceedance of the health effects standard (HES) for hydrogen sulfide
32.5(455B)	Iowa Air Sampling Manual

## CHAPTER 33

SPECIAL REGULATIONS AND CONSTRUCTION PERMIT REQUIREMENTS  
FOR MAJOR STATIONARY SOURCES—PREVENTION OF SIGNIFICANT  
DETERIORATION (PSD) OF AIR QUALITY

33.1(455B)	Purpose
33.2	Reserved
33.3(455B)	Special construction permit requirements for major stationary sources in areas designated attainment or unclassified (PSD)
33.4 to 33.8	Reserved
33.9(455B)	Plantwide applicability limitations (PALs)
33.10(455B)	Exceptions to adoption by reference

## CHAPTER 34

## PROVISIONS FOR AIR QUALITY EMISSIONS TRADING PROGRAMS

34.1(455B)	Purpose
34.2 to 34.199	Reserved
34.200(455B)	Provisions for air emissions trading and other requirements for the Clean Air Interstate Rule (CAIR)
34.201(455B)	CAIR NOx annual trading program general provisions
34.202(455B)	CAIR designated representative for CAIR NOx sources
34.203(455B)	Permits
34.204	Reserved
34.205(455B)	CAIR NOx allowance allocations
34.206(455B)	CAIR NOx allowance tracking system
34.207(455B)	CAIR NOx allowance transfers
34.208(455B)	Monitoring and reporting
34.209(455B)	CAIR NOx opt-in units
34.210(455B)	CAIR SO2 trading program
34.211 to 34.219	Reserved
34.220(455B)	CAIR NOx ozone season trading program
34.221(455B)	CAIR NOx ozone season trading program general provisions
34.222(455B)	CAIR designated representative for CAIR NOx ozone season sources

34.223(455B)	CAIR NOx ozone season permits
34.224	Reserved
34.225(455B)	CAIR NOx ozone season allowance allocations
34.226(455B)	CAIR NOx ozone season allowance tracking system
34.227(455B)	CAIR NOx ozone season allowance transfers
34.228(455B)	CAIR NOx ozone season monitoring and reporting
34.229(455B)	CAIR NOx ozone season opt-in units

#### CHAPTER 35

##### AIR EMISSIONS REDUCTION ASSISTANCE PROGRAM

35.1(455B)	Purpose
35.2(455B)	Definitions
35.3(455B)	Role of the department of natural resources
35.4(455B)	Eligible projects
35.5(455B)	Forms
35.6(455B)	Project selection
35.7(455B)	Funding sources
35.8(455B)	Type of financial assistance
35.9(455B)	Term of loans
35.10(455B)	Reduced award
35.11(455B)	Fund disbursement limitations
35.12(455B)	Applicant cost share
35.13(455B)	Eligible costs
35.14(455B)	Ineligible costs
35.15(455B)	Written agreement
35.16(455B)	Financial assistance denial

#### TITLE III

##### *WITHDRAWAL DIVERSION, STORAGE AND USE OF WATER*

#### DIVISION A

##### WATER WELL CONSTRUCTION: GENERAL STANDARDS AND REGISTRATION OF CONTRACTORS

#### CHAPTERS 36 and 37

Reserved

#### CHAPTER 38

##### PRIVATE WATER WELL CONSTRUCTION PERMITS

38.1(455B)	Definitions
38.2(455B)	Forms
38.3(455B)	Permit requirement
38.4(455B)	Form of application
38.5(455B)	Fees
38.6(455B)	Well maintenance and reconstruction
38.7(455B)	Emergency permits
38.8(455B)	Permit issuance and conditions
38.9(455B)	Noncompliance
38.10(455B)	Expiration of a permit
38.11(455B)	Transferability
38.12(455B)	Denial of a permit
38.13(455B)	Appeal of a permit denial
38.14	Reserved
38.15(455B)	Delegation of authority to county board of supervisors
38.16(455B)	Concurrent authority of the department
38.17(455B)	Revocation of delegation agreement

CHAPTER 39  
REQUIREMENTS FOR PROPERLY PLUGGING ABANDONED WELLS

39.1(455B)	Purpose
39.2(455B)	Applicability
39.3(455B)	Definitions
39.4(455B)	Forms
39.5(455B)	Abandoned well plugging schedule
39.6(455B)	Abandoned well owner responsibilities
39.7(455B)	Abandoned well plugging materials
39.8(455B)	Abandoned well plugging procedures
39.9(455B)	Designated agent
39.10(455B)	Designation of standby wells
39.11(455B)	Variances

DIVISION B  
DRINKING WATER

CHAPTER 40  
SCOPE OF DIVISION—DEFINITIONS—FORMS—RULES OF PRACTICE

40.1(455B)	Scope of division
40.2(455B)	Definitions
40.3(17A,455B)	Forms
40.4(17A,455B)	Public water supply construction permit application procedures
40.5(17A,455B)	Public water supply operation permit application procedures
40.6(455B)	Drinking water state revolving fund loan application procedures
40.7(455B)	Viability assessment procedures

CHAPTER 41  
WATER SUPPLIES

41.1(455B)	Primary drinking water regulations—coverage
41.2(455B)	Biological maximum contaminant levels (MCL) and monitoring requirements
41.3(455B)	Maximum contaminant levels (MCLs) and monitoring requirements for inorganic contaminants other than lead or copper
41.4(455B)	Lead, copper, and corrosivity
41.5(455B)	Organic chemicals
41.6(455B)	Disinfection byproducts maximum contaminant levels and monitoring requirements
41.7	Reserved
41.8(455B)	Radionuclides
41.9 and 41.10	Reserved
41.11(455B)	Special monitoring
41.12(455B)	Alternative analytical techniques
41.13(455B)	Monitoring of interconnected public water supply systems
41.14(455B)	Department analytical results used to determine compliance
41.15(455B)	Monitoring of other contaminants

CHAPTER 42  
PUBLIC NOTIFICATION, PUBLIC EDUCATION,  
CONSUMER CONFIDENCE REPORTS, REPORTING,  
AND RECORD MAINTENANCE

42.1(455B)	Public notification
42.2(455B)	Public education for lead action level exceedance
42.3(455B)	Consumer confidence reports

- 42.4(455B) Reporting
- 42.5(455B) Record maintenance

## CHAPTER 43

## WATER SUPPLIES—DESIGN AND OPERATION

- 43.1(455B) General information
- 43.2(455B) Permit to operate
- 43.3(455B) Public water supply system construction
- 43.4(455B) Certification of completion
- 43.5(455B) Filtration and disinfection for surface water and influenced groundwater public water supply systems
- 43.6(455B) Residual disinfectant and disinfection byproduct precursors
- 43.7(455B) Lead and copper treatment techniques
- 43.8(455B) Viability assessment
- 43.9(455B) Enhanced filtration and disinfection requirements for surface water and IGW systems serving at least 10,000 people
- 43.10(455B) Enhanced filtration and disinfection requirements for surface water and IGW systems serving fewer than 10,000 people
- 43.11(455B) Enhanced treatment for *Cryptosporidium*
- 43.12(455B) Optimization goals

## CHAPTER 44

## DRINKING WATER STATE REVOLVING FUND

- 44.1(455B) Statutory authority
- 44.2(455B) Scope of title
- 44.3(455B) Purpose
- 44.4(455B) Definitions
- 44.5(455B) Set-asides
- 44.6(455B) Eligibility
- 44.7(455B) Project point ranking system (project priority list)
- 44.8(455B) Intended use plan
- 44.9(455B) Department initial approval of projects
- 44.10(455B) General administrative requirements
- 44.11 Reserved
- 44.12(455B) Construction phase and postconstruction phase requirements
- 44.13(455B) Sanctions
- 44.14(455B) Disputes

## CHAPTERS 45 to 48

Reserved

## CHAPTER 49

## NONPUBLIC WATER SUPPLY WELLS

- 49.1(455B) Purpose
- 49.2(455B) Definitions
- 49.3(455B) Applicability
- 49.4(455B) General
- 49.5(455B) Variances
- 49.6(455B) Location of wells
- 49.7(455B) General construction requirements
- 49.8(455B) Types of well construction
- 49.9(455B) Material standards
- 49.10(455B) Well reconstruction

49.11(455B)	Disposal of drilling mud
49.12(455B)	Pumps and pumping equipment
49.13(455B)	Drop pipe
49.14(455B)	Pump wiring
49.15(455B)	Pitless adapters and pitless units
49.16(455B)	Well caps and seals
49.17(455B)	Vents
49.18(455B)	Underground piping
49.19(455B)	Underground wiring
49.20(455B)	Sampling faucets
49.21(455B)	Hydropneumatic (pressure) tanks
49.22(455B)	Electrical connections
49.23(455B)	Interconnections and cross connections
49.24(455B)	Backflow prevention for chemical injection systems for nonpotable water wells
49.25(455B)	Filters and water treatment equipment
49.26(455B)	Well disinfection
49.27(455B)	Water sampling and analysis
49.28(455B)	Abandonment of wells
49.29(455B)	Closed circuit vertical heat exchangers

DIVISION C  
WITHDRAWAL, DIVERSION AND STORAGE  
OF WATER: WATER RIGHTS ALLOCATION

CHAPTER 50

SCOPE OF DIVISION—DEFINITIONS—FORMS—RULES OF PRACTICE

50.1(455B)	Scope of division
50.2(455B)	Definitions
50.3(17A,455B)	Forms for withdrawal, diversion or storage of water
50.4(17A,455B)	How to request a permit
50.5(455B)	Initial screening of applications
50.6(17A,455B)	Supporting information
50.7(17A,455B)	Review of complete applications
50.8(17A,455B)	Initial decision by the department
50.9(17A,455B)	Appeal of initial decision

CHAPTER 51

WATER PERMIT OR REGISTRATION—WHEN REQUIRED

51.1(455B)	Scope of chapter
51.2(455B)	Storage (surface)
51.3(455B)	Diversion from surface into aquifer
51.4(455B)	Drain tile lines
51.5(455B)	Cooling/heating systems
51.6(455B)	Miscellaneous uses
51.7(455B)	Excavation and processing of rock and gravel products
51.8(159)	Agricultural drainage wells

CHAPTER 52

CRITERIA AND CONDITIONS FOR AUTHORIZING WITHDRAWAL,  
DIVERSION AND STORAGE OF WATER

52.1(455B)	Scope of chapter
52.2(455B)	Conditions on permitted water uses
52.3(455B)	Conditions on withdrawals from streams
52.4(455B)	Conditions on withdrawals from groundwater sources

52.5(455B)	Duration of permits for withdrawal or diversion of water
52.6(455B)	Monitoring, recording and reporting of water use and effects on water source
52.7(455B)	Modification, cancellation, and emergency suspension of permits
52.8(455B)	Designated protected flows of streams
52.9(455B)	Water conservation
52.10(455B)	Priority allocation restrictions
52.11(455B)	Plugging of abandoned wells
52.12 to 52.19	Reserved
52.20(455B)	Water storage permits
52.21(455B)	Permits to divert water to an agricultural drainage well

## CHAPTER 53

PROTECTED WATER SOURCES — PURPOSES — DESIGNATION PROCEDURES —  
 INFORMATION IN WITHDRAWAL APPLICATIONS — LIMITATIONS —  
 LIST OF PROTECTED SOURCES

53.1(455B)	Scope of chapter
53.2(455B)	Designation of protected sources
53.3(455B)	Purposes of designating a protected source
53.4(455B)	Designation procedure
53.5(455B)	Information requirements for applications to withdraw water from protected sources
53.6(455B)	Conditions in permits for withdrawals of water from a protected source
53.7(455B)	List of protected water sources

## CHAPTER 54

CRITERIA AND CONDITIONS FOR PERMIT RESTRICTIONS OR COMPENSATION BY  
 PERMITTED USERS TO NONREGULATED USERS DUE TO WELL INTERFERENCE

54.1(455B)	Scope of chapter
54.2(455B)	Requirements for informal negotiations
54.3(455B)	Failure to cooperate
54.4(455B)	Well interference by proposed withdrawals
54.5(455B)	Well interference by existing permitted uses
54.6(455B)	Verification of well interference
54.7(455B)	Settlement procedures
54.8(455B)	Recurring complaints
54.9(455B)	Variances
54.10(455B)	Appeal procedures

## CHAPTER 55

AQUIFER STORAGE AND RECOVERY:  
 CRITERIA AND CONDITIONS FOR AUTHORIZING STORAGE,  
 RECOVERY, AND USE OF WATER

55.1(455B)	Statutory authority
55.2	Reserved
55.3(455B)	Purpose
55.4(455B)	Definitions
55.5(455B)	Application processing
55.6(455B)	Aquifer storage and recovery technical evaluation criteria

## CHAPTERS 56 to 59

Reserved

TITLE IV  
WASTEWATER TREATMENT AND DISPOSAL

CHAPTER 60

SCOPE OF TITLE—DEFINITIONS—FORMS—RULES OF PRACTICE

60.1(455B,17A)	Scope of title
60.2(455B)	Definitions
60.3(455B,17A)	Forms
60.4(455B,17A)	Application procedures and requirements generally

CHAPTER 61

WATER QUALITY STANDARDS

WATER QUALITY STANDARDS

61.1	Reserved
61.2(455B)	General considerations
61.3(455B)	Surface water quality criteria
61.4 to 61.9	Reserved

VOLUNTEER MONITORING DATA REQUIREMENTS

61.10(455B)	Purpose
61.11(455B)	Monitoring plan required
61.12(455B)	Use of volunteer monitoring data
61.13(455B)	Department audits of volunteer monitoring activities

CHAPTER 62

EFFLUENT AND PRETREATMENT STANDARDS:

OTHER EFFLUENT LIMITATIONS OR PROHIBITIONS

62.1(455B)	Prohibited discharges
62.2(455B)	Exemption of adoption of certain federal rules from public participation
62.3(455B)	Secondary treatment information: effluent standards for publicly owned treatment works and semipublic sewage disposal systems
62.4(455B)	Federal effluent and pretreatment standards
62.5(455B)	Federal toxic effluent standards
62.6(455B)	Effluent limitations and pretreatment requirements for sources for which there are no federal effluent or pretreatment standards
62.7(455B)	Effluent limitations less stringent than the effluent limitation guidelines
62.8(455B)	Effluent limitations or pretreatment requirements more stringent than the effluent or pretreatment standards
62.9(455B)	Disposal of pollutants into wells
62.10(455B)	Effluent reuse

CHAPTER 63

MONITORING, ANALYTICAL AND REPORTING REQUIREMENTS

63.1(455B)	Guidelines establishing test procedures for the analysis of pollutants
63.2(455B)	Records of monitoring activities and results
63.3(455B)	Minimum self-monitoring requirements in permits
63.4(455B)	Effluent toxicity testing requirements in permits
63.5(455B)	Self-monitoring and reporting for animal feeding operations
63.6(455B)	Bypasses and upsets
63.7(455B)	Submission of records of operation
63.8(455B)	Frequency of submitting records of operation
63.9(455B)	Content of records of operation
63.10(455B)	Records of operation forms
63.11(455B)	Certification and signatory requirements in the submission of records of operation

- 63.12(455B) Twenty-four-hour reporting
- 63.13(455B) Planned changes
- 63.14(455B) Anticipated noncompliance

#### CHAPTER 64

##### WASTEWATER CONSTRUCTION AND OPERATION PERMITS

- 64.1 Reserved
- 64.2(455B) Permit to construct
- 64.3(455B) Permit to operate
- 64.4(455B) Issuance of NPDES permits
- 64.5(455B) Notice and public participation in the individual NPDES permit process
- 64.6(455B) Completing a Notice of Intent for coverage under a general permit
- 64.7(455B) Terms and conditions of NPDES permits
- 64.8(455B) Reissuance of operation and NPDES permits
- 64.9(455B) Monitoring, record keeping and reporting by operation permit holders
- 64.10(455B) Silvicultural activities
- 64.11 and 64.12 Reserved
- 64.13(455B) Storm water discharges
- 64.14(455B) Transfer of title and owner or operator address change
- 64.15(455B) General permits issued by the department
- 64.16(455B) Fees
- 64.17(455B) Validity of rules
- 64.18(455B) Applicability

#### CHAPTER 65

##### ANIMAL FEEDING OPERATIONS

###### DIVISION I

###### CONFINEMENT FEEDING OPERATIONS

- 65.1(459,459B) Definitions
- 65.2(459,459B) Minimum manure control requirements and reporting of releases
- 65.3(459,459B) Requirements and recommended practices for land application of manure
- 65.4 Reserved
- 65.5(459,459B) Departmental evaluation
- 65.6(459,459B) Concentrated animal feeding operations; NPDES permits
- 65.7(459,459B) Construction permits—required approvals, permits, determinations and declaratory orders
- 65.8(459,459B) Construction
- 65.9(459,459B) Preconstruction submittal requirements
- 65.10(459,459B) Construction permit application review process, site inspections and complaint investigations
- 65.11(459,459B) Confinement feeding operation and stockpile separation distance requirements
- 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 flood plain
- 65.13 and 65.14 Reserved
- 65.15(459,459B) Manure storage structure design requirements
- 65.16(459,459B) Manure management plan requirements
- 65.17(459,459B) Manure management plan content requirements
- 65.18(459,459B) Construction certification
- 65.19(459,459B) Manure applicators certification
- 65.20(459,459B) Manure storage indemnity fund
- 65.21(459,459B) Transfer of legal responsibilities or title

- 65.22(459,459B) Validity of rules  
 65.23 to 65.99 Reserved

DIVISION II  
 OPEN FEEDLOT OPERATIONS

- 65.100(455B,459,459A) Definitions  
 65.101(459A) Minimum open feedlot effluent control requirements and reporting of releases  
 65.102(455B,459A) NPDES permits required for CAFOs  
 65.103(455B,459A) Departmental evaluation; CAFO designation; remedial actions  
 65.104(455B,459A) NPDES permits  
 65.105(459A) Construction permits  
 65.106(459A) Construction  
 65.107(459A) Construction permit application  
 65.108(455B,459A) Water well separation distances for open feedlot operations  
 65.109(459A) Settled open feedlot effluent basins—investigation, design and construction requirements  
 65.110(459A) AT systems—design requirements  
 65.111(459A) Construction certification  
 65.112(459A) Nutrient management plan requirements  
 65.113(459A) Complaint investigations  
 65.114(455B,459A) Transfer of legal responsibilities or title

CHAPTER 66  
 PESTICIDE APPLICATION TO WATERS

- 66.1(455B) Aquatic pesticide

CHAPTER 67  
 STANDARDS FOR THE LAND APPLICATION OF SEWAGE SLUDGE

- 67.1(455B) Land application of sewage sludge  
 67.2(455B) Exclusions  
 67.3(455B) Sampling and analysis  
 67.4(455B) Land application program  
 67.5(455B) Special definitions  
 67.6(455B) Permit requirements  
 67.7(455B) Land application requirements for Class I sewage sludge  
 67.8(455B) Land application requirements for Class II sewage sludge  
 67.9(455B) Class III sewage sludge  
 67.10(455B) Sampling and analytical methods  
 67.11(455B) Pathogen treatment processes

CHAPTER 68  
 COMMERCIAL SEPTIC TANK CLEANERS

- 68.1(455B) Purpose and applicability  
 68.2(455B) Definitions  
 68.3(455B) Licensing requirements  
 68.4(455B) Licensing procedures  
 68.5(455B) Suspension, revocation and denial of license  
 68.6(455B) Licensee's obligations  
 68.7(455B) County obligations  
 68.8(455B) Application sites and equipment inspections  
 68.9(455B) Standards for commercial cleaning of private sewage disposal systems  
 68.10(455B) Standards for disposal  
 68.11(455B) Standards for disposal of on-farm food processing wastewater

CHAPTER 69  
PRIVATE SEWAGE DISPOSAL SYSTEMS

69.1(455B)	General
69.2(455B)	Time of transfer inspections
69.3(455B)	Site analysis
69.4(455B)	Requirements when effluent is discharged into surface water
69.5(455B)	Requirements when effluent is discharged above the ground surface
69.6(455B)	Requirements when effluent is discharged into the soil
69.7(455B)	Building sewers
69.8(455B)	Primary treatment—septic tanks
69.9(455B)	Secondary treatment—subsurface soil absorption systems
69.10(455B)	Mound systems
69.11(455B)	At-grade systems
69.12(455B)	Drip irrigation
69.13(455B)	Packed bed media filters
69.14(455B)	Aerobic treatment units
69.15(455B)	Constructed wetlands
69.16(455B)	Waste stabilization ponds
69.17(455B)	Requirements for impervious vault toilets
69.18(455B)	Requirements for portable toilets
69.19(455B)	Other methods of wastewater disposal
69.20(455B)	Disposal of septage from private sewage disposal systems
69.21(455B)	Experimental private sewage disposal systems
69.22(455B)	Variances

TITLE V  
*FLOOD PLAIN DEVELOPMENT*

CHAPTER 70  
SCOPE OF TITLE—DEFINITIONS—FORMS—RULES OF PRACTICE

70.1(455B,481A)	Scope of title
70.2(455B,481A)	Definitions
70.3(17A,455B,481A)	Forms
70.4(17A,455B,481A)	Requesting approval of flood plain development
70.5(17A,455B,481A)	Procedures for review of applications
70.6(17A,455B,481A)	Appeal of initial decision

CHAPTER 71  
FLOOD PLAIN OR FLOODWAY DEVELOPMENT—  
WHEN APPROVAL IS REQUIRED

71.1(455B)	Bridges, culverts, temporary stream crossings, and road embankments
71.2(455B)	Channel changes
71.3(455B)	Dams
71.4(455B)	Levees or dikes
71.5(455B)	Waste or water treatment facilities
71.6(455B)	Sanitary landfills
71.7(455B)	Buildings and associated fill
71.8(455B)	Pipeline crossings
71.9(455B)	Stream bank protective devices
71.10(455B)	Boat docks
71.11(455B)	Excavations

- 71.12(455B) Miscellaneous structures, obstructions, or deposits not otherwise provided for  
in other rules
- 71.13(455B) Animal feeding operation structures

CHAPTER 72  
CRITERIA FOR APPROVAL

DIVISION I  
SPECIAL CRITERIA FOR VARIOUS TYPES OF FLOOD PLAIN DEVELOPMENT

- 72.1(455B) Bridges and road embankments
- 72.2(455B) Channel changes
- 72.3(455B) Dams
- 72.4(455B) Levees or dikes
- 72.5(455B) Buildings
- 72.6(455B) Wastewater treatment facilities
- 72.7(455B) Sanitary landfills
- 72.8(455B) Water supply treatment facilities
- 72.9(455B) Stream protective devices
- 72.10(455B) Pipeline river or stream crossings
- 72.11(455B) Miscellaneous construction
- 72.12 Reserved
- 72.13(455B) Animal feeding operation structures
- 72.14 to 72.29 Reserved

DIVISION II  
GENERAL CRITERIA

- 72.30(455B) General conditions
- 72.31(455B) Variance
- 72.32(455B) Protected stream information
- 72.33 to 72.49 Reserved

DIVISION III  
PROTECTED STREAM DESIGNATION PROCEDURE

- 72.50(455B) Protected streams
- 72.51(455B) Protected stream designation procedure
- 72.52(455B) Protected stream declassification procedure

CHAPTER 73  
USE, MAINTENANCE, REMOVAL, INSPECTIONS, AND SAFETY OF DAMS

DIVISION I  
USE AND MAINTENANCE OF DAMS

- 73.1(109,455B) Operating plan for dams with movable structures
- 73.2(109,455B) Raising or lowering of impoundment levels
- 73.3 to 73.9 Reserved

DIVISION II  
ABANDONMENT AND REMOVAL OF DAMS

- 73.10(109,455B) Abandonment prohibited
- 73.11(109,455B) Removal of dams
- 73.12 to 73.19 Reserved

DIVISION III  
INSPECTION OF DAMS

- 73.20(109,455B) Scope and purposes of dam safety inspection program
- 73.21(109,455B) Types of inspections; when inspections are made
- 73.22(109,455B) Duty of dam owner to maintain, investigate, inspect and report
- 73.23(109,455B) Special inspections and investigations

- 73.24(109,455B) Inspection by others
- 73.25(109,455B) Access for inspections a condition of construction approval
- 73.26(109,455B) Inspection reports
- 73.27 to 73.29 Reserved

DIVISION IV  
DESIGNATION OF UNSAFE DAMS

- 73.30(109,455B) Procedures for designation of a dam as unsafe
- 73.31(109,455B) Criteria for designating a dam as unsafe
- 73.32(109,455B) Agency action concerning an unsafe dam

CHAPTER 74  
Reserved

CHAPTER 75

MANAGEMENT OF SPECIFIC FLOOD PLAIN AREAS

- 75.1(455B) Applicability and purposes of chapter
- 75.2(455B) Flooding characteristics
- 75.3(455B) Area of regulation
- 75.4(455B) Establishment of a floodway
- 75.5(455B) Minimum standards for flood plain and floodway uses
- 75.6(455B) Preexisting nonconforming development and associated uses
- 75.7(335,414,455B) Delegation of authority to local governments by approval of local regulations
- 75.8(335,414,455B) Review and approval of variances from local regulations
- 75.9(335,414,455B) Notice of proposed department flood plain management order or proposed local flood plain regulation

CHAPTER 76

FEDERAL WATER RESOURCE PROJECTS

- 76.1(455B) Referral of federal project
- 76.2(455B) Solicitation of comments
- 76.3(455B) Hearing
- 76.4(455B) Formulation of comments
- 76.5(455B) Transmittal of comments
- 76.6(455B) Other coordination

CHAPTERS 77 to 79  
Reserved

TITLE VI  
*CERTIFICATION OF OPERATORS*

CHAPTER 80  
Reserved

CHAPTER 81

OPERATOR CERTIFICATION: PUBLIC WATER SUPPLY SYSTEMS  
AND WASTEWATER TREATMENT SYSTEMS

- 81.1(455B) Definitions
- 81.2(455B) General
- 81.3(455B) Wastewater treatment plant grades
- 81.4(455B) Water treatment plant grades
- 81.5(455B) Water distribution system grades
- 81.6(455B) Grade A classification
- 81.7(455B) Operator education and experience qualifications

81.8(455B)	Certification and examination fees
81.9(455B)	Examinations
81.10(455B)	Certification by examination
81.11(455B)	Certification by reciprocity
81.12(455B)	Restricted and temporary certification
81.13(455B)	Certification renewal
81.14(455B,272C)	Continuing education
81.15(455B)	Upgrading of certificates
81.16(455B)	Operator by affidavit
81.17(455B,272C)	Disciplinary actions

## CHAPTER 82

## WELL CONTRACTOR CERTIFICATION

82.1(455B)	Definitions
82.2(455B)	General
82.3(455B)	Classification of well contractors
82.4 and 82.5	Reserved
82.6(455B)	Experience requirements
82.7(455B)	Certification and examination fees
82.8(455B)	Examinations
82.9(455B)	Certification by examination
82.10(455B)	Certification renewal
82.11(455B)	Continuing education
82.12(455B)	Certified well contractor obligations
82.13(455B)	Disciplinary actions
82.14(455B,272C)	Revocation of certificates

## CHAPTER 83

## LABORATORY CERTIFICATION

PART A  
GENERAL

83.1(455B)	Authority, purpose, and applicability
83.2(455B)	Definitions

PART B  
CERTIFICATION PROCESS

83.3(455B)	Application for laboratory certification
83.4(455B)	Procedure for initial certification for laboratories analyzing solid waste and contaminated site program parameters
83.5(455B)	Procedures for certification of new laboratories or changes in certification
83.6(455B)	Laboratory recertification
83.7(455B)	Criteria and procedure for provisional, suspended, and revoked laboratory certification

## CHAPTERS 84 to 89

## Reserved

TITLE VII  
*WATER POLLUTION CONTROL STATE REVOLVING FUND*

## CHAPTER 90

## SCOPE OF TITLE — DEFINITIONS — FORMS

90.1(455B)	Scope of title
90.2(455B)	Definitions
90.3(455B)	Forms

CHAPTER 91  
CRITERIA FOR RATING AND RANKING PROJECTS  
FOR THE WATER POLLUTION CONTROL STATE REVOLVING FUND

91.1(455B)	Statutory authority
91.2(455B)	Scope of title
91.3(455B)	Purpose
91.4 and 91.5	Reserved
91.6(455B)	General information—priority rating system
91.7	Reserved
91.8(455B)	Project priority rating system

CHAPTER 92  
CLEAN WATER STATE REVOLVING FUND

92.1(455B)	Statutory authority
92.2(455B)	Scope of title
92.3	Reserved
92.4(455B)	General policy
92.5	Reserved
92.6(455B)	Intended use plan management
92.7(455B)	Point source project procedures
92.8(455B)	Point source project requirements

CHAPTER 93  
NONPOINT SOURCE POLLUTION CONTROL SET-ASIDE PROGRAMS

93.1(455B,466)	Statutory authority
93.2(455B,466)	Scope of title
93.3(455B,466)	Purpose
93.4(455B,466)	Onsite wastewater system assistance program
93.5(455B)	Livestock water quality facilities requirements
93.6(455B)	Local water protection project requirements
93.7(455B)	General nonpoint source project requirements

CHAPTERS 94 to 99  
Reserved

TITLE VIII  
*SOLID WASTE MANAGEMENT  
AND DISPOSAL*

CHAPTER 100  
SCOPE OF TITLE — DEFINITIONS — FORMS — RULES OF PRACTICE

100.1(455B,455D)	Scope of title
100.2(455B,455D)	Definitions
100.3(17A,455B)	Forms and rules of practice
100.4(455B)	General conditions of solid waste disposal
100.5(455B)	Disruption and excavation of sanitary landfills or closed dumps

CHAPTER 101  
SOLID WASTE COMPREHENSIVE PLANNING REQUIREMENTS

101.1(455B,455D)	Purpose
101.2(455B,455D)	Definitions
101.3(455B,455D)	Waste management hierarchy
101.4(455B,455D)	Duties of cities and counties
101.5(455B,455D)	Contracts with permitted agencies
101.6(455B,455D)	State volume reduction and recycling goals

- 101.7(455B,455D) Base year adjustment method
- 101.8(455B,455D) Submittal of initial comprehensive plans and comprehensive plan updates
- 101.9(455B,455D) Review of initial comprehensive plans and comprehensive plan updates
- 101.10(455B,455D) Municipal solid waste and recycling survey
- 101.11(455B,455D) Online database
- 101.12(455B,455D) Solid waste comprehensive plan types
- 101.13(455B,455D) Types of comprehensive plan submittals to be filed
- 101.14(455B,455D) Fees for disposal of solid waste at sanitary landfills

## CHAPTER 102

### PERMITS

- 102.1(455B) Permit required
- 102.2(455B) Types of permits
- 102.3(455B) Applications for permits
- 102.4(455B) Preparation of plans
- 102.5(455B) Construction and operation
- 102.6(455B) Compliance with rule changes
- 102.7(455B) Amendments
- 102.8(455B) Transfer of title and permit
- 102.9(455B) Permit conditions
- 102.10(455B) Effect of revocation
- 102.11(455B) Inspection prior to start-up
- 102.12(455B) Primary plan requirements for all sanitary disposal projects
- 102.13(455B) Operating requirements for all sanitary disposal projects
- 102.14(455B) Emergency response and remedial action plans

## CHAPTER 103

### SANITARY LANDFILLS: COAL COMBUSTION RESIDUE

- 103.1(455B) Coal combustion residue landfills
- 103.2(455B) Emergency response and remedial action plans
- 103.3(455B) Coal combustion residue sanitary landfill financial assurance

## CHAPTER 104

### SANITARY DISPOSAL PROJECTS WITH PROCESSING FACILITIES

- 104.1(455B) Scope and applicability
- 104.2(455B) Dumping or holding floors or pits
- 104.3(455B) Compaction equipment
- 104.4(455B) Hammermills
- 104.5(455B) Hydropulping or slurring equipment
- 104.6(455B) Air classifiers
- 104.7(455B) Metals separation equipment
- 104.8(455B) Sludge processing
- 104.9(455B) Storage containers and facilities
- 104.10(455B) Operating requirements for all processing facilities
- 104.11(455B) Closure requirements
- 104.12 to 104.20 Reserved
- 104.21(455B) Specific design requirements
- 104.22(455B) Specific operating requirements for all recycling operations
- 104.23(455B) Recycling operations processing paper, cans, and bottles
- 104.24(455B) Closure requirements
- 104.25(455B) Operator certification
- 104.26(455D) Financial assurance for solid waste processing facilities

## CHAPTER 105

## ORGANIC MATERIALS COMPOSTING FACILITIES

- 105.1(455B,455D) General
- 105.2(455B,455D) Exemptions
- 105.3(455B,455D) General requirements for all composting facilities not exempt pursuant to 105.2(455B,455D)
- 105.4(455B,455D) Specific requirements for yard waste composting facilities
- 105.5(455B,455D) Small composting facilities receiving off-premises materials
- 105.6(455B,455D) Specific requirements for composting of dead farm animals
- 105.7(455B,455D) Permit requirements for solid waste composting facilities
- 105.8(455B,455D) Permit application requirements for solid waste composting facilities
- 105.9(455B,455D) Specific operating requirements for permitted solid waste composting facilities
- 105.10(455B,455D) Operator certification for permitted solid waste composting facilities
- 105.11(455B,455D) Record-keeping requirements for solid waste composting facilities
- 105.12(455B,455D) Reporting requirements for solid waste composting facilities
- 105.13(455B,455D) Closure requirements for solid waste composting facilities
- 105.14(455B,455D) Composting facility financial assurance
- 105.15(455B,455D) Variances

## CHAPTER 106

## CITIZEN CONVENIENCE CENTERS AND TRANSFER STATIONS

- 106.1(455B) Compliance
- 106.2(455B,455D) Definitions
- 106.3(455B) Citizen convenience center and transfer station permits
- 106.4(455B) Citizen convenience center permit application requirements
- 106.5(455B) Citizen convenience center operations
- 106.6(455B,455D) Citizen convenience center reporting requirements
- 106.7(455B) Citizen convenience center closure requirements
- 106.8(455B) Transfer station permit application requirements
- 106.9(455B) Transfer station siting and location requirements
- 106.10(455B) Transfer station design standards
- 106.11(455B) Transfer station operating requirements
- 106.12(455B) Temporary solid waste storage at transfer stations
- 106.13(455B,455D) Transfer station record-keeping requirements
- 106.14(455B,455D) Transfer station reporting requirements
- 106.15(455B) Solid waste transport vehicle construction and maintenance requirements
- 106.16(455B) Solid waste transport vehicle operation requirements
- 106.17(455B) Transfer station closure requirements
- 106.18(455B) Citizen convenience center and transfer station financial assurance
- 106.19(455B) Emergency response and remedial action plans

## CHAPTER 107

## BEVERAGE CONTAINER DEPOSITS

- 107.1(455C) Scope
- 107.2(455C) Definitions
- 107.3(455C) Labeling requirements
- 107.4(455C) Redemption centers
- 107.5(455C) Redeemed containers—use
- 107.6 Reserved
- 107.7(455C) Redeemed containers must be reasonably clean
- 107.8(455C) Interpretive rules
- 107.9(455C) Pickup and acceptance of redeemed containers

- 107.10(455C) Dealer agent lists
- 107.11(455C) Refund value stated on containers—exceptions
- 107.12(455C) Education
- 107.13(455C) Refusing payment when a distributor discontinues a specific beverage product
- 107.14(455C) Payment of refund value
- 107.15(455C) Sales tax on deposits
- 107.16(82GA,HF2700) Independent redemption center grant program

#### CHAPTER 108

##### BENEFICIAL USE DETERMINATIONS:

##### SOLID BY-PRODUCTS AS RESOURCES AND ALTERNATIVE COVER MATERIAL

- 108.1(455B,455D) Purpose
- 108.2(455B,455D) Applicability and compliance
- 108.3(455B,455D) Definitions
- 108.4(455B,455D) Universally approved beneficial use determinations
- 108.5(455B,455D) Application requirements for beneficial use determinations other than alternative cover material
- 108.6(455B,455D) Requirements for beneficial uses other than alternative cover material
- 108.7(455B,455D) Record-keeping and reporting requirements for beneficial use projects other than alternative cover material
- 108.8(455B,455D) Universally approved beneficial use determinations for alternative cover material
- 108.9(455B,455D) Beneficial use determination application requirements for alternative cover material
- 108.10(455B,455D) Beneficial use of alternative cover material and state goal progress
- 108.11(455B,455D) Revocation of beneficial use determinations

#### CHAPTER 109

##### SPECIAL WASTE AUTHORIZATIONS

- 109.1(455B,455D) Purpose
- 109.2(455B,455D) Special waste authorization required
- 109.3(455B,455D) Definitions
- 109.4 Reserved
- 109.5(455B,455D) Applications
- 109.6(455B,455D) Restrictions
- 109.7(455B,455D) Landfill responsibilities
- 109.8(455B,455D) Special waste generator responsibilities
- 109.9(455B,455D) Infectious waste
- 109.10(455B,455D) Other special wastes
- 109.11(455B,455D) Conditions and requirements for the disposal of general special wastes

#### CHAPTER 110

##### HYDROGEOLOGIC INVESTIGATION AND MONITORING REQUIREMENTS

- 110.1(455B) Applicability
- 110.2(455B) Hydrologic monitoring system planning requirements
- 110.3(455B) Soil investigation
- 110.4(455B) Hydrogeologic investigation
- 110.5(455B) Hydrologic monitoring system planning report requirements
- 110.6(455B) Evaluation of hydrogeologic conditions
- 110.7(455B) Monitoring system plan
- 110.8(455B) Sampling protocol
- 110.9(455B) Monitoring well maintenance performance reevaluation plan
- 110.10(455B) Monitoring well siting requirements
- 110.11(455B) Monitoring well/soil boring construction standards

- 110.12(455B) Sealing abandoned wells and boreholes
- 110.13(455B) Variance from design, construction, and operation standards

## CHAPTER 111

## ANNUAL REPORTS OF SOLID WASTE ENVIRONMENTAL MANAGEMENT SYSTEMS

- 111.1(455J) Purpose
- 111.2(455J) Role of the department
- 111.3(455J) Applicability
- 111.4(455J) Definitions
- 111.5(455J) Submittal of annual reports
- 111.6(455J) Contents of annual reports
- 111.7(455J) Evaluation criteria
- 111.8(455J) Evaluation outcomes

## CHAPTER 112

## SANITARY LANDFILLS: BIOSOLIDS MONOFILLS

- 112.1(455B) Scope and applicability
- 112.2(455B) Permit required
- 112.3(455B) Types of permits
- 112.4(455B) Applications for permits
- 112.5(455B) Preparation of plans
- 112.6(455B) Construction and operation
- 112.7(455B) Compliance with rule changes
- 112.8(455B) Amendments
- 112.9(455B) Transfer of title and permit
- 112.10(455B) Permit conditions
- 112.11(455B) Effect of revocation
- 112.12(455B) Inspection prior to start-up
- 112.13(455B) Primary plan requirements for all sanitary disposal projects
- 112.14(455B) Hydrologic monitoring system planning requirements
- 112.15(455B) Soil investigation
- 112.16(455B) Hydrogeologic investigation
- 112.17(455B) Hydrologic monitoring system planning report requirements
- 112.18(455B) Evaluation of hydrogeologic conditions
- 112.19(455B) Monitoring system plan
- 112.20(455B) Sampling protocol
- 112.21(455B) Monitoring well maintenance and performance reevaluation plan
- 112.22(455B) Monitoring well siting requirements
- 112.23(455B) Monitoring well/soil boring construction standards
- 112.24(455B) Sealing abandoned wells and boreholes
- 112.25(455B) Variance from design, construction, and operation standards
- 112.26(455B) General requirements for all sanitary landfills
- 112.27(455B) Operating requirements for all sanitary disposal projects
- 112.28(455B) Specific requirements for a sanitary landfill proposing to accept no solid waste other than municipal sewage sludge
- 112.29(455B) Operator certification
- 112.30(455B) Emergency response and remedial action plans
- 112.31(455B) Biosolids monofill sanitary landfill financial assurance

CHAPTER 113  
SANITARY LANDFILLS FOR MUNICIPAL  
SOLID WASTE: GROUNDWATER PROTECTION SYSTEMS FOR THE DISPOSAL OF  
NONHAZARDOUS WASTES

113.1(455B)	Purpose
113.2(455B)	Applicability and compliance
113.3(455B)	Definitions
113.4(455B)	Permits
113.5(455B)	Permit application requirements
113.6(455B)	Siting and location requirements for MSWLFs
113.7(455B)	MSWLF unit design and construction standards
113.8(455B)	Operating requirements
113.9(455B)	Environmental monitoring and corrective action requirements for air quality and landfill gas
113.10(455B)	Environmental monitoring and corrective action requirements for groundwater and surface water
113.11(455B,455D)	Record-keeping and reporting requirements
113.12(455B)	Closure criteria
113.13(455B)	Postclosure care requirements
113.14(455B)	Municipal solid waste landfill financial assurance
113.15(455B,455D)	Variances

CHAPTER 114  
SANITARY LANDFILLS: CONSTRUCTION AND DEMOLITION WASTES

114.1(455B)	Scope and applicability
114.2(455B)	Permit required
114.3(455B)	Types of permits
114.4(455B)	Applications for permits
114.5(455B)	Preparation of plans
114.6(455B)	Construction and operation
114.7(455B)	Compliance with rule changes
114.8(455B)	Amendments
114.9(455B)	Transfer of title and permit
114.10(455B)	Permit conditions
114.11(455B)	Effect of revocation
114.12(455B)	Inspection prior to start-up
114.13(455B)	Primary plan requirements for all sanitary disposal projects
114.14(455B)	Hydrologic monitoring system planning requirements
114.15(455B)	Soil investigation
114.16(455B)	Hydrogeologic investigation
114.17(455B)	Hydrologic monitoring system planning report requirements
114.18(455B)	Evaluation of hydrogeologic conditions
114.19(455B)	Monitoring system plan
114.20(455B)	Sampling protocol
114.21(455B)	Monitoring well maintenance and performance reevaluation plan
114.22(455B)	Monitoring well siting requirements
114.23(455B)	Monitoring well/soil boring construction standards
114.24(455B)	Sealing abandoned wells and boreholes
114.25(455B)	Variance from design, construction, and operation standards
114.26(455B)	General requirements for all sanitary landfills
114.27(455B)	Operating requirements for all sanitary disposal projects

- 114.28(455B) Specific requirements for a sanitary landfill proposing to accept only construction and demolition waste
- 114.29(455B) Operator certification
- 114.30(455B) Emergency response and remedial action plans
- 114.31(455B) Construction and demolition wastes sanitary landfill financial assurance

#### CHAPTER 115

##### SANITARY LANDFILLS: INDUSTRIAL MONOFILLS

- 115.1(455B) Scope and applicability
- 115.2(455B) Permit required
- 115.3(455B) Types of permits
- 115.4(455B) Applications for permits
- 115.5(455B) Preparation of plans
- 115.6(455B) Construction and operation
- 115.7(455B) Compliance with rule changes
- 115.8(455B) Amendments
- 115.9(455B) Transfer of title and permit
- 115.10(455B) Permit conditions
- 115.11(455B) Effect of revocation
- 115.12(455B) Inspection prior to start-up
- 115.13(455B) Primary plan requirements for all sanitary disposal projects
- 115.14(455B) Hydrologic monitoring system planning requirements
- 115.15(455B) Soil investigation
- 115.16(455B) Hydrogeologic investigation
- 115.17(455B) Hydrologic monitoring system planning report requirements
- 115.18(455B) Evaluation of hydrogeologic conditions
- 115.19(455B) Monitoring system plan
- 115.20(455B) Sampling protocol
- 115.21(455B) Monitoring well maintenance and performance reevaluation plan
- 115.22(455B) Monitoring well siting requirements
- 115.23(455B) Monitoring well/soil boring construction standards
- 115.24(455B) Sealing abandoned wells and boreholes
- 115.25(455B) Variance from design, construction, and operation standards
- 115.26(455B) General requirements for all sanitary landfills
- 115.27(455B) Operating requirements for all sanitary disposal projects
- 115.28(455B) Specific requirements for a sanitary landfill proposing to accept a specific type of solid waste
- 115.29(455B) Operator certification
- 115.30(455B) Emergency response and remedial action plans
- 115.31(455B) Industrial monofill sanitary landfill financial assurance

#### CHAPTER 116

##### REGISTRATION OF WASTE TIRE HAULERS

- 116.1(455B,455D) Purpose
- 116.2(455B,455D) Definitions
- 116.3(455B,455D) Registration requirement
- 116.4(455B,455D) Registration form
- 116.5(455B,455D) Registration fee
- 116.6(455B,455D) Bond form
- 116.7(455B,455D) Marking of equipment
- 116.8(455B,455D) Disposition of waste tires collected
- 116.9(455B,455D) Reporting requirements

CHAPTER 117  
WASTE TIRE MANAGEMENT

- 117.1(455B,455D) Purpose
- 117.2(455B,455D) Definitions
- 117.3(455B,455D) Waste tire disposal
- 117.4(455B,455D) Waste tire storage permits and requirements
- 117.5(455B,455D) Used tire storage
- 117.6(455B,455D) Waste tire processing facility permits and requirements
- 117.7(455B,455D) Financial assurance for waste tire sites
- 117.8(455B,455D) Beneficial uses of waste tires

CHAPTER 118  
DISCARDED APPLIANCE DEMANUFACTURING

- 118.1(455B,455D) Purpose
- 118.2(455B,455D) Applicability and compliance
- 118.3(455B,455D) Definitions
- 118.4(455B,455D) Storage and handling of appliances prior to demanufacturing
- 118.5(455B,455D) Appliance demanufacturing permits
- 118.6(455B,455D) Appliance demanufacturing permit application requirements
- 118.7(455B,455D) Fixed facilities and mobile operations
- 118.8(455B,455D) Training
- 118.9(455B,455D) Refrigerant removal requirements
- 118.10(455B,455D) Mercury-containing component removal and disposal requirements
- 118.11(455B,455D) Capacitor removal requirements
- 118.12(455B,455D) Spills
- 118.13(455B,455D) Record keeping and reporting
- 118.14(455B,455D) Appliance demanufacturing facility closure requirements
- 118.15(455B,455D) Shredding of appliances
- 118.16(455B,455D) Appliance demanufacturing facility financial assurance requirements

CHAPTER 119  
USED OIL AND USED OIL FILTERS

- 119.1(455D,455B) Authority, purpose, and applicability
- 119.2(455D,455B) Definitions
- 119.3(455D,455B) Prohibited disposal
- 119.4(455D,455B) Operational requirements for acceptance of used oil
- 119.5(455D,455B) Operational requirements for acceptance of used oil filters
- 119.6(455D,455B) Oil retailer requirements
- 119.7(455D,455B) Oil filter retailer requirements
- 119.8(455D,455B) Tanks
- 119.9(455D,455B) Locating collection sites

CHAPTER 120  
LANDFARMING OF PETROLEUM CONTAMINATED SOIL

- 120.1(455B) Purpose
- 120.2(455B) Applicability and compliance
- 120.3(455B) Definitions
- 120.4(455B) Landfarming permits
- 120.5(455B) Landfarm permit application requirements
- 120.6(455B) PCS analysis and characterization
- 120.7(455B) Site exploration and suitability requirements for landfarms
- 120.8(455B) Landfarm design requirements
- 120.9(455B) Landfarm operating requirements

- 120.10(455B) Emergency response and remedial action plans
- 120.11(455B) Reporting and record-keeping requirements
- 120.12(455B) Landfarm closure
- 120.13(455B,455D) Financial assurance requirements for multiuse and single-use landfarms

#### CHAPTER 121

##### LAND APPLICATION OF WASTES

- 121.1(455B,17A) Scope of title
- 121.2(455B) Definitions
- 121.3(455B) Application for permits and forms
- 121.4(455B) Land application of solid wastes
- 121.5(455B) Land application of solid wastes for home and certain crop use
- 121.6(455B) Permit exemptions
- 121.7(455B) Permit requirements
- 121.8(455B,455D) Financial assurance requirements for land application of wastes

#### CHAPTER 122

##### CATHODE RAY TUBE DEVICE RECYCLING

- 122.1(455B,455D) Purpose
- 122.2(455B,455D) Applicability and compliance
- 122.3(455B,455D) Definitions
- 122.4(455B,455D) CRT recycling permits
- 122.5(455B,455D) Registration for CRT collection facilities
- 122.6(455B,455D) CRT collection and storage requirements for registered collection points
- 122.7(455B,455D) Record-keeping requirements for CRT collection facilities
- 122.8(455B,455D) CRT recycling facility permit application requirements
- 122.9(455B,455D) Site requirements for CRT recycling facilities
- 122.10(455B,455D) Design requirements for CRT recycling facilities
- 122.11(455B,455D) Operational requirements for permitted CRT recycling facilities
- 122.12(455B,455D) Further requirements for batteries for CRT recycling facilities
- 122.13(455B,455D) Further requirements for circuit boards for CRT recycling facilities
- 122.14(455B,455D) Further requirements for CRTs for CRT recycling facilities
- 122.15(455B,455D) Further requirements for removal and disposal of mercury-containing components for CRT recycling facilities
- 122.16(455B,455D) Further requirements for removal and disposal of PCB capacitors for CRT recycling facilities
- 122.17(455B,455D) Spills and releases at CRT recycling facilities
- 122.18(455B,455D) CRT recycling facilities that shred CRTs
- 122.19(455B,455D) Storage requirements for CRT recycling facilities
- 122.20(455B,455D) ERRAP requirements for CRT recycling facilities
- 122.21(455B,455D) Training requirements for CRT recycling facilities
- 122.22(455B,455D) Reporting requirements for CRT recycling facilities
- 122.23(455B,455D) Record-keeping requirements for CRT recycling facilities
- 122.24(455B,455D) Closure requirements for CRT recycling facilities
- 122.25(455B,455D) Financial assurance requirements for cathode ray tube (CRT) recycling facilities

#### CHAPTER 123

##### REGIONAL COLLECTION CENTERS AND MOBILE UNIT COLLECTION AND CONSOLIDATION CENTERS

- 123.1(455B,455D,455F) Purpose
- 123.2(455B,455D,455F) Definitions
- 123.3(455B,455D,455F) Requirements for satellite facilities

- 123.4(455B,455D,455F) Regional collection center and mobile unit collection and consolidation center permits
- 123.5(455B,455D,455F) Permit application requirements for regional collection centers
- 123.6(455B,455D,455F) Permit application requirements for mobile unit collection and consolidation centers
- 123.7(455B,455D,455F) Site selection
- 123.8(455B,455D,455F) Structures
- 123.9(455B,455D,455F) Staff qualifications
- 123.10(455B,455D,455F) Plans and procedures
- 123.11(455B,455D,455F) Emergency response and remedial action plans
- 123.12(455B,455D,455F) Reporting requirements
- 123.13(455B,455D,455F) Financial assurance requirements for regional collection centers and mobile unit collection and consolidation centers

#### CHAPTERS 124 to 129

Reserved

#### TITLE IX

#### *SPILLS AND HAZARDOUS CONDITIONS*

#### CHAPTER 130

Reserved

#### CHAPTER 131

#### NOTIFICATION OF HAZARDOUS CONDITIONS

- 131.1(455B) Definitions
- 131.2(455B) Report of hazardous conditions

#### CHAPTER 132

Reserved

#### CHAPTER 133

#### RULES FOR DETERMINING

#### CLEANUP ACTIONS AND RESPONSIBLE PARTIES

- 133.1(455B,455E) Scope
- 133.2(455B,455E) Definitions
- 133.3(455B,455E) Documentation of contamination and source
- 133.4(455B,455E) Response to contamination
- 133.5(455B,455E) Report to commission
- 133.6(455B) Compensation for damages to natural resources

#### CHAPTER 134

#### UNDERGROUND STORAGE TANK LICENSING AND CERTIFICATION PROGRAMS

##### PART A

##### CERTIFICATION OF GROUNDWATER PROFESSIONALS

- 134.1(455G) Definition
- 134.2(455G) Certification requirements
- 134.3(455G) Certification procedure
- 134.4(455G) Suspension, revocation and denial of certification
- 134.5(455G) Penalty

##### PART B

##### CERTIFICATION OF UST COMPLIANCE INSPECTORS

- 134.6(455B) Definition
- 134.7(455B) Certification requirements for UST compliance inspectors

- 134.8(455B) Temporary certification
- 134.9(455B) Application for inspector certification
- 134.10(455B) Training and certification examination
- 134.11(455B) Renewal of certification
- 134.12(455B) Professional liability insurance requirements
- 134.13(455B) Licensed company
- 134.14(455B) Compliance inspection
- 134.15(455B) Disciplinary actions
- 134.16(455B) Revocation of inspector certification or company license

PART C  
LICENSING OF UST PROFESSIONALS

- 134.17(455B) Definitions
- 134.18(455B) Applicability of Part C
- 134.19(455B) General licensing requirements
- 134.20(455B) License renewal procedures
- 134.21(455B) Conflict of interest
- 134.22(455B) Duty to report
- 134.23(455B) OSHA safety requirements
- 134.24(455B) Installers
- 134.25(455B) Testers
- 134.26(455B) Liners
- 134.27(455B) Installation inspectors
- 134.28(455B) Removers
- 134.29(455B) Disciplinary actions

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

- 135.1(455B) Authority, purpose and applicability
- 135.2(455B) Definitions
- 135.3(455B) UST systems—design, construction, installation and notification
- 135.4(455B) General operating requirements
- 135.5(455B) Release detection
- 135.6(455B) Release reporting, investigation, and confirmation
- 135.7(455B) Release response and corrective action for UST systems containing petroleum or hazardous substances
- 135.8(455B) Risk-based corrective action
- 135.9(455B) Tier 1 site assessment policy and procedure
- 135.10(455B) Tier 2 site assessment policy and procedure
- 135.11(455B) Tier 3 site assessment policy and procedure
- 135.12(455B) Tier 2 and 3 site classification and corrective action response
- 135.13(455B) Public participation
- 135.14(455B) Action levels
- 135.15(455B) Out-of-service UST systems and closure
- 135.16(455B) Laboratory analytical methods for petroleum contamination of soil and water
- 135.17(455B) Evaluation of ability to pay
- 135.18(455B) Transitional rules
- 135.19(455B) Analyzing for methyl tertiary-butyl ether (MTBE) in soil and groundwater samples
- 135.20(455B) Compliance inspection of UST system

## CHAPTER 136

## FINANCIAL RESPONSIBILITY FOR UNDERGROUND STORAGE TANKS

136.1(455B)	Applicability
136.2	Reserved
136.3(455B)	Definition of terms
136.4(455B)	Amount and scope of required financial responsibility
136.5(455B)	Allowable mechanisms and combinations of mechanisms
136.6(455B)	Financial test of self-insurance
136.7(455B)	Guarantee
136.8(455B)	Insurance and risk retention group coverage
136.9(455B)	Surety bond
136.10(455B)	Letter of credit
136.11(455B)	Trust fund
136.12(455B)	Standby trust fund
136.13(455B)	Local government bond rating test
136.14(455B)	Local government financial test
136.15(455B)	Local government guarantee
136.16(455B)	Local government fund
136.17(455B)	Substitution of financial assurance mechanisms by owner or operator
136.18(455B)	Cancellation or nonrenewal by a provider of financial assurance
136.19(455B)	Reporting by owner or operator
136.20(455B)	Record keeping
136.21(455B)	Drawing on financial assurance mechanisms
136.22(455B)	Release from the requirements
136.23(455B)	Bankruptcy or other incapacity of owner or operator or provider of financial assurance
136.24(455B)	Replenishment of guarantees, letters of credit, or surety bonds

## CHAPTER 137

IOWA LAND RECYCLING PROGRAM AND  
RESPONSE ACTION STANDARDS

137.1(455H)	Authority, purpose and applicability
137.2(455H)	Definitions
137.3(455H)	Enrollment in land recycling program
137.4(455H)	Background standards
137.5(455H)	Statewide standards
137.6(455H)	Site-specific standards
137.7(455H)	Institutional and technological controls
137.8(455H)	Site assessment
137.9(455H)	Risk evaluation/response action
137.10(455H)	Demonstration of compliance
137.11(455H)	No further action classification

## CHAPTERS 138 and 139

Reserved

TITLE X  
HAZARDOUS WASTE

## CHAPTERS 140 to 143

Reserved

CHAPTER 144  
HOUSEHOLD HAZARDOUS MATERIALS

- 144.1(455F) Scope
- 144.2(455F) Definitions
- 144.3(455F) Household hazardous materials
- 144.4(455F) Sign requirements
- 144.5(455F) Consumer information material

CHAPTER 145  
HOUSEHOLD BATTERIES

- 145.1(455B,455D) Scope
- 145.2(455B,455D) Definitions
- 145.3(455B,455D) Household batteries
- 145.4(455B,455D) Recycling/disposal requirements for household batteries
- 145.5(455B,455D) Exemptions for batteries used in rechargeable consumer products

CHAPTERS 146 to 148  
Reserved

CHAPTER 149  
FEES FOR TRANSPORTATION, TREATMENT AND DISPOSAL OF  
HAZARDOUS WASTE

- 149.1(455B) Authority, purpose and applicability
- 149.2 Reserved
- 149.3(455B) Exclusions and effect on other fees
- 149.4(455B) Fee schedule
- 149.5(455B) Form, manner, time and place of filing
- 149.6(455B) Identification, sampling and analytical requirements
- 149.7(455B) Reporting and record keeping
- 149.8(455B) Failure to pay fees
- 149.9(455B) Suspension of fees

CHAPTERS 150 and 151  
Reserved

CHAPTER 152  
CRITERIA FOR SITING LOW-LEVEL RADIOACTIVE  
WASTE DISPOSAL FACILITIES

- 152.1(455B) Authority, purpose and scope
- 152.2(455B) Definitions
- 152.3(455B) Siting criteria

CHAPTERS 153 to 208  
Reserved

TITLE XI  
*WASTE MANAGEMENT AUTHORITY*

CHAPTER 209  
SOLID WASTE ALTERNATIVES PROGRAM

- 209.1(455B,455E) Goal
- 209.2(455B,455E) Purpose
- 209.3(455B,455E) Definitions
- 209.4(455B,455E) Role of the department of natural resources
- 209.5(455B,455E) Funding sources

- 209.6(455B,455E) Eligible projects
- 209.7(455B,455E) Type of financial assistance
- 209.8(455B,455E) Loans
- 209.9(455B,455E) Reduced award
- 209.10(455B,455E) Fund disbursement limitations
- 209.11(455B,455E) Minimum applicant cost share
- 209.12(455B,455E) Eligible costs
- 209.13(455B,455E) Ineligible costs
- 209.14(455B,455E) Selection criteria
- 209.15(455B,455E) Written agreement
- 209.16(455B,455E) Proposals
- 209.17(455B,455E) Financial assistance denial
- 209.18(455B,455E) Amendments

## CHAPTER 210

## BEAUTIFICATION GRANT PROGRAM

- 210.1(455E) Beautification grant program
- 210.2(455E) Purpose
- 210.3(455E) Role of the department
- 210.4(455E) Applications; submission deadlines
- 210.5(455E) Eligibility
- 210.6(455E) Evaluation of applications
- 210.7(455E) Rejection of applications
- 210.8(455E) Reduced award
- 210.9(455E) Fund disbursement limitations
- 210.10(455E) Eligible costs
- 210.11(455E) Ineligible costs
- 210.12(455E) Written agreement and reporting

## CHAPTER 211

## FINANCIAL ASSISTANCE FOR THE COLLECTION OF HOUSEHOLD HAZARDOUS MATERIALS AND HAZARDOUS WASTE FROM CONDITIONALLY EXEMPT SMALL QUANTITY GENERATORS

- 211.1(455F) Purpose
- 211.2(455F) Definitions
- 211.3(455F) Role of the department
- 211.4(455F) Funding sources
- 211.5(455F) Eligible costs
- 211.6(455F) Ineligible costs
- 211.7(455F) Criteria for the selection of an RCC establishment grant
- 211.8(455F) Grant denial
- 211.9(455F) RCC and MUCCC household hazardous material disposal funding

## CHAPTER 212

Reserved

## CHAPTER 213

## PACKAGING—HEAVY METAL CONTENT

- 213.1(455D) Purpose
- 213.2(455D) Applicability
- 213.3(455D) Definitions
- 213.4(455D) Prohibition—schedule for removal of incidental amounts
- 213.5(455D) Certification of compliance

- 213.6(455D) Exemptions
- 213.7(455D) Inspection and penalties

## CHAPTER 214

## HOUSEHOLD HAZARDOUS MATERIALS PROGRAM

- 214.1(455F) Scope
- 214.2(455F) Goal
- 214.3(455F) Definitions
- 214.4(455F) Role of the department of natural resources
- 214.5(455F) Funding sources
- 214.6(455F) Household hazardous materials education
- 214.7(455F) HHM education grants
- 214.8(455F) Selection of TCD event host
- 214.9(455F) TCD events
- 214.10(455F) Selection of hazardous waste contractor

## CHAPTER 215

## MERCURY-ADDED SWITCH RECOVERY FROM END-OF-LIFE VEHICLES

- 215.1(455B) Purpose
- 215.2(455B) Compliance
- 215.3(455B) Definitions
- 215.4(455B) Plans for removal, collection, and recovery of mercury-added vehicle switches
- 215.5(455B) Proper management of mercury-added vehicle switches
- 215.6(455B) Public notification
- 215.7(455B) Reporting
- 215.8(455B) State procurement
- 215.9(455B) Future repeal of mercury-free recycling Act—implementation of national program

## CHAPTERS 216 and 217

Reserved

## CHAPTER 218

## WASTE TIRE STOCKPILE ABATEMENT PROGRAM

- 218.1(455D) Goal
- 218.2(455D) Purpose
- 218.3(455D) Definitions
- 218.4(455D) Role of the department of natural resources
- 218.5(455D) Existing authority
- 218.6(455D) Funding source
- 218.7(455D) Applicability
- 218.8(455D) Abatement fund priorities
- 218.9(455D) Abatement site determination criteria
- 218.10(455D) Procedures for use of abatement funds through an abatement order or negotiated settlement
- 218.11(455D) Procedure for use of abatement fund at a permitted waste tire processing site
- 218.12(455D) Abatement cost recovery
- 218.13(455D) Abatement contracts



CHAPTER 64  
WASTEWATER CONSTRUCTION AND OPERATION PERMITS

[Prior to 7/1/83, DEQ Ch 19]

[Prior to 12/3/86, Water, Air and Waste Management[900]]

**567—64.1(455B) Definitions.** Rescinded IAB 3/11/09, effective 4/15/09.

**567—64.2(455B) Permit to construct.**

**64.2(1)** No person shall construct, install or modify any wastewater disposal system or part thereof or extension or addition thereto without, or contrary to any condition of, a construction permit issued by the director or by a local public works department authorized to issue such permits under 567—Chapter 9, nor shall any connection to a sewer extension in violation of any special limitation specified in a construction permit pursuant to 64.2(10) be allowed by any person subject to the conditions of the permit.

**64.2(2)** The site for each new wastewater treatment plant or expansion or upgrading of existing facilities must be inspected and approved by the department prior to submission of plans and specifications. Applications must be submitted in accordance with 567—60.4(455B).

**64.2(3)** Site approval under 64.2(2) shall be based on the criteria contained in the Ten States Standards, design manuals published by the department, applicable federal guidelines and standards, standard textbooks, current technical literature and applicable safety standards. To the extent that separation distances of this subrule conflict with the separation distances of Iowa Code section 455B.134(3) “f,” the greater distance shall prevail. The following separation distances from a treatment works shall apply unless a separation distance exception is provided in the “Iowa Wastewater Facilities Design Standards.” The separation distance from lagoons shall be measured from the water surface.

*a.* 1000 feet from the nearest inhabitable residence, commercial building, or other inhabitable structure. If the inhabitable or commercial building is the property of the owner of the proposed treatment facility, or there is written agreement with the owner of the building, the separation criteria shall not apply. Any such written agreement shall be filed with the county recorder and recorded for abstract of title purposes, and a copy submitted to the department.

*b.* 1000 feet from public shallow wells.

*c.* 400 feet from public deep wells.

*d.* 400 feet from private wells.

*e.* 400 feet from lakes and public impoundments.

*f.* 25 feet from property lines and rights-of-way.

When the above separation distances cannot be maintained for the expansion, upgrading or replacement of existing facilities, the separation distances shall be maintained at no less than 90 percent of the existing separation distance on the site, providing no data is available indicating that a problem has existed or will be created.

**64.2(4)** Applications for a construction permit must be submitted to the director in accordance with 567—60.4(455B) at least 120 days in advance of the date of start of construction.

**64.2(5)** The director shall act upon the application within 60 days of receipt of a complete application by either issuing a construction permit or denying the construction permit in writing unless a longer review period is required and the applicant is so notified in writing. Notwithstanding the 120-day requirement in 64.2(4), construction of the approved system may commence immediately after the issuance of a construction permit.

**64.2(6)** The construction permit shall expire if construction thereunder is not commenced within one year of the date of issuance thereof. The director may grant an extension of time to commence construction if it is necessary or justified, upon showing of such necessity or justification to the director.

**64.2(7)** The director may modify or revoke a construction permit for cause which shall include but not be limited to the following:

*a.* Failure to construct said wastewater disposal system or part thereof in accordance with the approved plans and specifications.

*b.* Violation of any term or condition of the permit.

*c.* Obtaining a permit by misrepresentation of facts or failure to disclose fully all material facts.

*d.* Any change during construction that requires material changes in the approved plans and specifications.

**64.2(8)** A construction permit shall not be required for the following:

- a.* Storm sewers or storm water disposal systems that transport only storm water.
- b.* Any new disposal system or extension or addition to any existing disposal system that receives only domestic or sanitary sewage from a building, housing or occupied by 15 persons or less.
- c.* A privately owned pretreatment facility, except an anaerobic lagoon, where a treatment unit or units provide partial reduction of the strength or toxicity of the waste stream prior to additional treatment and disposal by another person, corporation, or municipality. However, the department may require that the design basis and construction drawings be filed for information purposes.

**64.2(9)** Review of applications.

*a.* Review of applications for construction permits shall be based on the criteria contained in the “Iowa Wastewater Facilities Design Standards,” the Ten States Standards, applicable federal guidelines and standards, standard textbooks, current technical literature and applicable safety standards. To the extent of any conflict between the above criteria the “Iowa Wastewater Facilities Design Standards” standards shall prevail.

*b.* The chapters of the “Iowa Wastewater Facilities Design Standards”\* that apply to wastewater facilities projects, and the date of adoption of those chapters are:

	<u>Chapter</u>	<u>Date of Adoption</u>
11.	Project submittals	April 25, 1979
12.	Iowa Standards for Sewer Systems	September 6, 1978 (Amended March 28, 1979 and May 20, 1987)
13.	Wastewater pumping stations and force mains	March 19, 1985
14.	Wastewater treatment works	March 22, 1984 (Amended May 20, 1987)
15.	Screening and grit removal	February 18, 1986
16.	Settling	March 22, 1984 (Amended May 20, 1987)
17.	Sludge handling & disposal	March 26, 1980
18.	Biological treatment	
	<i>A.</i> Fixed film media treatment	October 21, 1985
	<i>B.</i> Activated sludge	March 22, 1984
	<i>C.</i> Wastewater treatment ponds (Lagoons)	April 25, 1979 (Amended May 20, 1986 and May 20, 1987)
19.	Supplemental treatment processes	November 13, 1986
20.	Disinfection	February 18, 1986
21.	Land application of wastewater	April 25, 1979

\*The design manual as adopted and amended is available upon request to department, also filed with administrative rules coordinator.

*c.* Variances from the design standards and siting criteria which provide in the judgment of the department for substantially equivalent or improved effectiveness may be requested when there are unique circumstances not found in most projects. The director may issue variances when circumstances are appropriate. The denial of a variance may be appealed to the commission.

*d.* When reviewing the variance request the director may consider the unique circumstances of the project, direct or indirect environmental impacts, the durability and reliability of the alternative, and the purpose and intent of the rule or standard in question.

*e.* Circumstances that would warrant consideration of a variance (which provides for substantially equivalent or improved effectiveness) may include the following:

(1) The utilization of new equipment or new process technology that is not explicitly covered by the current design standards.

(2) The application of established and acceptable technologies in an innovative manner not covered by current standards.

(3) It is reasonably clear that the conditions and circumstances which were considered in the adoption of the rule or standard are not applicable for the project in question and therefore the effective purpose of the rule will not be compromised if a variance is granted.

**64.2(10)** Applications for sanitary sewer extension construction permits shall conform to the Iowa Standards for Sewer Systems, and approval shall be subject to the following:

*a.* A sanitary sewer extension construction permit may be denied if, at the time of application, the treatment facility treating wastewater from the proposed sewer is not in substantial compliance with its operating permit or if the treatment facility receives wastes in volumes or quantities that exceed its design capacity and interfere with its operation or performance.

If the applicant is operating under a compliance schedule which is being adhered to that leads to resolution of the substantial compliance issues or if the applicant can demonstrate that the problem has been identified, the planning completed, and corrective measures initiated, then the construction permit may be granted.

*b.* A sanitary sewer extension construction permit may be denied if bypassing has occurred at the treatment facility, except when any of the following conditions are being met:

(1) The bypassing is due to a combined sewer system, and the facility is in compliance with a long-term CSO control plan approved by the department.

(2) The bypassing occurs as a result of a storm with an intensity or duration greater than that of a storm with a return period of five years. (See App. A)

(3) The department determines that timely actions are being taken to eliminate the bypassing.

*c.* A sanitary sewer extension construction permit may be denied if an existing downstream sewer is or will be overloaded or surcharged, resulting in bypassing, flooded basements, or overflowing manholes, unless:

(1) The bypassing or flooding is the result of a precipitation event with an intensity or duration greater than that of a storm with a return period of two years. (See App. A); or

(2) The system is under full-scale facility planning (I/I and SSES) and the applicant provides a schedule that is approved by the department for rehabilitating the system to the extent necessary to handle the additional loadings.

*d.* Potential loads. Construction permits may be granted for sanitary sewer extensions that are sized to serve future loads that would exceed the capacity of the existing treatment works. However, initial connections shall be limited to the load that can be handled by the existing treatment works. The department will determine this load and advise the applicant of the limit. This limitation will be in effect until additional treatment capacity has been constructed.

**64.2(11)** Certification of completion. Within 30 days after completion of construction, installation or modification of any wastewater disposal system or part thereof or extension or addition thereto, the permit holder shall submit a certification by a registered professional engineer that the project was completed in accordance with the approved plans and specifications.

[ARC 7625B, IAB 3/11/09, effective 4/15/09]

### **567—64.3(455B) Permit to operate.**

**64.3(1)** Except as otherwise provided in this subrule, in 567—Chapter 65, and in 567—Chapter 69, no person shall operate any wastewater disposal system or part thereof without, or contrary to any condition of, an operation permit issued by the director. An operation permit is not required for the following:

*a.* A private sewage disposal system which does not discharge into, or have the potential to reach, a designated water of the state or subsurface drainage tile (NOTE: private sewage disposal systems under this exemption are regulated under 567—Chapter 69);

- b.* A semipublic sewage disposal system, the construction of which has been approved by the department and which does not discharge into a water of the state;
- c.* A pretreatment system, the effluent of which is to be discharged directly to another disposal system for final treatment and disposal;
- d.* A discharge from a geothermal heat pump which does not reach a navigable water.
- e.* Water well construction and well services related discharge that does not reach a water of the United States as defined in 40 CFR Part 122.2.
- f.* Discharges from the application of biological pesticides and chemical pesticides where the discharge does not reach a water of the United States as defined in 40 CFR Part 122.2.

**64.3(2)** Rescinded, effective 2/20/85.

**64.3(3)** The owner of any disposal system or part thereof in existence before August 21, 1973, for which a permit has been previously granted by the Iowa department of health or the Iowa department of environmental quality shall submit such information as the director may require to determine the conformity of such system and its operation with the rules of the department by no later than 60 days after the receipt of a request for such information from the director. If the director determines that the disposal system does not conform to the rules of the department, the director may require the owner to make such modifications as are necessary to achieve compliance. A construction permit shall be required, pursuant to 64.2(1), prior to any such modification of the disposal system.

**64.3(4)** Applications.

*a. Individual permit.* Except as provided in 64.3(4)“*b*,” applications for operation permits required under 64.3(1) shall be made on forms provided by the department, as noted in 567—subrule 60.3(2). The application for an operation permit under 64.3(1) shall be filed pursuant to 567—subrule 60.4(2). Permit applications for a new discharge of storm water associated with construction activity as defined in 567—Chapter 60 under “storm water discharge associated with industrial activity” must be submitted at least 60 days before the date on which construction is to commence. Upon completion of a tentative determination with regard to the permit application as described in 64.5(1)“*a*,” the director shall issue operation permits for applications filed pursuant to 64.3(1) within 90 days of the receipt of a complete application unless the application is for an NPDES permit or unless a longer period of time is required and the applicant is so notified.

*b. General permit.* A Notice of Intent for coverage under a general permit must be made on the appropriate form provided by the department listed in 567—subrule 60.3(2) and in accordance with 567—64.6(455B). A Notice of Intent must be submitted to the department according to the following:

(1) For existing storm water discharge associated with industrial activity, with the exception of discharges identified in subparagraphs (2) and (3) of this paragraph, on or before October 1, 1992.

(2) For any existing storm water discharge associated with industrial activity from a facility or construction site that is owned or operated by a municipality with a population of less than 100,000 other than an airport, power plant or uncontrolled sanitary landfill, on or before March 10, 2003.

For purposes of this subparagraph, municipality means city, town, borough, county, parish, district, association, or other public body created by or under state law. The entire population served by the public body shall be used in the determination of the population.

(3) For any existing storm water discharge associated with small construction activity on or before March 10, 2003.

(4) For storm water discharge associated with industrial activity which initiates operation after October 1, 1992, with the exception of discharges identified in subparagraphs (2) and (3) of this paragraph, where storm water discharge associated with industrial activity could occur as defined in rule 567—60.2(455B).

(5) For any private sewage disposal system installed after July 1, 1998, where subsoil discharge is not possible.

(6) For any discharge, except a storm water only discharge, from a mining or processing facility after July 18, 2001.

(7) For the discharge of biological pesticides and chemical pesticides which leave a residue to a water of the United States (as defined in 40 CFR Part 122.2) that meet any of the thresholds established in General Permit No. 7 after March 30, 2011.

**64.3(5)** Requirements for industries that discharge to another disposal system except storm water point sources.

*a.* The director may require any person discharging wastes to a publicly or privately owned disposal system to submit information similar to that required in an application for an operation permit, but no operation permit is required for such discharge.

Significant industrial users as defined in 567—Chapter 60 must submit a treatment agreement which meets the following criteria:

(1) The agreement must be on the treatment agreement form, number 542-3221, as provided by the department; and

(2) Must identify and limit the monthly average and the daily maximum quantity of compatible and incompatible pollutants discharged to the disposal system and the variations in daily flow; and

(3) Be signed and dated by the significant industrial user and the owner of the disposal system accepting the wastewater; and

(4) Provide that the quantities to be discharged to the disposal system must be in accordance with the applicable standards and requirements in 567—Chapter 62.

*b.* A significant industrial user must submit a new treatment agreement form 60 days in advance of a proposed expansion, production increase or process modification that may result in discharges of sewage, industrial waste, or other waste in excess of the discharge stated in the existing treatment agreement. An industry that would become a significant industrial user as a result of a proposed expansion, production increase or process modification shall submit a treatment agreement form 60 days in advance of the proposed expansion, production increase or process modification.

*c.* A treatment agreement form must be submitted at least 180 days before a new significant industrial user proposes to discharge into a wastewater disposal system. The owner of a wastewater disposal system shall notify the director by submitting a complete treatment agreement to be received at least 10 days prior to making any commitment to accept waste from a proposed new significant industrial user. However, the department may notify the owner that verification of the data in the treatment agreement may take longer than 10 days and advise that the owner should not enter into a commitment until the data is verified.

*d.* A treatment agreement form for each significant industrial user must be submitted with the facility plan or preliminary engineering report for the construction or modification of a wastewater disposal system. These agreements will be used in determining the design basis of the new or upgraded system.

*e.* Treatment agreement forms from significant industrial users shall be required as a part of the application for a permit to operate the wastewater disposal system receiving the wastes from the significant industrial user.

**64.3(6)** Rescinded, effective 7/23/86.

**64.3(7)** Operation permits may be granted for any period of time not to exceed five years. Applications for renewal of an operation permit must be submitted to the department 180 days in advance of the date the permit expires. General permits will be issued for a period not to exceed five years. Each permit to be renewed shall be subject to the provisions of all rules of the department in effect at the time of the renewal.

**64.3(8)** Identity of signatories of permit applications. The person who signs the application for a permit shall be:

*a. Corporations.* In the case of corporations, a responsible corporate officer. A responsible corporate officer means:

(1) A president, secretary, treasurer, or vice president in charge of a principal business function, or any other person who performs similar policy- or decision-making functions; or

(2) The manager of manufacturing, production, or operating facilities, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

*b. Partnerships.* In the case of a partnership, a general partner.  
*c. Sole proprietorships.* In the case of a sole proprietorship, the proprietor.  
*d. Municipal, state, federal, or other public agency.* In the case of a municipal, state, or other public facility, either the principal executive officer or the ranking elected official. A principal executive officer of a public agency includes:

- (1) The chief executive officer of the agency; or
- (2) A senior executive officer having responsibility for the overall operations of a unit of the agency.

*e. Storm water discharge associated with industrial activity from construction activities.* In the case of a storm water discharge associated with construction activity, either the owner of the site or the general contractor.

*f. Certification.* Any person signing a document under paragraph “a” to “d” of this subrule shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for known violations.

The person who signs NPDES reports shall be a person described in this subrule, except that in the case of a corporation or a public body, monitoring reports required under the terms of the permit may be submitted by a duly authorized representative of the person described in this subrule. A person is a duly authorized representative if the authorization is made in writing by a person described in this subrule and the authorization specifies an individual or position having responsibility for the overall operation of the regulated facility, such as plant manager, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the corporation.

**64.3(9)** When necessary to comply with present standards which must be met at a future date, an operation permit shall include a schedule for the alteration of the permitted facility to meet said standards in accordance with 64.7(4) and 64.7(5). Such schedules shall not relieve the permittee of the duty to obtain a construction permit pursuant to 567—64.2(455B). When necessary to comply with a pretreatment standard or requirement which must be met at a future date, a significant industrial user will be given a compliance schedule for meeting those requirements.

**64.3(10)** Operation permits shall contain such conditions as are deemed necessary by the director to ensure compliance with all applicable rules of the department, including monitoring and reporting conditions, to protect the public health and beneficial uses of state waters, and to prevent water pollution from waste storage or disposal operations.

**64.3(11)** The director may amend, revoke and reissue, or terminate in whole or in part any individual operation permit or coverage under a general permit for cause. Except for general permits, the director may modify in whole or in part any individual operation permit for cause. A variance or modification to the terms and conditions of a general permit shall not be granted. If a variance or modification to a general permit is desired, the applicant must apply for an individual permit following the procedures in 64.3(4) “a.”

*a.* Permits may be amended, revoked and reissued, or terminated for cause either at the request of any interested person (including the permittee) or upon the director’s initiative. All requests shall be in writing and shall contain facts or reasons supporting the request.

*b.* Cause under this subrule includes the following:

- (1) Violation of any term or condition of the permit.
- (2) Obtaining a permit by misrepresentation of fact or failure to disclose fully all material facts.
- (3) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(4) Failure to submit such records and information as the director shall require both generally and as a condition of the permit in order to ensure compliance with the discharge conditions specified in the permit.

(5) Failure or refusal of an NPDES permittee to carry out the requirements of 64.7(7)“c.”

(6) Failure to provide all the required application materials or appropriate fees.

(7) A request for a modification of a schedule of compliance, an interim effluent limitation, or the minimum monitoring requirements pursuant to 567—paragraph 60.4(2)“b.”

(8) Causes listed in 40 CFR 122.62 and 122.64.

*c.* The permittee shall furnish to the director, within a reasonable time, any information that the director may request to determine whether cause exists for amending, revoking and reissuing, or terminating a permit, including a new permit application.

*d.* The filing of a request by an interested person for an amendment, revocation and reissuance, or termination does not stay any permit condition.

*e.* If the director decides the request is not justified, the director shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, hearings, or appeals.

*f.* Draft permits.

(1) If the director tentatively decides to amend, revoke and reissue, or terminate a permit, a draft permit shall be prepared according to 64.5(1).

(2) When a permit is amended under this paragraph, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the permit.

(3) When a permit is revoked and reissued under this paragraph, the entire permit is reopened just as if the permit had expired and was being reissued.

(4) If the permit amendment falls under the definition of “minor amendment” in 567—60.2(455B), the permit may be amended without a draft permit or public notice.

(5) During any amendment, revocation and reissuance, or termination proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

**64.3(12)** No permit may be issued:

*a.* When the applicant is required to obtain certification under Section 401 of the Clean Water Act and that certification has not been obtained or waived;

*b.* When the imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected states; or

*c.* To a new source or new discharger if the discharge from its construction or operation will cause or contribute to a violation of water quality standards. The owner or operator of a new source or new discharger proposing to discharge to a water segment which does not meet applicable water quality standards must demonstrate, before the close of the public comment period for a draft NPDES permit, that:

(1) There is sufficient remaining load in the water segment to allow for the discharge; and

(2) The existing dischargers to the segment are subject to compliance schedules designed to bring the segment into compliance with water quality standards.

The director may waive the demonstration if the director already has adequate information to demonstrate (1) and (2).

[ARC 7625B, IAB 3/11/09, effective 4/15/09; ARC 8520B, IAB 2/10/10, effective 3/17/10; ARC 9365B, IAB 2/9/11, effective 3/30/11; ARC 0529C, IAB 12/12/12, effective 1/16/13]

#### **567—64.4(455B) Issuance of NPDES permits.**

**64.4(1)** *Individual permit.* An individual NPDES permit is required when there is a discharge of a pollutant from any point source into navigable waters. An NPDES permit is not required for the following:

*a.* Reserved.

b. Discharges of dredged or fill material into navigable waters which are regulated under Section 404 of the Act;

c. The introduction of sewage, industrial wastes or other pollutants into a POTW by indirect dischargers. (This exclusion from requiring an NPDES permit applies only to the actual addition of materials into the subsequent treatment works. Plans or agreements to make such additions in the future do not relieve dischargers of the obligation to apply for and receive permits until the discharges of pollutants to navigable waters are actually eliminated. It also should be noted that, in all appropriate cases, indirect discharges shall comply with pretreatment standards promulgated by the administrator pursuant to Section 307(b) of the Act and adopted by reference by the commission);

d. Any discharge in compliance with the instruction of an On-Scene Coordinator pursuant to 40 CFR Part 300 (The National Oil and Hazardous Substances Pollution Contingency Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances);

e. Any introduction of pollutants from non-point source agricultural and silvicultural activities, including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands, except that this exclusion shall not apply to the following:

- (1) Discharges from concentrated animal feeding operations as defined in 40 CFR 122.23;
- (2) Discharges from concentrated aquatic animal production facilities as defined in 40 CFR 122.24;
- (3) Discharges to aquaculture projects as defined in 40 CFR 122.25;
- (4) Discharges from silvicultural point sources as defined in 40 CFR 122.27;

f. Return flows from irrigated agriculture; and

g. Water transfers, which are defined as activities that convey or connect navigable waters without subjecting the transferred water to intervening industrial, municipal, or commercial use.

**64.4(2) General permit.**

a. The director may issue general permits which are consistent with 64.4(2)“b” and the requirements specified in 567—64.6(455B), 567—64.7(455B), subrule 64.8(2), and 567—64.9(455B) for the following activities:

(1) Storm water point sources requiring an NPDES permit pursuant to Section 402(p) of the federal Clean Water Act and 40 CFR 122.26 (as amended through June 15, 1992).

(2) Private sewage disposal system discharges permitted under 567—Chapter 69 where subsoil discharge is not possible as determined by the administrative authority.

(3) Discharges from water well construction and related well services where the discharge will reach a water of the United States as defined in 40 CFR Part 122.2.

(4) For any discharge, except a storm water only discharge, from a mining or processing facility.

(5) Discharges from the application of biological pesticides and chemical pesticides which leave a residue where the discharge will reach a water of the United States as defined in 40 CFR Part 122.2.

b. Each general permit issued by the department must:

(1) Be adopted as an administrative rule in accordance with Iowa Code chapter 17A, the Administrative Procedure Act. Each proposed permit will be accompanied by a fact sheet setting forth the principal facts and methodologies considered during permit development,

(2) Correspond to existing geographic or political boundaries, and

(3) Be identified in 567—64.15(455B).

c. If an NPDES permit is required for an activity covered by a general permit, the applicant may seek either general permit coverage or an individual permit. Procedures and requirements for obtaining an individual NPDES permit are detailed in 64.3(4)“a.” Procedures for filing a Notice of Intent for coverage under a general permit are described in 567—64.6(455B) “Completing a Notice of Intent for Coverage Under a General Permit.”

**64.4(3) Effect of a permit.**

a. Except for any toxic effluent standards and prohibitions imposed under Section 307 of the Act and standards for sewage sludge use or disposal under Section 405(d) of the Act, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with Sections 301, 302, 306, 307, 318, 403 and 405(a)-(b) of the Act, and equivalent limitations and standards set out in 567—Chapters 61 and 62. However, a permit may be terminated during its term for cause as set forth

in 64.3(11). Compliance with a permit condition which implements a particular standard for sewage sludge use or disposal shall be an affirmative defense in any enforcement action brought for a violation of that standard for sewage sludge use or disposal.

*b.* The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

[ARC 7625B, IAB 3/11/09, effective 4/15/09; ARC 8520B, IAB 2/10/10, effective 3/17/10; ARC 9365B, IAB 2/9/11, effective 3/30/11]

**567—64.5(455B) Notice and public participation in the individual NPDES permit process.**

**64.5(1) *Formulation of tentative determination.*** The department shall make a tentative determination to issue or deny an operation or NPDES permit for the discharge described in a permit application in advance of the public notice as described in 64.5(2).

*a.* If the tentative determination is to issue an NPDES permit, the department shall prepare a permit rationale for each draft permit pursuant to 64.5(3) and a draft permit. The draft permit shall include the following:

(1) Effluent limitations identified pursuant to 64.6(2) and 64.6(3), for those pollutants proposed to be limited.

(2) If necessary, a proposed schedule of compliance, including interim dates and requirements, identified pursuant to 64.7(4) and 64.7(5), for meeting the effluent limitations and other permit requirements.

(3) Any other special conditions (other than those required in 64.6(5)) which will have a significant impact upon the discharge described in the permit application.

*b.* If the tentative determination is to deny an NPDES permit, the department shall prepare a notice of intent to deny the permit application. The notice of intent to deny an application will be placed on public notice as described in 64.5(2).

*c.* If the tentative determination is to issue an operation permit (non-NPDES permit), the department shall prepare a final permit and transmit the final permit to the applicant. The applicant will have 30 days to appeal the final operation permit.

*d.* If the tentative determination is to deny an operation permit (non-NPDES permit), no public notice is required. The department shall send written notice of the denial to the applicant. The applicant will have 30 days to appeal the denial.

**64.5(2) *Public notice for NPDES permits.***

*a.* Prior to the issuance of an NPDES permit, a major NPDES permit amendment, or the denial of a permit application for an NPDES permit, public notice shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the tentative determination to issue or deny an NPDES permit for the proposed discharge. Procedures for the circulation of public notice shall include at least the procedures of subparagraphs (1) to (3).

(1) The public notice for a draft NPDES permit or major permit amendment shall be circulated by the applicant within the geographical areas of the proposed discharge by posting the public notice in the post office and public places of the city nearest the premises of the applicant in which the effluent source is located; by posting the public notice near the entrance to the applicant's premises and in nearby places; and by publishing the public notice in local newspapers and periodicals, or, if appropriate, in a newspaper of general circulation. The public notice for the denial of a permit application shall be sent to the applicant and circulated by the department within the geographical areas of the proposed discharge by publishing the public notice in local newspapers and periodicals, or, if appropriate, in a newspaper of general circulation.

(2) The public notice shall be sent by the department to any person upon request.

(3) Upon request, the department shall add the name of any person or group to the distribution list to receive copies of all public notices concerning the tentative determinations with respect to the permit applications within the state or within a certain geographical area and shall send a copy of all public notices to such persons.

*b.* The department shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the tentative

determinations with respect to the permit application and request a public hearing pursuant to 64.5(6). Written comments may be submitted by paper or electronic means. All comments submitted during the 30-day comment period shall be retained by the department and considered by the director in the formulation of the director's final determinations with respect to the permit application. The period for comment may be extended at the discretion of the department. Pertinent and significant comments received during either the original comment period or an extended comment period shall be responded to in a responsiveness summary pursuant to 64.5(8).

*c.* The contents of the public notice of a draft NPDES permit, a major permit amendment, or the denial of a permit application for an NPDES permit shall include at least the following:

- (1) The name, address, and telephone number of the department.
- (2) The name and address of each applicant.
- (3) A brief description of each applicant's activities or operations which result in the discharge described in the permit application (e.g., municipal waste treatment plant, corn wet milling plant, or meat packing plant).

- (4) The name of the waterway to which each discharge of the applicant is made and a short description of the location of each discharge of the applicant on the waterway indicating whether such discharge is a new or an existing discharge.

- (5) A statement of the department's tentative determination to issue or deny an NPDES permit for the discharge or discharges described in the permit application.

- (6) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by paragraph "b" of this subrule, procedures for requesting a public hearing and any other means by which interested persons may influence or comment upon those determinations.

- (7) The address, telephone number, and E-mail address of places at which interested persons may obtain further information, request a copy of the tentative determination and any associated documents prepared pursuant to 64.5(1), request a copy of the permit rationale described in 64.5(3), and inspect and copy permit forms and related documents.

*d.* No public notice is required for a minor permit amendment, including an amendment to correct typographical errors, include more frequent monitoring requirements, revise interim compliance schedule dates, change the owner name or address, include a local pretreatment program, or remove a point source outfall that does not result in the discharge of pollutants from other outfalls.

*e.* No public notice is required when a request for a permit amendment or a request for a termination of a permit is denied. The department shall send written notice of the denial to the requester and the permittee only. No public notice is required if an applicant withdraws a permit application.

**64.5(3) *Permit rationales and notices of intent to deny.***

*a.* When the department has made a determination to issue an NPDES permit as described in 64.5(1), the department shall prepare and, upon request, shall send to any person a permit rationale with respect to the application described in the public notice. The contents of such permit rationales shall include at least the following information:

- (1) A detailed description of the location of the discharge described in the permit application.
- (2) A quantitative description of the discharge described in the permit application which includes:
  1. The average daily discharge in pounds per day of any pollutants which are subject to limitations or prohibitions under 64.7(2) or Section 301, 302, 306 or 307 of the Act and regulations published thereunder; and

2. For thermal discharges subject to limitation under the Act, the average and maximum summer and winter discharge temperatures in degrees Fahrenheit.

- (3) The tentative determinations required under 64.5(1).

- (4) A brief citation, including a brief identification of the uses for which the receiving waters have been classified, of the water quality standards applicable to the receiving waters and effluent standards and limitations applicable to the proposed discharge.

- (5) An explanation of the principal facts and the significant factual, legal, methodological, and policy questions considered in the preparation of the draft permit.

(6) Any calculations or other necessary explanation of the derivation of effluent limitations.

b. When the department has made a determination to deny an application for an NPDES permit as described in 64.5(1), the department shall prepare and, upon request, shall send to any person a notice of intent to deny with respect to the application described in the public notice. The contents of such notice of intent to deny shall include at least the following information:

(1) A detailed description of the location of the discharge described in the permit application; and

(2) A description of the reasons supporting the tentative decision to deny the permit application.

c. When the department has made a determination to issue an operation permit as described in 64.5(1), the department shall prepare a short description of the waste disposal system and the reasons supporting the decision to issue an operation permit. The description shall be sent to the operation permit applicant upon request.

d. When the department has made a determination to deny an application for an operation permit as described in 64.5(1), the department shall prepare and send written notice of the denial to the applicant only. The written denial shall include a description of the reasons supporting the decision to deny the permit application.

e. Upon request, the department shall add the name of any person or group to a distribution list to receive copies of permit rationales and notices of intent to deny and shall send a copy of all permit rationales and notices of intent to deny to such persons or groups.

**64.5(4) Notice to other government agencies.** Prior to the issuance of an NPDES permit, the department shall notify other appropriate government agencies of each complete application for an NPDES permit and shall provide such agencies an opportunity to submit their written views and recommendations. Notifications may be distributed and written views or recommendations may be submitted by paper or electronic means. Procedures for such notification shall include the procedures of paragraphs “a” to “f.”

a. At the time of issuance of public notice pursuant to 64.5(2), the department shall transmit the public notice to any other state whose waters may be affected by the issuance of the NPDES permit. Each affected state shall be afforded an opportunity to submit written recommendations to the department and to the regional administrator which the director may incorporate into the permit if issued. Should the director fail to incorporate any written recommendation thus received, the director shall provide to the affected state or states and to the regional administrator a written explanation of the reasons for failing to accept any written recommendation.

b. At the time of issuance of public notice pursuant to 64.5(2), the department shall send the public notice for proposed discharges (other than minor discharges) into navigable waters to the appropriate district engineer of the army corps of engineers.

(1) The department and the district engineer for each corps of engineers district within the state may arrange for: notice to the district engineer of minor discharges; waiver by the district engineer of the right to receive public notices with respect to classes, types, and sizes within any category of point sources and with respect to discharges to particular navigable waters or parts thereof; and any procedures for the transmission of forms, period of comment by the district engineer (e.g., 30 days), and for objections of the district engineer.

(2) A copy of any written agreement between the department and a district engineer shall be forwarded to the regional administrator and shall be available to the public for inspection and copying in accordance with 567—Chapter 2.

c. Upon request, the department shall send the public notice to any other federal, state, or local agency, or any affected county, and provide such agencies an opportunity to respond, comment, or request a public hearing pursuant to 64.5(6).

d. The department shall send the public notice for any proposed NPDES permit within the geographical area of a designated and approved management agency under Section 208 of the Act (33 U.S.C.1288).

e. The department shall send the public notice to the local board of health for the purpose of assisting the applicant in coordinating the applicable requirements of the Act and Iowa Code chapter 455B with any applicable requirements of the local board of health.

*f.* Upon request, the department shall provide any of the entities listed in 64.5(4) “a” through “e” with a copy of the permit rationale, permit application, or proposed permit prepared pursuant to 64.5(1).

**64.5(5) Public access to NPDES information.** The records of the department connected with NPDES permits are available for public inspection and copying to the extent provided in 567—Chapter 2.

**64.5(6) Public hearings on proposed NPDES permits.** The applicant, any affected state, the regional administrator, or any interested agency, person or group of persons may request or petition for a public hearing with respect to an NPDES application. Any such request shall clearly state issues and topics to be addressed at the hearing. Any such request or petition for public hearing must be filed with the director within the 30-day period prescribed in 64.5(2) “b” and shall indicate the interest of the party filing such request and the reasons why a hearing is warranted. The director shall hold an informal and noncontested case hearing if there is a significant public interest (including the filing of requests or petitions for such hearing) in holding such a hearing. Frivolous or insubstantial requests for hearing may be denied by the director. Instances of doubt should be resolved in favor of holding the hearing. Any hearing held pursuant to this subrule shall be held in the geographical area of the proposed discharge, or other appropriate area in the discretion of the director, and may, as appropriate, consider related groups of permit applications.

**64.5(7) Public notice of public hearings on proposed NPDES permits.**

*a.* Public notice of any hearing held pursuant to 64.5(6) shall be circulated at least as widely as was the notice of the tentative determinations with respect to the permit application.

(1) Notice shall be published in at least one newspaper of general circulation within the geographical area of the discharge;

(2) Notice shall be sent to all persons and government agencies which received a copy of the notice for the permit application;

(3) Notice shall be mailed to any person or group upon request; and

(4) Notice pursuant to subparagraphs (1) and (2) of this paragraph shall be made at least 30 days in advance of the hearing.

*b.* The contents of public notice of any hearing held pursuant to 64.5(6) shall include at least the following:

(1) The name, address, and telephone number of the department;

(2) The name and address of each applicant whose application will be considered at the hearing;

(3) The name of the water body to which each discharge is made and a short description of the location of each discharge to the water body;

(4) A brief reference to the public notice issued for each NPDES application, including the date of issuance;

(5) Information regarding the time and location for the hearing;

(6) The purpose of the hearing;

(7) A concise statement of the issues raised by the person or persons requesting the hearing;

(8) The address and telephone number of the premises where interested persons may obtain further information, request a copy of the draft NPDES permit prepared pursuant to 64.5(1), request a copy of the permit rationale prepared pursuant to 64.5(3), and inspect and copy permit forms and related documents;

(9) A brief description of the nature of the hearing, including the rules and procedures to be followed; and

(10) The final date for submission of comments (paper or electronic) regarding the tentative determinations with respect to the permit application.

**64.5(8) Response to comments.** At the time a final NPDES permit is issued, the director shall issue a response to significant and pertinent comments in the form of a responsiveness summary. A copy of the responsiveness summary shall be sent to the permit applicant, and the document shall be made available to the public upon request. The responsiveness summary shall:

*a.* Specify which provisions, if any, of the draft permit have been changed in the final permit decision and the reasons for the changes; and

*b.* Briefly describe and respond to all significant and pertinent comments on the draft permit raised during the public comment period provided for in the public notice or during any hearing. Comments on a draft permit may be submitted by paper or electronic means or orally at a public hearing. [ARC 7625B, IAB 3/11/09, effective 4/15/09; ARC 0529C, IAB 12/12/12, effective 1/16/13]

**567—64.6(455B) Completing a Notice of Intent for coverage under a general permit.**

**64.6(1)** *Contents of a complete Notice of Intent.* An applicant proposing to conduct activities covered by a general permit shall file a complete Notice of Intent by submitting to the department materials required in paragraphs “a” to “c” of this subrule except that a Notice of Intent is not required for discharges authorized under General Permit No. 6.

*a. Notice of Intent Application Form.* The following Notice of Intent forms must be completed in full.

(1) General Permit No. 1 “Storm Water Discharge Associated with Industrial Activity,” Form 542-1415.

(2) General Permit No. 2 “Storm Water Discharge Associated with Industrial Activity for Construction Activities,” Form 542-1415.

(3) General Permit No. 3 “Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants and Construction Sand and Gravel Facilities,” Form 542-1415.

(4) General Permit No. 4 “Discharge from On-Site Wastewater Treatment and Disposal Systems,” Form 542-1541.

(5) General Permit No. 5 “Discharge from Mining and Processing Facilities,” Form 542-4006.

(6) General Permit No. 7, “Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides.”

*b. General permit fee.* The general permit fee according to the schedule in 567—64.16(455B) payable to the Department of Natural Resources.

*c. Public notification.* The following public notification requirements must be completed for the corresponding general permit.

(1) General Permits No. 1, No. 2 and No. 3. A demonstration that a public notice was published in at least one newspaper with the largest circulation in the area in which the facility is located or the activity will occur. The newspaper notice shall, at the minimum, contain the following information:

PUBLIC NOTICE OF STORM WATER DISCHARGE

The (applicant name) plans to submit a Notice of Intent to the Iowa Department of Natural Resources to be covered under NPDES General Permit (select the appropriate general permit—No. 1 “Storm Water Discharge Associated with Industrial Activity” or General Permit No. 2 “Storm Water Discharge Associated with Industrial Activity for Construction Activities”). The storm water discharge will be from (description of industrial activity) located in (¼ section, township, range, county). Storm water will be discharged from (number) point source(s) and will be discharged to the following streams: (stream name(s)).

Comments may be submitted to the Storm Water Discharge Coordinator, IOWA DEPARTMENT OF NATURAL RESOURCES, Environmental Protection Division, 900 E. Grand Avenue, Des Moines, IA 50319-0034. The public may review the Notice of Intent from 8 a.m. to 4:30 p.m., Monday through Friday, at the above address after it has been received by the department.

(2) General Permits No. 4, No. 5, No. 6, and No. 7. There are no public notification requirements for these permits.

**64.6(2)** *Authorization to discharge under a general permit.* Upon the submittal of a complete Notice of Intent in accordance with 64.6(1) and 64.3(4)“b,” the applicant is authorized to discharge after evaluation of the Notice of Intent by the department is complete and the determination has been made that the contents of the Notice of Intent satisfy the requirements of 567—Chapter 64. The

discharge authorization date for all storm water discharges associated with industrial activity that are in existence on or before October 1, 1992, shall be October 1, 1992. The applicant will receive notification by the department of coverage under the general permit. If any of the items required for filing a Notice of Intent specified in 64.6(1) are missing, the department will consider the application incomplete and will notify the applicant of the incomplete items.

**64.6(3) *General permit suspension or revocation.*** In addition to the causes for suspension or revocation which are listed in 64.3(11), the director may suspend or revoke coverage under a general permit issued to a facility or a class of facilities for the following reasons and require the applicant to apply for an individual NPDES permit in accordance with 64.3(4) “a”:

*a.* The discharge would not comply with Iowa’s water quality standards pursuant to 567—Chapter 61, or

*b.* The department finds that the activities associated with a Notice of Intent filed with the department do not meet the conditions of the general permit. The department will notify the affected discharger and establish a deadline, not longer than one year, for submitting an individual permit application, or

*c.* The department finds that water well construction and well service discharge are not managed in a manner consistent with the conditions specified in General Permit No. 6, or

*d.* The department finds that discharges from biological pesticides and chemical pesticides which leave a residue are not managed in a manner consistent with the conditions specified in General Permit No. 7.

**64.6(4) *Eligibility for individual permit holders.*** A person holding an individual NPDES permit for an activity covered by a general permit may apply for coverage under a general permit upon expiration of the individual permit and by filing a Notice of Intent according to procedures described in 64.3(4) “b.”

**64.6(5) *Filing a Notice of Discontinuation.*** A notice to discontinue the activity covered by the NPDES general permit shall be made in writing to the department 30 days prior to or after discontinuance of the discharge. For storm water discharge associated with industrial activity for construction activities, the discharge will be considered as discontinued when “final stabilization” has been reached. Final stabilization means that all soil-disturbing activities at the site have been completed and that a uniform perennial vegetative cover with a density of 70 percent for the area has been established or equivalent stabilization measures have been employed.

The notice of discontinuation shall contain the following:

*a.* The name of the facility to which the permit was issued,

*b.* The general permit number and permit authorization number,

*c.* The date the permitted activity was, or will be, discontinued, and

*d.* A signed certification in accordance with the requirements in the general permit.

**64.6(6) *Transfer of ownership—construction activity part of a larger common plan of development.*** For construction activity which is part of a larger common plan of development, such as a housing or commercial development project, in the event a permittee transfers ownership of all or any part of property subject to NPDES General Permit No. 2, both the permittee and transferee shall be responsible for compliance with the provisions of the general permit for that portion of the project which has been transferred, including when the transferred property is less than one acre in area, provided that:

*a.* The transferee is notified in writing of the existence and location of the general permit and pollution prevention plan, and of the transferee’s duty to comply, and proof of such notice is included with the notice to the department of the transfer.

*b.* If the transferee agrees, in writing, to become the sole responsible permittee for the property which has been transferred, then the transferee shall be solely responsible for compliance with the provisions of the general permit for the transferred property.

*c.* If the transferee agrees, in writing, to obtain coverage under NPDES General Permit No. 2 for the property which has been transferred, then the transferee is required to obtain coverage under NPDES General Permit No. 2 for the transferred property. After the transferee has agreed, in writing, to obtain coverage under NPDES General Permit No. 2 for the transferred property, the authorization issued under NPDES General Permit No. 2 to the transferor for the transferred property shall be considered by the

department as not providing NPDES permit coverage for the transferred property and the transferor's authorization issued under NPDES General Permit No. 2 for, and only for, the transferred property shall be deemed by the department as being discontinued without further action of the transferor.

*d.* All notices as described in this subrule shall contain the name of the development as submitted to the department in the original Notice of Intent and as modified by any subsequent written notices of name changes submitted to the department, the authorization number assigned to the authorization by the department, the legal description of the transferred property including lot number, if any, and any other information necessary to precisely locate the transferred property and to establish the legality of the document.

[ARC 8520B, IAB 2/10/10, effective 3/17/10; ARC 9365B, IAB 2/9/11, effective 3/30/11; ARC 1337C, IAB 2/19/14, effective 3/26/14]

**567—64.7(455B) Terms and conditions of NPDES permits.**

**64.7(1) Prohibited discharges.** No NPDES permit may authorize any of the discharges prohibited by 567—62.1(455B).

**64.7(2) Application of effluent, pretreatment and water quality standards and other requirements.** Each NPDES permit shall include any of the following that is applicable:

*a.* An effluent limitation guideline promulgated by the administrator under Sections 301 and 304 of the Act and adopted by reference by the commission in 567—62.4(455B).

*b.* A standard of performance for a new source promulgated by the administrator under Section 306 of the Act and adopted by reference by the commission in 567—62.4(455B).

*c.* An effluent standard, effluent prohibition or pretreatment standard promulgated by the administrator under Section 307 of the Act and adopted by reference by the commission in 567—62.4(455B) or 567—62.5(455B).

*d.* A water quality related effluent limitation established by the administrator pursuant to Section 302 of the Act.

*e.* Prior to promulgation by the administrator of applicable effluent and pretreatment standards under Sections 301, 302, 306, and 307 of the Act, such conditions as the director determines are necessary to carry out the provisions of the Act.

*f.* Any other limitation, including those:

(1) Necessary to meet water quality standards, treatment or pretreatment standards, or schedules of compliance established pursuant to any Iowa law or regulation, or to implement the antidegradation policy in 567—subrule 61.2(2); or

(2) Necessary to meet any other federal law or regulation; or

(3) Required to implement any applicable water quality standards; or

(4) Any legally applicable requirement necessary to implement total maximum daily loads established pursuant to Section 303(d) of the Act and incorporated in the continuing planning process approved under Section 303(e) of the Act and any regulations and guidelines issued pursuant thereto.

*g.* Limitations must control all pollutants or pollutant parameters which the director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any water quality standard, including narrative criteria, in 567—Chapter 61. When the permitting authority determines that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion of the water quality standard for an individual pollutant, the permit must contain effluent limits for that pollutant.

*h.* Any more stringent legally applicable requirements necessary to comply with a plan approved pursuant to Section 208(b) of the Act.

In any case where an NPDES permit applies to effluent standards and limitations described in paragraph “a,” “b,” “c,” “d,” “e,” “f,” “g,” or “h,” the director must state that the discharge authorized by the permit will not violate applicable water quality standards and must have prepared some verification of that statement. In any case where an NPDES permit applies any more stringent effluent limitation, described in 64.7(2)“f”(1) or “g,” based upon applicable water quality standards,

a waste load allocation must be prepared to ensure that the discharge authorized by the permit is consistent with applicable water quality standards.

**64.7(3)** *Effluent limitations in issued NPDES permits.* In the application of effluent standards, and limitations, water quality standards, and other legally applicable requirements, pursuant to 64.7(2), the director shall, for each issued NPDES permit, specify average and maximum daily quantitative limitations for the level of pollutants in the authorized discharge in terms of weight (except pH, temperature, radiation, and any other pollutants not appropriately expressed by weight). The director may, in addition to the specification of daily quantitative limitations by weight, specify other limitations such as average or maximum concentration limits, for the level of pollutants authorized in the discharge.

[COMMENT. The manner in which effluent limitations are expressed will depend upon the nature of the discharge. Continuous discharges shall be limited by daily loading figures and, where appropriate, may be limited as to concentration or discharge rate (e.g., for toxic or highly variable continuous discharges). Batch discharges should be more particularly described and limited in terms of (i) frequency (e.g., to occur not more than once every three weeks), (ii) total weight (e.g., not to exceed 300 pounds per batch discharge), (iii) maximum rate of discharge of pollutants during the batch discharge (e.g., not to exceed 2 pounds per minute), and (iv) prohibition or limitation by weight, concentration, or other appropriate measure of specified pollutants (e.g., shall not contain at any time more than 0.1 ppm zinc or more than ¼ pound of zinc in any batch discharge). Other intermittent discharges, such as recirculation blowdown, should be particularly limited to comply with any applicable water quality standards and effluent standards and limitations.]

**64.7(4)** *Schedules of compliance in issued NPDES permits.* The director shall follow the following procedure in setting schedules in NPDES permit conditions to achieve compliance with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements.

*a.* With respect to any discharge which is not in compliance with applicable effluent standards and limitations, applicable water quality standards, or other legally applicable requirements listed in 64.7(2) “*f*” and 64.7(2) “*g*,” the permittee shall be required to take specific steps to achieve compliance with: applicable effluent standards and limitations; if more stringent, water quality standards; or if more stringent, legally applicable requirements listed in 64.7(2) “*f*” and 64.7(2) “*g*.” In the absence of any legally applicable schedule of compliance, such steps shall be achieved in the shortest, reasonable period of time, such period to be consistent with the guidelines and requirements of the Act.

*b.* In any case where the period of time for compliance specified in paragraph 64.7(4) “*a*” exceeds one year, a schedule of compliance shall be specified in the permit which shall set forth interim requirements and the dates for their achievement; in no event shall more than one year elapse between interim dates. If the time necessary for completion of the interim requirements (such as the construction of a treatment facility) is more than one year and is not readily divided into stages for completion, interim dates shall be specified for the submission of reports of progress toward completion of the interim requirement.

[COMMENT. Certain interim requirements such as the submission of preliminary or final plans often require less than one year, and thus a shorter interval should be specified. Other requirements such as the construction of treatment facilities may require several years for completion and may not readily subdivide into one-year intervals. Long-term interim requirements should nonetheless be subdivided into intervals not longer than one year at which the permittee is required to report progress to the director pursuant to 64.7(4) “*c*.”]

*c.* Either before or up to 14 days following each interim date and the final date of compliance the permittee shall provide the department with written notice of the permittee’s compliance or noncompliance with the interim or final requirement.

*d.* On the last day of the months of February, May, August, and November the director shall transmit to the regional administrator a list of all instances, as of 30 days prior to the date of such report, of failure or refusal of a permittee to comply with an interim or final requirement or to notify the department of compliance or noncompliance with each interim or final requirement (as required pursuant to paragraph “*b*” of this subrule). Such list shall be available to the public for inspection and copying and shall contain at least the following information with respect to each instance of noncompliance:

- (1) Name and address of each noncomplying permittee.
- (2) A short description of each instance of noncompliance (e.g., failure to submit preliminary plans, two-week delay in commencement of construction of treatment facility; failure to notify of compliance with interim requirement to complete construction by June 30).
- (3) A short description of any actions or proposed actions by the permittee to comply or by the director to enforce compliance with the interim or final requirement.
- (4) Any details which tend to explain or mitigate an instance of noncompliance with an interim or final requirement (e.g., construction delayed due to materials shortage, plan approval delayed by objections).

*e.* If a permittee fails or refuses to comply with an interim or final requirement in an NPDES permit such noncompliance shall constitute a violation of the permit for which the director may, pursuant to 567—Chapters 7 and 60, modify, suspend or revoke the permit or take direct enforcement action.

**64.7(5)** *Schedules of compliance in issued NPDES permits for disadvantaged communities.* If compliance with federal regulations, applicable requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department will result in substantial and widespread economic and social impact (SWESI) to the ratepayers and the affected community, the director may establish in an NPDES permit a schedule of compliance that will result in an improvement of water quality and reasonable progress toward complying with the applicable requirements but does not result in SWESI. Schedules of compliance established under this subrule are intended to result in compliance with the applicable federal and state regulations and requirements by the regulated entity and the affected community.

*a. Disadvantaged community status.* The director shall find that a regulated entity and the affected community are a disadvantaged community by evaluating all of the following:

- (1) The ability of the regulated entity and the affected community to pay for a project based on the ratio of the total annual project costs per household to median household income (MHI),
- (2) MHI in the community and the unemployment rate of the county in which the community is located, and
- (3) The outstanding debt of the system and the bond rating of the community.

*b. Disadvantaged community analysis (DCA).* A regulated entity or affected community must submit a disadvantaged community analysis (DCA) to the director to be considered for disadvantaged status. A DCA may only be submitted when new requirements in a proposed or reissued NPDES permit may result in SWESI.

- (1) A DCA may be submitted by any of the following:

1. A wastewater disposal system owned by a municipal corporation or other public body created by or under Iowa law and having jurisdiction over disposal of sewage, industrial wastes or other wastes, or a designated and approved management agency under Section 208 of the Act (a POTW);

2. A wastewater disposal system for the treatment or disposal of domestic sewage which is not a private sewage disposal system and which is not owned by a city, a sanitary sewer district, or a designated and approved management agency under Section 208 of the Act (33 U.S.C. 1288) (a semipublic system); or

3. Any other owner of a wastewater disposal system that is not a private sewage disposal system and does not discharge industrial wastes. “Private sewage disposal system” and “industrial waste” are defined in rule 567—60.2(455B).

- (2) A DCA may be submitted prior to the issuance of an initial NPDES permit if the facility does not discharge industrial wastes and is not a new source or new discharger. “New source” is defined in rule 567—60.2(455B). “New discharger” means any building, structure, facility, or installation from which there is or may be a discharge of pollutants; that did not commence the discharge of pollutants at a particular site prior to August 13, 1979; that is not a new source; and that has never received a finally effective NPDES permit for discharges at that site.

- (3) A DCA may be submitted by the entities noted in subparagraph 64.7(5)“b”(1) above for consideration of a disadvantaged community loan interest rate under the clean water state revolving fund.

*c. Contents of a DCA.*

- (1) A DCA must contain all of the following:
1. Proposed total annual project costs as defined in paragraph 64.7(5) “d”;
  2. The number of households in the affected community or, if the entity is not serving households, the number of ratepayers;
  3. A description of the bond rating of the affected community over the last year, if available;
  4. The user rates, as follows:
    - If the DCA is submitted by or for a municipality or other community, the current sewer rate ordinances, including the sewer rates of any industrial users;
    - If the DCA is submitted by or for a water treatment facility, the water rate schedules or tables;
  - or
    - If the DCA is submitted by or for an entity other than a municipality, community, or water treatment facility, the monthly ratepayer charge for wastewater treatment;
  5. An explanation of why the regulated entity or affected community believes that compliance with the proposed requirements will result in SWESI.

(2) If the DCA is submitted by or for an entity other than a municipality, community, or water treatment facility, the DCA must also contain either:

1. For entities with more than ten households or ratepayers, the median household or ratepayer income, as determined by an income survey conducted by the regulated entity based on the Iowa community development block grant income survey guidelines (the survey must be included in the DCA); or
2. For entities with ten or fewer households or ratepayers, an estimate of median household or ratepayer income.

*d. Definition of total annual project costs.* “Total annual project costs” means the current costs of wastewater treatment in the community (if any) plus the future costs of proposed wastewater system improvements that will meet or exceed all applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or requirements of an order of the department. Total annual project costs shall include any current and proposed facility operation and maintenance costs and any existing (outstanding) and proposed system debt, as expressed in current and proposed sewer rates. The costs of the proposed wastewater treatment shall assume a 30-year loan period at an interest rate equal to the current state revolving fund interest rate. Awarded grant funding must be subtracted from the total annual project costs.

The formula for the calculation of total annual project costs for a regulated entity and affected community is: total annual project costs = [(Estimated costs to design and build proposed project - Awarded grant funding) amortized over 30 years] + Current annual system budget (if any), including operation and maintenance (O&M) and existing debt service + Future annual O&M costs.

*e. Disadvantaged community matrix (DCM).* The department hereby incorporates by reference “Disadvantaged Community Matrix,” DNR Form 542-1246, effective January 16, 2013. This document may be obtained on the department’s NPDES Web site.

Upon receipt of a complete DCA, the director shall use the disadvantaged community matrix (DCM) to evaluate the disadvantaged status of the community. Compliance with the applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department shall be considered to result in SWESI, and the regulated entity and affected community shall be considered a disadvantaged community, if the point total derived from the DCM is equal to or greater than 12. The following data sources shall be used to derive the point total in the DCM:

- (1) The total annual project costs as stated in the DCA;
- (2) The number of households or ratepayers in a community as stated in the DCA;
- (3) The bond rating of the community, if available, as stated in the DCA;
- (4) The MHI of either:
  1. The community, as found in the most recent American Community Survey or United States Census or as stated in an income survey that is conducted by the regulated entity or community and is based on the Iowa community development block grant income survey guidelines; or

2. The ratepayer group, as stated in an income survey that is conducted by the regulated entity and is based on the Iowa community development block grant income survey guidelines; and

(5) The unemployment rate of the county where the community is located and of the state as found in the most recent Iowa Workforce Information Network unemployment data.

The ratio of the total annual project costs per household or per ratepayer to MHI shall be calculated in the DCM as follows: The total annual project costs shall be divided by the number of households or ratepayers to obtain the costs per household or per ratepayer, and the costs per household or per ratepayer shall be divided by the MHI to obtain the ratio.

*f. Ratio.* The director shall not consider a regulated entity or affected community a disadvantaged community if the ratio of compliance costs to MHI is less than 1 percent. The director shall consider a regulated entity or affected community a disadvantaged community if the ratio of compliance costs to MHI is greater than or equal to 2 percent. If the ratio of compliance costs to MHI is greater than or equal to 1 percent and less than 2 percent, the director shall use the DCM to determine if the community is disadvantaged. The ratio of compliance costs to MHI shall be the ratio of the total annual project costs per household to MHI as calculated in the DCM.

*g. Compliance schedule for a disadvantaged community.* A schedule of compliance established in an NPDES permit for a disadvantaged community as a result of SWESI may contain one or two parts as necessary to comply with the applicable federal regulations and requirements in 567—Chapters 60, 61, 62, 63, and 64.

(1) The first part of a schedule of compliance for a disadvantaged community shall encompass one five-year NPDES permit cycle and shall require the permit holder to submit an alternatives report, an alternatives implementation compliance plan (AICP), and annual reports of progress that contain brief updates regarding the completion of the alternatives report and the AICP.

1. Alternatives report. The alternatives report must detail the alternative pollution control measures that will be investigated and contain an examination of all other appropriate measures that may achieve compliance with applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department without creating SWESI. The alternatives report must describe which measures will be evaluated for feasibility and affordability during the next portion of the compliance schedule. Alternative pollution control measures may include, but are not limited to, facility upgrades, construction of a new facility, relocation of the discharge point(s), regionalization, or outfall consolidation. Other appropriate measures may include, but are not limited to, mixing zone studies, consideration of seasonal limitations or site-specific data, alteration of current facility operations, intermittent discharges, source reduction, effluent recycling or reuse, or renegotiation of treatment agreements. The alternatives report must also include a plan for pursuing funding options, including grants and low-interest loans. The alternatives report shall be submitted no later than two years after permit issuance.

2. Alternatives implementation compliance plan (AICP). The AICP shall include the results of the investigation detailed in the alternatives report, a description of any feasible and affordable alternative(s) that will be implemented, a schedule of the time necessary to implement the alternative(s), and an updated DCA. The AICP shall be submitted no later than 4½ years after permit issuance.

(2) If the entity or community continues to qualify as disadvantaged according to the DCM evaluation based on the DCA submitted with the AICP, the entity or community may receive a second schedule of compliance as specified in this subrule. The second schedule of compliance for a disadvantaged community may contain either the implementation schedule from the AICP or a schedule for submittal of a future compliance plan (FCP).

1. AICP implementation schedule. If the AICP proposes a schedule for implementation of one or more feasible alternatives, the proposed schedule shall be included in the reissued NPDES permit for the disadvantaged community.

2. Future compliance plan (FCP). The submittal of an FCP will be necessary only if the AICP concludes that the disadvantaged community cannot feasibly implement any alternatives and if the community is still disadvantaged according to the updated information in the DCA submitted with the AICP. The FCP shall detail how the disadvantaged community will meet the applicable federal

regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department and the period necessary to do so. An FCP shall review the types of technology capable of treating the pollutant of concern, as well as the costs of installing and operating each type of technology. All technically feasible alternatives shall be explored. The FCP shall be submitted no later than three years after permit issuance. A schedule of compliance requiring the submittal of an FCP shall also require the submittal of annual reports of progress that contain updated financial information, an updated DCA, and a brief update regarding the completion or implementation of the FCP. If the DCM evaluation determines that an entity or community is no longer disadvantaged based on the most recent DCA, the NPDES permit may be amended to change the schedule of compliance.

3. Schedule extension. The second part of a schedule of compliance for a disadvantaged community may be extended at the discretion of the director.

(3) Schedules of compliance issued in accordance with this subrule shall comply with paragraphs 64.7(4)“b” through “e.”

**64.7(6) *Disadvantaged unsewered communities.*** If compliance with applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department will result in substantial and widespread economic and social impact (SWESI) to the ratepayers of an unsewered community, the director may negotiate a compliance agreement that will result in an improvement of water quality and reasonable progress toward complying with the applicable requirements but does not result in SWESI.

*a. Disadvantaged unsewered community status.* The director shall find that an unsewered community is a disadvantaged unsewered community by evaluating all of the following:

- (1) The ability of the unsewered community to pay for a project based on the ratio of the total annual project costs per household to MHI,
- (2) The unemployment rate in the county where the unsewered community is located, and
- (3) The MHI of the unsewered community.

*b. Disadvantaged unsewered community analysis (DUCA).* To be considered for disadvantaged unsewered community status, an unsewered community may submit a disadvantaged unsewered community analysis (DUCA) to the director prior to the issuance of or amendment to an administrative order with requirements that could result in SWESI and that are based on applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department. Only unsewered communities may submit a DUCA under this subrule. For the purposes of this subrule, an unsewered community is defined as a grouping of ten or more residential houses with a density of one house or more per acre and with either no wastewater treatment or inadequate wastewater treatment. An entity defined in rule 567—60.2(455B) as a private sewage disposal system may not submit a DUCA or qualify for a disadvantaged unsewered community compliance agreement under paragraph 64.7(6)“g.” A DUCA may also be submitted for consideration of a disadvantaged community loan interest rate under the clean water state revolving fund.

*c. Contents of a DUCA.* A DUCA must contain:

- (1) Proposed total annual project costs as defined in paragraph 64.7(6)“d”;
- (2) The number of households in the unsewered community and source of household information;
- (3) Total amount of any awarded grant funding;
- (4) An explanation of why the unsewered community believes that compliance with the proposed requirements will result in SWESI.

If no MHI information is available for the unsewered community, the community should conduct a rate survey to determine the MHI. The survey must be conducted in accordance with the Iowa community development block grant income survey guidelines. In addition, the survey must be attached to the DCA.

*d. Definition of total annual project costs.* “Total annual project costs” means the future costs of proposed wastewater system installation or improvements that will meet or exceed all applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or requirements of an order of the department. Total annual project costs shall include the proposed facility operation and maintenance (O&M) costs and the proposed debt of the system as expressed in the proposed sewer rates. The costs of the proposed wastewater treatment shall assume a 30-year loan period at an interest rate equal to the

current state revolving fund interest rate. Awarded grant funding must be subtracted from the total annual project costs.

The formula for the calculation of total annual project costs for an unsewered community is: total annual project costs = [(Estimated costs to design and build proposed project - Awarded grant funding) amortized over 30 years] + Future annual O&M costs.

*e. Disadvantaged unsewered community matrix (DUCM).* The department hereby incorporates by reference “Disadvantaged Unsewered Community Matrix,” DNR Form 542-1247, effective January 16, 2013. This document may be obtained on the department’s NPDES Web site.

Upon receipt of a complete DUCA, the director shall use the disadvantaged unsewered community matrix (DUCM) to evaluate the disadvantaged status of the unsewered community. Compliance with applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department shall be considered to result in SWESI, and the unsewered community shall be considered a disadvantaged unsewered community, if the point total derived from the DUCM is equal to or greater than 10. The following data sources shall be used to derive the point total in the DUCM:

- (1) The total annual project costs as stated in the DUCA;
- (2) The number of households in the unsewered community as stated in the DUCA;
- (3) The MHI of the unsewered community as found in the most recent American Community Survey or United States Census or as stated in an income survey that is conducted by the regulated entity or community and is based on the Iowa community development block grant income survey guidelines; and
- (4) The unemployment rate of the county where the unsewered community is located and of the state as found in the most recent Iowa Workforce Information Network unemployment data.

The ratio of the total annual project costs per household to MHI shall be calculated in the DUCM as follows: the total annual project costs shall be divided by the number of households in the unsewered community to obtain the costs per household, and the costs per household shall be divided by MHI to obtain the ratio.

*f. Ratio and other considerations.* The director shall not consider an unsewered community a disadvantaged unsewered community if the ratio of compliance costs to MHI is below 1 percent. The director shall consider an unsewered community a disadvantaged unsewered community if the ratio of compliance costs to MHI is greater than or equal to 2 percent. If the ratio of compliance costs to MHI is greater than or equal to 1 percent, and less than 2 percent, the director shall use the DUCM to determine if the unsewered community is disadvantaged. The ratio of compliance costs to MHI shall be the ratio of the total annual project costs per household to MHI as calculated in the DUCM. The director shall not require installation of a wastewater treatment system by an unsewered community if the director determines that such installation would create SWESI.

*g. Compliance agreement for a disadvantaged unsewered community.* A compliance agreement negotiated with a disadvantaged unsewered community as a result of SWESI shall require the unsewered community to submit an alternatives report and an alternatives implementation compliance plan (AICP).

(1) Alternatives report. The alternatives report must detail the alternative pollution control measures that will be investigated and contain an examination of all other appropriate measures that may achieve compliance with the water quality standards without creating SWESI. The alternatives report must describe which measures will be evaluated for feasibility and affordability after the report submittal. Alternative pollution control measures may include, but are not limited to, upgrades of existing infrastructure, construction of a new facility, relocation of the discharge point(s), regionalization, or outfall consolidation. Other appropriate measures may include, but are not limited to, mixing zone studies, consideration of seasonal limitations or site-specific data, alteration of current facility operations, intermittent discharges, source reduction, effluent recycling or reuse, or renegotiation of treatment agreements. The alternatives report shall also include a plan for pursuing funding options, including grants and low-interest loans. The alternatives report shall be submitted no later than two years after an unsewered community has been determined to be a disadvantaged unsewered community.

(2) Alternatives implementation compliance plan (AICP). The AICP shall include the results of the investigation detailed in the alternatives report, a description of any feasible and affordable alternative(s)

that will be implemented, a schedule of the time necessary to implement the alternative(s), and an updated DUCA. The AICP shall be submitted no later than 4½ years after an unsewered community has been determined to be a disadvantaged unsewered community.

(3) AICP implementation schedule. If the AICP proposes a schedule for implementation of one or more feasible alternatives, the proposed schedule shall be included in an administrative order between the department and the unsewered community. If the feasible alternative that will be implemented requires a construction permit, an operation permit, or an NPDES permit, the unsewered community shall comply with the rules regarding those permits in this chapter.

(4) Future compliance plan (FCP). The submittal of an FCP will be necessary only if the AICP concludes that the unsewered community cannot feasibly implement any alternatives and if the community is still disadvantaged according to the updated information in the DUCA submitted with the AICP. The FCP shall detail how the unsewered community will meet the water quality standards and the period necessary to do so. An FCP shall review the types of technology capable of treating the pollutant of concern, as well as the costs of installing and operating each type of technology. All technically feasible alternatives shall be explored. The FCP shall be submitted no later than seven years after an unsewered community has been determined to be a disadvantaged unsewered community. An administrative order requiring the submittal of an FCP shall also require the submittal of biennial progress reports that contain an updated DUCA. If the DUCM evaluation determines that an unsewered community is no longer disadvantaged based on the most recent DUCA, the order may be amended at the discretion of the director.

**64.7(7)** *Other terms and conditions of issued NPDES permits.* Each issued NPDES permit shall provide for and ensure the following:

*a.* That all discharges authorized by the NPDES permit shall be consistent with the terms and conditions of the permit; that facility expansions, production increases, or process modifications which result in new or increased discharges of pollutants must be reported by submission of a new NPDES application or, if such discharge does not violate effluent limitations specified in the NPDES permit, by submission to the director of notice of such new or increased discharges of pollutants; that the discharge of any pollutant more frequently than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit; that if the terms and conditions of a general permit are no longer applicable to a discharge, the applicant shall apply for an individual NPDES permit;

*b.* That the permit may be amended, revoked and reissued, or terminated in whole or in part for the causes provided in 64.3(11) “*b.*”

*c.* That the permittee shall permit the director or the director’s authorized representative upon the presentation of credentials:

(1) To enter upon permittee’s premises in which an effluent source is located or in which any records are required to be kept under terms and conditions of the permit;

(2) To have access to and copy any records required to be kept under terms and conditions of the permit;

(3) To inspect any monitoring equipment or method required in the permit; or

(4) To sample any discharge of pollutants.

*d.* That, if the permit is for a discharge from a publicly owned treatment works, the permittee shall provide notice to the director of the following:

(1) One hundred eighty days in advance of any new introduction of pollutants into such treatment works from a new source as defined in 567—Chapter 60 if such source were discharging pollutants;

(2) Except as specified below, 180 days in advance of any new introduction of pollutants into such treatment works from a source which would be subject to Section 301 of the Act if such source were discharging pollutants. However, the connection of such a source need not be reported if the source contributes less than 25,000 gallons of process wastewater per day at the average discharge, or contributes less than 5 percent of the organic or hydraulic loading of the treatment facility, or is not subject to a federal pretreatment standard adopted by reference in 567—Chapter 62, or does not contribute pollutants that may cause interference or pass through; and

(3) Sixty days in advance of any substantial change in volume or character of pollutants being introduced into such treatment works by a source introducing pollutants into such works at the time of issuance of the permit.

Such notice shall include information on the quality and quantity of effluent to be introduced into such treatment works and any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works.

*e.* That, if the permit is for a discharge from a publicly owned treatment works, the permittee shall require any industrial user of such treatment works to comply with the requirements of Sections 204(b), 307, and 308 of the Act. As a means of ensuring such compliance, the permittee shall require that each industrial user subject to the requirements of Section 307 of the Act give to the permittee periodic notice (over intervals not to exceed six months) of progress toward full compliance with Section 307 requirements. The permittee shall forward a copy of the notice to the director.

*f.* That the permittee at all times shall maintain in good working order and operate as efficiently as possible any facilities or systems of treatment and control which have been installed or are used by the permittee to achieve compliance with the terms and conditions of the permit. Proper operation and maintenance also include adequate laboratory control and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which have been installed by the permittee only when such operation is necessary to achieve compliance with the conditions of the permit.

*g.* That if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act for a toxic pollutant which is present in the permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in the NPDES permit, the director shall revise or modify the permit in accordance with the toxic effluent standard or prohibition and so notify the permittee.

*h.* If an applicant for an NPDES permit proposes to dispose of pollutants into wells as part of a program to meet the proposed terms and conditions of an NPDES permit, the director shall specify additional terms and conditions of the issued NPDES permit which shall prohibit the proposed disposal or control the proposed disposal in order to prevent pollution of ground and surface water resources and to protect the public health and welfare. (See rule 567—62.9(455B) which prohibits the disposal of pollutants, other than heat, into wells within Iowa.)

*i.* That the permittee shall take all reasonable steps to minimize or prevent any discharge in violation of the permit which has a reasonable likelihood of adversely affecting human health or the environment.

*j.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the terms of this permit.

**64.7(8)** *POTW compliance—plan of action required.* The owner of a publicly owned treatment works (POTW) must prepare and implement a plan of action to achieve and maintain compliance with final effluent limitations in its NPDES permit, as specified below:

*a.* The director shall notify the owner of a POTW of the plan of action requirement, and of an opportunity to meet with department staff to discuss the plan of action requirements. The POTW owner shall submit a plan of action to the appropriate regional field office of the department within six months of such notice, unless a longer time is needed and is authorized in writing by the director.

*b.* The plan of action will vary in length and complexity depending on the compliance history and physical status of the particular POTW. It must identify the deficiencies and needs of the system, describe the causes of such deficiencies or needs, propose specific measures (including an implementation schedule) that will be taken to correct the deficiencies or meet the needs, and discuss the method of financing the improvements proposed in the plan of action. A plan may include the submittal of a disadvantaged community analysis in accordance with subrule 64.7(5), at the discretion of the POTW.

The plan may provide for a phased construction approach to meet interim and final limitations, where financing is such that a long-term project is necessary to meet final limitations, and shorter term projects may provide incremental benefits to water quality in the interim.

Information on the purpose and preparation of the plan can be found in the departmental document entitled "Guidance on Preparing a Plan of Action," available from the department's regional field offices.

*c.* Upon submission of a complete plan of action to the department, the plan should be reviewed and approved or disapproved within 60 days unless a longer time is required and the POTW owner is so notified.

*d.* The NPDES permit for the facility shall be amended to include the implementation schedule or other actions developed through the plan to achieve and maintain compliance.

This rule is intended to implement Iowa Code chapter 455B, division III, part 1 (455B.171 to 455B.187).

[ARC 7625B, IAB 3/11/09, effective 4/15/09; ARC 0529C, IAB 12/12/12, effective 1/16/13]

### **567—64.8(455B) Reissuance of operation and NPDES permits.**

**64.8(1)** *Individual operation and NPDES permits.* Individual operation and NPDES permits will be reissued according to the procedures identified in 64.8(1) "a" to "c."

*a.* Any operation or NPDES permittee who wishes to continue to discharge after the expiration date of the permit shall file an application for reissuance of the permit at least 180 days prior to the expiration of the permit pursuant to 567—60.4(455B). For a POTW, permission to submit an application at a later date may be granted by the director. In addition, the applicant must submit or have submitted information to show:

(1) That the permittee is in compliance or has substantially complied with all the terms, conditions, requirements and schedules of compliance of the expiring operation or NPDES permit.

(2) Up-to-date information on the permittee's production levels, permittee's waste treatment practices, nature, contents, and frequency of permittee's discharge.

(3) That the discharge is consistent with applicable effluent standards and limitations, water quality standards and other legally applicable requirements listed in 64.7(2), including any additions to, or revision or modifications of, such effluent standards and limitations, water quality standards, or other legally applicable requirements during the term of the permit.

*b.* The director shall follow the notice and public participation procedures specified in 567—64.5(455B) in connection with each request for reissuance of an NPDES permit.

*c.* Notwithstanding any other provision in these rules, any new point source the construction of which is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 (October 18, 1972) and which is so constructed as to meet all applicable standards of performance for new sources shall not be subject to any more stringent standard of performance during a ten-year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes of Section 167 or 169 (or both) of the Internal Revenue Code, as amended through December 31, 1976, whichever period ends first.

**64.8(2)** *Renewal of coverage under a general permit.* Coverage under a general permit will be renewed subject to the terms and conditions in paragraphs "a" to "d."

*a.* If a permittee intends to continue an activity covered by a general permit beyond the expiration date of the general permit, the permittee must reapply and submit a complete Notice of Intent in accordance with 64.6(1).

*b.* A complete Notice of Intent for coverage under a reissued or renewed general permit must be submitted to the department within 180 days after the expiration date of a general permit.

*c.* A person holding a general permit is subject to the terms of the permit until it expires or a Notice of Discontinuation is submitted in accordance with 64.6(5). If the person holding a general permit continues the activity beyond the expiration date, the conditions of the expired general permit will remain in effect provided the permittee submits a complete Notice of Intent for coverage under a renewed or reissued general permit within 180 days after the expiration date of the expired general permit. If the person continues an activity for which the general permit has expired and the general permit has not been reissued or renewed, the discharge must be permitted with an individual NPDES permit according to the procedures in 64.3(4) "a."

d. The Notice of Intent requirements shall not include a public notification when a general permit has been reissued or renewed provided the permittee has already submitted a complete Notice of Intent including the public notification requirements of 64.6(1). Another public notice is required when any information, including facility location, in the original public notice is changed.

**64.8(3) Continuation of expiring operation and NPDES permits.**

a. The conditions of an expired operation or NPDES permit will continue in force until the effective date of a new permit if:

- (1) The permittee has submitted a complete application under 60.4(2); and
- (2) The department, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit.

b. Operation and NPDES permits continued under this subrule remain fully effective and enforceable.

c. If a permittee is not in compliance with the conditions of the expiring or expired permit, the department may choose to do any of the following:

- (1) Initiate enforcement action on the permit which has been continued;
- (2) Issue a notice of intent to deny a permit under 64.5(1);
- (3) Reissue a permit with appropriate conditions in accordance with this subrule; or
- (4) Take other actions authorized by this rule.

[ARC 7625B, IAB 3/11/09, effective 4/15/09; ARC 9365B, IAB 2/9/11, effective 3/30/11]

**567—64.9(455B) Monitoring, record keeping and reporting by operation permit holders.** Operation permit holders are subject to any applicable requirements and provisions specified in the operation permit issued by the department.

[ARC 7625B, IAB 3/11/09, effective 4/15/09]

**567—64.10(455B) Silvicultural activities.** The following is adopted by reference: 40 CFR 122.27.

[ARC 7625B, IAB 3/11/09, effective 4/15/09]

**567—64.11 and 64.12** Reserved.

**567—64.13(455B) Storm water discharges.**

**64.13(1)** The following is adopted by reference: 40 CFR 122.26.

**64.13(2)** Small municipal separate storm sewer systems.

a. For any discharge from a regulated small municipal separate storm sewer system (MS4), the permit application must be submitted no later than March 10, 2003, if designated under this subrule.

b. All MS4s located in urbanized areas as defined by the latest decennial census and all MS4s which serve 10,000 people or more located outside urbanized areas and where the average population density is 1,000 people/square mile or more are regulated small MS4s unless waiver criteria established by the department are met and a waiver has been granted by the department.

c. Permit coverage requirements for MS4s located in urbanized areas and serving 1,000 or more people and fewer than 10,000 people may be waived if the following requirements are met:

(1) The department has evaluated all waters of the United States that receive a discharge from the MS4, and for all such waters, the department has determined that storm water controls are not needed based on wasteload allocations that are part of an EPA approved or established total maximum daily load (TMDL) that addresses the pollutants of concern or, if a TMDL has not been developed or approved, an equivalent analysis that determines sources and allocations for the pollutants of concern. The pollutants of concern include biochemical oxygen demand, sediment or a parameter that addresses sediment (total suspended solids, turbidity or siltation), pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the MS4.

(2) The department has determined that future discharges from the MS4 do not have the potential to result in exceedances of water quality standards, including impairment of designated uses or other significant water quality impacts including habitat and biological impacts.

*d.* Permit coverage requirements for MS4s located in urbanized areas and serving fewer than 1,000 people may be waived if the following requirements are met:

(1) The system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the NPDES storm water program.

(2) The MS4 discharges any pollutants that have been identified as a cause of impairment of any water body to which the MS4 discharges and the department has determined that storm water controls are not needed based upon wasteload allocations that are a part of an EPA approved or established TMDL that addresses the pollutants of concern.

*e.* Permit coverage requirements for MS4s located outside of urbanized areas and serving 10,000 or more people may be waived if the following criterion is met:

The MS4 is not discharging pollutants which are the cause of the impairment to a water body designated by the department as impaired.

*f.* Should conditions under which the initial waiver was granted change, the waiver may be rescinded by the department and permit coverage may be required.

*g.* MS4 applications shall, at a minimum, demonstrate in what manner the applicant will develop, implement and enforce a storm water management program designed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable, to protect water quality and to satisfy the appropriate water quality requirements of the Clean Water Act. The manner in which the permittee will address the following items must be addressed in the application: public education and outreach on storm water impacts, public involvement and participation, illicit discharge detection and elimination, construction site storm water runoff control, postconstruction storm water management in new development and redevelopment, and pollution prevention for municipal operations. Measurable goals which the applicant intends to meet and dates by which the goals will be accomplished shall be included with the application.

**64.13(3)** Waivers for storm water discharge associated with small construction activity. The director may waive the otherwise applicable requirements in a general permit for storm water discharge from small construction activities as defined in 567—Chapter 60 when:

*a.* The value of the rainfall erosivity factor (“R” in the Revised Universal Soil Loss Equation) is less than 5 during the period of construction activity. The rainfall erosivity factor is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE), pages 21-64, dated January 1997; or

*b.* Storm water controls are not needed based on a TMDL approved or established by the EPA that addresses the pollutant(s) of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. The pollutant(s) of concern includes sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity.

[ARC 7625B, IAB 3/11/09, effective 4/15/09]

**567—64.14(455B) Transfer of title and owner or operator address change.** If title to any disposal system or part thereof for which a permit has been issued under 567—64.2(455B), 567—64.3(455B) or 567—64.6(455B) is transferred, the new owners shall be subject to all terms and conditions of said permit. Whenever title to a disposal system or part thereof is changed, the department shall be notified in writing of such change within 30 days of the occurrence. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notifying the department of the transfer of title. Whenever the address of the owner is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all title transfers or address changes must be reported to the department by mail.

**64.14(1)** *Permits issued under rule 567—64.2(455B), 567—64.3(455B), or 567—64.6(455B), except 64.6(1)“a”(5).* If title to any disposal system or part thereof for which a permit has been issued is transferred, the new owners shall be subject to all terms and conditions of the permit. Whenever title to a disposal system or part thereof is changed, the department shall be notified in writing of such change within 30 days of the occurrence. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer of title. Whenever the address of the owner is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all title transfers and address changes must be reported to the department by mail.

**64.14(2)** *Permits issued under 64.6(1)“a”(5).* When the operator of a facility changes, the department must be notified of the transfer within 30 days. When a discharge is covered by the general permit, the operator of record shall be subject to all terms and conditions of the permit. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer. Whenever the address of the operator is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all transfers and address changes must be reported to the department by mail.

[ARC 7625B, IAB 3/11/09, effective 4/15/09; ARC 9553B, IAB 6/15/11, effective 7/20/11]

Rules 567—64.3(455B) to 567—64.14(455B) are intended to implement Iowa Code section 455B.173.

**567—64.15(455B) General permits issued by the department.** The following is a list of general permits adopted by the department through the Administrative Procedure Act, Iowa Code chapter 17A, and the term of each permit.

**64.15(1)** Storm Water Discharge Associated with Industrial Activity, NPDES General Permit No. 1, effective October 1, 2012, to October 1, 2017, as amended on March 26, 2014. Facilities assigned Standard Industrial Classification 1442, 2951, or 3273, and those facilities assigned Standard Industrial Classification 1422 or 1423 which are engaged primarily in rock crushing are not eligible for coverage under General Permit No. 1.

**64.15(2)** Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2, effective October 1, 2012, to October 1, 2017, as amended on March 26, 2014.

**64.15(3)** Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants, and Construction Sand and Gravel Facilities, NPDES General Permit No. 3, effective October 1, 2012, to October 1, 2017, as amended on March 26, 2014. General Permit No. 3 authorizes storm water discharges from facilities primarily engaged in manufacturing asphalt paving mixtures and which are classified under Standard Industrial Classification 2951, primarily engaged in manufacturing Portland cement concrete and which are classified under Standard Industrial Classification 3273, those facilities assigned Standard Industrial Classification 1422 or 1423 which are primarily engaged in the crushing, grinding or pulverizing of limestone or granite, and construction sand and gravel facilities which are classified under Standard Industrial Classification 1442. General Permit No. 3 does not authorize the discharge of water resulting from dewatering activities at rock quarries.

**64.15(4)** “Discharge from Private Sewage Disposal Systems,” NPDES General Permit No. 4, effective March 18, 2009, to March 17, 2011.

**64.15(5)** “Discharge from Mining and Processing Facilities,” NPDES General Permit No. 5, effective July 20, 2011.

**64.15(6)** “Discharge Associated with Well Construction Activities,” NPDES General Permit No. 6, effective March 17, 2010, to February 28, 2015.

**64.15(7)** “Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides,” NPDES General Permit No. 7, effective March 30, 2011, to March 29, 2016.

[ARC 7569B, IAB 2/11/09, effective 3/18/09; ARC 8520B, IAB 2/10/10, effective 3/17/10; ARC 9365B, IAB 2/9/11, effective 3/30/11; ARC 9553B, IAB 6/15/11, effective 7/20/11; ARC 0261C, IAB 8/8/12, effective 10/1/12; ARC 1337C, IAB 2/19/14, effective 3/26/14]

**567—64.16(455B) Fees.**

**64.16(1)** A person who applies for an individual permit or coverage under a general permit to construct, install, modify or operate a disposal system shall submit along with the application an application fee or a permit fee or both as specified in 64.16(3). Certain individual facilities shall also be required to submit annual fees as specified in 64.16(3) “b.” Fees shall be assessed based on the type of permit coverage the applicant requests, either as general permit coverage or as an individual permit. For a construction permit, an application fee must be submitted with the application. For General Permits Nos. 1, 2, 3 and 5, the applicant has the option of paying an annual permit fee or a multiyear permit fee at the time the Notice of Intent for coverage is submitted.

For individual storm water only permits, a one-time, multiyear permit fee must be submitted at the time of application. A storm water only permit is defined as an NPDES permit that authorizes the discharge of only storm water and any allowable non-storm water as defined in the permit. For all other non-storm water NPDES permits and operation permits, the applicant must submit an application fee at the time of application and the appropriate annual fee on a yearly basis. A non-storm water NPDES permit is defined as any individual NPDES permit or operation permit issued to a municipality, industry, semipublic entity, or animal feeding operation that is not an individual storm water only permit. If a facility needs coverage under more than one NPDES permit, fees for each permit must be submitted appropriately.

Fees are nontransferable. If the application is returned to the applicant by the department, the permit fee will be returned. No fees will be returned if the permit or permit coverage is suspended, revoked, or modified, or if the activity is discontinued. Failure to submit the appropriate fee at the time of application renders the application incomplete, and the department shall suspend processing of the application until the fee is received. Failure to submit the appropriate annual fee may result in revocation or suspension of the permit as noted in 64.3(11) “f.”

**64.16(2)** Payment of fees. Fees shall be paid by check or money order made payable to the “Iowa Department of Natural Resources.”

For facilities needing coverage under both a storm water only permit and a non-storm water NPDES permit, separate payments shall be made according to the fee schedule in 64.16(3).

**64.16(3)** Fee schedule. The following fees have been adopted:

a. For coverage under the NPDES general permits, the following fees apply:

(1) Storm Water Discharges Associated with Industrial Activity, NPDES General Permit No. 1.

Annual Permit Fee . . . . . \$175(per year)

or

Five-year Permit Fee . . . . . \$700

Four-year Permit Fee . . . . . \$525

Three-year Permit Fee . . . . . \$350

All fees are to be submitted with the Notice of Intent for coverage under the general permit.

(2) Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2. The fees are the same as those specified for General Permit No. 1 in subparagraph (1) of this paragraph.

(3) Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, and Rock Crushing Plants, NPDES General Permit No. 3. The fees are the same as those specified for General Permit No. 1 in subparagraph (1) of this paragraph.

(4) Discharge from Private Sewage Disposal Systems, NPDES Permit No. 4. No fees shall be assessed.

(5) Discharge from Mining and Processing Facilities, NPDES General Permit No. 5.

Annual Permit Fee . . . . .	\$125 (per year)
or	
Five-year Permit Fee . . . . .	\$500
Four-year Permit Fee . . . . .	\$400
Three-year Permit Fee . . . . .	\$300

New facilities seeking General Permit No. 5 coverage shall submit fees with the Notice of Intent for coverage. Maximum coverage is for five years. Coverage may also be obtained for four years, three years, or one year, as shown in the fee schedule above. Existing facilities shall submit annual fees by August 30 of every year, unless a multiyear fee payment was received in an earlier year. In the event a facility is no longer eligible to be covered under General Permit No. 5, the remainder of the fees previously paid by the facility shall be applied toward its individual permit fees.

b. Individual NPDES and operation permit fees. The following fees are applicable for the described individual NPDES permit:

(1) For permits that authorize the discharge of only storm water associated with industrial activity and any allowable non-storm water, a five-year permit fee of \$1,250 must accompany the application.

(2) For permits that authorize the discharge of only storm water from municipal separate storm sewer systems and any allowable non-storm water, a five-year permit fee of \$1,250 must accompany the application.

(3) For operation and non-storm water NPDES permits not subject to subparagraphs (1) and (2), a single application fee of \$85 as established in Iowa Code section 455B.197 is due at the time of application. The application fee is to be submitted with the application forms (as required by 567—Chapter 60) at the time of a new application, renewal application, or amendment application. Before an approved amendment request submitted by a facility holding a non-storm water NPDES permit can be processed by the department, the application fee must be submitted. Application fees will not be charged to facilities holding non-storm water NPDES permits when an amendment request is initiated by the director, when the requested amendment will correct an error in the permit, or when there is a transfer of title or change in the address of the owner as noted in 567—64.14(455B).

(4) For every major and minor municipal facility, every semipublic facility, every major and minor industrial facility, every facility that holds an operation permit (no wastewater discharge into surface waters), and every open feedlot animal feeding operation required to hold a non-storm water NPDES permit, an annual fee as established in Iowa Code section 455B.197 is due by August 30 of each year.

(5) For every municipal water treatment facility with a non-storm water NPDES permit, no fee is charged (as established in Iowa Code section 455B.197).

(6) For a new facility, an annual fee as established in Iowa Code section 455B.197 is due 30 days after the new permit is issued.

c. Wastewater construction permit fees. A single construction permit fee as established in Iowa Code section 455B.197 is due at the time of construction permit application submission.

**64.16(4)** Fee refunds for storm water general permit coverage—pilot project. Rescinded IAB 10/16/02, effective 11/20/02.

**64.16(5)** “Discharge Associated with Well Construction Activities,” NPDES General Permit No. 6. No fees shall be assessed.

**64.16(6)** “Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides,” NPDES General Permit No. 7. No fees shall be assessed.

[Editorial change: IAC Supplement 2/11/09; **ARC 7625B**, IAB 3/11/09, effective 4/15/09; **ARC 8520B**, IAB 2/10/10, effective 3/17/10; **ARC 9365B**, IAB 2/9/11, effective 3/30/11; **ARC 9553B**, IAB 6/15/11, effective 7/20/11]

**567—64.17(455B) Validity of rules.** If any section, paragraph, sentence, clause, phrase or word of these rules, or any part thereof, be 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.

**567—64.18(455B) Applicability.** This chapter shall apply to all waste disposal systems treating or intending to treat sewage, industrial waste, or other waste except waste resulting from livestock or poultry operations. All livestock and poultry operations constituting animal feeding operations as defined in 567—Chapter 65 shall be governed by the requirements contained in Chapter 65. However, the provisions of this chapter concerning NPDES permits which relate to notice and public participation, to the terms and conditions of the permit, to the reissuance of the permit and to monitoring, reporting and record-keeping activities shall apply to animal feeding operations which are required to apply for and obtain an NPDES permit to the extent that such requirements are not inconsistent with 567—Chapter 65. [ARC 1627C, IAB 9/17/14, effective 10/22/14]

These rules are intended to implement Iowa Code chapter 455B, division III, part 1.

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[Filed ARC 8520B (Notice ARC 7945B, IAB 7/15/09), IAB 2/10/10, effective 3/17/10]

[Filed ARC 9365B (Notice ARC 9056B, IAB 9/8/10), IAB 2/9/11, effective 3/30/11]

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[Filed ARC 0529C (Notice ARC 0270C, IAB 8/8/12), IAB 12/12/12, effective 1/16/13]

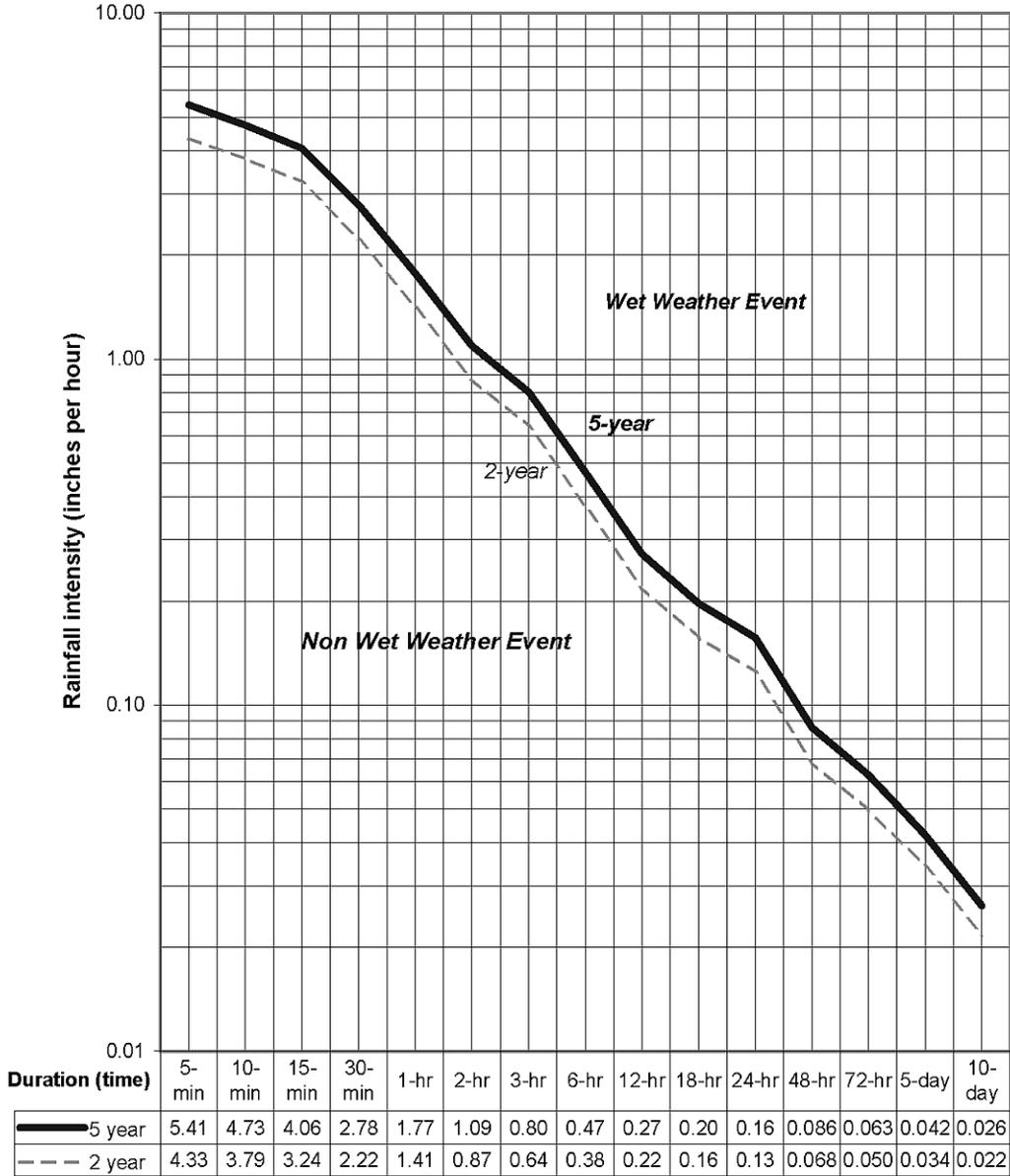
[Filed ARC 1337C (Notice ARC 1176C, IAB 11/13/13), IAB 2/19/14, effective 3/26/14]

[Filed ARC 1627C (Notice ARC 1421C, IAB 4/16/14), IAB 9/17/14, effective 10/22/14]

<sup>1</sup> Effective date of 64.2(9) "c" delayed 70 days by the Administrative Rules Review Committee. The 70-day delay of effective date of 64.2(9) "c" was lifted by the Administrative Rules Review Committee on 7/31/86.

### APPENDIX A Rainfall Intensity - Duration - Frequency Curve (5 and 2 year Return Intervals)

Data Source: Rainfall Frequency Atlas of the Midwest, Illinois State Water Survey, 1992.



Rainfall intensity data points (inches per hour)

[ARC 7625B, IAB 3/11/09, effective 4/15/09]

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.** In addition to the definitions in Iowa Code sections 455B.101 and 455B.171 and Iowa Code section 459.102, the following definitions shall apply to Division I of this chapter:

*“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 underlain by sand or gravel aquifers situated beneath flood plains along stream valleys and includes alluvial deposits associated with stream terraces and benches, contiguous wind-blown 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 a species classified as cattle, swine, horses, sheep, chickens or turkeys.

“*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 animal 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 federal Water Pollution Control Act, 33 U.S.C. Chapter 26, an animal feeding operation does not include a livestock market. Open feedlots and confinement feeding operations are considered to be separate animal feeding operations.

1. For purposes of water quality regulation, Iowa Code section 459.301 as amended by 2009 Iowa Acts, House File 735, section 6, provides that two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common area or system for manure disposal. For purposes of the air quality-related separation distances in Iowa Code section 459.202, Iowa Code section 459.201 provides that two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common system for manure storage. The distinction is due to regulation of animal feeding operations for water quality purposes under the federal Clean Water Act. The Code of Federal Regulations at 40 CFR §122.23 (2008) 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. 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

“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 section 459.201 and section 459.301 as amended by 2009 Iowa Acts, House File 735, section 6. 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 1800 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 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 a person of the management of the day-to-day operations of each of two or more confinement feeding operations. “Common management” does not include control over a contract livestock facility by a contractor, as defined in Iowa Code section 202.1.

*“Common ownership”* means the ownership of an animal feeding operation as a sole proprietor, or a majority ownership interest held by a person, in each of two or more animal feeding operations as a joint tenant, tenant in common, shareholder, partner, member, beneficiary, or other equity interest holder. The majority ownership interest is a common ownership interest when it is held directly, indirectly through a spouse or dependent child, or both.

*“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(455B,459,459A).

*“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 refuges listed in 571—subrule 52.1(2);
- 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 listed in “Outdoor Adventure Guide,” May 2002, Iowa Association of County Conservation Boards, which is incorporated by reference and is on file in the state law library;
- National wildlife refuges listed on the “Iowa Map Page,” June 24, 2002, which is incorporated by reference; this document is on file at the state law library where it is also available via the Internet at <http://midwest.fws.gov/maps/iowa.htm>;
- National monuments and national historic sites listed on the “National Park Service Guide for Iowa,” June 24, 2002, which is incorporated by reference; this document is on file at the state law library where it is also available via the Internet at <http://165.83.219.77/parksearch/state/state.cfm?statevar=ia>;
- Parks in Iowa that are under the jurisdiction of the U.S. Army Corps of Engineers and listed in “Lakeside Recreation for the Upper Mississippi Basin States,” June 24, 2002, which is incorporated by reference; this document is on file at the state law library where it is also available via the Internet at <http://www.usace.army.mil/inet/functions/cw/cecwo/uppermis.htm>.

“*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 of natural resources, 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 of natural resources. 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 “Designated Wetlands in Iowa,” effective August 23, 2006, which is incorporated by reference; this document is on file at the state law library where it is also available via the Internet at <http://www.iowadnr.gov/afo/files/deswetlands.pdf>.

“*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 as amended by 2009 Iowa Acts, Senate File 432, section 2, 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 567—Chapter 65 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.

*“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.

*“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(455B).

*“One hundred year flood plain”* means the land adjacent to a major water source, if there is at least 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, shelter houses, playground equipment, lakes as listed in Table 2 at the end of this chapter, 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.

“*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;
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 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 USDA Natural Resources Conservation Service (NRCS). A confinement feeding operation that utilizes a formed manure storage structure meets threshold requirements for an engineer if any of the following applies:

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.

[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]

**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 federal Water Pollution Control Act, 33 U.S.C. Ch. 26, and 40 CFR Pts. 122 and 412.

(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 at (515)281-8694. 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  $1 \times 10^{-7}$  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]

**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) as amended through July 30, 2012.

**65.3(4)** *Surface application of liquid manure on frozen or snow-covered ground.* A person who applies liquid manure on frozen or snow-covered ground shall comply with applicable NPDES requirements pursuant to the federal Water Pollution Control Act, 33 U.S.C. Chapter 26, and 40 CFR Parts 122 and 412, 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 without alternatives to manure application must have sufficient storage capacity to retain manure generated from December 21 to April 1 under normal circumstances in order to properly account for the volume of manure to be stored. For the winters of 2010-2011 through 2014-2015 only, 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]

**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.

**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]

<sup>1</sup> 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 as amended through July 30, 2012, are adopted by reference:

- 40 CFR 122.21, application for a permit.
- 40 CFR 122.23, concentrated animal feeding operations.
- 40 CFR 122.42(e), additional conditions applicable to specified categories of NPDES permits.
- 40 CFR 122.63(h), minor modification of permits.
- 40 CFR Part 412, concentrated animal feeding operations (CAFO) point source category.

[ARC 8998B, IAB 8/11/10, effective 9/15/10; ARC 1627C, IAB 9/17/14, effective 10/22/14]

**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).

**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 flood plain. Placing fill material on flood plain land to elevate the land above the one hundred year flood level will not be considered as removing the land from the one hundred year flood plain for the purpose of this 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, Natural Resources Conservation Service 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 issued prior to June 15, 2005, shall expire if construction, as defined in rule 567—65.8(459,459B), is not begun within one year of the date of issuance and shall expire on June 15, 2012, if construction is not completed by June 14, 2012. A construction permit issued on or after June 15, 2005, shall expire if construction, as defined in rule 567—65.8(459,459B), is not begun within one year and completed within four years of the date of issuance. The director may grant an extension of time to begin or complete construction if it is necessary or justified, upon showing of such necessity or justification to the director, unless a person who has an interest in the proposed operation is the subject of a pending enforcement action or a person who has a controlling interest in the proposed operation has been classified as a habitual violator.

**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. 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 begin construction of a confinement feeding operation structure located on alluvial soil until the department issues a declaratory order pursuant to subrule 65.7(9) that the proposed location is not in the one hundred year flood plain.

b. A person shall not construct a confinement feeding operation structure on a flood plain as provided in rule 567—71.13(455B) until the department issues a flood plain 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 flood plain determinations.** If the location of any proposed confinement feeding operation structure contains soils classified as alluvial determined pursuant to subrule 65.9(4), the owner shall petition the department for a declaratory order or a determination that the confinement feeding operation structure is not in the one hundred year flood plain. To be considered complete, the petition shall include all information necessary, pursuant to 567—Chapters 70 to 76, for the department to determine: (1) if the confinement feeding operation is proposed to be located on a one hundred year flood plain; (2) if a flood plain development permit for the operation is required; and (3) if a flood plain development permit may be issued if one is required. This information may include land surveys to determine elevations of the land within the footprint of the planned operation as well as flood plain and channel geometry. The petition for a declaratory order or determination shall be submitted to the department according to either of the following:

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 flood plain. If the proposed location of the confinement feeding operation structure is on the one hundred year flood plain, 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 flood plain, the department may require a flood plain 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 flood plain. If the proposed location of the confinement feeding operation structure is on the one hundred year flood plain, 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 flood plain, the department may require a flood plain 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]

**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, or excavation for footings 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 or compacting 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 flood plain. Placing fill material on flood plain land to elevate the land above the one hundred year flood level will not be considered as removing the land from the one hundred year flood plain for the purpose of this paragraph. In addition, a person shall not construct a confinement feeding operation structure on a flood plain as provided in 567—71.13(455B) until the department issues a flood plain development permit pursuant to 567—Chapters 70 to 76.

e. A person shall not construct a confinement feeding operation structure on land that contains alluvial soils, according to the Soil Survey published by the Natural Resources Conservation Service of the United States Department of Agriculture, and determined according to subrule 65.9(4), unless the person has received a declaratory order or a determination from the department of natural resources that the proposed location of the structure is not on the one hundred year flood plain, pursuant to subrule 65.7(9).

f. 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]

**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 and should be submitted to the department at least 120 days prior to the date the proposed construction is scheduled to begin. At the time the department receives a complete application, the department shall make a determination regarding the approval or denial of the permit in accordance with subrule 65.10(5). A construction permit application for a confinement feeding operation shall be filed as instructed on the form and shall include the following:

a. 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 a USDA Natural Resources Conservation Service (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 flood plain, and a flood plain 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 flood plain pursuant to paragraph 65.8(3) "e" and a copy of the department's flood plain 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) Alluvial soils submittal requirements.** Prior to beginning construction or expansion of a confinement feeding operation, the person planning the construction shall determine whether the proposed confinement feeding operation structure will be located in soils classified as alluvial as defined in 567—65.1(459,459B) and pursuant to paragraph 65.8(3)“*e.*” The alluvial soils determination shall be obtained by using the AFO Siting Atlas located at the department’s official Web site or by consulting a qualified department staff person, a soils professional normally engaged in the practice of soil investigation, or NRCS qualified staff. The alluvial soils determination shall be submitted to the department according to the following:

*a.* If the proposed location is not in alluvial soils, the person planning the construction shall submit a printed map from the AFO Siting Atlas clearly showing the location of each proposed confinement feeding operation structure or a written statement from qualified department staff, a soils professional normally engaged in the practice of soil investigation or NRCS qualified staff, with the construction permit application documents as required in subrule 65.9(1) or with the construction design statement as required in subrule 65.9(3) if a construction permit is not required.

*b.* If the proposed location is in alluvial soils, the person planning the construction shall petition the department for a declaratory order or a determination according to procedures required in subrule 65.7(9). It is recommended that the person planning the construction consult with qualified department staff before petitioning for a declaratory order or a determination. The department’s determination indicating that the location is not in the one hundred year flood plain and a copy of the department’s flood plain development permit pursuant to 567—Chapters 70 to 76, if required, must be submitted with the construction permit application documents pursuant to subrule 65.9(1). If a construction permit is not required pursuant to subrule 65.7(1), the department’s declaratory order indicating that the location is not in the one hundred year flood plain and a copy of the department’s flood plain development permit pursuant to 567—Chapters 70 to 76, if required, must be submitted when a construction design statement is filed pursuant to subrules 65.9(3) and 65.9(6).

**65.9(5) Karst terrain submittal requirements.** Prior to beginning construction of a confinement feeding operation, the person planning the construction shall determine whether the proposed confinement feeding operation structure will be located in karst terrain, as defined in 567—65.1(459,459B). The karst terrain determination shall be obtained by using the AFO Siting Atlas located at the department’s official Web site or by consulting a qualified department staff person, a soils professional normally engaged in the practice of soil investigation or NRCS qualified staff. The 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 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 semi-liquid manure, the secondary containment barrier design shall include engineering drawings prepared and signed by a professional engineer licensed in the state of Iowa or an NRCS qualified staff person.

*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]

### **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 the permit application. 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 as amended by 2009 Iowa Acts, Senate File 432, section 2.

(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 the application to the department. Regardless of whether the department receives comments or an evaluation by a county board of supervisors, the department must render a determination or a preliminary determination to approve or disapprove an application for a construction permit within 60 days following the applicant's delivery of an application to the department. However, the applicant may deliver a notice requesting a continuance. Upon receipt of a notice, the time required for the county or department to act upon the application shall be suspended for the period provided in the notice, but for not more than 30 days after the department's receipt of the notice. The applicant may submit more than one notice. However, the department may terminate an application if no action is required by the department for one year following delivery of the application to the board. The department may also provide for a continuance when it considers the application. The department shall provide notice to the applicant and the board of the continuance. The time required for the department to act upon the application shall be suspended for the period provided in the notice, but for not more than 30 days. However, the department shall not provide for more than one continuance. If review of the application is delayed because the application is incomplete, and the applicant fails to supply requested information within a reasonable time prior to the deadline for action on the application, the permit may be denied and a new application will be required if the applicant wishes to proceed.

The department will approve or disapprove an application as follows:

*a.* If the county board of supervisors does not submit a construction evaluation resolution to the department, fails to submit an adopted recommendation, submits only comments, or fails to submit comments, the department shall approve the application if the application meets the requirements of this chapter and Iowa Code chapter 455B. The department will disapprove the application if it does not meet such requirements.

*b.* If the board of supervisors for the county in which the confinement feeding operation is proposed to be constructed has filed a county construction evaluation resolution and submits an adopted recommendation to approve the construction permit application, which may be based on a satisfactory rating produced by the master matrix, to the department, the department shall preliminarily approve an application for a construction permit if the department determines that the application meets the requirements of this chapter and Iowa Code chapter 455B. The department shall preliminarily disapprove an application that does not satisfy the requirements of this chapter and Iowa Code chapter 455B regardless of the adopted recommendation of the board of supervisors. The department shall

consider any timely filed comments made by the board as provided in this subrule to determine if an application meets the requirements of this chapter and Iowa Code chapter 455B.

*c.* If the board submits to the department an adopted recommendation to disapprove an application for a construction permit that is based on a rating produced by the master matrix, the department shall first determine if the application meets the requirements of this chapter and Iowa Code chapter 455B. The department shall preliminarily disapprove an application that does not satisfy the requirements of this chapter and Iowa Code chapter 455B regardless of any result produced by using the master matrix. If the application meets the requirements of this chapter and Iowa Code chapter 455B, 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 chapter 455B. The department shall consider any timely filed comments made by the board as provided in this subrule to determine if an application meets the requirements of this chapter and Iowa Code chapter 455B.

**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 chief of the department's water quality bureau by facsimile transmission to (515)281-8895 that the board intends to file a demand for hearing. The demand for hearing shall be sent to Director, Department of Natural Resources, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319, 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 chief of the department's water quality bureau by facsimile transmission to (515)281-8895 that the applicant intends to file a demand for hearing. The demand for hearing shall be sent to Director, Department of Natural Resources, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319, 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 Web site 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 Web site 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 chapter 455B 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 chapter 455B 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]

**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 “*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 USDA Natural Resources Conservation Service (NRCS) qualified staff in cases where the department cannot confirm a separation distance.

*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]

**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 flood plain.**

**65.12(1)** *Exemptions to separation distance requirements from a residence, business, church, school and public use area.* As specified in Iowa Code section 459.205 as amended by 2009 Iowa Acts, House File 735, section 4, the separation distances required from residences, businesses, churches, schools and public use areas specified in Iowa Code section 459.202 and section 459.204B as amended by 2009 Iowa Acts, House File 735, section 3, and required in subrules 65.11(1), 65.11(2) and 65.11(7), including Tables 6 to 6d at the end of this chapter shall not apply to the following:

*a.* 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 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 as amended by 2009 Iowa Acts, House File 735, section 4, the separation required from thoroughfares specified in Iowa Code section 459.202 and summarized in Tables 6 to 6d at the end of this chapter shall not apply to any of the following:

*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 as amended by 2009 Iowa Acts, House File 735, section 4, the separation distance

required between a confinement feeding operation structure and a cemetery shall not apply if any of the following apply:

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 flood plain construction and separation distance requirements from water sources, major water sources, known sinkholes, agricultural drainage wells and designated wetlands—replacement formed manure storage structures.* As specified in Iowa Code section 459.310, subsection 4, a separation distance required in subrules 65.11(3) and 65.11(4) or the prohibition against construction of a confinement feeding operation structure on a one hundred year flood plain as provided in paragraph 65.8(3) “e” shall not apply to a confinement feeding operation that includes a confinement feeding operation structure that was constructed prior to March 1, 2003, if any of the following apply:

a. One or more unformed manure storage structures that are part of the confinement feeding operation are replaced with one or more formed manure storage structures on or after April 28, 2003, and all of the following apply:

(1) 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 as amended by 2009 Iowa Acts, House File 735, section 7, and subrule 65.15(14).

b. A replacement formed manure storage structure that is part of the confinement feeding operation is constructed on or after April 28, 2003, pursuant to a variance granted by the department. In granting the variance, the department shall make a finding of all of the following:

(1) 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 as amended by 2009 Iowa Acts, House File 735, section 7, 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]

**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. A device to allow monitoring of the water in the drainage tile lines installed to lower the groundwater table and a device to allow shutoff of the drainage tile lines shall be installed if the drainage tile lines do not have a surface outlet accessible on the property where the unformed manure storage structure is located. All other drainage tile lines discovered shall be rerouted, capped, or plugged with concrete, Portland cement concrete grout or similar materials.

*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 by March 20, 1997, for drainage tile lines as provided in this subrule, and all applicable records of known drainage tiles shall be examined. The owner of an aerobic structure, anaerobic lagoon, earthen manure storage basin or earthen waste slurry storage basin, other than an egg washwater storage structure, that is part of a confinement feeding operation with a construction permit granted before January 1, 1993, but after May 31, 1985, shall have an inspection conducted by July 1, 2000, for drainage tiles as provided in this subrule, and all applicable records of known drainage tiles shall be examined.

*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 "a" by using a gravity flow tile drainage system or other permanent nonmechanical system for artificial lowering of the groundwater table. Detailed engineering and soil drainage information shall be provided with a construction permit application for an unformed manure storage structure or earthen egg washwater storage structure to confirm the adequacy of the proposed permanent system to provide the required drainage without materially increasing the seepage potential of the site. Drainage tiles shall not be located closer than 6 feet horizontally from the structure's liquid surface at maximum operating

depth. (See 65.15(1)“b” for monitoring and shutoff requirements for drainage tile lines installed to lower the groundwater table.)

(2) Formed structures. For a formed manure storage structure or a formed egg washwater storage structure, partially or completely constructed below the normal soil surface, a tile drainage system or other permanent system for artificial lowering of groundwater levels shall be installed around the structure if the groundwater table is above the bottom of the structure. (See 65.15(1)“b” 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 Natural Resources Conservation Service (NRCS). If a construction permit is required, the department must approve the groundwater table determination.

(1) Current groundwater levels shall be measured using at least one of the following for either formed or unformed structures:

1. Temporary monitoring wells. Each of the three temporary monitoring wells shall be developed according to 567—subrule 110.11(8). 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. 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 flood plain.

**65.15(11) Seals for unformed manure storage structures and unformed egg washwater storage structures.** An unformed manure storage structure or egg washwater storage structure shall be sealed such that seepage loss through the seal is as low as practically possible. The percolation rate shall not 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 (NH<sub>3</sub> + NH<sub>4</sub>) 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 USDA Natural Resources Conservation Service (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  $6 \times 6$ -W1.4  $\times$  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.

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 have been installed. 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 or two test pits, equally spaced within each 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 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 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.

(2) If the manure storage structure is used for the storage of only dry manure, the secondary containment barrier shall be designed to contain at least 10 percent of the volume of manure stored. Detailed drawings prepared by the owner or a representative must be submitted according to procedures set forth in subrule 65.9(8) and must show compliance with 65.15(17) "a" to "d" or "e." If the containment barrier does not surround the manure storage structure, upland drainage must be diverted.

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  $1 \times 10^{-6}$  cm/sec and shall be maintained to prevent downward water movement at rates greater than  $1 \times 10^{-5}$  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.

**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]

**567—65.16(459,459B) Manure management plan requirements.**

**65.16(1)** In accordance with Iowa Code section 459.312 as amended by 2009 Iowa Acts, Senate File 432, section 2, the following persons are required to submit manure management plans to the department, including an original manure management plan and an updated manure management plan, as required by this rule:

*a.* 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.

**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 plan must reflect all amendments made during the period of time since the previous manure management plan submission. 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. 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]

**567—65.17(459,459B) Manure management plan content requirements.** All manure management plans are to be submitted on forms or electronically as prescribed by the department. The plans shall include all of the information specified in Iowa Code section 459.312 as amended by 2009 Iowa Acts, Senate File 432, section 2, and as described below.

**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<sub>2</sub>O<sub>5</sub>) 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<sub>2</sub>O<sub>5</sub>) 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<sub>2</sub>O<sub>5</sub>) 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.
- c. Nitrogen in addition to that allowed in the manure management plan may be applied up to the amounts, indicated by soil or crop nitrogen test results, necessary to obtain the optimum crop yield.

**65.17(5)** *Total nitrogen and total phosphorus (as P<sub>2</sub>O<sub>5</sub>) 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<sub>2</sub>O<sub>5</sub>) 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 the Natural Resources Conservation Service 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. This recorded information shall be maintained for three years following the year of application or for the length of the crop rotation, whichever is greater. Records shall be maintained for five years following the year of application or for the length of the crop rotation, whichever is greater. Records shall be maintained at the site of the confinement feeding operation or at a residence or office of the owner or operator of the facility within 30 miles of the site. Records to demonstrate compliance with the manure management plan shall include the following:

*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 at least once every four years. 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 the USDA Natural Resources Conservation Service (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. Effective September 15, 2010, in all original and complete manure management plans submitted to the department for approval, the dominant critical soil map unit consistent with NRCS conservation planning guidelines shall be used to calculate sheet and rill erosion for the phosphorus index. (See NRCS Technical Note No. 29).

*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.

*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.* Effective May 14, 2013, the owner of a confinement feeding operation that is required to submit a manure management plan shall not apply liquid manure 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. Not later than November 14, 2012, the commission shall review the available scientific evidence and determine whether any further or alternative action is necessary. The prohibition on applying liquid manure shall not become effective unless the commission publishes a notice in the Iowa Administrative Bulletin confirming that it has reviewed the available scientific evidence and that the prohibition shall take effect on May 14, 2013.

[ARC 8120B, IAB 9/9/09, effective 10/14/09; ARC 8998B, IAB 8/11/10, effective 9/15/10]

**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 applying 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. After June 30, 2001, 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]

**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 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. 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]

**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(455B,459,459A) Definitions.** 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:

“*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 1250 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(455B,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 a species classified as cattle, swine, horses, sheep, chickens or turkeys.

“*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 federal Water Pollution Control Act, 33 U.S.C. Chapter 26, as amended, 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

“*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 operating 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 a person 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 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.

“*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. Assistance in identifying karst terrain or potential karst terrain may be obtained by referring to: [http://csbweb.igsb.uiowa.edu/imgate/maps/afo\\_siting\\_atlas.asp](http://csbweb.igsb.uiowa.edu/imgate/maps/afo_siting_atlas.asp).

“*Large concentrated animal feeding operation*” or “*large CAFO*.” An AFO is defined as a large CAFO if it stables or confines as many as or more than the numbers of animals specified in any of the following categories:

1. 700 mature dairy cows, whether milked or dry;
2. 1,000 cattle, including but not limited to heifers, steers, bulls, veal calves and cow/calf pairs;
3. 2,500 swine each weighing 55 pounds or more;
4. 10,000 swine each weighing less than 55 pounds;

5. 500 horses;
6. 10,000 sheep or lambs;
7. 55,000 turkeys;
8. 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system;
9. 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
10. 82,000 laying hens, if the AFO uses other than a liquid manure handling system;
11. 1,000 animal units, where more than one category of animals is maintained using the same type of operation.

*“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.

*“Medium concentrated animal feeding operation”* or *“medium CAFO.”* The term medium CAFO includes any AFO with the type and number of animals that fall within any of the ranges listed in paragraph *“a”* of this definition and which has been defined or designated as a CAFO. An AFO is defined as a medium CAFO if:

- a. The type and number of animals that it stables or confines fall within any of the following ranges:
  - (1) 200 to 699 mature dairy cows, whether milked or dry;
  - (2) 300 to 999 cattle, including but not limited to heifers, steers, bulls, veal calves and cow/calf pairs;
  - (3) 750 to 2,499 swine each weighing 55 pounds or more;
  - (4) 3,000 to 9,999 swine each weighing less than 55 pounds;
  - (5) 150 to 499 horses;
  - (6) 3,000 to 9,999 sheep or lambs;
  - (7) 16,500 to 54,999 turkeys;
  - (8) 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system;
  - (9) 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
  - (10) 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system;
  - (11) 300 to 999 animal units, where more than one category of animals is maintained using the same type of operation; and

b. Either one of the following conditions is met:

- (1) Manure or process wastewater is discharged into waters of the United States through a man-made ditch, flushing system, or other similar man-made device; or
- (2) Manure or process wastewater is discharged directly into waters of the United States which originate outside of and pass over, across or through the facility or otherwise come into direct contact with animals confined in the operation.

*“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, 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.

*“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, 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 is located or the person who has title to the animal feeding operation structures. “Owner” does not include a person who has a lease to use the land where the animal feeding operation is located or to use the animal feeding operation structures.

*“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 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”* means that portion of open feedlot 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.

*“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, 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 as that section existed on July 1, 2005.

[ARC 8120B, IAB 9/9/09, effective 10/14/09; ARC 8998B, IAB 8/11/10, effective 9/15/10]

**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 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 any of the following apply:

(1) For an open feedlot operation that houses cattle, other than veal calves, the operation is designed, constructed, operated, and maintained to comply with the requirements of 567—subrule 62.4(12) and not to discharge manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent resulting from precipitation events less than or equal to the 25-year, 24-hour precipitation event into any waters of the United States.

(2) For an open feedlot operation that houses veal calves, swine, chickens, or turkeys, the operation is designed, constructed, operated, and maintained not to discharge manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent resulting from precipitation events less than or equal to the 100-year, 24-hour precipitation event into any waters of the United States.

*b.* 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 as defined in rule 567—65.100(455B,459,459A) or a designated CAFO pursuant to rule 567—65.103(455B,459A) shall not discharge manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent from an open feedlot operation structure or production area into any waters of the United States, unless the discharge is pursuant to an NPDES permit. The control of manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent originating from the open feedlot operation may be accomplished by the use of a solids settling facility, settled open feedlot effluent basin, AT system, or any other open feedlot effluent control structure or practice approved by the department. The department may require the diversion of surface drainage prior to contact with an open feedlot operation structure. Settleable solids shall be settled from open feedlot effluent before the effluent enters a settled open feedlot effluent basin or AT system.

**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) as amended through July 30, 2012.

**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 manure and settleable solids. Stockpiles of manure 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(455B,459,459A), shall be reported to the department as provided in this subrule. This subrule does not apply to land application of manure, process wastewater, open feedlot effluent, settled open feedlot effluent 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 or settleable solids from an open feedlot operation who becomes aware of a release shall notify the department of the occurrence of release as soon as possible but not later than six hours after the onset or discovery of the release by contacting the department at (515)281-8694. 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, 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]

**567—65.102(455B,459A) NPDES permits required for CAFOs.** Concentrated animal feeding operations (CAFOs) are point sources that require NPDES permits.

**65.102(1) *Duty to apply.*** Each CAFO owner or operator must apply for an NPDES permit, except as provided in subrule 65.102(2). The owner or operator of a CAFO that includes an open feedlot must apply for an individual NPDES permit. The application procedures are prescribed in 567—65.104(455B,459A).

**65.102(2) *Exception.*** An open feedlot operation shall not be required to obtain an NPDES permit if the operation does not discharge manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent into any waters of the United States.

**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.

**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.

<sup>1</sup> 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 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 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.*** Applications for NPDES permits received from animal feeding operations which are not defined as CAFOs will be acknowledged and returned to the applicant. NPDES permits will not be issued for facilities which are not defined or designated as CAFOs.

**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 2005 Iowa Code Supplement chapter 459A, 567—subrule 62.4(12), and this chapter that apply to animal feeding operations shall govern. For CAFOs that maintain cattle, swine, or poultry, the following conditions shall be included:

*a. Nutrient management plan.* Open feedlot CAFOs shall comply with the requirements of 567—65.112(459A) and any additional nutrient management plan requirements for CAFOs in these rules by December 31, 2006. CAFOs that seek to obtain coverage under an NPDES permit issued after December 31, 2006, shall have a nutrient management plan developed and implemented upon the date of permit coverage.

*b. 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 two 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, NH<sub>4</sub> 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, NH<sub>4</sub> 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, NH<sub>4</sub> 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: NH<sub>4</sub> N, NO<sub>3</sub> 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 NO<sub>3</sub> N, NH<sub>4</sub> 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 NO<sub>3</sub> N, NH<sub>4</sub> 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 NO<sub>3</sub> N, NH<sub>4</sub> 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 NO<sub>3</sub> N, NH<sub>4</sub> 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 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 or the 100-year, 24-hour precipitation event as applicable pursuant to 65.101(2)“a.”

*f. Annual reporting requirements for all CAFOs with systems other than AT systems.* All permittees must submit an annual report to the department by January 10 of the following year. The annual report must include:

- (1) 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; and
- (6) A statement indicating whether the current version of the CAFO’s nutrient management plan was developed or approved by a certified nutrient management planner.

*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) During the first two years of operation of an AT system, a permittee will be issued a two-year NPDES permit. Renewal of this permit 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]

**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 the Natural Resources Conservation Service of the United States Department of Agriculture certifying that the construction of the settled open feedlot effluent basin or AT system complies with the construction design standards required in Division II of chapter 65.

**65.105(4)** *Plan review criteria; time for approval or disapproval.*

a. *Plan review criteria.* Review of plans and specifications shall be conducted by the department to determine the potential of the settled open feedlot effluent basin or AT system to achieve the level of control being required of the open feedlot operation. Applicable criteria contained in federal law, state law, these rules, Natural Resources Conservation Service 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. 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.

**65.105(5)** *Expiration of construction permits.* The construction permit shall expire if construction, as defined in rule 567—65.106(459A), is not begun within one year and completed within three years of the date of issuance. A construction permit issued prior to September 14, 2005, shall expire if construction, as defined in rule 567—65.106(459A), is not begun within one year of the date of issuance and shall expire on September 15, 2012, if construction is not completed by September 14, 2012. The 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]

**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 or compacting at the site.
- d. Installation of temporary utility services.

**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 Natural Resources Conservation Service 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.

**567—65.108(455B,459A) Water well separation distances for open feedlot operations.**

**65.108(1) *Settled open feedlot effluent basins.*** 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 and deep wells.

**65.108(2) *Open feedlots, solids settling facilities, feed storage runoff control structures and AT systems.*** Open feedlots, solids settling facilities, feed storage runoff control structures and AT systems shall be separated from water wells as follows: for both public 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]

**567—65.109(459A) Settled open feedlot effluent basins—investigation, design and construction requirements.** A settled open feedlot effluent basin required to be constructed pursuant to a construction permit issued pursuant to 2005 Iowa Code Supplement section 459A.205 shall meet the design and construction requirements set forth in this rule.

**65.109(1) *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, at least one soil coring shall be taken to a minimum depth of 25 feet below the bottom elevation of the settled open feedlot effluent basin or into bedrock, whichever is shallower. The department may accept information from the department's Geosam database in lieu of the coring. If bedrock is encountered, adequate investigation of the bedrock formation shall be made to determine if it consists of limestone, dolomite, or other soluble rock.

(5) 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 Natural Resources Conservation Service (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 settled open feedlot effluent basins 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 DNR permits and provide protection from inundation by flood waters, as specified in 567—Chapters 71 and 72.

*b. Permits for dam construction.* Open feedlot operation structures exceeding storage capacity or dam height thresholds may be required to obtain DNR 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.

**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 Natural Resources Conservation Service (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 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 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.

#### **567—65.111(459A) Construction certification.**

**65.111(1)** The owner of an open feedlot operation who is issued a construction permit for a settled open feedlot effluent basin or AT system as provided in rule 567—65.105(459A) on or after July 1, 2005, shall submit to the department a construction certification from a professional engineer certifying all of the following:

*a.* The 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 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.

**567—65.112(459A) Nutrient management plan requirements.**

**65.112(1)** The owner of an open feedlot operation which has an animal unit capacity of 1,000 animal units or more or which is required to be issued an NPDES permit shall develop and implement a nutrient management plan meeting the requirements of this rule. The owner of an open feedlot operation that seeks to obtain or is required to be issued an NPDES permit after December 31, 2006, shall develop and implement a nutrient management plan meeting the requirements of this rule no later than the date on which the NPDES permit becomes effective. For the purpose of this rule, requirements pertaining to open feedlot effluent also apply to settled open feedlot effluent and settleable solids.

**65.112(2)** 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 Web site. The notice for public comment shall include the address of the department's Internet Web site as required by the department.

**65.112(8)** 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<sub>2</sub>O<sub>5</sub>) 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 levels 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.

*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.

**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 a 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.

**65.112(11)** Settled open feedlot effluent on land planted to soybeans. Effective May 14, 2013, the owner of an open feedlot operation that is required to submit a nutrient management plan shall not apply liquid manure, process wastewater or settled open feedlot effluent to land that is currently planted to soybeans or to land where the current crop has been harvested that will be planted to soybeans the next crop season. Not later than November 14, 2012, the commission shall review the available scientific evidence and determine whether any further or alternative action is necessary. The prohibition on applying liquid manure, process wastewater or settled open feedlot effluent shall not become effective unless the commission publishes a notice in the Iowa Administrative Bulletin confirming that it has reviewed the available scientific evidence and that the prohibition shall take effect on May 14, 2013.

[ARC 8120B, IAB 9/9/09, effective 10/14/09; ARC 8998B, IAB 8/11/10, effective 9/15/10]

**567—65.113(459A) Complaint investigations.** Complaints of violations of Iowa Code chapter 455B or 459, or 2005 Iowa Code Supplement chapter 459A, 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 or 459, or 2005 Iowa Code Supplement chapter 459A, 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 or 459, or 2005 Iowa Code Supplement chapter 459A, 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.

**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.

## 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 0.05 inch per day for each of the three days immediately preceding application and no precipitation is occurring on the day of application.

## 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 0.05 inch per day for each of the three days immediately preceding application and no precipitation is occurring on the day of application.

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 0.05 inch per day for each of the three days immediately preceding application and no precipitation is occurring on the day of application.

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 0.05 inch per day for each of the three days immediately preceding application and no precipitation is occurring on the day of application.

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 0.05 inch per day for each of the three days immediately preceding application and no precipitation is occurring on the day of application.

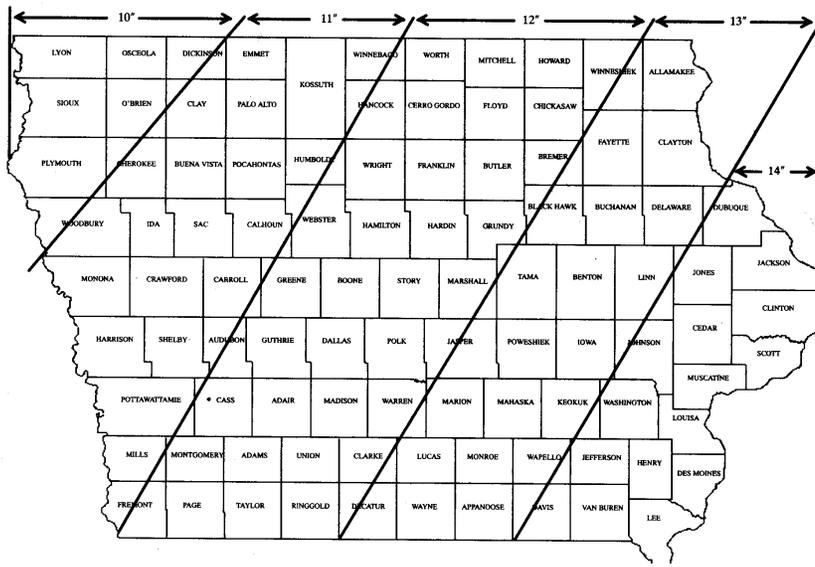


FIGURE 1. – Feedlot runoff value, in inches, for determining required capacity of the “System 1: One Open Feedlot Effluent Application Period Per Year” manure control system.

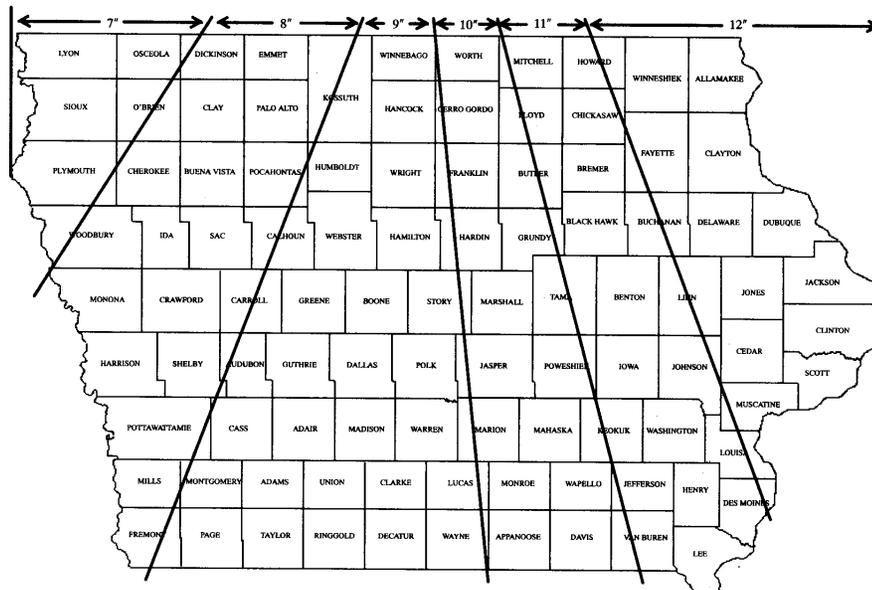


FIGURE 2. – Feedlot runoff value, in inches, for determining required capacity of the “System 2: July and October Open Feedlot Effluent Application” manure control system.

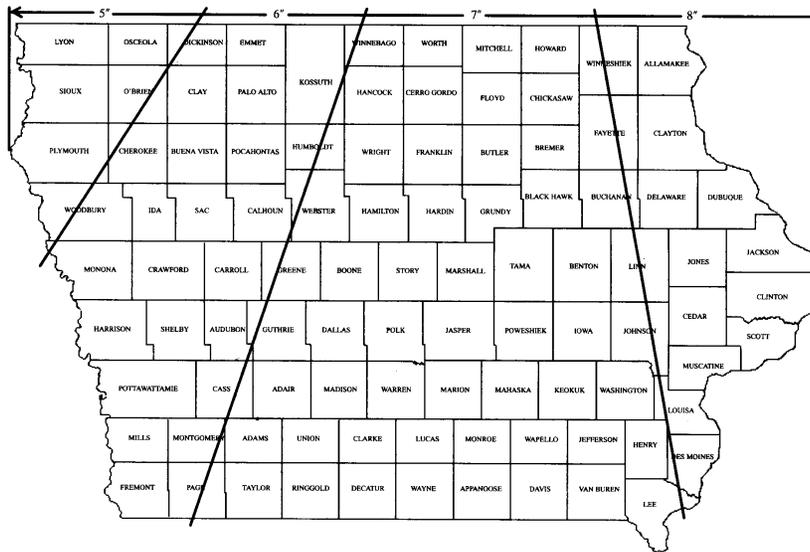


FIGURE 3. – Feedlot runoff value, in inches, for determining required capacity of the “System 3: April, July, and October Open Feedlot Effluent Application” manure control system.

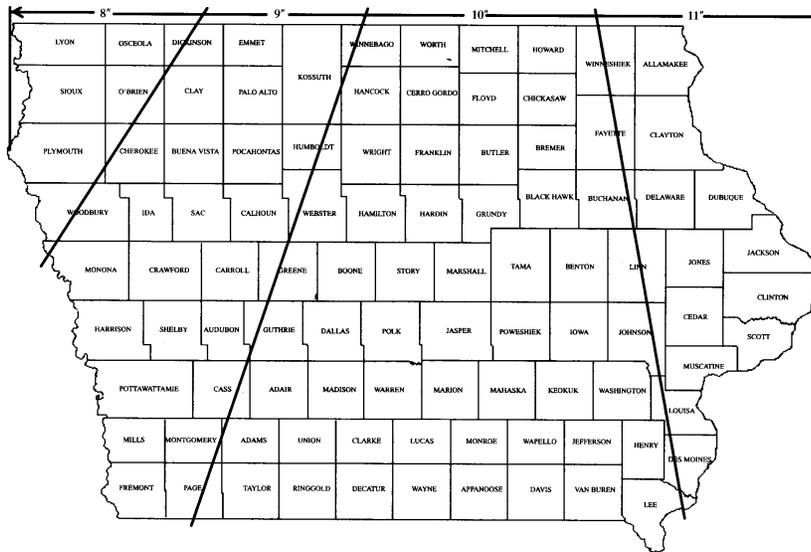


FIGURE 4. – Feedlot runoff value, in inches, for determining required capacity of the “System 5: April/May and October/November Open Feedlot Effluent Application” manure control system.

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.

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.

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.

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.

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.

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.

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.

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.

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 <http://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 <http://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](mailto: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.

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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.

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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.

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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.

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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.

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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.

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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.

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.

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.

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.

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.**

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.

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.

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.

**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.

**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.

**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.

**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.

**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.

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.

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 <http://www.state.ia.us/government/dnr/organiza/ppd/prowater.htm#Location%20of%20PWA's%20in>.

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

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.

- 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.

- 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 <http://www.iowaworkforce.org/centers/regionalsites.htm>. Select the appropriate region and then select "Regional Profile."

- 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.

- 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.

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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.

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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.

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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.

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	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

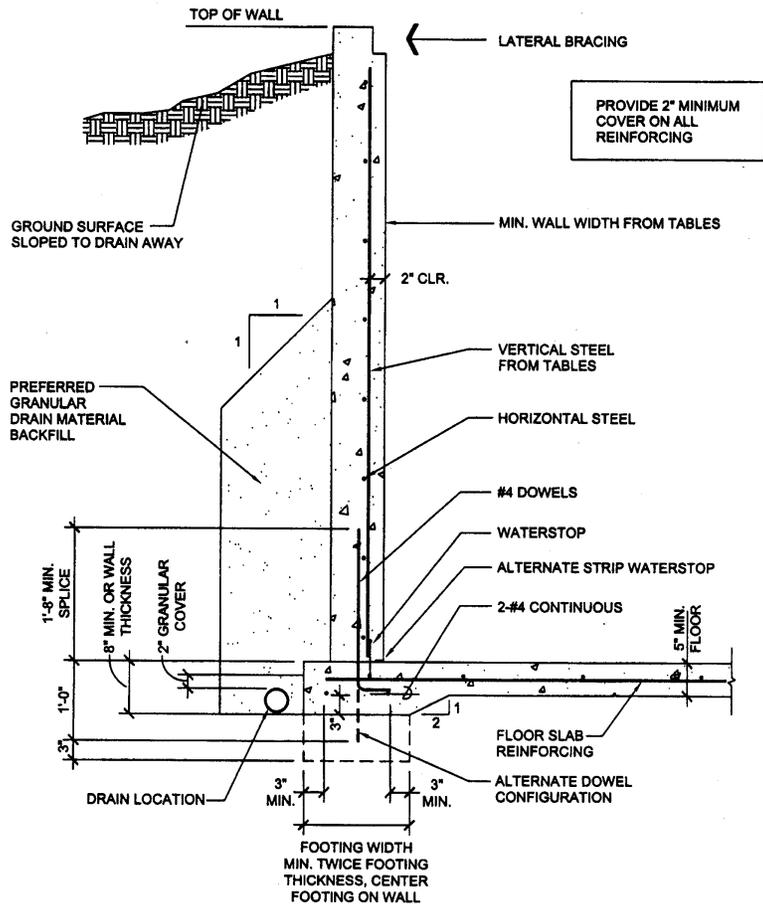
Wall height (feet)	Wall thickness (inches)	Steel Grade			
		Grade 40		Grade 60	
		Bar	Space o.c. (inches)	Bar	Space o.c. (inches)
4 or less	6	#4	16.5	#4	18.0
		#5	18.0	#5	18.0
4 or less	8	#4	12.0	#4	13.5
		#5	18.0	#5	18.0
6	6	#4	8.0	#4	12.0
		#5	12.5	#5	16.5
6	8	#4	9.5	#4	13.5
		#5	15.0	#5	18.0
8	8	#4	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

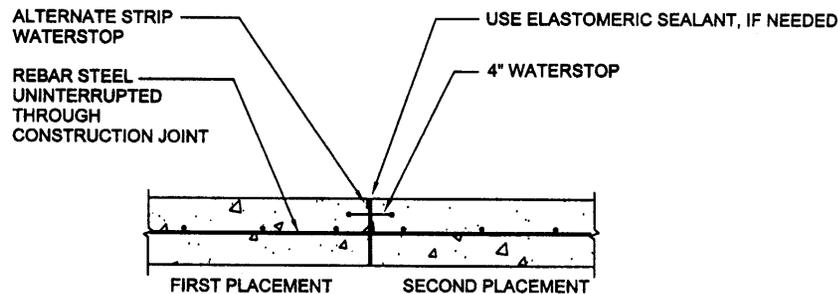
Wall thickness (inches)	Steel Grade			
	Grade 40		Grade 60	
	Bar	Space o.c. (inches)	Bar	Space o.c. (inches)
6	#4	16.5	#4	18.0
	#5	18.0	#5	18.0
8	#4	12.0	#4	13.5
	#5	18.0	#5	18.0
10	#4	9.5	#4	11.0
	#5	15.0	#5	17.0

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 Parmenter 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
Clayton	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)
	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
Hancock	White Fox Creek	Mouth (S33, T89N, R25W) to north county line (S3, T89N, R25W)
	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)
Henry	Soldier River	Mouth (S16, T80N, R45W) to north county line (S1, T81N, R44W)
	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)
Howard	Skunk River	South county line (S35, T70N, R05W) to west county line (S19, T73N, R07W)
	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, R01W) 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
Linn	Sugar Creek	South line (S26, T69N, R06W) to mouth (S26, T67N, R05W)
	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
Mitchell	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)
	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)
Monona	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)
	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)
Monroe	West Fork Ditch	Mouth (S12, T84N, R45W) to north county line (S4, T85N, R45W)
	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)
	Wapsinoc Creek	Mouth (S19, T77N, R03W) to confluence of East Branch and Middle Branch (S6, T78N, R03W)
	Weise Slough	S19, T78N, R02W
	West Branch Wapsinoc 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
Polk	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)
	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	Location
Adair	Greenfield Lake	1 mile Southwest of Greenfield
	Orient Lake	1 mile Southwest of Orient
	Meadow	6 miles Northeast of Greenfield
	Mormon Trail Lake	1½ miles Southeast of Bridgewater
	Nodaway Lake	2 miles Southwest of Greenfield
Adams	Binder Lake	1 mile Northeast of Corning
	Corning Reservoir	North edge of Corning
	Lake Icaria	4 miles North of Corning
Appanoose	Centerville Reservoir (Upper)	Southwest edge of Centerville
	Centerville Reservoir (Lower)	Southwest edge of Centerville
	Mystic Reservoir	½ mile North of Mystic
	Rathbun Reservoir	8 miles Northwest of Centerville
Audubon	Littlefield	4 miles East of Exira
Benton	Hannen Lake	4 miles Southwest of Blairstown
	Rodgers Park Lake	3½ miles Northwest of Vinton
Black Hawk	Alice Wyth Lake	North edge of Waterloo
	Big Woods Lake	Northwest edge of Cedar Falls
	Cedar Falls Reservoir	North edge of Cedar Falls
	East Lake (Quarry Lake)	North edge of Waterloo
	Fisher Lake	North edge of Waterloo
	George Wyth Lake	North edge of Waterloo
	Green Belt Lake	West edge of Waterloo
	Meyer Lake	Evansdale
	Mitchell Lake	Waterloo
North Prairie Lake	Southwest edge of Cedar Falls	
South Prairie Lake	Southwest edge of Cedar Falls	
Boone	Don Williams Lake	5 miles North of Ogden
	Sturtz	3 miles West of Boone
Bremer	Sweet Marsh (Martens Lake)	1 mile East of Tripoli
	Sweet Marsh (A)	2 miles East of Tripoli
	Waverly Impoundment	Waverly
Buchanan	Fontana Mill	½ mile South of Hazelton
	Independence Impoundment	Independence
	Kounty Pond	2½ miles Southeast of Brandon
Buena Vista	Gustafson Lake	1 mile South of Sioux Rapids
	Newell Pit	1½ miles Northwest of Newell
	Pickereel Lake	7 miles Northwest of Marathon
	Storm Lake	South edge of Storm Lake
Calhoun	Calhoun Wildlife Area	4 miles East of Manson
	Hwy. 4 Recreation Area	1 mile South of Rockwell City
	North Twin Lake	6 miles North of Rockwell City
	South Twin Lake	5 miles North of Rockwell City

County	Lake	Location
Carroll	Swan Lake	3 miles Southeast of Carroll
Cass	Cold Springs Lake Lake Anita	1 mile South of Lewis ½ mile South of Anita
Cerro Gordo	Blue Pit Clear Lake Fin and Feather Lake	Southwest edge of Mason City South edge of Clear Lake 3 miles South, 1 mile East of Mason City
Cherokee	Larson Lake Spring Lake	2½ miles East, 2 miles North of Aurelia South edge of Cherokee
Chickasaw	Airport Park Lake Nashua Impoundment Split Rock Park Lake	S35, T96N, R13W Nashua 5 miles Southwest of Fredericksburg
Clarke	East Lake West Lake	½ mile East of Osceola 2 miles West of Osceola
Clay	Elk Lake Trumbull Lake	3 miles South, 1 mile West of Ruthven 4 miles West, 5 miles North of Ruthven
Clinton	Kildeer and Malone	4 miles East of DeWitt
Crawford	Ahart/Rudd Natural Resource Area Nelson Park Lake Yellow Smoke Park	2 miles South of Dow City, S21, T82N, R40W 3 miles West, 3 miles North of Dow City 2 miles East, 2 miles North of Denison
Dallas	Beaver	1½ miles North of Dexter
Davis	Lake Fisher Lake Wapello	2 miles Northwest of Bloomfield 7 miles West of Drakesville
Decatur	Little River Watershed Lake Nine Eagles Lake Slip Bluff Lake	1 mile West of Leon 3½ miles Southeast of Davis City 2 miles Northwest of Davis City
Delaware	Backbone Lake Lake Delhi Quaker Mills Impoundment Silver Lake	4 miles Southwest of Strawberry Point 3 miles West of Delhi Northwest edge of Manchester Southeast edge of Delhi
Des Moines	Fourth Pumping Plant	6 miles North, 5 miles East of Kingston

County	Lake	Location
Dickinson	Center Lake	2 miles West, ½ mile South of Spirit Lake
	Diamond	2 miles East, 2 miles North of Montgomery
	East Okoboji Lake	East edge of Okoboji
	Gar (Lower)	½ mile South of Arnolds Park
	Gar (Upper)	East of Arnolds Park
	Little Spirit Lake	4 miles North of Orleans
	Minnewashta	½ mile South of Arnolds Park
	Silver	West Edge of Lake Park
	Spirit Lake	1 mile North of Spirit Lake
	Swan Lake	2 miles North of Superior
	West Okoboji Lake	Northwest edge of Arnolds Park
Dubuque	Heritage Pond	2 miles North of Dubuque
Emmet	High Lake	6 miles East of Wallingford
	Ingham Lake	6 miles East of Wallingford
	Iowa Lake	6 miles North of Armstrong
	Tuttle Lake	1 mile East, 2 miles North of Dolliver
	West Swan	1½ miles South, 2 miles East of Gruver
Fayette	Lake Oelwein	Oelwein
	Volga Lake	3 miles North of Fayette
Franklin	Beeds Lake	2 miles West, 1 mile North of Hampton
	Interstate Park Pond	1 mile West, 2 miles South I-35 & Hwy. 3
	Maynes Grove Lake	4 miles South of Hampton on Hwy. 65
Fremont	McPaul "A"	2 miles South of Bartlett
	McPaul "B"	2 miles South of Bartlett
	Percival Lake	1 mile North of Percival
	Scott Lake "A"	1½ miles South of Bartlett
Greene	Spring Lake	4 miles Northwest of Grand Junction
Guthrie	Springbrook	7 miles North of Guthrie Center
Hamilton	Andersen Lake/Marsh	1 Mile East of Jewell
	Bjorkboda Marsh	S36, T86N, R26W
	Briggs Wood Lake	2 miles South of Webster City
	Gordons Marsh	S33 and 34, T88N, R26W
	Little Wall Lake	1½ miles South of Jewell
Hancock	Crystal Lake	North edge of Crystal Lake
	Eagle Lake	3 miles Northeast of Britt
	Eldred Sherwood Lake	3 miles East, 1 mile North of Goodell
	West Twin Lake	3 miles East of Kanawha
Hardin	Pine Lake (Lower)	½ mile East of Eldora
	Pine Lake (Upper)	½ mile East of Eldora
Harrison	DeSoto Bend	5 miles West of Missouri Valley
	Willow Lake	5½ miles West of Woodbine

County	Lake	Location
Henry	City of Westwood Pond	S11, T71N, R7W
	Crane's Pond	Mt. Pleasant
	East Lake Park Pond	Mt. Pleasant
	Geode Lake	4 miles Southwest of Danville
	Gibson Park Pond	S28, T71N, R7W
Howard	Lake Hendricks	½ mile Northeast of Riceville
Ida	Crawford Creek	3½ miles South of Battle Creek
	Moorehead Park Pond	½ mile North of Ida Grove
Iowa	Iowa Lake	5 miles North of Millersburg
Jackson	Green Island Lakes	1 mile East of Green Island
	Middle Sabula Lake	West edge of Sabula
Jasper	Mariposa Lake	5 miles Northeast of Newton
	Rock Creek Lake	4 miles Northeast of Kellogg
Johnson	Coralville Reservoir	4 miles North of Iowa City
	Kent Park Lake	2½ miles West of Tiffin
	Lake Macbride	4 miles West of Solon
Jones	Central Park Lake	2 miles West of Center Junction
Keokuk	Belva Deer Ponds (4)	5 miles Northeast of Sigourney
	Yen-Ruo-Gis	2 miles North of Sigourney
Kossuth	Burt Lake	4 miles West, 8 miles North of Sway City
	Smith	3 miles North of Algona
Lee	Chatfield Lake	3 miles Northwest of Keokuk
	Pollmiller Park Lake	½ mile East of West Point
	Shimek Forest Ponds (4)	1 mile East of Farmington
Linn	Pleasant Creek Lake	4 miles North of Palo
Louisa	Cone Marsh	10 miles Northwest of Columbus Jct.
	Indian Slough	4 miles Northwest of Wapello
	Iowa Slough	3 miles Southeast of Oakville
	Lake Odessa	5 miles East of Wapello
Lucas	Brown's Slough	7 miles Southeast of Russell
	Colyn North	4 miles South of Russell
	Colyn South	4 miles South of Russell
	Ellis Lake	1 mile East of Chariton
	Morris Lake	3 miles East of Chariton
	Red Haw Lake	1 mile East of Chariton
	Stephens Forest Ponds #1 & #2	3 miles Southwest of Lucas
Williamson Pond	2 miles East of Williamson	
Lyon	Fairview Pond	5 miles South, 3 miles West of Inwood
	Lake Pahoja	4 miles South, 2 miles West of Larchwood

County	Lake	Location
Madison	Badger Creek Lake Winterset City Reservoir	5 miles Southeast of Van Meter 2 miles Northeast of Winterset
Mahaska	Hawthorne Lake Lake Keomah White Oak Lake	1 mile South of Barnes City 6 miles East of Oskaloosa 3 miles South of Rose Hill
Marion	Red Rock Roberts Creek Roberts Creek Lake	4 miles North of Knoxville 6 miles Northeast of Knoxville S28, 29, 33 and 34, Summit Twp.
Marshall	Green Castle Lake	1 mile South of Ferguson
Mills	Folsom Lake Keg Creek Lake Mile Hill Lake P.J. Lake Pony Creek Lake	2 miles West of Glenwood 2 miles Southwest of Pacific Junction 2 miles West of Glenwood 1 mile Southwest of Pacific Junction 3½ miles Northwest of Glenwood
Mitchell	Interstate Park	West edge of Mitchell
Monona	Blue Lake Johnston Pit McDonald Pit Oldham Lake Peters Park Pond Savery Utterback Pond	3 miles West of Onawa 1 mile East of Rodney 1 mile East of Rodney 1 mile North of Soldier 1 mile East of Rodney 2 miles Southeast of Moorhead 3 miles North, 3 miles West of Castana
Monroe	Albia (Upper) Albia (Lower) Cottonwood Pits Lattart Lake Miami	1 mile North of Albia 1 mile North of Albia 2 miles South of Albia 4 miles Southwest of Lovilla 5 miles Southeast of Lovilla
Montgomery	Hacklebarney East Viking Lake	4 miles North of Villisca 4 miles East of Stanton
Muscatine	Cone Lake Wiese Slough	1½ miles East of Conesville 2 miles Southeast of Atalissa
O'Brien	Dog Creek Lake Douma Area Park Pond Hagan Wildlife Pond Mill Creek Lake Negus Wildlife Area Pond Tjossem Park Ponds	2 miles East, ½ mile South of Sutherland 2 miles West, 1 mile South of Sanborn S13, T95N, R41W 1 mile East of Paullina S30, T94N, R39W S6, T95N, R40W

County	Lake	Location
Osceola	Ashton Park Lake	S14, T98N, R42W
	Ashton Pits Access Area	S11, T98N, R42W
	Iowa Lake	S9, T100N, R39W
	Leinen Pits	S25, T99N, R42W
	May City Pit	S5, T98N, R39W
	Ocheyedan Pits	2 miles South of Ocheyedan
	Peters Pits	S19, T100N, R42W
	Thomas Pit	S36, T99N, R40W
	Willow Creek Lake	S31, T100N, R40W
Page	Pierce Creek Lake/Pond	5 miles North of Shenandoah
	Ross Area	8 miles Southeast of Clarinda
Palo Alto	Five Island Lake	North edge of Emmetsburg
	Lost Island Lake	3 miles North of Ruthven
	Rush Lake	9 miles West of Mallard
	Silver Lake	2 miles West of Ayrshire
	Virgin Lake	2 miles South of Ruthven
Plymouth	Deer Creek	11 miles West, 1 mile South, 1½ miles West of Merrill
	Hillview Lake	1 mile Northwest of Hinton
	Silver Maple Primitive Area Lake	3 miles Southeast of Akron
	Southeast Wildwood Park Pond	3 miles Northeast of Kingsley
Polk	Big Creek Lake	2 miles North of Polk City
	Bondurant	Northeast edge of Bondurant
	Carney Marsh	Ankeny
	Case's Lake	Des Moines, S13, T78N, R24W
	Dale Maffitt Reservoir	6 miles Southwest of Des Moines
	Easter Lake Park	Southeast edge of Des Moines
	Engledinger Marsh	6 miles Northwest of Bondurant
	Ft. Des Moines Pond	South edge of Des Moines
	Grays Lake	Fleur Dr., Des Moines
	Saylorville Reservoir	North edge of Des Moines
	Skull Pond	Jester Park near Polk City
	Teal Pond	Jester Park near Polk City
Thomas Mitchell Park Pond	2 miles Southwest of Mitchellville	
Two Dam Pond	Jester Park near Polk City	
Yellow Banks Park Pond	4 miles Southeast of Pleasant Hill	
Pottawattamie	Arrowhead Pond	1½ miles Southeast of Neola
	Carter Lake	Carter Lake
	Lake Manawa	Southwest edge of Council Bluffs
Poweshiek	Arbor Lake	Grinnell
	Diamond Lake	1 mile West of Montezuma
Ringgold	Loch Ayr	2 miles North of Mt. Ayr
	Old Reservoir	½ mile North of Mt. Ayr
	Walnut Creek Marsh	5 miles Southwest of Mt. Ayr

County	Lake	Location
Sac	Arrowhead Lake	South Side of Lake View
	Black Hawk Lake	East edge of Lake View
	Black Hawk Pits	1½ miles South of Lake View
Scott	Crow Creek	East edge of Mt. Joy
	West Park Lakes (4)	¼ mile West of Davenport
Shelby	Mantano Park Pond	8 miles Northwest of Defiance
	Prairie Rose	8 miles Southeast of Harlan
Story	Dakin's Lake	½ mile North of Zearing
	Hendrickson Marsh	3 miles Northeast of Collins
	Hickory Grove Lake	3 miles Southwest of Colo
	McFarland Lake	4 miles Northeast of Ames
	Peterson Pits	4 miles Northeast of Ames
Tama	Casey Lake	7 miles North of Dysart
	Otter Creek Lake	6 miles Northeast of Toledo
	Union Grove Lake	4 miles South of Gladbrook
Taylor	East Lake	½ mile North of Lenox
	Lake of Three Fires	3 miles Northeast of Bedford
	West Lake	1 mile North of Lenox
	Wilson Park Lake	2½ miles Southeast of Lenox
	Windmill Lake	3½ miles East of New Market
Union	Afton City Reservoir	1 mile West of Afton
	Green Valley Lake	2½ miles Northwest of Creston
	Summitt Lake	West edge of Creston
	Three Mile Creek Lake	East of Creston
	Twelve Mile Creek Lake	4 miles East of Creston
Van Buren	Indian Lake	1 mile Southwest of Farmington
	Lacey-Keosauqua Park Lake	1 mile Southwest of Keosauqua
	Lake Miss-Tug Fork W	5 miles Southwest of Keosauqua
	Lake Sugema	3 miles Southwest of Keosauqua
	Piper's Pond-Tug Fork E	5 miles Southwest of Keosauqua
Wapello	Arrowhead Lake	3 miles Southeast of Ottumwa
	Ottumwa Reservoir	Ottumwa
Warren	Banner Pits	4½ miles North of Indianola
	Lake Ahquabi	5 miles Southwest of Indianola
Washington	Lake Darling	3 miles West of Brighton
Wayne	Bob White Lake	1 mile West of Allerton
	Corydon Reservoir	West edge of Corydon
	Humeston Reservoir	1 mile North of Humeston
	Lineville Reservoir	North edge of Lineville
	Medicine Creek Wildlife Area Complex	6 miles East of Lineville
Seymour Reservoir	½ mile South of Seymour	

County	Lake	Location
Webster	Badger Lake Brushy Creek Lake	4½ miles North of Fort Dodge 5 miles Northeast of Lehigh
Winnebago	Ambrosson Pits Lake Catherine Rice Lake	3½ miles North of Forest City 6 miles West of Forest City 1 mile South, 1 mile East of Lake Mills
Winneshiek	Lake Meyers	3 miles Southwest of Calmar
Woodbury	Bacon Creek Browns Lake Little Sioux Park Lake Snyder Bend Lake Southwood	East edge of Sioux City 2 miles West of Salix 2 miles South of Correctionville 1½ miles West of Salix ½ mile West, ½ mile South of Smithland
Worth	Kuennen's Pit Silver Lake	2 miles South, ½ mile East of Northwood 10 miles West, 3½ miles North of Northwood
Wright	Lake Cornelia Morse Lake Wall Lake	3½ miles North, 2 miles East of Clarion 3½ miles West of Belmond 10 miles Southeast of Clarion

TABLE 3  
Annual Pounds of Nitrogen Per Space of Capacity

<u>Confinement Operations</u>				
<u>Swine</u>	<u>Space</u>	<u>Liquid, Pit* or Basin**</u>	<u>Liquid, Lagoon***</u>	<u>Solid Manure</u>
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
<u>Dairy, Confined</u>	<u>Space</u>	<u>Liquid, Pit* or Basin**</u>	<u>Liquid, Lagoon***</u>	<u>Solid Manure</u>
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
<u>Beef, Confined</u>	<u>Space</u>	<u>Liquid, Pit* or Basin**</u>	<u>Liquid, Lagoon***</u>	<u>Solid Manure</u>
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
<u>Poultry</u>	<u>Space</u>			<u>Dry Manure</u>
Layer, cages	1000 head			367
Broiler, litter	1000 head			585
Turkeys, litter	1000 head			1400

Open Feedlot Operations

<u>Species</u>	<u>Space</u>	<u>Runoff – liquids</u>		<u>Solids-scraped</u>
		<u>Earthen lots</u>	<u>Concrete lots</u>	
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<sub>2</sub>O<sub>5</sub>) Per Space of Capacity

<u>Confinement Operations</u>				
<u>Swine</u>	<u>Space</u>	<u>Liquid, Pit* or Basin**</u>	<u>Liquid, Lagoon***</u>	<u>Solid Manure</u>
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
<u>Dairy, Confined</u>	<u>Space</u>	<u>Liquid, Pit* or Basin**</u>	<u>Liquid, Lagoon***</u>	<u>Solid Manure</u>
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
<u>Beef, Confined</u>	<u>Space</u>	<u>Liquid, Pit* or Basin**</u>	<u>Liquid, Lagoon***</u>	<u>Solid Manure</u>
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
<u>Poultry</u>	<u>Space</u>			<u>Dry Manure</u>
Layer, cages	1000 head			840
Broiler, litter	1000 head			585
Turkeys, litter	1000 head			1400

Open Feedlot Operations

<u>Species</u>	<u>Space</u>	<u>Runoff – liquids</u>		<u>Solids-scraped</u>
		<u>Earthen lots</u>	<u>Concrete lots</u>	
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.

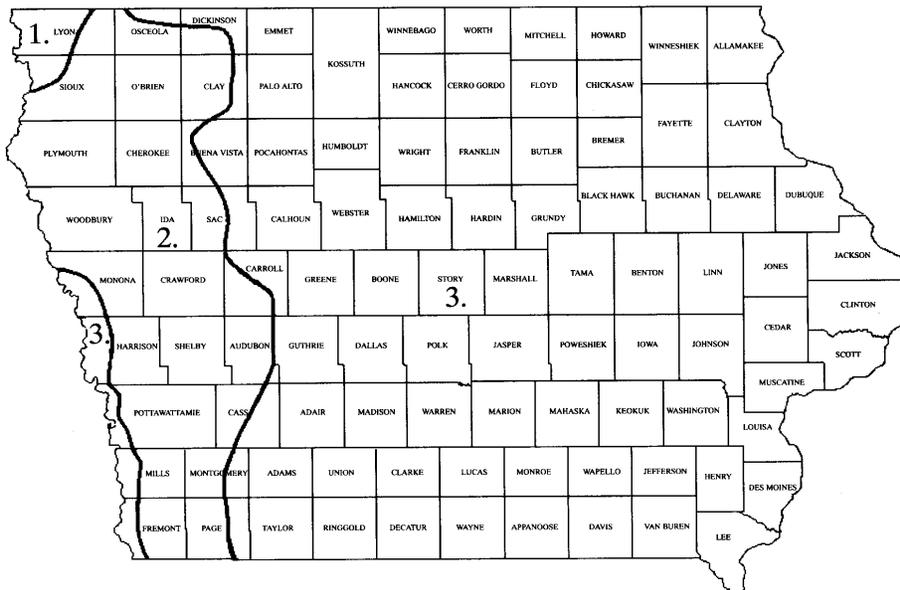


TABLE 4a  
Phosphorus Removal for Iowa Crops  
Source: PM 1688, General Guide for Crop Nutrient Recommendations in Iowa

CROP	UNITS	P <sub>2</sub> O <sub>5</sub> (pounds/unit)
Corn	bu.	0.375
Corn silage	ton (65% H <sub>2</sub> O)	3.5
Soybeans	bu.	0.8
Alfalfa	ton	12.5
Oat and straw	bu.	0.4
Wheat	bu.	0.6
Smooth brome	ton	9
Orchard grass	ton	14
Tall fescue	ton	12
Switch grass	ton	12
Sorghum-Sudan	ton	12
Vetch	ton	12
Red clover	ton	12
Perennial rye grass	ton	12
Timothy	ton	9
Wheat straw	ton	4
Oat straw	ton	5

TABLE 5  
Manure Production Per Space of Capacity

<u>Swine</u>	<u>Space</u>	<u>Daily</u>		<u>Yearly</u>
		<u>Liquid, Pit* or Basin**</u>	<u>Liquid, Lagoon***</u>	<u>Solid Manure</u>
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
<u>Dairy, Confined</u>	<u>Space</u>	<u>Liquid, Pit* or Basin**</u>	<u>Liquid, Lagoon***</u>	<u>Solid Manure</u>
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
<u>Beef, Confined</u>	<u>Space</u>	<u>Liquid, Pit* or Basin**</u>	<u>Liquid, Lagoon***</u>	<u>Solid Manure</u>
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
<u>Poultry</u>	<u>Space</u>			<u>Dry Manure</u>
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

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 <sup>1</sup>				
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
Aerobic structure, anaerobic lagoon, earthen manure storage basin 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

<sup>1</sup>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]

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 <sup>1</sup>				
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
Aerobic structure, anaerobic lagoon, earthen manure storage basin 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

<sup>1</sup>See rule 567—65.12(459,459B) for exemptions available from the above distances.

[ARC 8998B, IAB 8/11/10, effective 9/15/10]

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 <sup>1</sup>				
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
Aerobic structure, anaerobic lagoon, earthen manure storage basin 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

<sup>1</sup>See rule 567—65.12(459,459B) for exemptions available from the above distances.

[ARC 8998B, IAB 8/11/10, effective 9/15/10]

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 <sup>1</sup>				
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
Aerobic structure, anaerobic lagoon, earthen manure storage basin 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

<sup>1</sup>See rule 567—65.12(459,459B) for exemptions available from the above distances.

[ARC 8998B, IAB 8/11/10, effective 9/15/10]

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 <sup>1</sup>				
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
Aerobic structure, anaerobic lagoon, earthen manure storage basin 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

<sup>1</sup>See rule 567—65.12(459,459B) for exemptions available from the above distances.

[ARC 8998B, IAB 8/11/10, effective 9/15/10]

TABLE 7

Required Separation Distances for Open Feedlot Operations, Stockpiles from Open Feedlot Operations, Stockpiles from Dry Manure Confinement Operations and Stockpiles from Dry Bedded Confinement Operations

DISTANCES TO WELLS FOR OPEN FEEDLOT STRUCTURES				
Type of Structure	Public Well		Private Well	
	Shallow	Deep	Shallow	Deep
Settled open feedlot effluent basin	1,000 feet	400 feet	400 feet	400 feet
Open feedlot, open feedlot solids settling facility, AT system and feed storage runoff basin	200 feet	100 feet	200 feet	100 feet
DISTANCES TO RESIDENCES AND SPECIAL AREAS FOR MANURE STOCKPILES <sup>1, 2</sup>				
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 <sup>3</sup>
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

<sup>1</sup>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.

<sup>2</sup>See subparagraph 65.2(3) "d"(4) and paragraph 65.11(8) "c" for exemptions pertaining to dry manure stockpiles.

<sup>3</sup>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]

TABLE 8  
Summary of Credit for Mechanical Aeration

% of Oxygen Supplied	Pounds Volatile Solids per 1000 cubic feet			
	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
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

- [Filed 6/28/76, Notice 3/22/76—published 7/12/76, effective 8/16/76<sup>1</sup>  
 [Filed emergency 6/3/83—published 6/22/83, effective 7/1/83]  
 [Filed 8/24/84, Notice 5/9/84—published 9/12/84, effective 10/18/84]  
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<sup>1</sup> 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.

<sup>2</sup> 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.