

NATURAL RESOURCES DEPARTMENT[561]

Created by 1986 Iowa Acts, chapter 1245, section 1802

Rules of divisions under this Department "umbrella" include Energy and Geological Resources[565], Environmental Protection Commission[567], Natural Resource Commission[571], and Preserves, State Advisory Board[575]

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CHAPTER 1
DESCRIPTION OF ORGANIZATION
Rescinded **ARC 9432C**, IAB 7/23/25, effective 8/27/25

CHAPTER 2
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

561—2.1(17A,22) Purpose and scope.

2.1(1) This chapter implements Iowa Code section 22.11 by establishing agency policies and procedures for the maintenance of records. The purpose of this chapter is to facilitate public access to open records. It also seeks to facilitate sound agency determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. This agency is committed to the policies set forth in Iowa Code chapter 22; agency staff shall cooperate with members of the public in implementing the provisions of that chapter.

2.1(2) This chapter does not:

- a. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.
- b. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
- c. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the regulations of another agency.
- d. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.
- e. Make available records compiled in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations.

2.1(3) This chapter applies to the department of natural resources.

561—2.2(17A,22) Definitions. As used in this chapter:

"Agency" means the department of natural resources.

"Confidential record" means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7 or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

"Custodian" means the department of natural resources, or a person lawfully delegated authority by its director to act for the agency in implementing Iowa Code chapter 22.

"Open record" means a record other than a confidential record.

"Personally identifiable information" means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

"Record" in these rules means the whole or a part of a "public record" as defined in Iowa Code section 22.1.

"Record system" means any group of records under the control of the agency from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol or other unique retriever assigned to an individual.

561—2.3(17A,22) Requests for access to records.

2.3(1) *Location of record.* A request for access to a record should be directed to the custodian or the particular agency office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the Director, Department of Natural Resources, 502 East Ninth Street, Wallace State Office Building, Des Moines, Iowa 50319-0034. If a request for access to a record

is misdirected, agency personnel will promptly forward the request to the appropriate person within the agency.

2.3(2) Office hours. Open records shall be made available during all customary office hours which are 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

2.3(3) Request for access. Requests for access to open records may be made in writing or in person. The office may also accommodate telephone requests where appropriate. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail or telephone requests shall include the name, address and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

2.3(4) Response to requests. Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing.

The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4), 22.10(4) or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 2.4(17A,22) and other applicable provisions of law.

2.3(5) Security of record. No person may, without permission from the custodian, search or remove any record from agency files. Examination and copying of agency records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

2.3(6) Copying. A reasonable number of copies of an open record may be made in the agency's office. If photocopy equipment is not available in the agency office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

2.3(7) Fees.

a. When charged. To the extent permitted by applicable provisions of law, the payment of fees may be waived in the case of small requests of five or fewer copies, when the imposition of fees is inequitable, or when a waiver is in the public interest. Charges for examination or copies requested in writing by a person in a capacity as representative of another governmental entity or where copies are provided under provisions of a written agency contract may be waived.

b. Copying and postage costs. Anyone making a request for reproduction of the department's records will pay for services at the following rates, in addition to postage and handling as determined by the agency:

- (1) Photocopies (direct copies on 8½" × 11", 8½" × 14", or 11" × 17" paper)—40 cents per page.
- (2) Paper copy from microfilm records—40 cents per page.
- (3) The actual reproduction cost will be charged for any blueprint, picture, oral tape or any other work product not subject to photocopying.
- (4) Fax—\$1 per faxed page.
- (5) Computer stored information. Computer stored information is available according to the fee schedule maintained by the administrative services division of the department. The fee schedule shall be available at the following locations: fifth floor record centers, Wallace State Office Building, and on the department's Internet Web site, <http://www.state.ia.us/dnr/administrative>.

c. Supervisory fee. An hourly fee may be charged for actual agency expenses in supervising the examination and copying of requested records when the supervision time required is in excess of one-half hour. The custodian shall prominently post in agency offices the hourly fee to be charged for supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of an agency clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

d. Search fees. If the request requires research or if the record or records cannot reasonably be readily retrieved by the office, the requester will be advised of this fact. Reasonable search fees may be charged where appropriate. In addition, all costs for retrieval and copying of information stored in electronic storage systems may be charged to the requester.

e. Advance deposits.

(1) When the estimated total fee chargeable under this subrule exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

561—2.4(17A,22) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 2.3(17A,22).

2.4(1) Proof of identity. A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

2.4(2) Requests. The custodian may require that a request to examine and copy a confidential record be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

2.4(3) Notice to subject of record and opportunity to obtain injunction. After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specified period of time during which disclosure will be delayed for that purpose.

2.4(4) Request denied. When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

a. The name and title or position of the custodian responsible for the denial; and

b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

2.4(5) Request granted. When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

2.4(6) Notwithstanding any other provision, the following information will not be considered confidential by the department:

a. Emission data;

b. Analytical results of monitoring or public water supply systems;

c. Name and address of any permit applicant;

d. NPDES permits, applications (including any information required by NPDES application forms) and effluent data.

561—2.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public.

2.5(1) *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record, may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

2.5(2) *Request.* A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the agency by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

2.5(3) *Failure to request.* Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the agency does not request that it be withheld from public inspection under Iowa Code section 22.7(3) or 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

2.5(4) *Timing of decision.* A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

2.5(5) *Request granted or deferred.* If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

2.5(6) *Request denied and opportunity to seek injunction.* If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8 or other applicable provision of law. However, such a record need not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify the requester in writing of the time period allowed to seek injunctive relief or the reason for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

2.5(7) *Processing of business confidentiality claims.*

a. Applicability/availability. Businesses which provide information to the department in applications, reports or otherwise in recorded form, or from or about which information is obtained and recorded by the department, may request that information not be disclosed to others for reasons of business confidentiality.

Until such time as a request for confidentiality is received by the department, all information not within subrule 2.4(6) will be available to the public pursuant to subrule 2.3(3). If a claim is received after the information itself is received, the department will make such efforts as are administratively practicable to associate the claim with all copies of the previously received information. However, the department cannot ensure that such efforts will be effective, in light of the possibility of prior disclosure or dissemination of the information beyond the department's reasonable control.

b. Form. A business which submits information to the department may assert a business confidentiality claim in the manner prescribed in the application or instruction, if any, otherwise by placing on or attaching to the information, at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." When only a portion of the information is claimed to be confidential, only that portion shall be deleted from the application, report or other recorded submission, with appropriate reference to a separate claim for business confidentiality, which separate claim shall be submitted as specified above. If a request not to disclose information is filed with the department, the party shall file together with the document a second copy of the document from which has been deleted the information for which such party wishes to claim confidential treatment. The business shall conspicuously indicate on the face of the original document that it is confidential information and shall file a claim for confidential status in accordance with the provisions of 2.5(7) "c."

A business which has reason to believe that the department has received information which the business asserts to be confidential may request that such information, described with reasonable specificity, be maintained as confidential, in the same manner as specified above.

c. Contents of claim. All claims for confidentiality must be substantiated with the following information:

(1) A statement of all measures the business has taken to protect the confidentiality of the information, and a statement of intent to continue to take such measures;

(2) Practices and policies of other businesses, if known, regarding confidentiality of similar information;

(3) A statement that the information is not, and has not been, reasonably attainable without the consent of the business by other persons other than government bodies by use of legitimate means;

(4) A statement demonstrating that disclosure of the information is likely to cause substantial harm to the business's competitive position;

(5) A reference to any other determinations of confidential status of the information or similar information.

d. Initial action by department. All claims will be reviewed within ten days of receipt for completeness and applicability of subrule 2.4(6). If the claim does not include the substantiation required by 2.5(7) "c," or if the claim relates to information within 2.4(6), the business making the claim will be so notified by certified mail. If the substantiation or comment regarding the inapplicability of 2.4(6) is not received by the department within ten days of the date on the return receipt, the department will place the information in the public file. Otherwise, all information claimed to be confidential will be treated as such by the department until further notice. A timely response from the notice under this paragraph will be ruled on by the department within ten days, based on the applicability of 2.4(6) or compliance with 2.5(7) "c" as appropriate.

e. Initiation of official determination. All claims not rejected under 2.5(7) "d" shall receive an official determination when a request for disclosure covering such information is received by the department or when the department deems it advisable to make a determination because a request for disclosure is likely to be received or because of administrative burdens in maintaining the information confidential. The procedures and criteria below shall be followed.

f. Substantive criteria for use in confidentiality determinations. Determinations shall hold that business information is entitled to confidential treatment for the benefit of a particular person if:

(1) The business has taken and intends to continue to take reasonable measures to protect the confidentiality of the information;

(2) The information is not readily obtainable by others by legitimate means;

(3) The claim is not unreasonable in view of the nature of the information, the interests, and normal practices of the business, and the practices of other businesses;

(4) No statute or rule specifically requires disclosure of the information; and

(5) There is a substantial likelihood that disclosure of the information would cause substantial harm to the competitive position of the business.

Prior determinations by the courts, the department or other agencies on the information or similar information shall be given due consideration and effect.

g. Preliminary determination—opportunity for comment. The department shall transmit its preliminary determination regarding a claim for business confidentiality to the claimant by certified mail, notifying the claimant of the opportunity to provide comments within ten days subject to reasonable extension upon written request, and that failure to comment will be construed to indicate agreement with the preliminary determination. If the determination is in response to a request for disclosure, the person requesting the disclosure shall be sent a similar notice in the same manner within ten days of the request.

h. Final determination. A final decision shall be issued within ten days after the close of the comment period to the preliminary determination. If any substantial comments are received, the final decision shall be made by the director or designee. If no substantial comments are received, the claimant and the person requesting disclosure, if any, shall be notified that the preliminary determination is the final decision.

i. All procedures within this rule shall not be considered contested case proceedings as provided in Iowa Code chapter 17A.

561—2.6(17A,22) Procedure by which additions, dissents or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any agency proceeding. Requester shall send the request to review such a record or the written statement of additions, dissents or objections to the custodian or to the attorney general. The request to review a written statement must be dated and signed by requester, and shall include the current address and telephone number of the requester or the requester's representative.

561—2.7(17A,22) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed (and, where applicable, the time period during which the record may be disclosed). The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. (Additional requirements may be necessary for special classes of records.) Appearance of counsel on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the agency to disclose records about that person to the person's attorney.

561—2.8(17A,22) Notice to suppliers of information. When an agency form requests a person to supply information about that person, the agency shall notify the person of the use that will be made of the information, which persons outside the agency might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally or by other appropriate means. Notice need not be given in connection with discovery requests in litigation or administrative proceedings, subpoenas, investigations of possible violations of law or similar demands for information.

561—2.9(17A,22) Disclosures without the consent of the subject.

2.9(1) Open records are routinely disclosed without the consent of the subject.

2.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

- a. For a routine use as defined in rule 2.10(17A,22) or in any notice for a particular record system.
- b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; provided that the record is transferred in a form that does not identify the subject.
- c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.
- d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.
- e. To the legislative services agency under Iowa Code section 2A.3.
- f. Disclosures in the course of employee disciplinary proceedings.
- g. In response to a court order or subpoena.

561—2.10(17A,22) Routine use.

2.10(1) Defined. “Routine use” means the disclosure of a record without the consent of the subject or subjects for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

2.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

- a. Disclosure to those officers, employees and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential records.
- b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action or regulatory order.
- c. Disclosure to the agency or officer which this office is advising or representing in the matter in question or to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.
- d. Transfer of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.
- e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.
- f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

561—2.11(17A,22) Consensual disclosure of confidential records.

2.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 2.7(17A,22).

2.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official’s intervention on behalf of the subject in a matter that involves the agency may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

561—2.12(17A,22) Release to subject.

2.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 2.6(17A,22). However, the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. See Iowa Code section 22.7(5).

d. As otherwise authorized by law.

2.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

561—2.13(17A,22) Availability of records.

2.13(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

2.13(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids;

b. Tax records made available to the agency;

c. Records which are exempt from disclosure under Iowa Code section 22.7;

d. Minutes of closed meetings of a government body;

e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)“d”;

f. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency.

g. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122(c), Fed R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

h. Any other records made confidential by law.

2.13(3) *Authority to release confidential records.* The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 2.4(17A,22). If the agency initially determines that it will release such records, the agency may where appropriate notify interested parties and withhold the records from inspection as provided in subrule 2.4(3).

561—2.14(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 2.2(17A,22). For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. Records maintained by the department of natural resources, the environmental protection commission and the natural resource commission are in accordance with guidelines as set forth by the state records commission's file system. An updated index is maintained by the department and is available for public inspection. Records are collected pursuant to authorities contained in Iowa Code chapters 106, 107, 109,

109B, 110, 110A, 110B, 111, 111A, 111B, 112, 321G, 458A, 460A and Iowa Code Title XI, subtitles 1, 2, 3, 4 and 6. Agency records may include but are not limited to the following:

2.14(1) *Department of natural resources.*

a. Administration, organization, and management.

- (1) Organization and management.
- (2) Planning and programming.
- (3) Administrative reports.
- (4) Insurance and bonding.
- (5) Departmental emergency planning.
- (6) Correspondence and reference materials.
- (7) Information and public relations.

b. Budgets, accounting and financial analysis.

- (1) Budget information.
- (2) Accounting.
- (3) Cost accounting.

c. Office services and facilities management.

- (1) Communications.
- (2) Printing and reproduction.
- (3) Records management.
- (4) Motor pool operations.
- (5) Facilities management.
- (6) Engineering and construction.

d. Equipment, supplies, and services.

- (1) Procurement.
 - (2) Property accountability.
- e. Legislative and legal.*
- (1) Department legislative liaison.
 - (2) Bills, joint resolutions, amendments, messages and reports.
 - (3) Federal government.
 - (4) Administrative procedures.
 - (5) Attorney general opinions and research materials.
 - (6) Claims against the state.
 - (7) Lawsuits filed by the state.
 - (8) 28E agreements.

f. Personnel and payroll.

- (1) Employee personnel/payroll files.
- (2) Merit rules.
- (3) Payroll administration.
- (4) Position classification.
- (5) Preemployment.
- (6) Certification and selection.
- (7) Scheduling, assignments, working hours.
- (8) Grievances.
- (9) Training and education.
- (10) Employee benefits and welfare.
- (11) Employment relations.
- (12) Equal employment opportunity.
- (13) Management improvement programs.
- (14) Delegation of authority and signature authorization.

g. Conservation and environment.

- (1) Geology.
 1. Surface and groundwater monitoring.

2. Water and mineral resources databases.
3. Natural resources GIS library.
4. Oil/gas exploration and drilling.
- (2) Energy conservation.
 1. Building energy management program database.
 2. Technical engineering analysis.
 3. Life cycle cost analysis.
 4. State facilities energy use/energy management data.
 5. Energy suppliers list.
 6. Renewable energy facilities list.
- (3) Water conservation.
- (4) Land conservation.
- (5) Soil conservation.
- (6) Forestry management.
- (7) Fish and game conservation.
- (8) Recreation.
- (9) Environmental technology.
- (10) Air quality monitoring.
- (11) Water quality monitoring.
- (12) Land quality monitoring.
- (13) Hazardous material planning.
 1. Hazardous waste management.
 2. Underground storage tanks.
 3. Leaking underground storage tanks.
- (14) Radioactive materials.
- (15) Environmental—interdisciplinary.

Records are stored on paper, microfilm, microfiche, and, in some cases, automated data processing systems.

2.14(2) *Natural resource commission.*

- a. Tort claims investigations.
- b. Numerous licensing files.
- c. Lifetime licenses.
- d. Boat registrations.
- e. Docks, mooring, buoys or raft registrations.
- f. Snowmobile registrations.
- g. Miscellaneous mailing list (magazine, etc.).
- h. Payroll and personnel information system.
- i. Fur buyer reports.
- j. Fish and game violations.
- k. Safety certified students (hunter safety, snowmobile safety, boating safety).
- l. Special events applications and permits.
- m. Snowmobile accident reports.
- n. Boating accident reports.
- o. Drowning reports.
- p. Timber buyer reports and bonds.
- q. Work programs with ISU.
- r. Timber management and forestry.
- s. State park ranger violation reports.
- t. Incident reports.
- u. Donations.
- v. Real estate acquisition.
- w. Encroachments.

- x. Campground host program.
- y. Law enforcement intelligence network (LEIN) and turn in poachers (TIP).
- z. Park leases and concessions.

All the above-listed records are collected pursuant to the authority of Iowa Code chapters 106, 107, 109, 109B, 110, 110A, 110B, 111, 111A, 111B, 112, 321G, 350, 456A, 461A, 462A, 464A, 465C, 481A, 482, 483A and 484A.

Records are stored on paper, microfilm, microfiche, and, in some cases, automated data processing systems.

2.14(3) *Energy bureau.*

- a. *Payroll and personnel information system.* Grants programs. See professional service agreements.
- b. *Building energy maintenance program.* All of the above-listed records are collected pursuant to the authority of Iowa Code chapter 473. All are stored in paper form with those noted by an asterisk also stored in electronic form. None of the information can be matched, collated or compared.

2.14(4) *Geological survey bureau (Iowa City).*

- a. Payroll and personnel information system.
- b. Professional and scientific employees—employment status information system. Publication mailing lists.
- c. Geological core and cutting samplings.
- d. Abandoned mine lands inventory. Geological data information.
- e. Municipal water supply inventory.
- f. National coal resources data.
- g. Sedimentology programs.
- h. Water resources information.

All of the above-listed records are collected pursuant to the authority of Iowa Code chapters 458A and 460A. All are stored in electronic form. Supplementary records in these categories are stored in paper form or on microfilm or microfiche. Information cannot be matched, collated or compared.

561—2.15(17A,22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 2.2(17A,22). These records are routinely available to the public. However, the agencies' files of these records may contain confidential information. In addition, some records may contain information about individuals. Records are stored on paper, microfilm, microfiche, and, in some cases, automated data processing systems.

2.15(1) Rule making. Rule-making records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4.

2.15(2) Commission records. Agendas, minutes and materials presented to the environmental protection commission and the natural resource commission are available from the office of the director, except these records concerning closed sessions which are confidential under Iowa Code section 21.5(4). Commission records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3.

2.15(3) Publications. News releases, annual reports, Iowa Conservationist, project reports, agency newsletters, etc., are available from the department offices for public information. Brochures describing various department programs are available at local offices of the department. Department news releases, project reports, the Conservationist, and newsletters may contain information about individuals, including department staff or members of the commission or committees.

2.15(4) Statistical reports. Periodic reports for various department programs are available from the department offices for public information.

2.15(5) Grants or loans. Records on persons and institutions receiving grants or loans are available through the institutions, also for public information. The records may contain information about employees of a grantee.

2.15(6) Published materials. The agency uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

2.15(7) Policy manuals. The agency employees' manual, containing the policies and procedures for programs administered by the department, is available in every office of the department. Policy manuals do not contain information about individuals.

2.15(8) All other records that are not exempted from disclosure by law. The department maintains a variety of records which do not generally contain information pertaining to named individuals.

2.15(9) All other records that are not exempted from disclosure by law.

These rules are intended to implement Iowa Code section 22.11.

[Filed 1/9/87, Notice 11/5/86—published 1/28/87, effective 3/4/87]

[Filed emergency 8/17/88 after Notice 7/13/88—published 9/7/88, effective 8/17/88]

[Filed 3/14/01, Notice 1/10/01—published 4/4/01, effective 5/9/01]

CHAPTER 3
SUBMISSION OF INFORMATION AND
COMPLAINTS—INVESTIGATIONS
Rescinded **ARC 9432C**, IAB 7/23/25, effective 8/27/25

CHAPTER 4
AGENCY PROCEDURE FOR RULE MAKING

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

The department of natural resources hereby adopts the agency procedure for rule making segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code, with the following amendments:

561—4.3(17A) Public rule-making docket. In lieu of the words “(commission, board, council, director)”, insert “director”.

561—4.4(17A) Notice of proposed rule making.

4.4(3) Copies of notices. In lieu of the words “(specify time period)”, insert “one state fiscal year (July 1 to June 30)”. Also, add the following new sentence: “Subscriptions must be renewed annually by June 15.”

561—4.5(17A) Public participation.

4.5(1) Written comments. In lieu of the words “(identify office and address)”, insert “Compliance and Enforcement Bureau, Environmental Protection Division, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319”.

4.5(5) Accessibility. In lieu of the words “(identify office and telephone number)”, insert “the director’s office, department of natural resources, (515)281-5385”.

561—4.6(17A) Regulatory analysis.

4.6(2) Mailing list. In lieu of the words “(designate office)”, insert “Compliance and Enforcement Bureau, Environmental Protection Division, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319”.

561—4.10(17A) Exemptions from public rule-making procedures.

4.10(2) Categories exempt. In lieu of the words “(List here narrowly drawn classes of rules where such an exemption is justified and a brief statement of the reasons for exempting each of them.)”, insert “The only narrowly tailored rules at this time are those specified in rule 567—62.2(455B).”

561—4.11(17A) Concise statement of reasons.

4.11(1) General. In lieu of the words “(specify the office and address)”, insert “Compliance and Enforcement Bureau, Environmental Protection Division, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319”.

561—4.13(17A) Agency rule-making record.

4.13(2) Contents.

a. In lieu of the words “Copies of”, insert “Reference to”.

These rules are intended to implement Iowa Code section 17A.3 as amended by 1998 Iowa Acts, chapter 1202.

[Filed 5/13/88, Notice 3/9/88—published 6/1/88, effective 7/6/88]

[Filed 7/9/99, Notice 4/21/99—published 7/28/99, effective 9/1/99]

CHAPTER 5
PETITIONS FOR RULE MAKING

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

Insert the petitions for rule making segment of the Uniform Administrative Rules which is printed in the first volume of the Iowa Administrative Code, with the following amendments:

561—5.1(17A) Petition for rule making. In lieu of the words “(designate office)”, insert “Compliance and Enforcement Bureau, Environmental Protection Division, Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034; telephone (515)281-8941”. Also, in lieu of the words “(AGENCY NAME)”, insert “DEPARTMENT OF NATURAL RESOURCES”.

561—5.3(17A) Inquiries. In lieu of the words “(designate official by full title and address)”, insert “Bureau Chief, Compliance and Enforcement Bureau, Environmental Protection Division, Department of Natural Resources, Des Moines, Iowa 50319-0034; telephone (515)281-8941”.

These rules are intended to implement Iowa Code section 17A.3 as amended by 1998 Iowa Acts, chapter 1202.

[Filed 5/13/88, Notice 3/9/88—published 6/1/88, effective 7/6/88]

[Filed 7/9/99, Notice 4/21/99—published 7/28/99, effective 9/1/99]

CHAPTER 6
DECLARATORY ORDERS

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

The department of natural resources hereby adopts the declaratory orders segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code, with the following amendments:

561—6.1(17A) Petition for declaratory order. In lieu of the words “(designate agency)”, insert “department of natural resources”. In lieu of the words “(designate office)”, insert “director’s office, department of natural resources”. In lieu of the words “(AGENCY NAME)”, the heading of the petition should read:

BEFORE THE
DEPARTMENT OF NATURAL RESOURCES

561—6.2(17A) Notice of petition. In lieu of “___ days (15 or less)”, insert “15 days”. In lieu of the words “(designate agency)”, insert “department of natural resources”.

561—6.3(17A) Intervention.

6.3(1) In lieu of “___ days”, insert “20 days”.

6.3(2) In lieu of the words “(designate agency)”, insert “department of natural resources”.

6.3(3) In lieu of the words “(designate office)”, insert “director’s office, department of natural resources”. In lieu of the words “(designate agency)”, insert “department”. In lieu of the words “(AGENCY NAME)”, the heading of the petition should read:

BEFORE THE
DEPARTMENT OF NATURAL RESOURCES

561—6.4(17A) Briefs. In lieu of the words “(designate agency)”, insert “department”.

561—6.5(17A) Inquiries. In lieu of the words “(designate official by full title and address)”, insert “Bureau Chief, Compliance and Enforcement Bureau, Environmental Protection Division, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319”.

561—6.6(17A) Service and filing of petitions and other papers.

6.6(2) Filing—when required. In lieu of the words “(specify office and address)”, insert “Director’s Office, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034”. In lieu of the words “(agency name)”, insert “department of natural resources”.

561—6.7(17A) Consideration. In lieu of the words “(designate agency)”, insert “department of natural resources”. Add the following new paragraphs:

An order, including a refusal to issue an order, issued by the director is final unless the issue is within the rule-making authority of one of the department’s commissions in which case the order or refusal is final unless appealed to the commission within ten days of receipt by the petitioner or reviewed by the commission on its own motion. On appeal or review, the commission may:

1. Approve the director’s ruling, in which case the order becomes the final declaratory order of the department, or
2. Reverse or modify the declaratory order, in which case the modified order becomes the final declaratory order of the department, or
3. Request additional information from the petitioner, or
4. Decline to issue an order, as specified in rule 6.5(17A).

The commission’s order or refusal to issue an order shall be made within a reasonable time and shall be sent by certified mail to the petitioner upon issuance.

561—6.8(17A) Action on petition. In lieu of the words “(designate agency head)”, insert “director”.

561—6.9(17A) Refusal to issue order. In lieu of the words “(designate agency)”, insert “department of natural resources”.

561—6.12(17A) Effect of a declaratory order. In lieu of the words “(designate agency)”, insert “department of natural resources”.

These rules are intended to implement Iowa Code section 17A.9 as amended by 1998 Iowa Acts, chapter 1202.

[Filed 5/29/87, Notice 1/28/87—published 6/17/87, effective 7/22/87]

[Filed 7/9/99, Notice 4/21/99—published 7/28/99, effective 9/1/99]

CHAPTER 7
RULES OF PRACTICE IN CONTESTED CASES

Chapter rescission date pursuant to Iowa Code section 17A.7: 8/27/30

561—7.1(17A,455A) Scope and applicability. This chapter applies to contested case proceedings conducted by the department of natural resources, as defined in rule 561—7.2(17A,455A). Nothing in this chapter shall be construed to grant a right to a contested case proceeding when the Iowa Code does not specifically provide for a contested case, except that vendor appeal contested case proceedings may be conducted according to the provisions of 561—Chapter 8.

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.2(17A,455A) Definitions. When used in this chapter:

“*Agency*” means the commission or the director, as appropriate, having statutory jurisdiction over a particular contested case.

“*Commission*” means the natural resource commission or the environmental protection commission, as designated in Iowa Code chapter 455A as having appellate jurisdiction over a particular matter.

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.

“*Department*” means the department of natural resources.

“*Director*” means the director of the department or an authorized representative.

“*Party*” means a person named and admitted as a party.

“*Presiding officer*” means an administrative law judge employed by the department of inspections, appeals, and licensing or the agency, as provided in rule 561—7.7(17A,455A).

“*Proposed decision*” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a contested case in which the agency did not preside.

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.3(17A,455A) Time requirements.

7.3(1) Time. Time shall be computed as provided in Iowa Code section 4.1(34).

7.3(2) Change. Except for good cause stated in the record, the presiding officer shall afford all parties an opportunity to be heard or to file written arguments before extending or shortening the time to take any action. When by these rules, or by notice given under them, an act is required or allowed to be done within a specified period of time, the presiding officer may, at any time, exercise discretion and may with or without motion or notice, for good cause, order the period extended if a request is made before the expiration of the period originally prescribed or as extended by a previous order.

7.3(3) Mail. Any documents filed with the department by mail pursuant to these rules shall be deemed filed on the date of postmark.

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.4(17A,455A) Appeal of agency action (requests to initiate contested case proceedings).

7.4(1) Time.

a. Any order issued by the director of the department shall comply with the requirements established in Iowa Code section 455B.110 and may be appealed. The written notice of appeal of the order must be received by the director within 60 days of proper issuance of the order.

b. Any person appealing any other action by the department that is subject to appeal shall file a written notice of appeal within 60 days of the action, unless a shorter time period is specified by a particular statute or rule governing the subject matter of the action.

c. Unless otherwise stated in the order or notice provided, any written notice of appeal shall be filed with the director of the department, and a copy shall be sent to the legal services bureau chief.

7.4(2) Content. Each appeal shall contain:

a. The name and address of the appellant,

b. A description of the specific portion or portions of the agency action that are being appealed, and

c. A short and plain statement of the reasons the specific agency action is being appealed.
[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.5(17A,455A) Commencement of contested case—notice of hearing.

7.5(1) *Transmittal of appeal.* Except as provided in subrule 7.5(2), the department shall transmit the appeal and request for a contested case proceeding to the department of inspections, appeals, and licensing, or shall otherwise transmit the appeal to the presiding officer, when it determines that the appeal was timely filed and the requester is entitled to a contested case proceeding. When the appeal is from an administrative order, the order shall be transmitted with the appeal.

7.5(2) *Petition from the department.* After the department seeks to suspend or revoke a permit or license, institute licensee disciplinary proceedings, or otherwise commence a contested case, it shall file a petition as described in subrule 7.12(1).

7.5(3) *Notice of hearing issued.* A contested case commences when a notice of hearing is delivered to a party. A notice of hearing will be prepared and issued by the presiding officer when:

- a. The department receives a notice of appeal from a person other than the department, or
- b. A petition from the department is filed, as provided in subrule 7.5(2).

7.5(4) *Delivery of notice of hearing.* Delivery of the notice of hearing may occur by personal service or publication as provided in the Iowa Rules of Civil Procedure; by certified mail, return receipt requested; or as otherwise required by statute.

7.5(5) *Contents of notice of hearing.* The notice of hearing shall contain the following information:

- a. Identification of the parties, including the name, address and telephone number of the person who will act as advocate for the agency or the state and identification of all the parties' counsel where known;
- b. A statement of the time, place and nature of the hearing;
- c. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- d. A reference to the particular section of the statutes and rules involved;
- e. A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, then initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished;
- f. Reference to the procedural rules governing informal settlement;
- g. Identification of the presiding officer, if known, or if not known, then a description of who will serve as presiding officer (e.g., agency head, members of multimembered agency head, or administrative law judge from the department of inspections, appeals, and licensing);
- h. The time within which a petition or answer must be filed; and
- i. In those cases where the department files the petition pursuant to the provisions of subrule 7.5(2), the notice shall include a copy of the petition and a statement that, in the event an answer is not timely filed in accordance with these rules, judgment may be entered for the relief requested in the petition.

7.5(6) *Time for response to notice of hearing.* A person served with a notice of hearing shall file a petition or answer as required by subrule 7.12(1) or 7.12(2) within 20 days of receipt of the notice of hearing. Failure to file shall, upon motion, result in the presiding officer's entering a default against the person failing to file.

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.6(17A,455A) Informal settlement negotiations.

7.6(1) *Informal settlement encouraged.* Unless precluded by statute, informal settlement of controversies is encouraged when those controversies may culminate in contested case proceedings according to the provisions of Iowa Code chapter 17A and these rules. However, this rule shall not be construed to require any party other than the department to utilize informal procedures or to settle the controversy pursuant to informal procedures.

7.6(2) *Opportunity to pursue informal settlement.* A party to a contested case may request an opportunity to pursue informal settlement. The request shall be in writing and shall be delivered to the director with a copy to the legal services bureau chief. Upon receipt of the request, further proceedings shall be delayed and no contested case hearing date shall be set, except in the case of emergency orders as provided in rule 561—7.18(17A,455A). Informal settlement negotiations may include verbal or written

communications between or among parties. At the request of any party, the appeal shall be transmitted to the department of inspections, appeals, and licensing. Settlement negotiations may continue following transmittal.

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.7(17A,455A) Presiding officer. Except as otherwise provided in this rule, an administrative law judge employed by the department of inspections, appeals, and licensing shall preside at contested case hearings.

7.7(1) On motion of a party or on its own motion, the agency may order that the hearing be conducted before the agency or one or more members thereof. Any party who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections, appeals, and licensing must file a written request within 10 days after service of a notice of hearing that identifies or describes the presiding officer as the agency head or members of the agency. The agency may deny the request only upon a finding that one or more of the following reasons apply:

a. Neither the agency nor any officer of the agency under whose authority the contested case is to take place is a named party to the proceeding or a real party in interest to that proceeding (i.e., there is no conflict of interest because the agency would not act as both party and adjudicator in the contested case proceeding).

b. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.

c. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.

d. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.

e. Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.

f. The request was not timely filed.

g. The request is not consistent with a specified statute.

7.7(2) The agency shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed.

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.8(17A,455A) Disqualification of presiding officer.

7.8(1) *Grounds for disqualification.*

a. A presiding officer shall not participate in the making of a proposed or final decision if the individual has investigated, prosecuted or advocated in connection with that case, the specific controversy underlying that case, or another pending factually related controversy that may culminate in a case involving the same parties.

b. A presiding officer shall not be subject to the authority, direction or discretion of any person who has investigated, prosecuted or advocated in connection with that case, the specific controversy underlying that case or a pending factually related case or controversy involving the same parties.

c. A member of an agency having jurisdiction of a case shall not participate in the making of a final decision or order if the member is employed by, receives directly or indirectly personal income from, or has other substantial connection with a person subject to permit or enforcement action pending before the agency if that person would be substantially affected by the outcome of the case.

d. A presiding officer shall not be biased for or against any party.

7.8(2) *Affidavit asserting disqualification.*

a. A party may file an affidavit asserting disqualification of a presiding officer under this subrule at any time, except that an affidavit against a member of the commission on appeal or review of the proposed decision shall be filed prior to any hearing on appeal or review of the proposed decision. A determination as to whether that individual should participate shall be made by the agency before further participation by that individual.

b. Any party to a contested case proceeding may file an affidavit alleging a violation of subrule 7.8(1), and the agency shall determine the matter as part of the record in the contested case. When an

agency makes such a determination with respect to any agency member, that determination shall be subject to de novo judicial review in any appeal of the contested case decision.

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.9(17A,455A) Separation of functions and ex parte communications.

7.9(1) *Separation of functions.* A staff attorney for the department shall perform the investigative and prosecuting functions for the department. Additional employees of the department may be designated by the director to perform these functions as necessary during the course of the case. No person performing these functions shall participate or advise in any decision arising out of that case except as witness or counsel in public proceedings.

7.9(2) *Communications initiated by administrative law judge or agency member.*

a. Except as provided in paragraphs 7.9(2) “b” and “c,” or unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, the presiding officer and members of the agency having jurisdiction of the case shall not communicate, directly or indirectly, in connection with any issue of fact or law in that case with any person or party or representative of any party, or any other person with a direct or indirect interest in such case. Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate to the extent permitted or allowed by Iowa Code chapter 21, “Official Meetings Open to Public (Open Meetings).”

b. The presiding officer having jurisdiction of a case may communicate in connection with issues of fact or law in the case, upon notice and opportunity for all parties to participate. Where members of the agency are acting as the presiding officer(s), they may communicate in connection with issues of fact or law in the case, upon notice and opportunity for all parties to participate and to the extent permitted by Iowa Code chapter 21, “Official Meetings Open to Public (Open Meetings).” Notice of the time and place of the discussion and the issues of fact or law to be discussed shall be delivered by first-class mail to the parties. The discussion shall not extend to issues of fact or law not specified in the notice unless all parties participate in the discussion. The time of the discussion shall not be sooner than ten days after receipt of the notice.

c. The presiding officer or members of the agency having jurisdiction of the case may communicate with members of the department and may have the aid and advice of persons other than those with a personal interest in, or those engaged in personally investigating, prosecuting or advocating in, either the case under consideration or a pending factually related case involving the same parties, as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record. All employees of the department other than those performing the investigative and prosecuting functions in the case shall be available to advise the agency and presiding officer on any of those employees’ functions relating to the case and any appeal, provided communications with those employees meet the above specifications.

7.9(3) *Communications initiated by parties.*

a. Unless required for the disposition of ex parte matters specifically authorized by statute, parties, including the department, or their representatives in a case, and persons with a direct or indirect interest in such a case, shall not communicate directly or indirectly in connection with any issue of fact or law in that case with the presiding officer or members of the agency having jurisdiction of the case, except upon notice and opportunity for all parties to participate, as provided in paragraph 7.9(2) “b.”

b. Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment, unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

c. The presiding officer or members of the agency shall refuse to discuss issues of fact or law with parties unless notice and opportunity for hearing has been given to all parties. A copy of any written ex parte communication or summary of oral ex parte communication received from a party, which directly or

indirectly relates to any issue of fact or law in the case, shall be transmitted by the presiding officer to the other parties, and the presiding officer shall include the written communication or summary in the record.

d. Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines.

e. The presiding officer may require the recipient of a prohibited communication to submit the communication if written, or a summary of the communication if oral, for inclusion in the record of the proceedings.

f. The presiding officer may render a proposed or final decision imposing appropriate sanctions, including default, for violations of rule 561—7.9(17A,455A); make a decision against the offending party; or censure, suspend or revoke the privilege to practice before the agency.

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.10(17A,455A) Consolidation and severance.

7.10(1) Consolidation. The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where:

- a.* The matters at issue involve common parties or common questions of fact or law;
- b.* Consolidation would expedite and simplify consideration of the issues involved; and
- c.* Consolidation would not adversely affect the rights of any of the parties to those proceedings.

7.10(2) Severance. The presiding officer may, for good cause shown, order any contested case proceeding or a portion thereof severed.

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.11(17A,455A) Intervention.

7.11(1) Motion to intervene. A motion for leave to intervene in a contested case proceeding shall state the grounds for the proposed intervention, the position and interest of the proposed intervener, and the possible impact of intervention on the proceeding. A proposed answer or petition in intervention shall be attached to the motion. Any party may file a response within 20 days of receipt of the motion to intervene unless the time period is extended or shortened by the presiding officer.

7.11(2) When filed. Motion for leave to intervene shall be filed as early in the proceeding as possible to avoid adverse impact on existing parties or the conduct of the proceeding. Unless otherwise ordered, a motion for leave to intervene shall be filed before the prehearing conference, if any, or at least 20 days before the date scheduled for hearing. Any later motion must contain a statement of good cause for the failure to file in a timely manner. Unless the result would be inequitable or unjust, an intervener shall be bound by any agreement, arrangement, or other matter previously raised in the case. Requests by untimely interveners for continuances that would delay the proceeding will ordinarily be denied.

7.11(3) Grounds for intervention. The movant shall demonstrate that:

a. Intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties;

b. The movant is likely to be aggrieved or adversely affected by a final order in the proceeding; and

c. The interests of the movant are not adequately represented by existing parties.

7.11(4) Effect of intervention. If appropriate, the presiding officer may order consolidation of the petitions and briefs of different parties whose interests are aligned with each other and limit the number of representatives allowed to participate actively in the proceeding. A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues that may be raised by the intervener or otherwise condition the intervener's participation in the proceeding.

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.12(17A,455A) Pleadings. Pleadings are the parties' written statements of their respective claims or defenses. Pleadings do not include motions. The only allowable pleadings shall be the petition and the answer.

7.12(1) Petition.

a. *Who must file.* In all cases where an action of the department is appealed, the party aggrieved by the action shall file the petition. In those cases where the department seeks to suspend or revoke a license or permit, the department shall file the petition.

b. *Time for filing.* Any petition required to be filed by a party other than the department shall be filed within 20 days of receipt of the notice of hearing, unless the presiding officer allows additional time.

c. *Content.* The petition shall include all of the following items, in separately numbered paragraphs:

(1) The basis for the agency's jurisdiction over the matter;

(2) A detailed discussion of the relief demanded and the supporting facts, including any supporting documentation relied upon for relief;

(3) The particular provisions of the statutes and rules involved;

(4) The name(s) of the party or parties on whose behalf the petition is filed; and

(5) The name, address and telephone number of the petitioner and the petitioner's attorney, if any.

7.12(2) Answer.

a. *Who must file.* In all cases where an action of the department is appealed, the department shall file the answer. In those cases where the department seeks to suspend or revoke a license or permit, the holder of the license or permit shall file the answer.

b. *Time for filing.* The answer shall be filed within 20 days of receipt of the petition.

c. *Content of answer.* The answer shall state on whose behalf it is filed and shall specifically admit or deny each allegation or paragraph of the petition. It shall state any facts deemed to show a defense; it may raise points of law appearing on the face of the petition; and it may contain as many defenses, legal or equitable, as the pleader may claim, which defenses may be inconsistent. The answer also shall state the name, address and telephone number of the person filing the answer and the person's attorney, if any.

d. *Matters admitted and defenses waived.* Any allegation in the petition not denied in the answer shall be deemed admitted. Any defense not raised in the answer that could have been raised at that time on the basis of facts then known shall be deemed waived, except for subject matter jurisdiction.

e. *Failure to answer.* If the party required by this subrule to file an answer fails to file an answer within 20 days of receipt of the notice of hearing or petition, a default shall, upon motion, be entered by the presiding officer.

7.12(3) Amendment. Any notice of hearing, petition, or other charging document (document asserting a party's position) may be amended before a responsive pleading has been filed. Amendments to pleadings after a responsive pleading has been filed and to an answer may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

7.12(4) Form. All pleadings shall adhere to the format required by or use the template provided by the department of inspections, appeals, and licensing, if any, and must be signed by the person filing the pleading.

7.12(5) Filing and service of pleadings. The original of all pleadings shall be filed with the presiding officer, and a copy of all pleadings shall be contemporaneously served upon the other parties. Filing and service of pleadings shall be by e-file, first-class mail, or personal service. No return of service shall be required.

7.12(6) Docketing. Upon receipt of a pleading, the presiding officer shall docket the pleading in a docket kept for that purpose and shall assign a number to the case that shall be placed on all subsequent pleadings filed in the case.

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.13(17A,455A) Defaults.

7.13(1) Defaults defined. A party shall be in default when the party:

a. Fails to file a pleading within the time prescribed for filing of the pleading;

b. Withdraws a pleading without permission to replead;

c. Fails to comply with any order of the presiding officer; or

d. Fails to appear for a contested case proceeding after proper service of notice. If a party fails to appear and participate in a contested case proceeding after proper service of notice, then the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a

decision on the merits in the absence of the party. If a decision on the merits is rendered, the sole remedy to set aside the judgment is a motion to vacate made consistent with the provisions of subrule 7.17(7).

7.13(2) *How entered.* If a party is in default, the presiding officer on motion of the adverse party shall enter the default against the party.

7.13(3) *Contents of decision.* A default decision shall contain the presiding officer's reasons for the decision. A default decision may award any relief consistent with the request for relief made in the petition and embraced in its issues. Unless the defaulting party has appeared before the presiding officer, the relief shall not exceed the demand for relief. A default decision may provide either that the default decision is to be stayed pending a timely motion to set aside or that the default decision is to take effect immediately.

7.13(4) *Setting aside default.*

a. For good cause shown, the presiding officer may set aside a default or order thereon due to mistake, inadvertence, surprise, excusable neglect or unavoidable casualty. The exclusive remedy for an order based on default shall be a timely motion to set aside the default.

b. A motion to set aside a default must be filed promptly after the discovery of the grounds, but in no case shall the motion be filed more than ten days after receipt of the order. Default decisions shall become final agency action unless a motion to set aside the default is timely filed.

(1) *Contents of motion.* A motion to set aside a default shall state all facts relied upon by the moving party and shall establish that good cause existed for that party's default status. If the party is in default due to failure to appear for a contested case proceeding, then each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

(2) *Further appeal stayed.* The time for further appeal of a decision for which a motion to set aside the default has been filed is stayed pending a decision on the motion to set aside the default.

(3) *When granted.* The burden of proof to show good cause to set aside the default due to mistake, inadvertence, surprise, excusable neglect or unavoidable casualty is on the moving party. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's timely filed response to the motion.

7.13(5) *Appeal of denial of motion to set aside default.*

a. If a timely motion to set aside a default is denied, it may be followed by an appeal to the agency having jurisdiction of the matter. The issues on appeal are limited to the grounds for denial of the motion to set aside default. Review is limited to whether the denial of the motion was arbitrary or capricious and whether there is a showing of good cause to set aside default due to mistake, inadvertence, surprise, excusable neglect or unavoidable casualty.

b. Upon a finding by the agency of good cause, the default shall be set aside. The hearing shall be completed, with proper notice, before appeal on the subject matter of the case shall be permitted.

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.14(17A,455A) Prehearing procedures.

7.14(1) *No factual dispute contested cases.* If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such dispute or fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, then as soon as practicable the parties shall jointly submit to the presiding officer a schedule detailing the method and timetable for submission of the record, briefs, and oral argument. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to paragraph 7.14(2) "e."

7.14(2) *Motions.*

a. Form of motion. No technical form for motions is required. However, prehearing motions must be in writing, must state the grounds for relief, and must state the relief sought.

b. Time for response to motions. Any party may file a written response to a motion within 10 days after service of the motion, unless the time period is extended or shortened by rules of the agency or the presiding officer. Failure to respond within the required time period may be deemed a waiver of objection to the granting of the motion.

- c. Oral argument on motions.* The presiding officer may schedule oral argument on any motion.
- d. Time for filing.* Motions pertaining to the hearing, except motions for summary judgment, must be filed and served prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by the presiding officer.
- e. Motions for summary judgment.* Motions for summary judgment shall comply with the requirements of Iowa Rules of Civil Procedure 1.981 through 1.983 and shall be subject to disposition according to the requirements of those rules to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases. Motions for summary judgment must be filed and served either at least 30 days prior to the scheduled hearing date, or during another time period determined by the presiding officer. Any party resisting the motion shall file and serve a resistance within 15 days, unless otherwise ordered by the presiding officer, from the date a copy of the motion was served. A summary judgment order rendered on all issues in a contested case is subject to rehearing pursuant to subrule 7.17(6) and appeal pursuant to subrule 7.17(5).

7.14(3) Discovery.

- a. In general.* The discovery procedures available to parties in civil actions are available to parties to a contested case. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.
- b. Motions relating to discovery.* Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 7.3(2). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.
- c. Evidence obtained in discovery.* Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.
- d. Prior statements or reports of witnesses.* When a party relies on a witness who has made prior statements or reports with respect to the subject matter of the witness's testimony, the party shall, upon request, make the statements or reports available to a party for use on cross-examination unless the statement is confidential under 561—Chapter 2. If the statement or report is confidential under 561—Chapter 2, it may be made available, but it may be made subject to a protective order.
- e. Disclosure of evidence and witnesses.* At a prehearing conference or within some reasonable time set by the presiding officer prior to the hearing, each party shall make available, upon request, to the other parties the names of expert and other witnesses the party expects to call, together with a brief narrative summary of their expected testimony and a list of all documents and exhibits that the party expects to introduce into evidence. Amendments and additions to these materials may be made no later than ten days prior to the date of the hearing. However, following a prehearing conference held in accordance with subrule 7.14(5), witnesses, documents or exhibits may be added only if the moving party can show that they were not readily identifiable with reasonable diligence prior to the prehearing conference and that the addition is necessary to prevent manifest injustice.

7.14(4) Subpoenas.

- a. Issuance.* A subpoena shall be issued to a party upon request to the presiding officer. Such a request may be oral or in writing. In the absence of good cause for permitting later action, a request for a subpoena must be received at least three days before the scheduled hearing. The request shall include the name, address, and telephone number of the requesting party.
- b. Service and expenses.* Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.
- c. Motion to quash or modify.* The presiding officer may quash or modify a subpoena for any lawful reason upon motion in accordance with the Iowa Rules of Civil Procedure. A motion to quash or modify a subpoena shall be set for argument promptly.

7.14(5) Prehearing conference.

a. Matters considered. After filing of the pleadings, the presiding officer may, and shall upon the request of one of the parties, direct the parties to appear at a specified time and place before the presiding officer for a prehearing conference to consider, so far as is applicable to the particular hearing:

- (1) The possibility or desirability of waiving any provisions of this chapter by written stipulation representing an informed mutual consent;
- (2) The necessity or desirability of amending pleadings;
- (3) Agreeing to the admission of facts, documents or records not controverted, to avoid unnecessary introduction of evidence;
- (4) Limiting the number of witnesses;
- (5) Settling on facts of which the presiding officer is to be asked to take official notice;
- (6) Stating and simplifying the factual and legal issues to be decided in the contested case;
- (7) The procedure at the hearing;
- (8) Rescheduling the time and place of the hearing set forth in the notice of hearing to a date that will allow the parties and witnesses to prepare for and participate in the hearing;
- (9) Other matters that may aid, expedite or simplify the disposition of the proceeding.

b. Stipulations. Since stipulations are encouraged, it is expected and anticipated that the parties proceeding to a hearing will stipulate to evidence to the fullest extent to which complete or qualified agreement can be reached, including all material facts that are not or should not fairly be in dispute.

c. Order or statement of agreement. Any action taken at the prehearing conference shall be recorded in an appropriate order, unless the parties enter into a written stipulation as to the matters or agree to the statement thereof made on the record by the presiding officer.

d. Objections. When an order is issued at the termination of the prehearing conference, a reasonable time shall be allowed to the parties to present objections on the ground that the order does not fully or correctly embody the agreement at the conference. Thereafter, the terms of the order or modification shall determine the subsequent course of the proceedings relative to matters it includes, unless modified to prevent manifest injustice.

7.14(6) Continuance. Unless otherwise provided, applications for continuance shall be made to the presiding officer. Applications for continuance may be made orally or in writing, unless otherwise specified by the presiding officer. However, a party making such an oral application for a continuance must confirm that request by written application within five days after the oral request unless that requirement is waived by the presiding officer. No application for continuance shall be made or granted without notice to all parties except in an emergency where notice is not feasible.

7.14(7) Prehearing telephone proceedings. The presiding officer may resolve preliminary procedural motions by telephone conference in which all parties have an opportunity to participate.

7.14(8) Emergency orders. Prehearing procedures for emergency orders are set forth in rule 561—7.18(17A,455A).

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.15(17A,455A) Hearing procedures.

7.15(1) Conduct of proceedings. A hearing shall be conducted by a presiding officer who shall:

- a.* Open the record and receive appearances;
- b.* Administer oaths;
- c.* Enter the notice of hearing into the record;
- d.* Receive testimony and exhibits presented by the parties;
- e.* In the presiding officer's discretion, interrogate witnesses;
- f.* Rule on objections and motions;
- g.* Close the hearing;
- h.* Issue an order containing findings of fact and conclusions of law.

Additionally, the presiding officer may rule on motions, require briefs, issue a proposed decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings.

7.15(2) Order of proceedings. The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

b. The parties shall be given an opportunity to present opening statements;

c. Parties shall present their cases in the sequence determined by the presiding officer;

d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

7.15(3) *Failure to appear.* If a party fails to appear after proper service of notice of hearing, the presiding officer may adjourn, may enter a default against the absent party, or may proceed with the hearing and make a proposed decision in the absence of the party. Adjournment may be granted by the presiding officer on the presiding officer's own motion in the interest of justice.

7.15(4) *Representation at hearings.* Parties have the right to participate in all hearings or prehearing conferences related to their case. Partnerships, corporations, or associations may be represented by any member, officer, director, or duly authorized agent. Any party may, at its own expense, be represented by an attorney.

7.15(5) *Appearance pro se.* If a party other than the department appears on the party's own behalf without counsel, the presiding officer shall explain to the party the rules of practice and procedure and generally conduct the hearing in a less formal manner than that used when a party is represented by counsel.

7.15(6) *Attendance and participation of the public.* Every hearing before an agency of the department or an administrative law judge shall be open to the public.

7.15(7) *Introduction of evidence.* Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

7.15(8) *Fees.* Each party bears all costs and expenses, including fees, for its own witnesses.

7.15(9) *Objections.* All objections shall be timely made and stated on the record.

7.15(10) *Decorum.* The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly. Contemptuous conduct is grounds for removal from the hearing.

7.15(11) *Recording of hearing.*

a. *Method of recording.* Oral proceedings in connection with a hearing in a case shall be recorded either by mechanized means or by certified shorthand reporters. Parties requesting that the hearing be recorded by certified shorthand reporters shall bear the costs thereof.

b. *Transcription.* Oral proceedings in connection with a hearing in a case or any portion of the oral proceedings shall be transcribed at the request of any party with the expense of the transcription charged to the requesting party.

c. *Tapes.* Copies of mechanized records of oral proceedings may be obtained from the presiding officer at the requester's expense.

7.15(12) *Telephone hearings.* Hearings may be conducted via telephone upon order of the presiding officer and with the consent of all parties.

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.16(17A,455A) Evidence.

7.16(1) *Ruling on evidence.* The presiding officer shall rule on admissibility of evidence.

7.16(2) *Admissibility in general.* Evidence that is relevant and material shall be admitted unless it is unduly repetitious. Relevant and material evidence may be admitted even though inadmissible in a jury trial.

7.16(3) *Issues restricted.* Evidence in the proceeding shall be confined to the issues that have been expressed in the appealed action, the appeal, the petition and the answer.

7.16(4) Stipulation. Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

7.16(5) Privilege. The rules of privilege recognized by law shall be given effect.

7.16(6) Examination of exhibits. The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties. All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

7.16(7) Documentary evidence. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

7.16(8) Examination and cross-examination. Witnesses at the hearing shall be examined orally, under oath. Witnesses at the hearing, or persons whose testimony has been submitted in written form, shall be subject to cross-examination by any parties as necessary for a full and true disclosure of facts. The presiding officer may limit the examination or cross-examination or both when necessary for orderly presentation of evidence.

7.16(9) Sequestration of witnesses. Witnesses may be sequestered during the hearing.

7.16(10) Objections to evidence. Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

7.16(11) Offer of proof. Whenever evidence is deemed inadmissible, the party offering the evidence may make an offer of proof that shall be noted in the record. The offer of proof for excluded oral testimony shall consist of a brief statement describing the nature of the evidence excluded. If the evidence excluded consists of a document or exhibits, it shall be inserted in the record. In the event that the agency decides that the presiding officer's ruling in excluding the evidence was erroneous and prejudicial, the hearing may be reopened to permit the taking of the evidence or, where appropriate, the agency may evaluate the evidence and proceed to a final decision.

7.16(12) Official notice. Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the agency. Parties shall be notified at the earliest practicable time, either before or during the hearing, or by reference in preliminary reports, preliminary decisions or otherwise, of the facts proposed to be noticed, and their source, including any staff memoranda or data. The parties may contest these facts before a decision is announced.

7.16(13) Evaluation of evidence. The agency's experience, technical competence, and specialized knowledge may be utilized in evaluating the evidence.

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.17(17A,455A) Posthearing procedures and orders.

7.17(1) Filing by parties of briefs and proposed findings. Within 30 days after the last evidence is taken, each party may file with the presiding officer proposed findings of fact, conclusions of law, a proposed order or decision complying with subrule 7.17(3), and a supporting brief. Each party may, within the same period, file with the presiding officer a brief concerning any relevant matters at the hearing. Copies of these documents shall be served upon each of the other parties. Within 20 days thereafter, each party may file a brief that takes specific exception to matters contained in an opposing brief or that contains alternative findings of fact, conclusions of law, and proposed order. The briefing schedule, including waiver of briefs, shall be determined at the close of the hearing.

7.17(2) Final decision or order.

a. When the agency presides at the reception of evidence, the decision of the agency is a final decision.

b. When the agency does not preside at the reception of evidence, the presiding officer shall make a proposed decision. The proposed decision or order of the presiding officer becomes the final decision or order of the agency without further proceedings unless there is an appeal to, or review on motion of, the agency within the time provided in paragraph 7.17(5)“a.”

7.17(3) Decisions and orders.

a. By whom prepared. The presiding officer who presided at the reception of evidence shall prepare a proposed or final decision or order in each case. Findings of fact shall be prepared by the officer presiding at the reception of the evidence in a case unless the presiding officer becomes unavailable. If the officer is unavailable, the findings of fact may be prepared by another person qualified to be a presiding officer who has read the record, unless demeanor of witnesses is a substantial factor. If demeanor is a substantial factor and the presiding officer is unavailable, the portions of the hearing involving demeanor shall be heard again or the case shall be dismissed.

b. Content of decision or order. The proposed or final decision or order shall:

(1) Be in writing or stated in the record.

(2) Include findings of fact. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of underlying facts supporting the findings. If a party submitted proposed findings of fact in accordance with subrule 7.17(1), the decision or order shall include a ruling upon each proposed finding. The decision shall include an explanation as to why the relevant evidence in the record supports each material finding of fact.

(3) Include conclusions of law, supported by cited authority or reasoned opinion.

c. Delivery. A copy of the proposed decision or order shall be delivered to the parties either by e-file, personal service, or by certified mail, return receipt requested.

7.17(4) The record.

a. Content of record. The record shall include:

(1) All pleadings, motions and intermediate rulings;

(2) All evidence received or considered and all other submissions;

(3) A statement of all matters officially noticed;

(4) All questions and offers of proof and objections and rulings thereon;

(5) All proposed findings and exceptions;

(6) The decision, opinion or report by the presiding officer.

b. By whom prepared. The presiding officer shall prepare the record for each case.

7.17(5) Appeal and review. Any adversely affected party may appeal a proposed decision. Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the agency (the director or the appropriate commission, as required by law). The agency having jurisdiction shall review the proposed decision.

a. Time allowed.

(1) Appeal by party. An appeal by a party shall be made to the agency having jurisdiction of the proceeding and shall be taken within 30 days after receipt of the proposed decision or order.

(2) Agency decision to review. The agency may initiate review of a proposed decision on its own motion at the next meeting of the relevant commission after the appeal period in subparagraph 7.17(5)“a”(1) has concluded. The agency shall preside in the case of review of a proposed decision of the administrative law judge or appeal board on motion of the agency.

b. Notice. Appeal is taken and perfected by filing with the director a timely notice of appeal signed by the appellant or the appellant’s attorney. It shall specify the parties taking the appeal and the final decision or order or part thereof appealed. The notice shall set forth, with particularity, the conclusions of law or findings of fact appealed. It shall be the appellant’s responsibility to immediately serve the notice of appeal upon all parties of record other than the appellant.

c. Request for transcript. A request for a transcript or a copy of the electronic recording of a hearing on a matter appealed shall be made at the time of the filing of a notice of appeal.

d. Scheduling. The director shall issue a schedule for consideration of the appeal.

e. Briefs and arguments. Unless otherwise ordered, within 20 days of receipt of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs. The agency may resolve the appeal on the briefs or provide an opportunity for oral argument. The agency may shorten or extend the briefing period as appropriate.

f. Agency review. On appeal from or review of the proposed decision, the agency has all the power that it would have in initially making the final decision except as it may limit the issues. If the agency limits the issues, notice of this limitation shall be provided in writing to the parties. The agency may reverse or modify any finding of fact if a preponderance of the evidence will support a determination to reverse or modify such a finding, or the agency may reverse or modify any conclusion of law that the agency finds to be in error. When reviewing a proposed decision upon intra-agency appeal, the agency having jurisdiction shall have the powers of and shall comply with the provisions of this chapter that apply to presiding officers, unless otherwise provided by law.

7.17(6) Applications for rehearing.

- a. By whom filed.* Any party to a contested case may file an application for rehearing.
- b. Content of application.* The application shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought.
- c. Time of filing.* The application for rehearing shall be filed with the director within 20 days after the receipt of the final decision.
- d. Notice to other parties.* A copy of the application for rehearing shall be immediately mailed by the applicant to all parties of record not joining therein.
- e. Disposition.* Any application for rehearing shall be deemed denied unless the agency grants the application within 20 days after its filing.

7.17(7) Motion to vacate.

- a. By whom filed.* A motion to vacate may be filed by any party to a contested case.
- b. Form of motion.* A motion to vacate shall be in writing, shall state on whose behalf it is filed, and shall state the specific grounds for relief.
- c. Time of filing.* A motion to vacate must be filed within 30 days after receipt of the final decision.
- d. Notice to other parties.* A copy of the motion to vacate shall be immediately mailed by the moving party to all parties of record not joining therein.
- e. Granting of motion to vacate.* A motion to vacate may be granted if the presiding officer finds that any of the following grounds exist:

- (1) The moving party experienced unavoidable casualty or misfortune preventing the moving party from participating during the contested case process; or
- (2) The moving party has material evidence, newly discovered, which could not with reasonable diligence have been discovered and produced at the contested case hearing, and was not discovered within the time for making an application for rehearing under subrule 7.17(6).

7.17(8) Stays of agency action.

- a. When available.*
 - (1) Any person appealing an action of the department, other than an emergency action taken pursuant to the provisions of rule 561—7.18(17A,455A), may petition the presiding officer for a stay of the department's action or a part thereof pending its review. The petition for stay shall state the reasons justifying a stay. Whenever possible, an appellant should seek a stay upon the filing of an appeal. An appellant who fails to promptly file for a stay does so at that party's risk.
 - (2) Any party adversely affected by a final decision or order, other than an emergency order that is governed by rule 561—7.18(17A,455A), may petition the agency for a stay of the final decision or order pending judicial review. The petition for stay shall be filed with the director within ten days of receipt of the final decision or order, and shall state the reasons justifying a stay.
- b. When granted.* The presiding officer or agency, as appropriate, shall consider the factors listed in Iowa Code section 17A.19(5)“c” when considering whether to grant a stay.
- c. Vacation.* A stay may be vacated by the issuing authority upon application of the department or any other party.

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.18(17A,455A) Emergency proceedings.

7.18(1) Necessity of emergency action. To the extent necessary to prevent or avoid immediate danger to the public health, safety or welfare, and consistent with the Iowa Constitution and other provisions of law, the agency may issue a written emergency administrative order in compliance with Iowa Code

section 17A.18A to suspend a license in whole or in part, order cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the agency. Before issuing an emergency administrative order, the agency shall consider factors including but not limited to the following:

- a. Whether there has been a sufficient factual investigation to ensure that the agency is proceeding on the basis of reliable information;
- b. Whether the specific circumstances that pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;
- c. Whether the person required to comply with the emergency administrative order may continue to engage in alternative activities without posing immediate danger to public health, safety or welfare;
- d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect public health, safety and welfare; and
- e. Whether the specific action contemplated by the agency is necessary to avoid the immediate danger.

7.18(2) Contents of order. An emergency administrative order shall contain the following:

- a. Findings of fact,
- b. Conclusions of law, and
- c. Policy reasons for the decision if it is an exercise of the agency's discretion.

7.18(3) Delivery of emergency order. To the degree practicable, the department shall select the procedure for delivery of an emergency administrative order that best ensures prompt, reliable delivery. An emergency order shall be delivered immediately to the person or persons who are required to comply with the order by utilizing one or more of the following procedures:

- a. Personal delivery;
- b. Certified mail, return receipt requested, to the last address on file with the agency;
- c. Certified mail to the last address on file with the agency;
- d. First-class mail to the last address on file with the agency; or
- e. Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that agency orders be sent by fax and the person has provided a fax number for that purpose.

7.18(4) Oral notice. Unless the emergency order is delivered by personal delivery on the same day that the order is issued, the agency shall make reasonable immediate efforts to contact by telephone the person or persons who are required to comply with the order.

7.18(5) Stay of order. A person named in an emergency order may request a stay of the order by contacting the director by telephone or by delivery of a written request for stay to the department.

a. Upon receipt of a request for stay of an emergency order, the director shall schedule a hearing to take place within five days of receipt of the request or a longer time as agreed upon by the appellant. The person requesting the stay shall be notified of the time and place of the hearing.

b. The scope of the hearing on a request for stay shall be limited to, and the decision whether to grant a stay shall be based upon, the following factors:

- (1) Whether the requester will suffer irreparable injury if a stay is not granted,
- (2) Whether the requester is likely to prevail on the merits when the appeal of the order is heard,
- (3) Where lies the public interest, and
- (4) Whether the rule or statute upon which the order is founded is clearly invalid.

c. The hearing procedures in a decision to grant or deny a stay shall conform with rule 561—7.15(17A,455A).

7.18(6) Decision on merits. Where agreed to by the parties, the appeal of an emergency order may be decided based upon the evidence presented at the hearing for stay. Otherwise, a hearing on the merits shall proceed in accordance with this chapter.

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.19(17A,455A) License suspension or revocation and other licensee disciplinary proceedings.

7.19(1) Notice. Except as provided in rule 561—7.18(17A,455A) or in subrule 7.19(3), prior to the suspension or revocation of a license, the department shall give notice of its intent and shall provide an opportunity to be heard at an evidentiary hearing conducted according to the provisions of this chapter.

However, according to the provisions of Iowa Code section 455B.219, an evidentiary hearing, and not just the opportunity therefor, must occur prior to revocation or suspension of a license for water treatment.

7.19(2) *Content of notice.* The notice shall inform the licensee of the department's intent to suspend or revoke the license and shall include:

- a. A description of the facts or conduct warranting the suspension or revocation;
- b. A statement of jurisdiction and the provision of law that warrants the intended action; and
- c. A statement that the licensee may show at a hearing that the licensee meets all lawful requirements to retain the license.

7.19(3) *Delivery of notice.* Delivery of notice in license revocation or suspension proceedings shall be by personal service or by restricted certified mail.

7.19(4) *Time to request hearing.* A person entitled to request a hearing according to the provisions of this rule may invoke the right within 30 days of receipt of the notice.

7.19(5) *Setting hearing.* Upon receipt of a request for a hearing or upon receipt of a notice of intent to revoke or suspend a license according to the provisions of Iowa Code section 455B.291, the presiding officer shall prepare a notice of hearing. The contested case hearing procedures in this chapter shall apply.

7.19(6) *Filing of petition and answer.* Within 10 days of receipt of the notice of hearing, the department shall file a petition that complies with the provisions of paragraph 7.12(1)"c." An answer complying with the provisions of paragraphs 7.12(2)"c" and "d" may be filed within 10 days of receipt of the petition.

7.19(7) *Emergency suspension.* A license may be suspended without the department providing to the licensee a prior opportunity to be heard if the agency having jurisdiction:

- a. Finds that the public health, safety or welfare imperatively requires emergency action,
- b. Incorporates a finding to that effect in its order,
- c. Complies with the provisions of rule 561—7.18(17A,455A), and
- d. Promptly thereafter provides the licensee an opportunity to be heard.

7.19(8) *Effective date of suspension or revocation.* Except as provided in Iowa Code section 455B.219 and subrule 7.19(7), suspension or revocation pursuant to this rule shall be effective upon:

- a. Failure of the licensee to request a hearing within 30 days of receipt of notice of intent to revoke or suspend; or
- b. Upon the issuance of an order suspending or revoking the license after hearing.

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

561—7.20(17A,455A) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. The waiver shall be by written stipulation representing an informed, mutual consent. However, the agency, in its discretion, may refuse to give effect to such waiver when it deems the waiver to be inconsistent with the public interest.

[ARC 9433C, IAB 7/23/25, effective 8/27/25]

These rules are intended to implement Iowa Code section 17A.3 and chapter 455A.

[Filed 8/19/88, Notice 3/23/88—published 9/7/88, effective 10/12/88]

[Filed 1/30/03, Notice 11/13/02—published 2/19/03, effective 3/26/03]

[Filed 1/12/07, Notice 9/27/06—published 1/31/07, effective 3/7/07]

[Filed ARC 5095C (Notice ARC 4861C, IAB 1/15/20), IAB 7/15/20, effective 8/19/20]

[Filed ARC 9433C (Notice ARC 8640C, IAB 1/8/25), IAB 7/23/25, effective 8/27/25]

CHAPTER 8
CONTRACTS FOR SERVICES AND PUBLIC IMPROVEMENTS

Chapter rescission date pursuant to Iowa Code section 17A.7: 8/27/30

561—8.1(8A) Contract policy. All service and public improvements contracts with the department shall be awarded on a competitive basis to the maximum practical extent. All contracts shall be in written form. [ARC 9434C, IAB 7/23/25, effective 8/27/25]

561—8.2(8A,26,455B,573) Contracts for public improvements.

8.2(1) Definition. As used in these rules, “public improvement” means public improvement as defined in Iowa Code section 26.2.

8.2(2) Bidding process. The department shall use the bidding processes identified in Iowa Code chapter 26.

8.2(3) Approval and award of contracts. All contracts for public improvements in excess of \$100,000 shall be approved by the director and the appropriate commission.

8.2(4) Change orders and extra work orders. All change orders and extra work orders shall be approved by the director before the work is performed, except in emergency situations. In addition, any order or accumulation of orders that increases the amount of the original contract by more than \$50,000 or 10 percent of the original contract, whichever is greater, shall also be approved by the appropriate commission.

8.2(5) Interest on retained funds.

a. Scope. This rule implements Iowa Code section 573.12(3) regarding payment to a contractor of interest earned on retained funds. This rule does not address payment of interest under Iowa Code section 573.14.

b. General requirements.

- (1) Interest shall be paid pursuant to Iowa Code section 573.12.
- (2) Interest shall be paid on retained funds of a contract only if the accrued interest on those funds is at least \$25. This dollar threshold reflects the cost to the department of processing an interest payment on retained funds in contracts for the construction of public improvements.
- (3) Interest shall not be paid on retained funds of a contract declared in default.

c. Procedures.

(1) Interest shall begin to accrue on retained funds on the date the first progress payment is issued. An interest rate shall be established on this date in accordance with Iowa Code section 12C.6. This interest rate shall apply for the duration of the contract.

(2) In general, interest shall continue to accrue on retained funds until the date final payment is approved by the chief engineer. Final payment is payment of retained funds less assessed liquidated damages, if applicable.

(3) Notwithstanding paragraph 8.2(5) “b,” interest shall cease to accrue on retained funds:

1. Upon the expiration of 60 days following field acceptance of a project if the contractor has failed to submit to the department the documentation necessary for final payment, as specified in the contract provision.

2. Upon the court obtaining jurisdiction of the retained funds pursuant to Iowa Code section 573.16. Retained funds turned over to the court will include the interest accrued on those funds to the date the action was filed, if the interest has not been paid to the contractor.

[ARC 9434C, IAB 7/23/25, effective 8/27/25]

561—8.3(8A,455A) Contracts for services.

8.3(1) Services defined. The term “services” shall be as defined in 11—118.3(8A), adopted as required by Iowa Code section 8A.311.

8.3(2) Purchasing standards for service contracts. The department shall comply with the provisions of 11—Chapters 117 through 121 (as of July 16, 2025).

8.3(3) *Approval of service contracts.* All contracts for services in excess of \$50,000 shall be approved by the director and the appropriate commission.

8.3(4) *Service contract amendments and change orders.* All service contract amendments and change orders that increase the amount of the original contract by more than \$50,000 or 10 percent of the original contract, whichever is greater, shall also be approved by the appropriate commission.

[ARC 9434C, IAB 7/23/25, effective 8/27/25]

561—8.4(456A) Contracts for sale of timber. When the total cost of a public sale of timber exceeds the sum of \$5,000 as estimated by the department, the department shall advertise by publishing a notice by email or through mail, and by posting on the state of Iowa bid opportunities website. The notices shall be not less than 15 days prior to the date set for receiving bids. The notice to bidders (invitation for bids) shall conform as nearly as possible to the formal competitive process used by the department. All timber buyers and timber sales agreements must comply in all respects with Iowa Code section 456A.36.

[ARC 9434C, IAB 7/23/25, effective 8/27/25]

These rules are intended to implement Iowa Code sections 455A.4, 456A.20(2), and 573.12(3).

[Filed 7/22/88, Notice 3/23/88—published 8/10/88, effective 9/14/88]

[Filed 4/26/91, Notice 2/20/91—published 5/15/91, effective 6/19/91]

[Filed Emergency After Notice ARC 7681B (Notice ARC 7534B, IAB 1/28/09), IAB 4/8/09, effective 3/20/09]

[Filed ARC 9434C (Notice ARC 8645C, IAB 1/8/25), IAB 7/23/25, effective 8/27/25]

CHAPTER 9
GROUNDWATER HAZARD DOCUMENTATION

Chapter rescission date pursuant to Iowa Code section 17A.7: 8/27/30

561—9.1(558) Authority, purpose and application.

9.1(1) Authority. Iowa Code section 558.69 directs the department to adopt rules regarding a statement to be submitted to county recorders when they record instruments transferring real property. The statement must disclose the existence and location of wells, disposal sites, underground storage tanks, and hazardous wastes on the property.

9.1(2) Purpose. These rules provide the necessary forms, instructions, and explanation of this requirement. The statute's purpose is to give real property transferees notice of the condition of any wells, disposal sites, underground storage tanks, hazardous waste disposal, and private burial sites existing on the real estate.

9.1(3) Applicability. These rules apply to all persons, corporations, and other legal entities who are transferors or transferees of real property within the state of Iowa and all county recorders who are called upon to record instruments transferring real property in Iowa.

9.1(4) When groundwater hazard statement is required. A groundwater hazard statement shall be presented to the county recorder along with the real estate transaction documents only when required by Iowa Code section 558.69 or when otherwise required by Iowa law.

[ARC 9435C, IAB 7/23/25, effective 8/27/25]

561—9.2(558) Form.

9.2(1) The department adopts by reference Form 542-0960, "Groundwater Hazard Statement" (February 1, 2023), which may be obtained from the department or local county recorders.

a. When a groundwater hazard statement is required pursuant to 9.1(4), the transferor or the transferor's agent or attorney shall complete and present Form 542-0960. The transferor's agent or attorney may sign the form on behalf of the transferor, but in doing so the agent or attorney represents that the transferor made a good-faith effort to accurately provide the information requested by the form.

b. For real estate transactions where a groundwater hazard statement is required pursuant to 9.1(4) and where the real estate transaction is dated after February 1, 2023, county recorders shall only accept the currently adopted form. Any person may reproduce Form 542-0960 through photocopying or electronic means so long as the general format and wording are not altered.

9.2(2) The form shall be submitted to the county recorder, in the manner prescribed by the recorder, at the time required by 9.1(4).

9.2(3) County recorders shall return or present the statement with the recorded instrument when the instrument is returned or presented to the transferee or the transferee's designee.

9.2(4) When a county recorder accepts a groundwater hazard statement for recording, the county recorder shall transmit the groundwater hazard statement to the department through one of the following methods:

a. Pursuant to a written agreement between the department and the custodian of the county land record information system, recorded groundwater hazard statement forms shall be presented to the department via a browser interface provided through the county land record information system for the duration of such an agreement. Any agreement shall include but not be limited to terms requiring each form to be posted on the system within 15 days of recording, and that each form remain on the system for at least five years.

b. In the absence of such an agreement, or if the county land record information system is inoperable, a county recorder shall submit a digital copy of each recorded groundwater hazard statement to the department via email within 15 days of its recording. All emails shall be directed to the department's records division. The department shall retain custody of such forms for at least five years.

9.2(5) Nothing in these rules shall be construed as requiring any party to submit to the department the first page of any document that transfers a property on which no conditions are present.

[ARC 9435C, IAB 7/23/25, effective 8/27/25]

These rules are intended to implement Iowa Code section 558.69.

[Filed emergency 7/1/87—published 7/29/87, effective 7/1/87]

[Filed emergency 7/31/87—published 8/26/87, effective 7/31/87]

[Filed 12/23/87, Notice 9/9/87—published 1/13/88, effective 2/17/88]

[Filed 8/19/88, Notice 7/13/88—published 9/7/88, effective 10/12/88]

[Filed 3/14/01, Notice 1/10/01—published 4/4/01, effective 5/9/01]

[Filed 1/28/05, Notice 12/8/04—published 2/16/05, effective 3/23/05]

[Filed ARC 7588B (Notice ARC 7454B, IAB 12/31/08), IAB 2/25/09, effective 4/1/09]

[Filed Emergency ARC 7973B, IAB 7/29/09, effective 6/29/09]

[Filed ARC 8950B (Notice ARC 8776B, IAB 6/2/10), IAB 7/28/10, effective 9/1/10]

[Filed ARC 0167C (Notice ARC 0045C, IAB 3/21/12), IAB 6/13/12, effective 7/18/12]

[Filed ARC 6790C (Notice ARC 6629C, IAB 11/2/22), IAB 1/11/23, effective 2/15/23]

[Filed ARC 9435C (Notice ARC 8648C, IAB 1/8/25), IAB 7/23/25, effective 8/27/25]

CHAPTER 10
WAIVERS FROM ADMINISTRATIVE RULES

Chapter rescission date pursuant to Iowa Code section 17A.7: 8/27/30

561—10.1(17A) Criteria for waiver. Upon petition of any person and at the sole discretion of the department, the department may issue a waiver from the requirements of a rule if the director or the director's designee or the department in a contested case proceeding finds, based on clear and convincing evidence, all of the factors as set forth in Iowa Code section 17A.9A(2).

[ARC 9436C, IAB 7/23/25, effective 8/27/25]

561—10.2(17A) Burden of persuasion. The burden of persuasion rests with the person who petitions the department for the waiver of a rule consistent with Iowa Code section 17A.9A(3).

[ARC 9436C, IAB 7/23/25, effective 8/27/25]

561—10.3(17A) Special waiver rules not precluded. This chapter shall not preclude the department from granting waivers in other contexts or on the basis of other standards if a statute or other department rule authorizes the director to do so, and the director deems it appropriate to do so.

[ARC 9436C, IAB 7/23/25, effective 8/27/25]

561—10.4(17A) Administrative deadlines. When the rule from which a waiver is sought establishes administrative deadlines, the department shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all persons governed by the particular rule.

[ARC 9436C, IAB 7/23/25, effective 8/27/25]

561—10.5(17A) Filing of petition. A petition for a waiver shall be submitted in writing to the department as follows:

10.5(1) Contested cases. If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding. The department may elect not to rule on the waiver petition until the resolution of the contested case proceeding.

10.5(2) Other. If the petition does not relate to a pending contested case, the petition may be submitted to the director.

[ARC 9436C, IAB 7/23/25, effective 8/27/25]

561—10.6(17A) Contents of petition. A petition for waiver shall include the following information when applicable and known to the petitioner:

10.6(1) The name, address, and telephone number of the entity or person for whom a waiver is requested, and the case number of any related contested case.

10.6(2) A description and citation of the specific rule from which a waiver is requested.

10.6(3) The specific waiver requested, including the precise scope and operative period that the waiver will extend.

10.6(4) The relevant facts that the petitioner believes would justify a waiver. This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.

10.6(5) A history of any prior contacts between the department and the petitioner for the past five years, including a description of each affected permit held by the petitioner, and any notices of violation, administrative orders, contested case proceedings, and lawsuits involving the department and the petitioner.

10.6(6) Any information known to the petitioner regarding the department's treatment of similar cases.

10.6(7) The name, address, and telephone number of any public agency or political subdivision of the state or federal government that also regulates the activity in question, or that might be affected by the granting of a waiver.

10.6(8) The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.

10.6(9) The name, address, and telephone number of any person with knowledge of relevant facts relating to the proposed waiver.

10.6(10) Signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver.

[ARC 9436C, IAB 7/23/25, effective 8/27/25]

561—10.7(17A) Additional information. Prior to issuing a decision granting or denying a waiver, the department may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the director may, on the director's own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the director.

[ARC 9436C, IAB 7/23/25, effective 8/27/25]

561—10.8(17A) Notice. The petitioner, within 30 days of submission of the petition, shall serve by certified mail notice of the pending petition and a concise summary of its contents upon all persons to whom notice is required by any provision of law. The petitioner shall provide a written statement to the department attesting that the required notice has been provided. The department shall acknowledge a petition upon receipt and, in addition, the department may give notice to other persons.

[ARC 9436C, IAB 7/23/25, effective 8/27/25]

561—10.9(17A) Hearing procedures. The provisions of Iowa Code sections 17A.10 through 17A.18A regarding contested case hearings shall apply to any petition for a waiver of a rule filed within a contested case and shall otherwise apply to department proceedings for a waiver only when the department so provides by rule or order or is required to do so by statute.

[ARC 9436C, IAB 7/23/25, effective 8/27/25]

561—10.10(17A) Ruling. A decision granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the decision pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and operative period of the waiver if one is issued.

[ARC 9436C, IAB 7/23/25, effective 8/27/25]

561—10.11(17A) Conditions. The department may condition the granting of the waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question through alternative means.

[ARC 9436C, IAB 7/23/25, effective 8/27/25]

561—10.12(17A) Time for ruling. The department shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of receipt of the petition, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the department shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

[ARC 9436C, IAB 7/23/25, effective 8/27/25]

561—10.13(17A) When deemed denied. Failure of the director or the department in a contested case proceeding to grant or deny a petition within the required time period shall be deemed a denial of that petition by the department.

[ARC 9436C, IAB 7/23/25, effective 8/27/25]

561—10.14(17A) Service of decision. Within seven days of its issuance, any decision issued under this chapter shall be transmitted to the petitioner or the person to whom the decision pertains and to any other person entitled to such notice by any provision of law.

[ARC 9436C, IAB 7/23/25, effective 8/27/25]

561—10.15(17A) Public availability. Subject to the provisions of Iowa Code section 17A.3(1)“e,” the department shall maintain a record of all decisions granting and denying waivers under this chapter. All final rulings in response to requests for waivers shall be indexed and available to members of the public.

[ARC 9436C, IAB 7/23/25, effective 8/27/25]

561—10.16(17A) Voiding or cancellation. A waiver is void if the material facts upon which the request is based are not true or if material facts have been withheld. The department may at any time cancel a waiver if the department finds that the facts as stated in the request are not true, material facts have been withheld, the alternative means of compliance provided in the waiver have failed to achieve the objectives of the statute, or the requester has failed to comply with the conditions of the waiver.

[ARC 9436C, IAB 7/23/25, effective 8/27/25]

561—10.17(17A) Violations. Violation of conditions of the waiver approval is the equivalent of violation of the particular rule for which the waiver is granted and is subject to the same remedies or penalties.

[ARC 9436C, IAB 7/23/25, effective 8/27/25]

561—10.18(17A) Defense. After the department issues a decision granting a waiver, the decision is a defense within its terms and the specific facts indicated therein for the person to whom the decision pertains in any proceeding in which the rule in question is sought to be invoked.

[ARC 9436C, IAB 7/23/25, effective 8/27/25]

These rules are intended to implement Iowa Code chapter 17A.

[Filed 8/31/01, Notice 2/21/01—published 9/19/01, effective 10/24/01]

[Filed ARC 5516C (Notice ARC 5380C, IAB 1/13/21), IAB 3/10/21, effective 4/14/21]

[Filed ARC 9436C (Notice ARC 8643C, IAB 1/8/25), IAB 7/23/25, effective 8/27/25]

CHAPTER 11
THE IOWA NATURE STORE
Rescinded **ARC 9437C**, IAB 7/23/25, effective 8/27/25

CHAPTER 12
SPECIAL NONRESIDENT DEER AND TURKEY LICENSES

Chapter rescission date pursuant to Iowa Code section 17A.7: 12/17/30

561—12.1(483A) Purpose. These rules establish the process by which the department will issue special nonresident deer and turkey licenses to individuals as part of statewide or local efforts to promote the state and its natural resources.

[ARC 9704C, IAB 11/12/25, effective 12/17/25]

561—12.2(483A) Definitions. When used in this chapter:

“Approved organization” means an organization that is incorporated under Iowa Code chapter 504 as a nonprofit organization, whose mission involves providing hunting experiences for disabled veterans and military personnel.

“Conservation organization” means an organization that is incorporated under Iowa Code chapter 504 as a nonprofit organization, whose mission emphasizes natural resource conservation or supports science-based natural resource management or who provides educational outreach efforts in Iowa related to environmental stewardship or natural resources conservation and management. A local or state chapter or division of a national or international conservation organization shall qualify as a conservation organization. A person who purchases a deer license from a conservation organization under these rules is not subject to the restriction provided in 12.5(1)“b.”

“Coordinator” means the department staff person appointed by the director to administer the process for allocation of special nonresident deer and turkey licenses pursuant to this chapter.

“Department” means the department of natural resources.

“Director” means the director of the department of natural resources.

“Nonresident disabled veteran or disabled member of the armed forces” means a person who is a veteran and who has an assigned service-related disability rating of 30 percent or more by the United States Department of Veterans Affairs; or a person who is a member of the armed forces serving on active federal duty currently participating in the Integrated Disability Evaluation System (IDES).

“Outdoor industry” means a commercial enterprise or venture that promotes or otherwise contributes to the use of natural resources. A business that solely provides guide or outfitter services is not an outdoor industry.

“Program” means the review and selection process through which special nonresident deer and turkey licenses are allocated in accordance with Iowa Code section 483A.24 and these rules.

“Review committee” means the committee that ranks certain requests for special licenses for consideration by the director or the director’s designee and consists of the following: the administrator of the conservation and recreation division, the chief of the wildlife bureau, the chief of the law enforcement bureau, the chair of the natural resource commission, and the vice-chair of the natural resource commission.

“Special licenses” means the special nonresident deer licenses and special nonresident turkey licenses issued pursuant to these rules.

“Special nonresident deer license” means a deer license issued pursuant to Iowa Code section 483A.24(3).

“Special nonresident turkey license” means a turkey license issued pursuant to Iowa Code section 483A.24(4).

“Sponsor” means an entity that applies on behalf of one or more hunters. Sponsors shall either conduct business in Iowa and be registered with the secretary of state or have some other affiliation with the state of Iowa.

“Statewide signature event organization” means an authority of the state with a foundation dedicated to a mission of making capital improvements on state property or that serves as a major platform for the promotion of Iowa’s agriculture, culture, and natural resources.

[ARC 9704C, IAB 11/12/25, effective 12/17/25]

561—12.3(483A) Availability of special licenses.

12.3(1) The program shall be available to provide no more than the number of special licenses allowed by Iowa Code section 483A.24 to nonresidents through requests submitted by individual hunters, through a sponsor, or through an approved organization.

12.3(2) A statewide signature event organization shall receive one special nonresident deer license upon application. The statewide signature event organization shall return to the department the greater amount of either one-half of the proceeds from its sale of the special nonresident deer license or the fee for a nonresident deer license as set forth in Iowa Code section 483A.1. The department's proceeds shall cover the cost of the special nonresident deer license. A license made available to a statewide signature event organization in accordance with this subrule may be valid for up to two years after selection of the organization by the director or the director's designee. The statewide signature event organization shall notify the coordinator immediately following the sale of the special nonresident deer license of which year and for what season the special nonresident deer license will be used.

[ARC 9704C, IAB 11/12/25, effective 12/17/25]

561—12.4(483A) Coordinator duties. The coordinator of the program shall:

12.4(1) Assist the review committee in the evaluation and selection of hunters who may receive special licenses.

12.4(2) Develop templates for requests for special licenses and provide the templates to hunters, sponsors, and approved organizations upon request.

12.4(3) Convene the review committee to rank hunters according to the criteria in 561—12.7(483A).

12.4(4) Summarize each request received and distribute the summaries to the review committee and the director or the director's designee.

12.4(5) Establish the date on which applications for special licenses for disabled veterans and disabled active military personnel are due, establish the dates on which the director or the director's designee will select the conservation organizations and hunters who will receive special licenses, and inform the conservation organizations, the approved organizations and the hunters of their selection.

[ARC 9704C, IAB 11/12/25, effective 12/17/25]

561—12.5(483A) Request, review, and selection process for promotional special licenses.**12.5(1) Submission of requests.**

a. Individual hunters or sponsors shall submit a request, or requests, to the coordinator.

b. Applicants will not qualify for a deer license under this rule if they were issued a deer license under this rule the previous year.

c. Hunters awarded a deer license under this rule may purchase preference points for the regular nonresident deer license and shall not lose those preference points when awarded a deer license under this rule.

12.5(2) Review. The review committee shall review the summaries prepared by the coordinator, rank the hunters according to criteria in 561—12.7(483A), and forward the rankings to the director or the director's designee for consideration and final selection. The review committee shall exercise its discretion and, in addition to the criteria in 561—12.7(483A), shall also consider the following:

a. Requests that demonstrate little or no promotion of the state of Iowa or its natural resources shall not be included in the rankings forwarded to or considered by the director or the director's designee.

b. Requests from a sponsor, a sponsor-related entity, or hunter that has been found guilty of a game violation in Iowa or elsewhere within the past five years or that, in the opinion of the review committee, has exhibited poor hunting ethics or judgment shall not be considered for a special license.

c. Review of requests shall occur at least once annually but may occur more frequently as needed based upon the number of requests and the dates by which they are received.

12.5(3) Selection and payment. Upon notice of selection to receive a special license, the sponsor or hunter shall make payment in accordance with 561—12.12(483A) to the department through the coordinator.

[ARC 9704C, IAB 11/12/25, effective 12/17/25]

561—12.6(483A) Consideration of requests for promotional special licenses. The review committee will recommend to the director or the director's designee which conservation organizations are best qualified to promote the state and its natural resources. In making recommendations to the director or the director's designee, the review committee will base its recommendations on the expected ability of hunters to promote the state and its natural resources and, if applicable, based on the degree of success special license holders have had in previous years or seasons in promoting the state and its natural resources. By way of illustration, the committee may consider requests from the following:

12.6(1) A hunter who has a direct beneficial impact on the state through an arm's-length business relationship with an Iowa-based outdoor industry.

12.6(2) A conservation organization that will use the special nonresident deer license as a fundraiser for that organization. A conservation organization shall be limited to one special nonresident deer license per year, whether the organization is a local or state chapter or division of a national or international conservation organization. The organization shall return to the department the greater amount of either one-half of the proceeds from its sale of the special nonresident deer license or the fee for a nonresident deer license as set forth in Iowa Code section 483A.1. The department's proceeds shall cover the cost of the special nonresident deer license. A license made available to a conservation organization in accordance with this subrule may be valid for up to two years after selection of the organization by the director or the director's designee. The sponsoring conservation organization shall notify the coordinator immediately following the sale of the special nonresident deer license of which year and for what season the special nonresident deer license will be used. The conservation organization shall specifically explain how and during what period the organization will market the special nonresident deer license for auction or some other legal fundraiser.

12.6(3) A hunter nominated by the governor or a member of the Iowa legislature.

12.6(4) A hunter recommended by the department.

12.6(5) A hunter who is a well-known public figure nationally or regionally and who may provide a positive portrayal of the state and its natural resources.

[ARC 9704C, IAB 11/12/25, effective 12/17/25]

561—12.7(483A) Ranking criteria for promotional special licenses.

12.7(1) The following criteria shall be used by the review committee to rank individual hunters as identified in 12.6(1), 12.6(4) and 12.6(5). The rankings shall be determined as the average of the following rating points and will be provided to the director or the director's designee as an aid in determining the selection of hunters.

a. Five points if the hunter is directly affiliated with an Iowa-based outdoor industry.

b. From 0 to 10 points for the following:

(1) The relative size of the hunter's potential audience.

(2) The hunter's proposal to promote the state and its natural resources.

(3) If the hunter has received a special license in the past, the value of the actual promotion of the state and its natural resources or special services provided as a result.

c. From 0 to 5 points if the hunter meets the description in 12.6(5).

12.7(2) A conservation organization's request shall be forwarded to the director or the director's designee if the conservation organization meets the definition in 561—12.2(483A) and approval shall be based on evaluation of the organization's prior performance, if any, in selling the special nonresident deer license.

12.7(3) Hunters as identified in 12.6(3) shall not be ranked by the review committee, and their requests will be forwarded to the director or the director's designee for consideration.

[ARC 9704C, IAB 11/12/25, effective 12/17/25]

561—12.8(483A) License term for promotional special licenses. With the exception of the term provided for in 12.6(2), special licenses issued under these rules shall be valid for only the applicable deer or turkey season immediately following allocation of the license.

[ARC 9704C, IAB 11/12/25, effective 12/17/25]

561—12.9(483A) Reporting by recipients of promotional special licenses. Within eight months after a hunter's participation in a hunt with a license issued pursuant to this chapter, the sponsor or hunter shall provide to the coordinator information about the hunt to demonstrate how the hunt will provide or has provided promotion of the state and its natural resources. The director or the director's designee may consider compliance with this reporting requirement in evaluating future requests.

[ARC 9704C, IAB 11/12/25, effective 12/17/25]

561—12.10(483A) License costs for promotional special licenses. With the exception provided in 12.6(2) for conservation organizations, a nonresident who obtains a special license issued pursuant to this chapter shall pay the applicable fee as follows:

12.10(1) For a special nonresident deer license, the fee described in Iowa Code section 483A.1 for a deer hunting license, antlered or any sex deer.

12.10(2) For a special nonresident turkey license, the fee described in Iowa Code section 483A.1 for a wild turkey hunting license.

[ARC 9704C, IAB 11/12/25, effective 12/17/25]

561—12.11(483A) Request, review, and selection processes for special licenses for nonresident disabled veterans or disabled members of the armed forces.

12.11(1) *Submission of requests.*

a. Individual hunters or approved organizations shall submit a request, or requests, to the coordinator.

b. Applicants will not qualify for a deer or turkey license under this rule if they were issued a deer or turkey license under this rule the previous year. However, if there are unclaimed deer or turkey licenses under this rule, then the coordinator may keep a list of applicants who received licenses the previous year and who apply for the current year, and process those applicants' applications to determine the recipients of the unclaimed licenses.

c. Hunters awarded a deer license under this rule may purchase preference points for the regular nonresident deer license and shall not lose those preference points when awarded a deer license under this rule.

12.11(2) *Review.* After the established deadlines have passed, the coordinator shall review the applications for completeness and shall process the complete applications to determine the recipients of the special licenses. The coordinator shall exercise discretion and shall also consider the following:

a. Requests from an approved organization or hunter that has been found guilty of a game violation in Iowa or elsewhere shall not be considered for a special license.

b. If special licenses are unclaimed after the established deadlines, the coordinator may set new deadlines and inform participating approved organizations that licenses are still available.

12.11(3) *Selection and payment.* Upon notice of selection to receive a special license, the approved organization or hunter shall make payment in accordance with 561—12.17(483A) to the department through the coordinator.

[ARC 9704C, IAB 11/12/25, effective 12/17/25]

561—12.12(483A) License term for disabled veteran and military special licenses. Special deer or turkey licenses issued under these rules shall be valid for only the applicable deer or turkey season immediately following allocation of the license.

[ARC 9704C, IAB 11/12/25, effective 12/17/25]

561—12.13(483A) License costs for disabled veteran and military special licenses. A nonresident who obtains a special license issued pursuant to this chapter shall pay the applicable fee as follows:

12.13(1) For a special nonresident deer hunting antlered or any sex deer license or a turkey hunting license, the fee described in Iowa Code section 483A.24(5) "c."

12.13(2) For a special nonresident hunting license that includes the wildlife habitat fee, the fee described in Iowa Code section 483A.24(5) "d."

[ARC 9704C, IAB 11/12/25, effective 12/17/25]

These rules are intended to implement Iowa Code section 483A.24.

[Filed ARC 7814B (Notice ARC 7652B, IAB 3/25/09), IAB 6/3/09, effective 7/8/09]

[Filed ARC 8753B (Notice ARC 8595B, IAB 3/10/10), IAB 5/19/10, effective 6/23/10]

[Filed ARC 2379C (Notice ARC 2132C, IAB 9/2/15), IAB 2/3/16, effective 3/9/16]

[Filed ARC 5517C (Notice ARC 5379C, IAB 1/13/21), IAB 3/10/21, effective 4/14/21]

[Filed ARC 9704C (Amended Notice ARC 9426C, IAB 7/23/25; Notice ARC 8646C, IAB 1/8/25),
IAB 11/12/25, effective 12/17/25]

CHAPTER 13
STATE LANDS VOLUNTEER PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 8/27/30

561—13.1(461A) Definitions.

“*Department*” means the same as defined in Iowa Code section 461A.1(2).

“*Director*” means the same as defined in Iowa Code section 461A.1(3).

“*Volunteer*” means an organization incorporated under Iowa Code chapter 504 as a nonprofit organization, or an individual providing services on behalf of the nonprofit organization, that provides volunteer services for the benefit of lands under the jurisdiction of the department and that registers as a volunteer under this chapter. A volunteer may include a friends group or organization as defined in 571—14.1(461A). A volunteer shall not include an organization or individual that operates a concession operation, as defined in 571—14.1(461A), unless that concession operation remits all receipts and returns all net proceeds after qualifying expenses from such operations to the department for the benefit of the state parks system, or otherwise procures goods or services for the benefit of the department. Qualifying volunteer services are, unless otherwise specified, limited to activities undertaken on lands under the jurisdiction of the department to benefit such lands. Volunteer services do not include any administrative functions of a nonprofit organization registered under this program.

[ARC 9438C, IAB 7/23/25, effective 8/27/25]

561—13.2(461A) Registration. Organizations seeking to provide services under this program for the benefit of lands under the jurisdiction of the department must register with the department. The department shall make forms available for such application. The department may request additional information as part of its review. Registration must be renewed every other year or as soon as substantial changes are planned to the approved services contained in the authorization letter referenced in this chapter, whichever occurs first.

[ARC 9438C, IAB 7/23/25, effective 8/27/25]

561—13.3(461A) Review. The department will review requests for registration to determine whether the registrant will be designated a volunteer under this program. The department shall evaluate the volunteer’s ability to perform the services, the department’s identified need for such services, and the department’s ability to manage the volunteer’s proposed activities, if applicable.

[ARC 9438C, IAB 7/23/25, effective 8/27/25]

561—13.4(461A) Department decision. The department shall notify the registrant of its decision within a reasonable time period. If the department admits the registrant into the program, the department shall issue an authorization letter that shall be acknowledged by the registrant and shall state the terms of the registrant’s participation in the program. The department may authorize the registrant’s proposed activities in part and deny them in part. The department may provide reasons for any program denials.

[ARC 9438C, IAB 7/23/25, effective 8/27/25]

561—13.5(461A) Program benefit. Volunteers providing services consistent with this program shall be afforded liability protection consistent with Iowa Code section 669.24, provided the volunteers are complying with the terms of the authorization letter issued by the department. Failure to comply with department directives or policies, including those that may be described in the authorization letter and any amendments, may negate this liability protection. Nothing in these rules shall require registered volunteers to secure insurance for activities approved in the department’s authorization letter.

[ARC 9438C, IAB 7/23/25, effective 8/27/25]

These rules are intended to implement Iowa Code section 461A.81.

[Filed ARC 2092C (Notice ARC 1989C, IAB 5/13/15), IAB 8/5/15, effective 9/9/15]

[Filed ARC 9438C (Notice ARC 8615C, IAB 1/8/25), IAB 7/23/25, effective 8/27/25]

CHAPTER 14
CONCESSIONS

Rescinded **ARC 9439C**, IAB 7/23/25, effective 8/27/25

CHAPTER 15
REVOCATION, SUSPENSION, AND NONRENEWAL OF LICENSE
FOR FAILURE TO PAY STATE LIABILITIES

Chapter rescission date pursuant to Iowa Code section 17A.7: 8/27/30

561—15.1(272D) Purpose and use. This chapter is intended to help collect liabilities of the state or a state agency from persons who have licenses with the department. This chapter shall apply to all licenses issued, renewed or otherwise authorized by the department.

[ARC 9440C, IAB 7/23/25, effective 8/27/25]

561—15.2(272D) Definitions. For purposes of this chapter, the following definitions shall apply, in addition to those contained in Iowa Code section 272D.1:

“*Collecting agency*” means the centralized collection unit of the department of revenue.

“*Department*” means the department of natural resources.

“*License*” means a license, certification, registration, permit, approval, renewal or other similar authorization issued to a person by the department that evidences the admission to, or granting of authority to engage in, a profession, occupation, business, industry, or recreation, including those authorizations set out in Iowa Code chapters 321G, 321I, 455B, 455C, 455D, 456A, 459, 459A, 461A, 462A, 481A, 481B, 481C, 482, 483A, 484B and 484C.

“*Notice of intent*” means a notice sent to a licensee indicating the department’s intent to suspend, revoke, or deny renewal or issuance of a license.

“*Withdrawal of a certificate of noncompliance*” means a document provided by the collecting agency certifying that the certificate of noncompliance is withdrawn and that the department may proceed with issuance, reinstatement, or renewal of a person’s license.

[ARC 9440C, IAB 7/23/25, effective 8/27/25]

561—15.3(272D) Requirements of the department.

15.3(1) Records.

a. The department shall collect and maintain records of its licensees consistent with Iowa Code section 272D.8.

b. The records shall be made available to the collecting agency so that the collecting agency may match to the records the names of persons with any liabilities placed with the collecting agency for collections. The records must be submitted in an electronic format and updated on a quarterly basis.

15.3(2) Certificate of noncompliance. Upon receipt of a certificate of noncompliance from the collecting agency, the department shall initiate rules and procedures for the suspension, revocation, or denial of issuance or renewal of a license to a person.

15.3(3) Notice of intent. The department shall provide to a person a notice of intent to suspend, revoke or deny issuance or renewal of the person’s license in accordance with Iowa Code chapter 272D. The suspension, revocation, or denial shall be effective no sooner than 30 days following the issuance of the notice of intent to the person. The notice shall state all of the following:

a. That the department has received a certificate of noncompliance from the collecting agency and intends to suspend, revoke or deny issuance or renewal of a person’s license;

b. That the person must contact the collecting agency to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance;

c. That the department will revoke, suspend or deny issuance or renewal of the person’s license unless a withdrawal of a certificate of noncompliance is received from the collecting agency within 30 days from the date of the notice of intent;

d. That in the event the department’s rules and procedures conflict with the additional rules and procedures under this chapter, the rules and procedures of this chapter shall apply;

e. That mistakes of fact in the amount of the liability owed and the person’s identity may not be contested to the department; and

f. That the person may request a district court hearing as outlined in Iowa Code section 272D.9.

15.3(4) *Withdrawal.* Upon receipt of a withdrawal of a certificate of noncompliance from the collecting agency, the department shall immediately reinstate, renew, or issue a license if the person is otherwise in compliance with the department's requirements.

[ARC 9440C, IAB 7/23/25, effective 8/27/25]

561—15.4(272D) No administrative appeal of the department's action; district court hearing. Pursuant to Iowa Code section 272D.8, a person does not have a right to a hearing before the department to contest the department's action under this chapter but may request a court hearing pursuant to Iowa Code section 272D.9.

[ARC 9440C, IAB 7/23/25, effective 8/27/25]

These rules are intended to implement Iowa Code chapter 272D.

[Filed ARC 8774B (Notice ARC 8598B, IAB 3/10/10), IAB 6/2/10, effective 7/7/10]

[Filed ARC 9440C (Notice ARC 8641C, IAB 1/8/25), IAB 7/23/25, effective 8/27/25]

CHAPTER 16
STATE PARK AND RECREATION AREA FEES

Chapter rescission date pursuant to Iowa Code section 17A.7: 8/27/30

561—16.1(455A) Definitions.

“*Commission*” means the same as defined in Iowa Code section 461A.1(1).

“*Department*” means the same as defined in Iowa Code section 461A.1(2).

“*Director*” means the same as defined in Iowa Code section 461A.1(3).

[ARC 9441C, IAB 7/23/25, effective 8/27/25]

561—16.2(455A) Camping, rental facilities, vessel storage, and other special privileges—fees.

16.2(1) *Fee methodology.* The director or the director’s designee shall fix and publish on the department’s website base fees for camping, the use of rental facilities, vessel storage and other special privileges at state parks and recreation areas under the jurisdiction of the department and the commission. The director or the director’s designee may consider the following factors when establishing and when adjusting base fees:

- a. The specific park’s or recreation area’s amenities.
- b. The size and features of a particular campsite or rental facility.
- c. Use of campsites, rental facilities, or other special privileges.
- d. Day of the week, season of the year, holidays, or other noteworthy occasions or special events.
- e. Cost of operations.
- f. Other considerations that the director or the director’s designee deems appropriate.

16.2(2) *Fees honored.* The fee to be charged shall be the fee currently in effect at the time the reservation is made and paid for. Any change to a reservation shall be subject to the fees applicable to the campsite or rental facility, along with any applicable reservation change fee, at the time the reservation is modified.

[ARC 9441C, IAB 7/23/25, effective 8/27/25]

561—16.3(455A) Areas under management—varying fees. Fees charged for like services in state-owned areas under management by political subdivisions may vary from those established pursuant to this chapter.

[ARC 9441C, IAB 7/23/25, effective 8/27/25]

These rules are intended to implement Iowa Code section 455A.14.

[Filed ARC 4395C (Notice ARC 4226C, IAB 1/16/19), IAB 4/10/19, effective 5/15/19]

[Filed ARC 9441C (Notice ARC 8649C, IAB 1/8/25), IAB 7/23/25, effective 8/27/25]

CHAPTER 17
OIL, GAS, AND METALLIC MINERALS
[Prior to 5/8/19, Energy and Geological Resources Division[565] Ch 51]

Chapter rescission date pursuant to Iowa Code section 17A.7: 8/27/30

561—17.1(458A) Purpose. The purpose of this chapter is to implement a drilling permit for oil, gas, and metallic mineral wells. This chapter does not apply to wells for waste disposal, storage, or other types of injection wells.

[ARC 9442C, IAB 7/23/25, effective 8/27/25]

561—17.2(458A) Definitions. For the purpose of this chapter, the following terms shall have the meaning indicated in this chapter.

“Artesian water” means underground water that is confined by impervious material under pressure sufficient to raise it above the upper level of the saturated material in which it lies if this is penetrated by wells or natural fissures.

“Barrel of oil” means 42 United States gallons of oil measured at 60 degrees Fahrenheit and atmospheric pressure at sea level, after deductions for the full amount of basic sediment, water, and other impurities present, ascertained by centrifugal or other recognized and customary test.

“Blowout” means a sudden or violent escape of oil or natural gas, as from a drilling well when high formational pressure is encountered.

“Blowout preventer” means a heavy casinghead control fitted with special gates or rams that can be closed around the drill pipe, or that completely closes the top of the casing.

“Casinghead gas” means any gas or vapor, or both gas and vapor, indigenous to an oil stratum and produced from such stratum with oil.

“Certificate of compliance and authorization to transport oil or gas from lease” means a form prescribed by the department, which, when executed by an operator or producer, certifies that the operation of the wells involved, and the production of oil or gas therefrom, has been in compliance with the orders and rules of the department. This certificate also authorizes a purchaser of oil or gas to transport the same from the lease. Thereby, the department is informed of the purchaser, and the purchaser is informed that the oil or gas purchased has been produced legally. The certificate of clearance by the department is included on the bottom of the producer’s compliance form.

“Common source of supply” is synonymous with pool.

“Cubic foot of gas” means the volume of gas contained in one cubic foot of space at a standard pressure base and a standard temperature base. The standard pressure base shall be 14.65 pounds per square inch absolute, and the standard temperature base shall be 60 degrees Fahrenheit.

“Developed area” means a spacing unit on which a well has been completed that is capable of producing oil or gas, or the acreage that is otherwise attributed to a well by the department for allowable purposes.

“Development” means any work that actively looks toward bringing in production.

“Gas-oil ratio” means the ratio of the gas produced in cubic feet to the number of barrels of oil concurrently produced during any stated period.

“Lease” means a tract or tracts of land that, by virtue of an oil, gas, or metallic minerals lease, fee or mineral ownership, a drilling, pooling, or other agreement, a rule, or order of governmental authority, or otherwise, constitutes a single tract or leasehold estate for the purpose of the development or operation thereof for oil or gas or both, or for the exploration for or production of metallic minerals.

“Oil and gas” means oil or gas or both.

“Oil well” means any well capable of producing oil in paying quantities.

“Operator” means any person who, duly authorized, is in charge of the development of a lease, or the operation of a producing well.

“Purchaser” means any person who directly or indirectly purchases, transports, takes, or otherwise removes production to the person’s account from a well, wells, or pool.

“*Storer*” means every person as herein defined who stores, terminals, retains in custody under warehouse or storage agreements or contracts, oil that comes to rest in the person’s tank or other receptacle under control of said storer, but excluding the ordinary lease stocks of producers.

“*Transporter*” means and includes any common carrier by pipeline, barge, boat, or other water conveyance or truck or other conveyance except railroads, and any other person transporting oil by pipeline, barge, boat or other water conveyance, or truck and other conveyance.

“*Well*,” in addition to the definition in Iowa Code chapter 458A, means any boring into the ground for the purpose of oil, gas, or metallic mineral production or to obtain geological information relating to oil, gas, or metallic mineral production or storage.

“*Well log*” means the written record progressively describing the strata, water, oil, gas or metallic minerals encountered in drilling a well with such additional information as to give volumes, pressures, rate of fill-up, water depths, caving strata, casing record, etc., as is usually recorded in normal procedure of drilling. The well log includes any electrical or other geophysical logging, detail of all cores, and all drill-stem tests, including depth tested, cushion used, time pool open, flowing and shut-in pressures and recoveries.

[ARC 9442C, IAB 7/23/25, effective 8/27/25]

561—17.3(458A) Permit to drill, deepen or plug a well. An owner or other entity seeking to drill a well shall obtain from the department a permit to drill, deepen, or plug a well prior to commencement of operations to drill, deepen, or plug any well.

17.3(1) Application to drill, deepen, or plug a well. An owner or other entity seeking to drill, deepen, or plug a well may apply for a permit under this rule by submitting to the department an application on a form prescribed by the department. One application may be filed for a group or series of exploratory wells within a designated area. The application for each well or group of exploratory wells shall be accompanied by the following:

- a. A fee of \$50 for a production well, or a fee of \$200 for an individual or group of exploratory wells.
- b. An organization report as described in 561—17.5(458A).
- c. A bond as described in Iowa Code section 458A.4(1)“d” if one is not already on file with the department. The bond shall have a clearly noted period of coverage, or be renewed annually with notation of such.
- d. A map prepared by a licensed surveyor or engineer. The map shall be to scale and shall show the distance from:
 - (1) The two nearest lease lines,
 - (2) The two nearest section lines, and
 - (3) The nearest completed or drilling wells on the same lease.
- e. A model or quantitative data of the area of influence of each well with sufficient information for the department to comply with its duties related to the production of oil, gas, and minerals, including but not limited to establishing spacing that meets the requirements of Iowa Code section 458A.7. The department may delay this requirement through a permit condition until such time as required for production.
- f. Copies of each agreement with landowners pertinent to the well’s location and area of influence, including maps showing the boundaries of each agreement. The department may delay this requirement relative to area of influence through a permit condition until such time as required for production.
- g. In the case of a group of stratigraphic test wells, a plat of the general area to be covered by township and range listing the approximate number and depth of the holes, and outlining the parcels where drilling is contemplated. The plat shall indicate the nature of the applicant’s property interest in each parcel where drilling is contemplated.

17.3(2) Approval or denial of permit; appeals.

- a. The department shall, within 90 days of receipt of a complete application unless otherwise required to protect the environment or human health, grant a permit when such an application shows the drilling, deepening, or plugging of a well is consistent with this chapter and related laws. Unless extended in writing by the department, the permit shall expire one year from the date of issue if the work for which the permit was issued is not being actively pursued.

b. A permit application will be denied for being incomplete or for otherwise being inconsistent with this chapter and related laws.

c. Any aggrieved party may appeal the department's decision to approve or deny a permit application in accordance with 561—Chapter 7. The notice of appeal must be filed within 30 days following the issuance of the permit unless the appellant shows good cause for failure to receive actual notice and file within the allowed time.

17.3(3) Injection wells. Per 40 CFR Section 144.26, oil- and gas-related injection wells are used to inject fluids associated with oil and gas production. The United States Environmental Protection Agency's Underground Injection Control Program Director for Region 7 is the permitting authority for underground injection of substances in the state of Iowa and shall be notified of any proposed injection wells.

[ARC 9442C, IAB 7/23/25, effective 8/27/25]

561—17.4(458A) Transfer of drilling permits. A permit holder shall not transfer the permit to any other location or to any other person until the following requirements have been complied with and the transfer has been approved by the department.

17.4(1) Transfer to another location. If, prior to the drilling of a well, the permit holder desires to change the location, the permit holder shall submit a letter so stating and another application properly filled out showing the new location. No additional fee is necessary, but drilling shall not be started until the transfer has been approved and the new permit posted at the new location.

17.4(2) Transfer to another person. If, while a well is being drilled, or after it has been completed, the permit holder disposes of their interest in the well, the person shall submit a written statement to the department setting forth the facts and requesting that the permit be transferred to the person who has acquired the well.

17.4(3) Statement of responsibility and bond. Before the transfer of a drilling permit shall be approved, the person who has acquired the well must submit a written statement setting forth that the person has acquired such well and assumes the full responsibility for its operation and abandonment in conformity with the laws of Iowa and the rules and orders of the department. The bond required to guarantee compliance shall be furnished by the person acquiring such well.

[ARC 9442C, IAB 7/23/25, effective 8/27/25]

561—17.5(458A) Organization reports.

17.5(1) Every person independently engaged in, or acting as a principal or agent for another entity that is engaged in, the production, storage, transportation (except railroad), refining, reclaiming, treating, marketing, or processing of oil or gas, or the exploration for or production of metallic minerals, shall file the following with the department:

- a. The name under which the business is being operated.
- b. The name and contact information of the person, business or businesses engaged in any of the above.
- c. The plan of organization.
- d. In case of a corporation:
 - (1) The law under which it is chartered;
 - (2) The names and contact information for any persons acting as trustees;
 - (3) The name(s) of the manager, agent or executive; and
 - (4) The names and contact information of officers.
- e. If business is conducted under an assumed name, the names and contact information of all owners in addition to the other information required.

17.5(2) Immediately after any change of facts stated in the report filed, a supplementary report shall be filed with the department with updated information.

[ARC 9442C, IAB 7/23/25, effective 8/27/25]

561—17.6(458A) Drilling. The following subrules shall apply to all wells drilled:

17.6(1) *Sealing off strata.* During the drilling of any well for production of or exploration for oil, gas, or metallic minerals, all oil, gas, and water strata above and below the producing horizon shall be sealed or separated where necessary in order to prevent their contents from passing into other strata.

a. All fresh waters and waters of present or probable value for domestic, public, commercial or livestock purposes shall be confined to their respective strata and shall be adequately protected by methods approved by the department. Special precautions shall be taken in drilling and abandoning wells to guard against any loss of artesian water from the strata in which it occurs, and the contamination of artesian water by objectionable water, oil, or gas.

b. All water shall be isolated from the various oil- and gas-bearing strata that are penetrated. Isolation shall be performed by cementing casing with or without the use of mud-laden fluid. Alternative methods shall be approved on a case-by-case basis by the department.

17.6(2) *Casing and tubing requirements.* All wells drilled for oil, gas or production of metallic minerals shall be completed with strings of casing that shall be properly cemented at sufficient depths to protect all water-, oil-, or gas-bearing strata.

a. Sufficient cement shall be used on surface to fill the annular space back of the casing to the bottom of the cellar or to the surface of the ground.

b. All strings of casing shall be cemented under pressure for at least 12 hours before drilling plug or initiating tests. The department may approve having the casing under pressure for less than 12 hours if the applicant provides evidence that the shorter time frame is adequate. The term “under pressure” as used in this subrule will be complied with if one float valve is used or if pressure is otherwise held.

c. Cementing shall be by the pump and plug method, or another method approved by the department.

d. All flowing wells shall be tubed. The tubing shall be set as near the bottom as practicable, but tubing perforations shall not be above the top of pay unless authorized by the department.

17.6(3) *Defective casing or cementing.* In any well that appears to have defective, faultily cemented, or corroded casing that will permit or may create underground waste, the operator shall use the appropriate method and means to eliminate underground waste. If waste cannot be eliminated, the well shall be properly plugged and abandoned.

17.6(4) *Blowout prevention.* In all drilling operations, proper and necessary precautions shall be taken for keeping the well under control, including the use of a blowout preventer and high-pressure fittings attached to properly cemented casing strings, where indicated by geologic conditions.

17.6(5) *Pulling outside string of casing.* In pulling outside strings of casing from any oil or gas well, the space outside the casing left in the hole shall be kept and left full of mud-laden fluid or cement of adequate specific gravity to seal off all fresh and salt water strata and any strata bearing oil or gas not producing. No casing shall be removed without the prior approval of the department.

17.6(6) *Safety rules.*

a. All oil wells shall be cleaned into a pit or tank, not less than 40 feet from the derrick floor and 150 feet from any fire hazard.

b. All flowing oil wells must be produced through an approved oil and gas separator or emulsion treater of ample capacity and in good working order.

c. No boiler or portable electric lighting generator shall be placed or remain nearer than 150 feet from any producing well or oil tank.

d. Any debris that might constitute a fire hazard shall be removed to a distance of at least 150 feet from the vicinity of wells and tanks. All waste shall be disposed of in such manner as to avoid creating a fire hazard and to comply with the rules of the environmental protection commission.

e. The drilling fluid level shall be maintained continuously at a height sufficient to control subsurface pressures.

f. During the course of drilling, blowout preventers shall be tested at least once each 24-hour period, and results of the test shall be noted in the driller’s record.

17.6(7) *Preservation of cores and samples.*

a. Sample cuttings shall be taken at 5-foot intervals and at each change of formation or member, if less than 5 feet thick, in all wells drilled for oil, gas, or metallic mineral exploration or production, in the state of Iowa, unless a geophysical log is to be taken for the entire depth of the well.

b. Where a geophysical log is to be taken for the entire depth of the well, sample cuttings shall be taken at 10-foot intervals and at each formation or member change if less than 10 feet thick. The department may grant a waiver from the 10-foot sample interval under special conditions. Each sample shall be carefully identified as to well name and depth of sample, and all samples shall be shipped at the operator's expense to the Iowa geological survey.

c. The operator of any well drilled as provided in the previous paragraph shall, during the drilling of, or immediately following the completion of, any given well, advise the department of all intervals that are to be cored, or have been cored. The cores shall be preserved and forwarded to the Iowa geological survey at the operator's expense.

d. This rule shall not be construed as prohibiting the operator from taking samples of the core for identification and tests pertaining to oil and gas or metallic minerals. In the event that it is necessary for the operator to utilize all or any portion of the core to the extent that representative samples, sufficiently large to analyze, are not available for the state, the operator shall furnish the Iowa geological survey with the results of identification or testing procedures.

17.6(8) Well completion or recompletion report and well log. Within ten days after completion of a well drilled for oil or gas or production of metallic minerals, or casinghead gas, the operator or the operator's agent shall file with the department a complete log or record of the well, duly signed, on forms prescribed by the department. This record shall be filed even though samples of the drill cuttings have been taken and preserved for subsequent delivery to the Iowa geological survey. The logs on the wells shall be forwarded to the department and shall be confidential for a period of six months when so requested by the operator in writing.

A proper log for any well shall include all normally recorded information on the following:

a. Depth to and thickness of water-bearing beds, including, where measured, the static water level and volume of such water.

b. Lithology of formations penetrated, including color, hardness, and character of the rock, and particularly showing the position and thickness of coal beds and deposits of mineral materials of economic value.

c. Any caverns, large voids, losses of circulation, and sudden appreciable changes in water level.

d. A record of all oil, gas, and highly mineralized water encountered, including fill-up, volumes, and pressures.

e. A record of all casing and liner used, including the size, weight, amount, and depth set, the amount of cement used on each casing string, and the amount of casing stripped from the hole on completion or abandonment of the well.

f. Data on drill stem tests.

g. Generalized description of any core taken during drilling.

h. Data on perforating, acidizing, fracturing, shooting, and testing.

i. Data on bridge plugs set, make and type of plug, depth set, whether left in place or removed, and details of plug back operation below the bridge.

j. Electrical or other geophysical logging.

17.6(9) Stratigraphic test wells.

a. All stratigraphic test wells shall be plugged in accordance with the provisions of 561—17.14(458A).

b. Lithologic samples must be collected during the drilling of all stratigraphic test wells in accordance with the provisions of 17.6(7).

c. All records, samples, and logs, including mechanical logs, required under this rule must be filed with the Iowa geological survey six months after completion of the program set forth in the original application. If the company so requests in writing, these records, samples, and logs shall be kept confidential for an additional year after filing.

[ARC 9442C, IAB 7/23/25, effective 8/27/25]

561—17.7(458A) Identification of wells. Every well shall be identified by a sign, posted on the derrick or not more than 20 feet from the wellhead. Such signs shall be durable and legible. The wells on each lease or property shall be numbered in nonrepetitive, logical, and distinctive sequence. Each sign shall show the

number of the well, the name of the lease (which shall be different or distinctive for each lease), the name of the lessee, owner or operator, the permit number, and the location by quarter, section, township, and range.

[ARC 9442C, IAB 7/23/25, effective 8/27/25]

561—17.8(458A) Surface equipment.

17.8(1) Meter fittings. Meter fittings and associated metering equipment shall measure gas and oil flows separately and shall obtain gas-oil ratios either on the gas vent line of every separator or other proper connections made for metering, using current industry standard of practices. Wellhead equipment shall be installed and maintained so that static bottom hole pressures may be obtained at any time by the department after notification of the operator. Valves shall be installed so that pressures can be readily obtained on both casing and tubing.

17.8(2) Chokes or beans. All flowing wells shall be equipped with adequate chokes or beans to properly control the flow of the well.

17.8(3) Separators. All flowing wells must be produced through separators to maintain efficient gas-oil and oil-water ratios.

17.8(4) Dikes. When it is deemed necessary by the department to protect life, health, or property, the department may require any lease or oil storage tanks to be surrounded by an earthen dike with a capacity of one and one-half times the capacity of the tank or tanks it surrounds. The dike shall be continually maintained and the reservoir kept free from vegetation, water, or oil.

[ARC 9442C, IAB 7/23/25, effective 8/27/25]

561—17.9(458A) Deviation. No well may be intentionally deviated from the plans in the approved permit without written approval. Directional surveys may be required by the department whenever the location of the bottom of the well is in doubt. When necessary to protect correlative rights, the department shall require that the well be modified.

[ARC 9442C, IAB 7/23/25, effective 8/27/25]

561—17.10(458A) Notification of fire, breaks, leaks, or blowouts. All persons controlling or operating any oil and gas wells or pipelines, or receiving tanks, storage tanks, or receiving and storage receptacles into which crude oil is produced, received, or stored, or through which oil or gas is piped or transported, shall notify the department of fire, breaks, leaks or blowouts in accordance with Iowa Code section 455B.386. A written report, giving full details concerning all fires that occur at such oil or gas wells or tanks or receptacles on their property, all tanks or receptacles struck by lightning and any other fire that destroys oil or gas, and any breaks or leaks in or from tanks or receptacles and pipelines from which oil or gas is escaping or has escaped shall be submitted to the department within 30 days. In all reports of fires, breaks, leaks, or escapes, or other accidents of this nature, the location of the well, tank, receptacle, or line break shall be given by section, township, range, and property so that the exact location thereof can be readily located on the ground. The report shall likewise specify what steps have been taken or are in progress to remedy the situation reported, and shall detail the quantity of oil or gas lost, destroyed, or permitted to escape. In case any tank or receptacle is permitted to run over, the escape thus occurring shall be reported as in the case of a leak.

[ARC 9442C, IAB 7/23/25, effective 8/27/25]

561—17.11(458A) Producing from different pools through the same casing string or multiple completion of wells. No well shall be permitted to produce either oil or gas from different pools through the same string of casing. The multiple-zone completion of any well may be authorized only by special order of the department upon notice and hearing.

[ARC 9442C, IAB 7/23/25, effective 8/27/25]

561—17.12(458A) Commingling of production prohibited. The production from one pool shall not be commingled with that from another pool in the same field before delivery to a purchaser, unless otherwise ordered by the department.

[ARC 9442C, IAB 7/23/25, effective 8/27/25]

561—17.13(458A) Reports by producers, transporters or storers.

17.13(1) *Producers.* The producer or operator of each and every lease shall, on or before the fifteenth day of each month succeeding the month in which the production occurs, submit to the department a statement showing the amount of production made by each such lease during the preceding month.

17.13(2) *Transporters or storers.* Each transporter or storer of any oil or gas from any well, lease, pool, or developed unit shall, on or before the fifteenth day of each month succeeding the month in which the purchasing or taking occurs, file with the department, a statement of oil or gas purchased or taken from any such well, lease, pool, or developed unit during the preceding month.

[ARC 9442C, IAB 7/23/25, effective 8/27/25]

561—17.14(458A) Abandonment and plugging of wells. Any well drilled in connection with oil or gas operations or metallic mineral exploration or production shall be properly plugged when the well is no longer used for the purpose for which it was drilled. In instances where no completion or recompletion reports are filed, the well(s) in question must be properly abandoned and plugged within 30 days after the permit authorizing the drilling expires.

17.14(1) *Notice of intent to abandon and plug.* Notice of the proposed method of abandoning and plugging any well drilled in connection with oil or gas operations or metallic mineral exploration or production must be filed with the department. Approval must be obtained from the department prior to commencing operations. Time must be allowed for a department representative to be present at the plugging operations if so desired by the department. Where the time required to file notice and obtain approval in writing would constitute an undue hardship, verbal permission to proceed may be granted, but in any case, the notice must be filed.

17.14(2) *Method of plugging.* Before any well is abandoned, it shall be plugged in a manner that will permanently confine all oil, gas, and water in the separate strata in which they occur. This operation shall be accomplished by the use of mud-laden fluid, cement, and plugs, used singly or in combination as approved by the department. In the event that no log or an unsatisfactory log of the well is supplied, the well shall be completely plugged with cement from bottom to top. Casing shall be cut off below plow depth. Seismic, core, or other exploratory holes drilled to or below strata containing fresh water shall be plugged and abandoned in accordance with the applicable provisions in this subrule.

17.14(3) *Extension of time to plug well.* Upon written application to defer the abandonment and plugging of any unplugged well, the department may grant an extension for a reasonable period of time when good cause is shown and provided that all of the casing is left in the well and is in sound condition. The bond covering such well shall remain in full force and effect until the well is plugged and the other requirements of final abandonment have been completed.

[ARC 9442C, IAB 7/23/25, effective 8/27/25]

These rules are intended to implement Iowa Code chapter 458A.

[Filed ARC 4434C (Notice ARC 4279C, IAB 2/13/19), IAB 5/8/19, effective 6/12/19]

[Filed ARC 9442C (Notice ARC 8651C, IAB 1/8/25), IAB 7/23/25, effective 8/27/25]

CHAPTERS 18 to 99
Reserved

CHAPTER 100

Transferred to Public Defense[650] IAB 7/29/87

CHAPTER 101

Transferred to Public Defense[650] IAB 7/29/87