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

In addition to the changes adopted by agencies, the replacement pages may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(4); an effective date delay imposed by the ARRC pursuant to section 17A.4(5) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(6); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index and for the preliminary sections of the IAC: General Information about the IAC, Chapter 17A of the Code of Iowa, Style and Format of Rules, Table of Rules Implementing Statutes, and Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR

Updating Iowa Administrative Code
with Biweekly Supplement

NOTE: Please review the "Preface" for both the Iowa Administrative Code and Biweekly Supplement and follow carefully the updating instructions.

The boldface entries in the left-hand column of the updating instructions correspond to the tab sections in the IAC Binders.

Obsolete pages of IAC are listed in the column headed "Remove Old Pages." New and replacement pages in this Supplement are listed in the column headed "Insert New Pages." It is important to follow instructions in both columns.

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UPDATING INSTRUCTIONS
August 11, 1999, Biweekly Supplement

[Previous Supplement dated 7/28/99]

IOWA ADMINISTRATIVE CODE

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*It is recommended that "Old Pages" be retained indefinitely in a place of your choice. They may prove helpful in tracing the history of a rule.

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1.4(5) *Licensure by comity.* Any person who has been licensed as a professional engineer in a foreign jurisdiction may be considered for licensure in Iowa without the need for further examination if the original license based on approved examination is in active status. Applications for licensure by comity will be evaluated on the following basis:

a. The applicant's foreign licensure must have been granted only after satisfaction of requirements equal to or more stringent than those which would be required by Iowa Code section 542B.14, if the applicant's original licensure was sought in Iowa; and

b. The applicant's present record of education, references, practical experience, and successful completion of approved examinations currently satisfies the substantive requirements of Iowa Code section 542B.14.

c. A comity applicant for licensure in land surveying shall comply with subrule 1.4(5), paragraphs *"a"* and *"b,"* above; be interviewed by the land surveyor member(s) of the board; complete successfully the Iowa State Specific Examination; and complete successfully other examinations as determined by the board.

d. In lieu of the detailed personal history requested on an application for licensing, an applicant for licensure by comity may submit educational and professional records as verified by that person's NCEES Council Record.

e. A temporary permit to practice engineering in the state may be granted to a comity applicant upon approval of a professional engineer member of the board. The temporary permit shall expire at the next regularly scheduled meeting of the board. Temporary permits shall be granted only to applicants who meet all requirements and who are expected to qualify for approval by the full board at the next meeting.

f. If a comity applicant did not have the required four years of experience before writing the professional examination, the board may approve the application for licensure if the applicant satisfies all other conditions of licensure, the applicant has not been disciplined in any other jurisdiction, and the applicant has had at least five years of practical engineering experience of a character satisfactory to the board since initial licensure.

1.4(6) *Fees.* Fees for examination and licensing are fixed in such an amount as will defray the expense of administering board responsibilities. A copy of the current fee schedule can be obtained from the board's office.

This rule is intended to implement Iowa Code sections 542B.2, 542B.13, 542B.14 and 542B.15.

193C—1.5(542B) Cutoff dates for applications to take examinations. Applications for the Fundamentals of Engineering Examination from college seniors studying an Accreditation Board of Engineering and Technology (ABET) or Canadian Engineering Accreditation Board (CEAB) approved curriculum must be postmarked on or before September 1 of each year for the examination given in the fall and by March 1 of each year for the examination given in the spring. All other applications for the Fundamentals of Engineering, Fundamentals of Land Surveying, Principles and Practice of Engineering, and Principles and Practice of Land Surveying examinations require a more detailed review and must, therefore, be postmarked on or before August 1 of each year for the examination given in the fall and by February 1 of each year for the examination given in the spring.

193C—1.6(542B) Nonrefundability of fees. Application fees submitted with applications for the privilege of taking a Fundamentals Examination, the Professional Engineering Examination or the Professional Land Surveying Examination will not be refundable for any reason. Fees paid with applications for comity licensure or for renewal of licensure will not be refundable for any reason.

193C—1.7(542B) Renewal of certificates of licensure. Certificates of licensure shall be renewed on a biennial basis.

This rule is intended to implement Iowa Code sections 542B.6, 272C.2 and 272C.3.

193C—1.8(252J) Certificates of noncompliance. The board shall deny the issuance or renewal of a certificate of licensure upon the receipt of a certificate of noncompliance from the child support recovery unit of the department of human services according to the procedures in Iowa Code chapter 252J. In addition to the procedures set forth in chapter 252J, this rule shall apply.

1.8(1) The notice required by Iowa Code section 252J.8 shall be served upon the licensee or applicant by restricted certified mail, return receipt requested, or personal service in accordance with Rules of Civil Procedure 56.1. Alternatively, the licensee or applicant may accept service personally or through authorized counsel.

1.8(2) The effective date of the denial of the issuance or renewal of a certificate of licensure, as specified in the notice required by section 252J.8, shall be 60 days following service of the notice upon the licensee or applicant.

1.8(3) The board's executive secretary is authorized to prepare and serve the notice required by section 252J.8 upon the licensee or applicant.

1.8(4) Licensees and applicants shall keep the board informed of all court actions and all child support recovery unit actions taken under or in connection with chapter 252J and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

1.8(5) All board fees for applications, license renewal or reinstatement must be paid by licensees or applicants before a certificate of licensure will be issued, renewed or reinstated after the board has denied the issuance or renewal of a license pursuant to chapter 252J.

1.8(6) In the event a licensee or applicant files a timely district court action following service of a board notice pursuant to sections 252J.8 and 252J.9, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a certificate of licensure, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

1.8(7) The board shall notify the licensee or applicant in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a certificate of licensure, and shall similarly notify the licensee or applicant when the certificate of licensure is issued or renewed following the board's receipt of a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code chapter 252J.

193C—1.9(542B) Board fees and service charges.

1.9(1) *Biennial licensure renewal fees.*

1. Active licensure renewal $60
2. Inactive licensure renewal $30
3. New licensee licensure fee—same as above; licensure will be prorated at six-month intervals.

1.9(2) *Application fees.*

1. Fundamentals of engineering, including certificate $25
2. Fundamentals of land surveying, including certificate $25
3. Principles and practice of engineering (PE) $35
4. Principles and practice of land surveying (LS) $35

1.9(3) *Examination fees.*

1. The examination fee for a regularly scheduled examination administered by the examination service will be paid directly to the examination service at the rate established by the contract between the board and the examination service.
2. Examination fees for specially scheduled examinations administered at the board's office will be paid to the state of Iowa.

1.30(5) The information requested in each certification block must be typed or legibly printed in permanent ink except the signature which shall be an original signature in contrasting ink color on each official copy. The seal implies responsibility for the entire submission unless the area of responsibility is clearly identified in the information accompanying the seal.

1.30(6) It shall be the responsibility of the licensee to forward copies of all revisions to the submission, which shall become a part of the official copy of the submission. Such revisions shall be identified as applicable on a certification block or blocks with professional seals applied so as to clearly establish professional responsibility for the revisions.

1.30(7) The licensee is responsible for the custody and proper use of the seal. Improper use of the seal shall be grounds for disciplinary action.

1.30(8) Computer-generated seals may be used on final original drawings provided that a handwritten signature is placed adjacent to the seal and the date is written next to the signature on the official copy or copies. Computer-generated signatures and dates are not acceptable.

This rule is intended to implement Iowa Code section 542B.16.

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CHAPTER 4
DISCIPLINE AND PROFESSIONAL CONDUCT OF LICENSEES

[Prior to 6/1/88, see Engineering and Land Surveying Examiners, Board of[390] Ch 4]
[Prior to 11/27/91, for disciplinary rules see 193C—1.10(114) to 193C—1.29(114)]
[Rules 4.7(542B) to 4.28(542B) renumbered as 4.8(542B) to 4.29(542B) IAC 11/23/94]

193C—4.1(542B) General statement. Protection of the life, health or property of the people in Iowa requires that the board deal with cases involving malpractice or violation of Iowa Code chapter 542B.

193C—4.2(17A) Definitions.

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

"Proposed decision" means the presiding officer's recommended findings of fact, conclusions of law, decision, and order on a contested case in which the board did not preside.

193C—4.3(542B) Reprimands, probation, license suspension or license revocation. Acts or omissions on the part of a licensee that are grounds for a reprimand, period of probation, license suspension or license revocation are as follows:

4.3(1) Acts or offenses defined in Iowa Code section 542B.21.

4.3(2) Acts or omissions which constitute negligence or carelessness that licensees must report to the board as defined in rule 4.4(542B).

4.3(3) Unethical conduct including, but not limited to, violation of the code of professional conduct in rule 4.8(542B).

4.3(4) Failure to respond within 30 days to written communications from the board and to make available any relevant records with respect to an inquiry or complaint about the licensee's unprofessional conduct. The period of 30 days shall commence on the date when such communication was sent from the board by registered or certified mail with return receipt requested to the address appearing in the last licensure.

4.3(5) Failure to comply with a warning from the board with respect to licensee behavior.

This rule is intended to implement Iowa Code section 542B.21.

193C—4.4(542B) Reporting of acts or omissions. Licensees shall report acts or omissions by a licensee which constitute negligence or carelessness. For the purposes of this rule, negligence or carelessness shall mean demonstrated unreasonable lack of skill in the performance of engineering or land surveying services by failure of a licensee to maintain a reasonable standard of care in the licensee's practice of engineering or land surveying. In the evaluation of reported acts or omissions, the board shall determine if the engineer or land surveyor has applied learning, skill and ability in a manner consistent with the standards of the professions ordinarily possessed and practiced in the same profession at the same time. Standards referred to in the immediately preceding sentence shall include any minimum standards adopted by this board and any standards adopted by recognized national or state engineering or land surveying organizations.

193C—4.5(542B) Peer review committees. The board may appoint a peer review committee for the investigation of a complaint about the acts or omissions of one or more licensees.

4.5(1) *Membership.* A committee shall consist of one or more licensed engineers or licensed land surveyors or both, as determined by the board, who are selected for their knowledge and experience in the type of engineering or land surveying involved in the complaint. The following are ineligible for membership:

a. Members of the engineering and land surveying examining board.

b. Relatives of the respondent or complainant.

c. Individuals employed by the same firm or governmental unit as the respondent or complainant.

4.5(2) *Authority.* The committee's investigation may include activities such as interviewing the complainant, the respondent, individuals with knowledge of the alleged violation, and individuals with knowledge of the respondent's practice in the community; gathering documents; site visits; and independent analyses as deemed necessary.

The committee may not hire legal counsel, investigators, secretarial help or any other assistance without written authorization from the board.

4.5(3) *Compensation.* Committee members may receive per diem compensation equal to that received by board members for performing board duties. Committee members may be paid reasonable and necessary expenses that are incurred for travel, meals and lodging while performing committee duties within established budget limitations.

4.5(4) *Reports.* Each peer review committee shall submit a written report to the board within a reasonable period of time. The report shall recommend dismissal of the complaint, further investigation or disciplinary proceedings. If further investigation or disciplinary proceedings are recommended, supporting information shall be submitted to the secretary.

The peer review committee may be discharged at the pleasure of the board. The board may dismiss individual members of a committee or add new members at any time. Committee members may be required to testify in the event of formal disciplinary proceedings.

4.5(5) *Investigator.* In addition to or as an alternative to a peer review committee, the board may hire one or more investigators.

193C—4.6(542B) Disputes between licensees and clients. Reports from the insurance commissioner or other agencies on the results of judgments or settlements of disputes arising from malpractice claims or other actions between professional engineers or land surveyors and their clients may be referred to an investigator or peer review committee. The investigator or peer review committee shall investigate the report for violation of the statutes or rules governing the practice or conduct of the licensee. The investigator or peer review committee shall advise the board of any probable violations.

193C—4.7(542B) Practice of engineering or land surveying by firms. A firm shall not directly or by implication offer professional engineering services to the public unless it is owned or managed by, or regularly employs, one or more licensed professional engineers who directly control and personally supervise all professional engineering work performed by the firm.

A firm shall not directly or by implication offer land surveying services to the public unless it is owned or managed by, or regularly employs, one or more licensed land surveyors who directly control and personally supervise all land surveying work performed by the firm.

A firm may not satisfy these requirements by hiring a licensed professional engineer or land surveyor on an as-needed, occasional, or consulting basis, whether an employee or independent contractor.

"To offer" shall mean to advertise in any medium, or to infer in writing or orally that these services are being performed by owners or permanent employees of that firm. Nothing in this rule is intended to prevent a firm from truthfully offering services as a project manager, administrator, or coordinator of a multidisciplined project.

For purposes of this rule, the term "firm" includes regular corporations, professional corporations, registered limited liability partnerships, partnerships, limited liability companies, private practitioners employing others, persons or entities using fictitious or assumed names, or other business entities.

This rule is intended to implement Iowa Code section 542B.26.

4.36(2) When the hearing is conducted by a three-member panel of the board, their decision is a proposed decision and subject to the review provisions of rule 4.41(542B).

4.36(3) A proposed or final decision shall be in writing and shall consist of the following parts:

a. A concise statement of the facts as presented by the parties.

b. Findings of fact.

c. Conclusions of law which shall be supported by cited authority or reasoned opinion.

d. The decision or order which sets forth the action to be taken or the disposition of the case.

4.36(4) The decision may include one or more of the following:

a. Exoneration of respondent.

b. Revocation of license.

c. Suspension of license until further order of the board or for a specified period.

d. Nonrenewal of license.

e. Prohibition, until further order of the board or for a specific period, of engaging in specified procedures, methods or acts.

f. Probation.

g. Requirement of additional education or training.

h. Requirement of reexamination.

i. Issuance of a reprimand.

j. Imposition of civil penalties.

k. Issuance of citation and warning.

l. Other sanctions allowed by law as may be appropriate.

4.36(5) In addition to other disciplinary options, the board may assess civil penalties of up to $1000 per violation against licensees who violate any provision of rule 4.3(542B). Factors the board may consider when determining whether and in what amount to assess civil penalties include:

a. Whether other forms of discipline are being imposed for the same violation.

b. Whether the amount imposed will be a substantial economic deterrent to the violation.

c. The circumstances leading to the violation.

d. The severity of the violation and the risk of harm to the public.

e. The economic benefits gained by the licensee as a result of the violation.

f. The interest of the public.

g. Evidence of reform or remedial action.

h. Time elapsed since the violation occurred.

i. Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.

j. The clarity of the issue involved.

k. Whether the violation was willful and intentional.

l. Whether the licensee acted in bad faith.

m. The extent to which the licensee cooperated with the board.

n. Whether the licensee practiced professional engineering or land surveying with a lapsed, inactive, suspended or revoked license.

This rule is intended to implement Iowa Code sections 542B.21, 542B.22 and 272C.6.

193C—4.37(17A) Default.

4.37(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

4.37(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.

4.37(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final board action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 4.41(17A). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. 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.

4.37(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

4.37(5) Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. 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 response.

4.37(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 236.

4.37(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 4.40(17A).

4.37(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed accordingly.

4.37(9) A default decision may award any relief consistent with the request for relief made in the petition and embraced in its issues.

4.37(10) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 4.43(17A).

193C—4.38(17A) Ex parte communication.

4.38(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, there shall be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the board or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 4.21(2), 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.

4.38(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

4.38(3) Written, oral or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

4.38(4) To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications shall be provided in compliance with rule 4.24(17A) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

4.38(5) 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.

4.38(6) The executive officer or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a proposed or final decision under any provision of law and they comply with subrule 4.38(1).

4.38(7) 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 pursuant to rule 4.29(17A).

c. At the time of the self-report, the licensee must not already be under board order for an impairment or any other violation of the laws and rules governing the practice of the profession;

d. The licensee has not caused harm or injury to a client;

e. There is currently no board investigation of the licensee that the committee determines concerns serious matters related to the ability to practice with reasonable safety and skill or in accordance with the accepted standards of care;

f. The licensee has not been subject to a civil or criminal sanction, or ordered to make reparations or remuneration by a government or regulatory authority of the United States, this or any other state or territory or foreign nation for actions that the committee determines to be serious infractions of the laws, administrative rules, or professional ethics related to the practice of engineering;

g. The licensee has provided truthful information and fully cooperated with the board or committee.

4.54(5) *Meetings.* The committee shall meet as necessary in order to review licensee compliance, develop consent agreements for new referrals, and determine eligibility for continued monitoring.

4.54(6) *Terms of participation.* A licensee shall agree to comply with the terms for participation in the impaired licensee program established in a contract. Conditions placed upon the licensee and the duration of the monitoring period shall be established by the committee and communicated to the licensee in writing.

4.54(7) *Noncompliance.* Failure to comply with the provisions of the agreement shall require the committee to make immediate referral of the matter to the board for the purpose of disciplinary action.

4.54(8) *Practice restrictions.* The committee may impose restrictions on the licensee's practice as a term of the contract until such time as it receives a report from an approved evaluator that the licensee is capable of practicing with reasonable safety and skill. As a condition of participating in the program, a licensee is required to agree to restricted practice in accordance with the terms specified in the contract. In the event that the licensee refuses to agree to or comply with the restrictions established in the contract, the committee shall refer the licensee to the board for appropriate action.

4.54(9) *Limitations.* The committee establishes the terms and monitors a participant's compliance with the program specified in the contract. The committee is not responsible for participants who fail to comply with the terms of or successfully complete the impaired licensee program. Participation in the program under the auspices of the committee shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of the licensee's profession by a participant shall be referred to the board for appropriate action.

4.54(10) *Confidentiality.* The committee is subject to the provisions governing confidentiality established in Iowa Code section 272C.6. Accordingly, information in the possession of the board or the committee about licensees in the program shall not be disclosed to the public. Participation in the impaired licensee program under the auspices of the committee is not a matter of public record.

This rule is intended to implement Iowa Code chapter 272C.

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UTILITIES DIVISION[199]

Former Commerce Commission[250] renamed Utilities Division[199]
under the "umbrella" of Commerce Department[181] by 1986 Iowa Acts, Senate File 2175, section 740.

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CHAPTER 32
REORGANIZATION

199—6.7(476) Record. The written complaint and all supplemental information shall be made part of the record in the formal complaint proceeding.

199—6.8(476) Special procedures for complaints alleging unauthorized changes in telecommunications services. Notwithstanding the deregulation of a communications service or facility pursuant to Iowa Code section 476.1D, complaints alleging an unauthorized change in telecommunications service (see rule 199—22.23(476)) will be processed pursuant to the rules set forth in this chapter with the following additional or substituted procedures:

6.8(1) Upon receipt of the written complaint and with the customer's acknowledgment, a copy of the complaint will be forwarded to the executing service provider and the preferred service provider as a request for a change in the subscriber's service to the subscriber's preferred service provider, unless the service has already been changed to the preferred service provider.

6.8(2) The complaint will also be forwarded to the alleged unauthorized service provider. That entity shall file a response to the complaint within ten days of the date the complaint was forwarded. The response must include proof of verification of the subscriber's authorization for a change in service or a statement that the unauthorized service provider does not have such proof of verification.

6.8(3) If the alleged unauthorized service provider includes with its response alleged proof of verification of the subscriber's authorization for a change in service, then the response will be forwarded to the customer. The customer will have ten days to challenge the verification or otherwise reply to the service provider's response.

6.8(4) As a part of the informal complaint proceedings, board staff may issue a proposed resolution to determine the potential liability, including assessment of damages, for unauthorized changes in service among the customer, the previous service provider, the executing service provider, and the submitting service provider, and any other interested person. In the event of a soft slam (as defined in 199 IAC 22.23(1)*"j"*), board staff may also propose joint and several liability between the reseller and the facilities-based service provider. In all cases, the proposed resolution shall allocate responsibility among the interested persons on the basis of their relative responsibility for the events that are the subject matter of the complaint. For purposes of this rule and in the absence of unusual circumstances, the term "damages" means charges directly relating to the telecommunications services provided to the customer that have appeared or may appear on the customer's bill. The term "damages" does not include incidental, consequential, or punitive damages.

6.8(5) If the complainant, the service provider, consumer advocate, or any other interested person directly affected by the proposed decision is dissatisfied with the proposed resolution, a request for formal complaint proceedings may be filed. A request for formal complaint proceedings will be processed by the board pursuant to 199 IAC 6.5(476) et seq.

If no request for formal complaint proceedings is received by the board within 14 days after issuance of the proposed resolution, the proposed resolution will be deemed binding upon all persons notified of the informal proceedings and affected by the proposed resolution. Notwithstanding the binding nature of any proposed resolution as to the affected persons, the board may at any time and on its own motion initiate formal proceedings which may alter the allocation of liability.

6.8(6) No entity shall commence any actions to re-bill, directly bill, or otherwise collect any disputed charges for a change in service until after board action on the complaint is final. If final board action finds that the change in service was unauthorized and determines the customer should pay some amount less than the billed amount, the service provider is prohibited from re-billing or taking any other steps whatsoever to collect the difference between the allowed charges and the original charges.

These rules are intended to implement Iowa Code sections 476.2, 476.3 and 546.7.

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22.20(5) *Certificate revocation.* Any five subscribers or potential subscribers, or consumer advocate upon filing a sworn statement showing a generalized pattern of inadequate telephone service or facilities may petition the board to begin formal certificate revocation proceedings against a local exchange utility. While similar in nature to a complaint filed under rule 199—6.2(476), a petition under this rule shall be addressed by the board under the following procedure and not the procedure found in 199—Chapter 6.

a. Upon receiving a petition, the board will make an informal preliminary investigation into the adequacy of the service and facilities provided by a local exchange utility. The board also may begin an informal preliminary investigation on its own motion at any time.

b. Prior to beginning formal revocation proceedings under 1992 Iowa Acts, Senate File 511, the board will provide notice to the utility of any alleged inadequacies in its service. The utility may admit or deny the allegations. If admitted, the utility will have a reasonable time to eliminate the inadequacies. If denied, the utility will have the opportunity to refute the allegations in contested case proceedings after mailed notice and an opportunity to intervene for the utility's affected customers.

c. If the board does not issue the notice of alleged inadequacies to the utility as provided in 22.20(2)*"b"* within 60 days after the filing of the petition, the petition will be deemed denied.

d. If the board finds significant inadequacies in service or facilities in any certificate revocation contested case, the utility will be allowed a reasonable time to eliminate the inadequacies.

e. If the utility fails to eliminate significant inadequacies in service or facilities within a reasonable time, the board, after mailed notice to all parties in the contested case, or to affected customers if the utility admitted the inadequacies, and after an opportunity for hearing, may revoke or condition the certificate as provided in 1992 Iowa Acts, Senate File 511.

f. Proceedings under this subrule may be combined with proceedings under subrule 22.20(4), or similar certification proceedings initiated on the board's own motion, to consider an appropriate replacement utility simultaneously with the revocation case.

199—22.21(476) Toll dialing patterns. All local exchange utilities may, and after June 19, 1994, shall, use the dialing pattern, 0 or 1 plus ten digits, for all toll calls either within a single numbering plan area or from one numbering plan area to another.

199—22.22(476) Requests for interconnection negotiations. Rescinded IAB 8/28/96, effective 8/2/96.

199—22.23(476) Unauthorized changes in telephone service.

22.23(1) *Definitions.* As used in this rule, unless the context otherwise requires:

"Change in service" means the designation of a new provider of a telecommunications service to a consumer, including the initial selection of a service provider, and includes the addition or deletion of a telecommunications service for which a separate charge is made to a consumer account.

"Consumer" means a person other than a service provider who uses a telecommunications service.

"Cramming" means the addition or deletion of a product or service for which a separate charge is made to a telecommunications consumer account without the verified consent of the affected consumer. Cramming does not include the addition of extended area service to a customer account pursuant to board rules, even if an additional charge is made.

"Executing service provider" means, with respect to any change in telecommunications service, a service provider who executes an order for a change in service received from another service provider or from its own customer.

"Jamming" means the addition of a preferred carrier freeze to a consumer's account without the verified consent of the consumer.

"Letter of agency" means a written document complying with the requirements of 47 CFR § 64.1160 (1999).

"Preferred carrier freeze" means the limitation of a consumer's account so as to prevent any change in preferred service provider for one or more services unless the consumer gives the service provider from which the freeze was requested the consumer's express consent.

"Service provider" means a person providing a telecommunications service, not including commercial mobile radio service.

"Slamming" means the designation of a new provider of a telecommunications service to a consumer, including the initial selection of a service provider, without the verified consent of the consumer.

"Soft slam" means an unauthorized change in service by a service provider that uses the carrier identification code (CIC) of another service provider, typically through the purchase of wholesale services for resale.

"Submitting service provider" means a service provider who requests another service provider to execute a change in service.

"Telecommunications service" means a local exchange or long distance telephone service other than commercial mobile radio service.

"Verified consent" means verification of a consumer's authorization for a change in service.

22.23(2) *Prohibition of unauthorized changes in telecommunications service.*

a. Verification required. No telecommunications carrier shall submit a preferred carrier change order or other change in service order to another service provider unless and until the change has first been confirmed in accordance with the procedures set forth in 47 CFR § 64.1150 (1999). No telecommunications carrier shall execute a change in service on one of its own customer accounts unless and until the change has first been confirmed in accordance with the procedures set forth in 47 CFR § 64.1150 (1999) or through maintenance of sufficient internal records to establish a valid customer request for the change in service. At a minimum, any such internal records must include the date and time of the customer's request and adequate verification of the identification of the person requesting the change in service. The burden will be on the telecommunications carrier to show that its internal records are adequate to verify the customer's request for the change in service.

All verifications shall be maintained for at least two years from the date the change in service is implemented. Verification of service freezes shall be maintained for as long as the preferred carrier freeze is in effect.

b. Letter of agency form and content. A letter of agency must conform to the requirements of 47 CFR § 64.1160 (1999).

c. Customer notification. Every change in service shall be followed by a written notification to the affected customer to inform the customer of the change. Such notice shall be provided within 30 days of the effective date of the change. Such notice may include, but is not limited to, a conspicuous written statement on the customer's bill, a separate mailing to the customer's billing address, or a separate written statement included with the customer's bill. Each such statement shall clearly and conspicuously identify the change in service, any associated charges or fees, the name of the service provider associated with the change, and a toll-free number by which the customer may inquire about or dispute any provision in the statement.

d. Preferred carrier freezes. Preferred carrier freezes must comply with the requirements of 47 CFR § 64.1190 (1999).

22.23(3) Reserved.

22.23(4) *Subscriber complaints regarding changes in service—procedures.* When a telecommunications service provider is contacted by an Iowa customer alleging an unauthorized change in service, the service provider shall inform the customer of the customer's right to contact the board regarding the complaint. The service provider shall provide the customer with the board's toll-free number for complaints, (877)565-4450.

When a subscriber submits to the board a written complaint alleging an unauthorized change in service, the complaint will be processed by the board pursuant to 199—Chapter 6, "Complaint Procedures."

22.23(5) Reserved.

22.23(6) Reserved.

22.23(7) *Service provider complaints regarding changes in service.* When a service provider files a written complaint charging another service provider with causing unauthorized changes in end user services to the detriment of the complaining service provider, the complaint will be processed pursuant to 199—Chapter 6, "Complaint Procedures," except that any party to the proceeding may petition the board for an order initiating formal complaint proceedings at any time, regardless of the status of the informal complaint proceedings. The board will grant such petitions or enter such an order on its own motion if the board finds that informal complaint proceedings are unlikely to aid in the resolution of the complaint.

These rules are intended to implement Iowa Code sections 476.1 to 476.3, 476.5, 476.6, 476.8, 476.9, 476.29, 476.91, and 546.7.

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◊Two ARCs.
**Effective date of 22.10(1)"c" delayed 70 days by the Administrative Rules Review Committee on 11/14/90; delay lifted 12/11/90, effective 12/12/90.
***Effective date of 22.4(2)"b" delayed until the adjournment of the 1994 Session of the General Assembly pursuant to Iowa Code section 17A.8(9) by the Administrative Rules Review Committee at its meeting held September 15, 1993.

CHAPTER 50
HISTORIC SITE PRESERVATION GRANT PROGRAM

223—50.1(303) Purpose. The purpose of the historic site preservation grant program is to provide matching grants to nonprofit organizations, governmental bodies, and Indian tribes for the restoration, preservation, and development of historical sites.

The state historical society of Iowa, the historical division of the Iowa department of cultural affairs, shall administer the historic site preservation grant program.

223—50.2(303) Definitions.

"Administrator" means the administrator of the state historical society of Iowa, the historical division of the department of cultural affairs.

"Director" means the director of the department of cultural affairs.

"Facility" means a site, structure, building, or object such as a sculpture or monument.

"Historical site" means a property that is listed or declared eligible by the state historic preservation officer for listing on the National Register of Historic Places, or a facility in which Iowa's history or the heritage of Iowa's people is interpreted. Historical sites shall relate to the human occupation of Iowa, but may be of prehistoric or historic age.

"Indian tribe" means any tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"Infrastructure" is defined in Iowa Code section 8.57(5c) as "vertical infrastructure" and shall include only land acquisition for construction, major rehabilitation of buildings, all appurtenant structures, utilities, and site developments.

"Society" means the state historical society of Iowa, the historical division of the department of cultural affairs, established in Iowa Code section 303.1.

223—50.3(303) Application procedures.

50.3(1) *Eligible applicants.* Grants shall be awarded to any local political subdivisions of the state, state agency, Indian tribe, or nonprofit organization that is duly authorized and charged with responsibilities for construction, maintenance and operation of historical sites.

50.3(2) *Eligible projects.* Grants under this program shall be used for "vertical infrastructure" as defined in Iowa Code section 8.57(5c). Applicants shall submit only one grant application per funding cycle. Projects that received designated legislative earmarking of funds in the current fiscal year shall not be eligible for funding through this program. Projects that received funding from this program are ineligible to apply for three years from the date of grant award.

50.3(3) *Project requirements.* When applicable, all project work shall meet the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation. All applicants shall submit project information to the society's community programs bureau for review as part of the application process. Successful applicants shall consult with the society's historic preservation staff to ensure that the standards are met. Failure to meet the standards shall result in cancellation of the grant.

50.3(4) *Form of application.* Grant applications shall be on forms provided by the society and shall follow all prescribed guidelines. Completed applications shall provide sufficient detail to clearly describe the scope of the project.

50.3(5) *Application timing.* Grant applications (1 original and 11 copies) shall be received by 4:30 p.m. in the program coordinator's office at the State Historical Society of Iowa, 600 East Locust, Des Moines, Iowa 50319-0290, on or before the deadline date, or shall have a United States Postal Service postmark, dated on or before the fourteenth day of September.

50.3(6) *Assistance ceiling and cost share.* Grants to any individual project shall not exceed $100,000. Project sponsors shall provide cash match at the rate of one dollar for each state grant dollar. An applicant shall certify that it has committed its share of project costs by the time final payment is made. State funds shall not be used as cash match for this program. Indirect costs and staff salaries shall not be used as match.

50.3(7) *Minimum grant amount.* No application requesting less than $40,000 in grant funds shall be considered.

50.3(8) *Geographic distribution of funds.* No more than two projects may be awarded in any grant cycle within a single county.

223—50.4(303) Project review and selection.

50.4(1) *Staff review.* Applications shall be reviewed by society staff to ensure compliance with the program's administrative rules and guidelines. All applications meeting the requirements shall be forwarded to the review and selection panel. Ineligible applications shall not be considered.

50.4(2) *Review panel.* A review and selection panel, hereinafter referred to as the review panel, comprised of ten members appointed by the administrator, shall review and evaluate project applications and shall develop funding recommendations to be forwarded to the state historical society board of trustees for approval.

The review panel shall be comprised of the following members:

1. Panel chairperson, appointed by the administrator.
2. Five citizens, each with a background in archaeology, history, architectural history, architecture, museum studies, Iowa heritage, or a closely related field. Citizens serving on the committee shall be selected from a wide geographic area.
3. One member of the society's board of trustees.
4. One staff representative selected by the administrator of the Iowa division of tourism, Iowa department of economic development.
5. One staff representative selected by the administrator of the Iowa division of parks, recreation and preserves, Iowa department of natural resources.
6. One staff representative selected by the administrator of the division of project planning, Iowa department of transportation.

50.4(3) *Final review and selection of grants.* The society's board of trustees shall review the recommendations of the review panel and shall make recommendations to the administrator. The administrator shall make final funding decisions.

50.4(4) *Conflict of interest.* If a project is submitted by an eligible sponsor, one of whose members or employees is on the review panel, that panelist shall not participate in discussion and shall not vote on that particular project.

223—50.5(303) Application rating system. The review panel shall apply a numerical rating system to each grant application that is considered for funding assistance. The criteria, with a weight factor for each, shall include the following:

1. The historical or cultural significance of the project, and the degree to which the project is of regional, state, or national significance (30 percent);
2. The quality of the plans to interpret the historical resource (25 percent);
3. The extent to which the project will enhance educational opportunities for a broad and diverse audience (25 percent);

4. The degree to which the budget is reasonable and appropriate to the project (10 percent);
5. The degree to which the applicant demonstrates a commitment to the future viability of the resource by planning for the ongoing operation and maintenance of the project (10 percent).

Each criterion shall be given a score from 1 to 10, which is then multiplied by the weight factor.

223—50.6(303) Grant administration.

50.6(1) *Contract agreement.* Successful applicants shall enter into a contract agreement with the society.

50.6(2) *Timely commencement of projects.* Grant recipients are expected to carry out their projects in an expedient manner. Projects shall be under contract by February 1 in the year following their approval and shall be completed by the date specified in the contractual agreement. Failure to initiate projects in a timely manner may be cause for termination of the agreement and cancellation of the grant.

50.6(3) *Funding acknowledgement.* The grantee shall agree to include in all printed lists of contributors the following credit line: "State Historical Society of Iowa, Historic Site Preservation Grant Program."

50.6(4) *Disbursement of funds.* All project moneys, including grant funds and matching funds, shall be expended within the period established by legislation. Disbursement of grant funds shall be made on a schedule as determined in the contractual agreement.

50.6(5) *Record keeping and retention.* Grant recipients shall keep adequate records relating to the administration of a project, particularly relating to all incurred expenses. These records shall be available for audit by representatives of the society and the state auditor's office. All records shall be retained in accordance with state laws.

50.6(6) *Penalties.* During the contract period, whenever any property, real or personal, acquired or developed with grants under this program passes from the control of the grantee or is used for purposes other than the approved project purpose, it shall be considered an unlawful use of the funds.

50.6(7) *Remedy.* Funds used without authorization, for purposes other than the approved project purpose, or unlawfully, shall be returned to the society for deposit in the account supporting this program. In the case of diversion of personal property, the grantee shall remit to the department funds in the amount of the original purchase price of the property. The grantee shall have a period of two years after notification by the society in which to correct the unlawful use of funds. The remedies provided in this subrule are in addition to others provided by law.

50.6(8) *Ineligibility.* Whenever the administrator determines that a grantee is in violation of this rule, that grantee shall be ineligible to receive further grant funds until the matter has been resolved to the satisfaction of the state historical society board of trustees.

50.6(9) *Technical assistance.* The department may use up to 2 percent of the total appropriation for providing technical assistance to grant applicants and for administrative costs incurred in implementing the program.

223—50.7(303) Informal appeals. Eligible applicants or grantees may informally appeal a decision of the society not to grant historic site preservation grant funds on any of the following bases:

1. Action was outside statutory authority;
2. Decision was influenced by a conflict of interest;
3. Action violated state law, administrative rule, or written policy;
4. Insufficient public notice was given; and

5. Alteration of the review process was detrimental to the applicant.

Informal appeals in writing may be directed to the director within 15 days of the incident. All informal appeals shall be directed to the Director, Department of Cultural Affairs, Historical Building, 600 East Locust, Des Moines, Iowa 50319-0290. All informal appeals shall contain facts of the case, argument in favor of the appeal, and remedy sought.

The director shall consider and rule on the informal appeal after receiving all documentation from the appellant and shall notify the appellant in writing of the decision within 30 days. Decisions by the director may be appealed through the contested case process as set out in Iowa Code sections 17A.10 to 17A.19.

These rules are intended to implement Iowa Code sections 303.1A and 303.2.

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CHAPTER 55
ORGANIZATION AND OPERATION OF TERRACE HILL
Transferred to 401—Chapter 14, 2/16/94 IAB

CHAPTER 56
Reserved
Transferred to 401—Chapter 15, 2/16/94 IAB

CHAPTER 57
TERRACE HILL ENDOWMENT FOR THE MUSICAL ARTS
Transferred to 401—Chapter 16, 2/16/94 IAB

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

[Created by 1986 Iowa Acts, chapter 1245]
[Prior to 1/14/87, see Iowa Development Commission[520] and Planning and Programming[630]]

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CHAPTER 23
IOWA COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

261—23.1(15) Purpose. The primary purpose of the community development block grant program is the development of viable communities by providing decent housing and suitable living environments and expanding economic opportunities, primarily for persons of low and moderate income.

261—23.2(15) Definitions. When used in this chapter, unless the context otherwise requires:

"Activity" means one or more specific activities, projects or programs assisted with CDBG funds.

"Career link" means a program providing training and enhanced employment opportunities to the working poor and underemployed Iowans.

"CDBG" means community development block grant.

"EDSA" means economic development set-aside.

"HUD" means the U.S. Department of Housing and Urban Development.

"IDED" means the Iowa department of economic development.

"LMI" means low and moderate income. Households earning 80 percent or less of the area median income are LMI households.

"PFSA" means public facilities set-aside.

"Program income" means gross income a recipient receives that is directly generated by the use of CDBG funds, including funds generated by the use of program income.

"Program year" means the annual period beginning January 1 and ending December 31.

"Quality jobs program" means a job training program formerly funded with CDBG funds that is no longer operational.

"Recipient" means a local government entity awarded CDBG funds under any CDBG program.

"Working poor" means an employed person with an annual household income between 25 and 50 percent of the area median family income.

261—23.3(15) Eligible applicants. All incorporated cities and all counties in the state of Iowa, except those designated as entitlement areas by the U.S. Department of Housing and Urban Development, are eligible to apply for and receive funds under this program.

23.3(1) Any eligible applicant may apply directly or on behalf of a subrecipient.

23.3(2) Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

23.3(3) Applicants shall not apply on behalf of eligible applicants other than themselves.

261—23.4(15) Allocation of funds. IDED shall distribute CDBG funds as follows:

23.4(1) *Administration.* Two percent of total program funds including program income plus $100,000 shall be used for state administration.

23.4(2) *Technical assistance.* One percent of the funds shall be used for the provision of substantive technical assistance to recipients.

23.4(3) *Housing fund.* Twenty-five percent of the funds shall be reserved for a housing fund to be used to improve the supply of affordable housing for LMI persons.

23.4(4) *Job creation, retention and enhancement fund.* Twenty percent of the funds shall be reserved for a job creation, retention and enhancement fund to be for workforce development and to expand economic opportunities and job training for LMI persons. Job creation, retention and enhancement funds are awarded through three programs: the economic development set-aside (EDSA), the public facilities set-aside (PFSA) and career link.

23.4(5) *Contingency funds.* IDED reserves the right to allocate up to 5 percent of funds for projects dedicated to addressing threats to public health and safety and opportunities that would be foregone without immediate assistance.

23.4(6) *Competitive program.* The remaining funds shall be available on a competitive basis through the water and sewer fund and community facilities and services fund. Of this remaining amount, 70 percent shall be reserved for the water and sewer fund, 15 percent shall be reserved for the community facilities and services fund and 15 percent shall be allocated to either the water and sewer fund or community facilities and services fund at the discretion of the director, based on requests for funds.

a. Funding from the water and sewer fund shall be divided into two award cycles.

b. Up to 85 percent of the funds shall be awarded in the first award cycle.

23.4(7) *Reallocation.* Any reserved funds not used for their specified purpose within the program year shall be reallocated to the competitive program for use through the water and sewer fund and community facilities and services fund according to the percentages set forth in subrule 23.4(6).

23.4(8) *Recaptured funds.* Recaptured funds from all programs except the former quality jobs program shall be returned to the competitive program for use through the water and sewer fund and community facilities and services fund according to the percentages set forth in subrule 23.4(6). Funds recaptured from the former quality jobs program shall revert to the job creation, retention and enhancement fund. Recaptured funds shall be committed to open contracts. Preference for reimbursement shall be given to those contracts funded in prior years, with priority given to those from the earliest year not yet closed out. Reimbursement will then proceed on a first-in, first-out basis.

261—23.5(15) Common requirements for funding. Applications for funds under any of the CDBG programs shall meet the following minimum criteria:

23.5(1) Proposed activities shall be eligible, as authorized by Title I, Section 105 of the Housing and Community Development Act of 1974 and as further defined in 24 CFR 570, as revised April 1, 1997.

23.5(2) Proposed activities shall address at least one of the following three objectives:

1. Primarily benefit low- and moderate-income persons. To address this objective, 51 percent or more persons benefiting from a proposed activity must have incomes at or below 80 percent of the area median income.

2. Aid in the prevention or elimination of slums and blight. To address this objective, the application must document the extent or seriousness of deterioration in the area to be assisted, showing a clear adverse effect on the well-being of the area or community and illustrating that the proposed activity will alleviate or eliminate the conditions causing the deterioration.

3. Meet an urgent community development need. To address this objective, the applicant must certify that the proposed activity is designed to alleviate existing conditions that pose a serious and immediate threat to the health or welfare of the community and that are recent in origin or that recently became urgent; that the applicant is unable to finance the activity without CDBG assistance and that other sources of funding are not available. A condition shall be considered recent if it developed or became urgent within 18 months prior to submission of the application for CDBG funds.

23.5(3) Applicants shall demonstrate capacity for grant administration. Administrative capacity shall be evidenced by previous satisfactory grant administration, availability of qualified personnel or plans to contract for administrative services. Funds used for administration shall not exceed 10 percent of the CDBG award amount or 10 percent of the total contract amount, except for awards made under the career link program, for which funds used for administration shall not exceed 5 percent of the CDBG award amount.

261—23.8(15) Requirements for the public facilities set-aside fund. PFSA funds are reserved for infrastructure projects in direct support of economic development activities that shall create or retain jobs.

23.8(1) *Restrictions on applicants.*

a. The maximum grant award for individual applications is $500,000.

b. At least 51 percent of the permanent jobs created or retained by the proposed project shall be taken by or made available through first consideration activities to persons from low- and moderate-income families.

c. Projects must maintain a minimum ratio of one permanent job created or retained for every $10,000 in CDBG funds awarded.

d. The applicant local government must contribute at least 50 percent of the total amount of funds requested.

e. Applications must provide evidence that the PFSA funds requested are necessary to make the proposed project feasible and that the business requesting assistance can continue as a going concern in the foreseeable future if assistance is provided.

f. Jobs created as a result of other jobs being displaced elsewhere in the state shall not be considered to be new jobs created.

g. No significant negative land use or environmental impacts shall occur as a result of the project.

h. Applications shall include a business assessment plan, projecting for each identified business the number of jobs to be created or retained as a result of the public improvement proposed for assistance.

23.8(2) *Application procedure.* Application forms and instructions shall be available upon request from IDED, Bureau of Business Financing, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4819. An original and one copy of completed applications with required attachments shall be submitted to the same address. IDED shall accept PFSA applications at any time and shall review applications on a continuous basis. IDED shall take action on submitted applications within 60 days of receipt. Action may include funding the application for all or part of the requested amount, denying the applicant's request for funding or requesting additional information from the applicant for consideration before a final decision is made.

23.8(3) *Review criteria.* IDED shall review applications and make funding decisions based on the following criteria:

1. Impact of the project on the community.
2. Number of jobs created or retained per funds requested.
3. Degree to which PFSA funding would be leveraged by private investment.
4. Degree of demonstrated need for the assistance.

IDED may conduct site evaluations of proposed projects.

261—23.9(15) Requirements for the career link program. Projects funded through the career link program assist the working poor and underemployed to obtain the training and skills necessary to move into available higher-skill, higher-paying jobs.

23.9(1) *Restrictions on applicants.*

a. Identified positions shall pay a minimum of $10 per hour plus benefits. IDED shall consider training proposals to fill occupations paying less than $10 per hour if a wage progression to $10 per hour shall be reached within 24 months of employment.

b. Applications shall include evidence of business participation in the curriculum design and evidence that a number of positions are available equal to or greater than the number of persons to be trained.

c. The proposed training period shall not exceed 12 months per individual participant. The project length shall not exceed 24 months.

d. Applicants may use awarded funds for training, transportation and child care costs. Up to 5 percent of funds may be used for administration.

e. Projects shall be designed to target the working poor.

23.9(2) *Application procedure.* Application forms and instructions shall be available upon request from IDED, Bureau of Community Facilities and Services, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515) 242-4819. An original and five copies of completed applications shall be submitted to the same address. IDED shall accept career link applications at any time and shall review applications on a continuous basis until all program funds are obligated or the program is discontinued.

23.9(3) *Review criteria.* IDED shall review applications and make funding decisions based on the following criteria:

1. Quality of the jobs available and business participation.
2. Merit of the proposed training plan.
3. Degree to which career link funds are leveraged by other funding sources.
4. Merit of the recruitment/job matching plan.
5. Scope of project benefit relative to the amount of funds invested.

261—23.10(15) Requirements for the contingency fund. The contingency fund is reserved for communities experiencing a threat to public health, safety or welfare that necessitates immediate corrective action sooner than can be accomplished through normal community development block grant procedures, or communities responding to an immediate community development opportunity that necessitates action sooner than can be accomplished through normal funding procedures. Up to 5 percent of CDBG funds may be used for this purpose.

23.10(1) *Application procedure.* Those local governments applying for contingency funds shall submit a written request to IDED, Division of Community and Rural Development, 200 East Grand Avenue, Des Moines, Iowa 50309. The request shall include a description of the situation, the project budget including the amount of the request from IDED, projected use of funds and an explanation of the reason that the situation cannot be remedied through normal CDBG funding procedures.

23.10(2) *Application review.* Upon receipt of a request for contingency funding, IDED shall determine whether the project is eligible for funding and notify the applicant of its determination. A project shall be considered eligible if it meets the following criteria:

a. Projects to address a threat to health and safety.

(1) An immediate threat to health, safety or community welfare must exist that requires immediate action.

(2) The threat must be the result of unforeseeable and unavoidable circumstances or events.

(3) No known alternative project or action would be more feasible than the proposed project.

(4) Sufficient other local, state or federal funds either are not available or cannot be obtained in the time frame required.

b. Projects to address an exceptional opportunity.

(1) A significant opportunity exists for the state that otherwise would be forgone if not addressed immediately.

(2) The opportunity is such that it was neither possible to apply to the CDBG program in a previous normal application time frame, nor is it possible to apply in a future normal CDBG application time frame.

(3) The project meets the funding standards established by the funding criteria set forth in this rule.

(4) Applicants can provide adequate information to IDED on total project design and cost as requested.

23.10(3) *Additional information.* IDED reserves the right to request additional information on forms prescribed by IDED prior to making a final funding decision. IDED reserves the right to negotiate final project award and design components.

23.10(4) *Future allocations.* IDED reserves the right to reserve future funds anticipated from federal CDBG allocations to the contingency fund to offset current need for commitment of funds which may be met by amounts deferred from current awards.

261—23.11(15) Requirements for the housing fund program. Specific requirements for the housing fund are listed separately at 261—Chapter 25.

261—23.12(15) Interim financing program. The objective of the CDBG interim financing program is to benefit persons living in eligible Iowa communities by providing short-term financing for the implementation of projects that create or retain employment opportunities, prevent or eliminate blight or accomplish other federal and state community development objectives. Up to $25 million shall be made available for grants under the CDBG interim financing program during any program year.

23.12(1) *Eligible activities.* Funds provided through the interim financing program shall be used for the following activities:

1. Short-term assistance, interim financing or construction financing for the construction or improvement of a public work.
2. Short-term assistance, interim financing or construction financing for the purchase, construction, rehabilitation or other improvement of land, buildings, facilities, machinery and equipment, fixtures and appurtenances or other projects undertaken by a for-profit organization or business or a nonprofit organization.
3. Short-term or interim financing assistance for otherwise eligible projects or programs.

23.12(2) *Restrictions on applicants.*

a. No significant negative land use or environmental impacts shall occur as a result of the project.

b. Applications must provide evidence that the proposed project shall be completed within 30 months of the date of grant award.

c. The amount of funds requested shall not exceed $20 million.

d. Applications must provide evidence of an irrevocable letter of credit or equivalent security instrument from an AA- or better-rated lending institution, assignable to IDED, in an amount equal to the CDBG short-term grant funds requested, plus interest, if applicable.

e. Applications must provide evidence of the commitment of permanent financing for the project.

f. Applications must include assurance that program income earned or received as a result of the project shall be returned to IDED on or before the end date of the grant contract.

23.12(3) *Application procedure.* Applications may be submitted at any time in a format prescribed by IDED. Applications shall be processed, reviewed and considered on a first-come, first-served basis to the extent funds are available. IDED shall make funding decisions within 30 days of a receipt of a completed application. Applications that are incomplete or require additional information, investigation or extended negotiation may lose funding priority.

23.12(4) *Application review.* Applications shall be reviewed and funding decisions made based on the following review criteria:

1. Degree to which CDBG funds would be leveraged by other funding sources.
2. Reasonableness of the project cost per beneficiary ratio.
3. Documented need for the CDBG assistance.

4. Degree of public benefit, as measured by the present value of proposed assistance to direct wages and aggregate payroll lost, indirect wages and aggregate payroll lost, dislocation and potential absorption of workers and the loss of economic activity.

261—23.13(15) Flood recovery fund. The flood recovery fund is reserved for communities that suffered damage from flooding in 1993. Funds are available to repair flood damage and to prevent future threat to public health, safety or welfare. The source of funds is supplemental appropriations from HUD for flood disaster relief efforts.

23.13(1) *Application procedure.* Communities in need of flood recovery funds shall submit a written request to IDED, Bureau of Community Facilities and Services, 200 East Grand Avenue, Des Moines, Iowa 50309. The request shall include a description of the community's problem, the amount of funding requested, projected use of funds and an explanation of why the problem cannot be remedied through normal CDBG funding procedures.

23.13(2) *Application review.* Upon receipt of a request, IDED, in consultation with appropriate federal, state and local agencies, shall make a determination of whether the community and project are eligible for funding and notify the applicant community of its determination. A project shall be considered eligible only if it meets all of the following criteria:

1. An immediate threat must exist to health, safety or community welfare that requires immediate action.
2. The threat must be a result of flooding in 1993.
3. No known alternative project or action would be more feasible than the proposed project.
4. Sufficient other local, state or federal funds (including the CDBG competitive program) either are not available or cannot be obtained in the time frame required.

23.13(3) *Compliance with federal and state regulations.* A community receiving funds under the flood recovery fund shall comply with all laws, rules and regulations applicable to the CDBG competitive program, except those waived by HUD as a result of federal action in conjunction with the flood disaster and those not required by federal law that IDED may choose to waive. IDED shall make available a list of all applicable federal regulations and disaster-related waivers granted by Congress and relevant federal agencies to all applicants for assistance.

261—23.14(15) Disaster recovery fund. The disaster recovery fund is reserved for communities impacted by natural disasters when a supplemental disaster appropriation is made under the community development block grant program. Funds are available to repair damage and to prevent future threat to public health, safety or welfare that is directly related to the disaster for which HUD supplemental funds have been allocated to the state.

23.14(1) *Application procedure.* Communities in need of disaster recovery funds shall submit a written request to IDED, Bureau of Community Facilities and Services, 200 East Grand Avenue, Des Moines, Iowa 50309. The request shall include a description of the community's problem, the amount of funding requested, projected use of funds, the amount of local funds to be provided and the percent of low- and moderate-income persons benefiting from the project.

23.14(2) *Application review.* Upon receipt of a request, IDED, in consultation with appropriate federal, state and local agencies, shall make a determination of whether the community and project are eligible for funding and notify the applicant community of its determination. A project shall be considered eligible only if it meets all of the following criteria:

1. A threat must exist to health, safety or community welfare that requires immediate action.
2. The threat must be a result of a natural disaster receiving a presidential declaration for which IDED received a supplemental HUD appropriation.
3. No known alternative project or action would be more feasible than the proposed project.
4. Sufficient other local, state or federal funds (including the CDBG competitive program) either are not available or cannot be obtained in the time frame required.

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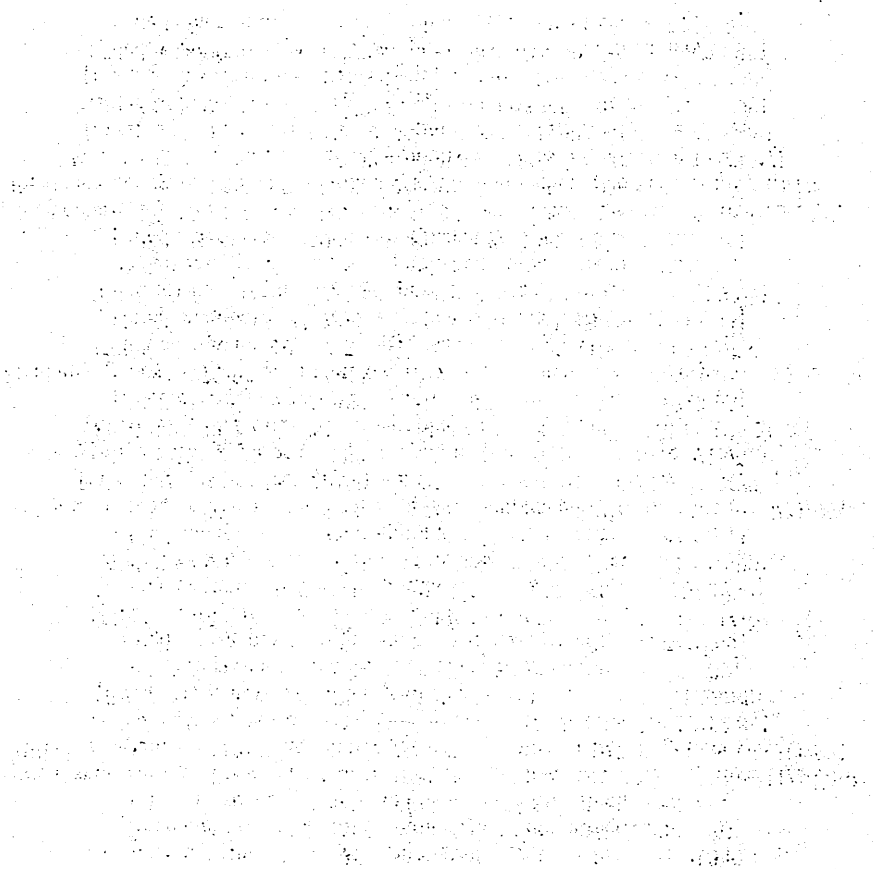
*See IAB Economic Development Department.



EDUCATIONAL EXAMINERS BOARD[282]

[Prior to 6/15/88, see Professional Teaching Practices Commission[640]]
[Prior to 5/16/90, see Professional Teaching Practices Commission[287]]

CHAPTER 4
AGENCY PROCEDURE FOR RULE MAKING

[Prior to 5/16/90, see Professional Teaching Practices Commission[287] Ch 1]

The board of educational examiners hereby adopts the agency procedure 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:

282—4.3(17A) Public rule-making docket.

4.3(2) *Anticipated rule making.* In lieu of the words "(commission, board, council, director)", insert "Board of Educational Examiners".

282—4.4(17A) Notice of proposed rule making.

4.4(3) *Notices mailed.* In lieu of the words "(specify time period)", insert "five years".

282—4.5(17A) Public participation.

4.5(1) *Written comments.* In lieu of the words "(identify office and address)", insert "Executive Director, Board of Educational Examiners, Grimes State Office Building, Des Moines, Iowa 50319-0147".

282—4.6(256) Regulatory flexibility analysis.

4.6(3) *Mailing list.* In lieu of the words "(designate office)", insert "Office of the Executive Director, Board of Educational Examiners, Grimes State Office Building, Des Moines, Iowa 50319-0147".

These rules are intended to implement Iowa Code section 17A.4.

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CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

[Prior to 6/15/88, see Professional Teaching Practices Commission[640] Ch 7]
[Prior to 5/16/90, see Professional Teaching Practices Commission[287] Ch 7]

The board of educational examiners hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in the first volume of the Iowa Administrative Code.

282—5.1(22,272) Definitions. As used in this chapter:

"Agency." In lieu of the words "(official or body issuing these rules)", insert "Board of Educational Examiners".

282—5.3(22,272) Request for access to records.

5.3(1) *Location of record.* In lieu of the words "(insert agency head)", insert "office where the record is kept". In lieu of the words "(insert agency name and address)", insert "Board of Educational Examiners, Grimes State Office Building, Des Moines, Iowa 50319-0147".

5.3(2) *Office hours.* In lieu of the words "(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)", insert "any time from 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays".

5.3(7) *Fees.*

c. Supervisory fee. In lieu of the words "(specify time period)", insert "one-half hour". In lieu of the words "(An agency wishing to deal with search fees authorized by law should do so here.)", insert "The agency will give advance notice to the requester if it will be necessary to use an employee with a higher hourly wage in order to find or supervise the particular records in question, and shall indicate the amount of that higher hourly wage to the requester".

282—5.6(22,272) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words "(designate office)", insert "the office of the executive director of the board".

282—5.9(22,272) Disclosures without the consent of the subject.

5.9(1) Open records are routinely disclosed without the consent of the subject.

5.9(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 5.10(22,272) or in the 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 the 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 an individual if a notice of the disclosure is transmitted to the last-known address of the subject.

e. To the legislative fiscal bureau under Iowa Code section 2.52.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

282—5.10(22,272) Routine use.

5.10(1) "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.

5.10(2) To the extent allowed by law, the following are considered routine uses of all agency records:

a. Disclosure to 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 initiative of the custodian, 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 department of inspections and appeals regarding matters in which it performs services or functions on behalf of the agency.

d. Transfers 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 to determine whether the agency is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record is collected or maintained.

282—5.11(272) Consensual disclosure of confidential records.

5.11(1) *Consent to disclosure by a subject.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 5.7(272).

5.11(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.

282—5.12(272) Release to subject.

5.12(1) The subject of a confidential record may file a written request to review the subject's confidential records as provided in rule 5.6(272). However, the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency when the information is authorized as confidential pursuant to Iowa Code subsection 22.7(18) or other provisions of law.

b. The work product of an attorney or otherwise privileged information.

c. Peace officers' investigative report, except as required by Iowa Code subsection 22.7(5).

d. Those otherwise authorized by law.

5.12(2) Where a record has multiple subjects with interests in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

282—5.13(272) Availability of records.

5.13(1) *Open records.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

5.13(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 under Iowa Code section 72.3.

b. Tax records made available to the agency under Iowa Code sections 422.20 and 422.72.

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

d. Minutes of closed meetings of the board of educational examiners under Iowa Code subsection 21.5(4).

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 paragraph 17A.3(1)*"d."*

f. Portions of the agency's staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, making inspections, 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 under Iowa Code sections 17A.2 and 17A.3.

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 considered confidential under the law such as agency investigative reports collected to determine if probable cause exists to institute a contested case proceeding pursuant to Iowa Code chapter 272.

5.13(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 5.4(272). 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 5.4(3).

282—5.14(272) Personally identifiable information. This rule describes the nature and extent of the personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 5.1(272). For each record system, this rule describes the legal authority for the collection of information, the means of storage of information and whether a data processing system matches, collates or permits the comparison of personally identifiable information in one record system with that in another record system. The record systems maintained by the agency are:

5.14(1) *Cases dismissed.* These records contain data supplied by persons or parties filing complaints and responses with the agency, and contain personally identifiable information such as student name(s), teacher name, administrator name, addresses, disciplinary records, and investigatory reports. This information is collected pursuant to Iowa Code chapter 272 and this chapter, and is stored on paper; most of the data are on an automated data processing system.

5.14(2) *Cases decided.* These records contain data supplied by persons or parties filing complaints and responses with the agency and contain personally identifiable information such as student name(s), teacher name, administrator name, addresses, disciplinary records, and investigatory reports. This information is collected pursuant to Iowa Code chapter 272 and this chapter and is stored on paper; most of the data are on an automated data processing system.

5.14(3) *Litigation files.* These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney's notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copy.

282—5.15(272) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 5.2(272). These records are routinely available to the public; however, the agency's files of these records may contain confidential information or information about individuals that is not confidential as discussed in rule 5.13(272). All records are stored both on paper and in automated data processing systems unless otherwise noted.

5.15(1) *Rule making.* Rule-making records may contain information about individuals making written or oral comments on proposed rules or proposing rules or rule amendments. This information is collected pursuant to Iowa Code sections 17A.3, 17A.4, and 17A.7. These records are stored on paper and not in an automated data processing system.

5.15(2) *Board records.* Records contain agendas, minutes, and materials presented to the board. Records concerning closed sessions are exempt from disclosure under Iowa Code subsection 21.5(4). Board records contain information about people who participate in meetings. This information is collected under the authority of Iowa Code section 21.3. Board records are not stored in an automated data processing system.

5.15(3) *Publications.* Publications include brochures, annual reports, video tapes, and other informational materials which describe various agency programs. Agency publications may contain information about individuals, including agency staff or members of the board. This information is not stored in an automated data processing system.

5.15(4) *Statistical reports.* Periodic reports of agency decisions are available from the board. Statistical reports are stored in an automated data processing system.

5.15(5) *Address lists/directories.* The names and mailing addresses of members of boards in other states, professional organizations, public press, and members of the general public evidencing interest in particular events of the agency are maintained in order to provide mailing labels for mass distribution of literature. This information is collected under the provisions of Iowa Code chapter 272.

5.15(6) *Case decisions and declaratory rulings.* All final orders, decisions and rulings are available for public inspection in accordance with Iowa Code section 17A.3. These records may contain personally identifiable information regarding individuals who are the subjects of the appeals or rulings. This information is collected pursuant to Iowa Code chapters 17A and 272 and 282—Chapter 5 and is not stored in an automated data processing system.

5.15(7) *Board budget records.* These records contain data used by the board to develop annual budgets. These records are stored on hard copy and on automated data processing.

282—5.16(272) Applicability. This chapter does not:

1. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.
2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
3. 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.

4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

5. Make available records compiled by the agency 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 to the agency.

These rules are intended to implement Iowa Code section 22.11.

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CHAPTERS 6 to 8
Reserved

CHAPTER 9
STUDENT LOAN DEFAULT/NONCOMPLIANCE WITH AGREEMENT FOR PAYMENT OF OBLIGATION

282—9.1(261) Issuance or renewal of a license—denial. The board shall deny the issuance or renewal of a license upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code sections 261.121 to 261.127. In addition to the procedures contained in those sections, the following shall apply.

9.1(1) The notice required by Iowa Code section 261.126 shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant or licensee may accept service personally or through authorized counsel.

9.1(2) The effective date of the denial of the license issuance or renewal, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the applicant or licensee.

9.1(3) The board's administrator is authorized to prepare and serve the notice required by Iowa Code section 261.126 upon the applicant or licensee.

9.1(4) Applicants and licensees shall keep the board informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 261.127, court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

9.1(5) All board fees required for application, license renewal, or license reinstatement must be paid by applicants or licensees and all continuing education requirements must be met before a license will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license pursuant to Iowa Code chapter 261.

9.1(6) In the event an applicant or licensee timely files a district court action following service of a board notice pursuant to Iowa Code sections 261.126 and 261.127, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

9.1(7) The board shall notify the applicant or licensee in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license and shall similarly notify the applicant or licensee when the license is issued or renewed following the board's receipt of the certificate of noncompliance.

282—9.2(261) Suspension or revocation of a license. The board shall suspend or revoke a license upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code sections 261.121 to 261.127. In addition to the provisions contained in those sections, the following shall apply.

9.2(1) The notice required by Iowa Code section 261.126 shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the licensee may accept service personally or through authorized counsel.

9.2(2) The effective date of the denial of the license suspension or revocation, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the licensee.

9.2(3) The board's administrator is authorized to prepare and serve the notice required by Iowa Code section 261.126, and is directed to notify the licensee that the license will be suspended, unless the license is already suspended on other grounds. In the event a license is on suspension, the administrator shall notify the licensee of the board's intention to continue the suspension.

9.2(4) Licensees shall keep the board informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 261.127, court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

9.2(5) All board fees required for license renewal or license reinstatement must be paid by licensees and all continuing education requirements must be met before a license will be renewed or reinstated after the board has suspended or revoked a license pursuant to Iowa Code chapter 261.

9.2(6) In the event a licensee timely files a district court action following service of a board notice pursuant to Iowa Code sections 261.126 and 261.127, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

9.2(7) The board shall notify the licensee in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license and shall similarly notify the licensee when the license is reinstated following the board's receipt of the certificate of noncompliance.

282—9.3(17A,22,261) Sharing of information. Notwithstanding any statutory confidentiality provision, the board may share information with the college student aid commission for the sole purpose of identifying applicants or licensees subject to enforcement under Iowa Code chapter 261.

These rules are intended to implement Iowa Code chapter 261.

[Filed 7/23/99, Notice 4/7/99—published 8/11/99, effective 9/15/99]

CHAPTER 11
COMPLAINTS—RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD

[Prior to 6/15/88, see Professional Teaching Practices Commission[640] Ch 2]
[Prior to 5/16/90, see Professional Teaching Practices Commission[287] Ch 2]

282—11.1(272) Parties involved. The following definitions of parties involved in an investigation shall apply herein:

"Board" shall mean the board of educational examiners.

"Complainant" shall mean any qualified party as defined in 11.4(272) herein.

"Respondent" shall mean any individual(s) who shall be charged in a complaint with a violation of standards of professional ethics and practices.

282—11.2(272) Informal procedures. Matters which do not conflict with Iowa Code chapter 272 may be acted upon without a hearing and may be handled by correspondence.

11.2(1) *Informal settlement—waivers.* When a formal complaint has been filed under Iowa Code chapter 272 and rule 11.4(272), the board chair shall make a determination as to the possibility of an informal settlement conference between the parties. If it is determined that such conference is possible, the chair or designee shall give notice as to the time and place of such conference by ordinary mail or by telephone. The site of the conference shall be at a location suitable to the parties. Nothing in this rule shall be construed as requiring a party to participate in informal settlement procedures. An oral or written declination of informal settlement procedures constitutes a waiver of the provisions of this rule.

11.2(2) *Voluntary surrender of license.* When a formal complaint has been filed under Iowa Code chapter 272 and rule 11.4(272), the respondent may voluntarily surrender the license by admitting the truth of the allegations of the complaint and completing a waiver of hearing form provided by the board. The surrender shall result in the permanent revocation of the respondent's license.

11.2(3) *Telephone proceedings.* The presiding officer or the presiding officer's designee may resolve preliminary procedural motions by telephone conference in which all parties have an opportunity to participate. Other telephone proceedings, including hearings, may be held with the consent of all parties. The presiding officer or the presiding officer's designee will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen.

282—11.3(272) Jurisdictional requirements.

11.3(1) The case must relate to alleged violation of standards of professional ethics and practices.

11.3(2) The magnitude of the alleged violation must be adequate to warrant a hearing by the board.

11.3(3) There must be sufficient evidence to support the complaint.

11.3(4) As an additional factor, it should appear that a reasonable effort has been made to resolve the problem on the local level. However, the absence of such an effort shall not preclude investigation by the board.

282—11.4(272) The complaint.

11.4(1) *Who may initiate.*

a. Licensed practitioners employed by a school district or their educational entity or their recognized local or state professional organization.

b. Local boards of education.

c. Parents or guardians of students involved in the alleged complaint.

11.4(2) *Form and content of the complaint.*

a. The complaint shall be in writing and signed by at least one complainant or an authorized representative if the complainant is an organization. (Or an official form may be used. This form may be obtained from the board upon request.)

b. The complaint shall show venue as "BEFORE THE BOARD OF EDUCATIONAL EXAMINERS," and shall be captioned "COMPLAINT."

c. The complaint shall contain the following information:

(1) The full name, address and telephone number of the complainant.

(2) The full name, address and telephone number, if known, of the respondent.

(3) A concise statement of the facts which clearly and accurately apprise the respondent of the alleged violation of professional ethics and practices, and shall state relief sought by the complainant.

11.4(3) *Required copies—place and time of filing.*

a. In addition to the original, a sufficient number of copies of the complaint must be filed to enable service of one copy to each of the respondents and retention of 12 copies for use by the board.

b. The complaint must be delivered personally or by mail to the office of the board. The current office address is the Grimes State Office Building, Third Floor, Des Moines, Iowa 50319-0147.

c. Timely filing is required in order to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may have been significantly altered during the period of delay.

11.4(4) *Amendment or withdrawal of complaint.* A complaint or any specification thereof may be amended or withdrawn by the complainant at any time prior to notification of the respondent, and thereafter at sole discretion of the board.

11.4(5) *Investigation of license reports.*

a. Reports received by the board from another state, a territory or other jurisdiction concerning licenses or certificate revocation or suspension shall be reviewed and investigated by the board in the same manner as is prescribed in these rules for the review and investigation of written complaints.

b. Failure to report a license revocation, suspension or other disciplinary action taken by a licensing authority of another state, territory or jurisdiction within 30 days of the final action by such licensing authority shall constitute cause for initiation of an investigation.

282—11.5(272) Initial inquiry.

11.5(1) *Investigation of allegations.* In order to determine if probable cause exists for a hearing on the complaint, the chair or someone designated by the chair shall cause an investigation of the allegations of the complaint. In this regard, the person complained of shall be furnished a copy of the complaint and given the opportunity to informally present a position or defense respecting the allegations of the complaint. This position or defense may be submitted in writing, but a personal conference with the investigation official may be had as a matter of right upon request.

11.5(2) *Investigation report.* Upon completion of the investigation, the chair or designee shall prepare a report for the board's consideration which shall contain the position or defense of the respondent, discuss jurisdiction and set forth any legal arguments and authorities that appear applicable to the case. The report shall be concluded with a recommendation as to whether probable cause exists for further proceedings.

282—11.6(272) Ruling on the initial inquiry.

11.6(1) *Decision of the board.*

a. Rejection. If a determination is made by the board to reject the case, the complaint shall be returned to the complainant along with a statement specifying the reasons for rejection. A letter of explanation concerning the decision of the board shall be sent to the respondent.

b. Requirement of further inquiry. If determination is made by the board to order further inquiry, the complaint and recommendations by the investigator(s) shall be returned to the investigator(s) along with a statement specifying the information deemed necessary.

c. Acceptance of the case. If a determination is made by the board to accept the case, a formal hearing shall be conducted in accordance with 11.7(272) to 11.9(272) unless a voluntary informal waiver of hearing has been filed by the respondent pursuant to the provisions of subrule 11.2(2) and subrule 11.8(1), paragraph *"g."*

11.6(2) Reserved.

282—11.7(272) Service of the complaint and answer.

11.7(1) *Service of the complaint.* The board or designee shall send a letter of notification and a copy of the complaint, with any amendments, to the respondent by certified mail with return receipt. Attached thereto shall be a statement that respondent has the right to appear at a hearing and be heard and to submit an answer of the type specified in 11.7(3), that an answer or appearance must be submitted within 20 days after receipt of the complaint, and that failure to do so shall be deemed consent to whatever action the board deems appropriate. Further, this statement shall notify the respondent that the board shall determine the date, time, and place of hearing and notify respondents of same upon receipt of the answer.

Whenever the notice of complaint by certified mail with return receipt cannot be delivered to the respondent, because the educator refuses to receive the mail, notice shall be given by publication in a newspaper of general circulation. A copy of all documents or instruments which are pertinent to or the basis of the proceeding shall be mailed to the last known address of the respondent.

11.7(2) *Form of an appearance.*

a. The appearance shall show venue as "BEFORE THE BOARD OF EDUCATIONAL EXAMINERS" and shall be captioned "APPEARANCE."

b. The appearance shall show the following information:

(1) The name, address and telephone number of the respondent.

(2) That the respondent will submit an answer within ten days after the filing of the appearance unless granted an extension by the board.

c. The board may, upon good cause shown, grant the respondent additional time in which to file an answer.

11.7(3) *Form of answer.*

a. The answer shall show venue as "BEFORE THE BOARD OF EDUCATIONAL EXAMINERS" and shall be captioned "ANSWER."

b. The answer shall contain the following information:

(1) The name, address and telephone number of the respondent.

(2) Specific statements regarding any or all allegations in the complaint which shall be in the form of denials, explanatory remarks, or statements of mitigating circumstances.

(3) Any additional facts or information the respondent deems relevant to the complaint and which may be of assistance in the ultimate determination of the case.

282—11.8(272) Action by the board prior to hearing.

11.8(1) *Notice of hearing.* The chair or designee shall send a notice of hearing to the complainant and the respondent by certified mail with return receipt. The notice shall contain the following information:

a. The date, time and place of hearing.

b. A statement that the party may be represented by legal counsel at the hearing.

c. A statement of the legal authority and jurisdiction under which the hearing is to be held.

d. A reference to the statutes and rules involved.

e. A short and plain statement of the matter asserted.

f. A statement requesting the respondent within a period of ten days after receipt of the notice of hearing to:

(1) Acknowledge receipt of the notice of hearing.

(2) State whether or not the party will be present at the hearing.

(3) State whether the party will require an adjustment of date and time of the hearing, and

(4) Furnish the board with a list of witnesses intended to be called.

g. A statement of voluntary waiver of formal hearing which may be signed by the respondent who wishes voluntarily to surrender the practitioner's license under 11.2(2) with the knowledge that the action will result in the permanent revocation of the license. Such a waiver will not preclude an appeal following the board's proposed or final decision as outlined in 11.13(272,17A).

11.8(2) *Filing and serving exhibits prior to hearing.* In any proceeding where detailed or complicated exhibits are to be used, the board chair or designee may require any party to file and serve copies of exhibits or other necessary information within a specified time in advance of the hearing in order to enable the other parties and the board to study same and prepare cross-examination with references thereto.

11.8(3) *Subpoenas—discovery.* In connection with the initial inquiry set forth in 11.5(272), the board is authorized by law to subpoena books, papers, records and any other evidence to help it determine whether it should institute a contested case proceeding (hearing). After service of the hearing notification contemplated by 11.8(272), the following procedures are available to the parties in order to obtain relevant and material evidence:

a. Board subpoenas for books, papers, records, and other evidence will be issued to a party upon request. Such a request must be in writing. Application should be made to the board office specifying the evidence sought. Subpoenas for witnesses may also be obtained.

b. Discovery procedures applicable to civil actions are available to the parties in a proceeding under these rules.

c. Evidence obtained by subpoena or through discovery shall be admissible at the hearing if it is otherwise admissible under 11.11(272). In discovery and subpoena matters the parties shall honor the rules of privilege imposed by law.

d. The evidence outlined in Iowa Code section 17A.13(2) where applicable and relevant shall be made available to a party upon request.

e. 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.

282—11.9(272) Motions.

11.9(1) No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

11.9(2) Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by rules of the agency or the presiding officer or the presiding officer's designee.

11.9(3) The presiding officer or the presiding officer's designee may schedule oral arguments on any motion.

11.9(4) Motions pertaining to the hearing, including motions for summary judgment, must be filed and served at least ten days 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 rule of the agency or an order of the presiding officer.

282—11.10(272) Continuances. A party has no automatic right to a continuance or delay of the board's hearing procedure or schedule. However, a party may request a continuance of the executive director no later than seven days prior to the date set for hearing. The executive director shall have the power to grant continuances. Within seven days of the date set for hearing, no continuances shall be granted except for extraordinary, extenuating or emergency circumstances. In these situations, the executive director shall grant continuances after consultation, if needed, with the chairperson of the board or the attorney representing the board. A board member shall not be contacted in person, by mail or telephone by a party seeking a continuance.

282—11.11(272) The hearing.

11.11(1) *Opening and closing statements by parties.* At the commencement of the hearing, each party, either in person or by counsel, shall have the opportunity to present a written and oral opening statement which may summarize the party's position and evidence to be introduced. At the conclusion of the hearing, each party shall, either in person or by counsel, have the opportunity to present both a written and an oral closing statement which may include a summary of the evidence and testimony received.

11.11(2) *Introductory statement to witnesses.* Before giving testimony, each witness shall be informed of the board membership present (hearing panel), of the identity of the primary parties or their representatives, and of the fact that all testimony is being recorded.

11.11(3) *Hearing panel—administrative law judge—presiding officer—role of board members at hearing.*

a. A hearing may be conducted before the full board or before a three-member hearing panel appointed by the board chair. A hearing may also be conducted by an administrative law judge in accordance with Iowa Code section 17A.11.

b. When a hearing is held before the full board or a three-member hearing panel, the board chair or someone designated by the chair shall act as the presiding officer. The presiding officer or the administrative law judge shall be in control of the proceedings and shall have the authority to administer oaths, to admit or exclude testimony or other evidence and to rule on all motions and objections.

c. The presiding officer or an administrative law judge, at the discretion of the board, and other board members have the right to conduct an examination of all witnesses called at the time of the hearing. Direct examination and cross-examination by board members are subject to objections properly raised in accordance with the rules of evidence noted in 11.9(272).

11.11(4) *A record of proceedings.* The hearing chair will ensure that a record of the hearing proceeding is maintained by one of the following methods:

a. Electronic recording,

b. A competent stenographer, or

c. A certified court reporter. However, the cost of preparing a transcript for the complainant or respondent shall be paid by the party requesting it, or costs jointly shared between the respondent and the complainant upon prior agreement. Parties who request that a hearing be recorded by certified shorthand reporters rather than by electronic means shall bear the cost of the recordation, unless otherwise provided by law. The recording or stenographic notes or transcription thereof shall be kept for a period of at least five years.

11.11(5) *Form of oath.* Whenever an oath is to be administered in any proceeding conducted by the board, the person taking an oath shall raise the right hand and swear or affirm to the following oath or affirmation: "Do you solemnly swear (or affirm) that the testimony (or evidence) you are about to give in the proceeding now in hearing, shall be the truth, the whole truth, and nothing but the truth?"

11.11(6) *Rules of evidence—documentary evidence—official notice.*

a. Irrelevant, immaterial and unduly repetitious evidence shall be excluded. A finding shall be based upon the kind of evidence upon which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs and may be based upon such evidence even if it would be inadmissible in a jury trial. The presiding officer shall, however, give effect to the rules of privilege recognized by law and to any other applicable exclusionary rule imposed by statutory or constitutional provisions.

b. Objections to evidentiary offers may be made and shall be noted in the record. Motions and offers to amend the pleadings may also be made at the hearing and shall be noted in the record together with the rulings thereon.

c. Subject to the above requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be required to be submitted in verified written form.

d. 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 the opportunity to compare the copy with the original, if available. Accurate copies of the document offered at the hearing shall be furnished to those members of the board sitting at the hearing and to opposing parties.

e. Witnesses at the hearing, or persons whose testimony has been submitted in written form, if available, shall be subject to cross-examination by any party and by the board members, executive officer and legal counsel for the board as necessary for a full and true disclosure of the facts.

f. 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 board. 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, and the parties shall be afforded an opportunity to contest the facts before the decision is announced unless the board determines as part of the record or decision that fairness to the parties does not require an opportunity to contest the facts.

11.11(7) Reserved.

11.11(8) *Legal counsel.* The board may appoint legal counsel to advise and counsel the hearing chair in the performance of duties under 11.8(272).

11.11(9) *Open hearing—space limitation.* The hearing is open to members of the public. For reasons of space limitation, however, the presiding officer may regulate attendance.

282—11.12(272) Final and proposed decisions—content—conclusiveness—confidentiality.

11.12(1) *Final decision.* When six or more members of the board preside over the reception of the evidence at the hearing, its decision is a final decision and shall be entered in the minutes.

11.12(2) *Proposed decision.* If the hearing is conducted by a three-member hearing panel or by an administrative law judge, a proposed decision will be issued.

a. The proposed decision shall be placed on the agenda of the next regular board meeting for review of the record and decision by the full board.

b. The board may affirm, modify, or vacate the decision or may direct a rehearing before a hearing panel or the board.

c. A proposed decision becomes final upon board approval.

11.12(3) *Content of decision.* A proposed or final decision shall be written or stated in the record and shall consist of the following parts:

a. A concise statement of the facts which support the findings of fact.

b. Findings of fact. A party may submit proposed findings of fact and, where this is done, the decision shall include a ruling on each proposed finding.

c. Conclusions of law which shall be supported by cited authority or reasoned opinion.

d. The decision or order which sets forth the action to be taken or the disposition of the case. The ruling may be any of the following:

(1) That the respondent be exonerated.

(2) That the respondent be warned or reprimanded.

(3) That the respondent's license be revoked or suspended for a specified term to be determined by the board.

(4) An order containing other appropriate actions within the board's jurisdiction.

11.12(4) *Confidentiality.* At no time prior to the release of the final decision by the board shall any portion of the whole thereof be made public or be distributed to any persons other than the parties.

11.12(5) *Notification of decision.* All parties to a proceeding shall be promptly furnished with a copy of any final or proposed decision or order either in person, by first-class mail, or by telephone, if necessary, to ensure that the parties learn of the decision or order first.

282—11.13(272,17A) Proposed decision—appeal to board—procedures and requirements. A proposed decision as defined in 11.12(2) becomes a final decision unless appealed in accordance with the following procedure:

11.13(1) A proposed decision may be appealed to the full board or a quorum thereof by a party to the decision who is adversely affected thereby. An appeal is commenced by serving on the board's chair, either in person or by certified mail, a notice of appeal within 30 days after service of the proposed decision or order on the appealing party. The appealing party shall be the appellant and all other parties to the appeal shall be the appellee.

11.13(2) Within 15 days after service of the notice of appeal, the appellant shall serve ten copies of the exceptions, if any, together with the brief and argument on the chair. The appellant shall also furnish copies to each appellee by first-class mail. Any appellee to the appeal shall have 30 days following service of exceptions and brief on the chair to file a responsive brief and argument. Except for the notice of appeal, the above time requirements will be extended by stipulation of the parties and may be extended upon application approved by a member of the board or its chair.

11.13(3) Oral argument of the appeal is discretionary but may be required by the board upon its own motion. At the times designated for filing briefs and arguments either party may request oral argument. If a request for oral argument is granted or is required by the board on its own motion, the chair or designee shall notify all parties of the date, time, and place. The board chair or a designated board member shall preside at the oral argument and determine the procedural order of the proceedings.

11.13(4) The record on appeal shall be the entire record made before the hearing committee, administrative law judge or chair.

282—11.14(272,17A) Motion for rehearing. Within 20 days after issuance of a final decision, any party may file an application for a rehearing. The application shall state the specific grounds for rehearing and the relief sought, and copies thereof shall be timely mailed to all other parties. The application shall be deemed denied if not granted within 20 days after service on the chair.

282—11.15(272,17A) Default.

11.15(1) If a party fails to appear in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, proceed with the hearing and render a decision in the absence of the party.

11.15(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper notice.

282—11.16(272,17A) Ex parte communications—bias. Ex parte communications and other matters tending to prejudice a contested hearing proceeding are prohibited by Iowa Code section 17A.17. In keeping with this provision, the following minimal requirements are applicable:

11.16(1) Individuals assigned to render a proposed or final decision or to make findings of fact or conclusions of law shall not communicate, directly or indirectly, in connection with any issue of fact or law, with any person or party, except upon notice and opportunity for all parties to participate. Such individuals may, however, communicate with members of the board and its chair and may have the aid and advice of persons other than those with a personal interest in, or those engaged in prosecuting or advocating in, either the case under consideration or a pending factually related case involving the same parties. In any case, where it becomes necessary to communicate with a party on matters noted above, notice shall be given to all parties, and a date, time and place set for a discussion of the matter.

11.16(2) Parties or their representatives in a contested case shall not communicate, directly or indirectly, in connection with any issue of fact or law in that contested case, with individuals assigned to render a proposed or final decision or to make findings of fact and conclusions of law in that contested case, except upon notice and opportunity for all parties to participate. Any prohibited communication shall be brought to the attention of the board chair so it can be included in the record of the case.

11.13(3) Any party to a contested hearing proceeding may file an affidavit alleging personal bias or other disqualification of any individual participating in the making of a proposed or final decision. The assertion as to disqualification will be ruled upon as a part of the record of the case.

11.13(4) For a violation of this rule, the board may hand down a decision adverse to the violating party; may suspend, censure or reprimand; and may reprimand or dismiss board staff members.

These rules are intended to implement Iowa Code chapter 272.

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CHAPTER 12
CRITERIA OF PROFESSIONAL PRACTICES

[Prior to 6/15/88, see Professional Teaching Practices Commission[640] Ch 3]
[Prior to 5/16/90, see Professional Teaching Practices Commission[287] Ch 3]

282—12.1(272) Contractual and other legal obligations.

12.1(1) *Statutory provisions.*

a. The board recognizes the need for all members of the profession to be cognizant of the statutes of the state of Iowa which deal with contractual and other legal obligations. A violation of any of the school laws of Iowa constitutes a violation of the criteria of the board of educational examiners.

b. The board recognizes its responsibility to investigate cases which involve the habitual failure of a practitioner to fulfill contractual obligations under Iowa Code section 279.13.

12.1(2) *Written contracts.* The board recognizes the need for a common basis upon which teachers and boards of education may agree. The effectiveness of a written contract will be dependent upon mutual confidence and good faith in which both parties enter into and agree. Boards of education have final authority and responsibility to enter into written contractual agreements.

282—12.2(272) Conviction of crimes, sexual and other immoral conduct with or toward students and alcohol or drug abuse.

12.2(1) It is hereby deemed unprofessional and in violation of the criteria of this board for a member of the teaching profession to be guilty of any of the following acts or offenses:

a. Fraud in the procurement or renewal of a practitioner's license as defined in Iowa Code chapter 272.

b. The commission of or conviction for a public offense as defined by the Criminal Code of Iowa, provided that the offense is relevant to and affects teaching or administrative performance.

c. Sexual involvement with a student. Sexual involvement includes the following acts, whether consensual or nonconsensual: fondling or touching the inner thigh, groin, buttocks, anus, or breasts of a student; permitting or causing to fondle or touch the practitioner's inner thigh, groin, buttocks, anus, or breasts; or the commission of any sex act as defined in Iowa Code section 702.17.

d. Chronic abuse of or addiction to alcohol or other drugs, where such abuse or addiction affects performance of educational duties. Where drug addiction has been caused by the use of drugs under the directions of a physician, the board shall allow a reasonable period of time for treatment before taking any action affecting the practitioner's license.

12.2(2) Reserved.

282—12.3(272) Ethical practice toward other members of the profession, parents, students and the community.

12.3(1) *Principle I—commitment to the student.* The educator measures success by the progress of each student toward realization of potential as a worthy and effective citizen. The educator therefore works to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of worthy goals. In fulfilling obligations to the student, the educator:

a. Shall not without just cause restrain the student from independent action in a pursuit of learning, and shall not without just cause deny the student access to varying points of view.

b. Shall not deliberately suppress or distort subject matter for which the educator bears responsibility.

c. Shall make reasonable effort to protect the student from conditions harmful to learning or to health and safety.

d. Shall conduct professional business in such a way that the educator does not expose the student to unnecessary embarrassment or disparagement.

e. Shall not on the ground of race, color, creed, age, sex, physical or mental handicap, marital status, or national origin exclude any student from participation in or deny the student benefits under any program, nor grant any discriminatory consideration or advantage.

f. Shall not use professional relationships with students for private advantage.

g. Shall keep in confidence information that has been obtained in the course of professional service, unless disclosure serves professional purposes or is required by law.

h. Shall not tutor for remuneration students assigned to the educator's classes, unless no other qualified teacher is reasonably available.

12.3(2) *Principle II—commitment to the public.* The educator believes that patriotism in its highest form requires dedication to the principles of our democratic heritage. The educator shares with all other citizens the responsibility for the development of sound public policy and assumes full political and citizenship responsibilities. The educator bears particular responsibility for the development of policy relating to the extension of educational opportunities for all and for interpreting educational programs and policies to the public. In fulfilling an obligation to the public, the educator:

a. Shall not misrepresent an institution or organization with which the educator is affiliated, and shall take adequate precautions to distinguish between personal and institutional or organizational views.

b. Shall not knowingly distort or misrepresent the facts concerning educational matters in direct and indirect public expressions.

c. Shall not interfere with a colleague's exercise of political and citizenship rights and responsibilities.

d. Shall not use institutional privileges for monetary private gain or to promote political candidates or partisan political activities.

e. Shall accept no gratuities, gifts, or favors that might impair or appear to impair professional judgment, nor offer any favor, service, or thing of value to obtain special advantage.

12.3(3) *Principle III—commitment to the profession.* The educator believes that the quality of the services of the education profession directly influences the nation and its citizens. The educator therefore exerts every effort to raise professional standards, to improve service, to promote a climate in which the exercise of professional judgment is encouraged, and to achieve conditions which attract persons worthy of the trust to careers in education. In fulfilling an obligation to the profession, the educator:

a. Shall not discriminate on the ground of race, sex, age, physical handicap, marital status, color, creed or national origin for membership in the profession, nor interfere with the participation or nonparticipation of colleagues in the affairs of their professional association.

b. Shall accord just and equitable treatment to all members of the profession in the exercise of their professional rights and responsibilities.

c. Shall not use coercive means or promise special treatment in order to influence professional decisions of colleagues.

d. Shall withhold and safeguard information acquired about colleagues in the course of employment, unless disclosure serves professional purposes.

e. Shall not refuse to participate in a professional inquiry when requested by the commission board.

f. Shall provide upon the request of the aggrieved party a written statement of specific reason for recommendations that lead to the denial of increments, significant changes in employment or termination of employment.

g. Shall not misrepresent professional qualifications.

h. Shall not knowingly distort evaluations of colleagues.

12.3(4) *Principle IV—commitment to professional employment practices.* The educator regards the employment agreement as a pledge to be executed both in spirit and in fact in a manner consistent with the highest ideals of professional service. The educator believes that sound professional personnel relationships with governing boards are built upon personal integrity, dignity, and mutual respect. The administrator discourages the practice of the profession by unqualified persons. In fulfilling the obligation to professional employment practices, the educator:

a. Shall apply for, accept, offer, or assign a position or responsibility on the basis of professional preparation and legal qualifications.

b. Should recognize salary schedules and the salary clause of an individual teacher's contract as a binding document on both parties. The educator should not in any way violate the terms of the contract.

c. Shall not knowingly withhold information regarding a position from an applicant or misrepresent an assignment or conditions of employment.

d. Shall give prompt notice to the employing agency of any change in availability of service, and the employing agent shall give prompt notice of change in availability or nature of a position.

e. Shall adhere to the terms of a contract or appointment, unless these terms have been legally terminated, falsely represented, or substantially altered by unilateral action of the employing agency.

f. Shall not delegate assigned tasks to unqualified personnel.

g. Shall use time or funds granted for the purpose for which they were intended.

12.3(5) *Principle V—commitment of board members and staff.* The board members and staff will be independent and impartial and not use the public office for private gain. In fulfilling their obligation the board employees will not:

a. Receive any remuneration for services, other than that payable by law.

b. Solicit, accept, or agree to accept any gifts, loans, gratuities, discounts, favors, hospitalities or services from anyone with vested interests in board matters.

c. Disclose confidential information garnered from official duties.

d. Solicit, accept or agree to accept compensation contingent upon board actions.

e. Hold positions, perform duties, or engage in activities not compatible with official capacity.

These rules are intended to implement Iowa Code chapter 272.

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282—14.25(272) Two-year administrator exchange license.

14.25(1) A two-year nonrenewable exchange license may be issued to an individual under the following conditions. The individual:

a. Has completed a state-approved teacher education program in a college or university approved by the state board of education or the state board of educational examiners in the individual's home state.

b. Has completed a state-approved administrator education program in a college or university approved by the state board of education or the state board of educational examiners in the individual's home state.

c. Holds a valid regular administrative certificate or license.

d. Is not subject to any pending disciplinary proceedings in any state.

e. Meets the experience requirements for the administrative endorsements. Verified successful completion of five years of full-time teaching and administrative experience in other states, on a valid license, shall be considered equivalent experience necessary for the principal endorsement. Verified successful completion of eight years of full-time teaching and administrative experience in other states, on a valid license, shall be considered equivalent experience for the superintendent endorsement provided that three years were as a building principal or other PK-12 districtwide or area education agency administrator.

14.25(2) Each exchange license shall be limited to the area(s) and level(s) of administration as determined by an analysis of the application, the transcripts, and the license or certificate held in the state in which the basic preparation for the administrative licensure was completed.

14.25(3) Each individual receiving the two-year exchange license will have to complete any identified licensure deficiencies in order to be eligible for a regular educational and administrative license in Iowa.

282—14.26(272) Two-year nonrenewable school counseling exchange license.

14.26(1) A two-year nonrenewable school counseling exchange license may be issued to an individual, provided that the individual:

a. Has completed a regionally accredited master's degree program in school guidance counseling.

b. Holds a valid school counseling certificate or license issued by an examining board which issues certificates or licenses based on requirements which are substantially equivalent to those of the board of educational examiners.

c. Meets the qualifications in Iowa Code section 272.6.

d. Is not subject to any pending disciplinary proceeding in any state.

14.26(2) Each exchange license shall be limited to the area(s) and level(s) of counseling as determined by an analysis of the application, the transcripts, and the license or certificate held in the state in which the basic preparation for the school counseling license was completed.

14.26(3) Each applicant for the exchange license shall comply with all requirements with regard to application processes and payment of licensure fees.

14.26(4) Each individual receiving the two-year exchange license will have to complete any identified licensure deficiencies in order to be eligible for a regular educational license in Iowa.

14.26(5) Individuals licensed under this provision are subject to the administrative rules of the board.

282—14.27(272) Human relations requirements for practitioner licensure. Preparation in human relations shall be included in programs leading to practitioner licensure. Human relations study shall include interpersonal and intergroup relations and shall contribute to the development of sensitivity to and understanding of the values, beliefs, lifestyles and attitudes of individuals and the diverse groups found in a pluralistic society.

14.27(1) Beginning on or after August 31, 1980, each applicant for an initial practitioner's license shall have completed the human relations requirement.

14.27(2) On or after August 31, 1980, each applicant for the renewal of a practitioner's license shall have completed an approved human relations requirement.

14.27(3) Credit for the human relations requirement shall be given to licensed practitioners who can give evidence that they have completed a human relations program which meets board of educational examiners criteria (see 14.30(272)).

282—14.28(272) Development of human relations components. Human relations components shall be developed by teacher preparation institutions. In-service human relations components may also be developed by educational agencies other than teacher preparation institutions, as approved by the board of educational examiners.

282—14.29(272) Advisory committee. Education agencies developing human relations components shall give evidence that in the development of their programs they were assisted by an advisory committee. The advisory committee shall consist of equal representation of various minority and majority groups.

282—14.30(272) Standards for approved components. Human relations components will be approved by the board of educational examiners upon submission of evidence that they are designed to develop the ability of participants to:

14.30(1) Be aware of and understand the various values, lifestyles, history, and contributions of various identifiable subgroups in our society.

14.30(2) Recognize and deal with dehumanizing biases such as sexism, racism, prejudice, and discrimination, and become aware of the impact that such biases have on interpersonal relations.

14.30(3) Translate knowledge of human relations into attitudes, skills, and techniques which will result in favorable learning experiences for students.

14.30(4) Recognize the ways in which dehumanizing biases may be reflected in instructional materials.

14.30(5) Respect human diversity and the rights of each individual.

14.30(6) Relate effectively to other individuals and various subgroups other than one's own.

282—14.31(272) Evaluation. Educational agencies providing the human relations components shall indicate the means to be utilized for evaluation.

282—14.32(272) Licensure and authorization fee.

14.32(1) *Issuance and renewal of licenses, authorizations, and statements of professional recognition.* The fee for the issuance of each initial practitioner's license, the evaluator license, the statement of professional recognition, and the coaching authorization and the renewal of each license, evaluator approval license, statement of professional recognition, and coaching authorization shall be $50.

14.32(2) *Adding endorsements.* The fee for the addition of each endorsement to a license, following the issuance of the initial license and endorsement(s), shall be $25.

14.32(3) *Duplicate licenses, authorizations, and statements of professional recognition.* The fee for the issuance of a duplicate practitioner's license, evaluator license or coaching authorization shall be $10.

14.32(4) *Evaluation fee.* Each application from an out-of-state institution for initial licensure shall include, in addition to the basic fee for the issuance of a license, a one-time nonrefundable $50 evaluation fee.

Each application or request for a statement of professional recognition shall include a one-time nonrefundable $50 evaluation fee.

14.32(5) *One-year emergency license.* The fee for the issuance of a one-year emergency license based on an expired conditional license or an expired administrative decision license shall be $100.

14.32(6) *Late renewal fee.* Effective September 1, 2000, an additional fee of $25 per calendar month, not to exceed $100, shall be imposed if a renewal application is submitted after the date of expiration of a practitioner's license. The board may waive a late renewal fee upon application for waiver of the fee by a practitioner. Waiver of the late fee will be granted only upon a showing of extraordinary circumstances rendering imposition of the fee unreasonable.

282—14.33 Reserved.

282—14.34(272) NCATE accredited programs. The requirements of the professional education core at 282—subrule 14.19(3), notwithstanding, an applicant from an out-of-state institution who has completed a program accredited by the National Council for the Accreditation of Teacher Education on and after October 1, 1988, shall be recognized as having completed the professional education core set out in 14.19(3), with the exception of paragraphs *"h"* and *"n."*

These rules are intended to implement Iowa Code chapter 272.

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◊Two ARCs
*Effective date delayed 70 days by the Administrative Rules Review Committee at its meeting held September 9, 1992; delay lifted by the Committee October 14, 1992, effective October 15, 1992.

CHAPTER 14
ISSUANCE OF PRACTITIONERS' LICENSES
(Effective August 31, 2001)

282—14.1(272) Applicants desiring Iowa licensure. Licenses are issued upon application filed on a form provided by the board of educational examiners.

282—14.2(272) Applicants from recognized Iowa institutions. An applicant for initial licensure who completes the teacher, administrator, or school service personnel preparation program from a recognized Iowa institution shall have the recommendation for the specific license and endorsement(s) or the specific endorsement(s) from the designated recommending official at the recognized education institution where the preparation was completed. A recognized Iowa institution is one which has its program of preparation approved by the state board of education according to standards established by said board, or an alternative program recognized by the state board of educational examiners.

282—14.3(272) Applicants from recognized non-Iowa institutions. An applicant for initial licensure who completes the teacher, administrator, or school service personnel preparation program from a recognized non-Iowa institution shall have the recommendation for the specific license and endorsement(s) or the specific endorsement(s) from the designated recommending official at the recognized institution where the preparation was completed, provided all requirements for Iowa licensure have been met.

Applicants who hold a valid license from another state and whose preparation was completed through a nontraditional program, through an accumulation of credits from several institutions, shall file all transcripts with the practitioner preparation and licensure bureau for a determination of eligibility for licensure.

A recognized non-Iowa institution is one which is accredited by the regional accrediting agency for the territory in which the institution is located.

282—14.4(272) Applicants from foreign institutions. An applicant for initial licensure whose preparation was completed in a foreign institution will be required to have all records translated into English and then file these records with the board of educational examiners for a determination of eligibility for licensure.

282—14.5(272) Issue date on original license. A license is valid only from and after the date of issuance.

282—14.6(272) Adding endorsements to licenses. After the issuance of a teaching, administrative, or school service personnel license, an individual may add other endorsements to that license upon proper application, provided current requirements for that endorsement have been met. An updated license with expiration date unchanged from the original or renewed license will be prepared.

14.6(1) To add an endorsement, the applicant shall comply with one of the following options:

Option 1. Identify with a recognized Iowa teacher preparing institution, meet that institution's current requirements for the endorsement desired, and receive that institution's recommendation.

Option 2. Identify with a recognized Iowa teacher education institution and receive a statement that the applicant has completed the equivalent of the institution's approved program for the endorsement sought.

282—14.16(272) Requirements for a two-year conditional license. A nonrenewable conditional license valid for two years may be issued to an individual under the following conditions: If a person is the holder of a valid license and is the holder of one or more endorsements, but is seeking to obtain some other endorsement, a two-year conditional license may be issued if requested by an employer and the individual seeking this endorsement has completed at least two-thirds of the requirements leading to completion of all requirements for that endorsement.

282—14.17(272) Conditional special education license. Based on the amount of preparation needed to complete the requirements for the endorsement, a conditional special education license may be issued to an individual for a term of up to three years under the following conditions:

1. The individual is the holder of a valid license.
2. The individual has completed at least one-half of the credits necessary for a special education endorsement.
3. The employing school official makes written request supported by the respective area education agency special education officials.
4. The college/university outlines the coursework to be completed for the endorsement.

282—14.18(272) Conditional occupational and postsecondary licenses.

14.18(1) *Conditional occupational license.* A two-year conditional occupational license may be issued to an applicant who has not met all of the experience requirements for the provisional occupational license.

14.18(2) *Conditional postsecondary license.* A two-year conditional postsecondary license may be issued to an applicant who has not met all of the initial requirements for a provisional postsecondary license or holds the provisional or regular postsecondary license with an endorsement and is seeking an endorsement in another teaching field.

282—14.19(272) Requirements for a substitute teacher's license.

14.19(1) A substitute teacher's license may be issued to an individual who:

a. Has been the holder of, or presently holds, a license in Iowa; or holds or held a regular teacher's license or certificate in another state, exclusive of temporary, emergency, substitute certificate or license, or a certificate based on an alternative certification program.

b. Has successfully completed all requirements of an approved teacher education program and is eligible for the provisional license, but has not applied for and been issued this license, or who meets all requirements for the provisional license with the exception of the degree but whose degree will be granted at the next regular commencement.

14.19(2) A substitute license is valid for five years and for not more than 90 days of teaching during any one school year.

14.19(3) The holder of a substitute license is authorized to teach in any school system in any position in which a regularly licensed teacher was employed to begin the school year.

14.19(4) Renewal requirements for this license will be developed.

282—14.20(272) Two-year exchange license.

14.20(1) A two-year nonrenewable exchange license may be issued to an individual under the following conditions:

a. The individual has completed a state-approved teacher education program in a college or university approved by the state board of education or the state board of educational examiners in the home state which is party to the exchange certification agreement.

b. The individual holds a valid regular certificate or license in the home state party to the exchange certification agreement.

c. The individual is not subject to any pending disciplinary proceedings in the home state.

d. The applicant for the exchange license complies with all requirements with regard to application processes and payments of licensure fees.

14.20(2) Each exchange license shall be limited to the area(s) and level(s) of instruction as determined by an analysis of the application, the transcripts and the license or certificate held in the state in which the basic preparation for licensure was completed.

14.20(3) Each individual receiving the two-year exchange license will have to complete any identified licensure deficiencies in order to be eligible for an initial regular license in Iowa.

282—14.21(272) Licensure and authorization fee.

14.21(1) *Issuance and renewal of licenses, authorizations, and statements of professional recognition.* The fee for the issuance of each initial practitioner's license, evaluator license, statement of professional recognition, and coaching authorization and the renewal of each license, evaluator approval license, statement of professional recognition, and coaching authorization shall be $25.

14.21(2) *Adding endorsements.* The fee for the addition of each endorsement to a license, following the issuance of the initial license and endorsement(s), shall be $25.

14.21(3) *Duplicate licenses, authorizations, and statements of professional recognition.* The fee for the issuance of a duplicate practitioner's license, evaluator license, statement of professional recognition, or coaching authorization shall be $5.

14.21(4) *Evaluation fee.* Each application from an out-of-state institution for initial licensure shall include, in addition to the basic fee for the issuance of a license, a one-time nonrefundable $25 evaluation fee.

Each application or request for a statement of professional recognition shall include a one-time nonrefundable $25 evaluation fee.

14.21(5) *One-year emergency license.* The fee for the issuance of a one-year emergency license based on an expired conditional license or an expired administrative decision license shall be $50.

14.21(6) *Late renewal fee.* An additional fee of $25 per calendar month, not to exceed $100, shall be imposed if a renewal application is submitted after the date of expiration of a practitioner's license. The board may waive a late renewal fee upon application for waiver of the fee by a practitioner. Waiver of the late fee will be granted only upon a showing of extraordinary circumstances rendering imposition of the fee unreasonable.

282—14.22(272) NCATE accredited programs. The requirements of the professional education core at subrule 14.23(4) notwithstanding, an applicant from an out-of-state institution who has completed a program accredited by the National Council for the Accreditation of Teacher Education on or after October 1, 1988, shall be recognized as having completed the professional education core set out in 14.23(4), with the exception of paragraph *"m."*

282—14.23(272) Requirements for an original teaching subject area endorsement. Following are the basic requirements for the issuance of a license with an endorsement.

14.23(1) Baccalaureate degree from a regionally accredited institution.

14.23(2) Completion of an approved human relations component.

14.23(3) Completion of the exceptional learner program, which must include preparation that contributes to the education of the handicapped and the gifted and talented.

14.23(4) Professional education core. Completed coursework or evidence of competency in:

a. Student learning. The practitioner understands how students learn and develop, and provides learning opportunities that support intellectual, career, social and personal development.

b. Diverse learners. The practitioner understands how students differ in their approaches to learning and creates instructional opportunities that are equitable and are adaptable to diverse learners.

c. Instructional planning. The practitioner plans instruction based upon knowledge of subject matter, students, the community, curriculum goals, and state curriculum models.

d. Instructional strategies. The practitioner understands and uses a variety of instructional strategies to encourage students' development of critical thinking, problem solving, and performance skills.

e. Learning environment/classroom management. The practitioner uses an understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation.

f. Communication. The practitioner uses knowledge of effective verbal, nonverbal, and media communication techniques, and other forms of symbolic representation, to foster active inquiry, collaboration, and support interaction in the classroom.

g. Assessment. The practitioner understands and uses formal and informal assessment strategies to evaluate the continuous intellectual, social, and physical development of the learner.

h. Foundations, reflection and professional development. The practitioner continually evaluates the effects of the practitioner's choices and actions on students, parents, and other professionals in the learning community, and actively seeks out opportunities to grow professionally.

i. Collaboration, ethics and relationships. The practitioner fosters relationships with parents, school colleagues, and organizations in the larger community to support students' learning and development.

j. Computer technology related to instruction.

k. Completion of prestudent teaching field-based experiences.

l. Methods of teaching with an emphasis on the subject and grade level endorsement desired.

m. Student teaching in the subject area and grade level endorsement desired.

14.23(5) Content/subject matter specialization. The practitioner understands the central concepts, tools of inquiry, and structure of the discipline(s) the practitioner teaches and creates learning experiences that make these aspects of subject matter meaningful for students.

This is evidenced by completion of a 30-semester-hour teaching major which must minimally include the requirements for at least one of the basic endorsement areas, special education teaching endorsements, or secondary level occupational endorsements.

282—14.24(272) Human relations requirements for practitioner licensure. Preparation in human relations shall be included in programs leading to teacher licensure. Human relations study shall include interpersonal and intergroup relations and shall contribute to the development of sensitivity to and understanding of the values, beliefs, life styles and attitudes of individuals and the diverse groups found in a pluralistic society.

14.24(1) Beginning on or after August 31, 1980, each applicant for an initial practitioner's license shall have completed the human relations requirement.

14.24(2) On or after August 31, 1980, each applicant for the renewal of a practitioner's license shall have completed an approved human relations requirement.

14.24(3) Credit for the human relations requirement shall be given for licensed persons who can give evidence that they have completed a human relations program which meets board of educational examiners criteria (see 282—14.27(272)).

282—14.25(272) Development of human relations components. Human relations components shall be developed by teacher preparation institutions. In-service human relations components may also be developed by educational agencies other than teacher preparation institutions, as approved by the board of educational examiners.

282—14.26(272) Advisory committee. Education agencies developing human relations components shall give evidence that in the development of their programs they were assisted by an advisory committee. The advisory committee shall consist of equal representation of various minority and majority groups.

282—14.27(272) Standards for approved components. Human relations components will be approved by the board of educational examiners upon submission of evidence that they are designed to develop the ability of participants to:

14.27(1) Be aware of and understand the values, life styles, history, and contributions of various identifiable subgroups in our society.

14.27(2) Recognize and deal with dehumanizing biases such as sexism, racism, prejudice, and discrimination and become aware of the impact that such biases have on interpersonal relations.

14.27(3) Translate knowledge of human relations into attitudes, skills, and techniques which will result in favorable learning experiences for students.

14.27(4) Recognize the ways in which dehumanizing biases may be reflected in instructional materials.

14.27(5) Respect human diversity and the rights of each individual.

14.27(6) Relate effectively to other individuals and various subgroups other than one's own.

282—14.28(272) Evaluation. Educational agencies providing the human relations components shall indicate the means to be utilized for evaluation.

These rules are intended to implement Iowa Code chapter 272.

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CHAPTER 89
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65.8(6) *Excluded payments.* A utility expense which is reimbursed or paid by an excluded payment, including HUD or FmHA utility reimbursements, shall not be deductible.

65.8(7) *Excess medical expense deduction.* Notwithstanding anything to the contrary in these rules or regulations, at certification, households having a member eligible for the excess medical expense deduction shall be allowed to provide a reasonable estimate of the member's medical expenses anticipated to occur during the household's certification period. The estimate may be based on available information about the member's medical condition, public or private medical insurance coverage, and current verified medical expenses. Households giving an estimate shall not be required to report or verify changes in medical expenses that were anticipated to occur during the certification period.

65.8(8) *Child support payment deduction.* Households shall be allowed a deduction for the amount of child support and child medical support payments made by a household member if the payments are legally obligated and paid to a person outside of the food stamp household. Households, including monthly reporting households, shall only be required to report and verify child support payments at certification and recertification and whenever the amount that is paid monthly changes by $50 or more. When a household has a medical insurance policy that provides coverage for persons in addition to the children outside of the food stamp household for which the household member is legally obligated to provide the coverage, the cost of the policy shall be prorated among the number of persons covered and the pro rata cost attributed to the children for whom the member is legally obligated to provide coverage shall be allowed as a deduction.

65.8(9) *Standard deduction.* Notwithstanding anything to the contrary in these rules or regulations, the standard deduction shall be $134 for calculation of food stamp benefits issued for December 1995 through September 30, 1996.

65.8(10) *Switching between actual utility expenses and the standard utility allowances.* Households shall be allowed to switch between the standard utility allowance and using actual utility expenses only at recertification.

65.8(11) *Excess shelter cap.* Notwithstanding anything to the contrary in these rules or regulations, the excess shelter cap shall be $250 effective January 1, 1997, to September 30, 1998. The excess shelter cap shall be $275 effective October 1, 1998, to September 30, 2000. The excess shelter cap shall be $300 effective October 1, 2000, and ongoing.

This rule is intended to implement Iowa Code section 234.12.

441—65.9(234) Treatment centers and group living arrangements. Alcoholic or drug treatment or rehabilitation centers and group living arrangements shall complete Form 470-2724, Monthly Facility Food Stamp Report for Drug or Alcohol Treatment Centers or Group Living Arrangements, on a monthly basis and return the form to an office in the administrative area in which the center is located.

Notwithstanding anything to the contrary in these rules or regulations, disabled persons as defined in 7 CFR 271.2, as amended to December 4, 1991, residing in certain group living arrangements are eligible to receive and use food stamps to purchase their prepared meals.

These group living arrangements are public or private nonprofit residential settings that serve no more than 16 residents that are certified by the appropriate agency or agencies of the state under regulations issued under Section 1616(e) of the Social Security Act or under standards determined by the secretary to be comparable to standards implemented by appropriate state agencies under Section 1616(e) of the Social Security Act.

441—65.10(234) Reporting changes. Households may report changes on the Change Report Form, 470-0321 or 470-0322 (Spanish). Households are supplied with this form at the time of initial certification, at the time of recertification whenever the household needs a new form, whenever a form is returned by the household, and upon request by the household.

Households which are exempt from filing a monthly report must report a change in total household gross earned income of more than $80 per month.

441—65.11(234) Discrimination complaint. Individuals who feel that they have been subject to discrimination may file a written complaint with the Affirmative Action Office, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319.

441—65.12(234) Appeals. Fair hearings and appeals are provided according to the department's rules, 441—Chapter 7.

441—65.13(234) Joint processing.

65.13(1) *SSI/food stamps.* The department will handle joint processing of supplemental security income and food stamp applications by having the social security administration complete and forward food stamp applications.

65.13(2) *Public assistance/food stamps.* In joint processing of public assistance and food stamps, the certification periods for public assistance households will be assigned to expire at the end of the month in which the public assistance redetermination is due to be processed.

441—65.14(234) Rescinded, effective 10/1/83.

441—65.15(234) Proration of benefits. Benefits shall be prorated using a 30-day month.

This rule is intended to implement Iowa Code section 234.12.

441—65.16(234) Complaint system. Clients wishing to file a formal written complaint concerning the food stamp program may submit Form FP-2238-0, or FP-2238-1, Food Stamp Complaint, to the office of field support. Department staff shall encourage clients to use the form.

441—65.17(234) Involvement in a strike. An individual is not involved in a strike at the individual's place of employment when the individual is not picketing and does not intend to picket during the course of the dispute, does not draw strike pay, and provides a signed statement that the individual is willing and ready to return to work but does not want to cross the picket line solely because of the risk of personal injury or death or trauma from harassment. The regional administrator shall determine whether such a risk to the individual's physical or emotional well-being exists.

441—65.18(234) Rescinded, effective 8/1/86.

65.19(17) *Additional information and verification.* The household which has submitted a complete monthly report shall submit, or cooperate in obtaining, additional information and verification needed to determine eligibility or benefits within ten calendar days of the agency's written request.

65.19(18) *Household membership.* Except for applications received during a period of time when the household was not certified to receive food stamps, household membership shall be determined as it was or is anticipated to be on the first day of the issuance month. Changes in household membership occurring on or after the first day of the month which are reported during the month in which the change occurs, will not be considered until the following month. Except for qualified residents of a shelter for battered women and children, individuals shall not be added to the household prior to their being removed from another household where they were receiving food stamps.

65.19(19) *Certification periods.* Households in which all members are receiving family investment program (FIP) cash assistance, a family medical assistance program (FMAP), or FMAP-related medical assistance will be assigned certification periods of 6 to 12 months. However, a certification period of less than 6 months may be assigned at application or recertification to match the food stamp recertification date and the public assistance review date.

Households in which one or more members are not receiving FIP cash assistance, or FMAP or FMAP-related medical assistance, and which are not required to file a monthly report will be assigned certification periods of one to six months based on the predictability of the household's circumstances except when the adult members are all 60 years of age or older with very stable income such as social security, supplemental security income, pensions or disability payments. These households shall be certified for up to 12 months.

65.19(20) *Households subject to retrospective budgeting.* Notwithstanding anything to the contrary in these rules or regulations, all households are subject to retrospective budgeting except:

a. Migrant or seasonal farm worker households.

b. Households whose adult members are all elderly or disabled with no earned income.

c. Households in beginning months as outlined in subrule 65.19(8).

d. Households in which all members are homeless individuals.

e. Households residing on a reservation.

65.19(21) *Self-employment income for less than a year.* Notwithstanding anything to the contrary in these rules or regulations, self-employment income received over a period of less than a year shall be prorated over that period and used to calculate benefits only retrospectively. This income will be used prospectively to determine eligibility.

441—65.20(234) Notice of expiration issuance.

65.20(1) Issuance of the automated Notice of Expiration will occur with the mailing of Form 470-2881, Review/Recertification Eligibility Document, or a hand-issued Form FP 2310-0, Notice of Expiration.

65.20(2) Issuance of the Notice of Expiration, Form FP-2310-0, will occur at the time of certification if the household is certified for one month, or for two months, and will not receive the Automated Notice of Expiration.

441—65.21(234) Claims.

65.21(1) *Time period.* Inadvertent household error and agency error claims shall be calculated back to the month the error originally occurred to a maximum of three years prior to month of discovery of the overissuance.

65.21(2) *Suspension status.* Rescinded IAB 7/1/98, effective 8/5/98.

65.21(3) *Application of restoration of lost benefits.* If the household is entitled to any benefits which it did not receive due to delay or error by the department, these benefits shall first be applied to any claims (including a suspended claim) with any remaining benefits being issued to the household.

65.21(4) *Demand letters.* Households which have food stamp claims shall return the repayment agreement no later than 20 days after the date the demand letter is mailed. For agency error and inadvertent household error, households which do not return the repayment agreement by the due date or do not timely request an appeal, allotment reduction shall occur with the first allotment issued after the expiration of the Notice of Adverse Action time period. For intentional program violation, households which do not return the repayment agreement by the due date, allotment reduction shall occur with the next month's allotment.

65.21(5) *Calculating the amount of an overissuance.* The earned income deduction shall not be allowed when a claim is calculated to determine an overissuance caused by the failure of a household to timely report earned income.

65.21(6) *Collection of claims.* All claims for overissued food stamps can be collected by allotment reduction. Individuals not participating in the food stamp program who are 180 days delinquent in repaying their overissuance will be subject to collection action through the treasury offset program (TOP) which includes, but is not limited to, federal salary offset and federal tax refund offset as outlined in rule 441—11.5(234).

441—65.22(234) Verification.

65.22(1) *Required verification.*

a. Income. Households shall be required to verify income at time of application, recertification and when income is reported or when income changes with the following exceptions:

1. Households are not required to verify the public assistance grant.
2. Households are not required to verify job insurance benefits when the information is available to the department from the department of employment services.
3. Households are only required to verify interest income at the time of application and recertification.

b. Dependent care costs. Households shall be required to verify dependent care costs at the time of application and recertification, when reported in the monthly reporting system, and whenever a change is reported (when a household is not in the monthly reporting system).

c. Medical expenses. Households shall be required to verify medical expenses at the time of application and recertification and whenever a change is reported.

d. Shelter costs. Households shall be required to verify shelter costs (other than utility expenses) at the time of application and recertification and whenever the household reports moving or a change in its shelter costs.

e. Utilities. Actual utilities (for households required or choosing to use actual utility expenses) shall be verified at time of application and recertification, when reported in the monthly reporting system and whenever a change is reported by the household.

Households choosing a utility standard shall verify responsibility for the utility expense that makes them eligible for that standard when not previously verified, whenever the household has moved or a change in responsibility for utility expenses is reported.

f. Telephone expense. In order to receive the standard telephone deduction, households using actual utility deductions shall be required to verify that it is their responsibility to pay for the basic telephone service fee at application and recertification, whenever the household has moved or a change in responsibility for the telephone expense is reported.

g. Child support payment deduction. Households shall be required to verify legally obligated child support and child medical support payments made to a person outside of the food stamp household only at certification and recertification and whenever the household reports a change.

65.22(2) *Failure to verify.* When the household does not verify an expense as required, no deduction for that expense will be allowed.

65.22(3) *Special verification procedures.* Persons whose applications meet the initial criteria for error-prone cases may be subject to special verification procedures, including a second face-to-face interview and additional documentation requirements in accordance with department of inspections and appeals' rules 481—Chapter 72.

Clients are required to cooperate with the food stamp investigation section of the department of inspections and appeals in establishing food stamp eligibility factors including attending requested interviews. Refusal to cooperate will result in denial or cancellation of the household's food stamp benefits. Once denied or terminated for refusal to cooperate, the household may reapply but shall not be determined eligible until cooperation occurs.

441—65.23(234) Weekly or biweekly income and prospective budgeting. Households receiving benefits determined by prospective budgeting shall have the actual or converted amount of income that is received on a weekly or biweekly basis considered for that benefit month.

441—65.24(234) Inclusion of foster children in household. Foster children living with foster parents will not be considered to be members of the food stamp household unless the household elects to include the foster children in the food stamp household. Foster care payments received for foster children not included in the household will be excluded from the income of the household receiving the payment.

441—65.25(234) Effective date of change. A food stamp change caused by, or related to, a public assistance grant change, will have the same effective date as the public assistance change.

441—65.26(234) Child support rebate (pass-through) from the department. Rescinded IAB 7/1/98, effective 7/1/98.

441—65.27(234) Voluntary quit, reduction in hours of work, and failure to participate in workfare.

65.27(1) *Applicant households.* A member of an applicant household who without good cause voluntarily quits a job within 60 days prior to the date the household applies for food stamp benefits shall be disqualified from participating in the food stamp program for 90 days beginning with the date of the quit. Reduction in hours of work to less than 30 hours per week does not apply to applicant households.

65.27(2) *Participating individuals.* Participating individuals are subject to the same disqualification periods as provided under subrule 65.28(12) when the participating individuals voluntarily quit employment without good cause, voluntarily reduce hours of work to less than 30 hours per week, or fail to comply with a food stamp program workfare program, beginning with the month following the adverse notice period.

441—65.28(234) Work requirements.

65.28(1) *Persons required to register.* Each household member who is not exempt by subrule 65.28(2) shall be registered for employment at the time of application, and once every 12 months after initial registration, as a condition of eligibility. Registration is accomplished when the applicant signs a food stamp application form that contains a statement that all members in the household who are required to register for work are willing to register for work. This signature registers all members of that food stamp household that are required to register.

65.28(2) *Exemptions from work registration.* The following persons are exempt from the work registration requirement:

a. A person younger than 16 years of age or a person 60 years of age or older. A person aged 16 or 17 who is not a head of a household or who is attending school, or is enrolled in an employment training program on at least a half-time basis is exempt.

b. A person physically or mentally unfit for employment.

c. A household member subject to and complying with any work requirement under Title IV of the Social Security Act including mandatory PROMISE JOBS referral.

d. A parent or other household member who is responsible for the care of a dependent child under age six or an incapacitated person.

e. A person receiving unemployment compensation.

f. A regular participant in a drug addiction or alcohol treatment and rehabilitation program which is certified by the Iowa department of public health, division of substance abuse.

g. A person who is employed or self-employed and working a minimum of 30 hours weekly or receiving weekly earnings at least equal to the federal minimum wage multiplied by 30 hours.

h. A student enrolled at least half-time in any recognized school, recognized training program, or an institution of higher education (provided that students have met the requirements of federal regulation, Title 7, Part 273.5, as amended to December 31, 1986).

65.28(3) *Losing exempt status.* Persons who lose exempt status due to any change in circumstances that is subject to the reporting requirements shall register for employment when the change is reported. Persons who lose exempt status due to a change in circumstances that is not subject to the reporting requirements for that household shall register for employment no later than at the household's next recertification.

65.28(4) *Registration process.* Upon reaching a determination that an applicant or a member of the applicant's household is required to register, the pertinent work requirements, the rights and responsibilities of work-registered household members, and the consequences of failure to comply shall be explained to the applicant. A written statement of the above shall be provided to each registrant in the household. The written statement shall also be provided at recertification and when a previously exempt member or a new household member becomes subject to work registration.

Registration for all nonexempt household members required to work register is accomplished when the applicant or recipient signs an application, recertification, or reporting form containing an affirmative response to the question, "Do all members who are required to work register and participate in job search agree to do so?" or similarly worded statement.

EXCEPTION: The caretaker relative of a dependent in a family receiving FIP shall not be eligible for the dependent care reimbursement. Participation in JTPA (65.28(8), paragraph *"d"*) does not entitle the person to a dependent care reimbursement. The reimbursement shall be authorized after the last day of each component in which the person participates upon presentation of proof of the expense incurred and hours of care for each dependent. The reimbursement shall be authorized only once per component in each federal fiscal year. Participation in educational services (65.28(8), paragraph *"c"*) is considered participation in two consecutive four-week components.

65.28(12) *Failure to comply.* This subrule does not apply to persons electing to participate in the employment and training components of educational services and JTPA (see paragraphs 65.28(8)*"c"* and *"d"*).

a. When a person has refused or failed without good cause to comply with the work registration or employment and training requirements in this rule, that person shall be ineligible to participate in the food stamp program as follows:

(1) First violation: The later of (1) the date the individual complies with the requirement; or (2) two months.

(2) Second violation: The later of (1) the date the individual complies with the requirement; or (2) three months.

(3) Third and subsequent violations: The later of (1) the date the individual complies with the requirement; or (2) six months.

b. The disqualification period shall begin with the first month following the expiration of the adverse notice period, unless a fair hearing is requested.

c. Participants shall be notified of probation status in writing. Probation shall last for the duration of the component. In addition to other work requirements in this chapter, employment and training participants are subject to the following specific requirements:

(1) Participants who are absent without good cause shall be placed on probation. A second absence without good cause shall result in disqualification.

(2) Participants who are absent without good cause at the time they are scheduled to present their job search documentation shall be disqualified.

(3) Participants who fail to make the required number of employer contacts without good cause shall be disqualified. Participants who fail to complete the required number of job contacts with good cause shall be excused from completion of the job search requirements for that component.

(4) Participants who exhibit disruptive behavior shall be placed on probation; a second offense shall result in disqualification. Disruptive behavior means the participant hinders the performance of other participants or staff, refuses to follow instructions, or uses abusive language.

(5) Participants will be allowed an additional two weeks to make up employer contacts which have been disallowed by employment services. Qualifying job contacts are defined in paragraph 65.28(8)*"e."* Failure to make up employer contacts will result in disqualification. Employment services will disallow employer contacts when it has been determined that the participant failed to make a face-to-face contact or the requirements of the job applied for far exceed the applicant's level of experience, education, or abilities.

(6) Participants who make physical threats to other participants or staff shall be disqualified.

65.28(13) *Noncompliance with comparable requirements.* Failure to comply with a JIB requirement that is comparable to a food stamp work registration or employment and training requirement shall be treated as a failure to comply with the corresponding food stamp requirement. Disqualification procedures in subrule 65.28(12) shall be followed.

65.28(14) *Ending disqualification.* Following the end of the disqualification periods for noncompliance and as provided in rules 441—65.27(234) and 441—65.28(234), participation may resume.

a. A disqualified individual who voluntarily quit a job within 60 days prior to applying for food stamp benefits may end the disqualification period by:

(1) Serving the 90-day disqualification period, or

(2) Obtaining employment comparable to the job that was quit prior to the end of the 90-day disqualification period, or

(3) Becoming exempt as provided in subrule 65.28(2) exclusive of paragraphs *"c"* and *"e"* prior to the end of the 90-day disqualification period.

b. A disqualified individual who is a member of a currently participating eligible household shall be added to the household after the minimum disqualification period has been served and the person has complied with the failed requirement as follows:

(1) If the member failed or refused to register for work with the department, the member complies by registering.

(2) If the member failed or refused to respond to a request from the department or its designee requiring supplemental information regarding employment status or availability for work, the member must comply with the request.

(3) If the member failed or refused to report to an employer to whom referred, the member must report to that employer if work is still available or report to another employer to whom referred.

(4) If the member failed or refused to accept a bona fide offer of suitable employment to which referred, the member must accept the employment if still available to the participant, or secure other employment which yields earnings per week equivalent to the refused job, or secure any other employment of at least 30 hours per week or secure employment of less than 30 hours per week but with weekly earnings equal to the federal minimum wage multiplied by 30 hours.

(5) If the member failed or refused to attend a scheduled employment and training interview, the member must arrange and attend a scheduled interview.

(6) If the member failed or refused to participate in instruction, training or testing activities, the member must participate in the activities.

(7) If the member failed or refused to complete assigned job search requirements, the member must complete the job search requirements.

(8) If the member failed to comply with workfare, the individual must comply with the program requirements.

(9) If the member voluntarily quit a job, the individual must obtain a job comparable to the one quit.

(10) If the member voluntarily reduced hours of employment to less than 30 hours per week, the individual must start working 30 or more hours per week.

c. An individual may reestablish eligibility during a disqualification period by becoming exempt from the work requirement as provided in subrule 65.28(2) exclusive of paragraphs *"c"* and *"e."*

65.28(15) *Suitable employment.* Employment shall be considered unsuitable if:

a. The wage offered is less than the highest of the applicable federal minimum wage, the applicable state minimum wage, or 80 percent of the federal minimum wage if neither the federal nor state minimum wage is applicable.

b. The employment offered is on a piece-rate basis and the average hourly yield the employee can reasonably be expected to earn is less than the applicable hourly wages specified in paragraph *"a"* above.

c. The household member, as a condition of employment or continuing employment, is required to join, resign from, or refrain from joining a legitimate labor organization.

d. The work offered is at a site subject to a strike or lockout at the time of the offer unless the strike has been enjoined under Section 208 of the Labor-Management Relations Act (29 U.S.C. 78A) (commonly known as the Taft-Hartley Act), or unless an injunction has been issued under Section 10 of the Railway Labor Act (45 U.S.C. 160).

e. The household member involved can demonstrate or the department otherwise becomes aware that:

(1) The degree of risk to health and safety is unreasonable.

(2) The member is physically or mentally unfit to perform the employment, as documented by medical evidence or by reliable information from other sources.

(3) The employment offered within the first 30 days of registration is not in the member's major field of experience.

(4) The distance from the member's home to the place of employment is unreasonable considering the expected wage and the time and cost of commuting. Employment shall not be considered suitable if daily commuting time exceeds two hours per day, not including the transporting of a child to and from a child care facility. Employment shall also not be considered suitable if the distance to the place of employment prohibits walking and neither public nor private transportation is available to transport the member to the job site.

(5) The working hours or nature of the employment interferes with the member's religious observances, convictions, or beliefs.

65.28(16) *Applicants for supplemental security income (SSI) and food stamps.* Household members who are jointly applying for SSI and for food stamps shall have the requirements for work registration waived until:

a. They are determined eligible for SSI and thereby become exempt from work registration, or

b. They are determined ineligible for SSI whereupon a determination of work registration status will be made.

65.28(17) *Determining good cause.* The department or its designee shall determine whether good cause exists for failure to comply with the work registration, employment and training, and voluntary quit requirements in 441—Chapter 65. In determining whether good cause exists, the facts and circumstances shall be considered, including information submitted by the household member involved and the employer.

Good cause shall include circumstances beyond the member's control, such as, but not limited to, illness of the registrant or of another household member requiring the presence of the registrant, a household emergency, the unavailability of transportation, or the lack of adequate child care for children who have reached age 6 but are under age 12.

65.28(18) *Work requirement for able-bodied nonexempt adults without dependents.* An individual is exempt from this requirement if the individual is under 18 or over 50 years of age; medically certified as physically or mentally unfit for employment; a parent or other member of a household with responsibility for a dependent child; pregnant; or otherwise exempt from work requirements under the Food Stamp Act.

a. No able-bodied nonexempt individual aged 18 to 50 shall be eligible to participate in the food stamp program if, during the preceding 36-month period but not prior to December 1996, the individual received food stamp benefits for not less than 3 months (consecutive or otherwise) during which the individual did not:

(1) Work 20 hours or more per week (averaged monthly), or

(2) Participate in and comply with the requirements of a program for 20 hours or more per week, as determined by the department, or

(3) Participate in and comply with the requirements of a food stamp workfare program or a comparable program established by the state or political subdivision of the state, or

(4) Receive benefits per paragraph *"c"* of this subrule.

b. The 36-month period is a consecutive period of time regardless of whether the individual is subject to paragraph *"a"* of this subrule for the entire 36-month period once it has begun. The 36-month period starts with the first month counted toward the 3-month limit. Periods during the 36 months in which the individual may receive benefits because of being exempt from the requirement do not reset the 36-month period. December 1, 1996, is the first month for which an individual's 36-month period can begin. When the individual's first 36-month period expires, a new 36-month period begins starting with the first month counted toward the 3-month limit.

c. During an individual's 36-month period, after the 3-month limit is used, the individual may regain eligibility if during a 30-day period the individual:

(1) Worked 80 or more hours; or

(2) Participated in a work program for 80 or more hours; or

(3) Participated in a food stamp workfare program or a comparable program established by the state or political subdivision of the state.

d. An individual who loses employment after regaining eligibility under paragraph *"c"* of this subrule, and no longer meets the requirements of paragraph *"a,"* subparagraphs (1), (2), and (3), shall remain eligible for a consecutive three-month period, beginning on the date the individual notifies the department that the individual no longer meets the requirements of paragraph *"a"* of this subrule.

441—65.29(234) Income.

65.29(1) *Uneven proration of self-employment income.* Once a household with self-employment income is determined eligible based on its monthly net self-employment income, the household has the following options for computation of the benefit level:

a. Using the same net monthly self-employment income which was used to determine eligibility, or

b. Unevenly prorating the household's annual self-employment income over the period for which the household's self-employment income was averaged to more closely approximate the time when the income is actually received. If this option is chosen, the self-employment income assigned in any month together with other income and deductions at the time of certification cannot result in the household's exceeding the maximum monthly net income eligibility standards for the household's size.

65.29(2) *Job insurance benefits.* When the department of human services uses information provided by the department of employment services to verify job insurance benefits, the benefits shall be considered received the second day after the date that the check was mailed by job service. When the second day falls on a Sunday or federal legal holiday, the time shall be extended to the next mail delivery day. When the client notifies the agency that the amount of job insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. A benefit adjustment shall be made when indicated. The client must report the discrepancy prior to the benefit month or within ten days of the date on the Notice of Decision, PA-3102-0, applicable to the benefit month, whichever is later, in order to receive corrected benefits.

65.36(3) *Repayment of EBT state guarantee.* All adult household members are jointly and severally liable for any payment made by the department to a retailer on behalf of the household to cover eligible food purchases in excess of the amount in the household's food stamp EBT account. Collection will follow procedures utilized for inadvertent household error claims.

65.36(4) *Reversal.* A transaction for an authorized food purchase erroneously taken from a family investment program (FIP) EBT account instead of the food stamp EBT account, discovered after a correction can be made by the retailer, may be reversed upon the household's request under the conditions that:

a. The request for reversal must be made by the household to an office in an administrative area in which the household resides within ten days of the purchase.

b. The EBT Account Adjustment Request, Form 470-2574, must be completed and signed by the household within ten days of the request.

c. The household must present the original cash register receipt no later than the date Form 470-2574, EBT Account Adjustment Request, is completed.

d. The purchase must be verified by central office through the EBT system.

e. Only the cost of verifiable eligible food stamp purchases will be reversed from the FIP EBT account and taken from the food stamp EBT account.

65.36(5) *Revocation of food stamp EBT card.* The department reserves the right to revoke a household's option to participate in EBT for abuse or misuse of the card.

65.36(6) *Stamp-out.* When a household's EBT participation is terminated, the remaining balance in their EBT account shall be issued, upon the household's request, in the form of a coupon allotment issued by direct mail. Any portion of the remaining balance that cannot be converted to food stamp coupon denominations (under $1) will remain in the household's EBT account.

65.36(7) *Forms used in the food stamp EBT program.*

a. EBT Card and PIN Agreement, Form 470-2573. The EBT Card and PIN Agreement, Form 470-2573, serves as acknowledgment of the card and PIN issuance process and EBT responsibilities.

b. POS Voucher, Form 470-2827. The POS Voucher, Form 470-2827, is used to authorize a debit of the household's EBT account when the point of sale (POS) system is inoperable.

c. EBT Account Adjustment Request, Form 470-2574. The EBT Account Adjustment Request, Form 470-2574, is used to authorize adjustments to a household's EBT account.

441—65.37(234) Student eligibility.

65.37(1) Persons between the ages of 18 through 49, physically and mentally fit, and enrolled at least half-time in an institution of higher education are eligible students if they meet any of the following conditions:

a. Receive FIP benefits.

b. Participate in the FIP/PROMISE JOBS program.

c. Participate in a state or federally financed work study program.

d. Work at least 20 hours a week.

e. Are responsible for the care of a dependent household member under the age of 6.

f. Are responsible for the care of a dependent household member over the age of 5 but under the age of 12 and do not have adequate child care to enable them to attend school and work a minimum of 20 hours.

g. Are assigned or placed in an institution of higher education through any of the following:
(1) A program under JTPA.
(2) A program under Section 236 of the Trade Act of 1974.
(3) An employment and training program under the Food Stamp Act.
(4) An employment and training program operated by a state or local government.

65.37(2) A single parent enrolled full-time in an institution of higher education and responsible for the care of a dependent household member under the age of 12 is an eligible student. Single parent means a parent living with a child and not living with that child's other legal or natural parent, or not living with a spouse.

441—65.38(234) Income deductions. Notwithstanding anything to the contrary in these rules or regulations, student households cannot receive an income deduction for dependent care expenses that were excluded from educational income.

441—65.39(234) Categorical eligibility. Notwithstanding anything to the contrary in these rules or regulations, recipients of state or local general assistance (GA) programs are subject to categorical eligibility provisions of the food stamp program provided that the state or local program has income limits at least as stringent as the food stamp gross income test and gives assistance other than one-time emergency payments that cannot be given for more than one continuous month.

441—65.40(234) Head of the household. Rescinded IAB 8/11/99, effective 11/1/99.

441—65.41(234) Actions on changes increasing benefits. Action on changes resulting in an increase in benefits will take place after the verification is received.

441—65.42(234) Work transition period. Households receiving the work transition period June 30, 1997, under subrule 65.129(7) in effect at that date shall continue to receive the work transition period welfare reform policy until their work transition period expires.

441—65.43(234) Household composition. Notwithstanding anything to the contrary in these rules or regulations, household means (1) a person who lives alone or who, while living with others, customarily purchases food and prepares meals for home consumption separate and apart from the others, or (2) a group of persons who live together and customarily purchase food and prepare meals together for home consumption, or (3) spouses who live together, parents and their children 21 years of age or younger who live together, and children (excluding foster children) under 18 years of age who live with and are under the parental control of a person other than their parent together with the person exercising parental control. The persons in (3) shall be treated as a group of persons who customarily purchase and prepare meals together for home consumption even if they do not do so. Notwithstanding the preceding sentences, a person who lives with others, who is 60 years of age or older, and who is unable to purchase food and prepare meals because the person suffers, as certified by a licensed physician, from a disability which would be considered a permanent disability under Section 221(i) of the Social Security Act (42 U.S.C. 421(i)) or from a severe, permanent, and disabling physical or mental infirmity which is not symptomatic of a disease shall be considered, together with any of the others who is the spouse of the person, an individual household, without regard to the purchase of food and preparation of meals, if the income of the others, excluding the spouse, does not exceed 165 percent of the federal poverty line. In no event shall any person or group of persons constitute a household if they reside in an institution or boarding house, or else live with others and pay compensation to the others for meals. For the purposes of this rule, residents of federally subsidized housing for the elderly; disabled or blind individuals including recipients of benefits under Title I, II, X, XIV, or XVI of the Social Security Act, who are residents in a public or private nonprofit group living arrangement that serves no more than 16 residents and is certified by the appropriate state agency or agencies under regulations issued under Section 1616(e) of the Social Security Act or under standards determined by the Secretary of Agriculture to be comparable to standards implemented by appropriate state agencies under Section 1616(e); temporary residents of public or private nonprofit shelters for battered women and children; residents of public or private nonprofit shelters for persons who do not reside in permanent dwellings or have no fixed mailing addresses, who are otherwise eligible for coupons; and narcotics addicts or alcoholics, and their children who live under the supervision of a private nonprofit institution, or a publicly operated community mental health center, for the purpose of regular participation in a drug or alcoholic treatment program shall not be considered residents of institutions and shall be considered individual households.

441—65.44(234) Reinstatement. The department shall reinstate assistance without a new application when the element that caused termination of a case no longer exists and eligibility can be reestablished prior to the effective date of cancellation.

441—65.45(234) Conversion to the X-PERT system. For conversion to the X-PERT system at a time other than review, the recipient may be required to provide additional information. To obtain this information, a recipient or authorized representative may be required to appear for a face-to-face interview. Failure to appear for this interview when so requested, or failure to provide requested information, shall result in cancellation.

441—65.46(234) Disqualifications. Notwithstanding anything to the contrary in these rules, food stamp program violation disqualifications for persons who are not participating in the food stamp program shall be imposed in the same manner as food stamp program violation disqualifications are imposed for persons who are participating in the food stamp program.

65.46(1) *First and second violations.* Notwithstanding anything to the contrary in these rules or regulations, the disqualification penalty for a first intentional program violation shall be one year except for those first violations involving a controlled substance. The disqualification penalty for a second intentional violation and any first violation involving a controlled substance shall be two years.

65.46(2) *Conviction on trafficking food stamp benefits.* The penalty for any individual convicted of trafficking food stamp benefits of $500 or more shall be permanent disqualification.

65.46(3) *Receiving or attempting to receive multiple benefits.* An individual found to have made a fraudulent statement or representation with respect to identity or residency in order to receive multiple benefits shall be ineligible to participate in the food stamp program for a period of ten years.

65.46(4) *Fleeing felons and probation or parole violators.* Fleeing felons and probation or parole violators shall be ineligible for participation in the food stamp program.

65.46(5) *Conviction of trading firearms, ammunition or explosives for coupons.* The penalty for any individual convicted of trading firearms, ammunition or explosives for food stamp benefits shall be permanent disqualification.

441—65.47(234) Eligibility of noncitizens. Notwithstanding anything to the contrary in these rules or regulations, noncitizens are not eligible for food stamp benefits except for the following categories of aliens, providing that they meet all other eligibility factors.

65.47(1) *Seven-year eligibility.* Eligibility is limited to the first seven years after the date the alien obtains one of the following designated alien statuses:

a. Refugees admitted under Section 207 of the Immigration and Nationality Act (INA).

b. Asylees admitted under Section 208 of the INA.

c. Aliens whose deportation has been withheld under Section 243(h) or 241(b)(3) of the INA.

d. Cuban and Haitian entrants under Section 501(e) of the Refugee Education Assistance Act of 1980.

e. Amerasian immigrants under Section 584 of the Foreign Operations, Export Financing and Related Program Appropriations Act.

65.47(2) *Unlimited eligibility.* Eligibility is not time-limited for the following aliens:

a. Aliens lawfully residing in the United States who are veterans of the United States Armed Forces who were honorably discharged for reasons other than alienage, their spouses, and dependent children.

b. Aliens lawfully residing in the Unites States who are active duty personnel of the United States Armed Forces, their spouses, and dependent children.

c. Aliens lawfully admitted for permanent residence under the Immigration and Nationality Act who have worked 40 qualifying quarters of coverage under Title II of the Social Security Act or can be credited with 40 qualifying quarters. Qualifying quarters worked by a parent during the time that an alien was under 18 years of age shall be counted in determining qualifying quarters for aliens 18 years of age and over. Quarters worked by a spouse during the marriage if the persons are still married to each other, or if the spouse is deceased shall be counted in determining a person's qualifying quarters. Quarters worked after December 31, 1996, in which the alien received any federal means-tested public assistance shall not be considered to be a qualifying quarter.

d. Aliens lawfully residing in the United States who were members of a Hmong or Highland Lao tribe when the tribe assisted the U.S. armed forces during the Vietnam War (August 5, 1964, through May 7, 1975), their spouses, unmarried dependent children, and the unremarried widows or widowers of those who are deceased.

e. Native Americans born in Canada who have treaty rights to cross the U.S. borders into Canada and Mexico.

f. Legal immigrants who were lawfully residing in the U.S. on August 22, 1996, who:

(1) Were 65 years of age or older on August 22, 1996, or

(2) Are under 18 years of age, or

(3) Are receiving payments or assistance for blindness or disability, as defined in the Food Stamp Act (Section 3(r)), regardless of when they became disabled.

65.47(3) *Transition period for noncitizens.* Rescinded IAB 11/4/98, effective 11/1/98.

441—65.48(234) Sponsored aliens. Notwithstanding anything to the contrary in these rules or regulations, the income and resources of a sponsor who executed an affidavit of support pursuant to Section 213 of the Immigration and Nationality Act (as implemented by the Personal Responsibility and Work Reconciliation Act of 1996) on behalf of the alien and the income and resources of the sponsor's spouse shall be counted in their entirety when determining eligibility and benefit level for a sponsored alien who entered the United States on or after August 22, 1996.

441—65.49(234) Providing information to law enforcement officials. Notwithstanding anything to the contrary in these rules or regulations, the address, social security number, and (if available) photograph of a food stamp recipient shall be made available to any federal, state, or local law enforcement officer when the officer furnishes the recipient's name and notifies the agency that the individual is fleeing to avoid prosecution, custody, or confinement for a felony, or that the recipient is violating a condition of parole or probation, or has information necessary for the officer to conduct an official duty related to a felony or parole or probation violation.

441—65.50(234) No increase in food stamp benefits. When a household's means-tested federal, state, or local public assistance cash benefits are reduced because of a failure to perform an action required by the public assistance program, the household's food stamp benefit allotment shall be reduced by 10 percent for the duration of the other program's penalty.

These rules are intended to implement Iowa Code section 234.12.

441—65.51 to **65.100** Reserved.

DIVISION II
[Prior to 10/13/93, 441—65.1(234) to 65.41(234)]
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** Subrules 65.8(11) and 65.108(11) effective 1/1/97.

78.13(5) Transportation may be of any type and may be provided from any source. When transportation is by car, the maximum payment which may be made will be the actual charge made by the provider for transportation to and from the source of medical care, but not in excess of the rate per mile payable to state employees for official travel. When public transportation is utilized, the basis of payment will be the actual charge made by the provider of transportation, not to exceed the charge that would be made by the most economical available source of public transportation. In all cases where public transportation is reasonably available to or from the source of care and the recipient's condition does not preclude its use, it must be utilized. When the recipient's condition precludes the use of public transportation, a statement to the effect shall be included in the case record.

78.13(6) In the case of a child too young to travel alone, or an adult or child who because of physical or mental incapacity is unable to travel alone, payment subject to the above conditions shall be made for the transportation costs of an escort. The worker is responsible for making a decision concerning the necessity of an escort and recording the basis for the decision in the case record.

78.13(7) When meals and lodging or other travel expenses are required in connection with transportation, payment will be subject to the same conditions as for a state employee and the maximum amount payable shall not exceed the maximum payable to a state employee for the same expenses in connection with official travel within the state of Iowa.

78.13(8) When the services of an escort are required subject to the conditions outlined above, payment may be made for meals and lodging, when required, on the same basis as for the recipient.

78.13(9) Payment will not be made in advance to a recipient or a provider of medical transportation.

78.13(10) Payment for transportation to receive medical care is made to the recipient with the following exceptions:

a. Payment may be made to the agency which provided transportation if the agency is certified by the department of transportation and requests direct payment by submitting Form 07-350, Purchase Order/Payment Voucher, within 90 days after the trip. Reimbursement for transportation shall be based on a fee schedule by mile or by trip.

b. In cases where the local office has established that the recipient has persistently failed to reimburse a provider of medical transportation, payment may be made directly to the provider.

c. In all situations where one of the department's volunteers is the provider of transportation.

78.13(11) Medical Transportation Claim, MA-3022-1, shall be completed by the recipient and the medical provider and submitted to the local office for each trip for which payment is requested. All trips to the same provider in a calendar month may, at the client's option, be submitted on the same form.

78.13(12) No claim shall be paid if presented after the lapse of three months from its accrual unless it is to correct payment on a claim originally submitted within the required time period. This time limitation is not applicable to claims with the date of service within the three-month period of retroactive Medicaid eligibility on approved applications.

This rule is intended to implement Iowa Code section 249A.4.

441—78.14(249A) Hearing aids. Payment shall be approved for a hearing aid and examinations subject to the following conditions:

78.14(1) *Physician examination.* The recipient shall have an examination by a physician to determine that the recipient has no condition which would contraindicate the use of a hearing aid. This report shall be made on Form MA-2113-0, part 1, Report of Examination for a Hearing Aid.

78.14(2) *Audiological testings.* Specified audiological testing shall be performed by a physician or an audiologist as a part of making a determination that a recipient could benefit from the use of a hearing aid. The audiological testing shall be reported on Form MA-2113-0, part 2.

78.14(3) *Hearing aid evaluation.* A hearing aid evaluation establishing that a recipient could benefit from a hearing aid shall be made by a physician or audiologist. The hearing aid evaluation shall be reported on Form XIX-Audio-2, Hearing Aid Selection Report. When a hearing aid is recommended for a recipient the physician or audiologist recommending the hearing aid shall see the recipient at least one time within 30 days subsequent to purchase of the hearing aid to determine that the aid is adequate.

78.14(4) *Hearing aid selection.* A physician or audiologist may recommend a specific brand or model appropriate to the recipient's condition. When a general hearing aid recommendation is made by the physician or audiologist, a hearing aid dealer may perform the tests to determine the specific brand or model appropriate to the recipient's condition. The hearing aid selection shall be reported on Form XIX-Audio-2, Hearing Aid Selection Report.

78.14(5) *Travel.* When a recipient is unable to travel to the physician or audiologist because of health reasons, payment shall be made for travel to the recipient's place of residence or other suitable location. Payment to physicians shall be made as specified in 78.1(8) and payment to audiologists shall be made at the same rate at which state employees are reimbursed for travel.

78.14(6) *Purchase of hearing aid.* Payment shall be made for the type of hearing aid recommended when purchased from an eligible licensed hearing aid dealer pursuant to rule 441—77.13(249A). Payment for binaural amplification shall be made when:

a. A child needs the aid for speech development, or

b. The aid is needed for educational or vocational purposes, or

c. The aid is for a blind individual.

Payment for binaural amplification shall also be approved where the recipient's hearing loss has caused marked restriction of daily activities and constriction of interests resulting in seriously impaired ability to relate to other people, or where lack of binaural amplification poses a hazard to a recipient's safety.

78.14(7) *Payment for hearing aids.*

a. Payment for hearing aids shall be acquisition cost plus a dispensing fee covering the fitting and service for six months. Payment will be made for routine service after the first six months. Dispensing fees and payment for routine service shall not exceed the fee schedule appropriate to the place of service.

b. Payment for ear mold and batteries shall be at the current audiologist's fee schedule.

c. Payment for repairs shall be made for the charge to the dealer for parts and labor by the manufacturer or manufacturer's depot and for a service charge when this charge is made to the general public.

d. Payment for the replacement of a hearing aid less than four years old shall require prior approval except when the recipient is under 21 years of age. Payment shall be approved when the original hearing aid is lost or broken beyond repair or there is a significant change in the person's hearing which would require a different hearing aid. (Cross-reference 78.28(4)*"a"*)

This rule is intended to implement Iowa Code section 249A.4.

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Provider category	Basis of reimbursement	Upper limit
Psychiatric medical institutions for children (Inpatient)	Prospective reimbursement	Reimbursement rate for provider based on per diem rates for actual costs on 6/30/99, not to exceed a maximum of $145.74 per day
(Outpatient day treatment)	Fee schedule	Fee schedule in effect 6/30/99 plus 2%
Psychologists	Fee schedule	Reimbursement rate for provider in effect 6/30/99 plus 2%
Rehabilitation agencies	Retrospective cost-related	Reimbursement rate for agency in effect 6/30/99 plus 2%
Rehabilitative treatment services	Reasonable and necessary costs per unit of service based on data included on the Rehabilitative Treatment and Supportive Services Financial and Statistical Report, Form 470-3049. See 441—185.101(234) to 441—185.107(234). A provider who is an individual may choose between the fee schedule in effect November 1, 1993 (See 441—subrule 185.103(7)) and reasonable and necessary costs.	No cap
Rural health clinics (RHC)	Retrospective cost-related	1. Reasonable cost as determined by Medicare cost reimbursement principles 2. In the case of services provided pursuant to a contract between an RHC and a managed care organization (MCO), reimbursement from the MCO shall be supplemented to achieve "1" above
Screening centers	Fee schedule	Reimbursement rate for center in effect 6/30/99 plus 2%
State operated institutions	Retrospective cost-related	

79.1(3) *Ambulatory surgical centers.* Payment is made for facility services on a fee schedule which is determined by Medicare. These fees are grouped into eight categories corresponding to the difficulty or complexity of the surgical procedure involved. Procedures not classified by Medicare shall be included in the category with comparable procedures.

Services of the physician are reimbursed on the basis of a fee schedule (see subrule 79.1(1)*"c"*). This payment is made directly to the physician.

79.1(4) *Durable medical equipment, prosthetic devices, medical supply dealers.* Fees for durable medical appliances, prosthetic devices and medical supplies are developed from several pricing sources and are based on pricing appropriate to the date of service; prices are developed using prior calendar year price information. The average wholesale price from all available sources is averaged to determine the fee for each item. Payment for used equipment will be no more than 80 percent of the purchase allowance. For supplies, equipment, and servicing of standard wheelchairs, standard hospital beds, enteral nutrients, and enteral and parenteral supplies and equipment, the fee for payment shall be the lowest price for which the devices are widely and consistently available in a locality.

79.1(5) *Reimbursement for hospitals.*

a. Definitions.

"Adolescent" shall mean a Medicaid patient 17 years or younger.

"Adult" shall mean a Medicaid patient 18 years or older.

"Average daily rate" shall mean the hospital's final payment rate multiplied by the DRG weight and divided by the statewide average length of stay for a DRG.

"Base year cost report" shall mean the hospital's cost report with fiscal-year-end on or after January 1, 1998, and prior to January 1, 1999, except as noted in 79.1(5)*"x."* Cost reports shall be reviewed using Medicare's cost reporting regulations for cost reporting periods ending on or after January 1, 1998, and prior to January 1, 1999.

"Blended base amount" shall mean the case-mix adjusted, hospital-specific operating cost per discharge associated with treating Medicaid patients, plus the statewide average case-mix adjusted operating cost per Medicaid discharge, divided by two. This base amount is the value to which add-on payments for inflation, capital costs, direct medical education costs, and costs associated with treating a disproportionate share of poor patients and indirect medical education are added to form a final payment rate.

"Capital costs" shall mean an add-on to the blended base amount which shall compensate for Medicaid's portion of capital costs. Capital costs for buildings, fixtures and movable equipment are defined in the hospital's base year cost report, are case-mix adjusted, are adjusted to reflect 80 percent of allowable costs, and are adjusted to be no greater than one standard deviation off the mean Medicaid blended capital rate.

"Case-mix adjusted" shall mean the division of the hospital-specific base amount or other applicable components of the final payment rate by the hospital-specific case-mix index.

"Case-mix index" shall mean an arithmetical index measuring the relative average costliness of cases treated in a hospital compared to the statewide average.

"Cost outlier" shall mean cases which have an extraordinarily high cost as established in 79.1(5)*"f,"* so as to be eligible for additional payments above and beyond the initial DRG payment.

"Diagnosis-related group (DRG)" shall mean a group of similar diagnoses combined based on patient age, procedure coding, comorbidity, and complications.

(3) Medicaid-certified psychiatric units. Four sets of DRG weights are developed for DRGs concerning psychiatric treatment. The first set of weights reflects charges associated with the treatment of adult psychiatric patients in Medicaid-certified psychiatric units. The second set of weights reflects charges associated with the treatment of adolescent patients in mixed-age Medicaid-certified psychiatric units. The third set of weights reflects charges associated with the treatment of adolescent patients in designated adolescent-only Medicaid-certified psychiatric units. The fourth set of weights reflects charges associated with the treatment of psychiatric patients in hospitals without Medicaid-certified psychiatric units. Hospitals are reimbursed using the weight that reflects the patient's age and the setting for psychiatric treatment.

c. Calculation of Iowa-specific weights and case-mix index. Using all applicable claims for the period January 1, 1997, through December 31, 1998, and paid through March 31, 1999, the recalibration will use all normal inlier claims, discard short stay outliers, discard transfers where the final payment is less than the full DRG payment and including transfers where the full payment is greater than or equal to the full DRG payment, and use only the estimated charge for the inlier portion of long stay outliers and cost outliers for weighting calculations. These are referred to as trimmed claims.

(1) Iowa-specific weights are calculated from Medicaid charge data on discharge dates occurring from January 1, 1997, to December 31, 1998, and paid through March 31, 1999. One weight is determined for each DRG with noted exceptions. Weights are determined through the following calculations:

1. Determine the statewide geometric mean charge for all cases classified in each DRG.
2. Compute the statewide aggregate geometric mean charge for each DRG by multiplying the statewide geometric mean charge for each DRG by the total number of cases classified in that DRG.
3. Sum the statewide aggregate geometric mean charges for all DRGs and divide by the total number of cases for all DRGs to determine the weighted average charge for all DRGs.
4. Divide the statewide geometric mean charge for each DRG by the weighted average charge for all DRGs to derive the Iowa-specific weight for each DRG.
5. Normalize the weights so that the average case has a weight of one.

(2) The hospital-specific case-mix index is computed by taking each hospital's trimmed claims that match the hospital's 1998 fiscal year and paid through March 31, 1999, summing the assigned DRG weights associated with those claims and dividing by the total number of Medicaid claims associated with that specific hospital for that period.

d. Calculation of blended base amount. The DRG blended base amount reflects a 50/50 blend of statewide and hospital-specific base amounts.

(1) Calculation of statewide average case-mix adjusted cost per discharge. The statewide average cost per discharge is calculated by subtracting from the statewide total Iowa Medicaid inpatient expenditures the total calculated dollar expenditures based on hospitals' base year cost reports for capital costs, medical education costs, and calculation of actual payments that will be made for additional transfers, outliers, physical rehabilitation services, and indirect medical education. The remaining amount (which has been case-mix adjusted and adjusted to reflect inflation if applicable) is divided by the statewide total number of Iowa Medicaid discharges reported in the Medicaid management information system (MMIS) less an actual number of nonfull DRG transfers and short stay outliers.

(2) Calculation of hospital-specific case-mix adjusted average cost per discharge. The hospital-specific case-mix adjusted average cost per discharge is calculated by subtracting from the lesser of total Iowa Medicaid costs, or covered reasonable charges as determined by the hospital's base year cost report or MMIS claims system, the actual dollar expenditures for capital costs, direct medical education costs, the payments that will be made for nonfull DRG transfers, outliers, and physical rehabilitation services if included. The remaining amount is case-mix adjusted, adjusted to reflect inflation, and divided by the total number of Iowa Medicaid discharges from the MMIS claims system or cost report, whichever is greater, for that hospital during the applicable base year, less the nonfull DRG transfers and short stay outliers.

(3) Calculation of the blended statewide and hospital-specific base amount. The hospital-specific case-mix adjusted average cost per discharge is added to the case-mix adjusted statewide average cost per discharge and divided by two to arrive at a 50/50 blended base amount.

e. Add-ons to the base amount. Four payments are added on to the blended base amount.

(1) Capital costs. Capital costs are included in the rate table listing and added to the blended base amount prior to setting the final payment rate schedule. This add-on reflects a 50/50 blend of the statewide average case-mix adjusted capital cost per discharge and the case-mix adjusted hospital-specific base year capital cost per discharge attributed to Iowa Medicaid patients. Allowable capital costs are determined by multiplying the capital amount from the base year cost report by 80 percent. The 50/50 blend is calculated by adding the case-mix adjusted hospital-specific per discharge capital cost to the statewide average case-mix adjusted per discharge capital costs and dividing by two. Hospitals whose blended capital add-on exceeds one standard deviation off the mean Medicaid blended capital rate will be subject to a reduction in their capital add-on to equal the greatest amount of the first standard deviation.

(2) Direct medical education costs. Direct medical education costs are included in the rate table listing if applicable to the provider, and added to the blended base amount plus other add-ons prior to setting the final payment rate if the date of the patient's discharge is prior to July 1, 1997. The amount added on reflects Iowa Medicaid's average cost per discharge for hospital-specific direct medical education adjusted for case-mix. This add-on is determined from the base year cost report and is adjusted to reflect inflation. If the date of discharge is on or after July 1, 1997, the costs for direct medical education are reimbursed according to policy at paragraph *"y"* from the graduate medical education and disproportionate share fund.

(3) Disproportionate share adjustment. Two separate and distinct groups are identified for the calculation of routine or supplemental disproportionate share payments. The first group eligible for routine disproportionate share payments includes all hospitals which qualify under the following rules without regard to the facility's status as a teaching facility or bed size. The second group eligible for supplemental disproportionate share payments includes all in-state hospitals qualifying under either the low-income utilization rate or the Medicaid utilization rate which are state-owned, acute-care hospitals, and which have more than 500 beds. In-state hospitals which qualify for both distinct groups may receive payment under both the routine and supplemental disproportionate share methodologies. However, supplemental disproportionate share payments will be made only for claims that have dates of discharge on or after October 1, 1992.

Compensation for routine disproportionate share payments for indigent patients is included in the rate table listing if applicable to the provider and the claim has a date of discharge before July 1, 1997. This amount is added to the blended base amount plus add-ons prior to setting the final payment rate. Compensation for supplemental disproportionate share payments is calculated and paid monthly. Hospitals qualify for disproportionate share payments based on information contained in the hospital's available 1998 submitted Medicaid cost report, and other supporting schedules. Either routine or supplemental disproportionate share payments are determined when the hospital's low-income utilization rate, as defined by the ratio of gross billings for all Medicaid, bad debt, and charity care patients to total billings for all patients, is 25 percent or greater. Gross billings do not include cash subsidies received by the hospital for inpatient hospital services except as provided from state or local governments. Hospitals also qualify for either routine or supplemental disproportionate share payments when the hospital's inpatient Medicaid utilization rate, defined as the number of total Medicaid days, both in-state and out-of-state, and Iowa state indigent patient days divided by the number of total inpatient days for both in-state and out-of-state recipients, exceeds one standard deviation from the statewide average Medicaid utilization rate. Children's hospitals, defined as hospitals with inpatients predominantly under 18 years of age, receive twice the percentage of inpatient hospital days attributable to Medicaid patients.

To qualify for routine or supplemental disproportionate share payments, the hospital must also have at least two obstetricians who have staff privileges at the hospital and who have agreed to provide obstetric services to persons who are entitled to Medicaid for obstetric services. In the case of a hospital located in a rural area as defined in Section 1886 of the Social Security Act, the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures.

Starting July 1, 1993, the routine disproportionate share payment add-on is established as a minimum payment of 1.00 percent of the hospital's blended base cost per discharge plus add-ons if the claim has a discharge date prior to July 1, 1997. The scale increases 1.00 percent for each standard deviation above the mean Medicaid utilization rate for hospitals receiving Medicaid payments in the state. The standard deviation percentage rates will be increased to a maximum of 2.50 percent per standard deviation off the mean if additional federal funds for disproportionate share become available under the cap on disproportionate share payments imposed under Public Law 102-234. Disproportionate share hospitals will be notified of any change in disproportionate share payment rates within ten working days after the change.

The supplemental disproportionate share payment is established as an additional payment of 166 percent of the hospital's total calculated reimbursement for a case. For this purpose, total calculated reimbursement includes any routine disproportionate share payment. Hospitals which are state-owned, acute-care facilities with over 500 beds may receive both the routine disproportionate share payment and the supplemental disproportionate share payment. The supplemental disproportionate share payment will be paid on a monthly cycle using the same paid inpatient DRG claims to calculate the reimbursement amount.

Hospitals that qualify for routine disproportionate share payments under both the low-income utilization and the Medicaid utilization guidelines shall qualify for routine disproportionate share payment under the Medicaid utilization payment scale.

Hospitals that qualify for routine disproportionate share payments under the low-income utilization guidelines and do not qualify under the Medicaid utilization guidelines shall be paid the minimum payment as established under the Medicaid utilization payment scale.

Out-of-state hospitals serving Iowa Medicaid patients qualify for routine disproportionate share payments based on their state's Medicaid agency's calculation of the Medicaid inpatient utilization rate. Payment is through the Iowa Medicaid utilization payment scale for routine disproportionate share payment, based on the number of standard deviations greater than the hospital's own state average Medicaid utilization rate. Out-of-state hospitals may not qualify for supplemental disproportionate share payments.

In compliance with Medicaid Voluntary Contribution and Provider Specific Tax Amendments (Public Law 102-234) and 1992 Iowa Acts, chapter 1246, section 13, the total routine and supplemental disproportionate share payments cannot exceed the amount of the federal cap expressed under Public Law 102-234, and supplemental disproportionate share payments cannot exceed the lesser of (1) the applicable state appropriation or (2) the federal cap minus the routine disproportionate share payments.

(4) Indirect medical education costs. Recognition for indirect medical education costs incurred by hospitals is made through an add-on to the blended base rate cost per discharge for claims with dates of discharge before July 1, 1997. Hospitals qualify for indirect medical education payments when they receive a direct medical education add-on payment from Iowa Medicaid and qualify for indirect medical education payments from Medicare. For those qualifying hospitals, two distinct classes of indirect medical education add-on payments shall be established. The add-on payment for the first class (routine) is determined by qualifying for an indirect medical education payment from Medicare without regard to the individual components of the specific hospital's teaching program, state ownership, or bed size. The add-on payment for the first class shall be determined by multiplying the hospital's Medicaid indirect medical education factor by the sum of 50 percent of the statewide average base cost per discharge and 50 percent of the statewide average capital cost per discharge. The second class (supplemental) is determined by qualifying for an indirect medical education payment from Medicare, being an Iowa state-owned hospital with greater than 500 beds, and having eight or more separate and distinct residency specialty or subspecialty programs recognized by the American College of Graduate Medical Education. The add-on payment for the second class shall be paid monthly and shall be determined by multiplying the hospital's Medicaid indirect medical education factor by the sum of five times the statewide average base cost per discharge and five times the statewide average capital cost per discharge. The Medicaid indirect medical education factor is determined from the following equation:

$$\frac{(\text{residents} + \text{interns})}{(\text{beds})} \times 1.159$$

The number of interns, residents and beds is based on information contained in the hospital's Medicare cost report which will be updated when rebasing and recalibration are performed. A hospital may qualify to receive both classes of indirect medical education payments.

f. Outlier payment policy. Additional payment is made for approved cases meeting or exceeding Medicaid criteria for day and cost outliers for each DRG. Effective for claims with dates of services ending July 1, 1993, and after, 100 percent of outlier costs will be paid to facilities at the time of claim reimbursement. The PRO will select a 10 percent random sample of outlier cases identified on fiscal agent claims data from all Iowa and bordering state hospitals. At least one case every six months per facility will be selected for review if available.

Staff will review the cases to perform admission review, quality review, discharge review, and DRG validation. Questionable cases will be referred to a physician reviewer for medical necessity and quality of care concerns. Day outlier cases will be reviewed to identify any medically unnecessary days which will be "carved out" in determining the qualifying outlier days. Cost outlier cases will be reviewed for medical necessity of all services provided and to ensure that services were not duplicately billed, to determine if services were actually provided, and to determine if all services were ordered by a physician. The hospital's itemized bill and remittance statement will be reviewed in addition to the medical record.

On a quarterly basis, the PRO will calculate denial rates for each facility based on completed reviews during the quarter. All outlier cases reviewed will be included in the computation or error rates. Cases with denied charges which exceed $1000 for inappropriate or nonmedically necessary services or days will be counted as errors.

Intensified review may be initiated for hospitals whose error rate reaches or exceeds the norm for similar cases in other hospitals. The error rate is determined based on the completed outlier reviews in a quarter per hospital and the number of those cases with denied charges exceeding $1000. The number of cases sampled for hospitals under intensified review may change based on further professional review and the specific hospital's outlier denial history.

Specific areas for review will be identified based on prior outlier experience. When it is determined that a significant number of the errors identified for a hospital is attributable to one source, review efforts will be focused on the specific cause of the error. Intensified review will be discontinued when the error rate falls below the norm for a calendar quarter. Providers will continue to be notified of all pending adverse decisions prior to a final determination by the PRO. If intensified review is required, hospitals will be notified in writing and provided with a list of the cases that met or exceeded the error rate threshold. When intensified review is no longer required, hospitals will be notified in writing. Hospitals with cases under review must then submit all supporting data from the medical record to the PRO within 60 days of receipt of the outlier review notifications, or outlier payment will be recouped and forfeited.

(1) Long stay outliers. Long stay outliers are incurred when a patient's stay exceeds the upper day limit threshold. This threshold is defined as the greater of 23 days of care or two standard deviations above the average statewide length of stay for a given DRG. Reimbursement for long stay outliers is calculated at 60 percent of the average daily rate for the given DRG for each approved day of stay beyond the upper day limit. Payment for long stay outliers shall be paid at 100 percent of the calculated amount and made at the time the claim is originally filed for DRG payment.

(2) Short stay outliers. Short stay outliers are incurred when a patient's length of stay is greater than two standard deviations below the average statewide length of stay for a given DRG, rounded to the next highest whole number of days. Payment for short stay outliers will be 200 percent of the average daily rate for each day the patient qualifies up to the full DRG payment. Short stay outlier claims will be subject to PRO review and payment denied for inappropriate admissions.

(3) Cost outliers. Cases qualify as cost outliers when costs of service in a given case, not including any add-on amounts for direct or indirect medical education or for disproportionate share costs, exceed the cost threshold. This cost threshold is determined to be the greater of two times the statewide average DRG payment for that case or the hospital's individual DRG payment for that case plus $16,000. Costs are calculated using hospital-specific cost to charge ratios determined in the base year cost reports. Additional payment for cost outliers is 80 percent of the excess between the hospital's cost for the discharge and the cost threshold established to define cost outliers. Payment of cost outlier amounts shall be paid at 100 percent of the calculated amount and made at the time the claim is paid. Those hospitals that are notified of any outlier review initiated by the PRO must submit all requested supporting data to the PRO within 60 days of the receipt of outlier review notification, or outlier payment will be forfeited and recouped. In addition, any hospital may request a review for outlier payment by submitting documentation to the PRO within 365 days of receipt of the outlier payment. If requests are not filed within 365 days, the provider loses the right to appeal or contest that payment.

(4) Day and cost outliers. Cases qualifying as both day and cost outliers are given additional payment as cost outliers only.

g. Billing for patient transfers and readmissions.

(1) Transfers between hospitals. When a Medicaid patient is transferred the initial hospital or unit is paid 100 percent of the average daily rate of the transferring hospital's payment for each day the patient remained in that hospital or unit, up to 100 percent of the entire DRG payment. The hospital or unit that received the transferred patient receives the entire DRG payment.

(2) Medicaid-certified substance abuse and psychiatric units. When a patient is discharged to or from an acute care hospital and is admitted to or from a Medicaid-certified substance abuse or psychiatric unit, both the discharging and admitting hospitals will receive 100 percent of the DRG payment.

(3) Medicaid-certified physical rehabilitation units. When a patient requiring physical rehabilitation is discharged from an acute care hospital and admitted to a Medicaid-certified rehabilitation unit and the admission is medically appropriate, then payment for time spent in the unit is through a per diem. The discharging hospital will receive 100 percent of the DRG payment. When a patient is discharged from a physical rehabilitation unit and admitted to an acute care hospital, the acute care hospital will receive 100 percent of the DRG payment.

h. Covered DRGs. Medicaid DRGs cover services provided in acute care general hospitals, with the exception of services provided in Medicaid-certified physical rehabilitation units which are paid per diem.

i. Payment for Medicaid-certified physical rehabilitation units. Medicaid-certified physical rehabilitation payment is prospective based on a per diem rate calculated for each hospital by establishing a base year per diem rate to which an annual index is applied.

(1) Per diem calculation. The base rate shall be the medical assistance per diem rate as determined by the individual hospital's cost report for the hospital's 1998 fiscal year. No recognition will be given to the professional component of the hospital-based physicians except as noted under 79.1(5)"*j.*"

(2) Rescinded IAB 5/12/93, effective 7/1/93.

(3) Per diem reimbursement. Hospitals shall be reimbursed the lower of actual charges or the medical assistance cost per diem rate. The determination of the applicable rate shall be based on the hospital fiscal year aggregate of actual charges and medical assistance cost per diem rate. If an overpayment exists, the hospital will refund or have the overpayment deducted from subsequent billings.

w. Rate adjustments for hospital mergers. When one or more hospitals merge to form a distinctly different legal entity, the base rate plus applicable add-ons will be revised to reflect this new operation. Financial information from the original cost reports and original rate calculations will be added together and averaged to form the new rate for that entity.

x. For cost reporting periods beginning on or after July 1, 1993, reportable Medicaid administrative and general expenses are allowable only to the extent that they are defined as allowable using Medicare Reimbursement Principles or Health Insurance Reimbursement Manual 15 (HIM-15). Appropriate, reportable costs are those that meet the Medicare (or HIM-15) principles, are reasonable, and are directly related to patient care. In instances where costs are not directly related to patient care or are not in accord with Medicare Principles of Reimbursement, inclusion of those costs in the cost report would not be appropriate. Examples of administrative and general costs that must be related to patient care to be included as a reportable cost in the report are:

(1) Advertising.
(2) Promotional items.
(3) Feasibility studies.
(4) Administrative travel and entertainment.
(5) Dues, subscriptions, or membership costs.
(6) Contributions made to other organizations.
(7) Home office costs.
(8) Public relations items.
(9) Any patient convenience items.
(10) Management fees for administrative services.
(11) Luxury employee benefits (i.e., country club dues).
(12) Motor vehicles for other than patient care.
(13) Reorganization costs.

y. Graduate medical education and disproportionate share fund. Payment shall be made to all hospitals qualifying for direct medical education, indirect medical education or disproportionate share payments directly from the graduate medical education and disproportionate share fund. The amount in the fund and distributions from the fund shall be calculated from the following components:

(1) Allocation for direct medical education. To determine the total amount of funding that will be allocated to the graduate medical education and disproportionate share fund for direct medical education, the department shall:

1. Sum all direct medical education payments using paid claims to qualifying providers on or after July 1, 1998, and through June 30, 1999.

2. Sum all direct medical education payments using claims reimbursed to qualifying providers when those claims have been used as a basis for the calculation of capitation rates and reimbursement with any health maintenance organization (HMO) or other prepaid health plan with which the department has entered into a contract effective on or after July 1, 1997.

For each prepaid health plan, divide the total dollar reimbursement from claims by the number of member months applicable to the rate-setting methodology for the per member per month (PMPM) allocation to calculate the amount of reimbursement to be allocated to the fund that represents capitation rate reimbursement allocation for direct medical education. The direct medical education PMPM allocation shall then be multiplied by the total number of members enrolled in the plan for state fiscal year 1997, allocating that amount of money to the fund.

3. Trend the total allocation for direct medical education (which includes money for both the fee for service population and the capitated risk-based population, calculated under numbers "1" and "2" above) forward using annually appropriated legislative update factors and determine the total amount of money that shall be allocated to the graduate medical education and disproportionate share fund for direct medical education Medicaid reimbursement. No adjustments shall be made to this fund beyond appropriated amounts.

(2) Distribution of direct medical education. Distribution of the fund for direct medical education shall be on a monthly basis beginning October 1, 1997, and shall be calculated by taking the previous fiscal year's percentage allocation of direct medical education reimbursement (based upon paid claims to qualifying hospitals) and multiplying that percentage by the amount in the fund for direct medical education.

If a hospital fails to qualify for the provision of medical education under Medicare regulations, the amount of money that could have been allocated to that hospital shall be removed from the total fund.

(3) Allocation for indirect medical education. To determine the total amount of funding that will be allocated for the graduate medical education and disproportionate share fund for indirect medical education, the department shall:

1. Sum all routine indirect medical education payments using paid claims to qualifying providers on or after July 1, 1998, and through June 30, 1999.

2. Sum all routine indirect medical education payments from claims made to qualifying providers when those claims have been used as a basis for the calculation of capitation rates and reimbursement with any HMO or other prepaid health plan with which the department has entered into a contract effective on or after July 1, 1997.

For each prepaid health plan, divide the total dollar reimbursement from claims by the number of member months applicable to the rate-setting methodology for the per member per month (PMPM) allocation to calculate the amount of reimbursement to be allocated to the fund that represents capitation rate reimbursement allocation for routine indirect medical education. The indirect medical education PMPM allocation shall then be multiplied by the total number of members enrolled in the plan for state fiscal year 1997, allocating that amount of money to the fund.

3. Trend the total allocation for routine indirect medical education (which includes money for both the fee for service population and the capitated risk-based population, calculated under numbers "1" and "2" above) forward using annually appropriated legislative update factors and determine the total amount of money that shall be allocated to the graduate medical education and disproportionate share fund for indirect medical education Medicaid reimbursement. No adjustments shall be made to this fund beyond appropriated updates.

(4) Distribution of indirect medical education. Distribution of the fund for indirect medical education shall be on a monthly basis beginning October 1, 1997, and shall be calculated by taking the previous fiscal year's percentage allocation of indirect medical education reimbursement (based upon paid claims to qualifying hospitals) and multiplying the total amount of money allocated to the graduate medical education and disproportionate share fund for indirect medical education by each respective hospital's percentage.

If a hospital fails to qualify for the provision of medical education under Medicare regulations, the amount of money that would otherwise be allocated to that hospital shall be removed from the total fund.

(5) Allocation for disproportionate share. To determine the total amount of funding that shall be allocated to the graduate medical education and disproportionate share fund for disproportionate share payments, the department shall:

1. Sum all routine disproportionate share payments using paid claims to qualifying providers on or after July 1, 1998, and through June 30, 1999.

2. Sum all routine disproportionate share payments from claims made to qualifying providers when those claims have been used as a basis for the calculation of capitation rates and reimbursement with either an HMO or other prepaid health plan with which the department has entered into a contract effective on or after July 1, 1997.

For each prepaid health plan, divide the total dollar reimbursement from claims by the number of member months applicable to the rate-setting methodology for the per member per month (PMPM) allocation to calculate the amount of reimbursement to be allocated to the fund that represents capitation rate reimbursement allocation for routine disproportionate share. The disproportionate share PMPM allocation shall then be multiplied by the total number of members enrolled in the plan for state fiscal year 1997, allocating that amount of money to the fund.

3. Trend the total allocation for routine disproportionate share (which includes money for both the fee for service population and the capitated risk-based population, calculated under numbers "1" and "2" above) forward using annually appropriated legislative update factors and determine the total amount of money that shall be allocated to the graduate medical education and disproportionate share fund for disproportionate share Medicaid reimbursement. No adjustments shall be made to this fund beyond appropriated updates. The total amount of disproportionate share reimbursement cannot exceed the cap that was implemented under Public Law 102-234.

(6) Distribution of disproportionate share fund. Distribution of the fund for disproportionate share shall be on a monthly basis beginning October 1, 1997, and shall be calculated by taking the previous fiscal year's percentage allocation of direct medical education reimbursement (based upon paid claims to qualifying hospitals) and dividing the total amount of money allocated to the graduate medical education and disproportionate share fund for disproportionate share by each respective hospital's percentage.

If a hospital fails to qualify for reimbursement for disproportionate share under Iowa Medicaid regulations, the amount of money that would otherwise be allocated for that hospital shall be removed from the total fund.

z. Adjustments to the graduate medical education and disproportionate share fund for changes in utilization. Money shall be added to or subtracted from the graduate medical education and disproportionate share fund when the average monthly Medicaid population deviates from the previous year's averages by greater than 5 percent. The average annual population (expressed in a monthly total) shall be determined on June 30 for both the previous and current years by adding the total enrolled population for all respective months from both years' B-1 MARS report and dividing each year's totals by 12. If the average monthly number of enrolled persons for the current year is found to vary more than 5 percent from the previous year, a per member per month (PMPM) amount shall be calculated for each component (using the average number of eligibles for the previous year calculated above) and an annualized PMPM adjustment shall be made for each eligible person that is beyond the 5 percent variance.

79.1(6) *Independent laboratories.* The maximum payment for clinical diagnostic laboratory tests performed by an independent laboratory will be the areawide fee schedule established by the Health Care Financing Administration (HCFA). The fee schedule is based on the definition of laboratory procedures from the Physician's Current Procedural Terminology (CPT) published by the American Medical Association. The fee schedules are adjusted annually by HCFA to reflect changes in the Consumer Price Index for All Urban Consumers.

79.1(7) *Physicians.* The fee schedule is based on the definitions of medical and surgical procedures given in the most recent edition of Physician's Current Procedural Terminology (CPT). Refer to 441—paragraph 78.1(2)*"e"* for the guidelines for immunization replacement.

79.1(8) *Prescribed drugs.* The amount of payment shall be based on several factors in accordance with 42 CFR 447.331—333 as amended to October 28, 1987:

a. "Estimated acquisition cost (EAC)" is defined as the average wholesale price as published by First Data Bank less 10 percent.

"Maximum allowable cost (MAC)" is defined as the upper limit for multiple source drugs established in accordance with the methodology of the Health Care Financing Administration (HCFA) as described in 42 CFR 447.332(a)(i) and (ii).

The basis of payment for prescribed drugs for which the MAC has been established shall be the lesser of the MAC plus a professional dispensing fee of $4.10 or the pharmacist's usual and customary charge to the general public.

The basis of payment for drugs for which the MAC has not been established shall be the lesser of the EAC plus a professional dispensing fee of $6.38 or the pharmacist's usual and customary charge to the general public.

If a physician certifies in the physician's handwriting that, in the physician's medical judgment, a specific brand is medically necessary for a particular recipient, the MAC does not apply and the payment equals the average wholesale price of the brand name product less 10 percent. If a physician does not so certify, and a lower cost equivalent product is not substituted by the pharmacist, the payment for the product equals the established MAC.

Equivalent products shall be defined as those products which meet therapeutic equivalent standards as published in the federal Food and Drug Administration document, "Approved Prescription Drug Products With Therapeutic Equivalence Evaluations."

b. The determination of the unit cost component of the drug shall be based on the package size of drugs most frequently purchased by providers.

c. No payment shall be made for sales tax.

d. All hospitals which wish to administer vaccines which are available through the vaccines for children program to Medicaid recipients shall enroll in the vaccines for children program. In lieu of payment, vaccines available through the vaccines for children program shall be accessed from the department of public health for Medicaid recipients. Hospitals receive reimbursement for the administration of vaccines to Medicaid recipients through the DRG reimbursement for inpatients and APG reimbursement for outpatients.

e. The basis of payment for nonprescription drugs shall be the same as specified in paragraph *"a"* except that a maximum allowable reimbursable cost for these drugs shall be established by the department at the median of the average wholesale prices of the chemically equivalent products available. No exceptions for reimbursement for higher cost products will be approved.

79.1(16) *Outpatient reimbursement for hospitals.*

a. Definitions.

"Ambulatory patient group (APG)" shall mean a group of similar outpatient procedures, encounters or ancillary services which are combined based on patient clinical characteristics and expected resource use. Data used to define APGs include ICD-9-CM diagnoses codes and CPT-4 procedure codes.

"Ancillary services" shall mean those tests and procedures ordered by a physician to assist in patient diagnosis or treatment. Ancillary procedures, such as immunizations, increase the time and resources expended during a visit, but do not dominate the visit.

"APG relative weight" shall mean a number that reflects the expected resource consumption for cases associated with each APG, relative to the average APG. That is, the Iowa-specific weight for a certain APG reflects the relative charge for treating all singleton cases classified in that particular APG, compared to the average charge for treating all Medicaid APGs in Iowa hospitals.

"Assessment payment" shall mean an additional payment made to a hospital for only the initial assessment and determination of medical necessity of a patient for the purpose of determining if the ER is the most appropriate treatment site. This payment shall be equal to 50 percent of the customary reimbursement rate for CPT-4 code 99281 (Evaluation and Management of a Patient in the Emergency Room) as of December 31, 1994.

"Base year cost report" shall mean the hospital's cost report with fiscal-year-end on or after January 1, 1998, and prior to January 1, 1999, except as noted in paragraph *"s."* Cost reports shall be reviewed using Medicare's cost reporting and cost principles regulations for those cost reporting periods.

"Blended base amount" shall mean the case-mix adjusted, hospital-specific operating cost per visit associated with treating Medicaid outpatients, plus the statewide average case-mix adjusted operating cost per Medicaid visit, divided by two. This basic amount is the value to which add-on payments and inflation are added to form a final payment rate.

"Case-mix adjusted" shall mean the division of the hospital-specific base amount or other applicable components of the final payment rate by the hospital-specific case-mix index.

"Case-mix index" shall mean an arithmetical index measuring the relative average costliness of outpatient cases treated in a hospital, compared to the statewide average.

"Consolidation" shall mean the process by which the APG classification system determines whether separate payment is appropriate when a patient is assigned multiple significant procedure APGs. All significant procedures within a single APG are suppressed (or grouped) for payment purposes, into one APG. Multiple, related significant procedures in different APGs are consolidated into the highest weighted APG for reimbursement purposes. Multiple, unrelated significant procedures in different APGs are not consolidated; thus, each receives separate payment.

"Cost outlier" shall mean cases which have an extraordinarily high cost as established in paragraph *"g"* and, thus, are eligible for additional payments above and beyond the base APG payment.

"Current procedural terminology—fourth edition (CPT-4)" is the systematic listing and coding of procedures and services provided by physicians or other related health care providers. The CPT-4 coding is maintained by the American Medical Association and is updated yearly.

"Direct medical education costs" shall mean a per visit add-on to the APG payment amount which shall compensate for costs associated with outpatient direct medical education of interns and residents. Costs associated with direct medical education are determined from the hospital base year cost reports and are inflated.

"Discounting" shall mean a reduction in standard payment when related procedures or ancillary services are performed during a single visit. Discount rates are defined in paragraph *"h."*

"Final payment rate" shall mean the blended base amount that forms the final dollar value used to calculate each provider's reimbursement amount, when multiplied by the APG weight. These dollar values are displayed on the rate table listing.

"Graduate medical education and disproportionate share fund" shall mean a reimbursement fund developed as an adjunct reimbursement methodology to directly reimburse qualifying hospitals for the direct costs of interns and residents associated with the operation of graduate medical education programs for outpatient services.

"Grouper" shall mean the Version 2 Grouper software developed by Minnesota Mining and Manufacturing (3M) for the Health Care Financing Administration, with modifications for payable APGs made to support Medicaid program policy in Iowa. (See paragraph *"i."*)

"Hospital-based clinic" means a clinic that is owned by the hospital, operated by the hospital under its hospital license, and on the premises of the hospital.

"Inlier" shall mean those cases where the cost of treatment falls within the established cost boundaries of APG payment.

"International classifications of diseases—fourth edition, ninth revision (ICD-9)" is a systematic method used to classify and provide standardization to coding practices which are used to describe the diagnosis, symptom, complaint, condition or cause of a person's injury or illness.

"Outpatient visit" shall mean those hospital-based outpatient services which are billed on a single UB-92 claim form, and which occur within 72 hours of initiation of service, with exceptions as noted in paragraph *"m."*

"Packaging" shall mean the inclusion of routinely performed ancillary services in the reimbursement of an APG. In the APG classification system, there are many routine, low-cost ancillary procedures or tests, such as routine urinalysis which are customarily ordered and performed during a visit. When this ancillary service is packaged, this indicates that the relative APG weight has been set to reflect the inclusion of the costs of the related ancillary procedures. The packaged APGs are 310 (plain film), 332 (simple pathology), 343 (simple immunology), 345 (simple microbiology), 347 (simple endocrinology), 350 (basic chemistry), 349 (simple chemistry), 351 (multichannel chemistry), 359 (urinalysis), 356 (simple clotting), 358 (simple hematology), 360 (blood and urine dipstick), 371 (simple pulmonary function tests), 373 (cardiogram), 383 (introduction of needles and catheter), 384 (dressings and other minor procedures), 385 (other ancillary procedures), and 321 (anesthesia).

"Peer review organization (PRO)" shall mean the organization that performs medical peer review of Medicaid claims, including review of validity of hospital diagnosis and procedure coding information; completeness, adequacy and quality of care; and appropriateness of prospective payments for outlier cases and nonemergent use of the emergency room.

"Rate table listing" shall mean a schedule of rate payments maintained by the department for each provider. The rate table listing is defined as the output that shows the final payment rate by hospital before being multiplied by the appropriate APG weight.

"Rebasing" shall mean the redetermination of the blended base amount or other applicable components of the final payment rate from more recent Medicaid cost report data.

"Recalibration" shall mean the adjustment of all APG weights to reflect changes in relative resource consumption.

"Risk corridor" shall mean payment limits to prevent immediate large financial gains or losses for Iowa hospitals due to APG implementation.

"Significant procedure APG" shall mean a procedure which constitutes the reason for the visit and which dominates the time and resources expended during the visit.

"Singleton APG" shall mean those APGs on a patient claim which, following consolidation of significant procedures and packaging of ancillaries, are part of a visit with no remaining multiple significant procedures. These singletons, as well as medical and ancillary visits, are used to calculate relative weights in the procedure described in paragraph *"d."*

"Statewide visit expected payment (SVEP)" shall mean the expected payment for an outpatient visit, for use in defining cost outliers. This payment equals the sum of the statewide average case-mix adjusted operating cost per Medicaid visit multiplied by the relative weight for each valid APG within a visit (following packaging and discounting), which includes the applicable fee schedule amounts.

b. Determination of final payment rate amount. Each hospital's APG-based payment equals the hospital's case-mix index multiplied by the number of valid visits multiplied by the blended base amount. The blended base rate is then adjusted, so that statewide reimbursement equals statewide valid costs from cost reports. Payment is then recomputed using the adjusted blended base amount. The hospital's final APG payment amount reflects the sum of inflation adjustments to the blended base amount.

c. Trimming of outpatient charge data. Trimming of outliers from charge data is necessary to minimize the impact of coding errors and to ensure that charges for one unusual case do not bias the resulting weights. Trimmed data is not excluded from analysis; instead, values outside the trim points are reset, as described below. Standard deviation methodology is used to set trim points. For each APG, the mean charge and standard deviation are computed geometrically, based on all singleton occurrences of that APG. In a first pass, the trim points equal the mean charge, plus or minus two times the standard deviation for that APG. The mean charge and standard deviation are then geometrically computed again, with charges trimmed at the first pass trim points. The final low trim point equals the new mean charge minus 1.5 times the new standard deviation and, correspondingly, the final high trim point equals the new mean charge plus 1.5 times the new standard deviation.

d. Calculation of Iowa-specific relative weights and case-mix index. Using all applicable claims with dates of service occurring in the period January 1, 1997, through December 31, 1998, and paid through March 31, 1999, relative weights are calculated using all valid singleton claims, which are trimmed at high and low trim points, as discussed in paragraph *"c."* Using all applicable claims with dates of service occurring within the individual hospital's 1998 fiscal year and paid through March 31, 1999, the hospital-specific case-mix indices are calculated using all valid singleton claims, which are trimmed at the high and low trim points, as discussed in paragraph *"c."*

(1) A relative weight is determined for each APG through the following calculations:

1. The statewide geometric mean charge is determined for all singleton occurrences of each APG.

2. The statewide aggregate geometric mean charge is computed by summing the statewide geometric charge for all APGs and dividing by the total number of *APG* occurrences.

3. The statewide geometric mean charges for each APG are divided by the statewide aggregate geometric mean charge for all APGs to derive the Iowa-specific relative weight for each APG.

4. Relative weights for APGs which have low or no volume in the claims data, and those weights which are deemed too high or low by a committee of clinicians from the Iowa Foundation for Medical Care, shall be administratively adjusted.

5. The relative weights are then normalized, so that the average case has a weight of one.

(2) The hospital-specific case-mix index is computed by summing the relative weights for each valid occurrence of an APG at that hospital and dividing by the number of valid Medicaid visits for that hospital.

e. Calculation of blended base amount. The APG blended base amount reflects a 50/50 blend of statewide and hospital-specific base amounts.

(1) Calculation of statewide average case-mix adjusted cost per visit. The statewide average cost per visit is calculated by subtracting from the statewide total Iowa Medicaid outpatient expenditures: the total calculated dollar expenditures based on hospitals' base year cost reports for medical education costs, and, using valid claims, calculation of actual payments that will be made for outliers, fee scheduled laboratory services, and services known as noninpatient programs as set forth at 441—subrule 78.31(1), paragraphs *"g"* to *"n."* The remaining amount (which has been case-mix adjusted and adjusted to reflect inflation) is divided by the statewide total number of Iowa Medicaid visits reported in the Medicaid management information system (MMIS).

(2) Calculation of hospital-specific case-mix adjusted average cost per visit. The hospital-specific case-mix adjusted average cost per visit is calculated by subtracting from the lesser of total Iowa Medicaid costs, or covered reasonable charges as determined by the hospital's base year cost report or MMIS claims system, the actual dollar expenditures for direct medical education costs for interns and residents and, using valid claims, calculation of actual payments that will be made for outliers, fee scheduled laboratory services and services known as noninpatient programs as set forth at 441—subrule 78.31(1), paragraphs *"g"* to *"n."* The remaining amount is case-mix adjusted, adjusted to reflect inflation and divided by the total number of Iowa Medicaid visits from the MMIS claims system or cost report, whichever is greater, for that hospital during the applicable base year.

(3) Calculation of the blended statewide and hospital-specific base amount. The hospital-specific case-mix adjusted average cost per visit is added to the case-mix adjusted statewide average cost per visit and divided by two to arrive at a 50/50 blended base amount.

f. Payment add-ons. If applicable to the provider, direct outpatient costs associated with education of interns and residents will be added to the base APG amount prior to setting the final APG payment rate and shall be reimbursed to qualifying hospitals on a per claim basis if the claim has a first date of service prior to July 1, 1997. The amount added on reflects Iowa Medicaid's average cost per visit for hospital-specific direct medical education adjusted to case-mix. This add-on is determined from the base year cost reports and is adjusted to reflect inflation. For claims with a first date of service on or after July 1, 1997, all applicable reimbursement for graduate medical education shall be calculated and distributed according to policy at paragraph *"v."*

g. Outlier payment policy. Additional payment is made for approved cases meeting or exceeding the following Medicaid criteria of cost outliers for each APG.

Cases qualify as cost outliers when costs of service in a given case exceed the cost threshold. For visits with a "statewide visit expected payment (SVEP)" equal to or between $150 and $700, this cost threshold is determined to be two times the statewide average APG-based payment or SVEP for that visit. For SVEPs greater than $700, the outlier cost threshold for a hospital outpatient visit equals the statewide average payment plus $500. There is no outlier threshold (or additional payment) for hospital visits with an SVEP less than $150. Costs are calculated using hospital-specific cost-to-charge ratios determined in the base year cost reports. Additional payment for cost outliers is 60 percent of the excess between the hospital's cost for the visit and the cost threshold established to define cost outliers.

h. Discounting policy. The purpose of reducing standard payment for multiple procedures or ancillaries in a single visit is to encourage efficient provision of these services. The discount factor reflects the fact that fixed costs are reduced for multiple procedures. Examples of fixed costs are: operating room charges, anesthesia, and specimen collection. Claims for multiple medical visits within a 72-hour period and claims for services billed in "batches" (see paragraph *"m"*) are not subject to discounted payment. Multiple, nonconsolidated significant procedures will be paid at 100 percent of the expected APG payment for the procedure with the highest relative weight for that APG occurrence, 60 percent of next highest weighted APG payment for the second occurrence and 40 percent for the third or more occurrence. Multiple nonpackaged laboratory tests within the same APG will be paid at 100 percent of the expected APG payment for the first APG occurrence, and 80 percent of expected APG payment for each subsequent occurrence. Multiple, nonpackaged nonlaboratory ancillaries in the same APG will be paid at 100 percent of the expected APG payment for the first APG occurrence, 60 percent of expected APG payment for the second occurrence and 40 percent for the third or more occurrence.

Clinical laboratory testing performed by a hospital shall be paid using the Medicare fee schedule as set forth at rule 441—78.20(249A) in instances when the only procedure performed by the hospital is the collection or testing of the specimen.

i. Services covered by APG payments. Medicaid adopts the Medicare definition of outpatient hospital services at 42 CFR 414.32, as amended to September 15, 1992, which will be covered by the APG-based prospective payment system, except as indicated herein. As a result, combined billing for physician services is eliminated unless the hospital has approval from the Health Care Financing Administration (HCFA) to combine bills. Teaching hospitals having HCFA's approval to receive reasonable cost reimbursement for physician services under 42 CFR 415.58 as amended to November 25, 1991, are eligible for combined billing status if they have filed the approval notice with the department's fiscal agent. Reasonable cost settlement for teaching physicians for those costs not included in the APG cost-finding process will be made during the year-end settlement process. Services provided by certified nurse anesthetists (CRNAs) employed by a physician are covered by physician reimbursement. Payment for the services of CRNAs employed by the hospital are included in the hospital's reimbursement.

Ambulance transportation will not be reimbursed by APG payment. A hospital-based ambulance service must be an enrolled Medicaid ambulance provider and follow policy as specified at rule 441—78.11(249A) unless the recipient's condition results in an inpatient admission to the hospital. In the case of an inpatient admission, the reimbursement for ambulance services is included in the hospital's DRG reimbursement rate. Enrollment information and claim submission for ambulance services should be directed to the Medicaid fiscal agent.

Claims for all noninpatient services (NIP), including outpatient mental health, substance abuse, eating disorders, cardiac rehabilitation, pulmonary rehabilitation, diabetic education, pain management, and nutritional counseling, should be billed to Iowa Medicaid and will be paid under the respective NIP program on a fixed fee schedule.

Upon implementation of the managed mental health care program (MHAP), all psychiatric services for recipients with a primary diagnosis of mental illness, except for reference lab services and radiology services, in those eligibility groups targeted under the MHAP program will be the responsibility of the MHAP contractor and will not be otherwise payable by Iowa Medicaid. Emergency psychiatric evaluations for recipients who are covered by the MHAP program will be the responsibility of the contractor. For those recipients who are not covered by the MHAP program, services will be payable under either the APG for emergency psychiatric evaluation or under the respective NIP program. Additionally, laboratory services to monitor Clozaril are payable under the APG system only if the recipient is not MHAP eligible. Eligibility groups served under the managed substance abuse care plan (MSACP) program, will be the responsibility of the MSACP contractor and not payable through the APG system. The only exceptions to this policy are reference laboratory and radiology services, which will be payable by fee schedule or APG.

Claims for the following APGs, as defined in Version 2 of the Grouper software, will not be accepted by Iowa Medicaid for payment: APG 005—Nail Procedures, APG 171—Artificial Fertilization, APG 212—Fitting of Contact Lenses, APG 386—Biofeedback and hypnotherapy, and APG 382—Provision of vision aids.

Claims grouping into APG 702 (Well Child Exam) shall meet all early and periodic screening, diagnosis and treatment requirements as set forth at rule 441—84.3(249A).

j. System implementation, rebasing, and recalibration. For state fiscal years 1995 and 1996, a risk corridor has been established to ensure that APG payments to each hospital will not be less than 95 percent or greater than 105 percent of Medicaid allowable costs. For the state fiscal year 1997, a risk corridor has been established to ensure that hospital payments will not be less than 90 percent or greater than 110 percent of Medicaid allowable costs.

Periodic interim payments, made quarterly to ensure adequate cash flow to hospitals during the transition, will begin 30 days after the quarter ending March 31, 1995. No periodic interim payment will be made to any hospital within the corridor limits. Money may also be requested to be refunded if an overpayment exists.

The APG system will be rebased and recalibrated every three years beginning October 1, 1996. Cost reports used will be hospital fiscal year-end reports within the calendar year ending no later than December 31, 1998. Case-mix indices shall be calculated using valid claims most nearly matching each hospital's fiscal year end.

k. Payment to out-of-state hospitals. Payment made to out-of-state hospitals providing care to beneficiaries of Iowa's Medicaid program is equal to either the Iowa statewide average case-mix adjusted base amount or the Iowa statewide average case-mix adjusted base amount blended with the hospital-specific base amount. Hospitals that submit a cost report with data for Iowa Medicaid patients only, no less than 120 days prior to rebasing, will receive a case-mix adjusted blended base rate using hospital-specific Iowa only Medicaid data and the Iowa statewide average cost per visit amount. If a hospital qualifies for reimbursement for the direct medical education component under Medicare guidelines, it shall qualify for this add-on component for reimbursement purposes in Iowa. Hospitals wishing to submit the HCFA 2552 (or HCFA accepted substitute) cost report must do so within 60 days from the date of patient visit to the state of Iowa's fiscal agent. Hospitals which elect to submit cost reports for the determination of blended rates shall submit new reports to the department's fiscal agent on an annual basis within 90 days of the close of the hospital's fiscal year end. When audited, finalized reports become available from the Medicare intermediary, the facility may submit them to the Iowa Medicaid fiscal agent.

l. Preadmission, preauthorization or inappropriate services. Inpatient or outpatient services which require preadmission or preprocedure approval by the PRO are updated yearly and are available from the PRO. The hospital shall provide the PRO authorization number on the UB-92 claim form to receive payment. Claims submitted for payment without this authorization number will be denied. To safeguard against other inappropriate practices, the department, through the PRO, will monitor admission practices and quality of care. If an abuse of the prospective payment system is identified, payments for abusive practices may be reduced or denied. In reducing or denying payment, Medicaid adopts the Medicare PRO regulations.

m. Hospital billing. Hospitals shall normally submit a UB-92 claim, with all services occurring within a 72-hour period, for APG reimbursement to the fiscal intermediary after a patient's outpatient "visit" is complete. Payment for outlier costs is determined when the claim is filed with the fiscal agent, as described in paragraph "*g.*" However, the following exceptions are allowed:

(1) Bills for multiple visits may be submitted on a single claim for the following services: noninpatient units (substance abuse, pain management, nutritional counseling, diabetic education, pulmonary rehabilitation, cardiac rehabilitation, eating disorders and mental health), physical, occupational and speech therapies, chemotherapy, radiation therapy, and renal dialysis. For these services, each unit of service on the UB-92 claim form will be considered a separate visit.

(2) Bills for multiple medical encounters (for unrelated diagnoses), such as clinic visits, occurring within a 72-hour period shall be submitted on separate UB-92 claim forms in order to generate full APG payment for these encounters. In the case of hospital-based clinics where multiple, unrelated medical visits occur on the same day, an individual claim form will need to be filed for each separate visit.

n. Determination of inpatient admission. A person is considered to be an inpatient when a formal inpatient admission occurs, when a physician intends to admit a person as an inpatient, or when a physician determines that a person being observed as an outpatient in an observation or holding bed should be admitted to the hospital as an inpatient. In cases involving outpatient observation status, the determinant of patient status is not the length of time the patient was being observed, rather whether the observation period was medically necessary to determine whether a patient should be admitted to the hospital as an inpatient. Outpatient observation lasting greater than a 24-hour period will be subject to review by the PRO to determine the medical necessity of each case. For those outpatient observation cases where medical necessity is not established, reimbursement shall be denied for the services found to be unnecessary for the provision of that care, such as the use of the observation room.

o. Inpatient admission after outpatient services. A patient may be admitted to the hospital as an inpatient after receiving outpatient services. If the patient is admitted as an inpatient within three days of the day in which outpatient services were rendered, all outpatient services related to the principal diagnosis are considered inpatient services for billing purposes. The day of formal admission as an inpatient is considered as the first day of hospital inpatient services.

p. Cost report adjustments. Hospitals with 1998 cost reports adjusted by Medicare through the cost settlement process for cost reports applicable to the APG base year may appeal to the department the hospital-specific base and add-on costs used in calculating the Medicaid APG rates if the Medicare adjustment results in a material change to the rate. Any appeal of the APG rate due to Medicare's adjustment process must be made in writing to the department within 30 days of Medicare's finalization and notification to the provider. If the provider does not notify the department of the adjusted amounts within the 30-day period, no costs shall be reconsidered for adjustment by Iowa Medicaid. Claims adjustment reflecting the changed rates shall only be made to claims that have been processed within one year prior to the notification from the provider or the beginning of the rebasing period, whichever is less.

q. Determination of payment amounts for mental health noninpatient (NIP) services. Mental health NIP services are limited as set forth at 441—78.31(4)*"d"*(7) and are reimbursed on a fee schedule basis. Upon implementation of a managed mental health care program, mental health NIP services will become the responsibility of the managed mental health contractor for persons eligible for managed mental health care.

r. Payment for outpatient services delivered in the emergency room. Payment for outpatient services delivered in the emergency room shall be based on the following criteria. All visits to hospital emergency rooms by Medicaid beneficiaries which do not result in inpatient admission shall result in the hospital receiving payment, at a level to be determined by the department, for patient assessment. All treatment conducted in the emergency room for either a regular Medicaid recipient or a Medipass participant, for conditions defined as emergent in accord with diagnoses codes found in the provider manual, shall receive the full APG payment plus the assessment payment. If a regular Medicaid patient is referred by a non-emergency room based physician, as documented in the record and on the claim, and is treated in the emergency room but does not have an emergency diagnosis, the hospital shall receive the assessment payment plus 75 percent of the APG payment. If the patient is assessed in the emergency room, found to be nonemergent and referred for further treatment to a hospital-based clinic, regular clinic, physician's office, or other similar site, only the assessment payment shall be made to the hospital for the emergency room. The responsible clinic or physician's office shall subsequently bill for any additional services provided. If the patient is not referred by a physician and does not have an emergent condition, but was treated in the emergency room setting, the hospital will receive 50 percent of the APG payment plus an assessment payment.

For Medicaid beneficiaries participating in the Medipass program, an assessment payment plus 75 percent of the full APG payment shall be paid for treatment of nonemergent conditions contingent upon documentation in the claim and medical record of permission or referral from the recipient's primary care physician. Should treatment for nonemergent conditions be provided to Medipass participants without this documentation, payment shall consist only of the assessment payment. When a Medipass patient is treated in a hospital-based clinic and that clinic is the Medipass patient manager, the full APG payment will be made. When the patient is treated in a hospital-based clinic, the clinic is not the patient manager and has not obtained the permission of the recipient's patient manager to perform the treatment, no payment shall be made to the clinic.

s. Rescinded IAB 7/31/96, effective 10/1/96.

t. Limitations on payments. Ambulatory patient groups, as well as other outpatient services, are subject to upper limits rules set forth in Sections 42 CFR 447.321 and 447.325 as amended to July 28, 1987. Requirements under these sections state that in general, Medicaid may not make payments to providers that would exceed the amount that would be payable to providers under comparable circumstances under Medicare. In aggregate, the total Medicaid payments may not exceed the total payments received by all providers from recipients, carriers or intermediaries for providing comparable services under comparable circumstances under Medicare.

u. PRO review. For outpatient claims with dates of service ending July 1, 1994, and after, the PRO will review a yearly random sample of at least 500 hospital outpatient service cases performed for Medicaid recipients and identified on fiscal agent claims data from all Iowa and bordering state hospitals. The PRO will perform review activities on all APG categories for concerns relating to admission review, quality review, and APG validation. Questionable cases will be referred to a physician reviewer for concerns relating to medical necessity and quality of care. The PRO will also conduct a retrospective review of hospital claims assessing observation bed status lasting more than 24 hours. The review will consist of an evaluation for the appropriateness of the admission and continued stay in the observation bed status. Questionable cases will be referred to a physician reviewer for determination of the medical necessity.

When a review identifies a potential adverse determination by the PRO, an initial letter informing the provider about the adverse action will be sent and the provider will be given an opportunity to submit additional information about the case. This information will be taken into account prior to the final review determination. If the final review decision is upheld, a final letter will be sent to all parties. A reconsideration process will be available to all parties when there are payment consequences associated with the decision. The fiscal agent will be notified of all decisions resulting in payment consequences and appropriate adjustments will be made to claims.

Hospitals with cases under review must submit all requested supporting data from the medical record to the PRO within 60 days of receipt of the request or payment for those services may be recouped and forfeited. The hospital may request a review by submitting documentation to the PRO within 365 calendar days of the claim adjudication date. If a request is not filed by the hospital within that time, the hospital loses the right to appeal or contest that payment.

v. Graduate medical education and disproportionate share fund. Payment shall be made to all hospitals qualifying for direct medical education directly from the graduate medical education and disproportionate share fund. The amount in the fund and distributions from the fund shall be calculated as follows:

(1) Allocation for direct medical education. To determine the total amount of funding that will be allocated to the graduate medical education and disproportionate share fund, the department shall:

1. Sum all direct medical education add-on payments for outpatient services using paid claims to qualifying providers on or after July 1, 1998, and through June 30, 1999.

2. Sum all direct medical education add-on payments for outpatient services, using claims reimbursed to qualifying providers, when those claims have been used as a basis for the calculation of capitation rates and reimbursement with any health maintenance organization (HMO) or other prepaid health plan with which the department has entered into a contract effective on or after July 1, 1997.

For each prepaid health plan, divide the total dollar reimbursement from claims by the number of member months applicable to the rate-setting methodology for the per member per month (PMPM) allocation to calculate the amount of reimbursement to be allocated to the fund that represents capitation rate reimbursement allocation for direct medical education. The direct medical education PMPM allocation shall then be multiplied by the total number of members enrolled in the plan for state fiscal year 1997, allocating that amount of money to the fund.

3. Trend the total allocation for direct medical education (which includes money for both the fee for service population and the capitated risk-based population, calculated under numbers "1" and "2" above) forward using annually appropriated legislative update factors and determine the total amount of money that shall be allocated to the graduate medical education and disproportionate share fund for direct medical education Medicaid reimbursement. No adjustments shall be made to this fund beyond appropriated amounts.

(2) Distribution of direct medical education. Distribution of the fund for direct medical education shall be on a monthly basis beginning October 1, 1997, and shall be calculated by taking the previous fiscal year's percentage allocation of direct medical education reimbursement (based upon paid outpatient claims to qualifying hospitals) and multiplying that percentage by the amount in the fund for direct medical education.

If a hospital fails to qualify for the provision of medical education under Medicare regulations, the amount of money that would have been allocated that hospital shall be removed from the total fund.

w. Adjustments to the graduate medical education and disproportionate share fund for changes in utilization. Money shall be added to or subtracted from the graduate medical education and disproportionate share fund, when the average monthly Medicaid population deviates from the previous year's averages by greater than 5 percent. The average annual population (expressed in a monthly total) shall be determined on June 30 for both the previous and current years by adding the total enrolled population for all respective months from both years' B-1 MARS report and dividing each year's totals by 12. If the average monthly number of enrolled persons for the current year is found to vary more than 5 percent from the previous year, a PMPM amount shall be calculated for each component (using the average number of eligibles for the previous year calculated above) and an annualized PMPM adjustment shall be made for each eligible person that is beyond the 5 percent variance.

79.1(17) *Reimbursement for home- and community-based services home and vehicle modification.* Payment is made for home and vehicle modifications at the amount of payment to the subcontractor provided in the contract between the supported community living provider and subcontractor. All contracts shall be awarded through competitive bidding, shall be approved by the department, and shall be justified by the consumer's service plan. Payment for completed work shall be made to the supported community living provider.

This rule is intended to implement Iowa Code section 249A.4.

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CHAPTER 89
DEBTS DUE FROM TRANSFERS OF ASSETS

PREAMBLE

This chapter provides for the establishment of a debt for medical assistance due to a transfer of assets for less than fair market value. These rules allow the department to establish a debt against a person who receives the transferred assets from a Medicaid applicant or recipient within five years prior to an application for medical assistance if the applicant is approved for Medicaid. The debt is established against the transferee in an amount equal to the medical assistance provided, but not in excess of the fair market value of the assets transferred.

441—89.1(249F) Definitions.

"Department" shall mean the department of human services.

"Dwelling" shall mean real property in which a person has an ownership interest and which serves as the person's principal place of residence. Real property shall include the shelter in which the person lives, the land on which the shelter is located and related buildings on the land.

"Fair market value" shall mean the price for which property or an item could have been sold on the open market at the time of transfer.

"Medical assistance" shall mean "medical assistance," "additional medical assistance," "discretionary medical assistance" or "Medicare cost sharing" as each is defined in Iowa Code section 249A.2 which is provided to a person pursuant to Iowa Code chapter 249A and Title XIX of the federal Social Security Act.

"Property" shall mean anything of value, including both tangible and intangible property, real property and personal property.

"Transfer" shall mean the disposal of property for less than fair market value through gifting, sale or any transfer or assignment of a legal or equitable interest in property.

"Transferee" shall mean the person who receives a transfer or assignment of a legal or equitable interest in property for less than fair market value.

"Transferor" shall mean the person who makes a transfer of a legal or equitable interest in property for less than fair market value.

441—89.2(249F) Creation of debt.

89.2(1) *Transfer of property.* Except as provided in rule 441—89.3(249F), any transfer of property for less than fair market value creates a debt due and owing to the department from the transferee if:

a. The transfer is made while the transferor is receiving medical assistance or within five years prior to application for medical assistance and on or after July 1, 1993.

b. The transfer is made with the intent on the part of the transferee of enabling the transferor to obtain or maintain eligibility for medical assistance.

89.2(2) *Amount of debt.* The amount of the debt is the lesser of:

a. An amount equal to the medical assistance provided to or on behalf of the transferor on or after the date of the transfer.

b. The difference between the fair market value of the property at the time of transfer and the value of any consideration received.

441—89.3(249F) Exceptions. Notwithstanding rule 441—89.2(249F), exceptions for transfers that occur between July 1, 1993, and June 30, 1996, are in accordance with the rules during that time period. Notwithstanding rule 441—89.2(249F), the following exceptions apply to transfers that occur on or after July 1, 1996. The following transfers do not create a debt to the department:

1. Transfers to or for the sole benefit of the transferor's spouse, including a transfer to a spouse by an institutionalized spouse pursuant to Section 1924(f)(1) of the federal Social Security Act.
2. Transfers to or for the sole benefit of the transferor's child who is blind or disabled, as defined in Section 1614 of the federal Social Security Act.
3. Transfer of a dwelling, which serves as the transferor's home as defined in 20 CFR Section 416.1212, as amended to August 23, 1994, to a child of the transferor under 21 years of age.
4. Transfer of a dwelling, which serves as the transferor's home as defined in 20 CFR Section 416.1212, as amended to August 23, 1994, after the transferor is institutionalized, to either of the following:

- A sibling of the transferor who has an equity interest in the dwelling and who was residing in the dwelling for a period of at least one year immediately prior to the date the transferor became institutionalized.
- A child of the transferor who was residing in the dwelling for a period of at least two years immediately prior to the date the transferor became institutionalized and who provided care to the transferor which permitted the transferor to reside at the dwelling rather than in an institution or facility.

5. Transfers of less than $2,000. However, all transfers by the same transferor during a calendar year shall be aggregated. If a transferor transfers property to more than one transferee during a calendar year, the $2,000 exemption shall be divided equally between the transferees.
6. Transfers that would, at the time of the transferor's application for medical assistance, have been exempt from consideration as a resource if they had been retained by the transferor, pursuant to 42 U.S.C. Section 1382(b)(a).
7. Transfers to a trust established solely for the benefit of the transferor's child who is blind or permanently and totally disabled as defined in Section 1614 of the federal Social Security Act.
8. Transfers to a trust established solely for the benefit of a person under 65 years of age who is disabled, as defined in Section 1614 of the federal Social Security Act.
9. Transfers of a homestead, as defined in Iowa Code sections 561.1, 561.2 and 561.3.

441—89.4(249F) Presumption of intent. Any transfer of property for less than fair market consideration made while the transferor is receiving medical assistance or within five years prior to an application for medical assistance is presumed to be made with the intent, on the part of the transferee, of enabling the transferor to obtain or maintain eligibility for medical assistance. This presumption can be rebutted only by clear and convincing evidence that the transferor's eligibility or potential eligibility for medical assistance was no part of the transferee's reason for accepting the transfer of property.

441—89.5(249F) Notice of debt. The department may issue a notice establishing and demanding payment of an accrued or accruing debt due and owing to the department as provided in rule 441—89.2(249F). The notice shall be sent by restricted certified mail, as defined in Iowa Code section 618.15, to the transferee at the transferee's last-known address. If service of the notice is unable to be completed by restricted certified mail, the notice shall be served upon the transferee in accordance with the Iowa Rules of Civil Procedure. The notice shall include all of the following:

89.5(1) *Amount of debt.* The amount of medical assistance provided to the transferor to date which creates the debt.

89.5(2) *Computation of debt.* A computation of the debt due and owing.

89.5(3) *Demand for payment.* A demand for immediate payment of the debt.

89.5(4) *Request for conference.*

a. A statement that if the transferee desires to discuss the notice, the transferee may contact the department and request an informal conference.

b. A statement that, if a conference is requested, the transferee has until 10 days after the date set for the conference or until 20 days after the date of service of the original notice, whichever is later, to send a written request for a hearing to the department.

c. A statement that after the conference, the department may issue a new notice to be sent to the transferee or the transferee's attorney.

d. A statement that if the department issues a new notice the transferee has until 10 days after the date of mailing of the new notice or until 20 days after the date of service of the original notice to send a written request for a hearing to the department.

89.5(5) *Request for hearing without conference.* A statement that the transferee has until 20 days after the date of service of the original notice to send a written response setting forth any objections and requesting a hearing to the department.

89.5(6) *Hearing in district court.* A statement that if a timely written request for a hearing is received by the department, the transferee has the right to a hearing to be held in district court; and if no timely written request for hearing is received, the department shall enter an order in accordance with the latest notice.

89.5(7) *Collection action.* A statement that as soon as the order is entered the property of the transferee is subject to collection action including, but not limited to, wage withholding, garnishment, attachment of a lien, issuance of a distress warrant, or execution.

89.5(8) *Responsibilities of transferee.* A statement that the transferee must give the department written notice of any change of address or employment.

89.5(9) *Questions.* A statement that if the transferee has any questions regarding the transfer of assets, the transferee should contact the department or consult an attorney.

89.5(10) *Other information.* Other information as the department finds appropriate.

441—89.6(249F) No timely request of a hearing.

89.6(1) *Entering of order.* If a timely written request for hearing is not received by the department, the department may enter an order in accordance with the latest notice. The order is final, and action by the department to enforce and collect upon the order may be taken from the date of the issuance of the order.

89.6(2) *Order.* The transferee shall be sent a copy of the order by first-class mail addressed to the transferee at the transferee's last known address or, if applicable, to the transferee's attorney at the last known address of the transferee's attorney. The order shall specify:

a. The amount to be paid with directions as to the manner of payment.

b. The amount of the debt accrued and accruing in favor of the department.

c. Notice that the property of the transferee is subject to collection action including, but not limited to, wage withholding, garnishment, attachment of a lien, issuance of a distress warrant, and execution.

441—89.7(249F) Timely request for a hearing. If a timely written request for a hearing is received by the department, the department shall certify the matter for hearing to the district court where the transferee resides or to the district court where the transferor resides if the transferee is not an Iowa resident. If neither the transferor nor the transferee resides in Iowa, the order may be filed in any county in which the transferor formerly resided.

The certification shall include true copies of the original notice, the return of service, any request for an informal conference, if applicable, any subsequent notices, the written request for hearing, and true copies of any administrative orders previously entered.

441—89.8(249F) Department-requested hearing. The department may also request a hearing on its own motion regarding the determination of a debt at any time prior to entry of an administrative order.

441—89.9(249F) Filing and docketing of the order. A true copy of an order entered by the department, pursuant to this chapter, along with a true copy of the return of service, if applicable, may be filed in the office of the clerk of the district court in the county in which the transferee resides or, if the transferee resides in another state, in the office of the district court in the county in which the transferor resides. The department's order shall be presented, ex parte, to the district court for review and approval.

These rules are intended to implement Iowa Code chapter 249F as amended by 1999 Iowa Acts, Senate File 92.

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TITLE IX
WORK INCENTIVE DEMONSTRATION

CHAPTER 90
WORK INCENTIVE DEMONSTRATION PROGRAM (WIN/CMS)
[Prior to 7/1/83, Social Services[770], Ch 90]
[Prior to 2/11/87, Human Services[498]]
Rescinded, effective 7/1/89; see 441—Chapter 93

CHAPTER 91
GRANT DIVERSION PROGRAM
Rescinded, effective 7/1/89

CHAPTER 92
CASH BONUS PROGRAM
Rescinded IAB 11/9/94, effective 1/1/95

TITLE X
SUPPORT RECOVERY

CHAPTER 95
COLLECTIONS

[Prior to 7/1/83, Social Services[770] Ch 95]
[Prior to 2/11/87, Human Services[498]]

441—95.1(252B) Definitions.

"Bureau chief" shall mean the chief of the bureau of collections of the department of human services or the bureau chief's designee.

"Caretaker" shall mean a custodial parent, relative or guardian whose needs are included in an assistance grant paid according to Iowa Code chapter 239B, or who is receiving this assistance on behalf of a dependent child, or who is a recipient of nonassistance child support services.

"Child support recovery unit" shall mean any person, unit, or other agency which is charged with the responsibility for providing or assisting in the provision of child support enforcement services pursuant to Title IV-D of the Social Security Act.

"Consumer reporting agency" shall mean any person or organization which, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

"Current support" shall mean those payments received in the amount, manner and frequency as specified by an order for support and which are paid to the clerk of the district court, the public agency designated as the distributor of support payments as in interstate cases, or another designated agency. Payments to persons other than the clerk of the district court or other designated agency do not satisfy the definition of support pursuant to Iowa Code section 598.22. In addition, current support shall include assessments received as specified pursuant to rule 441—156.1(234).

"Date of collection" shall mean the date that a support payment is received by the unit.

"Delinquent support" shall mean a payment, or portion of a payment, including interest, not received by the clerk of the district court or other designated agency at the time it was due. In addition, delinquent support shall also include assessments not received as specified pursuant to rule 441—156.1(234).

"Department" shall mean the department of human services.

"Dependent child" shall mean a person who meets the eligibility criteria established in Iowa Code chapter 234 or 239B, and whose support is required by Iowa Code chapter 234, 239B, 252A, 252C, 252F, 252H, 252K, 598 or 600B, and any other comparable chapter.

"Federal nontax payment" shall mean an amount payable by the federal government which is subject to administrative offset for support under the federal Debt Collection Improvement Act, Public Law 104-134.

"Obligee" shall mean any person or entity entitled to child support or medical support for a child.

"Obligor" shall mean a parent, relative or guardian, or any other designated person who is legally liable for the support of a child or a child's caretaker.

"Payor of income" shall have the same meaning provided this term in Iowa Code section 252D.16.

"Prepayment" shall mean payment toward an ongoing support obligation when the payment exceeds the current support obligation and amounts due for past months are fully paid.

"Public assistance" shall mean assistance provided according to Iowa Code chapter 239B or 249A, the cost of foster care provided by the department according to chapter 234, or assistance provided under comparable laws of other states.

"Responsible person" shall mean a parent, relative or guardian, or any other designated person who is or may be declared to be legally liable for the support of a child or a child's caretaker. For the purposes of calculating a support obligation pursuant to the mandatory child support guidelines prescribed by the Iowa Supreme Court in accordance with Iowa Code section 598.21, subsection 4, this shall mean the person from whom support is sought.

"Support" shall mean child support or medical support or both for purposes of establishing, modifying or enforcing orders, and spousal support for purposes of enforcing an order.

This rule is intended to implement Iowa Code chapters 252B, 252C and 252D.

441—95.2(252B) Child support recovery eligibility and services.

95.2(1) *Public assistance cases.* The child support recovery unit shall provide paternity establishment and support establishment, modification and enforcement services, as appropriate, under federal and state laws and rules for children and families referred to the unit who have applied for or are receiving public assistance. Referrals under this subrule may be made by the family investment program, the Medicaid program, the foster care program or agencies of other states providing child support services under Title IV-D of the Social Security Act for recipients of public assistance.

95.2(2) *Nonpublic assistance cases.* The same services provided by the child support recovery unit for public assistance cases shall also be made available to any person not otherwise eligible for public assistance. The services shall be made available to persons upon the completion and filing of an application with the child support recovery unit except that an application shall not be required to provide services to the following persons:

a. Persons not receiving public assistance for whom an agency of another state providing Title IV-D child support recovery services has requested services.

b. Persons for whom a foreign reciprocating country or a foreign country with which this state has an arrangement as provided in 42 U.S.C. §659 has requested services.

c. Persons who are eligible for continued services upon termination of assistance under the family investment program or Medicaid.

95.2(3) *Services available.* Except as provided by separate rule, the child support recovery unit shall provide the same services as the unit provides for public assistance recipients to persons not otherwise eligible for services as public assistance recipients. The child support recovery unit shall determine the appropriate enforcement procedure to be used. The services are limited to the establishment of paternity, the establishment and enforcement of child support obligations and medical support obligations, and the enforcement of spousal support orders if the spouse is the custodial parent of a child for whom the department is enforcing a child support or medical support order.

95.2(4) *Application for services.*

a. A person who is not on public assistance requesting services under this chapter, except for those persons eligible to receive support services under paragraphs 95.2(2)*"a," "b,"* and *"c,"* shall complete and return Form 470-0188, Application for Nonassistance Support Services, to the child support recovery unit serving the county where the person resides. If the person does not live in the state, the application form shall be returned to the county in which the support order is entered or in which the other parent or putative father resides.

b. An individual who is required to complete Form 470-0188, Application for Nonassistance Support Services, shall be charged an application fee in the amount set by statute. The fee shall be charged at the time of initial application and any subsequent application for services. The application fee shall be paid to the local child support recovery unit by the individual prior to services being provided.

This rule is intended to implement Iowa Code sections 252B.3 and 252B.4.

441—95.3(252B) Crediting of current and delinquent support. The amounts received as support from the obligor or payor of income shall be credited as the required support obligation for the month in which the collection services center receives the payment. Any excess shall be credited as delinquent payments and shall be applied to the immediately preceding month, and then to the next immediately preceding month until all excess has been applied. Funds received as a result of federal tax offsets are credited according to subrule 95.7(9).

95.3(1) *Treatment of vacation or severance pay.* When CSC is notified or otherwise becomes aware that a payment received from an income provider pursuant to 441—Chapter 98, Division II, includes payment amounts such as vacation pay or severance pay, these amounts are considered to be received in the months documented by the income provider.

95.3(2) *Payment received at the end of the month.* An additional payment in the month which is received from the obligor or payor of income within five calendar days prior to the end of the month shall be considered collected in the next month if:

a. The collection services center is notified by the obligor or payor of income that the payment is for the next month, and

b. Support for the current month is fully paid.

This rule is intended to implement Iowa Code sections 252B.3, 252B.4, and 252B.11.

441—95.4(252B) Prepayment of support. Prepayment which is due to the child support obligee shall be sent to the obligee upon receipt by the department, and shall be credited as payment of future months' support. Prepayment which is due the state shall be distributed as if it were received in the month when due. Support is prepaid when amounts have been collected which fully satisfy the ongoing support obligation for the current month and all past months.

441—95.5(252B) Lump sum settlement.

95.5(1) Any lump sum settlement of child support involving an assignment of child support payments shall be negotiated in conjunction with the child support recovery unit. The child support recovery unit shall be responsible for the determination of the amount due the department, including any accrued interest on the support debt computed in accordance with Iowa Code section 535.3 for court judgments. This determination of the amount due shall be made in accordance with Section 302.51, Code of Federal Regulations, Title 45 as amended to August 4, 1989. The bureau chief may waive collection of the accrued interest when negotiating a lump sum settlement of a support debt, if the waiver will facilitate the collection of the support debt.

95.5(2) The child support recovery unit shall be responsible for the determination of the department's entitlement to all or any of the lump sum payment in a paternity action.

This rule is intended to implement Iowa Code chapter 252C.

441—95.6(252B) Setoff against state income tax refund or rebate. A claim against a responsible person's state income tax refund or rebate will be made by the department when a support payment is delinquent as set forth in Iowa Code section 421.17(21). A claim against a responsible person's state income tax refund or rebate shall apply to support which the department is attempting to collect.

95.6(1) The department shall submit to the department of revenue and finance by the first day of each month, a list of responsible persons who are delinquent at least $50 in support payments.

95.6(2) The department shall mail a pre-setoff notice, to a responsible person when:

a. The department is notified by the department of revenue and finance that the responsible person is entitled to a state income tax refund or rebate; and

b. The department makes claim to the responsible person's state income tax refund or rebate. The presetoff notice will inform the responsible person of the amount the department intends to claim and apply to support.

95.6(3) When the responsible person wishes to contest a claim, a written request shall be submitted to the department within 15 days after the pre-setoff notice is mailed. When the request is received within the 15-day limit, a hearing shall be granted pursuant to rules in 441—Chapter 7.

95.6(4) The spouse's proportionate share of a joint return filed with a responsible person, as determined by the department of revenue and finance, shall be released by the department of revenue and finance unless other claims are made on that portion of the joint income tax refund. The request for release of a spouse's proportionate share shall be in writing and received by the department within 15 days after the mailing date of the pre-setoff notice.

95.6(5) Support recovery will make claim to a responsible person's state income tax refund or rebate when all current support payments or regular payments on the delinquent support were not paid for 12 months preceding the month in which the pre-setoff notice was mailed. A regular payment toward delinquent support is defined as making a monthly payment. The state income tax refund of a responsible person may be claimed by the office of the department of inspections and appeals or the college aid program even if no claim for payment of delinquent support has been made by support recovery.

95.6(6) The department shall notify a responsible person of the final decision regarding the claim against the tax refund or rebate by mailing a final disposition of support recovery claim notice to the responsible person.

95.6(7) Application of setoff. Setoffs shall be applied as provided in rule 441—95.3(252B).

This rule is intended to implement Iowa Code sections 252B.3 and 252B.4.

441—95.7(252B) Offset against federal income tax refund and federal nontax payment. A claim against a responsible person's federal income tax refund or federal nontax payment will be made by the department when delinquent support is owed.

95.7(1) Amount of assigned support. If the delinquent support is assigned to the department, the amount of delinquent support shall be at least $150 and the support shall have been delinquent for three months.

95.7(2) Amount of nonassigned support. If delinquent support is not assigned to the department, the claim shall be made if the amount of delinquent support is at least $500.

a. The amount distributed to an obligee shall be the amount remaining following payment of a support delinquency assigned to the department. Prior to receipt of the amount to be distributed, the obligee shall sign Form 470-2084, Repayment Agreement for Federal Tax Refund Offset, agreeing to repay any amount of the offset the Department of the Treasury later requires the department to return. The department shall distribute to an obligee the amount collected from an offset according to subrule 95.7(9) within the following time frames:

(1) Within six months from the date the department applies an offset amount from a joint income tax refund to the child support account of the responsible person, or within 15 days of the date of resolution of an appeal under subrule 95.7(8), whichever is later, or

(2) Within 30 days from the date the department applies an offset amount from a single income tax refund to the child support account of the responsible person, or within 15 days of the date of resolution of an appeal under subrule 95.7(8), whichever is later.

(3) However, the department is not required to distribute until it has received the amount collected from an offset from the federal Department of the Treasury.

b. Federal nontax payment offset distribution. Federal nontax payment offsets shall be applied as provided in rule 441—95.3(252B).

95.7(3) Notification to federal agency. The department shall, by October 1 of each year or at times as permitted or specified by federal regulations, submit a notification(s) of liability for delinquent support to the federal office of child support enforcement.

95.7(4) Preoffset notice and review. Each obligor who does not have an existing support debt on record with the federal office of child support enforcement will receive a preoffset notice in writing, using address information available from the Department of the Treasury, stating the amount of the delinquent support certified for offset.

a. Individuals who wish to dispute the offset must notify the department within the time period specified in the preoffset notice.

b. Upon receipt of a complaint disputing the offset, the department shall conduct a review to determine if there is a mistake of fact and respond to the obligor in writing within ten days. For purposes of this rule, "mistake of fact" means a mistake in the identity of the obligor or whether the delinquency meets the criteria for referral.

95.7(5) Recalculation of delinquency. When the records of the department differ with those of the obligor for determining the amount of the delinquent support, the obligor may provide and the department will accept documents verifying modifications of the order, and records of payments made pursuant to state law, and will recalculate the delinquency.

95.7(6) The department shall notify the federal office of child support enforcement, within time frames established by it, of any decrease in, or elimination of, an amount referred for setoff.

95.7(7) When an individual does not respond to the pre-setoff notice within the specified time even though the department later agrees a certification error was made, the person must wait for corrective action as specified in subrule 95.7(8).

95.7(8) Offset notice, appeal, and refund. The federal Department of the Treasury will send notice that a federal income tax refund or federal nontax payment owed to the obligor has been intercepted.

a. The obligor shall have 15 days from the date of the notice to the obligor under this subrule to contest the offset by initiating an administrative appeal pursuant to 441—subrules 7.8(1) and 7.8(2). The obligor shall provide the department with a copy of the Department of the Treasury notice. Except as specifically provided in this rule, administrative appeals will be governed by 441—Chapter 7. The issue on appeal shall be limited to a mistake of fact as specified at paragraph 95.7(4)*"b."*

b. The department shall refund the incorrect portion of a federal income tax offset or federal nontax payment offset within 30 days following verification of the offset amount. Verification shall mean a listing from the federal office of child support enforcement containing the obligor's name and the amount of tax refund or nontax payment to which the obligor is entitled. The date the department receives the federal listing will be the beginning day of the 30-day period in which to make a refund.

The department shall refund the amount incorrectly set off to the obligor unless the obligor agrees to apply the refund of the incorrect offset to any other support obligation due. Prior to the receipt of the refund, the obligor shall sign Form 470-2082, Adjustment of Federal Tax or Nontax Offset Agreement, agreeing to repay any amount of the offset the Department of the Treasury later requires the department to return.

95.7(9) Application of offsets. Offsets of federal income tax refunds shall be applied to delinquent support only. The department shall first apply the amount collected from an offset to delinquent support assigned to the department under Iowa Code chapters 234 and 239B. The department shall then apply any amount remaining in equal proportions to delinquent support due individuals receiving non-assistance services.

This rule is intended to implement Iowa Code sections 252B.3, 252B.4, and 252B.5.

441—95.8(96) Child support setoff of unemployment benefits. When job service notifies the child support recovery unit that an individual who owes a child support obligation being enforced by the child support recovery unit has been determined to be eligible for job insurance benefits, the unit will enforce a child support obligation owed by an obligor but which is not being met by setoff of job insurance benefits. "Owed but not being met" means either current child support not being met or arrearages that are owed.

95.8(1) Withholding. The child support recovery unit shall offset job insurance benefits by initiating a withholding of income pursuant to Iowa Code chapter 252D and 441—Chapter 98, Division II, or a garnishment action pursuant to Iowa Code chapter 642. The amount to be withheld through a withholding or garnishment of unemployment benefits shall not exceed the amount specified in 15 U.S.C. 1673(b).

95.8(2) A receipt of the payments intercepted through job insurance benefits will be provided once a year, upon the request of an absent parent to the child support recovery unit.

This rule is intended to implement Iowa Code section 96.3 and 15 U.S.C. 1673(b).

441—95.9 Reserved.

441—95.10(252C) Mandatory assignment of wages. Rescinded IAB 9/5/90, effective 11/1/90.

441—95.11(252C) Establishment of an administrative order. Rescinded IAB 9/1/93, effective 11/1/93. See 441—99.41(252C).

441—95.12(252B) Procedures for providing information to consumer reporting agencies. The bureau chief shall make information available to consumer reporting agencies, upon their request, regarding the amount of overdue support owed by a responsible person only in cases where the overdue support exceeds $1,000.

95.12(1) Request of information. Agencies shall request the information from the Bureau of Collections, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114. Requests for information about an individual shall include the individual's name and identifying information such as a social security number or birth date. Agencies may also request a listing of all obligors owing support in excess of $1,000.

95.12(2) A notice of proposed release of information shall be sent to the last known address of the responsible person 30 calendar days prior to the release of the support arrearage information to a consumer reporting agency. This notice shall explain the information to be released and the methods available for contesting the accuracy of the information.

95.12(3) The responsible person may, within 15 calendar days of the date of the notice of proposed release of information, request a conference with the child support recovery officer to contest the accuracy of the information to be given to the consumer reporting agency. In contested cases no referral shall be made to the consumer reporting agency until after the amount of overdue support has been confirmed to exceed $1,000.

95.12(4) Rescinded IAB 11/6/96, effective 1/1/97.

This rule is intended to implement Iowa Code section 252B.8.

441—95.13(17A) Appeals. Rescinded IAB 8/11/99, effective 10/1/99.

441—95.14(252B) Termination of services.

95.14(1) *Case closure criteria.* In order to be eligible for closure, the case shall meet the requirements of subrule 95.14(3) or at least one of the following criteria:

a. There is no ongoing support obligation and arrearages are under $500 or unenforceable under state law.

b. The noncustodial parent or putative father is deceased and no further action, including a levy against the estate, can be taken.

c. Paternity cannot be established because:

(1) The child is at least 18 years old and action to establish paternity is barred by the statute of limitations.

(2) A genetic test or a court or administrative process has excluded the putative father and no other putative father can be identified.

d. The noncustodial parent's location is unknown, and the child support recovery unit has made regular attempts using multiple sources to locate the noncustodial parent over a three-year period, all of which have been unsuccessful.

e. The noncustodial parent cannot pay support for the duration of the child's minority because the parent has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically verified total and permanent disability with no evidence of support potential. The child support recovery unit must have determined that no income or assets are available to the noncustodial parent which could be levied or attached for the payment of support.

f. The noncustodial parent is a citizen of, and lives in, a foreign country, does not work for the federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets, and there is not a reciprocity agreement with that country.

g. There has been a finding of good cause or other exception in a public assistance case as specified in 441—subrules 41.22(8) through 41.22(12) and 441—subrule 75.14(3), including a determination that support enforcement may not proceed without risk or harm to the child or caretaker relative.

95.14(2) *Notification.* In cases meeting the criteria of subrule 95.14(1), paragraphs *"a"* through *"f,"* the child support recovery unit shall send notification of its intent to close the case to the custodial parent or caretaker in writing 60 calendar days prior to case closure. The notice shall be sent to the custodial parent or caretaker at the last known address stating the reason for denying or terminating services, the effective date, and an explanation of the right to request a hearing according to 441—Chapter 7. Closure of the case following notification is subject to the following:

a. If, in response to the notice, the custodial parent or caretaker supplies information which could lead to the establishment of paternity or a support order or enforcement of an order, the case shall be kept open.

b. The custodial parent or caretaker may request that the case be reopened at a later date if there is a change in circumstances which could lead to the establishment of paternity or a support order or enforcement of an order.

95.14(3) *Reasons for termination of services to nonpublic assistance recipients.* Services to a recipient of nonpublic assistance support services may be terminated when one of the case closure criteria of paragraphs 95.14(1)*"a"* through *"f"* is met or may occur for one or more of the following reasons:

a. A written or oral request is received from the recipient to close the case when there is no assignment to the state of arrearages which accrued under a support order.

b. The child support recovery unit is unable to contact the custodial parent or caretaker within a 30-calendar-day period despite attempts by both telephone and at least one certified letter.

c. The custodial parent or caretaker has failed to cooperate with the child support recovery unit, the circumstances of the noncooperation have been documented, and an action by the custodial parent or caretaker is essential for the next step in providing services. (See rule 441—95.19(252B).)

d. The child support recovery unit has provided location-only services.

e. The child support recovery unit has determined that it would not be in the best interest of the child to establish paternity in a case involving incest or forcible rape, or in any case where legal proceedings for adoption are pending.

95.14(4) *Notification in nonpublic assistance cases.* Notification shall be provided to nonpublic assistance cases in the manner and under the conditions stated in subrule 95.14(2), except for cases terminated for the reasons listed in paragraphs 95.14(3)*"a"* and *"d."* If the case was closed because the child support recovery unit was unable to contact the custodial parent or caretaker as provided in paragraph 95.14(3)*"b,"* the case shall be kept open if contact is reestablished with the custodial parent prior to the effective date of the closure.

This rule is intended to implement Iowa Code sections 252B.4, 252B.5 and 252B.6.

441—95.15(252B) Child support recovery unit attorney.

95.15(1) *State's representative.* An assistant attorney general, assistant county attorney, or independent contract attorney employed by or under contract with the child support recovery unit represents only the state of Iowa. The sole attorney-client relationship for the child support recovery unit attorney is between the attorney and the state of Iowa. A private attorney acting under 1997 Iowa Acts, House File 612, section 35, is not a child support recovery unit attorney, and is not a party to the action.

95.15(2) *Provision of services.* The special role of the child support recovery unit attorney is limited by the attorney-client relationship between the attorney and the state of Iowa. The provision of legal services by the child support recovery unit attorney is limited as follows:

a. The child support recovery unit attorney shall not represent any person or entity other than the state of Iowa in the course of the attorney's employment by or contractual relationship with the child support recovery unit.

b. The child support recovery unit attorney shall issue written disclosure of the attorney-client relationship between the attorney and the state of Iowa to recipients of child support enforcement services and to all parties in a review and adjustment proceeding.

95.15(3) *Communication concerning case circumstances.*

a. The child support recovery unit shall provide case status information upon written request by any recipient of child support enforcement services or any party under the review and adjustment procedure, unless otherwise prohibited by state or federal statute or rules pertaining to confidentiality.

b. All communications with other parties will be directed to those parties personally, unless a licensed attorney has entered an appearance or notified the child support recovery unit in writing that the attorney is representing a party. If any party is represented by counsel, all communications shall be directed to counsel for that party.

c. When a party is receiving public assistance, the child support recovery unit shall refer any suspected fraud or questionable aid to dependent children expenditures to the appropriate governmental agencies.

This rule is intended to implement Iowa Code sections 252B.5 to 252B.7 and 598.21.

441—95.16(252B) Handling and use of federal 1099 information. Data from the collection and reporting system is matched with federal 1099 records for information on assets and income. Verified 1099 information may be used for: establishing support orders, modifying support orders under the review and adjustment process and enforcing payment of support debts.

95.16(1) *Security of 1099 information.* Information received from the federal source, 1099, shall be safeguarded in accordance with Internal Revenue Code Section 6103(p)(4). Information shall be kept in a secure section of the state computer system and not released until verified by a third party.

95.16(2) *Verification of 1099 information.* Prior to release of any information to the local child support recovery office, the information shall be verified by a third party as follows:

a. When information indicates there may be assets available from a financial institution, the child support recovery unit shall secure verification of these assets from the financial institution on Form 470-3170, Asset Verification Form.

b. When address information is received, the child support recovery unit shall secure verification of the address information from the post office on Form 470-0176, Address Information Request.

c. When employment information is received, the child support recovery unit shall secure verification of the employment from the employer on Form 470-0177, Employer Information Request.

This rule is intended to implement Iowa Code section 252B.9.

441—95.17(252B) Effective date of support. For all original orders established by the child support recovery unit, the effective date of the support obligation under the orders shall be the twentieth day following the date the order is prepared by the unit, unless otherwise specified.

441—95.18(252B) Continued services available to canceled family investment program (FIP) or Medicaid recipients. Support services shall automatically be provided to persons who were eligible to receive support services as recipients of FIP or Medicaid and who were canceled from FIP or Medicaid. Continued support services shall not be provided to a person who has been canceled from FIP or Medicaid when a claim of good cause, as defined at 441—subrule 41.22(8) or 441—subrule 75.14(3), as appropriate, was valid at the time assistance was canceled or when one of the reasons for termination of services, listed at rule 441—95.14(252B), applies to the case.

Support services shall be provided to eligible persons without application or application fee, but subject to applicable enforcement fees.

95.18(1) *Notice of services.* Within 45 days from the date FIP assistance is canceled or within 15 days from the date the unit is notified of the cancellation of assistance, the department shall forward Form CS-1113, Notice of Continued Support Services, to a person's last-known address to inform the person of eligibility for and duration of the continued services.

95.18(2) *Termination of services.* A person may request the department to terminate support services at any time by the completion and return of the appropriate portion of Form CS-1113, Notice of Continued Support Services, or in any other form of written communication, to the child support recovery unit.

Continued support services may be terminated at any time for any of the reasons listed in rule 441—95.14(252B).

95.18(3) *Reapplication for services.* A person whose services were denied or terminated may reapply for services under this chapter by completing the application process and paying the application fee described in subrule 95.2(4).

This rule is intended to implement Iowa Code section 252B.4.

441—95.19(252B) Cooperation of public assistance recipients in establishing and obtaining support. If a person who is a recipient of FIP or Medicaid is required to cooperate with the child support recovery unit in establishing paternity; in establishing, modifying, or enforcing child or medical support; or in enforcing spousal support, the following shall apply:

95.19(1) *Cooperation defined.* The person shall cooperate in good faith in obtaining support for persons whose needs are included in the assistance grant or Medicaid household, except when good cause or other exception as defined in 441—subrule 41.22(8) or 75.14(8) for refusal to cooperate, is established.

a. The person shall cooperate in the following areas:

(1) Identifying and locating the parent of the child for whom assistance or Medicaid is claimed.

(2) Establishing the paternity of a child born out of wedlock for whom assistance or Medicaid is claimed.

(3) Obtaining support payments for the person and the child for whom assistance is claimed, and obtaining medical support for the person and child for whom Medicaid is claimed.

b. Cooperation is defined as including the following actions by the person if the action is requested by the child support recovery unit:

(1) Providing the name of the noncustodial parent and additional necessary information.

(2) Appearing at the child support recovery unit to provide verbal or written information or documentary evidence known to, possessed by, or reasonably obtained by the person that is relevant to achieving the objectives of the child support recovery program.

(3) Appearing at judicial or other hearings, proceedings or interviews.

(4) Providing information or attesting to the lack of information, under penalty of perjury.

(5) If the paternity of the child has not been legally established, submitting to blood or genetic tests pursuant to a judicial or administrative order. The person may be requested to sign a voluntary affidavit of paternity after being given notice of the rights and consequences of signing such an affidavit as required by the statute in Iowa Code section 252A.3A. However, the person shall not be required to sign an affidavit or otherwise relinquish the right to blood or genetic tests.

c. The person shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the noncustodial parent and taking action as may be necessary to secure or enforce a support obligation or establish paternity or to secure medical support. This includes completing and signing documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.

95.19(2) *Failure to cooperate.* The local child support recovery unit shall make the determination of whether or not a person has cooperated with the unit. The child support recovery unit shall send notice of a determination of noncooperation to the person on Form 470-3400, Notice of Noncooperation, and notify the FIP and Medicaid programs, as appropriate, of the noncooperation determination and the reason for the determination. The FIP and Medicaid programs shall take appropriate sanctioning actions as provided in statute and rules.

95.19(3) *Good cause or other exception.*

a. A person who is a recipient of FIP assistance may claim a good cause or other exception for not cooperating, taking into consideration the best interests of the child as provided in 441—subrules 41.22(8) through 41.22(12).

b. A person who is a recipient of Medicaid may claim a good cause or other exception for not cooperating, taking into consideration the best interests of the child as provided in 441—subrule 75.14(3).

This rule is intended to implement Iowa Code section 252B.3.

441—95.20(252B) Cooperation of public assistance applicants in establishing and obtaining support. If a person who is an applicant of FIP or Medicaid is required to cooperate in establishing paternity, in establishing, modifying, or enforcing child or medical support, or in enforcing spousal support, the requirements in 441—subrule 41.22(6) and rule 441—75.14(249A) shall apply. The appropriate staff in the FIP and Medicaid programs are designees of the child support recovery unit to determine noncooperation and issue notices of that determination.

This rule is intended to implement Iowa Code section 252B.3.

441—95.21(252B) Cooperation in establishing and obtaining support in nonpublic assistance cases.

95.21(1) *Requirements.* The individual receiving nonpublic assistance support services shall cooperate with the child support recovery unit by meeting all the requirements of rule 441—95.19(252B), except that the individual may not claim good cause or other exception for not cooperating.

95.21(2) *Failure to cooperate.* The child support recovery unit shall make the determination of whether or not the nonpublic assistance applicant or recipient of services has cooperated. Noncooperation shall result in termination of support services. An applicant or recipient may also request termination of services under subrule 95.14(3).

This rule is intended to implement Iowa Code section 252B.4.

441—95.22(252B) Charging pass-through fees. Pass-through fees are fees or costs incurred by the department for service of process, genetic testing and court costs if the entity providing the service charges a fee for the services. The child support recovery unit may charge pass-through fees to persons who receive continued services according to rule 441—95.18(252B) and to other persons receiving nonassistance services, except no fees may be charged an obligee residing in a foreign country or the foreign country if the unit is providing services under paragraph 95.2(2)*"b."*

This rule is intended to implement Iowa Code section 252B.4.

441—95.23(252B) Reimbursing assistance with collections of assigned support. For an obligee and child who currently receive assistance under the family investment program, the full amount of any assigned support collection that the department receives shall be distributed according to rule 441—95.3(252B) and retained by the department to reimburse the family investment program assistance.

This rule is intended to implement Iowa Code section 252B.15.

441—95.24(252B) Child support account. The child support recovery unit shall maintain a child support account for each client. The account, representing money due the department, shall cover all periods of time public assistance has been paid, commencing with the date of the assignment. The child support recovery unit will not maintain an interest-bearing account.

This rule is intended to implement Iowa Code chapter 252C.

441—95.25(252B) Emancipation verification. The child support recovery unit (CSRU) may verify whether a child will emancipate according to the provisions established in the court order prior to the child's eighteenth birthday.

95.25(1) *Verification process.* CSRU shall send Form 470-2562, Emancipation Verification, to the obligor and obligee on a case if CSRU has an address.

95.25(2) *Return information.* The obligor and obligee shall be asked to complete and return the form to the unit. CSRU shall use the information provided by the obligor or obligee to determine if the status of the child indicates that any previously ordered adjustments related to the obligation and a child's emancipation are necessary on the case.

95.25(3) *Failure to return information.* If the obligor and obligee fail to return the questionnaire, CSRU shall apply the earliest emancipation date established in the support order to the case and implement changes in support amounts required in the support order.

95.25(4) *Conflicting information returned.* If conflicting information is returned or made known to CSRU, CSRU shall have the right to verify the child's status through sources other than the obligor and obligee.

This rule is intended to implement Iowa Code sections 252B.3 and 252B.4.

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CHAPTER 97
COLLECTION SERVICES CENTER

PREAMBLE

The collection services center is the public agency designated by state law as the state disbursement unit with responsibility for the receipt, recording and disbursement of specified support payments within the state of Iowa. The administrative guidelines within this chapter describe the process of transferring support cases or information from the clerks of district court to the collection services center and the policies and procedures used to receive, monitor, and distribute support payments.

441—97.1(252B) Definitions. The definitions of terms used in this chapter shall follow those terms defined in rule 441—95.1(252B) with the exception or addition of the following:

"Collection services center" means the public agency designated to receive, record, monitor, and disburse support payments as defined in Iowa Code section 598.1, 252B.15 or 252D.16, in accordance with Iowa Code sections 252B.13A and 252B.14.

"Correlated non IV-D case" means a non IV-D case where income withholding information must be maintained by the unit in order to properly process an income withholding payment because the obligor has both a non IV-D and a current or former IV-D case.

"Former IV-D case" means a case that previously received services from the unit under rule 441—95.2(252B) but currently receives only payment processing services from the collection services center.

"Insufficient funds payment" means a support payment by check or other financial instrument which is dishonored, not paid, or the funding of the payment is determined to be inadequate.

"IV-D case" means a case that receives services from the unit under rule 441—95.2(252B), including payment processing services from the collection services center.

"Non IV-D case" means a support order that never received services from the unit under rule 441—95.2(252B), but that receives payment processing services from the collection services center for income withholding payments.

"Obligee" means the guardian, custodial parent, person, or entity entitled to receive support payments.

"Obligor" means a parent, relative, or any other person declared to be legally liable for the support of a child or the custodial parent or guardian of the child.

"Payor of income" shall have the same meaning provided this term in Iowa Code section 252D.16.

"Support payment" shall have the same meaning provided this term in Iowa Code section 252D.16.

"Unit" means the child support recovery unit as defined in Iowa Code section 252B.2.

441—97.2(252B) Transfer of records and payments. For non IV-D cases, the clerk of court shall provide core case information to the unit upon the filing of a new income withholding order or upon the request of the unit. For IV-D and correlated non IV-D cases, the clerk of court shall provide detailed case information to the unit upon request. After the establishment of a case, the unit shall send notices of transfer to obligors, obligees and payors of income based upon case type.

97.2(1) *Transfer of information on non IV-D and correlated non IV-D cases.*

a. In non IV-D cases, the unit shall request the following information necessary for the receipt, recording and disbursement of payments from the clerk of the district court:

(1) The obligor's name and address.

(2) The obligee's name and address.

(3) The court order numbers.

b. In correlated non IV-D cases, the unit shall request the following information necessary for the receipt, recording and disbursement of payments from the clerk of the district court:

(1) The obligor's name and address.

(2) The obligee's name and address.

(3) The court order numbers.

(4) The income withholding order.

c. The clerk of the district court shall provide case information to the unit on a regular basis when an income withholding order is filed with a clerk of court or when the unit requests the information in order to process a payment.

d. The unit shall automatically create cases for payment processing based upon the information received from the clerks of court.

97.2(2) *Transfer of information on IV-D cases.* In IV-D cases, the clerk of district court shall provide the unit with the following information if the information has been provided to the clerk upon request of the unit:

a. The obligee's name, date of birth, last-known mailing address, the social security number if known and, if different in whole or part, the names of the persons to whom the obligation of support is owed by the obligor.

b. The name, birth date, social security number, and last-known mailing address of the obligor.

c. A copy of all support orders that establish or modify a support amount.

d. The names, social security numbers, and dates of birth of any minor dependents for whom support is ordered, if available.

e. A record of any support payments received by the clerk of district court prior to the transfer of case information and any payments received by the collection services center and the date of transfer to the collection services center.

f. A record of any determination of controlling order under the Uniform Interstate Family Support Act.

441—97.3(252B) Support payment records. Each IV-D, former IV-D and non IV-D case type shall have an official payment record.

97.3(1) *Official records for cases.* The official payment records for each case type shall be maintained by a designated entity.

a. The collection services center shall establish, maintain and certify the official support payment records for IV-D or former IV-D cases.

b. The clerk of the district court shall establish, maintain and certify the official support payment records for non IV-D and correlated non IV-D cases. The collection services center shall establish and maintain records for receipt and disbursement of income withholding payments for these cases, but shall not certify these records as the complete payment record.

97.3(2) *Informal conference for payment records.* The unit shall provide an informal conference or desk review regarding the contents of any support payment record to the obligor or obligee upon request.

a. In IV-D or former IV-D cases, the conference shall be available to review the payment record and to answer questions of the obligee or obligor regarding the accuracy of the record.

b. In non IV-D and correlated non IV-D cases, the conference shall be available to review the accuracy of the contents of any record of income withholding payments.

97.3(3) *Certified payment records.* The unit shall provide certified copies of the official support payment records as defined in paragraph 97.3(1)*"a"* to the public, upon request, as a public record.

441—97.4(252B) Statement of accounts. The unit shall send to obligors monthly payment statements of the amount due in IV-D cases not paying support through income withholding. The monthly statement shall contain payment coupons to assist the obligor in making support payments for the month. Unless support payments are paid by preauthorized withdrawal of funds through electronic transfer of funds from the financial institution account of the obligor, the obligor shall send a payment coupon with each support payment to designate to which support account the payment shall be applied.

441—97.5(252B) Method of payment. Payments shall be accepted in specific forms from obligors and payors of income.

97.5(1) *Form of payment.* Support payments may be paid in the form of cash, check, bank draft, money order, preauthorized withdrawal of funds, or other financial instrument, and sent by mail to the collection services center, or by electronic transfer of funds.

97.5(2) *Treatment of insufficient funds payments.* The unit shall have a process in place to handle insufficient funds payments.

a. An obligor or payor of income submitting an insufficient funds support payment to the collection services center shall be required to submit payments by cash, bank draft, or money order for a period of up to 12 months unless waived by the collection services center. Insufficient funds payments shall not be credited to the collection services center account for the obligor or shall be removed from the account if credited before sufficiency was verified. Insufficient funds support payments shall be subject to additional collection by the collection services center for the dishonored amount.

b. The collection services center shall not process additional payments other than cash, bank drafts or money orders from an obligor or payor of income who has previously submitted insufficient funds payments without first verifying the payment. The collection services center shall have a process in place to allow the obligor or the payor of income the opportunity to replace any additional moneys submitted for payment of support before processing in order to avoid additional insufficient funds entries into the official payment records on the affected cases.

97.5(3) *Distribution of payment.* Nonincome withholding support payments received by the collection services center in IV-D, former IV-D, non IV-D, or correlated non IV-D cases which are not directed to a specific account or support obligation shall first be applied proportionately to the current support obligation on all cases for the obligor and, secondly, to the support arrearages owed by the obligor.

441—97.6(252B) Authorization of payment. The collection services center must authorize the generation of warrants for support paid. The collection services center shall issue payments as follows:

97.6(1) *Submittal of information to department of revenue and finance.* In order to disburse payments to the obligee within two working days, the collection services center shall submit information daily to the department of revenue and finance to issue a warrant or electronic file transfer (EFT) payment to the obligee.

97.6(2) *Release of funds.* The following workday a state warrant shall be sent by regular mail to the last-known address of the obligee, or an electronic transfer of funds shall be sent to the designated account of the obligee.

97.6(3) *Electronic transfer.* Obligees who want electronic transfer of support payments shall complete Form 470-2612, Authorization for Automatic Deposit, and submit it to the collection services center.

97.6(4) *Walk-ins.* Support payments shall not be hand-delivered to the obligee on a walk-in basis.

441—97.7(252B) Processing misdirected payments. If the collection services center receives a payment for which a corresponding obligee cannot be identified, the collection services center shall contact the person or entity that directed the payment to obtain additional information. Payments inappropriately directed to the collection services center shall be returned to the person or entity sending the payment.

These rules are intended to implement Iowa Code sections 252B.13A through 252B.17.

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f. Contract effective date. If the agreed-upon contract conditions have been met, the effective date of the contract is the first day of an agreed-upon month following signature by the director of the state volunteer program, or the manager of the purchase of service section.

150.5(2) *Contract administration.*

a. Contract management. During the contract period, the assigned project manager shall be the liaison between the department and the contractor. The project manager shall be contacted on all interpretations and problems related to the contract and shall follow issues through to their resolution. The project manager shall also monitor performance under the contract and will provide or arrange for technical assistance to improve the contractor's performance, if needed.

b. Contract amendments. The contract shall be amended only upon agreement of both parties. Amendments which affect the cost of providing the volunteer services must include reestablishment of amounts to be paid.

c. Contract renewal. A joint decision to pursue renewal of the contract must be made at least 60 days prior to the expiration date. Each contract shall be evaluated. The results of the evaluation shall be taken into consideration in the decision on renewal. This evaluation may involve use of evaluation tools specified in the contract.

d. Contract termination. Causes for termination during the period of the contract are:

(1) Mutual agreement of the parties involved.

(2) Demonstration that sufficient funds are unavailable to continue the service(s) involved.

(3) Failure to make reports required by the contract.

(4) Failure to make financial, statistical, and program records available.

(5) Failure to abide by the provisions of the contract.

150.5(3) *Conditions of participation.* The contractor shall meet the following standards:

a. Licensure, approval, or accreditation. The contractor shall have any license, approval, and third-party accreditation required by law, regulation, or administrative rules, or shall meet standards of operation required by state or federal regulation. This requirement must be met before the contract can be effective.

b. Signed contract. A contract can be effective only when signed by all parties required in 150.5(1)*"d."*

c. Civil rights laws. The contractors shall be in compliance with all federal, state, and local civil rights laws and regulations with respect to equal employment opportunity, or have a written work plan approved by the bureau of equal opportunity/affirmative action to come into compliance.

d. Title VI compliance. The contractors shall be in compliance with Title VI of the 1964 Civil Rights Act, as amended, and all other federal, state, and local laws and regulations regarding the provision of services, or have a written plan approved by the bureau of equal opportunity/affirmative action to come into compliance.

e. Section 504 compliance. The contractors shall be in compliance with Section 504 of the Rehabilitation Act of 1973, as amended, and with all federal, state, and local Section 504 laws and regulations, or have a written work plan approved by the bureau of equal opportunity/affirmative action to come into compliance.

f. Affirmative action. The contractors shall be in compliance with all federal, state, and local laws and regulations regarding affirmative action, or have a written work plan approved by the bureau of equal opportunity/affirmative action to come into compliance.

g. Abuse reporting. The contractor shall have an approved policy and procedure for reporting abuse or denial of critical care of children or dependent adults.

h. Confidentiality. The contractor shall comply with all applicable federal and state laws and regulations on confidentiality.

i. Financial and statistical records. Each contractor of service shall maintain sufficient financial and statistical records, including program and census data, to document the validity of the reports submitted to the department.

(1) The records shall be available for review at any time during normal business hours by department personnel, the purchase of service fiscal consultant, or state or federal audit personnel.

(2) These records shall be retained for a period of five years after final payment.

j. Certification by department of transportation. Each contractor who supplies transportation services shall submit Form 020107, Certification Application for Coordination of Public Transit Services, and a copy of "Certificate of Insurance" (an ACORD form or similar or self-insurance documentation) to the applicable project manager annually showing information regarding compliance with, or exemption from, public transit coordination requirements as found in Iowa Code chapter 324A and department of transportation rules 761—Chapter 910.

Failure to provide the required documentation for compliance or exemption is grounds for denial or termination of the contract.

150.5(4) *Establishing amounts to be paid.* The amounts to be paid under purchase of administrative support contracts are actual approved expenses as negotiated in the contract. Approved items of cost are based on submission of a proposed budget listing those items necessary for provision of the volunteer coordination or technical assistance to be delivered. At the termination of the contract a statement of actual expenses incurred shall be submitted by the contractor.

150.5(5) *Billing procedures.* At the end of each month, or as otherwise provided in the contract, the contractor shall prepare a claim on Form 07-350, Purchase Order/Payment Voucher, for expenses for which reimbursement is permitted in the contract. The claim is to be sent to the regional office of the department that administers the contract for approval and forwarding for payment.

a. Time limit for submitting claims. The time limit for submission of original claims shall be within 90 days of the provision of service.

b. Resubmittals of rejected claims. Valid claims which were originally submitted within this time limit but were rejected because of an error must be resubmitted, but without regard to time frames.

150.5(6) *Reviews of department actions.* A contractor who is adversely affected by a department decision may request a review. A review request may cause the action to be stopped pending the outcome of the review process, except in cases where it can be documented that to do so would be detrimental to the health and welfare of clients. The procedure for review is:

a. Within ten days of receipt of the decision in question the contractor shall send a written request for review to the project manager responsible for the contract. This request shall document the specific area in question and the remedy desired. A written response from the project manager shall be provided within ten days.

b. When dissatisfied with the response, the contractor shall submit the original request, the response received, and any additional information desired to the district administrator within ten days. The district administrator shall study the concerns, the action taken and render a decision in writing within 14 days. A meeting with the contractor may be held to clarify the situation.

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CHAPTER 151
COURT-ORDERED SERVICES

[Prior to 7/1/83, Social Services[770] Ch 141]
[770—Ch 141 renumbered as 498—Ch 209, IAB 2/29/84]
[Agency number changed from [498] to [441] IAB 2/11/87]
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PREAMBLE

These rules prescribe all services for children eligible for reimbursement from funds appropriated specifically for court-ordered and juvenile court-directed services to children for whom the juvenile court has primary responsibility, including the court-ordered services to juveniles fund. The rules establish procedures for administration, application, appeals, service delivery, billing and payment, eligibility criteria, and the allocation formula for funds appropriated for juvenile court services.

DIVISION I
COURT-ORDERED CARE AND TREATMENT

441—151.1(232) Expenses to be reimbursed. The following lists of expenses that are either eligible or ineligible for reimbursement are intended to be exhaustive. Any expense for a service not listed below shall be reviewed by the judicial district planning committee to determine if this fund will pay for the expense. If payment of the expense would not be in conflict with current law or administrative rules and meets the criteria of the judicial district planning committee, this fund shall be used to reimburse the provider.

151.1(1) The expenses for which reimbursement shall be made include:

a. Expenses, other than salary, incurred by a person ordered by the court other than a juvenile court officer, in transporting a child to or from a place designated by the court, including mileage, lodging and meals.

b. The expense of care or treatment ordered by the court whenever the minor is placed by the court with someone other than the parents; or a minor is given a physical or mental examination or treatment under order of the court; or, upon certification by the department, a minor is given physical or mental examinations or treatment with the consent of the parent, guardian or legal custodian, relating to a child abuse investigation and no provision is otherwise made by the law for payment for the care, examination, or treatment of the minor.

Care and treatment expenses for which no other provision for payment is made by law that shall be reimbursable include court-ordered:

(1) Individual services for the child separate from a family's treatment plan.

(2) Diagnosis and evaluation on an outpatient basis unless the diagnosis and evaluation is provided by a person or agency with a purchase of service contract for that service in which case the proper payment source is home-based services.

(3) An evaluation of a child in a residential facility.

(4) Inpatient (hospital) evaluation of a child previous to disposition.

(5) Medical treatment for a child.

(6) Drug treatment, testing and care for a child.

(7) Intensive in-home supervision and monitoring and alternatives to shelter care unless the service is provided by a person or agency with a purchase of service contract for that service in which case the proper payment source is home-based services.

(8) Evaluation of parents pursuant to a CINA adjudication unless the diagnosis and evaluation is provided by a person or agency with a purchase of service contract for that service in which case the proper payment source is home-based services.

(9) One-to-one supervision of child not in a detention facility unless the service is provided by a person or agency with a purchase of service contract for that service in which case the proper payment source is home-based services.

(10) Physical or mental examinations ordered pursuant to Iowa Code section 232.49 or 232.98 except those set forth in subrule 151.1(2), paragraph "*c*," or those eligible for payment pursuant to Iowa Code chapter 249A.

(11) Services ordered under family in need of assistance proceedings unless the service is provided by a person or agency with a purchase of service contract for that service in which case the proper payment source is home-based services.

151.1(2) Expenses that are excluded from reimbursement because another provision exists in the law include:

a. Foster care (including shelter care). Payment provisions are Iowa Code sections 234.35 and 234.36.

b. All charges for which the county is obligated by statute to pay including:

(1) Care and treatment of patients by any state mental health institute. Payment provision is Iowa Code section 230.20(5).

(2) Care and treatment of patients by either of the state hospital-schools or by any other facility established under Iowa Code chapter 222. Payment provision is Iowa Code section 222.60.

(3) Care and treatment of patients by the psychiatric hospital at Iowa City. Payment provision is Iowa Code chapter 225.

(4) Care and treatment of persons at the alcoholic treatment center at Oakdale or any other facility as provided in Iowa Code chapter 125. Payment provision is Iowa Code section 125.44.

(5) Care of children admitted or committed to the Iowa juvenile home at Toledo. Payment provision is Iowa Code section 244.14.

(6) Clothing, transportation, and medical or other service provided persons attending the Iowa braille and sight-saving school, the Iowa school for the deaf, or the state hospital-school for severely handicapped children at Iowa City for which the county becomes obligated to pay pursuant to Iowa Code sections 263.12, 269.2, and 270.4 to 270.7.

(7) Care and treatment of persons placed in the county hospital, county care facility, a health care facility as defined in Iowa Code section 135C.1, subsection 4, or any other public or private facility in lieu of admission or commitment to a state mental health institute, hospital-school, or other facility established pursuant to Iowa Code chapter 222. Payment provisions are Iowa Code sections 222.50, 230.1 and 244.14.

c. Child abuse photos and X-rays. Payment provision is Iowa Code section 232.77 and rule 441—175.5(232).

d. Any expenses set forth in subrule 151.1(1) above which qualify for payment pursuant to Iowa Code chapter 249A.

e. Expense of a child sexual abuse examination. Payment provision is Iowa Code section 709.10.

f. Expense of child day care. Payment provision is Iowa Code section 234.6.

g. Expense of in-home treatment services. The payment provision is home-based services.

h. Expense of homemaker-home health aide services. Payment provision is department of public health rules 641—Chapter 80.

151.1(3) Expenses for detention in a facility used for detention are excluded from reimbursement.

151.1(4) Expenses for all educational testing or programming, except for testing or programming of juveniles not weighted as special education students who attend an on-campus school in an out-of-state facility, are excluded from reimbursement.

151.1(5) Expenses for all court-ordered counseling and treatment for adults, including individual, marital, mental health, substance abuse and group therapy, unless this therapy is part of a total family-centered service package.

441—151.2(232) Amount to be reimbursed. In determining the amount of reimbursement, the department shall reimburse as follows:

151.2(1) The department shall reimburse at the rates set by the state for mileage, meals and lodging expenses involved in the transportation of the child.

151.2(2) For Medicaid-covered services the department shall reimburse at the same rate and duration as Medicaid does under the fee schedule section of 441—subrule 79.1(2).

151.2(3) The department will reimburse providers with purchase of service agreements at the rate of the purchase of service agreement. The department will reimburse providers who do not have a purchase of service agreement at a rate comparable to the rate reimbursed to providers who have an agreement with the department.

151.2(4) The department will begin to establish allowable rates for services that are not covered in the above subrules.

151.2(5) The department will supplement private insurance up to the amount the above rules allow. This fund is not to be used in lieu of private insurance.

441—151.3(232) Reporting and reimbursement requirements. The department shall reimburse a claimant for enumerated costs when claims are submitted according to the following procedures:

151.3(1) Claims shall be billed for services as established by the district planning committee's spending priorities. Claims for services rendered on or after July 1, 1991, shall be submitted monthly by the claimant using Form 470-1691, Claim for Court-Ordered Care and Treatment. Each claim shall also include an original and two copies of the signed and completed Authorization for Payment of Court-Ordered Care and Treatment, Form 470-2609, a statement as specified in subrule 151.3(3) and court documentation.

151.3(2) Claims shall be submitted to the county juvenile court office or department of human services local office by the end of the month following the month in which the service was provided.

a. The claim shall be submitted within three months of the date of service. Claims submitted more than three months after provision of service will have to go through the state board of appeals process in order to be paid. Exceptions to this policy are when hospitals, clinics, mental health centers and doctors have applied for Medicaid or private insurance to pay for the care and treatment and are waiting for Medicaid or the insurance company to make a determination about payment and at the end of the fiscal year when claims need to be submitted within 45 days of the end of the fiscal year, June 30, to ensure payment out of that fiscal year.

b. Valid claims which were originally submitted within the time limit specified in paragraph *"a,"* but were rejected because of an error, shall be resubmitted without regard to time limit.

c. Claims for services not paid by the date of the closing of accounting books for that fiscal year must be filed with the appeal board for the claimant to receive payment.

151.3(3) Any claim for treatment or care shall be accompanied by an explanation of the type of service provided and a billing or statement including the name, the mailing address and telephone number of the agency or person providing the service. The instructions and the forms used shall be available at each county's juvenile court and human services office.

151.3(4) Each claimant shall maintain and make available upon request to the department of inspections and appeals and the state auditor the records, including court orders, used in submitting claims for reimbursement. The records shall be subject to audit by the department of inspections and appeals.

151.3(5) In the event an audit of the claimant fails to verify the amount, the claimant shall reimburse the department the difference between the amount submitted by the claimant and the amount verified upon audit, not to exceed the amount paid by the state.

151.3(6) When the claimant fails to maintain adequate records for auditing purposes, fails to make records available for auditing, or when the records, upon audit, fail to support the claims submitted, the claimant shall reimburse the department for the amount of any claims not supported by audit.

151.3(7) The department shall not reimburse a provider at a rate which is greater than that allowed by administrative rules. Reimbursement paid to a provider shall be considered paid in full unless the county voluntarily agrees to pay the difference between the reimbursement rate and the actual costs of the service. When there are specific program regulations prohibiting supplementation, such as the prohibition of supplementation of Medicaid reimbursement, those regulations shall be applied to providers requesting supplemental payments from a county.

151.3(8) In the event that funds are expended in any judicial district, the chief judge of the district will be notified.

These rules are intended to implement Iowa Code section 232.141.

441—151.4 to **151.20** Reserved.

DIVISION II
ADOLESCENT MONITORING AND OUTREACH SERVICES

441—151.21(232) Definitions.

"Adolescent monitoring and outreach services" are activities undertaken to provide intensive one-to-one guidance and monitoring of a child with the goal of maintaining client accountability and establishing positive behavior patterns for a client in a nonresidential, community-based setting.

"Child" means a person under 18 years of age.

"Department" means the department of human services.

"Juvenile court officer" means a person appointed as a juvenile court officer under Iowa Code chapter 602 and a chief juvenile court officer appointed under Iowa Code chapter 602.

441—151.22(232) Service components. Adolescent monitoring and outreach services are designed to provide a continuum of individualized interventions to adolescents and their families 7 days a week, 24 hours a day and is composed of two primary service components and three secondary services components.

151.22(1) *Primary service components.* Primary service components include:

a. Adolescent tracking, guidance and monitoring, which may include electronic monitoring. These activities are directed toward maintaining client accountability and include multiple daily contacts through direct client contact, telephone, or electronic monitoring devices.

b. Advocacy and outreach services. Advocacy and outreach activities are designed to provide advocacy for the client and may include assistance in accessing the following types of resources:

(1) Referral to community organizations.
(2) Health services (physical and mental).
(3) Education.
(4) Employment.
(5) Legal.
(6) Case conferences and services planning.
(7) Diagnostic assessment services.
(8) Family competency building services.

151.22(2) *Secondary service components.* Secondary service components shall be provided only in combination with a primary service component, and include:

a. Guidance.
b. Recreation.
c. Transportation.

441—151.23(232) Application. Application for adolescent monitoring and outreach services shall be made pursuant to 441—Chapter 130 on Form SS-1120-0, Application for Social Services/IV-A Emergency Assistance. The application shall be taken by a juvenile court officer and submitted to the division of adult, children and family services of the department for Title IV-A emergency assistance services eligibility determination.

441—151.24(232) Eligibility. Children shall be eligible for adolescent monitoring and outreach services without regard to income or cash resources when the juvenile court officer has determined there is a need for services as evidenced by one of the following situations:

151.24(1) *Receipt of reports.* Reports have been completed by schools, parents or community organizations indicating the need for monitoring and tracking of a client due to concerns or reports of delinquent activities.

151.24(2) *Filing of petition.* A petition has been filed alleging delinquent behavior.

151.24(3) *Action of juvenile court.* Juvenile court actions have been taken including, but not limited to, informal adjustment agreements, adjudication and disposition proceedings.

441—151.25(232) Service provision. Services may be provided by persons or agencies who have entered into contractual agreements with the juvenile court for the provision of adolescent monitoring and outreach services. Each judicial district chief juvenile court officer shall establish minimum qualifications for providers of adolescent monitoring and outreach services, and criteria and procedures for selection and contracting with providers to best meet the services needs of the juveniles in the judicial district.

The juvenile court shall provide the department's division of adult, children and family services with the following:

151.25(1) *Identification of providers.* A list of approved providers and the date of provider approval.

151.25(2) *Contracting procedures.* A description of the court's contracting procedures including:

a. Methods of provider selection.
b. Provider qualifications and training.
c. Reporting requirements.
d. Service documentation procedures.

441—151.26(232) Service termination and reduction. Services shall be terminated when the court orders discontinuation of services or when the juvenile court officer determines there is no longer a need for service or that maximum benefits of services provision have been achieved. If funds allocated or appropriated for these services are exhausted or encumbered, services shall be discontinued.

441—151.27(232) Appeals. If services are court-ordered, clients who believe they have been adversely affected by decisions made by the juvenile court may appeal through appeals procedures established pursuant to Iowa Code section 232.133. For services which are not court-ordered, clients who believe they have been adversely affected may appeal to the appropriate chief juvenile court officer.

441—151.28(232) Billing and payment procedures.

151.28(1) *Contractual agreements.* The juvenile court shall have the authority to enter into contractual agreements with persons or agencies for the provision of adolescent monitoring and outreach services.

151.28(2) *Payment for services.* Payment for services under this funding source shall be made only to providers of services that have contractual agreements with the juvenile court for the provision of adolescent monitoring and outreach services.

151.28(3) *Unit of service and maximum rate.* The unit of service shall be defined as one-half hour of client service. For telephone contact monitoring, the judicial district may choose to reimburse providers at an established flat rate per telephone contact. The reimbursement rate shall represent actual costs not to exceed a maximum of $20 per half hour.

151.28(4) *Claim submission.* The department shall reimburse providers for provision of services when claims are submitted according to the following procedures:

a. Claims for services shall be billed using Form 470-1691, Claim for Court-Ordered Care and Treatment, and Form 07-350, Purchase Order/Payment Voucher. Each claim shall include an original and two copies of the signed and completed forms. At a minimum, the voucher shall contain the names of the children to whom service was provided and the number of service units provided per child.

b. Any claim for payment shall be accompanied by an explanation of the type of service provided and a billing or statement including the name, mailing address and telephone number of the agency or person providing the services. The instructions and forms used shall be available at each county's juvenile court and human services office.

c. Claims shall be submitted to the chief juvenile court officer in the judicial district in which the service was provided for approval. Claim forms shall then be submitted to the Department of Human Services, Division of Adult, Children and Family Services, Hoover State Office Building, Des Moines, Iowa 50319-0114.

d. Claims shall be submitted within 90 days of the date of services. Claims submitted more than 90 days after the provision of service have to go through the state board of appeals process in order to be paid. Current fiscal year claims which are not submitted within 90 days of the date of services and which are not more than $2,500 shall be sent to the department's central office for payment. Claims that are not submitted within 90 days of the date of services for amounts that exceed $2,500 shall be sent to the state appeals board.

Valid claims which were originally submitted within the time limits specified, but were rejected because of an error, shall be resubmitted prior to the end of the current fiscal year.

Claims for services not paid by the date of the closing of accounting books for that fiscal year must be filed with the appeal board for the claimant to receive payment.

151.28(5) *Records.* Each claimant shall maintain and make available upon request to the department, the records, including court orders, used in submitting claims for reimbursement.

151.28(6) *Audits.* In the event an audit of the claimant fails to verify the amount, the claimant shall reimburse the department the difference between the amount submitted by the claimant and the amount verified upon audit, not to exceed the amount paid by the state.

When the claimant fails to maintain adequate records for auditing purposes, fails to make records available for auditing, or when the records, upon audit, fail to support the claims submitted, the claimant shall reimburse the department for the amount of any claims not supported by audit.

441—151.29(232) Allocation of funds. Funds appropriated by the Iowa General Assembly for the provision of adolescent monitoring and outreach services shall be allocated to the judicial districts according to a formula based on the per capita population of children aged 5 to 17 (1990 census). The department shall monitor the provision of services and availability of funds and, in consultation with the chief juvenile court officers, reallocate funds as needed to ensure the availability of services on a statewide basis.

441—151.30(232) Client records. The juvenile court shall maintain a client case file that shall include information generated during client assessment, documentation of court proceedings, service plans and case reports, including provider quarterly reports documenting provision of services. The juvenile court officer shall notify the division of adult, children and family services when services are discontinued.

Client records shall be maintained for a period of five years following termination of services.

Central office staff of the department shall complete annual on-site reviews of the service records maintained by the juvenile court of clients receiving adolescent monitoring and outreach services for which a Title IV-A emergency assistance federal match was claimed.

These rules are intended to implement Iowa Code section 232.141 and 1994 Iowa Acts, chapter 1186, section 10, subsection 17.

441—151.31 to **151.40** Reserved.

DIVISION III
SUPERVISED COMMUNITY TREATMENT PROGRAM SERVICES

PREAMBLE

Supervised community treatment services are activities intended to provide daily treatment and support services to youth adjudicated as delinquent or evaluated by a juvenile court officer to be at risk of such an adjudication. These youth experience problems that place them at risk of group care or state institutional placement. Supervised community treatment services were developed by the department, in collaboration with chief juvenile court officers, as a result of funds appropriated to the department for these purposes.

441—151.41(232) Definitions.

"Child" means a person under 18 years of age.

"Department" means the department of human services.

"Juvenile court officer" means a person appointed as a juvenile court officer or as a chief juvenile court officer under Iowa Code chapter 602.

"Supervised community treatment services" are activities intended to provide treatment and educational support services to youth who are adjudicated as delinquent or evaluated by a juvenile court officer to be at risk of such an adjudication; and who are experiencing social, behavioral, or emotional problems that place them at risk of group care or state institutional placement.

441—151.42(232) Service components. Supervised community treatment programs provide treatment and an opportunity to participate in educational programming to youth. Supportive therapy or counseling and skill development services may be provided by these programs to the youth's family.

Supervised community treatment programs may be colocated with existing school programs. Although the costs of educational programming shall not be funded through this appropriation, programs shall be developed so that there is close coordination between educational and treatment components. Supervised community treatment programs shall be developed in accordance with the following characteristics and treatment components:

151.42(1) *Attendance.* Youth shall attend the noneducational portion of the program at least three hours per day for at least three days per week.

151.42(2) *Skill-building services.* Youth shall receive skill-building services focusing on social skills, recreational activities, employment readiness, independent living, and other areas related to their treatment needs each day they attend the program.

151.42(3) *Therapy and counseling.* Youth shall receive individual, group, and family therapy and counseling as determined appropriate by the program director and referral source.

151.42(4) *Nutrition.* Snacks and meals shall be provided as necessary throughout the noneducational portion of the program day.

151.42(5) *Supervision and support services.* Supervision and support services such as transportation to the noneducational program, family outreach, telephone contact, and electronic monitoring of youth shall be provided when necessary.

151.42(6) *Aftercare service planning.* Aftercare service planning shall begin upon admission so that timely aftercare services are available upon discharge, if needed.

441—151.43(232) Service application. Children and their families shall make application for supervised community treatment services or be directed to receive the services through the juvenile court office in their area.

441—151.44(232) Service eligibility. Children shall be eligible for supervised community treatment service without regard to individual or family income when they meet all of the following criteria. Documentation of each client's eligibility shall be maintained by the client's juvenile court officer in the juvenile court case record. Services may be denied due to unavailability of funds.

151.44(1) *Adjudication.* The child shall have been adjudicated as delinquent by the juvenile court or be evaluated by a juvenile court officer to be at risk of such an adjudication.

151.44(2) *Risk of placement.* The child shall be experiencing social, behavioral, or emotional problems that put the child at risk of group care or state institutional placement.

151.44(3) *Level of treatment.* The child shall not require more extensive treatment than provided in the supervised community treatment program.

151.44(4) *Court order or referral.* The child shall be court-ordered to participate in supervised community treatment services or shall be referred to the program by the child's juvenile court officer. Referrals shall not be made when funds for the program are not available.

441—151.45(232) Service coordination. Supervised community treatment services shall be coordinated in accordance with the following procedures:

151.45(1) *Service referral.* When a juvenile court officer has determined that a youth for whom the officer is responsible is appropriate for supervised community treatment services, the officer shall refer the eligible client to providers of supervised community treatment services serving the child's community and make arrangements for the youth's admission into the service.

151.45(2) *Time limits for service approval.* Juvenile court officers shall review and approve a client to receive supervised community treatment services for up to six months at a time except that service approval shall not extend beyond the end of the current fiscal year. The officer shall reevaluate the client's eligibility and need for services in accordance with procedures established by the respective judicial district.

151.45(3) *Monitoring of service delivery.* Juvenile court officers shall monitor the delivery of supervised community treatment services to youth for whom they are responsible. Monitoring shall include maintaining contact with the child, the child's family, the provider, and other community agencies to adequately assess the child's progress and need for services. In addition, juvenile court officers shall monitor the accuracy of provider billings.

441—151.46(232) Provider progress reports. Providers of supervised community treatment services shall prepare an initial treatment plan in consultation with the referral source within 30 days of the client's admission and shall prepare a minimum of quarterly progress reports on each youth receiving services. Additional reports may be prepared when requested by the juvenile judge or the youth's juvenile court officer. All reports shall be submitted to the juvenile court officer responsible for monitoring the child's progress. All reports shall, at a minimum, describe the child's attendance, adjustment, and progress in achieving the desired goals and objectives established in the treatment plan.

441—151.47(232) Service reduction or termination. Supervised community treatment services shall be reduced or terminated by a child's assigned juvenile court officer when the officer determines that one of the following conditions exists:

151.47(1) *More restrictive setting needed.* The youth has experienced social, behavioral, or emotional problems requiring placement in a more restrictive setting by order of the court.

151.47(2) *Progress sufficient.* The youth has made sufficient progress, based on provider progress reports and the officer's own evaluation, so that supervised community treatment services are no longer required.

151.47(3) *Noncompliance.* The youth, or the youth's family, has been noncompliant with treatment program requirements, despite attempts to promote cooperation. Continuation of the child in the program is evaluated by the court officer not to be in the youth's best interests.

151.47(4) *Unavailability of funds.* Funds are not available for continued services if funds are encumbered but not expended.

441—151.48(232) Appeals. The sole remedy for youth whose applications for supervised community treatment services are denied, or whose services are reduced or terminated shall be appeal of these decisions to the chief juvenile court officer or the officer's designee of the respective judicial district. The chief juvenile court officer's or designee's decision shall be final.

441—151.49(232) Provider standards, contracting, rates, and billing and payment. The following procedures shall be followed for provider selection, contracting, rate setting, billing and payment.

151.49(1) *Eligible providers.* Eligible providers of supervised community treatment program services shall meet all of the following conditions. Agencies or organizations shall have:

a. A current purchase of services or rehabilitative treatment and supportive services contract with the department and agreed to accept the unit rate and applicable programmatic requirements for any of these services delivered in conjunction with supervised community treatment services.

b. Been selected by administrative officials of the judicial district within the geographic area where the program is located to provide supervised community treatment services within all or a portion of the judicial district.

c. Agreed to provide services in compliance with the programmatic standards established by the rules of this division.

d. Entered into a contract with the judicial district and the department that establishes expectations, rates, and billing and payment procedures for the supervised community treatment program.

e. Agreed to charge the applicable rehabilitative treatment and supportive services unit rate and follow applicable rehabilitative treatment and supportive services standards governing service delivery and staff qualifications for any supervised community treatment services delivered in the same room, and at the same time, and with the same staff as any rehabilitative treatment or supportive service program of the agency.

f. Agreed to report supervised community treatment program costs separately on all purchase of services and rehabilitative treatment and supportive service cost reports.

151.49(2) *Provider selection.* A judicial district shall be allowed to choose one or more providers of supervised community treatment services within the various portions of the district. The chief juvenile court officer for each judicial district shall develop a process for announcing this program to potential providers within the district; a format and time line for submission of provider proposals to operate programs and provide services; and selection criteria for choosing providers to deliver services within the judicial district. Each judicial district shall submit a description of this supervised community treatment program selection process, including procedures for resolving appeals by providers not selected to develop programs, to the administrator of the department's division of adult, children and family services for approval prior to initiating the selection process. Chief juvenile court officers shall have the authority to resolve provider appeals in accordance with procedures approved by the department.

151.49(3) *Development of contacts with providers.* When a judicial district has selected providers to operate supervised community treatment programs within the district, the chief juvenile court officer or the officer's designee and staff from the division of adult, children and family services shall develop a contract between the department, judicial district, and provider. These contracts shall be based on the supervised community treatment program standards and procedures outlined in this division and on information contained in the proposals submitted by providers. Whenever possible and appropriate, judicial districts, providers, and the department shall work together to maximize utilization of RTSS services in conjunction with supervised community treatment programs in order to leverage available federal funding and allow for more children to receive services through the juvenile justice appropriation. All contracts shall require approval by the director of the department before service reimbursement may be made. Contracts shall be based on an agreement to reimburse the provider at a specific rate for services delivered to eligible clients, but shall not ensure a provider reimbursement for a specific rate of utilization. Contracts shall meet all applicable requirements of the department of revenue and finance. Contracts may be amended or terminated by the department due to the unavailability of funds.

151.49(4) *Monitoring of contracts with providers.* The chief juvenile court officer of each judicial district shall be responsible for monitoring the contractual compliance of supervised community treatment providers with whom contracts are developed. Each chief juvenile court officer shall provide the department a description of their process for monitoring contracts, which at a minimum shall include methods of reviewing service billings and delivery, provider standards, and progress reports and staff qualifications.

151.49(5) *Service rates.* Service rates for supervised community treatment services shall be established through review of the provider's budget and negotiation between the provider, appropriate chief juvenile court officer or the officer's designee, and department staff.

Rates shall be established and reimbursed based on delivery of either one-half hour of specified supervised community treatment services or on a per diem basis. However, the service rate for any supervised community treatment services delivered in the same room, and at the same time, and with the same staff as any rehabilitative treatment or supportive service program shall be the applicable half-hour service rate established under the rehabilitative treatment and supportive services program. Different half-hour rates may be established for the different components of the supervised community treatment program. All contracts shall establish and define billable units and payment rates for the program. Modifications in contracts may be requested by the provider and approved as necessary by the chief juvenile court officer. Providers may appeal denials of contract modification requests to the appropriate chief juvenile court officer, whose decision shall be final.

151.49(6) *Billing and payment.* Providers of supervised community treatment services shall submit billings on a monthly basis for specific youth receiving services. Bills shall be submitted on Form 07-350, Purchase Order/Payment Voucher, to the chief juvenile court officer of the appropriate judicial district. The chief juvenile court officer, or the officer's designee, shall verify the accuracy of the billings, approve the billings, and submit them on Form 07-350 to the court-ordered care and treatment program manager in the division of adult, children and family services to be processed for payment. The department shall process billings, issue payments to providers, and provide monthly accounting to the chief juvenile court officer.

441—151.50(232) Staff qualifications and training. The minimum standard for staff qualifications for staff employed to deliver services in a supervised community treatment program shall be graduation from high school or possession of a GED certificate and the equivalent of one year of full-time experience in the delivery of human services in a public or private agency. Judicial districts may require higher staff qualifications for specific components of these programs and shall outline expected qualifications in their requests for proposals and program contracts. Staff qualifications shall be monitored by the judicial district as part of contract monitoring.

Providers of supervised community treatment services shall ensure that staff have experience in working with the target population of delinquent youth and shall provide planned opportunities for ongoing staff development and in-service training.

441—151.51(232) Allocation and management of funds. Appropriated funds shall be allocated and managed as follows:

151.51(1) *Allocation.* Funding appropriated to the department for supervised community treatment services shall be allocated by the department among the eight judicial districts based on each district's respective proportion of the statewide population of children aged 5 to 17, based on current census data.

151.51(2) *Management.* Each judicial district shall manage its allocation to ensure that services are available throughout the fiscal year. If district funding is exhausted, services shall be discontinued. In the event demand in one district exceeds demand in another, the chief juvenile court officers shall work with the department to adjust district funding allocations so as to best meet statewide service needs. If funding for these services is exhausted, services shall be discontinued with notice provided to eligible clients and providers by the chief juvenile court officer or the officer's designee.

These rules are intended to implement Iowa Code section 232.141.

441—151.52 to **151.60** Reserved.

DIVISION IV
LIFE SKILLS DEVELOPMENT SERVICES

PREAMBLE

Life skills development services are intended to provide training in life and job-seeking skills, as well as job training experiences, to adjudicated delinquent youth, or youth who are evaluated by a juvenile court officer to be at risk of such an adjudication, and who are at low to moderate risk for delinquent behavior within their communities. These youth shall receive specific training to develop and enhance their interpersonal skills. Examples of allowable skill development training shall include, but not be limited to, interpersonal relationships, self-esteem, anger management, problem solving, stress reduction, accountability and accepting responsibility, victim empathy, and job skills and experiences. Life skills development instruction shall be provided in community-based settings to prevent placement in more restrictive settings or assist youth in returning to their communities from out-of-home placement.

441—151.61(232) Definitions.

"Child" means a person under 18 years of age.

"Department" means the department of human services.

"Juvenile court officer" means a person appointed as a juvenile court officer or as a chief juvenile court officer under Iowa Code chapter 602.

"Life skills development services" means the provision of instruction designed to enhance interpersonal adjustment, reduce recidivism, or prevent out-of-home placement to adjudicated delinquent youth or youth who are evaluated by a juvenile court officer to be at risk of such an adjudication. Life skills development services provide specific programs of instruction in community-based settings to youth who have experienced problems with delinquent behavior. These services may be provided on an individual or group basis.

441—151.62(232) Service application. Children and families may apply for life skill development services or be directed to receive the services through the juvenile court services office in their area.

441—151.63(232) Service eligibility. Children shall be eligible for life skills development services without regard to individual or family income when they are adjudicated delinquent or are evaluated by a juvenile court officer to be at risk of such an adjudication and are determined by their juvenile court officer to be in need of instruction in any of the following areas: interpersonal skills, anger management, stress reduction, self-esteem, problem solving, accountability and accepting responsibility, victim empathy, and job skills and experiences. Services may be denied due to the unavailability of funds.

Documentation of eligibility for life skills development services shall be maintained by juvenile court officers in the client's case record.

441—151.64(232) Service coordination. Life skills development services shall be coordinated in accordance with the following procedures:

151.64(1) *Service referral.* Chief juvenile court officers, or their designees, shall establish written procedures for screening and approving referrals for life skills development services. Referrals shall not be made when funds for the program are not available.

151.64(2) *Referral to provider.* When a juvenile court officer has determined a youth is eligible for life skills development services, the officer shall determine which service provider can best meet the youth's needs, refer the client to this provider, and assist in the client's transition to life skills development services.

151.64(3) *Time limits for service approval.* Juvenile court officers may approve life skills development services for up to six consecutive months at a time except that service approval shall not extend beyond the current fiscal year. The officer shall reevaluate the client's eligibility and need for these services in accordance with procedures established by the respective judicial district.

151.64(4) *Monitoring of service delivery.* The assigned juvenile court officer shall monitor the delivery of life skills development services to youth for whom they have supervisory responsibility. Monitoring shall include maintaining contact with the child, the child's family, the provider, and other community agencies as necessary to measure the child's progress and need for services. In addition, the juvenile court officer shall monitor the accuracy of provider billings. Provider or client problems in service delivery shall be brought to the attention of the juvenile court officer supervisor or chief juvenile court officer or designee.

441—151.65(232) Provider progress reports. Providers of life skills development services shall submit progress reports on each youth receiving services to the assigned juvenile court officer at intervals specified in the contract. Progress reports shall describe the specific instruction provided, the client's attendance, response to instruction, and progress toward achieving desired goals and objectives identified by the provider and referral source.

441—151.66(232) Service reduction or termination. Life skills development services may be reduced or terminated by the child's assigned juvenile court officer when the juvenile court officer has determined that one of the following conditions exists:

151.66(1) *Maximum benefits.* The youth has completed or received maximum benefits from life skills development services.

151.66(2) *Noncompliance.* The youth has been noncompliant or uncooperative with life skills development services despite repeated attempts to elicit the youth's cooperation.

151.66(3) *More restrictive setting needed.* The youth has experienced social, behavioral, or emotional problems that have resulted in placement in a more restrictive setting.

151.66(4) *Unavailability of funds.* Funds are not available within the judicial district for continued services.

441—151.67(232) Appeals. The sole remedy for youth whose applications for life skills development services are denied, or whose services are reduced or terminated, shall be appealed to the chief juvenile court officer of the respective judicial district or the officer's designee. The chief juvenile court officer's or designee's decision shall be final.

441—151.68(232) Provider standards, contracting, rates, billing and payment. Provider standards, contracting, rate setting, billing, and payment shall follow the procedures outlined below.

151.68(1) *Eligible providers.* Eligible providers of life skills development services shall be individuals or agencies that meet all of the following conditions. Providers shall:

a. Have the educational and instructional ability, as determined by juvenile court officers, to deliver life skills development services to eligible youth in the settings most suited to the client's needs.

b. Be selected and approved by the chief juvenile court officer or the officer's designee within each judicial district to provide life skills development services and instruction.

c. Use a curriculum approved by the appropriate chief juvenile court officer for life skills development services and instruction.

d. Have a contract with the judicial district and department for life skills development services and agree to abide by all required instructional, reporting, rate setting, and billing and payment procedures for life skills development services.

e. Agree to charge the applicable rehabilitative treatment and supportive services unit rate and follow applicable rehabilitative treatment and supportive services standards governing service delivery and staff qualifications for any life skills development services delivered in the same room, and at the same time, and with the same staff as any rehabilitative treatment or supportive service program of the agency.

f. Agree to report life skills development service costs separately on all purchase of service and rehabilitative treatment and supportive services cost reports.

151.68(2) *Provider selection.* The chief juvenile court officer or designee within each judicial district may consult with representatives from the department to select eligible providers of life skills development services to meet the needs of eligible youth within the district.

Multiple providers may be selected to address the needs within the districts. Providers may be individuals, agencies, or other organizations with the demonstrated capacity to provide life skills development services.

The chief juvenile court officer or designee of each judicial district shall develop and provide a written description of their process for selecting providers, including resolving appeals by providers not selected to provide life skills development services, and implementing life skills development services to the administrator of the department's division of adult, children and family services for review and approval prior to initiating the selection process. This description shall include the chief's plans for ensuring that providers are of appropriate character and for monitoring service delivery. Chief juvenile court officers shall have the authority to resolve provider appeals in accordance with procedures approved by the department.

151.68(3) *Development of contracts with providers.* When the chief juvenile court officer or designee of a judicial district has selected providers of life skills development services, the chief and department shall develop a contract with each provider that shall establish and define the billable unit of service and specify the payment rate for the provider's life skills development services, any approved charges for curriculum materials, and other expenses involved in the delivery of life skills development services. Contracts shall meet all applicable requirements of the department of revenue and finance. Contracts may be amended or terminated due to the unavailability of funds. Contracts shall be based on providing payment at a specific rate for services delivered to eligible providers, but shall not ensure reimbursement for a specific rate of utilization. Contracts shall be approved by the department before service reimbursement is made.

151.68(4) *Service rates.* Service rates for life skills development services shall be established through agreements between providers, chief juvenile court officers, and the department, based on the provider's proposed budget. Rates shall be defined on the basis of delivery of a specific time period or amount of life skills development services, including instruction to an eligible youth. Rates may vary between providers for various types of life skills development services. Providers may be approved for reimbursement for instructional materials if these expenses are not incorporated into the service delivery rate.

151.68(5) *Monitoring of contracts with providers.* The chief juvenile court officer of each judicial district shall be responsible for monitoring their contracts with life skills development providers. Chief juvenile court officers shall provide the department a description of their process for monitoring contracts, which at a minimum shall include methods of reviewing service billings and delivery, provider standards and progress reports, and staff qualifications. Providers may request contract modifications through the chief juvenile court officer. Providers may appeal denials of contract modification requests to the chief juvenile court officer, whose decision shall be final.

441—151.69(232) Staff qualifications and training. Providers of life skills development services shall use staff who, in the opinion of the chief juvenile court officers, have the necessary training and experience to provide quality services on the topic about which they will be delivering instruction. Providers shall ensure that staff involved in service delivery have opportunities for ongoing staff development and in-service training. Chief juvenile court officers shall review provider staff qualifications and training activities.

441—151.70(232) Billing and payment. Providers of life skill development services and instructional materials shall submit billings on a monthly basis for the specific youth who have been referred by juvenile court officers. Bills shall be submitted on Form 07-350, Purchase Order/Payment Voucher, to the chief juvenile court officer of the appropriate judicial district or designee. The chief juvenile court officer or designee shall verify the accuracy of these billings, approve them and submit them on Form 07-350 to the court-ordered care and treatment program manager in the division of adult, children and family services. The department shall process billings, issue payments to providers, and provide monthly accounting to the chief juvenile court officers.

441—151.71(232) Allocation and management of funding. Appropriated life skills development services funds shall be allocated and managed through the following procedures:

151.71(1) *Allocation.* Funding appropriated to the department for life skills development services shall be allocated by the department among the eight judicial districts based on each district's respective proportion of the statewide population of children aged 5 to 17, based on current census data.

151.71(2) *Management of funds.* Each judicial district shall manage its allocation to ensure that services are available throughout the fiscal year. If district funding is exhausted, services shall be discontinued. In the event demand in one district exceeds demand in another, the chief juvenile court officers shall work with the department to adjust district funding allocations so as to best meet statewide service needs. If funding for these life skills development services is exhausted, service shall be discontinued with notice provided to eligible clients and providers by the chief juvenile court officer or the officer's designee.

441—151.72 to **151.80** Reserved.

DIVISION V
SCHOOL-BASED SUPERVISION PROGRAMS

PREAMBLE

School-based juvenile justice programs are intended to provide services that maintain youth in their own communities and prevent out-of-home placement. School-based supervision programs provide, through a contract for services, on-site supervision services to students at the middle and high school levels. Youth receiving services may include nonadjudicated and adjudicated children who are experiencing truancy or other behavioral problems within the school setting. Those youth present a low to moderate risk for delinquency within their communities. Funding for school-based supervision programs shall be cooperative with the department committing one-half of the budgeted costs for each school-based program and the local school district and juvenile court services each committing one-fourth of the budgeted costs to provide these services within each school where a program is established.

441—151.81(232) Definitions.

"Child" means a person under 18 years of age.

"Department" means the department of human services.

"Juvenile court officer" means a person appointed as a juvenile court officer or a chief juvenile court officer under Iowa Code chapter 602.

"Juvenile justice school-based supervision service programs" are cooperative efforts jointly funded by the department, the juvenile court services through the court-ordered care and treatment program appropriation from the department, and local school districts in whose schools programs are located. These programs shall be designed to provide staff who deliver on-site supervision services to students experiencing truancy or other behavior problems that have caused increased problems at home or in the community. The primary target population of youth who will receive these services shall be those who fall within the jurisdiction of Iowa Code chapter 232. These programs are intended to maintain children in their communities and prevent out-of-home placement. Services provided may include, but are not limited to, dealing with misbehavior and truancy on an immediate basis, providing family support services such as outreach and education, performing juvenile court intake functions, and promoting resource development to meet the needs of youth most effectively.

441—151.82(232) Service application. Children and their families shall make application for school-based supervision services by contacting or being contacted by the school-based supervision staff in schools where programs are established.

441—151.83(232) Service eligibility. Youth who shall be eligible to receive services from a school-based supervision program established pursuant to these rules shall include those who meet at least one of the following conditions:

151.83(1) *Adjudication.* The child shall have been adjudicated as delinquent by the juvenile court or be evaluated as at risk of such an adjudication as identified by the department, juvenile court services, or schools.

151.83(2) *Behavior problems.* The child is experiencing (as determined by the department, juvenile court services, or schools) truancy or any other behavior problems that are causing increased problems at home or in the community. Children who meet one of these criteria may be served by a school-based supervision program. Additional eligibility criteria and service procedures may be developed by each school-based program to most effectively target resources to the specific needs of the school. These policies shall be contained in the program description and contract executed between the department, juvenile court, school, and service provider.

441—151.84(232) Allocation of funds, provider selection, and fiscal management. Funds appropriated to the department for school-based supervision services shall be allocated by the department among the eight judicial districts based on each district's respective proportion of the statewide population of children aged 5 to 17 based on current census data. These allocation amounts shall represent the department's share (one-half) of the program appropriation. These allocations shall be matched with 25 percent of each program's costs committed from the judicial district's court-ordered care and treatment appropriation from the department and the other 25 percent from the local school district where the program is established.

The chief juvenile court officer of each judicial district shall be responsible for selecting school-based programs for funding, and managing the district's school-based supervision allocation to ensure that resources are targeted effectively among schools within the district. The chief juvenile court officer or designee shall develop a process to inform school districts within the judicial district of the availability of funding for these programs, establish criteria for making selections for funding and resolving appeals in the event the number of interested schools exceeds available funding. The chief juvenile court officer shall provide a description of this process to the administrator of the department's division of adult, children and family services before initiating the selection process. The chief juvenile court officer shall have the final authority to resolve appeals in accordance with procedures approved by the department. All applications for funding shall contain funding commitments from the local school district for their 25 percent share of program costs. The chief may reduce requested funding in order to implement additional programs within the district.

441—151.85(232) Contracting. The department, school district, and chief juvenile court officers shall collaborate in the development of contractual agreements between the department and individuals or organizations selected to provide school-based supervision programs. No contract shall extend beyond the conclusion of the current fiscal year. All contracts shall specify that program services shall be discontinued if funding is exhausted or terminated. The chief juvenile court officers shall be responsible for monitoring the contracts for school-based programs within their districts and shall provide the department with a description of this process, which at a minimum shall include methods of monitoring service delivery and billings, provider standards and progress reports, and staff qualifications. Providers may request contract modifications through the chief juvenile court officer. Providers may appeal denial of contract modification requests to the chief juvenile court officer whose decision shall be final. Contracts shall meet all applicable requirements of the department of revenue and finance. Contracts may be amended or terminated due to the unavailability of funds.

The contract shall specify the respective responsibilities of the three program funders: the department, juvenile court, and the school district, as well as responsibilities and duties of the program provider. School districts shall make arrangements for the timely payment of program matching funds either to the department or directly to the provider through appropriate school procedures. These arrangements shall be defined in the contract. Each contract shall contain, at a minimum, the following information:

151.85(1) *School.* A description of the school district and specific schools in which the supervision program shall be implemented, including a description of why these schools were targeted as needing the program.

151.85(2) *Program description.* A description of the proposed school-based supervision program to be implemented, including client application, eligibility determination, service reduction or termination, and appeal procedures.

151.85(3) *Staff description.* A description of the number of staff to be employed in the program, including the job description, staff qualifications, procedures for training and supervising staff, and methods for monitoring the program.

151.85(4) *Budget and rate setting.* The proposed budget for the fiscal year, including assurances that the juvenile court, local school district, and department are in agreement that the department shall pay one-half and the school and juvenile court services shall each pay one-fourth of the total program costs. The method used by the school district in paying their share shall be specified. All contracts shall specify and define the billable unit of service.

151.85(5) *Record keeping and reporting.* A description of the record-keeping and statistical reporting procedures to be used by the program.

151.85(6) *Unavailability of funds.* A statement that services may be denied or terminated due to unavailability of funds.

151.85(7) *Signatures.* Signatures of authorized representatives of the department, the judicial district, and the local school district.

441—151.86(232) Billing and payment. Providers of school-based supervision services shall prepare billings on a monthly basis using Form 07-350, Purchase Order/Payment Voucher. Billings shall be submitted by the provider to the chief juvenile court officer of the judicial district or designee who shall verify the billing for accuracy, approve the billing, and submit it to the court-ordered care and treatment program manager in the department's division of adult, children and family services. The department shall process billings according to the rates and shares described in the contract, issue payments to providers, and provide monthly accounting to the chief juvenile court officer.

441—151.87(232) Provider record-keeping and progress reports. Each school-based supervision program shall have an established procedure for maintaining records on youth receiving assistance. The procedure shall also include methods for the timely communication of critical information between supervision staff and juvenile court, department, and school officials; assurances that child abuse allegations shall be reported promptly in accordance with applicable Iowa statutes; and systems to safeguard the confidentiality of client records.

School-based supervision programs shall maintain information and statistics which shall include, at a minimum, the number of children receiving services and educational and behavioral outcomes including attendance, grades, and student conduct. Each school-based supervision program shall submit an annual progress report summarizing this information to the appropriate chief juvenile court officer and department court-ordered care and treatment program manager. These reports shall be due by August 1 for the previous fiscal year of program operation. The format for these reports shall be specified by the chief juvenile court officer in collaboration with department and school officials.

These rules are intended to implement Iowa Code section 232.141.

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441—153.57(234) Program administration.

153.57(1) *Provider responsibilities.*

a. For a member whose case is being overseen by the department's service worker, in providing services to the member, the provider shall follow the department's case plan and shall submit quarterly reports on the member's progress to the department's service worker assigned responsibility for the case as required by 441—subparagraph 150.3(3)*"j"*(2).

b. For a member whose case is being overseen by the department's service worker and the Iowa Plan contractor, the provider shall follow the case plan designated by the Iowa Plan and shall submit reports as required by the Iowa Plan.

c. For a member whose case is being overseen by the department's service worker and a county central point of coordination, the provider shall follow the central point of coordination's case plan and shall submit quarterly reports on the member's progress to the department's service worker and central point of coordination as required by 441—subparagraph 150.3(3)*"j"*(2).

d. Providers furnishing services to members who are residents of a county without an approved county management plan shall furnish services in accordance with the provisions of the last approved county management plan, federal and state statutes and regulations, the department rules governing the mental illness, mental retardation and developmental disabilities local services being provided, and the rules of this chapter.

e. Providers furnishing services to members whose cases are being overseen by the department's service worker and the Iowa Plan contractor shall furnish services in accordance with the needs of the member and federal and state statutes and regulations and department rules and Iowa Plan criteria. The Iowa Plan contractor's denial of payment for a service which is a state responsibility shall not create a payment responsibility for the county.

f. Providers shall cooperate in furnishing the Iowa Plan contractor with any information the provider has that is necessary to determine the initial or continued need for service for a person for whom funding is sought through the Iowa Plan.

g. Providers shall cooperate in providing the department with any information the provider has that is necessary to determine the initial or continued eligibility of a person for whom funding is sought. Providers shall notify the department within 30 days of any change in a member's circumstances that would affect the member's eligibility or the member's cost of services.

h. Providers shall maintain in good standing all certifications, accreditation, licensure, or other applicable federal and state statutory and regulatory requirements; comply with all applicable federal and state confidentiality laws and applicable rules in the Iowa Administrative Code; and comply with all applicable federal and state requirements with respect to civil rights, equal employment opportunity, and affirmative action.

i. Providers shall notify the division administrator within 24 hours of any change in licensure, certification, accreditation, or other applicable statutory or regulatory standing. Providers shall maintain, for a period of five years from the date of service, clinical and financial records adequate to support the need for and provision of the services purchased by the department. The department or its authorized agent shall have access to these records to perform any clinical or fiscal audits the department deems necessary.

j. Providers shall comply with the rules of this chapter.

k. Providers under investigation by any federal or state statutory or regulatory authority may be prohibited from accepting for service any new applicants or members whom the providers did not already serve on the date the investigation was initiated. For the duration of the investigation, the provider shall not be prohibited from serving and receiving payment for services provided to members whom the provider served on the date the investigation was initiated.

l. Providers with a special mental health-mental retardation county contract agreement may terminate the agreement for any reason by giving 30 days' notice to the department and state payment program members they serve and making arrangements for the continuity of care of any state payment program member who would be affected by the termination.

153.57(2) *Department responsibilities.* The department as sponsoring agency shall be responsible for all contacts with governmental units as necessary, with in-state and out-of-state agencies as necessary, with the applicant or member's family and others in matters concerning the applicant or member's legal settlement and residency, entitlements from other sources and eligibility for the state payment program.

The department shall verify with the county central point of coordination the services and unit rates of providers applying for a special mental health-mental retardation county contract agreement by Form 470-3336.

The department reserves the right to terminate special mental health-mental retardation county contract agreements established via Form 470-3336 for any reason by giving 30 days' notice to the provider and to state payment program members the provider serves and making arrangements for the continuity of care of any state payment program member who would be affected by the termination. Failure by a provider to abide by the rules of this chapter may be cause for termination. Citations or sanctions against the provider by any federal or state statutory or regulatory authority may be cause for termination.

The department reserves the right not to enter into a special mental health-mental retardation county contract agreement with a provider who has been cited or sanctioned by a federal or state statutory or regulatory authority within two years of the provider's application for a special mental health-mental retardation county contract agreement via Form 470-3336, or who has failed to demonstrate that the provider meets the requirements for a special mental health-mental retardation county contract agreement as stated in this chapter.

153.57(3) *Payment to providers.* The following policies shall govern payment to providers for services furnished to members:

a. Payment for service shall be made in accordance with 441—Chapter 150 and departmental procedures. Form 470-0020, Purchase of Service Provider Invoice, shall be used to bill for services covered by a purchase of service contract or a special mental health-mental retardation county contract agreement for services actually provided to a member from the effective date of state payment program eligibility.

Payment for services which are the responsibility of the Iowa Plan contractor shall be made in accordance with the Iowa Plan's procedures and shall be submitted to the Iowa Plan contractor on Form 470-0020, Purchase of Service Provider Invoice, for payment.

Form 07-350, Purchase Order/Payment Voucher, shall be used for all other services.

b. Payment to a provider for services provided to a member shall be the purchase of service rate, or, if there is no purchase of service contract, the unit rate paid by the county in which the provider is located. Payment to a provider for services to a member whose case is being overseen by the department's service worker and the Iowa Plan shall be at the rate established by the Iowa Plan contractor.

c. Rescinded IAB 7/2/97, effective 7/1/97.

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[See 441—Chapter 168]

(7) Additional reports if requested by the referral worker.

(8) Form 470-3055, Referral of Client for Rehabilitative Treatment and Supportive Services.

156.7(3) *Family foster care treatment services.* Purchased family foster care rehabilitative treatment services shall meet the requirements in rules 441—185.61(234) to 441—185.64(234); shall be purchased from an agency certified pursuant to rules 441—185.9(234) and 441—185.10(234), and pursuant to rule 441—185.11(234); and shall be reimbursed pursuant to rules 441—185.101(234) to 441—185.108(234).

156.7(4) *Foster family home studies.* Purchased foster family home studies shall meet the following requirements:

a. Home studies shall be completed in accordance with rule 441—108.8(234).

b. The department shall determine when to refer a family to a private agency for a home study or when to purchase a home study or update completed by the private agency on Form 470-3055, Referral of Client for Rehabilitative Treatment and Supportive Services.

c. The unit of service shall be the completed home study.

d. The unit rate shall be determined according to the policies in rules 441—185.101(234) to 441—185.108(234), except that foster family recruitment shall be considered an allowable cost in determining the unit rate for foster family home studies.

156.7(5) *Purchasing services for individual children.* The department shall purchase services for a child based on the needs of the individual child. This may include one or more cores of rehabilitative treatment services, or a combination of rehabilitative treatment services and family foster care supervision.

156.7(6) *Billing procedures.* Billings shall be prepared and submitted pursuant to rule 441—185.121(234).

441—156.8(234) Special needs.

156.8(1) *Clothing allowance.* When in the judgment of the worker clothing is needed at the time the child is removed from the child's home and placed in foster care, an allowance may be authorized, not to exceed $250, to purchase clothing.

A second clothing allowance, not to exceed $200 for family foster care and $100 for all other levels, may be approved, not more than once within a calendar year, by the worker when a child in foster care needs clothing to replace lost clothing or because of unusual growth or weight change, and the child does not have escrow funds.

156.8(2) *Independent living.* When a child is initially placed in independent living, the area administrator may authorize an allowance not to exceed $400 if the child does not have sufficient resources to cover initial costs.

156.8(3) *Medical care.* When a child in foster care needs medical care or examinations which are not covered by the Medicaid program and no other source of payment is available, the cost may be paid from foster care funds with the approval of the regional administrator or designee. Eligible costs shall include emergency room care, medical treatment by out-of-state providers who refuse to participate in the Iowa Medicaid program, and excessive expenses for nonprescription drugs or supplies. Requests for payment for out-of-state medical treatment and for nonprescription drugs or supplies shall be approved prior to the care being provided or the drugs or supplies purchased. Claims shall be submitted to the department on Form 07-350, Purchase Order/Payment Voucher, within 90 days after the service is provided. The rate of payment shall be the same as allowed under the Iowa Medicaid program.

156.8(4) *Transportation for medical care.* When a child in foster family care has expenses for transportation to receive medical care which cannot be covered by the Medicaid program, the expenses may be paid from foster care funds, with the approval of the regional administrator. The claim for all the expenses shall be submitted to the department on Form 07-350, Purchase Order/Payment Voucher, within 90 days after the trip. This payment shall not duplicate or supplement payment through the Medicaid program. The expenses may include the actual cost of meals, parking, child care, lodging, passenger fare, or mileage at the rate granted state employees.

156.8(5) *Funeral expense.* When a child under the guardianship of the department dies, the department will pay funeral expenses not covered by the child's resources, insurance or other death benefits, the child's legal parents, or the child's county of legal settlement, not to exceed $650.

The total cost of the funeral and the goods and services included in the total cost shall be the same as defined in rule 441—56.3(239,249).

The claim shall be submitted by the funeral director to the department on Form 07-350, Purchase Order/Payment Voucher, and shall be approved by the regional administrator. Claims shall be submitted within 90 days after the child's death.

156.8(6) *School fees.* Payment for required school fees of a child in foster family care or independent living exceeding $5 may be authorized by the worker in an amount not to exceed $50 per calendar year if the child does not have escrow funds.

156.8(7) *Respite care.* The human services area administrator may authorize respite for a child in family foster care for up to 24 days per calendar year per placement. Respite shall be provided by a licensed foster family. The payment rate to the respite foster family shall be established as follows:

a. If the payment rate for the child is the basic rate, per subrule 156.6(1), or the basic rate per subrule 156.6(1) plus a difficulty of care rate per paragraph 156.6(4)*"a,"* *"b,"* or *"c,"* the respite family shall receive the basic rate per 156.6(1).

b. If the payment rate for the child is the basic rate, per subrule 156.6(1), plus a difficulty of care rate, per paragraph 156.6(4)*"d,"* and the respite foster family meets the definition of treatment foster parent in rule 441—156.1(234,252C), then the respite foster family shall receive the basic rate per subrule 156.6(1) plus the difficulty of care payment per paragraph 156.6(4)*"d."*

c. If the payment rate for the child is the basic rate, per subrule 156.6(1), plus a difficulty of care rate, per paragraph 156.6(4)*"d,"* and the respite foster family does not meet the definition of treatment foster parent in rule 441—156.1(234,252C), then the respite foster family shall receive the basic rate per subrule 156.6(1).

156.8(8) *Tangible goods, child care, and ancillary services.* To the extent that a child's escrow funds are not available, the human services area administrator may authorize reimbursement to foster parents for the following:

a. Tangible goods for a special needs child including, but not limited to, building modifications, medical equipment not covered by Medicaid, specialized educational materials not covered by educational funds, and communication devices not covered by Medicaid.

b. Child care services when the foster parents are working, the child is not in school, and the provision of child care is identified in the child's case permanency plan. A maximum of $750,000 in state funds shall be allocated among the department regions based on the number of licensed foster families in each region on July 1. The allocation shall be reviewed yearly and adjusted to reflect a change in the number of licensed families. Requests for child care shall be denied when the region's funds are obligated or depleted.

Child care services shall be provided by a licensed foster parent or a licensed or registered child care provider when available.

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CHAPTER 164
FOSTER CARE PROJECT GRANTS

PREAMBLE

These rules define and structure the foster care project grant program. This grant program is designed to provide services to prevent out-of-state placements or to assist children aged 16 and over in making the transition from foster care to independence.

441—164.1(72GA,ch1276) Definitions.

"Commissioner" means the commissioner of the department of human services.

"Court" means a juvenile court.

"Department" means the department of human services.

"District" means an administrative district of the department.

"District administrator" means an administrator of the district office.

"Foster care project grants" means those grants to units of local government, institutions, or private agencies for services to assist children in foster care.

"Grantee" means the recipient of a foster care project grant.

"Juvenile court judge" means the judge or referee of the juvenile court of one of the judicial districts.

"State review committee" means a group of persons with knowledge and experience in the development and delivery of services to juveniles who are designated by the commissioner to review foster care project grant applications.

441—164.2(72GA,ch1276) Availability of grants.

164.2(1) In any year in which state or federal funds are available for foster care initiatives, the department may purchase selected services through a grant process.

164.2(2) When the department awards grants, the department has the discretion to renew grants funded in previous years for similar purposes, to distribute a "request for proposals," or both.

441—164.3(72GA,ch1276) Who may apply. Any unit of local government, institution, or incorporated agency may submit a proposal. If the applicant intends to provide child-placing or child-caring services, the applicant must have the relevant license or include a plan for meeting licensing standards in the proposal. More than one agency may apply jointly as long as a single agency is identified as the contract administrating body.

441—164.4(72GA,ch1276) Request for proposals.

164.4(1) The department may distribute "request for proposals" (RFPs) for each fiscal year for which state or federal funds are available for foster care project grants.

164.4(2) The department shall distribute these RFPs through the following persons, groups and agencies:

a. Iowa department of education.

b. Bar or legal profession committees pertaining to juvenile law.

c. Iowa juvenile probation officers association.

d. Iowa state association of county governments.
e. Coalition for family and children's services in Iowa.
f. Community mental health centers.
g. Department district and local offices.
h. Iowa foster and adoptive parent association.
i. Commission on children, youth and families.
j. Iowa department of public health, division of substance abuse.
k. Juvenile community substance abuse agencies.
l. to *n.* Rescinded, IAB 6/29/88, effective 7/1/88.
o. Iowa supreme court administrator's office.
p. Iowa area colleges.
q. Licensed child-placing agencies.
r. Licensed child-care agencies or branch offices.
s. Licensed or approved shelter care facilities.
t. Approved detention facilities.
u. Rescinded, IAB 6/29/88, effective 7/1/88.

164.4(3) The request for proposal shall:
a. Specify the geographical areas of the state that are being targeted.
b. Specify the services which are needed for development or provision.
c. Explain where and how application materials may be obtained.
d. Inform potential applicants that district offices of the department will provide consultation regarding the following:
(1) Determination of the need for particular services.
(2) Definition of service components, measurable impacts, and evaluation techniques.
(3) Completion of the application form.
e. Inform potential applicants of the date applications are due to the department.
f. Inform potential applicants of the review criteria to be used in evaluating proposals.
g. Specify any required service characteristics.
h. Inform potential applicants that there are limits to the funds available.

441—164.5(72GA,ch1276) Application materials. Application forms for foster care project grants shall be available through the district offices of the department by the date the RFP is published and shall require at least the following information:

164.5(1) A description of the applicant's organization and organizational plan for providing the proposed services which includes but is not limited to the following:
a. An organizational chart.
b. A statement that the applicant has required licenses or a plan for obtaining these licenses.
c. A description of the proposed staffing pattern including the number of new positions and supervision of staff.
d. Identification of which components of the service program will be provided directly by the applicant and which, if any, will be provided by other agencies, institutions, or persons.
e. The applicant's ability to respond to the department and court referrals in the specific geographic area to be served.
f. Project staff recruitment and training plans.
g. An implementation schedule reflecting the time necessary to have the project on line.
h. Plans for funding the service after the grant expires.

164.5(2) A description of the applicant's experience with providing similar services to youth, especially those in foster care or other out-of-home care.

164.5(3) A statement of the unmet needs to be addressed by the services, including supporting statistics as available, the coordinated process which was used to determine the community need for services, and the written support of the district administrator and the chief judge of the district in which the applicant is located.

164.5(4) A description of the services for which department funding is being requested which includes but is not limited to the following:

a. The geographical area to be served.

b. The target population to be served.

c. A discussion of how the components of services will meet any required service characteristics.

d. A discussion of how the services will be managed and how the department and juvenile court offices will be kept informed of current and anticipated service availability.

e. The anticipated number of clients to be served.

f. A description of the components of the services.

g. A discussion of how the components of services will meet the unmet need identified in subrule 164.5(3) and how the services will enhance the community's child welfare service continuum, rather than duplicate existing resources.

164.5(5) A statement of the anticipated measurable outcomes of the service provision and the means of determining these outcomes.

164.5(6) The proposed budget for the services and other sources of income.

441—164.6(72GA,ch1276) Submission process.

164.6(1) All applicants shall submit eight copies of the completed application form as discussed in rule 441—164.5(72GA,ch1276) to the Bureau of Adult, Children and Family Services, Fifth Floor, Hoover State Office Building, Des Moines, Iowa 50319-0114 and one copy to each district office in which services are to be provided and the contract is to be developed.

164.6(2) In order to be included in the review process and considered for possible funding, applications shall be postmarked by midnight the date applications are due or delivered to the bureau of adult, children and family services during regular business hours any time prior to the deadline.

441—164.7(72GA,ch1276) Selection process.

164.7(1) All proposals submitted to the department shall be reviewed by the state review committee which shall make funding recommendations to the commissioner.

164.7(2) The district administrator shall review all proposals submitted to the district. The district administrator shall make funding recommendations to the state review committee.

164.7(3) The commissioner or designee shall review all proposals and the recommendations of the district administrator and the state review committee. The commissioner shall make the final funding decisions.

164.7(4) The following factors will be considered in selecting proposals:

a. The demonstrated need for the service in the geographical area served.

b. The community support demonstrated and the cooperation and coordination with existing agencies.

c. The target population to be served and the service components to be provided.

d. The general program structure including, but not limited to, how well goals can be met, the foster care or youth service background, how realistic the objectives are, the administration of funds, stability of the organization, and the overall quality and utility of the proposal in comparison to other proposals and in relationship to funding limits.

e. The extent to which the utilization of the funds will expand or improve the continuum of services available to children in the district in relation to the needs of the population to be served.

441—164.8(72GA,ch1276) Notification of applicants. Applicants shall be notified no later than 30 days after applications are due whether their application has been denied or the department is interested in negotiating a contract regarding their proposal.

441—164.9(72GA,ch1276) Appeals. Applicants dissatisfied with the commissioner's decision on an application for funds may file an appeal with the commissioner. The letter of appeal must be submitted within ten working days of the notice of decision and must include a request for the commissioner to review the decision and the reason for dissatisfaction. Within ten working days of the receipt of the appeal the commissioner will review the appeal request and issue a final decision.

No disbursements will be made to any new applicant for a period of ten calendar days. If an appeal is filed within the ten days, all new disbursements will be held pending a final decision on the appeal. All applicants involved will be notified if an appeal is filed and given the opportunity to be included as a party in the appeal.

Disbursements to grantees to renew contracts which were funded under similar initiatives in the previous year shall not be held pending the final decision on appeals regarding new grants.

441—164.10(72GA,ch1276) Contracts.

164.10(1) The contract shall be negotiated by the district and the applicant.

164.10(2) The applicant may be requested to modify the proposal in the negotiation process.

164.10(3) The applicant or the department may request an amendment to the contract.

164.10(4) Funds are to be spent to meet the program goals as provided in the contract.

164.10(5) If the district and applicant are unable to negotiate a mutually satisfactory contract, the commissioner may withdraw the offer of a contract. Applicants dissatisfied with this decision may file an appeal pursuant to rule 441—164.9(72GA,ch1276), except that the disbursement of funds to other grantees will not be held pending final decision on the appeal.

441—164.11(72GA,ch1276) Records. Grantees shall keep statistical records of services provided and other records as specified in the contract.

441—164.12(72GA,ch1276) Quarterly progress reports. All grantees shall supply the department with quarterly progress reports that include but are not limited to the following information:

1. The state grant dollars expended as they relate to each line item in the budget.
2. A list of goals and activities completed on schedule.
3. Goals or activities not completed on schedule and the reason for the delay.
4. The number of clients served and the services provided.
5. The major goals for the next quarter.
6. General comments on the progress of the project.

441—164.13(72GA,ch1276) Evaluation. The department shall complete an evaluation of the grantee's program at least once prior to the end of the contract year to determine how well the purposes and goals of the program are being met. The provider will receive a written report of the evaluation.

441—164.14(72GA,ch1276) Termination of contract.

164.14(1) The contract may be terminated by the grantee at any time during contract period by giving 30 days' notice to the department.

164.14(2) The department may terminate a contract upon ten days' notice when the grantee or any of its subcontractors fail to comply with the grant award stipulations, standards or conditions. The department may terminate a contract upon 30 days' notice when there is a reduction of funds by executive order.

164.14(3) Within 45 days of the termination, the grantee shall supply the department with a financial statement detailing all costs up to the effective date of the termination.

441—164.15(72GA,ch1276) Reallocation of funds.

164.15(1) Grantees shall immediately notify the appropriate district administrator in writing when the grantee determines that at least $1000 of the grant will not be expended.

164.15(2) The district administrator and the grantee may negotiate a revision to the contract to allow for expansion or modification of the services but shall not increase the total amount of the grant.

164.15(3) Grantees shall free anticipated unexpended funds so that they may be used for other projects by submitting in writing a request to the commissioner to reduce the amount of the contract.

164.15(4) Anticipated unexpended funds which have been freed may be granted to other applicants who were only partially funded or did not receive any funding. These funds may also be used to increase the contracts of grantees whose proposals were fully funded when additional funds would improve the quality or increase the quantity of services being provided. The commissioner or designee shall determine how unexpended funds are reallocated.

441—164.16(234) Federal grants. Grantees receiving federally funded grants shall cooperate with federal requirements.

These rules are intended to implement Iowa Code section 234.6 and 1988 Iowa Acts, chapter 1276, section 28.

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CHAPTER 165
FAMILY DEVELOPMENT AND SELF-SUFFICIENCY PROGRAM

PREAMBLE

These rules define and structure the family development and self-sufficiency council within the department of human services and the family development and self-sufficiency grant program administered, under contractual agreement, by the department of human rights. The grant program is designed to make services available to families who are at risk of long-term welfare dependency.

The purpose of the program is to fund, evaluate, and provide recommendations on programs that provide services to families at risk of long-term welfare dependency.

These rules establish the framework regarding eligibility criteria, application procedures, and provisions for the termination of contractual agreements.

441—165.1(217) Definitions.

"Applicant" means a public or private organization which makes application for a grant through the request for proposal process.

"Council" means the family development and self-sufficiency council.

"Department" means the Iowa department of human services.

"Grant" means an award to fund a project approved by the council.

"Grantee" means the recipient of a grant approved by the council.

441—165.2(217) Council. The family development and self-sufficiency council is established within the department pursuant to Iowa Code section 217.11. The council's powers and duties are policy-making and advisory with respect to the family development and self-sufficiency grants administered, under contractual agreement, by the department of human rights. Council responsibilities are further delineated in subrule 165.2(3).

165.2(1) *Membership.* The council membership is established by Iowa Code section 217.11 as follows:

a. The director of the Iowa department of human services or the director's designee.

b. The director of the Iowa department of public health or the director's designee.

c. The administrator of the division of community action agencies in the department of human rights or the administrator's designee.

d. The administrator of the division of adult, children and family services of the department of human services or the administrator's designee.

e. The dean of the college of family and consumer sciences at Iowa State University or the dean's designee.

f. The director of the department of education or the director's designee.

g. The director of the public policy center at the University of Iowa or the director's designee.

h. The head of the department of design, family and consumer sciences at the University of Northern Iowa or that person's designee.

i. Two recipients or former recipients of the family investment (FIP) program, selected by the other members of the council.

165.2(2) *Procedures.*

a. A quorum shall consist of two-thirds of the members.

b. Where a quorum is present in person or by telephone, a position is carried by a majority of the members, or members' designees, eligible to vote.

c. Copies of the minutes are kept on file in the office of the administrator of the Division of Economic Assistance in the Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114.

d. At each meeting the council shall determine the date and location of the next meeting. Special meetings may be called by the chair or upon the written request of a majority of council members.

e. Council meetings are considered public and require timely notice to the communications media as defined in Iowa Code section 21.4.

f. In cases not covered by these rules, Robert's Rules of Order shall govern.

165.2(3) *Council duties.* Council duties as established by Iowa Code section 217.11 are as follows:

a. Identify the factors and conditions that place Iowa families at risk of long-term dependency upon the FIP program. The council shall seek to use relevant research findings and national and Iowa-specific data on the ADC program.

b. Identify the factors and conditions that place Iowa families at risk of family instability and foster care placement. The council shall seek to use relevant research findings and national and Iowa-specific data on the foster care system.

c. Subject to availability of funds for this purpose, award grants to public or private organizations to provide family development services to families at risk of long-term welfare dependency.

d. In cooperation with the legislative fiscal bureau, develop measures to independently evaluate the effectiveness of programs, including measurement of the program's effectiveness in meeting its goals through reduction in length of stay on welfare or a reduced need for other state child and family welfare services.

e. Seek the support of the Iowa research community to carry out research and evaluation responsibilities.

f. Seek additional support for the funding of grants. Any funding received will be administered by the department subject to Iowa Code section 234.14.

g. Make recommendations to the governor and the general assembly on the effectiveness of early intervention programs in Iowa and throughout the country that provide family development services to families at risk of long-term welfare dependency.

h. Evaluate and make recommendations regarding the costs and benefits of the expansion of the services provided under the special needs program of the FIP program to include tuition for parenting skills programs, family support and counseling services, child development services and transportation and child care expenses associated with the programs and services.

441—165.3(217) Funding of grants.

165.3(1) *Availability of funds.* In any year in which funds are available for the family development and self-sufficiency grant program, the council shall award grants, subject to annual renewal, to selected applicants. The amount of money granted shall be contingent upon the amount of funds available and shall be determined on an annual basis.

165.3(2) *Grants not renewed.* Upon the council's determination that a grantee's project funding will not be renewed, the balance of funds to that grantee shall be awarded by the council to other previously approved grantees for which funding is renewed or to fund new grantees selected by the council as a result of the grant application process. These funds shall be awarded on the basis of how well the grantees exhibit the ability to effectively utilize additional funds. The allocation of these funds shall be in compliance with legislation.

165.3(3) *Funding allocations.* The allocation of funds shall be in compliance with legislation and contingent on available funds. The council shall endeavor to allocate funds in a manner which allows participation of a variety of projects across Iowa. Federal funds generated through grantee match shall be used for program expansion.

165.3(4) *Matching funds.* Grantees may generate funds to be used by the department (Title IV-F of the Social Security Act agency) to access federal matching funds. The local funds used for federal match must have been expended on the program, and new federal funds generated should be used for program expansion and not result in a decrease in annual local funding commitments.

441—165.4(217) Families at risk.

165.4(1) *Identification of conditions and criteria.* The following conditions and criteria which may place families at risk of long-term welfare dependency have been identified by the council:

a. Educational level of head of household.
(1) Less than a high school education.
(2) Lacks basic literacy skills.
b. Work experience of head of household.
(1) Never employed.
(2) Multiple episodes of employment lasting less than one year.
(3) Currently unemployed.
c. Household composition.
(1) Members are homeless or near homeless.
(2) Members outside of the nuclear family in residence.
(3) Three or more children.
(4) One or more children born while on public assistance.
(5) One or more children identified as having special needs.
(6) Includes alcohol or substance abusers.
(7) Includes past or current perpetrator of child abuse or domestic violence.
(8) Includes members with a record of incarceration.
d. Background of head of household.
(1) Was a teenager at first birth.
(2) Has a disability or chronic illness (mental or physical).
(3) Past or current victim of child abuse or domestic violence.
(4) Grew up in a household with alcohol or substance abuse.
e. Welfare history.
(1) Grew up in a household receiving public assistance.
(2) Multiple episodes on public assistance.
(3) Family on public assistance for three or more years.
f. Other conditions which may contribute to long-term dependency.
(1) Geographic location.
(2) Lack of employment opportunity.
(3) Lack of available services.
(4) Lack of transportation.

165.4(2) *Identification of families.* The department shall identify those families receiving family investment program benefits who meet the council's criteria.

165.4(3) *Designation of criteria.* The grantees shall designate, in the application for funds, the criteria for families to be served by the program. Grantees shall serve families meeting one or more criteria established by the council. The grantee may further delineate the criteria identified by the council.

165.4(4) *Selection of families.* A selection of families from the population meeting the council's criteria shall be made by the department. Selections may be made using the Statistical Package for Social Services or through local levels under a plan of referral approved by the council.

a. From these families, a selection will be made of those families that meet grantee specific criteria which is available through the department and those names will be forwarded to the grantee.

b. The grantee shall be responsible for marketing its services to the families identified by the department. All marketing plans, procedures, and materials used by the grantee must be approved in writing by the department of human rights prior to use.

c. Of the identified families who voluntarily agree to participate in a family development and self-sufficiency program, assignment of families will be made to grant projects by the department. The department of human rights shall receive timely notification of assignment.

d. Families referred shall be identified in the database of the department as receiving grantee services.

165.4(5) *Monitoring of families.* Referred families shall be monitored by the department to determine the effect of the programs in changing the status of the families selected.

441—165.5(217) Grant application process.

165.5(1) *Public notice of grant availability.* The council will announce through public notice the opening of a competitive application period. The announcement will include information on how public and private organizations may obtain a request for proposal and the deadlines for submitting requests.

165.5(2) *Request for proposals.* Applications for family development and self-sufficiency grants shall be distributed by the department of human rights. Applicants shall submit Form 379-4200, Request for Proposal, to the department of human rights. If a proposal does not include the information specified in the application package or if it is late, it will be disapproved. Proposals shall contain, at a minimum, the following information:

a. Applicant identification, including general agency information.

b. Project summary, including a statement of need, the issues the project will address, and the geographic area to be served.

c. Project objectives.

d. Specific project information which includes but is not limited to the following:

(1) Criteria for families to be served.

(2) The number of families to be served.

(3) Description of the services to be provided by the project and methodology for provision. Services may include, but are not limited to, assistance regarding job-seeking skills, family budgeting, nutrition, self-esteem, health and hygiene, child rearing, child care education preparation, and goal setting. Support systems that will be developed shall be described.

(4) Description of the manner in which other needs of the families will be provided. These services may include, but are not limited to, day care assistance, transportation, substance abuse treatment, support group counseling, food, clothing, and housing.

(5) Description of community support for the program, which may include letters of support.

(6) Description of the manner in which community resources will be made available to families being served and to meet their subsequent needs.

e. Description of the training and recruitment of the staff providing services and the appropriateness of same.

f. Designation of the evaluation and audit mechanisms.

g. Assurances that families referred by the department will be served.

h. Project budget.

i. Plan for evaluation of project.

165.5(3) *Submission process.* All applicants shall submit proposals in accordance with instructions in the request for proposal distributed by the department of human rights. The minimum number of copies of the completed application form, as defined in the request for proposal, shall be submitted to the Bureau of Community Services, Iowa Department of Human Rights, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

In order to be included in the review process and considered for possible funding, applications shall be postmarked by midnight the date applications are due or delivered to the bureau of community services during regular business hours anytime prior to the deadline.

441—165.6(217) Selection of grantees. All applications received within the time frames designated by the council and meeting the criteria, shall be reviewed by the department of human rights, which shall make funding recommendations to the council. The council shall make the final decision with respect to which organizations will receive grant funds.

165.6(1) *Selection criteria.* The council will review the projects recommended by the department of human rights. Criteria for selection of projects include, but are not limited to, the following:

a. The statement of need which will demonstrate the need for the service in the geographical area to be served.

b. The issues the project will address.

c. The criteria for families to be served, including the number to be served.

d. The services to be provided and how the services address the needs. This includes direct and indirect services.

e. The community support systems available to the families to be served.

f. Description of how the project objectives are to be measured in both quantitative and qualitative terms.

g. General program structure including, but not limited to, how well goals can be met, how realistic the objectives are, stability of the organization, and the overall quality and utility of the proposal in comparison to other proposals and in relationship to funding limits.

h. The project budget, including administration of the funds. Note, the funds may be used for salaries, fringe benefits, job-related in-state travel, contract services, materials, and operational expenses. The funds may not be used for construction, capital improvement or purchase of real estate.

165.6(2) *Notification of applicants.* Applicants shall be notified no later than 45 days following the due date for receipt of proposals whether the proposal is denied or accepted.

The grantee may be requested to modify the proposal through the contracting process.

441—165.7(217) Contract with grantee. Funds for grants approved by the council shall be awarded through a contract entered into by the department of human rights and the applicant.

165.7(1) *Negotiation.* The department of human rights shall conduct contract negotiation with the applicant. The applicant may be requested to modify a project proposal in the negotiation process. The applicant or the department of human rights may request an amendment to the contract.

165.7(2) *Withdrawal of contract offer.* If the applicant and the department of human rights are unable to successfully negotiate a contract, the council may withdraw the award offer.

165.7(3) *Duration.* The contract period shall not exceed 36 months.

441—165.8(217) Grantee responsibilities.

165.8(1) *Records.* The grantee shall maintain records which include, but are not limited to:

a. Specific client information.

b. Specific services provided.

c. Fiscal records of expenditures.

d. Any other specific records as may be determined necessary by the department of human rights, to the overall evaluation of the project.

e. In lieu of disposition of family records, such records shall be transferred to the department of human rights.

165.8(2) *Reports.*

a. Grantees shall complete Form 379-4103, Monthly Funding Request and Expenditure Report, that includes, but is not limited to, the state grant dollars expended as they relate to each line item in the budget.

b. Grantees shall complete Form 379-4201, Quarterly Activities Report, that includes, but is not limited to:

(1) The number of clients served and the services provided.

(2) A list of planned goals and activities and progress toward goals completed on schedule.

(3) Any general comments on the progress of the program.

441—165.9(217) Evaluation. The grantee shall be evaluated by the department of human rights at least once prior to the end of each 12-month period that the project is funded. The purpose of the evaluation is to determine the progress of the grantee in relation to the stated goals and objectives of the project, as well as other matters relating to contractual obligations. The grantee shall receive a written report of the evaluation.

441—165.10(217) Contract revision and termination.

165.10(1) *Contract revisions.* The department of human rights and the grantee may negotiate a revision to the contract to allow for expansion or modification of services but shall not increase the total amount of the grant. The council shall have authority to approve revised contracts involving realignment in funding of plus or minus 10 percent or any change in work scope.

165.10(2) *Termination for convenience.* The contract may be terminated in whole, or in part, by the department of human rights when the department of human rights, with council approval, determines that the termination is in the best interest of the state. The department of human rights shall notify the grantee of termination in writing at least 30 days prior to the effective date of termination. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. Payments to the grantee will be only for services and activities provided up to the date of termination.

165.10(3) *Termination for cause.* The contract may be terminated in whole, or in part, at any time before the date of completion, whenever it is determined that the grantee has failed to comply with the conditions of the contract. The grantee shall be notified in writing by the department of human rights of the reasons for the termination and the effective date. The grantee shall have ten days after the notice is received to correct the problem or otherwise outline a corrective action plan. The department of human rights shall then issue a notice of termination if the problems are not corrected to the satisfaction of the department of human rights. Payments to the grantee will be only for services and activities provided up to the date of termination.

The department of human rights shall administer the funds for this program contingent upon their availability. If there is a lack of funds necessary to fulfill the fiscal responsibility of this program, the contracts shall be terminated or renegotiated. The council may terminate or renegotiate a contract upon 30 days' notice when there is a reduction of funds by executive order.

165.10(4) *Responsibility of grantee at termination.* Within 45 days of the termination, the grantee shall supply the department of human rights with a financial statement detailing all costs up to the effective date of the termination. All records (family and financial) shall be forwarded to the department of human rights.

441—165.11(217) Reconsideration. Applicants dissatisfied with the council's actions regarding proposals for funds and grantees dissatisfied with termination of a contract may request a reconsideration. The letter requesting reconsideration must be submitted to the department of human rights within ten working days of the date of the notice of decision. The request must include the reasons for dissatisfaction and evidence of the reasons for dissatisfaction. Reasons for reconsideration must be based on a contention that the process violated state or federal law, policy, or rule, did not provide adequate public notice or was altered without adequate public notice, involved conflict of interest, or was biased or unfair. Within 15 working days of the receipt of the request for reconsideration, the director of the department of human services, or designee, who has not personally participated in the issues under reconsideration, will review the request and evidence provided by the applicant or grantee as well as the evidence provided by the department of human rights and will issue a final decision.

No disbursements will be made to any applicant for a period of ten calendar days following the notice of decision. If a request is filed within the ten days, all disbursements will be held pending a final decision on the appeal. All applicants will be notified if a reconsideration request is filed.

These rules are intended to implement Iowa Code sections 217.11 and 217.12.

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CHAPTER 166
JUVENILE COMMUNITY-BASED GRANTS

Rescinded IAB 2/5/92, effective 4/1/92

CHAPTER 167
JUVENILE DETENTION REIMBURSEMENT
[Prior to 2/11/87, Human Services [498]]

DIVISION I
ANNUAL REIMBURSEMENT PROGRAM

441—167.1(232) Definitions.

"Allowable costs" means those expenses of the county or multicounty related to the establishment, improvements, operation, and maintenance of county or multicounty juvenile detention homes.

"County or multicounty" means that the governing body is a county board of supervisors or a combination of members of participating county boards of supervisors.

441—167.2(232) Availability of funds. Any year that the Iowa legislature makes funds available for this program, the department shall accept requests for reimbursement from eligible facilities.

441—167.3(232) Eligible facilities. County and multicounty juvenile detention homes shall be eligible for reimbursement under this program when:

167.3(1) The home is approved by the department under the standards of Iowa Code chapter 232 and IAC 441—Chapter 105.

167.3(2) The home submits Form 07-350, Purchase Order/Payment Voucher, within the time frames of 441—167.5(232).

167.3(3) Rescinded IAB 9/30/92, effective 10/1/92.

441—167.4(232) Available reimbursement. The reimbursement for the participating facilities shall be the percentage of the allowable costs authorized in the appropriation language for the current fiscal year.

441—167.5(232) Submission of voucher. Eligible facilities shall submit Form 07-350, Purchase Order/Payment Voucher, for the legislatively authorized percentage of their allowable costs for the year ending June 30 to the Department of Human Services, Division of Fiscal Management, First Floor, Hoover State Office Building, Des Moines, Iowa 50319-0114, by August 10. Only facilities which submit Form 07-350, Purchase Order/Payment Voucher, by August 10 shall receive reimbursement.

441—167.6(232) Reimbursement by the department. Reimbursement shall be made by August 31 to those participating facilities which have complied with these rules.

These rules are intended to implement Iowa Code section 232.142.

441—167.7 to **441—167.10** Reserved.

DIVISION II
SEVENTY-TWO HOUR REIMBURSEMENT PROGRAM
Reserved

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CHAPTER 176
DEPENDENT ADULT ABUSE

[Prior to 7/1/83, Social Services[770] Ch 156]
[Previously appeared as Ch 156—renumbered IAB 2/29/84]
[Prior to 2/11/87, Human Services[498]]

441—176.1(235B) Definitions.

"Adult abuse" means any of the following as a result of the willful or negligent acts or omissions of a caretaker:

1. Physical injury to, or injury which is at variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult.
2. The commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2 with or against a dependent adult.
3. Exploitation of a dependent adult which means the act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources for one's own personal or pecuniary profit, without the informed consent of the dependent adult, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.
4. The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult's life or health.

The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult.

"Appropriate evaluation or assessment" means that evaluation or assessment reasonably believed by the department to be warranted by the facts and circumstances of the case as reported.

"Assault" means "assault" as defined in Iowa Code section 708.1.

"Caretaker" means a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.

"Collateral sources" means any person or agency who is presently providing, either in a professional or paraprofessional capacity, service to the dependent adult, including, but not limited to, doctors, counselors, and public health nurses.

"Confidentiality" means the withholding of information from any manner of communication, public or private.

"Denial of critical care" exists when the dependent adult's basic needs are denied or ignored to such an extent that there is immediate or potential danger of the dependent adult suffering injury or death, or is a denial of, or a failure to provide the mental health care necessary to adequately treat the dependent adult's serious social maladjustment, or is a gross failure of the caretaker to meet the emotional needs of the dependent adult necessary for normal functioning, or is a failure of the caretaker to provide for the proper supervision of the dependent adult.

"Department" means the department of human services and includes the county and central offices of the department, unless otherwise specified.

"Dependent adult" means a person 18 years of age or older who is unable to protect the person's own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another.

"Expungement" means the process of destroying dependent adult abuse information.

"Immediate danger to health or safety" means a situation in which death or severe bodily injury could reasonably be expected to occur without intervention.

"Individual employed as an outreach person" means a person who, in the course of employment, makes regular contacts with dependent adults regarding available community resources.

"Informed consent" (as used in Iowa Code paragraph 235B.2(5)*"c"*) means a dependent adult's agreement to allow something to happen that is based on a full disclosure of known facts and circumstances needed to make the decision intelligently, i.e., knowledge of risks involved or alternatives.

"Minimum food, shelter, clothing, supervision, physical and mental health care, and other care" means that food, shelter, clothing, supervision, physical and mental health care, and other care which, if not provided, would constitute denial of critical care.

"Multidisciplinary team" shall mean a membership of individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of dependent adult abuse cases and who are professionals practicing in the disciplines of medicine, public health, social work, law, law enforcement and other disciplines relative to dependent adults. Members of the team shall include, but are not limited to, persons representing the area agencies on aging, county attorneys, health care providers, and others involved in advocating or providing services for dependent adults.

"Physical injury" means damage to any bodily tissue to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, or damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition, or damage to any bodily tissue which results in the death of the person who has sustained the damage, or physical injury which is at variance with the history given of it.

"Preponderance of evidence" shall mean evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it.

"Proper supervision" means that supervision which a reasonable and prudent person would exercise under similar facts and circumstances, but in no event shall a person place a dependent adult in a situation that may endanger the dependent adult's life or health or cruelly punish or unreasonably confine the dependent adult.

"Registry" means the central registry for dependent adult abuse information established in Iowa Code Supplement section 235B.5.

"Report" means a verbal or written statement, made to the department, which alleges that dependent adult abuse has occurred.

441—176.2(235B) Denial of critical care. The failure on the part of the caretaker or dependent adult to provide for minimum food, shelter, clothing, supervision, physical or mental care, and other care necessary for the dependent adult's health and welfare when financially able to do so or when offered financial and other reasonable means to do so shall constitute denial of critical care to that dependent adult.

441—176.3(235B) Appropriate evaluation. Immediately upon receipt of a dependent adult abuse report the worker shall conduct an intake sufficient to determine whether the allegation constitutes a report of dependent adult abuse.

176.3(1) Dependent adult abuse reports shall be evaluated when all of the following criteria are alleged to be met:

a. The person is a dependent adult.

b. Adult abuse exists as defined in Iowa Code Supplement section 235B.2.

c. A caretaker exists in reports of physical injury to or unreasonable confinement or cruel punishment of a dependent adult; commission of a sexual offense; exploitation; and deprivation by another person of food, shelter, clothing, supervision, physical and mental health care and other care necessary to maintain life or health.

176.3(2) Nondependent adult abuse situations. The following are not dependent adult abuse situations:

a. A report of domestic abuse under Iowa Code chapter 236, Domestic Abuse, does not in and of itself constitute a report of dependent adult abuse.

b. Circumstances in which the dependent adult declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

c. Circumstances in which the dependent adult's caretaker, acting in accordance with the dependent adult's stated or implied consent, declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

d. Withholding and withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician when the withholding and withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next-of-kin or guardian pursuant to the applicable procedures under Iowa Code chapter 125, 144A, 222, 229, or 633.

e. All persons legally incarcerated in a penal setting, either in a local jail or confined to the custody of the director of the department of corrections.

176.3(3) Reports of dependent adult abuse which are the result of the acts or omissions of the dependent adult shall be collected and maintained in the files of the dependent adult as assessments only and shall not be included on the central registry. The central registry shall be notified as to the disposition of the assessment.

441—176.4(235B) Reporters. The central registry and local office shall accept reports from mandatory reporters or any other person who believes dependent adult abuse has occurred. Mandatory reporters shall make a written report within 48 hours after an oral report. The reporter may use the department's Form 470-2441, Suspected Dependent Adult Abuse Reporting Form, or may use a form developed by the reporter which meets the requirements of Iowa Code section 232.70.

441—176.5(235B) Reporting procedure.

176.5(1) Each report made by someone other than a mandatory reporter may be oral or written.

176.5(2) The report shall be made by telephone or otherwise to the department of human services. When the person making the report has reason to believe that immediate protection for the dependent adult is advisable, that person shall also make an oral report to an appropriate law enforcement agency.

176.5(3) The department of human services shall:

a. Immediately, upon receipt of a report, make an oral report to the registry;

b. Forward a copy of the report to the registry; and

c. Promptly notify the appropriate county attorney of the receipt of any report.

176.5(4) The report shall contain the following information, or as much thereof as the person making the report is able to furnish:

a. The names and home addresses of the dependent adult, appropriate relatives, caretakers, and other persons believed to be responsible for the care of the dependent adult.

b. The dependent adult's present whereabouts if not the same as the address given.

c. The reason the adult is believed to be dependent. Dependency is the first criterion to be considered before beginning an evaluation.

d. The dependent adult's age.

e. The nature and extent of the adult abuse, including evidence of previous adult abuse. The existence of alleged adult abuse is the second criterion to be considered before beginning an evaluation.

f. Information concerning the suspected adult abuse of other dependent adults in the same residence.

g. Other information which the person making the report believes might be helpful in establishing the cause of the abuse or the identity of the person or persons responsible for the abuse, or helpful in providing assistance to the dependent adult.

h. The name and address of the person making the report.

176.5(5) A report shall be accepted whether or not it contains all of the information requested in 176.5(4), and may be made to the department, county attorney, or law enforcement agency. When the report is made to any agency other than the department of human services, that agency shall promptly refer the report to the department.

441—176.6(235B) Duties of the department upon receipt of report.

176.6(1) When a report is received, the department shall promptly commence an appropriate evaluation or assessment, except that the state department of inspections and appeals is responsible for the evaluation and disposition of a case of adult abuse in a health care facility, including hospitals as defined in Iowa Code section 135B.1, subsection 1, and facilities as defined in Iowa Code section 135C.1, subsection 5. The department shall forward all reports and other information concerning adult abuse in a health care facility to the state department of inspections and appeals on the first working day following the submitting of the report. The state department of inspections and appeals shall inform the registry of all actions taken or contemplated concerning the evaluation or disposition of a case of adult abuse in a health care facility. The primary purpose of the evaluation or assessment by the department shall be the protection of the dependent adult named in the report.

176.6(2) The evaluation or assessment shall include all of the following:

a. Identification of the nature, extent, and cause of the adult abuse, if any, to the dependent adult named in the report.

b. The identification of the person or persons responsible for the adult abuse.

c. A determination of whether other dependent adults in the same residence have been subjected to adult abuse.

d. A critical examination of the residential environment of the dependent adult named in the report, and the dependent adult's relationship with caretakers and other adults in the same residence.

e. A critical explanation of all other pertinent matters.

176.6(3) The evaluation or assessment, with the consent of the dependent adult or caretaker, when appropriate, may include a visit to the residence of the dependent adult named in the report and an examination of the dependent adult. If permission to enter the residence and to examine the dependent adult is refused, the district court, upon a showing of probable cause that a dependent adult has been abused, may authorize a person, authorized by the department, to make an evaluation or assessment, to enter the residence of, and to examine the dependent adult.

Upon a showing of probable cause that a dependent adult has been financially exploited, a court may authorize a person, also authorized by the department, to gain access to the financial records of the dependent adult.

176.6(4) County attorneys, law enforcement agencies, multidisciplinary teams as defined in section 235A.13, subsection 9, and social services agencies in the state shall cooperate and assist in the evaluation or assessment upon the request of the department. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

176.6(5) The department, upon completion of its evaluation, shall transmit a copy of its preliminary report, including actions taken or contemplated, to the registry within four regular working days after the department receives the adult abuse report, unless the registry grants an extension of time for good cause shown. If the preliminary report is not a complete report, a complete report shall be filed within ten working days of the receipt of the abuse report, unless the registry grants an extension of time for good cause shown.

The department, upon completion of its assessment in reports when the abuse is the result of the acts or omissions of the dependent adult, shall place the report, including actions taken or contemplated, in the case file of the dependent adult. The central registry shall be notified as to the disposition of the assessment.

176.6(6) The department shall also transmit a copy of the report of its evaluation or assessment to the appropriate county attorney. The county attorney shall notify the county office of the department of any actions or contemplated actions with respect to a suspected case of adult abuse.

176.6(7) Based on the evaluation, the department shall complete an assessment of services needed by a dependent adult believed to be the victim of abuse, the dependent adult's family, or a caretaker. The department shall explain that the department does not have independent legal authority to compel the acceptance of protective services. Upon voluntary acceptance of the offer of services, the department shall make referrals or may provide necessary protective services to eligible dependent adults, their family members, and caretakers. The department may establish a sliding fee schedule for those persons able to pay a portion of the protective services provided. The following services may be offered and provided without regard to income: dependent adult protection, social casework, adult day care, adult support, transportation, and family planning.

176.6(8) Court action. When, upon completion of the evaluation or assessment or upon referral from the state department of inspections and appeals, the department determines that the best interests of the dependent adult require court action, the department shall initiate action for the appointment of a guardian or conservator, or for admission or commitment to an appropriate institution or facility, pursuant to the applicable procedures under Iowa Code chapter 125, 222, 229, or 633. The department may pursue other remedies provided by law pursuant to the applicable procedures under Iowa Code sections 235B.17, 235B.18, 235B.19, and 235B.20 or any other legal remedy which provides protection to a dependent adult. The appropriate county attorney shall assist the department in the preparation of the necessary papers to initiate the action, and shall appear and represent the department at all district court proceedings.

176.6(9) The department shall assist the district court during all stages of court proceedings involving a suspected case of adult abuse.

176.6(10) In every case involving adult abuse which is substantiated by the department and which results in a judicial proceeding on behalf of the dependent adult, legal counsel shall be appointed by the court, to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult when necessary to protect the dependent adult's best interests. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem. Before legal counsel or a guardian ad litem is appointed pursuant to 1983 Iowa Acts, chapter 153, section 4, the court shall require the dependent adult and any person legally responsible for the support of the dependent adult to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counsel or guardian ad litem, the court shall so order. In cases where the dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or guardian ad litem, the expense shall be paid out of the court expense fund.

176.6(11) Notification of licensing authority. Based on information discovered during an evaluation of dependent adult abuse in a program providing care to a dependent adult, the department shall notify the licensing or accrediting authority for the program, the governing body of the program, and the administrator in charge of the program of any of the following:

a. A violation of program policy noted in the evaluation.

b. An instance in which program policy or lack of program policy may have contributed to the dependent adult abuse.

c. An instance in which general practice in the program appears to differ from the program's policy.

The licensing or accrediting authority, the governing body, and the administrator in charge of the program shall take any lawful action which may be necessary or advisable to protect dependent adults receiving care in the program.

441—176.7(235B) Appropriate evaluation or assessment.

176.7(1) After receipt of the report alleging dependent adult abuse the field worker shall make a preliminary evaluation or assessment to determine whether the information as reported, other known information, and any information gathered as a result of the worker's contact with collateral sources would tend to corroborate the alleged abuse.

176.7(2) When the information gathered in the preliminary evaluation or assessment tends to corroborate, or the worker is uncertain as to whether it repudiates the allegations of the report, the worker shall immediately continue the evaluation or assessment by making a reasonable effort to ensure the safety of the adult. The worker and the worker's supervisor shall determine whether an immediate threat to the physical safety of the adult is believed to exist. If an immediate threat to the physical safety of the adult is believed to exist, the field worker shall make every reasonable effort to examine the adult, as authorized by 176.6(3), within one hour after receipt of the report and shall take any lawful action necessary or advisable for the protection of the adult. When physical safety of the adult is not endangered, the worker shall make every reasonable effort to examine the adult within 24 hours after receipt of the report.

176.7(3) In the event the information gathered in the preliminary evaluation or assessment fails to corroborate the allegation of adult abuse, the worker, with approval of the supervisor, may terminate the evaluation or assessment and submit the "four-day report" required by subrule 176.6(5).

441—176.8(235B) Immunity from liability for reporters. A person participating in good faith in making a report or cooperating or assisting the department in evaluating or assessing a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participation in good faith in a judicial proceeding resulting from the report or assistance or relating to the subject matter of the report or assistance.

441—176.9(235B) Registry records. Central registry records shall be kept in the name of the dependent adult and cross-referenced in the name of the caretaker.

441—176.10(235B) Adult abuse information disseminated.

176.10(1) *Requests for information.* Written requests for adult abuse information shall be submitted to the county office of the department on Form SS-1114, Request for Dependent Adult Abuse Information, except as provided in subrule 176.10(3), paragraph *"c."*

Requests may be made by telephone to the central registry pursuant to the requirements of Iowa Code chapter 235B as amended by 1991 Iowa Acts, Senate File 455, section 7, subsection 2. Oral requests must be followed by a written request to the central registry within 72 hours on Form SS-1114.

176.10(2) *Verification of identity.* The county office shall verify the identity of the person making the request on Form SS-1114, Request for Dependent Adult Abuse Information. Upon verification of the identity of the person making the request, the county office shall transmit the request to the central registry. The central registry shall verify the identity of persons making requests for information directly to the central registry by telephone, mail, or in person.

176.10(3) *Approval of requests.* Access to dependent adult abuse information other than unfounded adult abuse information is authorized only to the following persons or entities:

a. Subjects of a report as follows:

(1) A dependent adult named in a report as a victim of abuse or the adult's attorney.

(2) A person or the attorney for the person named in a report as having abused a dependent adult.

(3) A legal guardian, or the attorney for the guardian, of a dependent adult named in a report as a victim of abuse.

b. Persons involved in an evaluation or assessment of dependent adult abuse as follows:

(1) A health practitioner or mental health professional who is examining, attending, or treating a dependent adult whom the practitioner or professional believes or has reason to believe has been the victim of abuse or a health practitioner or mental health professional whose consultation with respect to the adult believed to have been the victim of abuse is requested by the department.

(2) An employee of the department of human services or department of inspections and appeals responsible for the evaluation or assessment of an adult abuse report.

(3) A law enforcement officer responsible for assisting in an evaluation or assessment of a dependent adult abuse report.

(4) A multidisciplinary team, if the department of human services approves the composition of the multidisciplinary team and determines that access to the team is necessary to assist the department in the evaluation, diagnosis, assessment, and disposition of a dependent adult abuse case.

(5) In an individual case, to the mandatory reporter who reported the dependent adult abuse.

c. Individuals, agencies, or facilities providing care to a dependent adult as follows:

(1) An authorized person or agency responsible for the care or supervision of a dependent adult named in a report as a victim of abuse or a person named in a report as having abused a dependent adult, if the district court or registry deems access to dependent adult abuse information by the person or agency to be necessary.

(2) A department of human services employee when it is necessary in the performance of the employee's duty.

(3) A licensing authority for a facility providing care to an adult named in a report.

(4) An employee or agent of the department responsible for registering or licensing or approving the registration or licensing of a person, or to a person regulated by the department providing care to an adult.

(5) To an administrator of an agency certified by the department to provide services under a Medicaid home- and community-based services waiver, for the purpose of hiring staff or continued employment of staff.

d. Relating to judicial and administrative proceedings as follows:

(1) A district court involved in an adjudication or disposition of a dependent adult named in a report.

(2) A district court upon a finding that information is necessary for the resolution of an issue arising in any phase of a case involving dependent adult abuse.

(3) A court or administrative agency hearing an appeal for correction of dependent adult abuse information as provided in Iowa Code chapter 235B as amended by 1991 Iowa Acts, Senate File 455, section 10.

(4) An expert witness at any stage of an appeal necessary for correction of dependent adult abuse information as provided in Iowa Code chapter 235B as amended by 1991 Iowa Acts, Senate File 455, section 10.

e. Others as follows:

(1) A person conducting bona fide research on dependent adult abuse, but without information identifying persons named in an adult abuse report, unless having that information open to review is essential to the research or evaluation and the authorized registry officials give prior written approval and the dependent adult, the adult's guardian and the person named in a report as having abused the dependent adult give permission to release the information.

(2) Registry or department personnel when necessary to the performance of their official duties or a person or agency under contract with the department to carry out official duties and functions of the registry.

(3) The department of public safety for the sole purpose of the filing of a claim for reparation pursuant to Iowa Code section 910A.5A.

(4) A legally constituted dependent adult abuse protection agency of another state which is investigating or treating a dependent adult named in a report as having been abused.

(5) The attorney for the department of human services who is responsible for representing the department.

(6) The legally authorized protection and advocacy agency recognized in Iowa Code section 135C.2, if a person identified in the information as a victim or a perpetrator of abuse resides in or receives services from a facility or agency because the person is diagnosed as having a developmental disability or a mental illness.

(7) A health care facility administrator or the administrator's designee, following the appeals process, for the purpose of hiring staff or continued employment of staff.

176.10(4) *Method of dissemination.* Except as provided in subrule 176.10(7), the central registry shall notify the county office of the decision made regarding the request. If the request is denied by the central registry, the county office shall inform the person making the request of the denial. If the request is approved by the central registry, the county office shall disseminate to the person making the request the information specified by the central registry on Form SS-1114, Request for Dependent Adult Abuse Information.

176.10(5) *Dissemination of undetermined reports.* A report which cannot be determined by a preponderance of the evidence to be founded or unfounded may be disseminated and redisseminated in accordance with Iowa Code chapter 235B as amended by 1991 Iowa Acts, Senate File 455, section 6, until the report is expunged. Information referred to in the report may be referred to in subsequent reports and evaluations.

176.10(6) *Access to unfounded dependent adult abuse information.* Access to unfounded dependent adult abuse information is authorized only to persons identified as subjects of a report including the adult named in a report as a victim, a guardian of a dependent adult named in a report as a victim, a person named in a report as having abused a dependent adult or an attorney representing any of the above; an employee or agency of the department of human services responsible for the evaluation or assessment of a dependent adult abuse report; and registry or department personnel when necessary to the performance of their official duties or a person or agency under contract with the department to carry out official duties and functions of the registry.

176.10(7) *Requests concerning employees of department facilities.* When a request is made by the hiring authority of a department operated facility which provides direct client care and the request is made for the purpose of determining continued employability of a person employed, with or without compensation, by the facility, the information shall be requested directly from the central registry. The information requested shall be disseminated to the personnel office of the department. The personnel office shall redisseminate the information to the hiring authority for the person involved only upon a finding that the information has a direct bearing on employability of the person involved.

When the personnel office determines that the information has no direct bearing on employability, the hiring authority shall be notified that no job-related dependent adult abuse information is available. If the central registry and local office files contain no information, the hiring authority shall be so informed.

176.10(8) *Dependent adult abuse information disseminated and redisseminated.* Notwithstanding subrule 176.10(l), written requests and oral requests are not required for dependent adult abuse information that is disseminated to an employee of the department of human services, a district court, or the attorney representing the department as authorized by Iowa Code chapter 235B as amended by 1991 Iowa Acts, Senate File 455, section 6.

176.10(9) *Required notification.* The department shall notify orally the subject of a report of the results of the evaluation or assessment. The department shall subsequently transmit a written notice to the subject which will include information regarding the results, the confidentiality provisions of Iowa Code Supplement sections 235B.6 and 235B.12, and the procedures for correction or expungement and appeal of dependent adult abuse information as provided in Iowa Code Supplement section 235B.10.

176.10(10) *Mandatory reporter notification.* The department shall attempt to notify orally the mandatory reporter who made the report in a dependent adult abuse case of the results of the evaluation or assessment and of the confidentiality provisions of Iowa Code Supplement section 235B.6 and Iowa Code section 235B.12. The department shall subsequently transmit a written notice on Form 470-2444, Adult Protective Notification, to the mandatory reporter who made the report. The form shall include information regarding the results of the evaluation or assessment and confidentiality provisions. A copy of the written notice shall be transmitted to the registry and shall be maintained by the registry as provided in Iowa Code section 235B.8.

441—176.11(235B) Person conducting research. The person in charge of the central registry shall be responsible for determining whether a person requesting dependent adult abuse information is conducting bona fide research. To make this determination, the central registry may require these persons to submit credentials and the research design. If the registry determines that identified information is essential to the research design, the registry shall also determine the method by which written permission is to be secured from the dependent adult or guardians of the dependent adult who could be identified by the information to be researched. Any costs incurred in the dissemination of the information shall be assumed by the researcher. The department will keep a public record of persons conducting research.

441—176.12(235B) Examination of information. Examination of information contained in the central registry can be made at the site of the central registry between the hours of 8 a.m. and 12 p.m. or 1 p.m. and 4 p.m., Monday through Friday, except state authorized holidays.

The person, or that person's attorney, requesting to examine the information in the registry which refers to that person, shall be allowed to inspect the information after providing appropriate identification.

441—176.13(235B) Dependent adult abuse information registry. The department shall create a central abuse registry for dependent adult abuse information. The registry shall collect, maintain, and disseminate dependent adult abuse information as follows:

176.13(1) *Founded reports.* A report of dependent adult abuse determined to be founded shall be retained and sealed by the registry in accordance with Iowa Code chapter 235B as amended by 1991 Iowa Acts, Senate File 455, section 9.

176.13(2) *Unfounded reports.* A report of dependent adult abuse determined to be unfounded shall be expunged when it is determined to be unfounded in accordance with Iowa Code chapter 235B as amended by 1991 Iowa Acts, Senate File 455, section 9, subsection 2.

176.13(3) *Undetermined reports.* A report of dependent adult abuse in which the information cannot be determined by a preponderance of the evidence to be founded or unfounded shall be expunged by the registry in accordance with Iowa Code chapter 235B as amended by 1991 Iowa Acts, Senate File 455, section 9.

176.13(4) *Assessments.* Reports involving abuse as a result of the acts or omissions of the dependent adult will be assessments. These reports shall be retained in the dependent adult's case file in the county office. These reports shall not be included in the central registry.

This rule is intended to implement Iowa Code chapter 235B as amended by 1991 Iowa Acts, Senate File 455, section 9.

441—176.14(235B) Central registry. Rescinded IAB 10/30/91, effective 1/1/92.

441—176.15(235B) Multidisciplinary teams.

176.15(1) *Purpose of multidisciplinary teams.* The regional office shall establish multidisciplinary teams for the purpose of assisting the department in assessment, diagnosis, and disposition of reported dependent adult abuse cases. The disposition of a case may include the provision for treatment recommendations and services.

176.15(2) *Execution of team agreement.* When the team is established the regional administrator or designee and all team members shall execute an agreement on Form 470-2328, Dependent Adult Abuse Multidisciplinary Team Agreement. This agreement specifies:

a. That the team shall be consulted solely for the purpose of assisting the department in the assessment, diagnosis and treatment of dependent adult abuse cases.

b. That any team member may cause a dependent adult abuse case to be reviewed if approved by the department through use of the process of requesting adult abuse information specified in rule 176.10(235B).

c. That no team members shall redisseminate adult abuse information obtained solely through the multidisciplinary team. This shall not preclude redissemination of information as authorized by Iowa Code chapter 235B as amended by 1991 Iowa Acts, Senate File 455, section 6, when an individual team member has received information as a result of another authorized access provision of the Code.

d. That the department may consider the recommendation of the team in a specific dependent adult abuse case but shall not, in any way, be bound by the recommendations.

e. That any written report or document produced by the team pertaining to an individual case shall be made a part of the file for the case and shall be subject to all confidentiality provisions of Iowa Code chapter 235B as amended by 1991 Iowa Acts, Senate File 455 and of 441—Chapter 176.

f. That any written records maintained by the team which identify an individual dependent adult abuse case shall be destroyed when the agreement lapses.

g. That consultation team members shall serve without compensation.

h. That any party to the contract may withdraw with or without cause upon the giving of 30 days' notice.

i. The date on which the agreement will expire.

176.15(3) *Filing of agreement.* Whenever a team is created, a copy of the executed contract shall be filed with the central registry in addition to any other requirement placed upon execution of agreements by the department.

441—176.16(235B) Medical and mental health examinations. In any year in which the legislature appropriates funds, the department shall administer a payment program for mental health or medical health examinations for subjects of dependent adult abuse reports.

176.16(1) *Conditions for payment.* The following conditions must be met before payment can be made:

a. Local resources to pay these costs must be exhausted.

b. The examination must be scheduled during the evaluation or assessment process.

c. Department staff must be involved in the decision to request the examination.

176.16(2) *Payment limits.* Payment for mental health examinations shall not exceed $250. Payment for a complete medical examination shall not exceed $160.

176.16(3) *Billing procedures.* Claims for payment shall be submitted to the division of adult, children and family services on Form 07-350, Purchase Order/Payment Voucher, accompanied by a letter from department staff certifying that the necessary conditions for payment have been met.

441—176.17(235B) Request for correction or expungement. The department of human services is responsible for correction or expungement of reports prepared by department staff. The department of inspections and appeals is responsible for correction or expungement of reports prepared by that department's staff and that determination shall be binding on the registry.

176.17(1) Within six months of the date of the notice of evaluation results, a person may file with the registry a written statement to the effect that the dependent adult abuse information referring to the person is partially or entirely erroneous. The person may also request a correction of that information or of the findings of the report. The registry will record all requests and immediately forward the requests to the division of health facilities, department of inspections and appeals, when the reports were prepared by the department of inspections and appeals. The registry will notify the person requesting a correction that the report has been sent to the department of inspections and appeals.

176.17(2) Unless the designated department corrects the information or findings as requested, the designated department shall provide the person with an opportunity for a hearing as provided by 441—Chapter 7 to correct the information or the findings. The department may defer the hearing until the conclusion of a pending district court case relating to the information or findings.

These rules are intended to implement Iowa Code chapter 235B.

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CHAPTER 178
Reserved

CHAPTER 179
WRAP-AROUND FUNDING PROGRAM

PREAMBLE

These rules define and structure the department of human services wrap-around funding program. Funds appropriated for this program are to be used for wrap-around services or supports to reduce the number or length of out-of-home placements within each department region. Wrap-around funds are to be targeted to children at risk of placement, or continued placement, in out-of-home care.

These rules specify the allocation formula for wrap-around funds, outline eligibility, application, approval, waiting list, service termination and appeal procedures, and establish service provision, rate setting, and payment mechanisms. These rules establish procedures for the maintenance of records on wrap-around expenditures and outcomes to be achieved for the children and families served.

441—179.1(234) Definitions.

"Child" means a person under 18 years of age.

"Concrete supports" means basic needs of the child and the child's family such as housing, transportation, clothing and food.

"Wrap-around services or support funds" means individualized and community-based services or support funds which enable out-of-home placement to be prevented or the length of stay reduced.

441—179.2(234) Eligibility. Children and their families shall be eligible for wrap-around funding without regard to income when a department regional administrator or designee has approved an application for wrap-around funding for specific services or supports.

Need for wrap-around funding shall be established when all of the following criteria are met:

179.2(1) The child is at risk of initial or continued out-of-home placement.

179.2(2) Services and supports can be developed to prevent or reduce the child's out-of-home placement.

179.2(3) Other funding sources are not available to provide all the recommended services and supports.

441—179.3(234) Interdisciplinary team staffing. Rescinded IAB 7/7/93, effective 7/1/93.

441—179.4(234) Application for wrap-around funding. Applications for wrap-around funding shall be prepared using Form 470-2987, Application/Approval for Wrap-around Funding.

179.4(1) *Content.* The department worker, or juvenile court worker if the juvenile court has primary case responsibility, shall prepare Form 470-2987, Application/Approval for Wrap-around Funding, which shall include:

a. The costs and duration of wrap-around funding requested for the child and family.

b. Documentation that other funding sources are not available to provide the services and supports recommended.

c. A description of how the services and funding reduce the child's out-of-home placement.

179.4(2) *Application submission.* Applications for wrap-around funding shall be submitted to the appropriate department regional administrator or designee for approval. Applications submitted by the department shall be signed and dated by the department worker and supervisor. Applications submitted by juvenile court shall be signed and dated by the court worker and supervisor.

179.4(3) *Order of consideration.* Children and families within a region shall be considered for wrap-around funding in the order in which their applications for funding are date stamped as received by the regional administrator or designee.

179.4(4) *Waiting lists.* A waiting list shall be established at the regional office for children and families determined eligible but unable to receive funding because the region's wrap-around allocation has been expended or obligated. After the region's allocation has been obligated, pending applications shall be denied. A denial shall require that a notice of decision be mailed to the child's family or guardian within ten days of the determination that funding is not available. The notice shall state that the child and family meet eligibility requirements but no funds are currently available and they will be placed on a waiting list.

Children and families shall be placed on the waiting list in the sequence in which their applications for funding are date stamped as received by the regional administrator or designee. In the event more than one application is received at one time, children and families shall be entered on the list on the basis of the day of the child's birthday, lowest number being first on the list. Any subsequent tie shall be decided by the month of the child's birth, January being month one and the lowest number.

441—179.5(234) Approval of application.

179.5(1) *Role of regional administrator or designee.* The regional administrator or designee may approve, modify and approve, or deny the application for wrap-around funding. Each region shall establish procedures for the approval of applications for wrap-around funds. When approval is granted, the regional administrator or designee shall:

a. Grant approval for specific time periods.

b. Specify maximum payment rates.

c. Encumber wrap-around funds for the period of approval.

179.5(2) *Notification.* The regional administrator or designee shall provide written notification using Form 470-2987, Application/Approval for Wrap-around Funding, to the child's department and juvenile court worker of the decision on wrap-around funding. The child's family or guardian shall receive a notice of decision from the department regarding the application for wrap-around funding within ten days from the date the decision is made by the regional administrator or designee.

441—179.6(234) Time limits. Wrap-around funding for a child and family shall not continue beyond the period approved by the regional administrator or designee.

441—179.7(234) Eligible providers. Organizations or persons selected by the department to provide services and supports pursuant to an approved application for wrap-around funding shall be considered eligible providers. The department shall select providers who can provide services within the time frames necessary to prevent or reduce the child's out-of-home placement. Providers shall be able to deliver flexible and community-based services to the child and family. Different providers may be selected to deliver the separate components of wrap-around services approved for the child and family.

441—179.8(234) Rate setting. Rates for wrap-around funding shall be established in accordance with the following procedures:

179.8(1) *Rate establishment.* Rates for wrap-around services shall be established on an individual basis and specified on Form 470-2987, Application/Approval for Wrap-around Funding, prepared by the regional administrator or designee.

179.8(2) *Rate approval guidelines.* The regional administrator or designee shall evaluate proposed payment rates in approving applications for wrap-around funding. Rates approved for providers with a purchase of service contract or Medicaid agreement with the department shall be similar to payment rates for comparable services provided through the purchase of service or Medicaid agreements. Rates for other types of services or supports shall be comparable to prevailing community standards.

179.8(3) *Duration of rates.* Payment rates approved by a regional administrator or designee for wrap-around funding on behalf of a child and family shall remain in effect for the time period authorized unless approval for modification is granted by the regional administrator or designee.

441—179.9(234) Payment and billing for concrete supports. The department may create a variety of billing and payment mechanisms to disburse wrap-around funds for concrete supports provided to children and families. These mechanisms may include, but not be limited to, the following:

179.9(1) *Regional wrap-around accounts.* Each regional office of the department shall be authorized to create a regional checking account which shall be used for providing wrap-around payments for concrete supports within the region.

a. A regional administrator or designee shall be allowed to authorize the deposit of a portion of the region's wrap-around allocation into the regional account. Regional wrap-around accounts shall be created in compliance with all applicable rules of the department, the department of revenue and finance, and other state agencies.

b. Billings to be paid from the regional account shall be submitted at least monthly by vendors to the child's department worker. The department worker shall verify the billing rates and delivery of the concrete supports purchased and submit the billings to the regional staff authorized to issue payments. In emergency situations, a payment check may be issued before a billing is received and the receipt or canceled check shall be used to document the purchase. Regional offices shall develop procedures to allow for the prompt issuance of a check in emergency situations.

c. The regional administrator shall designate department staff authorized to issue payments from the regional account. The department shall verify that all supports purchased and rates billed for a child and family are consistent with those approved by the regional administrator or designee. Payments shall be made to eligible providers for concrete supports approved for a child and family. The department shall maintain a record of all account deposits, billings, payments, payment rates, and payment recipients.

179.9(2) *Payment through Purchase Order/Payment Voucher.* Concrete support billings received by the department worker may also be paid through the preparation and submission of Form 07-350, Purchase Order/Payment Voucher. The department worker shall verify the delivery of the concrete supports and review the billing rate, prepare Form 07-350 attaching documentation required to justify the billing, and submit the voucher to the division of adult, children, and family services for processing and payment.

441—179.10(234) Payment and billing for services. The department shall use Form 470-2996, Wrap-around Service Letter of Agreement, when purchasing services with wrap-around funds. The Letter of Agreement shall be completed for each wrap-around service and shall specify: what is being purchased, at what frequency and rate, for how long, and any specific responsibilities of the provider.

The department shall make payments for wrap-around services using the following procedures:

179.10(1) *Billing.* Providers of wrap-around services shall submit bills to the child's department worker at least monthly. The department worker shall verify the delivery of services and billing rates, prepare Form 07-350, Purchase Order/Payment Voucher, attach any documentation required to justify the billing, and submit the voucher to the division of adult, children, and family services for processing and payment.

179.10(2) *Payment.* Providers of wrap-around services approved for a child and family shall receive payments from the department at the rate approved by the department on the Purchase Order/Payment Voucher.

441—179.11(234) Termination and adverse service actions. Wrap-around funding may be denied, reduced or terminated in accordance with rule 441—130.5(234). Wrap-around payments shall be terminated at the conclusion of the authorized approval period unless a new application for funding has been submitted and approved. Wrap-around funding may be terminated if the wrap-around appropriation is reduced, eliminated, or exhausted.

441—179.12(234) Appeals. Decisions made by the department adversely affecting clients may be appealed pursuant to 441—Chapter 7 and the following guidelines:

179.12(1) *Appealable actions.* Appeals shall be limited to situations in which wrap-around funding is available within a region and the regional administrator or designee has denied funding for a child and family in full or in part.

179.12(2) *Nonappealable actions.* Wrap-around funding may be denied or terminated due to the following reasons, as determined by the department, which shall not be appealable by the client:

a. An eligible provider for the recommended service cannot be located.

b. The child is placed outside the home despite the provision of wrap-around funding.

c. Regional wrap-around funds are expended or encumbered.

d. A cost benefit does not exist to justify wrap-around funding.

e. Wrap-around funding is not achieving the outcomes specified in the department case plan.

f. Rescinded IAB 7/7/93, effective 7/1/93.

441—179.13(234) Records and reports.

179.13(1) *Case records.* The provision of wrap-around funding for a child and family shall be documented by the department in the child and family's department case record.

a. When the department has primary case planning responsibility, documentation shall be included in the department case plan, narrative, or other portions of the record and shall consist of at least the following information.

(1) Form 470-2987, Application/Approval for Wrap-around Funding and Form 470-2996, Wrap-around Service Letter of Agreement, when appropriate.

(2) Documentation of wrap-around billings and payments.

b. When the juvenile court worker has primary case planning responsibility, the department shall maintain a case record for children and families approved for wrap-around funding. At a minimum, this case record shall contain the information and documentation outlined in paragraph *"a."* The juvenile court shall provide the department with information to be included in the case record.

179.13(2) *Regional records.* Each region of the department shall maintain a record of the wrap-around funding program within the region. This record shall include:

a. The number of applications for wrap-around funding submitted and the number of applications approved.

b. The amount of wrap-around funding expended and encumbered within the region.

c. Rescinded IAB 7/7/93, effective 7/1/93.

d. The impact of wrap-around funding on preventing or reducing out-of-home placements for children and families served.

e. Rescinded IAB 7/7/93, effective 7/1/93.

179.13(3) *Quarterly report.* A report summarizing the regional record shall be prepared by each regional office on a quarterly basis and submitted to the administrator of the division of adult, children and family services. The format of this report shall be specified by the division and provided to regional offices.

441—179.14(234) Determination of regional allocation. Each region's portion of the state wrap-around appropriation shall be based on the region's proportion of the department's statewide fiscal year 1993 appropriation for child and family services, excluding the appropriations for group foster care and the 30 contracted specialized foster care home beds.

These rules are intended to implement Iowa Code sections 234.6 and 234.35.

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441—185.9(234) Interim provider certification standards. Rescinded IAB 11/5/97, effective 1/1/98.

441—185.10(234) Provider certification standards. Certification is the process by which the department shall ensure that providers meet the requirements for provision of rehabilitative treatment services.

Each provider of rehabilitative treatment services shall meet the following criteria for certification:

185.10(1) *Staff qualifications.* The provider of the following services shall document the credentials and experience of the individuals providing services under the rehabilitative treatment program.

a. Therapy and counseling services, psychosocial evaluation and behavioral management services for children in therapeutic foster care shall be provided by staff who meet one of the following minimum education and experience or professional licensing criteria:

(1) Graduation from an accredited four-year college, institute or university and the equivalent of three years of full-time experience in social work or experience in the delivery of human services in a public or private agency. These individuals shall have been employed prior to September 1, 1993, by an agency with interim certification under rule 441—185.9(234) published on January 5, 1994, and subrule 185.11(1) published on January 5, 1994, or be an individual with interim certification under rule 441—185.9(234) published on January 5, 1994, and subrule 185.11(1) published on January 5, 1994. Persons meeting this criterion shall not be qualified to provide therapy and counseling, psychosocial evaluation, or behavioral management services for children in therapeutic foster care if they change place of employment.

(2) Graduation from an accredited four-year college, institute or university with a bachelor's degree in social work or related human service field and the equivalent of two years of full-time experience in social work or experience in the delivery of human services in a public or private agency.

(3) A master's degree in social work or related human service field from an accredited college, institute or university.

(4) Graduate education in the social work or related human services field from an accredited college, institute or university may be substituted for up to a maximum of 30 semester hours for one year of the required experience.

(5) Graduation from an accredited four-year college, institute or university with a bachelor's degree in social work or related human service field. These individuals shall have had continuous employment in the same agency since August 31, 1993, and the agency shall have received interim certification under rule 441—185.9(234) published on January 5, 1994, and subrule 185.11(1) published on January 5, 1994, or be an individual who received interim certification under rule 441—185.9(234) published on January 5, 1994, and subrule 185.11(1) published on January 5, 1994. Persons meeting this criterion shall not be qualified to provide therapy and counseling, psychosocial evaluation, or behavioral management services for children in therapeutic foster care if they change place of employment before they have two years of experience.

(6) Licensed in Iowa as an independent social worker, master social worker, psychologist, psychiatric mental health nurse practitioner, marital and family therapist or mental health counselor.

b. Skill development services shall be provided by staff who meet one of the following minimum education and experience or professional licensing criteria:

(1) Graduation from an accredited four-year college, institute or university with a bachelor's degree in social work, or related human service field.

(2) Graduation from an accredited four-year college, institute or university and the equivalent of one year of full-time experience in social work or in the delivery of human services in a public or private agency. Individuals with this level of education who provided skill development services prior to September 1, 1993, can provide skill development services without the one year of experience, if they have maintained continuous employment since August 31, 1993, with an agency that received interim certification under rule 441—185.9(234) published on January 5, 1994, and subrule 185.11(1) published on January 5, 1994, or if they had a family-centered contract with the department prior to September 1, 1993, and were granted interim certification under rule 441—185.9(234) published on January 5, 1994, and subrule 185.11(1) published on January 5, 1994. Persons meeting this criterion shall not be qualified to provide skill development if they change place of employment before they have one year of experience.

(3) Graduate education in social work, or a related human service field from an accredited college, institute or university may be substituted for up to a maximum of 30 semester hours for one year of required experience.

(4) A high school diploma or GED and the equivalent of one year of full-time experience in social work, or experience in the delivery of human services in a public or private agency. Individuals with this level of education who provided skill development services prior to September 1, 1993, can provide skill development services without the one year of experience if they have maintained continuous employment since August 31, 1993, with an agency that received interim certification under rule 441—185.9(234) published on January 5, 1994, and subrule 185.11(1) published on January 5, 1994, or had a family-centered contract with the department prior to September 1, 1993, and received interim certification under rule 441—185.9(234) published on January 5, 1994, and subrule 185.11(1) published on January 5, 1994. Persons meeting this criterion shall not be qualified to provide skill development if they change place of employment before they have one year of experience.

(5) Graduation from an accredited community college with a two-year associate degree in a related human service field or an associate of science career option degree, or graduation from a certified two-year nursing program.

(6) Sixty college credit hours toward a degree in social work or a related human service field from an accredited four-year college, institute or university may be substituted for the one year of required experience when at least 12 of the 60 hours are in the field of social work or a related human service field.

(7) Licensed in Iowa as an independent social worker, master social worker, bachelor social worker, psychologist, psychiatric mental health nurse practitioner, marital and family therapist or mental health counselor.

185.10(2) *Staffing requirements.* The agency or individual shall certify that they meet the staffing ratios set forth in this chapter. The agency or individual shall maintain records to demonstrate that qualified staff responsible for direct provision or supervision of rehabilitative treatment services are present in sufficient number to meet the requirements.

185.10(3) *Supervision requirements.* Provider staff who provide skill development services and who do not meet the qualifications for provision of therapy and counseling pursuant to 185.10(1)*"a"* shall receive supervision by an employee or consultant with those qualifications. Supervision shall occur on a face-to-face basis, and may be conducted on an individual or group basis. The provider shall document the date of supervision meetings, who was present, and the general focus of discussion. Supervision requirements may be waived for staff who are absent due to vacation or sick leave.

DIVISION VII
BILLING AND PAYMENT PROCEDURES

441—185.121(234) Billing procedures. At the end of each month the provider agency shall prepare Form AA–2241–0, Purchase of Service Provider Invoice, for contractual services provided by the agency during the month.

Separate invoices shall be prepared for each county from which clients were referred and each program. Complete invoices shall be sent to the department county office responsible for the client for approval and forwarding for payment.

Providers shall never bill for more than one month of service. A separate invoice is required for each separate month of service, even if the service span overlaps one month.

185.121(1) *Time limit for submitting invoices.* The time limit for submission of original invoices shall be 90 days from the date of service, except at the end of the state fiscal year when claims for services through June 30 are to be submitted by August 10.

185.121(2) *Resubmittals of rejected claims.* Valid claims which were originally submitted within the time limit specified in 185.121(1) but were rejected because of an error shall be resubmitted as soon as corrections can be made.

185.121(3) *Payment.* Within 60 days of the date of receipt of a valid invoice, the department shall make payment in full of all invoices concerning rehabilitative treatment and supportive services rendered to clients, provided the invoices shall be subject to audit and adjustment by the department.

441—185.122(234) Recoupment procedures. Public agencies that are reimbursed more than their actual costs are required to refund any excess to the department within four months of the end of their fiscal year. No provision for profit or other increment above cost is intended in OMB Circular A–87 for public agencies. Those public providers subject to this provision who fail to comply with this requirement shall be considered to be in violation of 185.12(1)"*r*" and subject to sanctions. Providers who do not refund any excess payments within six months of the end of their fiscal year shall be given notice in accordance with 185.12(6) and have any and all payments suspended or withheld in accordance with 185.12(7).

These rules are intended to implement Iowa Code sections 234.6 and 234.38.

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CHAPTERS 186 to 199
Reserved

*Rule 185.4(234), subrule 185.8(4) and rule 185.9(234), effective 8/12/93.
**Effective date of 185.22(1)"*d*, "(2)"*d*, " and (3)"*d*, " 185.42(3), 185.62(1)"*d*, "(2)"*d*, " and (3)"*d*, " and 441—185.82(234) delayed 70 days by the Administrative Rules Review Committee at its meeting held July 11, 1995.

CHAPTER 201
SUBSIDIZED ADOPTIONS

[Prior to 7/1/83, Social Services(770), Ch 138]
[Previously appeared as Ch 138—renumbered IAB 2/29/84]
[Prior to 2/11/87, Human Services(498)]

441—201.1(600) Administration. The Iowa department of human services, through the administrator of the division of adult, children and family services, shall administer the subsidized adoption program, in conformance with the legal requirements for adoption as defined in Iowa Code chapter 600.

441—201.2(600) Definitions.

"Child" means a person who has not attained age 18, or a person with a physical or mental disability who has not attained age 21.

"Escrow account" means an interest-bearing account in a bank or savings and loan association which is maintained by the department in the name of a particular child.

"Maintenance subsidy" means a monthly payment to assist in covering the cost of room, board, clothing, and spending money. The child will also be eligible for medical assistance pursuant to 441—Chapter 75.

"Mental health professional" means the same as defined in the department's rule 33.1(225C,230A).

"Mental retardation professional" means a person who has at least one year of experience working directly with persons with mental retardation or other developmental disabilities and who is one of the following:

1. A doctor of medicine or osteopathy.
2. A registered nurse.
3. A person who holds at least a bachelor's degree in a human services field including, but not limited to: social work, sociology, special education, rehabilitation counseling, and psychology.

"Nonrecurring expenses" means reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child with special needs. These shall be limited to attorney fees, court filing fees and other court costs.

"Physician" means a licensed medical or osteopathic doctor as defined in rule 441—77.1(249A).

"Presubsidy" means payment for maintenance or special services for a special needs child who is placed in an adoptive home but whose adoption is not finalized.

"Special services subsidy" means payment to a provider or the parent for medical, dental, therapeutic, or other services, equipment or appliances required by a child because of a handicapping condition.

441—201.3(600) Conditions of eligibility or ineligibility.

201.3(1) The child is eligible for subsidy when the department or a private agency has documented that it has been unable to place the child in an appropriate adoptive home without a subsidy and the child is determined to be a child with "special needs" based on one or more of the following reasons:

a. The child has a medically diagnosed disability which substantially limits one or more major life activities, requires professional treatment, assistance in self-care, or the purchase of special equipment.

b. The child has been determined to be mentally retarded by a qualified mental retardation professional.

c. The child has been determined by a qualified mental retardation professional to be at high risk of having mental retardation, of having an emotional disability as determined by a qualified mental health professional, or of having a physical disability as determined by a physician. Until a determination has been made that the child has mental retardation, emotional disability, or a physical disability, only a special services subsidy can be provided.

d. The child has been diagnosed by a qualified mental health professional to have a psychiatric condition which impairs the child's mental, intellectual, or social functioning, and for which the child requires professional services.

e. The child has been diagnosed by a qualified mental health professional to have a behavioral or emotional disorder characterized by situationally inappropriate behavior which deviates substantially from behavior appropriate to the child's age or significantly interferes with the child's intellectual, social and personal adjustment.

f. The child is aged eight or over and Caucasian.

g. The child is a member of a minority race or ethnic group or the child's biological parents are of different races.

h. The child is a member of a sibling group of three or more who are placed in the same adoptive home, or a sibling group of two if one of the children has special needs because of one of the above reasons.

201.3(2) A child who enters the United States from another country, on the basis of a visa classifying the child as an orphan; where the child entered the country, in accordance with the Immigration and Naturalization Act, Section 204-(4)(A) (i) (ii) for the purpose of adoption by a specific United States family is not eligible for subsidized adoption maintenance payments, medical assistance or special services except for nonrecurring expenses in the following situations:

a. Rescinded IAB 8/11/99, effective 10/1/99.

b. The child from another country who meets the criteria in subrule 201.3(1) and whose adoption is finalized after June 14, 1989, must file an application on Form 470-0744, Application for Adoption Subsidy, and complete Form 470-0749, Adoption Subsidy Agreement, prior to or at the time of a final decree of adoption. The claim for reimbursement must be filed on Form 07-350, Purchase Order/Payment Voucher, within two years of the date of the adoption decree and must include receipts.

c. If the adoptive placement disrupts prior to finalization or if the parental rights of the adoptive parents are terminated after the adoption is finalized and the department is named guardian of the child, the child may be eligible for subsidy in another adoptive placement.

201.3(3) Subsidies for children who were determined to be eligible prior to the effective date of this rule shall continue unless one of the conditions for termination defined in 441—201.7(600) is present.

201.3(4) The determination of whether a child meets eligibility requirements is made by the Iowa department of human services. An adverse determination may be appealed according to rules in 441—Chapter 7.

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ENVIRONMENTAL PROTECTION COMMISSION[567]

Former Water, Air and Waste Management[900], renamed by 1986 Iowa Acts, chapter 1245, Environmental Protection Commission under the "umbrella" of the Department of Natural Resources.

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CHAPTER 1
OPERATION OF ENVIRONMENTAL PROTECTION COMMISSION
[Prior to 12/3/86, see Water, Air and Waste Management[900] Ch 2]

567—1.1(17A,455A) Scope. This chapter governs the conduct of business by the environmental protection commission. Rule-making proceedings held as part of commission meetings and contested case proceedings involving the commission are governed by other rules of the department.

567—1.2(17A,455A) Time of meetings. The commission meets at least quarterly, and usually meets monthly. The director, the chairperson, or a majority of the commission may establish meetings. Normally, the time of the next meeting will be determined in the current commission meeting.

567—1.3(17A,455A) Place of meetings. Meetings are generally held in the Henry A. Wallace Building, 900 East Grand Avenue, Des Moines, Iowa. The commission may meet at other locations from time to time; if so, the meeting place will be specified in the agenda.

567—1.4(17A,455A) Notification of meetings. The director of the department shall provide public notice of all meeting dates, locations, and tentative agenda.

1.4(1) *Form of notice.* Notice of meetings is given by posting the tentative agenda and by distribution upon request. The agenda lists the time, date, place, and topics to be discussed at the meeting. The agenda shall include a specific time for the public to address the commission on any issue related to the duties and responsibilities of the commission, except as otherwise provided in these rules.

1.4(2) *Posting of agenda.* The tentative agenda for each meeting will be posted at the department's offices on the fourth and fifth floors, Henry A. Wallace Building, normally at least seven days prior to the meeting. Agenda will be posted at least 24 hours prior to the meeting, unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible will be given.

1.4(3) *Distribution of agenda.* Agenda will be mailed to anyone who files a request with the director. The request should state whether the agenda for a particular meeting is desired, or whether the requester desires to be on the department's mailing list to receive the agenda for all meetings of the environmental protection commission.

1.4(4) *Amendment to agenda.* Any amendments to the agenda after posting and distribution under subrules 1.4(2) and 1.4(3) will be posted, but will not be mailed. The amended agenda will be posted at least 24 hours prior to the meeting, unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible will be given. The commission may adopt amendments to the agenda at the meeting only if good cause exists requiring expeditious discussion or action. The reasons and circumstances necessitating agenda amendments, or those given less than 24 hours' notice by posting, shall be stated in the minutes of the meeting.

1.4(5) *Supporting material.* Written materials provided to the commission with the agenda may be examined and copied as provided. Copies of the materials may be distributed at the discretion of the director to persons requesting the materials. The director may require a fee to cover the reasonable cost to the department to provide the copies, in accordance with rules of the department.

567—1.5(17A,455A) Attendance and participation by the public.

1.5(1) *Attendance.* All meetings are open to the public. The commission may exclude the public from portions of the meeting in accordance with Iowa Code section 21.5.

1.5(2) *Participation.*

a. Items on agenda. Presentations to the commission may be made at the discretion of the chairperson.

b. Items not on agenda. Because Iowa Code section 21.4 requires the commission to give notice of its agenda, the commission discourages persons from raising matters not on the agenda. Persons who wish to address the commission on a matter not on the agenda should file a request with the director to place that matter on the agenda of the subsequent meeting.

c. Meeting decorum. The chairperson may limit participation as necessary for the orderly conduct of agency business.

1.5(3) *Use of cameras and recording devices.* Cameras and recording devices may be used during meetings provided they do not interfere with the orderly conduct of the meeting. The chairperson may order the use of these devices discontinued if they cause interference, and may exclude those persons who fail to comply with that order.

567—1.6(17A,455A) Quorum and voting requirements.

1.6(1) *Quorum.* A majority of the members of the commission constitutes a quorum.

1.6(2) *Voting.* The concurrence of a majority of the members of the commission is required to determine any matter before the commission for action, except for a vote to close a meeting which requires the concurrence of two-thirds of the members of the commission, or the concurrence of all members present if less than two-thirds are present.

567—1.7(17A,455A) Conduct of meeting.

1.7(1) *General.* Meetings will be conducted in accordance with Robert's Rules of Order unless otherwise provided in these rules. Voting shall be by voice or by roll call. Voting shall be by voice unless a voice vote is inconclusive, a member of the commission requests a roll call, or the vote is on a motion to close a portion of a meeting. The chairperson shall announce the result of the vote.

1.7(2) *Voice votes.* All commission members present should respond when a voice vote is taken. The response shall be aye, nay, or abstain.

a. All members present shall be recorded as voting aye on any motion when there are no nay votes or abstentions heard.

b. Any member who abstains shall state at the time of the vote the reason for abstaining. The abstention and the reason for it shall be recorded in the minutes.

1.7(3) *Provision of information.* The chairperson may recognize any agency staff member for the provision of information relative to an agenda item.

567—1.8(17A,455A) Minutes, transcripts, and recordings of meetings.

1.8(1) *Recordings.* The director shall record by mechanized means each meeting, and shall retain the recording for at least one year. Recordings of closed sessions shall be sealed and retained at least one year.

1.8(2) *Transcripts.* The department does not routinely prepare transcripts of meetings. The department will have transcripts of meetings, except for closed sessions, prepared upon receipt of a request for a transcript and payment of a fee to cover the cost to the department of preparing the transcript.

1.8(3) *Minutes.* The director shall keep minutes of each meeting. Minutes shall be reviewed and approved by the commission, and retained permanently by the director. The approved minutes shall be signed by the director and the chairperson and secretary of the commission.

567—1.9(17A,455A) Officers and duties.

1.9(1) *Officers.* The officers of the commission are the chairperson, the vice chairperson, and the secretary.

1.9(2) *Duties.* The chairperson shall preside at meetings, and shall exercise the powers conferred upon the chairperson. The vice chairperson shall perform the duties of the chairperson when the chairperson is absent or when directed by the chairperson. The secretary shall supervise the preparation of minutes, make recommendations to the commission on approval or revision of the minutes, and act as parliamentarian.

567—1.10(17A,455A) Election and succession of officers.

1.10(1) *Elections.* Officers shall be elected annually during May.

1.10(2) *Succession.*

a. If the chairperson does not serve out the elected term, the vice chairperson shall succeed the chairperson for the remainder of the term. A special election shall be held to elect a new vice chairperson to serve the remainder of the term.

b. If the vice chairperson does not serve out the elected term, a special election shall be held to elect a new vice chairperson to serve the remainder of the term.

c. If the secretary does not serve out the elected term, a special election shall be held to elect a new secretary to serve the remainder of the term.

567—1.11(68B) Sales of goods and services.

1.11(1) *Prohibition.* An official shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations subject to the regulatory authority of the department unless the department consents as provided in this rule.

1.11(2) *Definitions.*

"Association" means any profit or nonprofit entity that is not a "corporation" or an "individual" as defined in this rule, but does not include any "unit of government" as defined in this rule.

"Commission" means the environmental protection commission.

"Corporation" means "corporation" and "foreign corporation" as defined in Iowa Code sections 490.140 and 504A.2, but does not include any "unit of government" as defined in this rule.

"Department" means the department of natural resources.

"Goods" means personal property, tangible and intangible.

"Individual" means a human being and includes any individual doing business as a sole proprietorship.

"Official" means a member of the environmental protection commission.

"Sale" or *"sell"* means the process in which goods or services are provided in exchange for money or other valuable consideration. The term does not include purchases of goods or services, nor outside employment activities that constitute an employer-employee relationship.

"Services" means action, conduct or performance which furthers some end or purpose or which assists or benefits someone or something.

"Unit of government" means "United States," "state" and "governmental subdivision" as defined in Iowa Code section 490.140.

1.11(3) *Application for consent.* An application for consent must be signed by the official requesting consent and submitted as specified in subrule 1.11(4). The application must provide a clear statement of all relevant facts concerning the sale, specify the amount of compensation and how compensation is to be determined, and indicate the time period or number of transactions for which consent is requested. The application must also explain why the sale would not create a conflict of interest or provide financial gain by virtue of the applicant's position within the department.

1.11(4) *Consent procedure.* Applications for consent must be submitted to the director who will schedule the matter as an informational item at a meeting of the commission. When the informational item is considered, the applicant may explain the application and entertain questions. The director shall schedule the matter to be decided at the second meeting following its consideration as an informational item, at which time the commission shall consider written comments which have been filed with the director and entertain any oral comments. The commission shall approve or deny the application by voting in the same manner as it determines other matters, except that the applicant shall not vote.

1.11(5) *General conditions of consent.* Consent shall not be given to an official unless all of the following conditions are met:

a. This condition is satisfied if either of the following paragraphs is met:

(1) The duties or functions performed by the official are not related to the regulatory authority of the department over the individual, association or corporation; or

(2) The duties or functions performed by the official are not affected by the selling of goods or services to the individual, association or corporation.

b. The selling of the goods or services by the official does not include acting as an advocate to the department on behalf of the individual, association or corporation receiving the goods or services.

c. The selling of goods or services does not result in the official selling a good or service to the department on behalf of the individual, association or corporation.

1.11(6) *Class prohibitions and consent.*

a. The commission concludes that the sales of goods and services described in this paragraph, as a class, constitute the sale of a good or service which affects an official's functions. The department will not consent to sales which fall within the following categories unless there are unique facts surrounding a particular sale which clearly satisfy the conditions listed in subrule 1.11(5).

Sales which are prohibited by rule:

(1) Sales of department information or the sale of services necessary to gather department information, including but not limited to solicitation lists.

(2) Services utilized in the preparation of applications, reports, or other documents which may be approved or reviewed by the commission.

b. The commission concludes that sales of goods or services described in this paragraph do not, as a class, constitute the sale of a good or service which affects an official's functions. Application and department approval are not required for these sales unless there are unique facts surrounding a particular sale which would cause that sale to affect the official's duties or functions, would give the buyer an advantage in its dealings with the department, or otherwise present a conflict of interest.

Sales for which consent is granted by rule:

(1) Nonrecurring sales of goods and services if the official is not engaged for profit in the business of selling those goods or services.

(2) Sale of farm products at market prices to a buyer ordinarily engaged in the business of purchasing farm products.

(3) Sales of goods to general public at an established retail or consignment shop.

(4) Sale of legal, mechanical, or other services at market or customary prices. However, if an official's client or customer has a matter for decision before the commission, the official shall not participate in the discussion and voting on that matter unless consent has been obtained pursuant to subrules 1.11(3) and 1.11(4).

(5) Sale of goods at wholesale prices to a buyer ordinarily engaged in the business of purchasing wholesale goods for retail sale.

(6) Sale of creative works of art, including but not limited to sculpture and literary products, at market, auction, or negotiated prices. However, if an official's customer has a matter for decision before the commission directly or indirectly involving that good, the official shall not participate in the discussion and voting on that matter unless consent has been obtained pursuant to subrules 1.11(3) and 1.11(4).

(7) Sale of goods to general public at market or franchiser-established prices. However, if an official's customer has a matter for decision before the commission, the official shall not participate in the discussion and voting on that matter unless consent has been obtained pursuant to subrules 1.11(3) and 1.11(4).

1.11(7) *Effect of consent.* The consent must be in writing. The consent is valid only for the activities and period described in it and only to the extent that material facts have been disclosed and the actual facts are consistent with those described in the application. Consent can be revoked at any time by written notice to the official.

1.11(8) *Public information.* The application and consent are public records, open for public examination, except to the extent that disclosure of details would constitute a clearly unwarranted invasion of personal privacy or trade secrets and the record is exempt from disclosure under Iowa law.

1.11(9) *Effect of other laws.* Neither this rule nor any consent provided under it constitutes consent for any activity which would constitute a conflict of interest at common law or which violates any applicable statute or rule. Despite department consent under these rules, a sale of goods or services to someone subject to the jurisdiction of the agency may violate the gift law, bribery and corruption laws. It is the responsibility of the official to ensure compliance with all applicable laws and to avoid both impropriety and the appearance of impropriety.

These rules are intended to implement Iowa Code sections 17A.3(1)*"a,"* 68B.4 and 455A.6.

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CHAPTER 2
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

[Prior to 2/11/87, see Water, Air and Waste Management, 900—4.1 to 4.4]

567—2.1(17A,22) Adoption by reference. The commission adopts by reference 561—Chapter 2, Iowa Administrative Code.

These rules are intended to implement Iowa Code section 22.11.

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CHAPTER 3
SUBMISSION OF INFORMATION AND COMPLAINTS—INVESTIGATIONS

[Prior to 2/11/87, see Water, Air and Waste Management, 900—4.5]

567—3.1(17A,455B) Adoption by reference. The commission adopts by reference 561—Chapter 3, Iowa Administrative Code.

This rule is intended to implement Iowa Code sections 17A.3(1) and 455B.105.

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CHAPTER 4
AGENCY PROCEDURE FOR RULE MAKING

567—4.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 4, Iowa Administrative Code.

This rule is intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

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CHAPTER 5
PETITIONS FOR RULE MAKING

567—5.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 5, Iowa Administrative Code.

This rule is intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

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CHAPTER 6
DECLARATORY ORDERS

567—6.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 6, Iowa Administrative Code.

This rule is intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

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CHAPTER 7
RULES OF PRACTICE IN CONTESTED CASES
[Prior to 9/7/88, see Water, Air and Waste Management[900] Ch 7]

567—7.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 7, Iowa Administrative Code.

These rules are intended to implement Iowa Code sections 17A.3 and 17A.12 to 17A.18.

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CHAPTER 8
CONTRACTS FOR PUBLIC IMPROVEMENTS AND PROFESSIONAL SERVICES

567—8.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 8, Iowa Administrative Code, as amended through June 19, 1991.

These rules are intended to implement Iowa Code sections 455A.6, 455B.105 and 573.12(3).

[Filed 9/26/88, Notice 8/10/88—published 10/19/88, effective 11/23/88]
[Filed 4/26/91, Notice 2/20/91—published 5/15/91, effective 6/19/91]

DIVISION B
DRINKING WATER

CHAPTER 40
SCOPE OF DIVISION—DEFINITIONS—FORMS—RULES OF PRACTICE

[Prior to 12/3/86, Water, Air and Waste Management [900]]

567—40.1(455B) Scope of division. The department conducts the public water supply program, provides grants to counties, and establishes minimum standards for the construction of private water supply systems. The public water supply program includes the following: the establishment of drinking water standards, including maximum contaminant levels, treatment techniques, action levels, monitoring, viability assessment, consumer confidence reporting, public notice requirements, public water supply system operator certification standards, environmental drinking water laboratory certification program, and a state revolving loan program consistent with the federal Safe Drinking Water Act, and the establishment of construction standards. The construction, modification and operation of any public water supply system requires a specific permit from the department. Certain construction permits are issued upon certification by a registered professional engineer that a project meets standards, and in certain instances permits are issued by local authorities pursuant to 567—Chapter 9. Private water supplies are regulated by local boards of health.

Chapter 40 includes rules of practice, including designation of forms, applicable to the public in the department's administration of the subject matter of this division.

Chapter 41 contains the drinking water standards and specific monitoring requirements for the public water supply program.

Chapter 42 contains the public notification, public education, consumer confidence reporting, and record-keeping requirements for the public water supply program.

Chapter 43 contains specific design, construction, fee, operating, and operation permit requirements for the public water supply program.

Chapter 44 contains the drinking water state revolving fund program for the public water supply program.

Chapter 47 contains provisions for county grants for creating programs for (1) the testing of private water supply wells, (2) rehabilitation of private wells, and (3) the proper closure of private, abandoned wells within the jurisdiction of the county. Chapter 39 contains requirements for the proper closure or abandonment of wells.

Chapter 49 provides minimum standards for construction of private water wells, and private well construction permits may be issued by local county authorities pursuant to 567—Chapter 38.

Chapter 81 contains the provisions for the certification of public water supply system operators.

Chapter 83 contains the provisions for the certification of laboratories to provide environmental testing of drinking water supplies.

567—40.2(455B) Definitions.

"Act" means the Public Health Service Act as amended by the Safe Drinking Water Act, Public Law 93-523.

"Action level" is the concentration of lead or copper in water which determines, in some cases, the treatment requirements that a water system is required to complete.

"Acute" means the health effect of a contaminant which is an immediate rather than a long-term risk to health.

"Animal confinement" means a lot, yard, corral, or similar structure in which the concentration of livestock or poultry is such that a vegetative cover is not maintained.

"Animal pasturage" means a fenced area where vegetative cover is maintained and in which animals are enclosed.

"Animal waste" means animal wastes consisting of excreta, leachings, feed losses, litter, washwaters or other associated wastes.

"Animal waste stockpiles" means the stacking, composting or containment of animal wastes.

"Animal waste storage basin or lagoon" means a fully or partially excavated or diked earthen structure used for containing animal waste, including earthen sideslopes or floor.

"Animal waste storage tank" means a completely fabricated structure, with or without a cover, either formed in place or transported to the site, used for containing animal wastes.

"Antisiphon device" means a device which will prevent back siphonage by means of a relief valve which automatically opens to the atmosphere, preventing the creation of subatmospheric pressure within a pipe, thereby preventing water from reversing its flow.

"Backflow" means the flow of water or other liquids, mixtures, or substances into the distribution system of a potable water supply from any source other than its permitted source.

"Backflow preventer" is a device or means to prevent backflow into a potable water system.

"Back siphon" means the flowing back of used, contaminated, or polluted water, from a plumbing fixture or vessel as a result of negative or subatmospheric pressure within the distribution system.

"Best available technology" or *"BAT"* means the best technology, treatment techniques, or other means which the state finds, after examination, for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration).

"Cistern" means a tank in which rainwater from roof drains is stored.

"Coagulation" means a process using coagulation chemicals and mixing by which colloidal and suspended materials are destabilized and agglomerated into flocs.

"Community water system (CWS)" means a public water supply system which has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

"Compliance cycle" means the nine-year (calendar year) cycle during which public water systems must monitor. Each compliance cycle consists of three three-year compliance periods. The first calendar year cycle begins January 1, 1993, and ends December 31, 2001; the second begins January 1, 2002, and ends December 31, 2010; the third begins January 1, 2011, and ends December 31, 2019, and continues every nine years thereafter.

"Compliance period" means a three-year (calendar year) period within a compliance cycle. Each compliance cycle has three three-year compliance periods. Within the first compliance cycle, the first compliance period runs from January 1, 1993, to December 31, 1995; the second from January 1, 1996, to December 31, 1998; the third from January 1, 1999, to December 31, 2001, and continues every three years thereafter.

"Confluent growth" means a continuous bacterial growth covering the entire filtration area of a membrane filter, or a portion thereof, in which bacterial colonies are not discrete.

"Consecutive public water supply" means an active public water supply which purchases or obtains all or a portion of its water from another, separate public water supply.

"Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

"Conventional filtration treatment" means a series of processes including coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

"Corrosion inhibitor" means a substance capable of reducing the corrosivity of water toward metal plumbing materials, especially lead and copper, by forming a protective film on the interior surface of those materials.

"Corrosive water" means a water which due to its physical and chemical characteristics may cause leaching or dissolving of the constituents of the transporting system in which it is contained.

"Cross connection" means any actual or potential connection between a potable water supply and any other source or system through which it is possible to introduce into the potable system any used water, industrial fluid, gas, or other substance other than the intended potable water with which the system is supplied.

"Customers" in consumer confidence reports are defined as billing units or service connections to which water is delivered by a community water system.

"Deep well" means a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least 5 feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

"Department" means the Iowa department of natural resources, which has jurisdiction over all non-tribal public water systems in Iowa.

"Diatomaceous earth filtration" means a process resulting in substantial particulate removal in which (1) a precoat cake of diatomaceous earth filter media is deposited on a support membrane (septum), and (2) while the water is filtered by passing through the cake on the septum, additional filter media known as body feed is continuously added to the feed water to maintain the permeability of the filter cake.

"Direct filtration" means a series of processes including coagulation and filtration but excluding sedimentation resulting in substantial particulate removal.

"Director" means the director of the Iowa department of natural resources or a designee.

"Disinfectant" means any oxidant, including but not limited to chlorine, chlorine dioxide, chloramines, and ozone added to water in any part of the treatment process or distribution process, that is intended to kill or inactivate pathogenic microorganisms.

"Disinfection" means a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

"Dose equivalent" means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified by the International Commission on Radiological Units and Measurements (ICRU).

"Drinking water state revolving fund (DWSRF)" means the department-administered fund intended to develop drinking water revolving loans to help finance drinking water infrastructure improvements, source water protection, system technical assistance, and other activities intended to encourage and facilitate public water supply system rule compliance and public health protection established by Iowa Code sections 455B.291 to 455B.299.

"Effective corrosion inhibitor residual" means a concentration of corrosion inhibitor sufficient to form a passivating film on the interior walls of a pipe.

"EPA methods" means methods listed in the Manual for the Certification of Laboratories Analyzing Drinking Water, 4th edition, EPA document 815-B-97-001, March 1997.

"Filtration" means a process for removing particulate matter from water by passage through a porous media.

"First draw sample" means a one-liter sample of tap water, collected in accordance with 567—paragraph 41.4(1)*"c"* that has been standing in plumbing pipes at least six hours and is collected without flushing the tap.

"Flocculation" means a process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable particles through gentle stirring by hydraulic or mechanical means.

"Gross alpha particle activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

"Gross beta particle activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

"Halogen" means one of the chemical elements chlorine, bromine or iodine.

"Health advisory (HA)" means a group of levels set by EPA below which no harmful effect is expected from a given contaminant. The HAs used by the department are listed in the most current edition of the EPA "Drinking Water Regulations and Health Advisories" bulletin. The lifetime HA is the concentration of a chemical in drinking water that is not expected to cause any adverse noncarcinogenic effects over a lifetime of exposure, with a margin of safety. The long-term HA is the concentration of a chemical in drinking water that is not expected to cause any adverse noncarcinogenic effects up to approximately seven years (10 percent of an individual's lifetime of exposure), with a margin of safety.

"Health-based standard" means a standard regulating the amount of allowable contaminant in drinking water, and includes maximum contaminant levels, action levels, treatment techniques, and health advisory levels.

"Human consumption" means water used as part of or in connection with drinking; washing; food processing or incidental to commercial food preparation, such as: water used in beverages or other food items; ice used in drinks or in salad bars; water for washing of vegetables or other food items; water used for washing dishes; pans or utensils used in food preparation or service; water used for cleanup and washing of food preparation or service areas; water for bathing, showering, hand washing, or oral hygiene purposes. Human consumption does not include: water for production of packaged or bulk food products regulated by other state or federal regulatory agencies, such as livestock slaughtering or bottled or canned food and beverages; cooling water; industrial or commercial wash waters used for nonfood products; irrigation water; water used in toilets or urinals.

"Impoundment" means a reservoir, pond, or lake in which surface water is retained for a period of time, ranging from several months upward, created by constructing a barrier across a watercourse and used for storage, regulation or control of water.

"Influenced groundwater" means groundwater which is under the direct or indirect influence of surface water, as determined by the presence of (1) significant occurrence of insects or other macroorganisms, algae or large-size pathogens such as *Giardia lamblia*; or (2) significant and relatively rapid shifts in water characteristics such as turbidity (particulate content), temperature, conductivity, or pH which correlate to climatological or surface water conditions, or other parameters as specified in 567—43.5(455B).

"Initial compliance period" means the first full three-year compliance period of a compliance cycle.

"Large water system" means a water system that serves more than 50,000 persons.

"Lead free" when used with respect to solder and flux, refers to solders and flux containing not more than 0.2 percent lead; and, when used with respect to pipes and pipe fittings, refers to pipes and pipe fittings containing not more than 8.0 percent lead.

"Lead service line" means a service line made of lead which connects the water main to the building inlet and any lead pigtail, gooseneck, or other fitting which is connected to such lead line. A lead gooseneck is not considered a lead service line unless it exceeds 10 feet.

"Legionella" means a genus of bacteria, some species of which have caused a type of pneumonia called legionnaires' disease.

"Maintenance" means the replacement of equipment or materials that are necessary to maintain the operation of the public water supply system but do not alter capacity, water quality or treatment method or effectiveness.

"Man-made beta particle and photon emitters" means all radionuclides emitting beta particles or photons or both listed in Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure, NBS Handbook 69, except the daughter products of thorium-232, uranium-235 and uranium-238.

"Maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

"Maximum contaminant level goal (MCLG)" means the nonenforceable concentration of a drinking water contaminant that is protective of adverse human health effects and allows an adequate margin of safety.

"Maximum total trihalomethane potential (MTP)" means the maximum concentration of total trihalomethanes produced in a given water containing a disinfectant residual after seven days at a temperature of 25 degrees Celsius or above.

"Medium-size water system" means a water system that serves greater than 3,300 and less than or equal to 50,000 persons.

"Nonacute" means the health effect of a contaminant which is a long-term rather than immediate risk to health.

"Noncommunity water system" means a public water system that is not a community water system. A noncommunity water system is either a "transient noncommunity water system (TNC)" or a "nontransient noncommunity water system (NTNC)."

"Nontransient noncommunity water system" or *"NTNC"* means a public water system other than a community water system which regularly serves at least 25 of the same persons four hours or more per day, for four or more days per week, for 26 or more weeks per year. Examples of NTNCs are schools, day-care centers, factories, offices and other public water systems which provide water to a fixed population of 25 or more people. In addition, other service areas, such as hotels, resorts, hospitals and restaurants, are considered as NTNCs if they employ 25 or more people and are open for 26 or more weeks of the year.

"Optimal corrosion control treatment" means the corrosion control treatment that minimizes the lead and copper concentrations at users' taps while ensuring that the treatment does not cause the water system to violate any drinking water standards (567—Chapters 40 to 43).

"Performance evaluation sample" means a reference sample provided to a laboratory for the purpose of demonstrating that a laboratory can successfully analyze the sample within limits of performance specified by the department. The true value of the concentration of the reference material is unknown to the laboratory at the time of analysis.

"Picocurie (pCi)" means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

"Point of disinfectant application" is the point where the disinfectant is applied and water downstream of that point is not subject to recontamination by surface water runoff.

"Point-of-entry treatment device" is a treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminants in the drinking water distributed throughout the house or building.

"Point-of-use treatment device" is a treatment device applied to a single or multiple taps used for the purpose of reducing contaminants in drinking water at those taps, but is not intended to treat all of the water in the facility.

"Population served" means the total number of persons served by a public water supply that provides water intended for human consumption. For municipalities which serve only the population within their incorporated boundaries, it is the last official U.S. census population (or officially amended census population). For all other community public water supply systems, it is either the actual population counted which is verifiable by the department, or population as calculated by multiplying the number of service connections by an occupancy factor of 2.5 persons per service connection. For municipalities which also serve outside their incorporated boundaries, the served population must be added to the official census population determined either by verifiable count or by the 2.5 persons per service connection occupancy factor. For nontransient noncommunity (NTNC) and transient noncommunity (TNC) systems, it is the average number of daily employees plus the average number of other persons served such as customers or visitors during the peak month of the year regardless if each person actually uses the water for human consumption. Where a system provides water to another public water supply system (consecutive public water supply system) which is required to have an operation permit, the population of the recipient water supply shall not be counted as a part of the water system providing the water. Community and nontransient noncommunity public water supply systems will pay their operation permit fees based upon the population served.

"Privy" means a structure used for the deposition of human body wastes.

"Project" includes the planning, design, construction, alteration or extension of any public water supply system but does not include the maintenance of a system.

"Public water supply system control" is defined as one of the following forms of authority over a service line: authority to set standards for construction, repair, or maintenance of the service line; authority to replace, repair, or maintain the service line; or ownership of the line. Contaminants added to the water under circumstances controlled by the water consumer or user, with the exception of those contaminants resulting from the corrosion of piping and plumbing caused by water quality, are excluded from this definition of control.

"Public water supply system (PWS)" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system."

"Regional water system" means a public water supply system in which the projected number of service connections in at least 50 percent of the length of the distribution system does not average more than eight service connections per linear mile of water main.

"Rem" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem" (mrem) is 1/1000 of a rem.

"Repeat compliance period" means any subsequent compliance period after the initial compliance period.

"Residual disinfectant concentration" ("C" in CT calculations) means the concentration of disinfectant measured in mg/l in a representative sample of water.

"Sanitary sewer pipe" means a sewer complying with the department's standards for sewer construction.

"Sanitary survey" means a review and on-site inspection conducted by the department of the water source, facilities, equipment, operation and maintenance and records of a public water supply system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water and identifying improvements necessary to maintain or improve drinking water quality.

"Sedimentation" means a water treatment process for removal of solid particles from a suspension before filtration by gravity or separation.

"Septic tank" means a watertight tank which receives sewage.

"Service connections" means the total number of active and inactive service lines originating from a water distribution main for the purpose of delivering water intended for human consumption. For municipalities, rural water districts, mobile home parks, housing developments, and similar facilities, this includes, but is not limited to, occupied and unoccupied residences and buildings, provided that there is a service line connected to the water main (or another service line), and running onto the property. For rental properties which are separate public water supply systems, this includes, but is not limited to, the number of rental units such as apartments. Connections to a system that delivers water by a constructed conveyance other than a pipe are excluded from the definition, if:

1. The water is used exclusively for purposes other than human consumption;
2. The department determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for human consumption; or
3. The department determines that the water provided for human consumption is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

"Service line sample" means a one-liter sample of water, collected in accordance with 567—paragraph 41.4(1)*"c"* for the purpose of determining the concentration of lead and copper which has been standing for at least six hours in a service line.

"Shallow well" means a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least 5 feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

"Single-family structure" means a building constructed as a single-family residence that is currently used as either a residence or a place of business.

"Slow sand filtration" means a process involving passage of raw water through a bed of sand at low velocity (generally less than 0.4 m/h (0.02 ft/min)) resulting in substantial particulate removal by physical and biological mechanisms.

"Small water system" means a water system that serves 3,300 persons or fewer.

"Special irrigation district" means an irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use where the system or the residential or similar users of the system comply with 567—Chapters 40 through 43.

"Standard methods" means "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, 1015 15th Street N.W., Washington, DC 20005.

"Standard sample" means the aliquot of finished drinking water that is examined for the presence of coliform bacteria.

"Standard specifications" means specifications submitted to the department for use as a reference in reviewing future plans for proposed water main construction.

"Supplier of water" means any person who owns or operates a public water supply system.

"Surface water" means all water which is open to the atmosphere and subject to surface runoff.

"Ten States Standards" means the "Recommended Standards for Water Works," 1997 edition as adopted by the Great Lakes—Upper Mississippi River Board of State Sanitary Engineers.

"Too numerous to count" means that the total number of bacterial colonies exceeds 200 on a 47-mm diameter membrane filter used for coliform detection.

"Total trihalomethanes (TTHM)" means the sum of the concentration in milligrams per liter of the trihalomethane compounds trichloromethane (chloroform), dibromochloromethane, bromodichloromethane and tribromomethane (bromoform), rounded to two significant figures.

"Transient noncommunity water sysytem (TNC)" means a noncommunity water system that does not regularly serve at least 25 of the same persons over six months per calendar year.

"Trihalomethane (THM)" means one of the family of organic compounds, named as derivatives of methane, wherein three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure.

"Unregulated contaminant" means a contaminant for which no MCL has been set, but which does have monitoring requirements set in 567—subrule 41.11(2).

"Virus" means a virus of fecal origin which is infectious to humans by waterborne transmission.

"Waterborne disease outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a public water system which is deficient in treatment, as determined by the Iowa department of public health.

"Water distribution system" means that portion of the water supply system in which water is conveyed from the water treatment plant or other supply point to the premises of the consumer, including any storage facilities and pumping stations.

"Water main pipe" means a water main complying with the department's standards for water main construction.

567—40.3(17A,455B) Forms. The following forms are used by the public to apply for department approvals and to report on activities related to the public water supply program of the department. All forms may be obtained from the Environmental Protection Division, Administrative Support Station, Department of Natural Resources, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319-0034. Properly completed application forms shall be submitted to the Water Supply Section, Environmental Protection Division. Water Supply System Monthly and Other Operation Reporting forms shall be submitted to the appropriate field office (see 567—subrule 42.4(3)). Properly completed laboratory forms (reference 567—Chapter 83) shall be submitted to the University Hygienic Laboratory or as otherwise designated by the department.

40.3(1) *Construction permit application forms.* Schedules "1" through "16d" are required.

Schedule No.	Name of Form	Form Number
"1a"	General Information	542-3178
"lb"	Certification of Project Design	542-3174
"2a"	Water Mains, General	542-3030
"2b"	Water Mains, Specifications	542-3031
"3a"	Water System, Preliminary Data	542-3032
"3b"	Water Quality Data	542-3029
"3c"	Surface Water Quality Data	542-3028
"4"	Site Selection	542-3078
"5a"	Well Construction	542-1005
"5b"	Well Appurtenances	542-3026
"5c"	Well Profile	542-1006
"5d"	Surface Water Supply	542-3139
"6a"	Distribution Water Storage Facilities	542-3140
"6b"	Distribution Pumping Station	542-3141
"7"	Schematic Flow Diagram	542-3142
"8"	Aeration	542-3143
"9"	Clarification/Sedimentation	542-3144
"10"	Suspended Solids Contact	542-3145
"11"	Cation Exchange Softening	542-3146
"12"	Filters	542-3147
"13a"	Chemical Addition	542-3141
"13b"	Dry Chemical Addition	542-3130
"13c"	Gas Chlorination	542-3131
"13d"	Fluoridation	542-3132
"13e"	Sampling and Tests	542-3133
"14"	Pumping Station	542-3134
"15"	Process Water Storage Facilities	542-3135
"16a"	Wastewater, General	542-3136
"16b"	Waste Treatment Ponds	542-3137
"16c"	Filtration and Mechanical	542-3138
"16d"	Discharge to Sewer	542-3103

40.3(2) *Operation permit application forms.*
a. Form 13-1 — community water supply
b. Form 13-2 — noncommunity water supply
40.3(3) *Water supply reporting forms.*

a. Form 14 — plant operation	542-3104
b. Form 15 — analyses by certified laboratories	
(1) Individual bacterial analysis reporting — Form 15-la	542-3195
(2) Summary bacterial analysis reporting — Form 15-lb	542-3196
(3) Chemical analysis reporting — Form 15-2	542-3166
(4) Corrosivity analysis reporting — Form 15-3	542-3193

40.3(4) *Laboratory certification application forms.* Reserved.

567—40.4(17A,455B) Public water supply construction permit application procedures.

40.4(1) *General procedures.* Applications for written approval from the department for any new construction or for reconstruction pursuant to 567—Chapter 41 shall consist of complete plans and specifications and appropriate water supply construction permit application schedules. Upon review, the department will issue a construction permit for approval of a project if the review shows that the project meets all departmental design standards in accordance with 567—Chapter 43. Approval of a project which does not meet all department design standards will be denied unless a variance as provided by 567—paragraph 43.3(2)*"c"* is granted. A variance may be requested at the time plans and specifications are submitted or after the design discrepancy is pointed out to the applicant.

The department may review submitted project plans and specifications and provide comments and recommendations to the applicant. Departmental comments and recommendations are advisory, except when departmental review determines that a facility does not comply with the plans or specifications as approved by the department or comply with the design standards pursuant to the criteria for certification of project design. The owner of the system must correct the deficiency in a timely manner as set forth by the department.

40.4(2) *Public water sources and below-ground level water storage facilities—site survey.* For public water sources and for below-ground level finished water storage facilities, a site survey and approval must be made by the department. The manner and procedures for applying for and processing a site survey are the same as in 40.4(1) except that the following information must be submitted by the applicant's engineer.

a. A preliminary engineering report or a cover letter which contains a brief description of the proposed source or storage facility and assurance that the project is in conformance with the long-range planning of the area.
b. Completed Schedule 1a — General Information
c. Completed Schedule 4 — Water Supply Facility Site Selection
d. A detailed map showing all potential sources of contamination (see 567—Chapter 43, Table A) within:
(1) 1,000 feet of a proposed well location. The scale shall not be smaller than 1 inch = 200 feet.
(2) 200 feet of a proposed below-ground level finished water storage facility.
(3) 2,500 feet from a proposed surface water source and a plat showing all facilities more than 2,500 feet from an impoundment (within the drainage area) that may be potential sources of contamination. The scale shall not be smaller than 1 inch = 660 feet.
(4) Six miles upstream of a proposed river intake.

40.4(3) *Modifications of an approved water supply construction project.* Persons seeking to make modifications to a water supply construction project after receiving a prior construction permit from the department shall submit an addendum to plans and specifications, a change order or revised plans and specifications at least 30 days prior to planned construction. The department shall review the submitted material within 30 days of submission and shall issue a supplemental permit if the proposed modifications meet departmental standards.

40.4(4) *Certification of project design.* A permit shall be issued for the construction, installation or modification of a public water supply system or part of a system or for a water supply distribution system extension if a qualified, registered engineer certifies that the plans and specifications comply with federal and state laws and regulations or that a variance to standards has been granted by the department. Refer to Schedule 1b.

567—40.5(17A,455B) Public water supply operation permit application procedures. A person requesting a water supply operation permit pursuant to 567—43.2(455B) must complete the appropriate application form, which will be provided by the department. Upon receipt of a completed application, the department will review the application and, if approved, will prepare and issue a water supply operation permit or draft permit, as applicable, and transmit it to the applicant. An annual operation fee pursuant to 567—subrule 43.2(1) is due by September 1 of each year. A permit or renewal will be denied when the applicant does not meet one or more requirements for issuance or renewal of this permit. An operation permit may be denied for any of the following reasons: system failed to pay the operation fee; system is not viable; system is not in compliance with the applicable maximum contaminant levels, treatment techniques, or action levels; system is in significant noncompliance with the provisions of 567—Chapter 41, 42, or 43.

567—40.6(455B) Drinking water state revolving fund loan application procedures. A person requesting a drinking water state revolving fund loan pursuant to 567—44.7(455B) must complete the appropriate application form, which will be provided by the department. The department will review the application package pursuant to 567—44.9(455B). Eligible projects will be ranked according to priority, with the highest-ranked projects receiving funding priority.

567—40.7(455B) Viability assessment procedures. A person required to complete a viability assessment pursuant to 567—43.8(455B) must submit the appropriate information as outlined in 567—43.8(455B) to the department. Self-assessment worksheets which can be used to prepare the viability assessment are available from the Water Supply Section, Department of Natural Resources, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319-0034.

These rules are intended to implement Iowa Code section 17A.3(1)*"b"* and chapter 455B, division III, part 1.

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◊Two ARCs
*Effective date of definitions "Population served" and "Service connections" and rule 40.5(17A,455B) delayed until adjournment of the 1995 General Assembly by the Administrative Rules Review Committee at its meeting held March 13, 1995.

CHAPTER 41
WATER SUPPLIES

[These rules transferred from Health Department, 1971 IDR (Title II, Chs 1 and 2)]
[Prior to 7/1/83, DEQ Ch 22]
[Prior to 12/3/86, Water, Air and Waste Management[900]]

567—41.1(455B) Primary drinking water regulations—coverage. 567—Chapters 40 through 44 and 83 shall apply to each public water supply system, unless the public water supply system meets all of the following conditions:

1. Consists only of distribution and storage facilities (and does not have any collection and treatment facilities);
2. Obtains all of its water from, but is not owned or operated by, a public water supply system to which such regulations apply;
3. Does not sell water to any person; and
4. Is not a carrier which conveys passengers in interstate commerce.

567—41.2(455B) Biological maximum contaminant levels (MCL) and monitoring requirements.

41.2(1) *Coliforms, fecal coliforms and E. coli.*

a. Applicability. These rules apply to all public water supply systems.

b. Maximum contaminant levels (MCL) for total coliforms, fecal coliforms, and E. coli. The MCL is based on the presence or absence of total coliforms in a sample.

(1) Nonacute coliform bacteria MCL.

1. For a system which collects 40 samples or more per month, no more than 5.0 percent of the samples collected during a month may be total coliform-positive. A nonacute coliform bacteria MCL violation occurs when more than 5.0 percent of routine and repeat samples collected during a month are total coliform-positive, but are not fecal coliform-positive or *E.coli*-positive.

2. For a system which collects less than 40 samples per month, no more than one sample collected during a month may be total coliform-positive. A nonacute coliform bacteria MCL violation occurs when two or more routine and repeat samples collected during a month are total coliform-positive, but are not fecal coliform-positive or *E.coli*-positive.

(2) Acute coliform bacteria MCL. Any fecal coliform-positive repeat sample or *E. coli*-positive repeat sample, or any total coliform-positive repeat sample following a fecal coliform-positive or *E. coli*-positive routine sample constitutes a violation of the MCL for total coliforms. For purposes of the public notification requirements in 42.1(1)*"b,"* this is a violation that may pose an acute risk to health.

(3) MCL compliance period. Compliance of a system with the MCL for total coliforms in 41.2(1)*"b"*(1) and (2) is based on each month in which the system is required to monitor for total coliforms.

(4) Compliance determination. Results of all routine and repeat samples not invalidated by the department or laboratory must be included in determining compliance with the MCL for total coliforms.

c. Monitoring requirements.

(1) Routine total coliform monitoring.

1. Public water supply systems must collect total coliform samples at sites which are representative of water throughout the distribution system according to a written sample siting plan. The plan shall be reviewed or updated by the public water supply system every two years and shall be retained on file at the facility. Major elements of the plan shall include, but are not limited to, a map of the distribution system, notation or a list of routine sample location(s) for each sample period, resample locations for each routine sample, and a log of samples taken. The plan must be made available to the department upon request and during sanitary surveys and must be revised by the system as directed by the department.

2. The public water supply system must collect samples at regular time intervals throughout the month, except that a system which uses only groundwater (except groundwater under the direct influence of surface water, as defined in 567—paragraph 43.5(1)*"b"*) and serves 4,900 persons or fewer, may collect all required samples on a single day if they are taken from different sites.

3. Community water systems. The monitoring frequency for total coliforms for community water systems and noncommunity water systems serving schools, to include preschools and day care centers, is based on the population served by the system as listed below, until June 29, 1994. Public water systems which do not collect five or more routine samples each month must undergo an initial sanitary survey by June 29, 1994. After June 29, 1994, the monitoring frequency for systems serving less than 4,101 persons shall be a minimum of five routine samples per month unless the department determines, after completing sanitary surveys (at intervals not to exceed five years), that the monitoring frequency may continue as listed below. The monitoring frequency for regional water systems shall be as listed in 41.2(1)*"c"*(1)"4" but in no instance less than that required by the population equivalent served.

TOTAL COLIFORM MONITORING FREQUENCY FOR COMMUNITY WATER SYSTEMS AND NONCOMMUNITY (SCHOOL) WATER SYSTEMS

Population Served	Minimum Number of Samples Per Month
25 to 1,000*	1
1,001 to 2,500	2
2,501 to 3,300	3
3,301 to 4,100	4
4,101 to 4,900	5
4,901 to 5,800	6
5,801 to 6,700	7
6,701 to 7,600	8
7,601 to 8,500	9
8,501 to 12,900	10
12,901 to 17,200	15
17,201 to 21,500	20
21,501 to 25,000	25
25,001 to 33,000	30
33,001 to 41,000	40
41,001 to 50,000	50
50,001 to 59,000	60
59,001 to 70,000	70
70,001 to 83,000	80
83,001 to 96,000	90
96,001 to 130,000	100
130,001 to 220,000	120
220,001 to 320,000	150
320,001 to 450,000	180
450,001 to 600,000	210
600,001 to 780,000	240
780,001 to 970,000	270

*Includes public water supply systems which have at least 15 service connections, but serve fewer than 25 persons

4. Regional water systems. The supplier of water for a regional water system as defined in rule 567—40.2(455B) shall sample for coliform bacteria at a frequency indicated in the following chart until June 29, 1994, but in no case shall the sampling frequency for a regional water system be less than as set forth in 41.2(1)"*c*"(1)"3" based on the population equivalent served. Public water systems which do not collect five or more routine samples each month must undergo an initial sanitary survey by June 29, 1994. After June 29, 1994, the monitoring frequency of systems with less than 82 miles of pipe shall be a minimum of five routine samples per month unless the department determines, after completing sanitary surveys (at intervals not exceeding five years), that the monitoring frequency may continue as listed below. The following chart represents sampling frequency per miles of distribution system and is determined by calculating one-half the square root of the miles of pipe.

TOTAL COLIFORM MONITORING FREQUENCY FOR REGIONAL WATER SYSTEMS

Miles of Pipe	Minimum Number of Samples Per Month
0 - 9	1
10 - 25	2
26 - 49	3
50 - 81	4
82 - 121	5
122 -169	6
170 - 225	7
226 - 289	8
290 - 361	9
362 - 441	10
442 - 529	11
530 - 625	12
626 - 729	13
730 - 841	14
842 - 961	15
962 - 1,089	16
1,090 - 1,225	17
1,226 - 1,364	18
1,365 - 1,521	19
1,522 - 1,681	20
1,682 - 1,849	21
1,850 - 2,025	22
2,026 - 2,209	23
2,210 - 2,401	24
2,402 - 2,601	25
2,602 - 3,249	28
3,250 - 3,721	30
3,722 - 4,489	33
greater than 4,489	35

5. Noncommunity water systems. The monitoring frequency for total coliforms for noncommunity water systems is as listed in the four unnumbered paragraphs below until June 29, 1999. Public water systems which do not collect five or more routine samples each month must undergo an initial sanitary survey by June 29, 1999. After June 29, 1999, the minimum number of samples shall be five routine samples per month unless the department determines, after completing sanitary surveys (at intervals not exceeding five years), that the monitoring frequency may continue as listed below.

A noncommunity water system using only groundwater (except groundwater under the direct influence of surface water, as defined in 567—paragraph 43.5(1)*"b"*) and serving 1,000 persons or fewer must monitor each calendar quarter that the system provides water to the public. Systems serving more than 1,000 persons during any month must monitor at the same frequency as a like-sized community water system, as specified in 41.2(1)*"c"*(1)"3."

A noncommunity water system using surface water, in total or in part, must monitor at the same frequency as a like-sized community water system, as specified in 41.2(1)*"c"*(1)"3," regardless of the number of persons it serves.

A noncommunity water system using groundwater under the direct influence of surface water, as defined in 567—paragraph 43.5(1)*"b,"* must monitor at the same frequency as a like-sized community water system, as specified in 41.2(1)*"c"*(1)"3," regardless of the number of persons it serves. The system must begin monitoring at this frequency beginning six months after the department determines that the groundwater is under the direct influence of surface water.

A noncommunity water system serving schools or daycares must monitor at the same frequency as a like-sized community water system, as specified in 41.2(1)*"c"*(1)"3."

6. If the department, on the basis of a sanitary survey or monitoring results history, determines that some greater frequency of monitoring is more appropriate, that frequency shall be the frequency required under these regulations. This frequency shall be confirmed or changed on the basis of subsequent surveys.

7. Special purpose samples, such as those taken to determine whether disinfection practices are sufficient following pipe placement, replacement, or repair, shall not be used to determine compliance with the MCL for total coliforms in 41.2(1)*"b."* Repeat samples taken pursuant to 41.2(1)*"c"*(2) are not considered special purpose samples and must be used to determine compliance with the MCL for total coliforms in 41.2(1)*"b."*

(2) Repeat total coliform monitoring.

1. Repeat sample time limit and numbers. If a routine sample is total coliform-positive, the public water supply system must collect a set of repeat samples within 24 hours of being notified of the positive result and in no case more than 24 hours after being notified by the department. A system which collects more than one routine sample per month must collect no fewer than three repeat samples for each total coliform-positive sample found. A system which collects one routine sample per month or fewer must collect no fewer than four repeat samples for each total coliform-positive sample found. The department may extend the 24-hour limit on a case-by-case basis if the system has a logistical problem in collecting the repeat samples within 24 hours that is beyond its control. In those cases, the public water supply system must report the circumstances to the department no later than the end of the next business day after receiving the notice to repeat sample and initiate the action directed by the department. In the case of an extension, the department will specify how much time the system has to collect the repeat samples.

2. Repeat sample location(s). The system must collect at least one repeat sample from the sampling tap where the original total coliform-positive sample was taken, at least one repeat sample at a tap within five service connections upstream and at least one repeat sample at a tap within five service connections downstream of the original sampling site. If a total coliform-positive sample is at the end of the distribution system, or at the first or last service connection, the system will be required to collect the repeat samples from the original sampling site and locations only upstream or downstream.

3. The system must collect all repeat samples on the same day, except that the department may allow a system with a single service connection to collect the required set of repeat samples over a four-day period. "System with a single service connection" means a system which supplies drinking water to consumers through a single service line.

4. Additional repeat sampling. If one or more repeat samples in the set is total coliform-positive, the public water supply system must collect an additional set of repeat samples in the manner specified in 41.2(1)"*c*"(2)"1" to 41.2(1)"*c*"(2)"3." The system must repeat this process until either total coliforms are not detected in one complete set of repeat samples or the system determines that the MCL for total coliforms in 41.2(1)"*b*" has been exceeded, notifies the department, and provides public notification to its users.

5. If a system collecting fewer than five routine samples per month has one or more total coliform-positive samples and the department does not invalidate the sample(s) under 41.2(1)"*c*"(3), it must collect at least five routine samples during the next month the system provides water to the public. For systems monitoring on a quarterly basis, the additional five routine samples may be required to be taken within the same quarter in which the original total coliform-positive sample occurred.

The department may waive the requirement to collect five routine samples the next month the system provides water to the public if the department has determined through an on-site visit the reason that the sample was total coliform-positive and establishes that the system has corrected the problem or will correct the problem before the end of the next month the system serves water to the public. In this case, the department must document this decision to waive the following month's additional monitoring requirement in writing, have it approved and signed by the supervisor of the water supply section and the department official who recommends such a decision, and make this document available to the EPA and public. The written documentation will generally be provided by the public water supply system in the form of a request and must describe the specific cause of the total coliform-positive sample and what action the system has taken to correct the problem. The department will not waive the requirement to collect five routine samples the next month the system provides water to the public solely on the grounds that all repeat samples are total coliform-negative. If the requirement to collect five routine samples is waived under this paragraph, a system must still take at least one routine sample before the end of the next month it serves water to the public and use it to determine compliance with the MCL for total coliforms in 41.2(1)"*b*."

(3) Invalidation of total coliform samples. A total coliform-positive sample invalidated under this subparagraph does not count towards meeting the minimum monitoring requirements of 41.2(1)"*c*." The department may invalidate a total coliform-positive sample only if one or more of the following conditions are met.

1. The laboratory establishes that improper sample analysis caused the total coliform-positive result. A laboratory must invalidate a total coliform sample (unless total coliforms are detected, in which case, the sample is valid) if the sample produces a turbid culture in the absence of gas production using an analytical method where gas formation is examined (e.g., the multiple tube fermentation technique), produces a turbid culture in the absence of an acid reaction in the presence-absence (P-A) coliform test, or exhibits confluent growth or produces colonies too numerous to count with an analytical method using a membrane filter (e.g., membrane filter technique). If a laboratory invalidates a sample because of such interference, the system must collect another sample from the same location as the original sample within 24 hours of being notified of the interference problem, and have it analyzed for the presence of total coliforms. The system must continue to resample within and have the samples analyzed until it obtains a valid result. The department may waive the 24-hour time limit on a case-by-case basis.

2. The department, on the basis of the results of repeat samples collected as required by 41.2(1)"*c*"(2)"1" to "4," determines that the total coliform-positive sample resulted from a domestic or other nondistribution system plumbing problem. "Domestic or other nondistribution system plumbing problem" means a coliform contamination problem in a public water supply system with more than one service connection that is limited to the specific service connection from which the coliform-positive sample was taken. The department will not invalidate a sample on the basis of repeat sample results unless all repeat samples collected at the same tap as the original total coliform-positive sample are also total coliform-positive, and all repeat samples collected within five service connections of the original tap are total coliform-negative (e.g., the department will not invalidate a total coliform-positive sample on the basis of repeat samples if all the repeat samples are total coliform-negative, or if the public water supply system has only one service connection).

3. The department has substantial grounds to believe that a total coliform-positive result is due to a circumstance or condition which does not reflect water quality in the distribution system. In this case, the system must still collect all repeat samples required under 41.2(1)"*c*"(2)"1" to "4," and use them to determine compliance with the MCL for total coliforms in 41.2(1)"*b*." To invalidate a total coliform-positive sample under this paragraph, the decision with the rationale for the decision must be documented in writing and approved and signed by the supervisor of the water supply section and the department official who recommended the decision. The department must make this document available to EPA and the public. The written documentation generally provided by the public water supply system in the form of a request must state the specific cause of the total coliform-positive sample, and what action the system has taken to correct this problem. The department will not invalidate a total coliform-positive sample solely on the grounds of poor sampling technique or that all repeat samples are total coliform-negative.

(4) Fecal coliforms/*Escherichia coli (E. coli)* testing.

1. If any routine or repeat sample is total coliform-positive, the system must analyze that total coliform-positive culture medium to determine if fecal coliforms are present, except that the system may test for *E. coli* in lieu of fecal coliforms.

2. The department may allow a public water supply system, on a case-by-case basis, to forego fecal coliform or *E. coli* on a total coliform-positive sample if that system assumes that the total coliform-positive sample is fecal coliform-positive or *E. coli*-positive. Accordingly, the system must notify the department as specified in 41.2(1)"*c*"(5)"1" and meet the provisions of 567—42.1(455B) pertaining to public notification.

(5) Public water supply system's response to violation.

1. A public water supply system which has exceeded the MCL for total coliforms in 41.2(1)"*b*" must report the violation to the water supply section of the department by telephone no later than the end of the next business day after it learns of the violation, and notify the public in accordance with 567—subrule 42.1(1).

2. A public water supply system which has failed to comply with a coliform monitoring requirement must report the monitoring violation to the department within ten days after the system discovers the violation and notify the public in accordance with 567—subrule 42.1(2).

3. If fecal coliforms or *E. coli* are detected in a routine or repeat sample, the system must notify the department by telephone by the end of the day when the system is notified of the test result, unless the system is notified of the result after the department office is closed, in which case the system must notify the department before the end of the next business day. If the detection of fecal coliform or *E. coli* in a sample causes a violation of the MCL, the system is required to notify the public in accordance with 567—paragraphs 42.1(1)"*a*" and "*b*."

d. Best available technology (BAT). The U.S. EPA identifies, and the department has adopted, the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant level for total coliforms in 41.2(1)"*b*."

(1) Well protection. Protection of wells from contamination by coliforms by appropriate placement and construction;

(2) Disinfectant residual. Maintenance of a disinfectant residual throughout the distribution system;

(3) Distribution system maintenance. Proper maintenance of the distribution system including appropriate pipe replacement and repair procedures, main flushing programs, proper operation and maintenance of storage tanks and reservoirs, and continual maintenance of a minimum positive water pressure of 20 psig in all parts of the distribution system at all times; and

(4) Filtration or disinfection. Filtration and disinfection of surface water or groundwater under the direct influence of surface water in accordance with 567—43.5(455B) or disinfection of groundwater using strong oxidants such as, but not limited to, chlorine, chlorine dioxide, or ozone.

e. Analytical methodology.

(1) Sample volume. The standard sample volume required for total coliform analysis, regardless of analytical method used, is 100 mL.

(2) Presence/absence determination. Public water supply systems shall determine the presence or absence of total coliforms. A determination of total coliform density is not required.

(3) Total coliform bacteria analytical methodology. Public water supply systems must conduct total coliform analyses in accordance with one of the analytical methods in the following table:

Organism	Methodology	Citation[1]
Total Coliforms[2]	Total Coliform Fermentation Technique[3,4,5]	9221A, B
	Total Coliform Membrane Filter Technique	9222A, B, C
	Presence-Absence (P-A) Coliform Test[5,6]	9221D
	ONPG-MUG Test[7]	9223
	Colisure Test[8]	

1 Methods 9221A, B; 9222A, B, C; 9221D; and 9223 are contained in Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992, American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005.

2 The time from sample collection to initiation of the analysis may not exceed 30 hours. Systems are encouraged but not required to hold samples below 10 degrees Celsius during transit.

3 Lactose broth, as commercially available, may be used in lieu of lauryl tryptose broth, if the system conducts at least 25 parallel tests between this medium and lauryl tryptose broth using the water normally tested, and this comparison demonstrates that the false-positive rate and false-negative rate for total coliforms, using lactose broth, is less than 10 percent.

4 If inverted tubes are used to detect gas production, the media should cover these tubes at least one-half to two-thirds after the sample is added.

5 No requirement exists to run the completed phase on 10 percent of all total coliform-positive confirmed tubes.

6 Six-times formulation strength may be used if the medium is filter-sterilized rather than autoclaved.

7 The ONPG-MUG Test is also known as the Autoanalysis Colilert System.

8 The Colisure Test must be incubated for 28 hours before examining the results. If an examination of the results at 28 hours is not convenient, then results may be examined at any time between 28 hours and 48 hours. A description of the Colisure Test may be obtained from the Millipore Corp., Technical Services Department, 80 Ashby Road, Bedford, MA 01730.

(4) Rescinded IAB 8/11/99, effective 9/15/99.

(5) Fecal coliform analytical methodology. Public water systems must conduct fecal coliform analysis in accordance with the following procedure. When the MTF Technique or presence-absence (P-A) coliform test is used to test for total coliforms, shake the lactose-positive presumptive tube or P-A bottle vigorously and transfer the growth with a sterile 3-mm loop or sterile applicator stick into brilliant green lactose bile broth and EC medium to determine the presence of total and fecal coliforms, respectively. For EPA-approved analytical methods which use a membrane filter, remove the membrane containing the total coliform colonies from the substrate with sterile forceps and carefully curl and insert the membrane into a tube of EC medium. (The laboratory may first remove a small portion of selected colonies for verification). Gently shake the inoculated EC tubes to ensure adequate mixing and incubate in a waterbath at 44.5 (+ or -) 0.2 degrees C for 24 (+ or -) 2 hours. Gas production of any amount in the inner fermentation tube of the EC medium indicates a positive fecal coliform test. The preparation of EC medium is described in Method 9221E (paragraph 1a) in Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992. Public water supply systems need only determine the presence or absence of fecal coliforms; a determination of fecal coliform density is not required.

(6) *E. coli* analytical methodology. Public water systems must conduct analysis of *Escherichia coli (E. coli)* in accordance with one of the following analytical methods:

1. EC medium supplemented with 50 micrograms per milliliter of 4-methylumbelliferyl-beta-D-glucuronide (MUG) (final concentration). EC medium is described in Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992, Method 9221E, paragraph 1a. MUG may be added to EC medium before autoclaving. EC medium supplemented with 50 micrograms per milliliter of MUG is commercially available. At least 10 mL of EC medium supplemented with MUG must be used. The inner inverted fermentation tube may be omitted. The procedure for transferring a total coliform-positive culture to EC medium supplemented with MUG shall be as specified in subrule 41.2(1)*"e"*(5) for transferring a total coliform-positive culture to EC medium. Observe fluorescence with an ultraviolet light (366 nm) in the dark after incubating tube at 44.5 plus or minus 0.2 degrees Celsius for 24 plus or minus 2 hours.

2. Nutrient agar supplemented with 100 micrograms per mL 4-methylumbelliferyl-beta-D-glucuronide (MUG) (final concentration). Nutrient agar is described in Method 9221B (paragraph 3) in Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992. This test is used to determine if a total coliform-positive sample, as determined by the Membrane-Filter Technique or any other method in which a membrane filter is used, contains *E. coli*. Transfer the membrane filter containing a total coliform colony(ies) to nutrient agar supplemented with 100 micrograms per mL (final concentration) of MUG. After incubating the agar plate at 35 degrees Celsius for 4 hours, observe the colony(ies) under ultraviolet light (366 nm) in the dark for fluorescence. If fluorescence is visible, *E. coli* are present.

3. Minimal Medium ONPG-MUG (MMO-MUG) Test, as set forth in the article "National Field Evaluation of a Defined Substrate Method for the Simultaneous Detection of Total Coliforms and *Escherichia coli* from Drinking Water: Comparisons with Presence-Absence Techniques" (Edberg et al.), Applied and Environmental Microbiology, Volume 55, pp. 1003-1008, April 1989. (Note: The Autoanalysis Colilert System is an MMO-MUG test.) If the MMO-MUG Test is total coliform-positive after a 24-hour incubation, test the medium for fluorescence with a 366-nm ultraviolet light (preferably with a 6-watt lamp) in the dark. If fluorescence is observed, the sample is *E. coli*-positive. If fluorescence is questionable (cannot be definitively read) after 24 hours incubation, incubate the culture for an additional 4 hours (but not to exceed 28 hours total), and again test the medium for fluorescence. The MMO-MUG Test with hepes buffer is the only approved formulation for the detection of *E. coli*.

(7) Optional *E. coli* analytical methodology. As an option to 41.2(1)*"e"*(6) a system with a total coliform-positive, MUG-negative, MMO-MUG Test may further analyze the culture for the presence of *E. coli* by transferring a 0.1 mL, 28-hour MMO-MUG culture to EC Medium + MUG with a pipette. The formulation and incubation conditions of EC Medium + MUG and observation of the results are described in 41.2(1)*"e"*(6).

41.2(2) *Giardia.* Reserved.

41.2(3) *Heterotrophic plate count bacteria (HPC).*

a. Applicability. All public water systems that use a surface water source or source under the direct influence of surface water must provide treatment consisting of disinfection, as specified in 567—subrule 43.5(2), and filtration treatment which complies with 567—subrule 43.5(3). The heterotrophic plate count is an alternate method to demonstrate a detectable disinfectant residual in accordance with 567—paragraph 43.5(2)*"d."*

b. Maximum contaminant levels. Reserved.

c. Monitoring requirements. Reserved.

d. BAT. Reserved.

e. Analytical methodology. Public water systems shall conduct heterotrophic plate count bacteria analysis in accordance with 567—subrule 43.5(2) and the following analytical method. Measurements for heterotrophic plate count bacteria must be conducted by a laboratory certified by the department to do such analysis.

(1) Method. The heterotrophic plate count shall be performed in accordance with Method 9215B Pour Plate Method, Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992.

(2) Reporting. The public water system shall report the results of heterotrophic plate count in accordance with 567—subparagraph 42.4(3)*"c"*(2).

41.2(4) *Macroscopic organisms and algae.*

a. Applicability. These rules apply to both community and noncommunity public water supply systems using surface water or groundwater under direct influence of surface water as defined by 567—subrule 43.5(1).

b. Maximum contaminant levels (MCLs) for macroscopic organisms and algae. Finished water shall be free of any macroscopic organisms such as plankton, worms, or cysts. The finished water algal cell count shall not exceed 500 organisms per milliliter or 10 percent of the total cells found in the raw water, whichever is greater.

c. Monitoring requirements. Reserved.

d. BAT. Reserved.

e. Analytical methodology. Measurement of the algal cells shall be in accordance with Method 10200F: Phytoplankton Counting Techniques, Standard Methods for the Examination of Water and Wastewater, 18th edition, pp. 10-13 to 10-16. Such measurement shall be required only when the department determines on the basis of complaints or otherwise that excessive algal cells may be present.

567—41.3(455B) Maximum contaminant levels (MCLs) and monitoring requirements for inorganic contaminants other than lead or copper.

41.3(1) *MCLs and other requirements for inorganic contaminants.*

a. Applicability. Maximum contaminant levels for inorganic contaminants (IOCs) specified in 41.3(1)*"b"* apply to community water systems and nontransient noncommunity water systems as specified herein. The maximum contaminant level for arsenic applies only to community water systems and nontransient noncommunity systems which primarily serve children (daycares and schools). The maximum contaminant level specified for fluoride applies only to community water systems and nontransient noncommunity systems which primarily serve children (daycares and schools). The maximum contaminant levels specified for nitrate, nitrite, and total nitrate and nitrite apply to community, nontransient noncommunity, and transient noncommunity water systems. At the discretion of the department, nitrate levels not to exceed 20 mg/L may be allowed in a noncommunity water system if the supplier of water demonstrates to the satisfaction of the department that:

(1) Such water will not be available to children under 6 months of age; and

(2) There will be continuous posting of the fact that nitrate levels exceed 10 mg/L and the potential health effects of exposure; and

(3) The following public health authorities will be notified annually of nitrate levels that exceed 10 mg/L, in addition to the reporting requirements of 567—Chapters 41 and 42: county board of health, county health department, county sanitarian, county public health administrator, and Iowa department of public health; and

(4) No adverse health effects shall result.

The requirements also contain monitoring requirements, best available technology (BAT) identification, and analytical method requirements pursuant to 41.3(1)*"c,"* and 567—paragraphs 41.3(1)*"e"* and 43.3(10)*"b,"* respectively.

b. Maximum contaminant levels for inorganic chemicals (IOCs).

(1) IOC MCLs. The following table specifies the MCLs for IOCs:

Contaminant	EPA Contaminant Code	Maximum Contaminant Level (mg/L)
Antimony	1074	0.006
Arsenic	1005	0.05
Asbestos	1094	7 million fibers/liter (longer than 10 micrometers in length)
Barium	1010	2
Beryllium	1075	0.004
Cadmium	1015	0.005
Chromium	1020	0.1
Cyanide (as free Cyanide)	1024	0.2
Fluoride*	1025	4.0
Mercury	1035	0.002
Nitrate	1040	10 (as nitrogen)
Nitrite	1041	1 (as nitrogen)
Total Nitrate and Nitrite	1038	10 (as nitrogen)
Selenium	1045	0.05
Thallium	1085	0.002

*The recommended fluoride level is 1.1 milligrams per liter or the level as calculated from "Water Fluoridation, a Manual for Engineers and Technicians" Table 2-4 published by the U.S. Department of Health and Human Services, Public Health Service (September 1986). At this optimum level in drinking water fluoride has been shown to have beneficial effects in reducing the occurrence of tooth decay.

(2) Compliance calculations. Compliance with 41.3(1)*"b"*(1) shall be determined based on the analytical result(s) obtained at each source/entry point.

1. Sampling frequencies greater than annual (e.g., monthly or quarterly). For public water supply systems which are conducting monitoring at a frequency greater than annual, compliance with the maximum contaminant levels for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, and thallium is determined by a running annual average at any sampling point. If the average at any sampling point is greater than the MCL, then the system is out of compliance. If any one sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any sample below the method detection limit shall be calculated at zero for the purpose of determining the annual average.

2. Sampling frequencies of annual or less. For public water supply systems which are monitoring annually, or less frequently, the system is out of compliance with the maximum contaminant levels for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, and thallium if the level of a contaminant at any sampling point is greater than the MCL. If a confirmation sample is required by the department, it must be collected as soon as possible from the same sampling location, but not to exceed two weeks, and the determination of compliance will be based on the average of the two samples.

3. Compliance calculations for nitrate and nitrite. Compliance with the maximum contaminant levels for nitrate and nitrite is determined based on one sample if the level of these contaminants is below the MCLs. If the level of nitrate or nitrite exceeds the MCLs in the initial sample, a confirmation sample may be required in accordance with 41.3(1)*"c"*(7)"2," and compliance shall be determined based on the average of the initial and confirmation samples.

(3) Additional requirements. The department may assign additional requirements as deemed necessary to protect the public health, including public notification requirements.

c. Inorganic chemicals—monitoring requirements.

(1) Routine IOC monitoring (excluding asbestos, nitrate, and nitrite). Community public water supply systems and nontransient noncommunity water systems shall conduct monitoring to determine compliance with the MCLs specified in 41.3(1)*"b"* in accordance with this subrule. Transient noncommunity water systems shall conduct monitoring to determine compliance with the nitrate and nitrite maximum contaminant levels in 41.3(1)*"b"* as required by 41.3(1)*"c"*(5) and (6).

(2) Department designated sampling schedules: Each public water system shall monitor at the time designated by the department during each compliance period. The monitoring protocol is as follows:

1. Groundwater sampling points. Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a source/entry point) beginning in the compliance period starting January 1, 1993. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

2. Surface water sampling points. Surface water systems shall take a minimum of one sample at every entry point to the distribution system after any application of treatment or in the distribution system at a point which is representative of each source after treatment (hereafter called a source/entry point) beginning in the compliance period starting January 1, 1993. (For purposes of this paragraph, surface water systems include systems with a combination of surface and ground sources.) The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

3. Multiple sources. If a public water supply system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water is representative of all sources being used).

4. Composite sampling. The department may reduce the total number of samples which must be analyzed by the use of compositing. In systems serving less than or equal to 3,300 persons, composite samples from a maximum of five samples are allowed, provided that the detection limit of the method used for analysis is less than one-fifth of the MCL. Compositing of samples must be done in the laboratory. If the concentration in the composite sample is greater than or equal to one-fifth of the MCL of any inorganic chemical, then a follow-up sample must be taken within 14 days at each sampling point included in the composite. These samples must be analyzed for the contaminants which exceeded one-fifth of the MCL in the composite sample. If duplicates of the original sample taken from each sampling point used in the composite are available, the system may use these duplicates instead of resampling. The duplicate must be analyzed and the results reported to the department within 14 days of collection. If the population served by the system is greater than 3,300 persons, then compositing may only be permitted by the department as sampling points within a single system. In systems serving less than or equal to 3,300 persons, the department may permit compositing among different systems provided the five-sample limit is maintained. Detection limits for each inorganic contaminant analytical method are contained in 41.3(1)*"e"*(1).

(3) Asbestos routine and repeat monitoring frequency. The frequency of monitoring conducted to determine compliance with the maximum contaminant level for asbestos specified in 41.3(1)*"b"* shall be conducted as follows:

1. Initial sampling frequency. Each community and nontransient noncommunity water system is required to monitor for asbestos during the first three-year compliance period of each nine-year compliance cycle beginning in the compliance period starting January 1, 1993.

2. Sampling during waiver. If the public water supply system believes it is not vulnerable to either asbestos contamination in its source water or due to corrosion of asbestos-cement pipe, or both, it may apply for a waiver of the monitoring requirement in 41.3(1)*"c"*(3)"1." If the department grants the waiver, the system is not required to monitor.

3. Bases of an asbestos waiver. The department may grant a waiver based on a consideration of potential asbestos contamination of the water source, the use of asbestos-cement pipe for finished water distribution, and the corrosive nature of the water.

4. Effect of an asbestos waiver. A waiver remains in effect until the completion of the three-year compliance period. Systems not receiving a waiver must monitor in accordance with 41.3(1)"*c*"(3)"1."

5. Distribution system vulnerability for asbestos. A public water supply system vulnerable to asbestos contamination due solely to corrosion of asbestos-cement pipe shall take one sample at a tap served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur.

6. Source water vulnerability for asbestos. A public water supply system vulnerable to asbestos contamination due solely to source water shall monitor in accordance with the provision of 41.3(1)"*c*"(2).

7. Combined asbestos vulnerability. A public water supply system vulnerable to asbestos contamination due both to its source water supply and corrosion of asbestos-cement pipe shall take one sample at a tap served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur.

8. Exceedance of the asbestos MCL. A public water supply system which exceeds the maximum contaminant levels as determined in 41.3(1)"*b*" shall monitor quarterly beginning in the next quarter after the violation occurred.

9. Asbestos reliably and consistently below the MCL. The department may decrease the quarterly monitoring requirement to the frequency specified in 41.3(1)"*c*"(3)"1" provided the system is reliably and consistently below the maximum contaminant level. In no case can the department make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface (or combined surface/ground) water system takes a minimum of four quarterly samples.

10. Grandfathered asbestos data. If monitoring data collected after January 1, 1990, are generally consistent with the requirements of 41.3(1)"*c*"(3), then the department may allow public water supply systems to use that data to satisfy the monitoring requirement for the initial compliance period beginning January 1, 1993.

(4) Monitoring frequency for other IOCs. The frequency of monitoring conducted to determine compliance with the maximum contaminant levels in 41.3(1)"*b*" for antimony, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, and thallium shall be as follows:

1. IOCs sampling frequency. Groundwater systems shall take one sample at each sampling point once every three years. Surface water systems (or combined surface/groundwater systems) shall take one sample annually at each sampling point.

2. IOC sampling waiver. The public water supply system may apply for a waiver from the monitoring frequencies specified in 41.3(1)"*c*"(4)"1."

3. IOC sampling during a waiver. A condition of the waiver shall require that a public water supply system shall take a minimum of one sample while the waiver is effective. The term during which the waiver is effective shall not exceed one compliance cycle (i.e., nine years).

4. Bases of an IOC waiver and grandfathered data. The department may grant a waiver provided surface water systems have monitored annually for at least three years and groundwater systems have conducted a minimum of three rounds of monitoring. (At least one sample shall have been taken since January 1, 1990.) Both surface and groundwater systems shall demonstrate that all previous analytical results were less than the maximum contaminant level. Systems that use a new water source are not eligible for a waiver until three rounds of monitoring from the new source have been completed. Systems may be granted a waiver for monitoring of cyanide, provided that the department determines that the system is not vulnerable due to lack of any industrial source of cyanide.

5. Bases of the IOC sampling frequency during a waiver. In determining the appropriate reduced monitoring frequency, the department will consider: reported concentrations from all previous monitoring; the degree of variation in reported concentrations; and other factors which may affect contaminant concentrations such as changes in groundwater pumping rates, changes in the system's configuration, changes in the system's operating procedures, or changes in stream flows or characteristics.

6. Effect of an IOC waiver. A decision to grant a waiver shall be made in writing and shall include the basis for the determination. The determination may be initiated by the department or upon an application by the public water supply system. The public water supply system shall specify the basis for its request. The department may review and, where appropriate, revise its determination of the appropriate monitoring frequency when the system submits new monitoring data or when other data relevant to the system's appropriate monitoring frequency become available.

7. Exceedance of an IOC MCL. Public water supply systems which exceed the maximum contaminant levels as calculated in 41.3(1)*"b"* shall monitor quarterly beginning in the next quarter after the violation occurred.

8. IOCs reliably and consistently below the MCL. The department may decrease the quarterly monitoring requirement to the frequencies specified in 41.3(1)*"c"*(4)"1" and "3" provided it has determined that the public water supply system is reliably and consistently below the maximum contaminant level. In no case can the department make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface water system takes a minimum of four quarterly samples.

(5) Routine and repeat monitoring frequency for nitrates. All public water supply systems (community; nontransient noncommunity; and transient noncommunity systems) shall monitor to determine compliance with the maximum contaminant level for nitrate in 41.3(1)*"b."*

1. Initial nitrate sampling. Community and nontransient noncommunity water systems served by groundwater systems shall monitor annually beginning January 1, 1993; systems served by surface water shall monitor quarterly beginning January 1, 1993. Transient noncommunity water systems shall monitor annually beginning January 1, 1993.

2. Groundwater repeat nitrate sampling frequency. For community and noncommunity water systems, the repeat monitoring frequency for groundwater systems shall be:

- Quarterly for at least one year following any one sample in which the concentration is greater than or equal to 5.0 mg/L as N. The department may allow a groundwater system to reduce the sampling frequency to annually after four consecutive quarterly samples are reliably and consistently less than 5.0 mg/L as N.
- Monthly for at least one year following any nitrate MCL exceedance.

3. Surface water repeat nitrate sampling frequency. For community and noncommunity water systems, the department may allow a surface water system to reduce the sampling frequency to:

- Annually if all analytical results from four consecutive quarters are less than 5.0 mg/L as N.
- Quarterly for at least one year following any one sample in which the concentration is greater than or equal to 5.0 mg/L as N. The department may allow a surface water system to reduce the sampling frequency to annually after four consecutive quarterly samples are reliably and consistently less than 5.0 mg/L as N.
- Monthly for at least one year following any nitrate MCL exceedance.

4. Scheduling annual nitrate repeat samples. After the initial round of quarterly sampling is completed, each community and nontransient noncommunity system which is monitoring annually shall take subsequent samples during the quarter(s) which previously resulted in the highest analytical result.

(6) Routine and repeat monitoring frequency for nitrite. All public water supply systems (community; nontransient noncommunity; and transient noncommunity systems) shall monitor to determine compliance with the maximum contaminant level for nitrite in 41.3(1)*"b."*

1. Initial nitrite sampling. All public water systems shall take one sample at each sampling point in the compliance period beginning January 1, 1993, and ending December 31, 1995.

2. Nitrite repeat monitoring. After the initial sample, systems where an analytical result for nitrite is less than 0.5 mg/L as N shall monitor at the frequency specified by the department.

3. Nitrite increased monitoring. For community, nontransient noncommunity, and transient noncommunity water systems, the repeat monitoring frequency for any water system shall be:

- Quarterly for at least one year following any one sample in which the concentration is greater than or equal to 0.5 mg/L as N. The department may allow a system to reduce the sampling frequency to annually after determining the system is reliably and consistently less than 0.5 mg/L.
- Monthly for at least one year following any nitrite MCL exceedance.

4. Scheduling of annual nitrite repeat samples. Systems which are monitoring annually shall take each subsequent sample during the quarter(s) which previously resulted in the highest analytical result.

(7) Confirmation sampling.

1. Deadline for IOCs confirmation samples. Where the results of an analysis for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, and thallium indicate an exceedance of the maximum contaminant level, the department may require that one additional sample be collected as soon as possible after the initial sample was taken (but not to exceed two weeks) at the same sampling point.

2. Deadline for nitrate and nitrite confirmation samples. Where nitrate or nitrite sampling results indicate an exceedance of the maximum contaminant level and the sampling frequency is quarterly or annual, the system shall take a confirmation sample within 24 hours of the system's receipt of notification of the analytical results of the first sample. Public water supply systems unable to comply with the 24-hour sampling requirement must immediately notify the consumers served by the area served by the public water system in accordance with 567—42.1(455B) and complete an analysis of a confirmation sample within two weeks of notification of the analytical results of the first sample. Where the sampling frequency is monthly, a confirmation sample will not be used to determine compliance with the MCL.

3. Deadline for VOC and SOC confirmation samples. Where the results of an analysis for any VOC or SOC indicate an exceedance of the maximum contaminant level, the department may require that one or more additional samples be collected as soon as possible after the initial sample was taken, but not to exceed two weeks, at the same sampling point.

4. Compliance calculations and confirmation samples. If a required confirmation sample as collected within the time specified in 41.3(1)*"c"*(7)"1" is taken for any contaminant, then the results of the initial and confirmation sample shall be averaged. The resulting average shall be used to determine the system's compliance in accordance with 41.3(1)*"b."* The department has the discretion to invalidate results of obvious sampling errors.

(8) Designation of increased sampling frequency. The department may require more frequent monitoring than specified in 41.3(1)*"c"*(3) through (6) or may require confirmation samples for positive and negative results at its discretion. Public water supply systems may apply to conduct more frequent monitoring than the minimum monitoring frequencies specified in this subrule. Any increase or decrease in monitoring under this subparagraph will be designated in an operation permit or administrative order. To increase or decrease such frequency, the department shall consider the following factors:

1. Reported concentrations from previously required monitoring,
2. The degree of variation in reported concentrations,
3. Blending or treatment processes conducted for the purpose of complying with health-based standards, and
4. Other factors include changes in pumping rates in groundwater supplies or significant changes in the system's configuration, operating procedures, source of water and changes in streamflows.

(9) Grandfathered data. For the initial analysis required by 41.3(1)*"c,"* data for surface waters acquired within one year prior to the effective date and data for groundwaters acquired within three years prior to the effective date of 41.3(1)*"c"* may be substituted at the discretion of the department.

d. Best available treatment technologies (BATs) for IOCs. Rescinded IAB 8/11/99, effective 9/15/99.

e. Analytical methodology.

(1) Analytical methods for IOCs. Analysis for the listed inorganic contaminants shall be conducted using the following methods, or their equivalent as determined by EPA. Criteria for analyzing arsenic, barium, beryllium, cadmium, chromium, copper, lead, nickel, selenium, sodium, and thallium with digestion or directly without digestion, and other analytical test procedures are contained in Technical Notes on Drinking Water Methods, EPA-600/R-94-173, October, 1994. This document is available from the National Technical Information Service, NTIS PB95-104766, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. The toll-free number is (800)553-6847.

INORGANIC CONTAMINANTS ANALYTICAL METHODS

Contaminant	Methodology	EPA	ASTM [3]	SM [4]	Other	Detection Limit, mg/L
Antimony	Atomic absorption; furnace			3113B		0.003
	Atomic absorption; platform	200.9[2]				0.0008
	ICP-Mass spectrometry	200.8[2]				0.0004
	Atomic absorption; hydride		D3697-92			0.001
Arsenic	Inductively coupled plasma	200.7[2]		3120B		
	ICP-Mass spectrometry	200.8[2]				
	Atomic absorption; platform	200.9[2]				
	Atomic absorption; furnace		D2972-93C	3113B		
	Atomic absorption; hydride		D2972-93B	3114B		
Asbestos	Transmission electron microscopy	100.1[9]				0.01 MFL
	Transmission electron microscopy	100.2[10]				
Barium	Inductively coupled plasma	200.7[2]		3120B		0.002
	ICP-Mass spectrometry	200.8[2]				
	Atomic absorption; direct			3111D		0.1
	Atomic absorption; furnace			3113B		0.002
Beryllium	Inductively coupled plasma	200.7[2]		3120B		0.0003
	ICP-Mass spectrometry	200.8[2]				0.0003
	Atomic absorption; platform	200.9[2]				0.00002[12]
	Atomic absorption; furnace		D3645-93B	3113B		0.0002
Cadmium	Inductively coupled plasma	200.7[2]				0.001
	ICP-Mass spectrometry	200.8[2]				
	Atomic absorption; platform	200.9[2]				
	Atomic absorption; furnace			3113B		0.0001
Chromium	Inductively coupled plasma	200.7[2]		3120B		0.007
	ICP-Mass spectrometry	200.8[2]				
	Atomic absorption; platform	200.9[2]				
	Atomic absorption; furnace			3113B		0.001
Cyanide	Manual distillation (followed by one of the following analytical methods:)			4500-CN-C		
	Spectrophotometric; amenable[14]		D2036-91B	4500-CN-D		0.02
	Spectrophotometric; manual[13]		D2036-91A	4500-CN-E	I-3300-85[5]	0.02
	Spectrophotometric; semi-automated[13]	335.4[6]				0.005
	Selective electrode[13]			4500-CN-F		0.05
Fluoride	Ion chromatography	300.0[6]	D4327-91	4110B		
	Manual distillation; colorimetric; SPADNS			4500F-B,D		
	Manual electrode		D1179-93B	4500F-C		
	Automated electrode				380-75WE[11]	
	Automated alizarin			4500F-E	129-71W[11]	

Contaminant	Methodology	EPA	ASTM [3]	SM [4]	Other	Detection Limit, mg/L
Mercury	Manual, cold vapor		D3223-91	3112B		0.0002
	Automated, cold vapor	245.2[1]				0.0002
	ICP-Mass spectrometry	200.8[2]				
Nickel	Inductively coupled plasma	200.7[2]		3120B		0.005
	ICP-Mass spectrometry	200.8[2]				0.0005
	Atomic absorption; platform	200.9[2]				0.0006[12]
	Atomic absorption; direct			3111B		
	Atomic absorption; furnace			3113B		0.001
Nitrate	Ion chromatography	300.0[6]	D4327-91	4110B	B-1011[8]	0.01
	Automated cadmium reduction	353.2[6]	D3867-90A	4500-NO_3-F		0.05
	Ion selective electrode			4500-NO_3-D	601[7]	1
	Manual cadmium reduction		D3867-90B	4500-NO_3-E		0.01
Nitrite	Ion chromatography	300.0[6]	D4327-91	4110B	B-1011[8]	0.004
	Automated cadmium reduction	353.2[6]	D3867-90A	4500-NO_3-F		0.05
	Manual cadmium reduction		D3867-90B	4500-NO_3-E		0.01
	Spectrophotometric			4500-NO_3-B		0.01
Selenium	Atomic absorption; hydride		D3859-93A	3114B		0.002
	ICP-Mass spectrometry	200.8[2]				
	Atomic absorption; platform	200.9[2]				
	Atomic absorption; furnace		D3859-93B	3113B		0.002
Sodium	Inductively coupled plasma	200.7[2]				
	Atomic absorption; direct			3111B		
Thallium	ICP-Mass spectrometry	200.8[2]				
	Atomic absorption; platform	200.9[2]				0.0007[12]

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51, effective January 4, 1995. Copies of the documents may be obtained from the sources listed below. Contact the Safe Drinking Water Hotline at (800)426-4791 to obtain information about these documents. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street SW, Washington, DC 20460 (telephone: (202)260-3027); or at the Office of Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC.

1 "Methods for Chemical Analysis of Water and Wastes," EPA-600/4-79-020, March 1983. Available at NTIS, PB84-128677. Also available from US EPA, EMSL, Cincinnati, OH 45268.

2 "Methods for the Determination of Metals in Environmental Samples—Supplement I," EPA-600/R-94-111, May 1994. Available at NTIS, PB94-184942.

3 Annual Book of ASTM Standards, 1994, Vols. 11.01 and 11.02, American Society for Testing and Materials (ASTM). Copies may be obtained from the American Society for Testing and Materials, 101 Barr Harbor Drive, West Conshohocken, PA 19428.

4 18th edition of Standard Methods for the Examination of Water and Wastewater, 1992, American Public Health Association. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005.

5 Techniques of Water Resources Investigation of the U.S. Geological Survey, Book 5, Chapter A-1, 3rd edition, 1989, Method I-3300-85. Available from Information Services, U.S. Geological Survey, Federal Center, Box 25286, Denver, CO 80225-0425.

6 "Methods for the Determination of Inorganic Substances in Environmental Samples," EPA-600-R-93-100, August 1993. Available at NTIS, PB94-121811.

7 The procedure shall be done in accordance with the Technical Bulletin 601, "Standard Method of Test for Nitrate in Drinking Water," July 1994, PN221890-001, Analytical Technology, Inc. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51, effective January 4, 1995. Copies may be obtained from ATI Orion, 529 Main Street, Boston, MA 02129. Copies may be inspected at EPA's Drinking Water Docket, 401 M Street SW, Washington, DC 20460; or at the Office of the Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC.

8 Method B-1011, "Water Test Method for Determination of Nitrite/Nitrate in Water Using Single Column Ion Chromatography." Copies may be obtained from Waters Corporation, Technical Services Division, 34 Maple Street, Milford, MA 01757.

9 Method 100.1, "Analytical Method for Determination of Asbestos Fibers in Water," EPA-600/4-83-043, EPA, September 1983. Available at NTIS, PB83-260471.

10 Method 100.2, "Determination of Asbestos Structure Over 10 Microns in Length in Drinking Water," EPA-600/R-94-134, June 1994. Available at NTIS, PB94-201902.

11 Industrial Method No. 129-71W, "Fluoride in Water and Wastewater," December 1972, and Method No. 380-75WE, "Fluoride in Water and Wastewater," February 1976, Technicon Industrial Systems. Copies may be obtained from Bran & Luebbe, 1025 Busch Parkway, Buffalo Grove, IL 60089.

12 Lower MDLs are reported using stabilized temperature graphite furnace atomic absorption.

13 Screening method for total cyanides.

14 Measures "free" cyanides.

(2) Sampling methods for IOCs. Sample collection for antimony, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, nitrate, nitrite, selenium, and thallium under this subparagraph shall be conducted using the sample preservation, container, and maximum holding time procedures specified in the table below:

SAMPLING METHODS FOR IOCs

Contaminant	Preservative[1]	Container[2]	Time[3]
Antimony	HNO_3	P or G	6 months
Asbestos	4 degrees C	P or G	48 hours for filtration[5]
Barium	HNO_3	P or G	6 months
Beryllium	HNO_3	P or G	6 months
Cadmium	HNO_3	P or G	6 months
Chromium	HNO_3	P or G	6 months
Cyanide	4 degrees C, NaOH	P or G	14 days
Fluoride	None	P or G	1 month
Mercury	HNO_3	P or G	28 days
Nickel	HNO_3	P or G	6 months
Nitrate[4]	4 degrees C	P or G	48 hours
Nitrate-Nitrite[4]	H_2SO_4	P or G	28 days
Nitrite[4]	4 degrees C	P or G	48 hours
Selenium	HNO_3	P or G	6 months
Thallium	HNO_3	P or G	6 months

1 When indicated, samples must be acidified at the time of collection to pH < 2 with concentrated acid, or adjusted with sodium hydroxide to pH > 12. When chilling is indicated, the sample must be shipped and stored at 4 degrees C or less.
2 P: plastic, hard or soft; G: glass, hard or soft
3 In all cases, samples should be analyzed as soon after collection as possible. Follow additional (if any) information on preservation, containers, or holding times that is specified in the method.
4 Nitrate may only be measured separate from nitrite in samples that have not been acidified. Measurement of acidified samples provides a total nitrate (sum of nitrate plus nitrite) concentration.
5 Instructions for containers, preservation procedures, and holding times as specified in Method 100.2 must be adhered to for all compliance analyses, including those conducted with Method 100.1.

f. Unregulated inorganic chemicals.

ANALYTICAL METHODS FOR UNREGULATED INORGANIC CONTAMINANTS

Contaminant	EPA Contaminant Code	Methodology	EPA	ASTM[1]	SM[2]
Sulfate	1055	Ion Chromatography	300.0[3]	D4327-91	4110
		Automated Methylthymol Blue	375.2[3]		4500-SO_4-F
		Gravimetric			4500-SO_4-C,D

The procedures shall be done in accordance with the documents listed below. The incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51, effective January 4, 1995. Contact the Safe Drinking Water Hotline at (800)426-4791 to obtain information about these documents. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street SW, Washington, DC 20460 (telephone: (202)260-3027); or at the Office of the Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC.
1 Annual Book of ASTM Standards, 1994, Vols. 11.01 and 11.02, American Society for Testing and Materials. Copies may be obtained from the American Society for Testing and Materials, 101 Barr Harbor Drive, West Conshohocken, PA 19428.
2 18th edition of Standard Methods for the Examination of Water and Wastewater, 1992, American Public Health Association. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005.
3 "Methods for the Determination of Inorganic Substances in Environmental Samples," EPA-600/R-93-100, August 1993. Available at NTIS, PB94-121811.

41.3(2) *Other inorganic chemical contaminants.* Reserved.

567—41.4(455B) Lead, copper, and corrosivity.

41.4(1) *Lead, copper, and corrosivity regulation by the setting of a treatment technique requirement.* The lead and copper rules do not set an MCL, although this could be changed in the future. The rules set two enforceable action levels, which trigger tap monitoring, corrosion control, source water treatment, lead service line replacement, and public education if exceeded.

a. Applicability. Unless otherwise indicated, each of the provisions of this subrule applies to community water systems and nontransient noncommunity water systems (hereinafter referred to as "water systems" or "systems").

b. Action levels.

(1) Lead action level. The lead action level is exceeded if the concentration of lead in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with 41.4(1)*"c"* is greater than 0.015 mg/L (i.e., if the "90th percentile" lead level is greater than 0.015 mg/L).

(2) Copper action level. The copper action level is exceeded if the concentration of copper in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with 41.4(1)*"c"* is greater than 1.3 mg/L (i.e., if the "90th percentile" copper level is greater than 1.3 mg/L).

(3) Calculation of 90th percentile. The 90th percentile lead and copper levels shall be computed as follows:

The results of all lead or copper samples taken during a monitoring period shall be placed in ascending order from the sample with the lowest concentration to the sample with the highest concentration. Each sampling result shall be assigned a number, ascending by single integers beginning with the number 1 for the sample with the lowest contaminant level. The number assigned to the sample with the highest contaminant level shall be equal to the total number of samples taken.

The number of samples taken during the monitoring period shall be multiplied by 0.9.

The contaminant concentration in the numbered sample yielded by this calculation is the 90th percentile contaminant level.

For water systems serving fewer than 100 people that collect five samples per monitoring period, the 90th percentile is computed by taking the average of the highest and second highest concentrations.

c. Lead and copper tap water monitoring requirements.

(1) Sample site selection.

1. General. Public water supply systems shall complete a materials evaluation of their distribution systems by the date indicated in 41.4(1)*"c"*(4) in order to identify a pool of sampling sites that meets the requirements of this subrule, and which is sufficiently large to ensure that the water system can collect the number of lead and copper tap samples required in 41.4(1)*"c"*(3). All sites from which first-draw samples are collected shall be selected from this pool of targeted sampling sites. Sampling sites may not include faucets that have point-of-use or point-of-entry treatment devices designed to remove inorganic contaminants.

2. Information sources. A public water supply system shall use the information on lead, copper and galvanized steel that it is required to collect under 41.4(1)*"f"* as part of its responsibility for the special monitoring for corrosivity characteristics when conducting a materials evaluation. When an evaluation of the information collected is insufficient to locate the requisite number of lead and copper sampling sites that meet the targeting criteria in 41.4(1)*"c"*(1), the water system shall review all plumbing codes, permits, and records in the files of the building department(s) which indicate the plumbing materials that are installed within publicly and privately owned structures connected to the distribution system; all inspections and records of the distribution system that indicate the material composition of the service connections that connect a structure to the distribution system; and all existing water quality information, which includes the results of all prior analyses of the system or individual structures connected to the system, indicating locations that may be particularly susceptible to high lead or copper concentrations. In addition, the system shall seek to collect such information where possible in the course of its normal operations (e.g., checking service line materials when reading water meters or performing maintenance activities).

3. Tier 1 community sampling sites. The sampling sites selected for a community water system's sampling pool ("tier 1 sampling sites") shall consist of single-family structures that contain copper pipes with lead solder installed after 1982 or contain lead pipes; or are served by a lead service line. When multiple-family residences comprise at least 20 percent of the structures served by a water system, the system may include these types of structures in its sampling pool.

4. Tier 2 community sampling sites. Any community water system with insufficient tier 1 sampling sites shall complete its sampling pool with "tier 2 sampling sites," consisting of buildings, including multiple-family residences that contain copper pipes with lead solder installed after 1982 or contain lead pipes; or are served by a lead service line.

5. Tier 3 community sampling sites. Any community water system with insufficient tier 1 and tier 2 sampling sites shall complete its sampling pool with "tier 3 sampling sites," consisting of single-family structures that contain copper pipes with lead solder installed before 1983.

6. Tier 1 NTNC sampling sites. The sampling sites selected for a nontransient noncommunity water system ("tier 1 sampling sites") shall consist of buildings that: contain copper pipes with lead solder installed after 1982 or contain lead pipes; or are served by a lead service line.

7. Other NTNC sampling sites. A nontransient noncommunity water system with insufficient tier 1 sites that meet the targeting criteria in 41.4(1)"*c*"(1)"6" shall complete its sampling pool with sampling sites that contain copper pipes with lead solder installed before 1983.

8. Reporting of sample site selection criteria. Any public water supply system whose sampling pool does not consist exclusively of tier 1 sites shall demonstrate in a letter submitted to the department why a review of the information listed in 41.4(1)"*c*"(1)"2" was inadequate to locate a sufficient number of tier 1 sites. Any community water system which includes tier 3 sampling sites in its sampling pool shall demonstrate in such a letter why it was unable to locate a sufficient number of tier 1 and tier 2 sampling sites. Any public water supply system whose distribution system contains lead service lines shall draw 50 percent of the samples it collects during each monitoring period from sites that contain lead pipes, or copper pipes with lead solder, and 50 percent of those samples from sites served by a lead service line. A water system that cannot identify a sufficient number of sampling sites served by a lead service line shall demonstrate in a letter to the department why the system was unable to locate a sufficient number of such sites. Such a water system shall collect first-draw samples from all of the sites identified as being served by such lines.

(2) Sample collection methods.

1. Tap samples for lead and copper collected in accordance with this subparagraph, with the exception of lead service line samples collected under 567—subrule 43.7(4), shall be first-draw samples.

2. First-draw tap samples for lead and copper shall be one liter in volume and have stood motionless in the plumbing system of each sampling site for at least six hours. First-draw samples from residential housing shall be collected from the cold-water kitchen tap or bathroom sink tap. First-draw samples from a nonresidential building shall be collected at an interior tap from which water is typically drawn for consumption. First-draw samples may be collected by the system or the system may allow residents to collect first-draw samples after instructing the residents of the sampling procedures specified in this paragraph. To avoid problems of residents handling nitric acid, acidification of first-draw samples may be done up to 14 days after the sample is collected. If the sample is not acidified immediately after collection, then the sample must stand in the original container for at least 28 hours after acidification. If a system allows residents to perform sampling, the system may not challenge, based on alleged errors in sample collection, the accuracy of sampling results.

3. Service line samples collected to determine if the service line is directly contributing lead (as described in 567—subrule 43.7(4)) shall be one liter in volume and have stood motionless in the lead service line for at least six hours and be collected at the tap after flushing the volume of water between the tap and the lead service line. The volume of water shall be calculated based on the interior diameter and length of the pipe between the tap and the lead service line; tapping directly into the lead service line; or if the sampling site is a building constructed as a single-family residence, allowing the water to run until there is a significant change in temperature which would be indicative of water that has been standing in the lead service line.

4. A public water supply system shall collect each first-draw tap sample from the same sampling site from which it collected a previous sample. If, for any reason, the water system cannot gain entry to a sampling site in order to collect a follow-up tap sample, the system may collect the follow-up tap sample from another sampling site in its sampling pool as long as the new site meets the same targeting criteria, and is within reasonable proximity of the original site.

(3) Number of samples. Water systems shall collect at least one sample during each monitoring period specified in 41.4(1)*"c"*(4) from the number of sites as listed in the column below titled "standard monitoring." A system conducting reduced monitoring under 41.4(1)*"c"*(4) may collect one sample from the number of sites specified in the column titled "reduced monitoring" during each monitoring period specified in 41.4(1)*"c"*(4).

REQUIRED NUMBER OF LEAD/COPPER SAMPLES

System Size (Number of People Served)	Standard Monitoring (Number of Sites)	Reduced Monitoring (Number of Sites)
greater than 100,000	100	50
10,001 to 100,000	60	30
3,301 to 10,000	40	20
501 to 3,300	20	10
101 to 500	10	5
less than or equal to 100	5	5

(4) Timing of monitoring.

1. Initial tap sampling. The first six-month monitoring period for small, medium-size and large systems shall begin on the following dates:

System Size (Number of People Served)	First Six-month Monitoring Period Begins on:
greater than 50,000 (large system)	January 1, 1992
3,301 to 50,000 (medium system)	July 1, 1992
less than or equal to 3,300 (small system)	July 1, 1993

All large systems shall monitor during two consecutive six-month periods. All small and medium-size systems shall monitor during each six-month monitoring period until the system exceeds the lead or copper action level and is, therefore, required to implement the corrosion control treatment requirements under 567—paragraph 43.7(1)*"a,"* in which case the system shall continue monitoring in accordance with 41.4(1)*"c"*(4), or the system meets the lead and copper action levels during two consecutive six-month monitoring periods, in which case the system may reduce monitoring in accordance with 41.4(1)*"c"*(4).

2. Monitoring after installation of corrosion control and source water treatment. Large systems which install optimal corrosion control treatment pursuant to 567—subparagraph 43.7(1)*"d"*(4) shall monitor during two consecutive six-month monitoring periods by the date specified in 567—subparagraph 43.7(1)*"d"*(5). Small or medium-size systems which install optimal corrosion control treatment pursuant to 567—subparagraph 43.7(1)*"e"*(5) shall monitor during two consecutive six-month monitoring periods as specified in 567—subparagraph 43.7(1)*"e"*(6). Systems which install source water treatment shall monitor during two consecutive six-month monitoring periods by the date specified in 567—subparagraph 43.7(3)*"a"*(4).

3. Monitoring after the department specifies water quality parameter values for optimal corrosion control. After the department specifies the values for water quality control parameters under 567—paragraph 43.7(2)*"f,"* the system shall monitor during each subsequent six-month monitoring period, with the first monitoring period to begin on the date the department specifies the optimal values under 567—paragraph 43.7(2)*"f."*

4. Reduced monitoring.

• A small or medium-size water system that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the number of samples according to 41.4(1)*"c"*(3) and reduce the frequency of sampling to once per year.

• Any public water supply system that maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the department under 567—paragraph 43.7(2)*"f"* during each of two consecutive six-month monitoring periods may request that the system be allowed to reduce the monitoring frequency to once per year and to reduce the number of lead and copper samples according to 41.4(1)*"c"*(3). The department will review the information submitted by the water system and shall set forth the basis for its determination in writing. Where appropriate, the department will revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

• A small or medium-size water system that meets the lead and copper action levels during three consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every three years. Any water system that maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the department under 567—paragraph 43.7(2)*"f"* during three consecutive years of monitoring may request the department to allow the system to reduce the frequency of monitoring from annually to once every three years. The department shall review the information submitted by the system and shall set forth the basis for its determination in writing. Where appropriate, the department will revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

• A water system that reduces the number and frequency of sampling shall collect these samples from sites included in the pool of targeted sampling sites identified in 41.4(1)*"c"*(1). Systems sampling annually or less frequently shall conduct the lead and copper tap sampling during the months of June, July, August or September.

• A small or medium-size water system subject to reduced monitoring that exceeds the lead or copper action level shall resume sampling according to 41.4(1)*"c"*(4)"3" and collect the number of samples specified for standard monitoring in 41.4(1)*"c"*(3). Such systems shall also conduct water quality parameter monitoring in accordance with 41.4(1)*"d"*(2), (3), or (4), as appropriate, during the monitoring period in which it exceeded the action level. Any water system subject to reduced monitoring frequency that fails to operate within the range of values for the water quality control parameters specified by the department under 567—paragraph 43.7(2)*"f"* shall resume tap water sampling according to 41.4(1)*"c"*(4)"3" and collect the number of samples specified for standard monitoring in 41.4(1)*"c"*(3).

• Additional monitoring by systems. The results of any monitoring conducted in addition to the minimum requirements of 41.4(1)*"c"* shall be considered by the system and the department in making any determinations (i.e., calculating the 90th percentile lead or copper level) under this subrule.

d. Water quality parameter monitoring requirements. All large public water supply systems (and all small and medium-size public water supply systems that exceed the lead or copper action level) shall monitor water quality parameters in addition to lead and copper in accordance with this subrule. The requirements of this subrule are summarized in the table at the end of 41.4(1)*"d"*(6). The water quality parameters must be reported in accordance with the monthly operation report requirements listed in 567—subrule 42.4(3).

(1) General requirements.

1. Sample collection methods. Tap samples shall be representative of water quality throughout the distribution system taking into account the number of persons served, the different sources of water, the different treatment methods employed by the system, and seasonal variability. Tap sampling under this subrule is not required to be conducted at taps targeted for lead and copper sampling under 41.4(1)"*c*"(1)"1." Systems may conduct tap sampling for water quality parameters at sites used for coliform sampling. Samples collected at the entry point(s) to the distribution system shall be from locations representative of each source after treatment. If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water is representative of all sources being used).

2. Number of samples. Systems shall collect two samples for each applicable water quality parameter at each entry point to the distribution system during each six-month monitoring period specified in 41.4(1)"*d*"(2). During each monitoring period specified in 41.4(1)"*d*"(3) through (5), systems shall collect one sample for each applicable water quality parameter at each entry point to the distribution system. Systems shall collect two tap samples for applicable water quality parameters during each six-month monitoring period specified in 41.4(1)"*d*"(2) through (5) from the following number of sites.

REQUIRED NUMBER OF SAMPLES: WATER QUALITY PARAMETERS

System Size (Number of People Served)	Number of Sites for Water Quality Parameters
greater than 100,000	25
10,001 to 100,000	10
3,301 to 10,000	3
501 to 3,300	2
101 to 500	1
less than or equal to 100	1

(2) Initial sampling. Large water systems shall measure the applicable water quality parameters as specified below at taps and at each entry point to the distribution system during each six-month monitoring period specified in 41.4(1)"*c*"(4)"1." Small and medium-size systems shall measure the applicable water quality parameters at taps and at each entry point to the distribution system during each six-month monitoring period specified in 41.4(1)"*c*"(4)"1" during which the system exceeds the lead or copper action level. Tap water and entry point monitoring shall include: pH; alkalinity; orthophosphate, when an inhibitor containing a phosphate compound is used; silica, when an inhibitor containing a silicate compound is used; calcium; conductivity; and water temperature.

(3) Monitoring after installation of corrosion control. Large systems which install optimal corrosion control treatment pursuant to 567—subparagraph 43.7(1)"*d*"(4) shall measure the water quality parameters at the locations and frequencies specified below during each six-month monitoring period specified in 41.4(1)"*c*"(4)"2." Small or medium-size systems which install optimal corrosion control treatment shall conduct such monitoring during each six-month monitoring period specified in 41.4(1)"*c*"(4)"2" in which the system exceeds the lead or copper action level.

1. Tap water monitoring shall include two samples for: pH; alkalinity; orthophosphate, when an inhibitor containing a phosphate compound is used; silica, when an inhibitor containing a silicate compound is used; calcium, when calcium carbonate stabilization is used as part of corrosion control.

2. Monitoring at each entry point to the distribution system shall include one sample every two weeks (biweekly) for: pH; a reading of the dosage rate of the chemical used to adjust alkalinity, and the alkalinity concentration when alkalinity is adjusted as part of optimal corrosion control; and a reading of the dosage rate of the inhibitor used, and the concentration of orthophosphate or silica (whichever is applicable) when a corrosion inhibitor is used as part of optimal corrosion control.

(4) Monitoring after the department specifies water quality parameter values for optimal corrosion control. After the department specifies the values for applicable water quality control parameters reflecting optimal corrosion control treatment, large systems shall measure the applicable water quality parameters according to 41.4(1)"*d*"(3) during each monitoring period specified in 41.4(1)"*c*"(4)"3." Any small or medium-size system shall conduct such monitoring during each monitoring period specified in 41.4(1)"*c*"(4)"3" in which the system exceeds the lead or copper action level. The system may take a confirmation sample for any water quality parameter value no later than three days after the first sample. If a confirmation sample is taken, the result must be averaged with the first sampling result and the average must be used for any compliance determinations. The department may disregard results of obvious sampling errors from this calculation.

(5) Reduced monitoring.

1. Public water supply systems that maintain the range of values for the water quality parameters reflecting optimal corrosion control treatment during each of two consecutive six-month monitoring periods under 41.4(1)"*c*"(4) shall continue monitoring at the entry point(s) to the distribution system as specified in 567—paragraph 43.7(2)"*f.*" Such system may collect two tap samples for applicable water quality parameters from the following reduced number of sites during each six-month monitoring period.

REDUCED WATER QUALITY PARAMETER MONITORING

System Size (Number of People Served)	Reduced Number of Sites for Water Quality Parameters
greater than 100,000	10
10,001 to 100,000	7
3,301 to 10,000	3
501 to 3,300	2
101 to 500	1
less than or equal to 100	1

2. Public water systems that maintain the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the department under 567—paragraph 43.7(2)"*f*" during three consecutive years of annual monitoring under this paragraph may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in 41.4(1)"*d*"(5) from annually to every three years.

3. A public water system that conducts sampling annually shall collect these samples evenly throughout the year so as to reflect seasonal variability.

4. Public water systems subject to reduced monitoring frequency that fail to operate within the range of values for the water quality parameters specified by the department under 567—paragraph 43.7(2)"*f*" shall resume tap water sampling in accordance with the number and frequency requirements in 41.4(1)"*d*"(3).

(6) Additional monitoring by systems. The results of any monitoring conducted in addition to the minimum requirements of this subrule shall be considered in making any determinations (i.e., determining concentrations of water quality parameters) under this subrule or 567—subrule 43.7(2).

SUMMARY OF MONITORING REQUIREMENTS FOR WATER QUALITY PARAMETERS[1]

Monitoring Period	Location	Parameters[2]	Frequency
Initial Monitoring	Taps and at entry point(s) to distribution systems	pH, alkalinity, orthophosphate or silica[3], calcium, conductivity, temperature	Every 6 months
After Installation of Corrosion Control	Taps	pH, alkalinity, orthophosphate, silica[3], calcium[4]	Every 6 months
	Entry point(s) to distribution system	pH, alkalinity dosage rate and concentration (if alkalinity adjusted as part of corrosion control), inhibitor dosage rate and inhibitor residual[5]	Biweekly
After State Specifies Parameter Values for Optimal Corrosion Control	Taps	pH, alkalinity, orthophosphate, silica[3], calcium[4]	Every 6 months
	Entry point(s) to distribution system	pH, alkalinity, dosage rate and concentration (if alkalinity adjusted as part of corrosion control), inhibitor dosage rate and inhibitor residual[5]	Biweekly
Reduced Monitoring	Taps	pH, alkalinity, orthophosphate or silica[3], calcium[4]	Every 6 months at a reduced number of sites
	Entry point(s) to distribution system	pH, alkalinity rate and concentration (if alkalinity adjusted as part of corrosion control), inhibitor dosage rate and inhibitor residual[5]	Biweekly

1 Table is for illustrative purposes; consult the text of this subrule for precise regulatory requirements.
2 Small and medium-size systems have to monitor for water quality parameters only during monitoring periods in which the system exceeds the lead or copper action level.
3 Orthophosphate must be measured only when an inhibitor containing a phosphate compound is used. Silica must be measured only when an inhibitor containing silicate compound is used.
4 Calcium must be measured only when calcium carbonate stabilization is used as part of corrosion control.
5 Inhibitor dosage rates and inhibitor residual concentrations (orthophosphate or silica) must be measured only when an inhibitor is used.

e. Lead and copper source water monitoring requirements.

(1) Sample location, collection methods, and number of samples.

1. A water system that fails to meet the lead or copper action level on the basis of tap samples collected in accordance with 41.4(1)*"c"* shall collect lead and copper source water samples in accordance with the requirements regarding sample location, number of samples, and collection methods specified for inorganic chemical sampling. The timing of sampling for lead and copper shall be in accordance with 41.4(1)*"e"*(2) and (3).

2. Where the results of sampling indicate an exceedance of maximum permissible source water levels established under 567—subparagraph 43.7(3)*"b"*(4), the department may require that one additional sample be collected as soon as possible after the initial sample was taken (but not to exceed two weeks) at the same sampling point. If a confirmation sample is taken for lead or copper, then the results of the initial and confirmation samples shall be averaged in determining compliance with the maximum permissible levels. Lead and copper analytical results below the detection limit shall be considered to be zero. Analytical results above the detection limit but below the practical quantification level (PQL) shall either be considered as the measured value or be considered one-half the PQL.

(2) Monitoring after system exceeds tap water action level. Any system which exceeds the lead or copper action level at the tap shall collect one source water sample from each entry point to the distribution system within six months after the exceedance.

(3) Monitoring after installation of source water treatment. Any system which installs source water treatment pursuant to 567—subparagraph 43.7(3)*"a"*(3) shall collect an additional source water sample from each entry point to the distribution system during two consecutive six-month monitoring periods by the deadline specified.

(4) Monitoring frequency after the department specifies maximum permissible source water levels or determines that source water treatment is not needed.

1. A system shall monitor at the frequency specified below in cases where the department specifies maximum permissible source water levels under 567—subparagraph 43.7(3)*"b"*(4) or determines that the system is not required to install source water treatment under 567—subparagraph 43.7(3)*"b"*(2). A water system using only groundwater shall collect samples once during the three-year compliance period in effect when the department makes this determination. Such systems shall collect samples once during each subsequent compliance period. A public water system using surface water (or a combination of surface and groundwater) shall collect samples once during each year, the first annual monitoring period to begin on the date on which the department makes this determination.

2. A system using only groundwater is not required to conduct source water sampling for lead or copper if the system meets the action level for the specific contaminant in tap water samples during the entire source water sampling.

(5) Reduced monitoring frequency.

1. A water system using only groundwater which demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead or copper concentrations specified by the department in 567—subparagraph 43.7(3)*"b"*(4) during at least three consecutive compliance periods under 41.4(1)*"e"*(4)"1" may reduce the monitoring frequency for lead or copper to once during each nine-year compliance cycle as defined in 567—40.2(455B).

2. A water system using surface water (or a combination of surface and groundwaters) which demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the department in 567—subparagraph 43.7(3)*"b"*(4) for at least three consecutive years may reduce the monitoring frequency in 41.4(1)*"e"*(4)"1" to once during each nine-year compliance cycle.

3. A water system that uses a new source of water is not eligible for reduced monitoring for lead or copper until concentrations in samples collected from the new source during three consecutive monitoring periods are below the maximum permissible lead and copper concentrations specified.

f. Corrosivity monitoring protocol—special monitoring for corrosivity characteristics. Suppliers of water for community public water systems shall collect samples from a representative entry point to the water distribution system for the purpose of analysis to determine the corrosivity characteristics of the water. The determination of corrosivity characteristics of water shall only include one round of sampling, except in cases where the department concludes additional monitoring is necessary due to variability of the raw water sources. Sampling requirements and approved analytical methods are as follows:

(1) Surface water systems. Systems utilizing a surface water source either in whole or in part shall collect two samples per plant for the purpose of determining the corrosivity characteristics. One of these samples is to be collected during the midwinter months and the other during midsummer.

(2) Groundwater systems. Systems utilizing groundwater sources shall collect one sample per plant or source, except systems with multiple plants that do not alter the corrosivity characteristics identified in 41.4(1)"*f*"(3) or systems served by multiple wells drawing raw water from a single aquifer may, with departmental approval, be considered one treatment plant or source when determining the number of samples required.

(3) Corrosivity characteristics analytical parameters. Determination of corrosivity characteristics of water shall include measurements of pH, calcium hardness, alkalinity, temperature, total dissolved solids (total filterable residue), and calculation of the Langelier Index. In addition, sulfate and chloride monitoring may be required by the department. At the department's discretion, the Aggressiveness Index test may be substituted for the Langelier Index test.

(4) Corrosivity indices methodology. The following methods must be used to calculate the corrosivity indices:

1. Aggressiveness Index—"ANSI/AWWA C401-93: AWWA Standard for the Selection of Asbestos Cement Pressure Pipe, 4"–16" for Water Distribution Systems," American Water Works Association, Denver, CO.
2. Langelier Index—"Standard Methods for the Examination of Water and Wastewater," 14th edition, American Public Health Association, 1015 15th Street NW, Washington, DC 20005 (1975), Method 203, pp. 61-63.

(5) Distribution system construction materials. Community and nontransient noncommunity water supply systems shall identify whether the following construction materials are present in their distribution system and report to the department:

1. Lead from piping, solder, caulking, interior lining of distribution mains, alloys, and home plumbing.
2. Copper from piping and alloys, service lines, and home plumbing.
3. Galvanized piping, service lines, and home plumbing.
4. Ferrous piping materials such as cast iron and steel.
5. Asbestos cement pipe.
6. Vinyl lined asbestos cement pipe.
7. Coal tar lined pipes and tanks.
8. Pipe with asbestos cement lining.

g. Lead, copper, and water quality parameter analytical methods.

(1) Analytical methods. The following analytical methods must be used by an approved laboratory, except for temperature which should be measured by the supplier using the approved method:

LEAD, COPPER AND WATER QUALITY PARAMETER ANALYTICAL METHODS

Contaminant	EPA Contaminant Code	Methodology	Reference (Method Number)			
			EPA	ASTM[3]	SM[4]	USGS[5]
Alkalinity	1927	Titrimetric		D1067-92B	2320 B	
		Electrometric titration				I-1030-85
Calcium	1919	EDTA titrimetric		D511-93A	3500-Ca D	
		Atomic absorption; direct aspiration		D511-93B	3111 B	
		Inductively-coupled plasma	200.7[2]		3120 B	
Chloride	1017	Ion chromatography	300.0[8]	D4327-91	4110B	
		Potentiometric titration			4500-Cl-D	
Conductivity	1064	Conductance		D1125-91A	2510 B	

Contaminant	EPA Contaminant Code	Methodology	Reference (Method Number)			
			EPA	ASTM[3]	SM[4]	USGS[5]
Copper[6]	1022	Atomic absorption; furnace technique		D1688-90C	3113 B	
		Atomic absorption; direct aspiration		D1688-90A	3111 B	
		Inductively-coupled plasma	200.7[2]		3120 B	
		Inductively-coupled plasma; mass spectrometry	200.8[2]			
		Atomic absorption; platform furnace	200.9[2]			
Lead[6]	1030	Atomic absorption; furnace technique		D3559-90D	3113 B	
		Inductively-coupled plasma; mass spectrometry	200.8[2]			
		Atomic absorption; platform furnace technique	200.9[2]			
pH	1925	Electrometric	150.1[1] 150.2[1]	D1293-84	4500-H+ B	
Orthophosphate (Unfiltered no digestion or hydrolysis)	1044	Colorimetric, automated, ascorbic acid colorimetric	365.1[8]		4500-P F	
		Colorimetric, ascorbic acid, single reagent		D515-88A	4500-P E	
		Colorimetric, phosphomolybdate;				I-1601-85
		Automated-segmented flow				I-2601-90[8]
		Automated discrete				I-2598-85
		Ion chromatography	300.0[7]	D4327-91	4110	
Silica	1049	Colorimetric, molybdate blue				I-1700-85
		Automated-segmented flow				I-2700-85
		Colorimetric		D859-88		
		Molybdosilicate			4500-Si D	
		Heteropoly blue			4500-Si E	
		Automated method for molybdate-reactive silica			4500-Si F	
		Inductively-coupled plasma[6]	200.7[2]		3120 B	
Temperature	1996	Thermometric			2550 B	
Total Filterable Residue (TDS)	1930	Gravimetric			2540 C	

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51, effective January 4, 1995. Copies of the documents may be obtained from the sources listed below. Contact the Safe Drinking Water Hotline at (800)426-4791 to obtain information about these documents. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street SW, Washington, DC 20460 (telephone: (202)260-3027); or at the Office of Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC.

1 "Methods for Chemical Analysis of Water and Wastes," EPA-600/4-79-020, March 1983. Available at NTIS as PB84-128677. Also available at US EPA, EMSL, Cincinnati, OH.

2 "Methods for the Determination of Metals in Environmental Samples," EPA-600/4-91-010, June 1991. Available at NTIS as PB91-231498.

3 Annual Book of ASTM Standards, 1994, Vols. 11.01 and 11.02, American Society for Testing and Materials. Copies may be obtained from the American Society for Testing and Materials, 101 Barr Harbor Drive, West Conshohocken, PA 19428.

4 18th edition of Standard Methods for the Examination of Water and Wastewater, 1992, American Public Health Association. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005.

5 Techniques of Water Resources Investigation of the U.S. Geological Survey, Book 5, Chapter A-1, 3rd ed., 1989. Available from Information Services, U.S. Geological Survey, Federal Center, Box 25286, Denver, CO 80225-0425.

6 Samples may not be filtered. Samples that contain less than 1 NTU (Nephelometric turbidity unit) and are properly preserved (concentrated nitric acid to pH < 2) may be analyzed directly (without digestion) for total metals; otherwise, digestion is required. When digestion is required, the total recoverable technique as defined in the method must be used.

7 "Methods for the Determination of Inorganic Substances in Environmental Samples," EPA/600/R-93/100, August 1993. Available at NTIS as PB94-121811.

8 "Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments, Open File Report 93-125." Available at Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(2) Certified laboratory requirements. Analyses under this subrule shall only be conducted by laboratories that have been certified by the department and are in compliance with the requirements of 567—Chapter 83.

(3) All lead and copper levels measured between the practical quantitation limit (PQL) and method detection limit (MDL) must be either reported as measured or they can be reported as one-half the PQL specified for lead and copper in 41.4(1)*"g"*(2)"2." All levels below the lead and copper MDLs must be reported as zero.

41.4(2) *Lead, copper, and corrosivity regulation by the setting of an MCL.* Reserved.

567—41.5(455B) Organic chemicals.

41.5(1) *MCLs and other requirements for organic chemicals.* Maximum contaminant levels for three classes of organic chemical contaminants specified in 41.5(1)*"b"* apply to community water systems and nontransient noncommunity water systems as specified herein. The three referenced organic chemical classes are volatile organic chemicals (VOCs), synthetic organic chemicals (SOCs), and trihalomethanes. The requirements also contain monitoring requirements, best available technology (BAT) identification, and analytical method requirements referenced in 41.5(1)*"c,"* *"d,"* and *"f,"* respectively.

a. Applicability. The maximum contaminant levels for organic contaminants apply to community and nontransient noncommunity water systems. Compliance with the maximum contaminant level is calculated pursuant to 41.5(1)*"b."* The maximum contaminant level for total trihalomethanes applies only to community water systems which serve a population of 10,000 or more individuals and which add a disinfectant (oxidant) to the water in any part of the drinking water treatment process. Compliance with the maximum contaminant level for total trihalomethanes is calculated pursuant to 41.5(1)*"e"*(4). Total trihalomethanes is the sum of the concentrations of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform) and trichloromethane (chloroform).

b. Maximum contaminant levels (MCLs) for organic compounds. The maximum contaminant levels for organic chemicals are listed in the following table.

(1) Table:

ORGANIC CHEMICAL CONTAMINANTS, CODES, MCLS, ANALYTICAL METHODS, AND DETECTION LIMITS

Contaminant	EPA Contaminant Code	MCL (mg/L)	Methodology[1]	Detection Limit (mg/L)[2]
Volatile Organic Chemicals (VOCs):				
Benzene	2990	0.005	502.2, 524.2	
Carbon tetrachloride	2982	0.005	502.2, 524.2, 551	
Chlorobenzene (mono)	2989	0.7	502.2, 524.2	
1,2-Dichlorobenzene (ortho)	2968	0.6	502.2, 524.2	
1,4-Dichlorobenzene (para)	2969	0.075	502.2, 524.2	
1,2-Dichloroethane	2980	0.005	502.2, 524.2	

Contaminant	EPA Contaminant Code	MCL (mg/L)	Methodology[1]	Detection Limit (mg/L)[2]
1,1-Dichloroethylene	2977	0.007	502.2, 524.2	
cis-1,2-Dichloroethylene	2380	0.07	502.2, 524.2	
trans-1,2-Dichloroethylene	2979	0.1	502.2, 524.2	
Dichloromethane	2964	0.005	502.2, 524.2	
1,2-Dichloropropane	2983*	0.005	502.2, 524.2	
Ethylbenzene	2992	0.7	502.2, 524.2	
Styrene	2996	0.1	502.2, 524.2	
Tetrachloroethylene	2987	0.005	502.2, 524.2, 551	
Toluene	2991	1	502.2, 524.2	
1,1,1-Trichloroethane	2981	0.2	502.2, 524.2, 551	
Trichloroethylene	2984	0.005	502.2, 524.2, 551	
1,2,4-Trichlorobenzene	2378	0.07	502.2, 524.2	
1,1,2-Trichloroethane	2985	0.005	502.2, 524.2, 551	
Vinyl chloride	2976	0.002	502.2, 524.2	
Xylenes (total)	2955*	10	502.2, 524.2	
Synthetic Organic Chemicals (SOCs):				
Alachlor	2051	0.002	505[3], 507, 525.2, 508.1	0.0002
Aldicarb	2047	0.003	531.1, 6610	0.0005
Aldicarb sulfone	2044	0.002	531.1, 6610	0.0008
Aldicarb sulfoxide	2043	0.004	531.1, 6610	0.0005
Atrazine	2050	0.003	505[3], 507, 525.2, 508.1	0.0001
Benzo(a)pyrene	2306	0.0002	525.2, 550, 550.1	0.00002
Carbofuran	2046	0.04	531.1, 6610	0.0009
Chlordane	2959	0.002	505, 508, 508.1, 525.2	0.0002
2,4-D	2105	0.07	515.2, 555, 515.1	0.0001
Dalapon	2031	0.2	515.1, 552.1	0.001
1,2-Dibromo-3-chloropropane (DBCP)	2931	0.0002	504.1, 551	0.00002
Di(2-ethylhexyl)adipate	2035	0.4	506, 525.2	0.0006
Di(2-ethylhexyl)phthalate	2039	0.006	506, 525.2	0.0006
Dinoseb	2041	0.007	515.2, 555, 515.1	0.0002
Diquat	2032	0.02	549.1	0.0004
Endothall	2033	0.1	548.1	0.009
Endrin	2005	0.002	505, 508, 508.1, 525.2	0.00001
Ethylene dibromide (EDB)	2946	0.00005	504.1, 551	0.00001
Glyphosate	2034	0.7	547, 6651	0.006
Heptachlor	2065	0.0004	505, 508, 508.1, 525.2	0.00004
Heptachlor epoxide	2067	0.0002	505, 508, 508.1, 525.2	0.00002
Hexachlorobenzene	2274	0.001	505, 508, 508.1, 525.2	0.0001
Hexachlorocyclopentadiene	2042	0.05	505, 508, 508.1, 525.2	0.0001
Lindane (gamma BHC)	2010	0.0002	505, 508, 508.1, 525.2	0.00002
Methoxychlor	2015	0.04	505, 508, 508.1, 525.2	0.0001
Oxamyl	2036	0.2	531.1, 6610	0.002
Pentachlorophenol	2326	0.001	515.1, 515.2, 525.2, 555	0.00004
Picloram	2040	0.5	515.1, 515.2, 555	0.0001

Contaminant	EPA Contaminant Code	MCL (mg/L)	Methodology[1]	Detection Limit (mg/L)[2]
Polychlorinated biphenyls[4] (as decachlorobiphenyl) (as Arochlors)	2383	0.0005	508A 505, 508	0.0001
Simazine	2037	0.004	505[3], 507, 508.1, 525.2	0.00007
2,3,7,8-TCDD (dioxin)	2063	$3x10^{-8}$	1613	$5x10^{-9}$
2,4,5-TP (Silvex)	2110	0.05	515.1, 515.2, 555	0.0002
Toxaphene	2020	0.003	505, 508, 525.2	0.001
Total Trihalomethanes (TTHMs):				
Total Trihalomethanes (the sum of the concentrations of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform), and trichloromethane (chloroform))	2950	0.10	502.2, 524.2, 551.1	

*As of January 1, 1999, the contaminant code for the following compounds was changed from the Iowa Contaminant Code to the EPA Contaminant Code:

Contaminant	Iowa Contaminant Code (Old)	EPA Contaminant Code (New)
1,2 Dichloropropane	2325	2983
Xylenes (total)	2974	2955

1 Analyses for the contaminants in this section shall be conducted using the following EPA methods or their equivalent as approved by EPA. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51, effective January 4, 1995. Copies may be inspected at EPA's Drinking Water Docket, 401 M Street SW, Washington, DC 20460; or at the Office of the Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC.

The following methods are available from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161 (telephone: (800)553-6847).

Methods for the Determination of Organic Compounds in Drinking Water, EPA-600/4-88-039, December 1988, Revised July 1991 (NTIS PB91-231480): Methods 502.2, 505, 507, 508, 508A, 515.1, 531.1.

Methods for the Determination of Organic Compounds in Drinking Water—Supplement I, EPA-600/4-90-020, July 1990 (NTIS PB91-146027): Methods 506, 547, 550, 550.1, 551.

Methods for the Determination of Organic Compounds in Drinking Water—Supplement II, EPA-600/R-92-129, August 1992 (NTIS PB92-207703): Methods 515.2, 524.2, 548.1, 549.1, 552.1, 555.

Method 1613 "Tetra-through Octa-Chlorinated Dioxins and Furans by Isotope-Dilution HRGC/HRMS," EPA-821-B-94-005, October 1994 (NTIS PB95-104774).

The following American Public Health Association (APHA) documents are available from APHA, 1015 Fifteenth Street NW, Washington, DC 20005.

Supplement to the 18th edition of Standard Methods for the Examination of Water and Wastewater, 1994, APHA: Method 6610.

Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992, APHA: Method 6651.

Methods 504.1, 508.1, and 525.2 are available from U.S. EPA EMSL, Cincinnati, OH 45268 (telephone: (513)569-7586).

Other required analytical test procedures germane to the conduct of these analyses are contained in Technical Notes on Drinking Water Methods, EPA-600/R-94-173, October 1994 (NTIS PB95-104766) are listed in this table.

2 Detection limits are only listed for the SOCs, per 40 CFR 141.

3 Substitution of the detector specified in Method 505 for the purpose of achieving lower detection limits is allowed as follows. Either an electron capture or nitrogen-phosphorus detector may be used provided all regulatory requirements and quality control criteria are met.

4 PCBs are qualitatively identified as Aroclors and measured for compliance purposes as decachlorobiphenyl.

(2) Organic chemical compliance calculations (other than total trihalomethanes). Compliance with 41.5(1)*"b"*(1) shall be determined based on the analytical results obtained at each sampling point.

1. For systems which are conducting monitoring at a frequency greater than annual, compliance is determined by a running annual average of all samples taken at each sampling point. If the annual average of any sampling point is greater than the MCL, then the system is out of compliance. If the initial sample or a subsequent sample causes the annual average to be exceeded, then the system is out of compliance immediately. Any samples below the detection limit shall be calculated as zero for purposes of determining the annual average.

2. If monitoring is conducted annually, or less frequently, the system is out of compliance if the level of a contaminant at any sampling point is greater than the MCL. If a confirmation sample is required by the department, the determination of compliance will be based on the average of two samples.

3. If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, the department may allow the system to give public notice to only that portion of the system which is out of compliance.

(3) Treatment techniques for acrylamide and epichlorohydrin. Each public water supply system must certify annually in writing to the department (using third-party or manufacturer's certification) that when acrylamide and epichlorohydrin are used in drinking water systems, the combination (or product) of dose and monomer level does not exceed the levels specified as follows:

Acrylamide = 0.05% dosed at 1 ppm (or equivalent)

Epichlorohydrin = 0.01% dosed at 20 ppm (or equivalent)

Certifications can rely on information provided by manufacturers or third parties, as approved by the department.

c. Organic chemical monitoring requirements. Each public water system shall monitor at the time designated within each compliance period.

(1) Routine volatile organic chemical (VOC) monitoring requirements. Beginning on January 1, 1993, community water supplies and NTNC water supplies shall conduct monitoring of the contaminants listed in 41.5(1)*"b"*(1) for the purpose of determining compliance with the maximum contaminant level.

(2) VOC monitoring protocol.

1. VOC groundwater monitoring protocol. Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a source/entry point). Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source, treatment plant, or within the distribution system.

2. VOC surface water monitoring protocol. Surface water systems (and combined surface/groundwater systems) shall take a minimum of one sample at each entry point to the distribution system after treatment (hereafter called a source/entry point). Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source, treatment plant, or within the distribution system.

3. Multiple sources. If the system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water representative of all sources is being used). If a representative sample of all water sources cannot be obtained, as determined by the department, separate source/entry points with the appropriate monitoring requirements will be assigned by the department.

4. Initial VOCs monitoring frequency. Each community and nontransient noncommunity water system shall take four consecutive quarterly samples for each contaminant listed in 41.5(1)*"b"*(1) during each compliance period, beginning in the initial compliance period. If the initial monitoring for contaminants listed in 41.5(1)*"b"*(1) has been completed by December 31, 1992, and the system did not detect any contaminant listed in 41.5(1)*"b"*(1), then each groundwater and surface water system shall take one sample annually beginning with the initial compliance period.

5. Reduced VOC monitoring for groundwater systems. After a minimum of three years of annual sampling, the department may allow groundwater systems with no previous detection of any contaminant listed in 41.5(1)*"b"*(1) to take one sample during each compliance period.

6. VOC monitoring waivers. Each community and nontransient noncommunity groundwater system which does not detect a contaminant listed in 41.5(1)"*b*"(1) may apply to the department for a waiver from the requirements of 41.5(1)"*c*"(2)"4" and "5" after completing the initial monitoring. A waiver shall be effective for no more than six years (two compliance periods). The department may also issue waivers to small systems for the initial round of monitoring for 1,2,4-trichlorobenzene. Detection is defined as greater than or equal to 0.0005 mg/L.

7. Bases of a VOC monitoring waiver. The department may grant a waiver if the department finds that there has not been any knowledge of previous use (including transport, storage, or disposal) of the contaminant within the watershed or zone of influence of the system. If previous use of the contaminant is unknown or it has been used previously, then the following factors shall be used to determine whether a waiver is granted.

- Previous analytical results.
- The proximity of the system to a potential point or nonpoint source of contamination. Point sources include spills and leaks of chemicals at or near a water treatment facility or at manufacturing, distribution, or storage facilities, or from hazardous and municipal waste landfills and other waste handling or treatment facilities.
- The environmental persistence and transport of the contaminants.
- The number of persons served by the public water system and the proximity of a smaller system to a larger system, and
- How well the water source is protected against contamination, such as whether it is a surface or groundwater system. Groundwater systems must consider factors such as depth of the well, the type of soil, and wellhead protection. Surface water systems must consider watershed protection.

8. VOC monitoring waiver requirements for groundwater systems. As a condition of the waiver, a groundwater system must take one sample at each sampling point during the time the waiver is effective (i.e., one sample during two compliance periods or six years) and update its vulnerability assessment considering the factors listed in 41.5(1)"*c*"(2)"7." Based on this vulnerability assessment the department must reconfirm that the system is nonvulnerable. If the department does not reconfirm within three years of the initial vulnerability determination, then the waiver is invalidated and the system is required to sample annually as specified in 41.5(1)"*c*"(2)"4."

9. VOC monitoring waiver requirements for surface water systems. Each community and nontransient noncommunity surface water system which does not detect a contaminant listed in 41.5(1)"*b*"(1) may apply to the department for a waiver from the requirements of 41.5(1)"*c*"(2)"4" after completing the initial monitoring. Composite samples from a maximum of five sampling points are allowed, provided that the detection limit of the method used for analysis is less than one-fifth of the MCL. Systems meeting this criterion must be determined by the department to be nonvulnerable based on a vulnerability assessment during each compliance period. Each system receiving a waiver shall sample at the frequency specified by the department (if any).

10. Increased VOC monitoring. If a contaminant listed in 41.5(1)"*b*"(1) is detected at a level exceeding 0.0005 mg/L in any sample, then:

The system must monitor quarterly at each sampling point which resulted in a detection.

The department may decrease the quarterly monitoring requirement specified in 41.5(1)"*c*"(2)"4" provided it has determined that the system is reliably and consistently below the maximum contaminant level. In no case shall the department make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface water system takes a minimum of four quarterly samples.

If the department determines that the system is reliably and consistently below the MCL, the department may allow the system to monitor annually. Systems which monitor annually must monitor during the quarter(s) which previously yielded the highest analytical result.

Systems which have three consecutive annual samples with no detection of a contaminant may apply to the department for a waiver as specified in 41.5(1)"*c*"(2)"6."

Groundwater systems which have detected one or more of the following two-carbon organic compounds: trichloroethylene, tetrachloroethylene, 1,2-dichloroethane, 1,1,1-trichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene, or 1,1-dichloroethylene shall monitor quarterly for vinyl chloride. A vinyl chloride sample shall be taken at each sampling point at which one or more of the two-carbon organic compounds was detected. If the results of the first analysis do not detect vinyl chloride, the department may reduce the quarterly monitoring frequency of vinyl chloride monitoring to one sample during each compliance period. Surface water systems are required to monitor for vinyl chloride as specified by the department.

11. VOCs reliably and consistently below the MCL. Systems which violate the MCL requirements of 41.5(1)*"b"*(1) must monitor quarterly. After a minimum of four consecutive quarterly samples which show the system is in compliance and the department determines that the system is reliably and consistently below the maximum contaminant level, the system may monitor at the frequency and times specified in 41.5(1)*"c"*(2)"10," third unnumbered paragraph (following approval by the department).

(3) Routine and repeat synthetic organic chemical (SOC) monitoring requirements. Analysis of the synthetic organic contaminants listed in 41.5(1)*"b"*(1) for the purposes of determining compliance with the maximum contaminant level shall be conducted as follows:

1. SOC groundwater monitoring protocols. Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a source/entry point). Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

2. SOC surface water monitoring protocols. Surface water systems shall take a minimum of one sample at each entry point to the distribution system after treatment (hereafter called a source/entry point). Each sample must be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. For purposes of this paragraph, surface water systems include systems with a combination of surface and ground sources.

3. Multiple sources. If the system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water representative of all sources is being used). If a representative sample of all water sources cannot be obtained, as determined by the department, separate source/entry points with the appropriate monitoring requirements will be assigned by the department.

4. SOC monitoring frequency. Community and nontransient noncommunity water systems shall take four consecutive quarterly samples for each contaminant listed in 41.5(1)*"b"*(1) during each compliance period beginning with the compliance period starting January 1, 1993. Systems serving more than 3,300 persons which do not detect a contaminant in the initial compliance period may reduce the sampling frequency to a minimum of two quarterly samples in one year during each repeat compliance period. Systems serving less than or equal to 3,300 persons which do not detect a contaminant in the initial compliance period may reduce the sampling frequency to a minimum of one sample during each repeat compliance period.

5. SOC monitoring waivers. Each community and nontransient water system may apply to the department for a waiver from the requirements of 41.5(1)*"c"*(3)"4." A system must reapply for a waiver for each compliance period.

6. Bases of an SOC monitoring waiver. The department may grant a waiver if the department finds that there has been no knowledge of previous use (including transport, storage, or disposal) of the contaminant within the watershed or zone of influence of the system. If previous use of the contaminant is unknown or it has been used previously, then the department shall determine whether a waiver may be granted by considering:

- Previous analytical results.
- The proximity of the system to a potential point or nonpoint source of contamination. Point sources include spills and leaks of chemicals at or near a water treatment facility or at manufacturing, distribution, or storage facilities, or from hazardous and municipal waste landfills and other waste handling or treatment facilities. Nonpoint sources include the use of pesticides to control insect and weed pests on agricultural areas, forest lands, home and gardens, and other land application uses.
- The environmental persistence and transport of the pesticide or PCBs.
- How well the water source is protected against contamination due to such factors as depth of the well and the type of soil and the integrity of the well casing.
- Elevated nitrate levels at the water supply source, and
- Use of PCBs in equipment used in the production, storage, or distribution of water (i.e., PCBs used in pumps and transformers).

7. Increased SOC monitoring. If a synthetic organic contaminant listed in 41.5(1)*"b"*(1) is detected in any sample, then:

- Each system must monitor quarterly at each sampling point which resulted in a detection.
- The department may decrease the quarterly SOC monitoring requirement if the system is reliably and consistently below the maximum contaminant level. In no case shall the department make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface water system takes a minimum of four quarterly samples.
- After the department determines the system is reliably and consistently below the maximum contaminant level, the system may monitor annually. Systems which monitor annually must monitor during the quarter that previously yielded the highest analytical result.
- Systems which have three consecutive annual samples with no detection of a contaminant may apply to the department for a waiver as specified in 41.5(1)*"c"*(3)"6."
- If monitoring results in detection of one or more of certain related contaminants (aldicarb, aldicarb sulfone, aldicarb sulfoxide, heptachlor, and heptachlor epoxide), then subsequent monitoring shall analyze for all related contaminants.

8. MCL violation and reliably/consistently below the MCL. Systems which violate the requirements of 41.5(1)*"b"* must monitor quarterly. After a minimum of four quarterly samples show the system is in compliance and the department determines the system is reliably and consistently below the MCL, the system shall monitor at the frequency specified in 41.5(1)*"c"*(3)"7."

(4) Organic chemical (SOC and VOC) confirmation samples. The department may require a confirmation sample for positive or negative results. If a confirmation sample is required by the department, the result must be averaged with the first sampling result and the average is used for the compliance determination as specified by 41.5(1)*"b"*(2). The department has discretion to disregard results of obvious sampling errors from this calculation.

(5) Organic chemical (SOC and VOC) composite samples. The department may reduce the total number of samples a system must analyze by allowing the use of compositing. Composite samples from a maximum of five sampling points are allowed, provided that the detection limit of the method used for analysis is less than one-fifth of the MCL. Compositing of samples must be done in the laboratory and analyzed within 14 days of sample collection.

1. If the concentration in the SOC or VOC composite sample is greater than or equal to 0.0005 mg/L for any contaminant listed in 41.5 (1)*"b"*(1), then a follow-up sample must be taken and analyzed within 14 days from each sampling point included in the composite.

2. If duplicates of the original sample taken from each sampling point used in the composite are available, the system may use these instead of resampling. The duplicate must be analyzed and the results reported to the department within 14 days of collection.

3. Compositing may only be permitted by the department at sampling points within a single system, unless the population served by the system is less than 3,300 persons. In systems serving less than or equal to 3,300 persons, the department may permit compositing among different systems provided the five-sample limit is maintained.

4. Compositing samples prior to gas chromatographic analysis.

- Add 5 mL or equal larger amounts of each sample (up to five samples are allowed) to a 25-mL glass syringe. Special precautions must be made to maintain zero headspace in the syringe.
- The samples must be cooled at 4 degrees Celsius during this step to minimize volatilization losses.
- Mix well and draw out a 5-mL aliquot for analysis.
- Follow sample introduction, purging, and desorption steps described in the method.
- If less than five samples are used for compositing, a proportionately small syringe may be used.

5. Compositing samples prior to gas chromotographic/mass spectrometric analysis.

- Inject 5 mL or equal larger amounts of each aqueous sample (up to five samples are allowed) into a 25-mL purging device using the sample introduction technique described in the method.
- The total volume of the sample in the purging device must be 25 mL.
- Purge and desorb as described in the method.

6. Grandfathered organic chemical (SOC and VOC) data. The department may allow the use of monitoring data collected after January 1, 1988, for VOCs and January 1, 1990, for SOCs required under Section 1445 of the Safe Drinking Water Act for purposes of initial monitoring compliance. If the data are generally consistent with the other requirements in this subparagraph, the department may use such data (i.e., a single sample rather than four quarterly samples) to satisfy the initial monitoring requirement for the initial compliance period beginning January 1, 1993. Systems which use grandfathered samples for VOCs and did not detect any contaminants listed in 41.5(1)*"b"*(1) shall begin monitoring annually in accordance with 41.5(1)*"c"*(2) beginning January 1, 1993.

7. Increased organic chemical (SOC and VOC) monitoring. The department may increase the required monitoring frequency, where necessary, to detect variations within the system (e.g., fluctuations in concentration due to seasonal use, changes in water source, changes to treatment facilities or normal operation thereof).

8. Organic chemical (SOC and VOC) vulnerability assessment criteria. Vulnerability of each public water system shall be determined by the department based upon an assessment of the following factors.

- VOC vulnerability assessment criteria—previous monitoring results. A system will be classified vulnerable if any sample was analyzed to contain one or more contaminants listed in 41.5(1)*"b"*(1)-(VOCs) or 41.5(1)*"b"*(3) except for trihalomethanes or other demonstrated disinfection by-products.
- SOC vulnerability assessment criteria—previous monitoring results. A system will be classified vulnerable if any sample was analyzed to contain one or more contaminants listed in 41.5(1)*"b"*(2)-(SOCs) or 41.5(1)*"b"*(3) except for trihalomethanes or other demonstrated disinfection by-products.
- Proximity of surface water supplies to commercial or industrial use, disposal or storage of volatile synthetic organic chemicals. Surface waters which withdraw water directly from reservoirs are considered vulnerable if the drainage basin upgradient and within two miles of the shoreline at the maximum water level contains major transportation facilities such as primary highways or railroads or any of the contaminant sources listed in this subparagraph. Surface water supplies which withdraw water directly from flowing water courses are considered vulnerable if the drainage basin upgradient and within two miles of the water intake structure contains major transportation facilities such as primary highways or railroads or any of the contaminant sources listed in this subparagraph.

• Proximity of supplies to commercial or industrial use, disposal or storage of volatile synthetic organic chemicals. Wells that are not separated from sources of contamination by at least the following distances will be considered vulnerable.

Sources of Contamination	Shallow Wells as defined in 567—40.2(455B)	Deep Wells as defined in 567—40.2(455B)
Sanitary and industrial point discharges	400 ft	400 ft
Mechanical waste treatment plants	400 ft	200 ft
Lagoons	1,000 ft	400 ft
Chemical and storage (aboveground)	200 ft	100 ft
Chemical and mineral storage including underground storage tanks on or below ground	400 ft	200 ft
Solid waste disposal site	1,000 ft	1,000 ft

• A system is deemed to be vulnerable for a period of three years after any positive measurement of one or more contaminants listed in 41.5(1)*"b"*(3) except for trihalomethanes or other demonstrated disinfection by-products.

d. Best available technology(ies) (BATs). Rescinded IAB 8/11/99, effective 9/15/99.

e. Total trihalomethanes sampling, analytical and other requirements. The maximum contaminant level for total trihalomethanes applies to community water systems which serve a population of 10,000 or more individuals and which add a disinfectant (oxidant) to the water in any part of the treatment process. Compliance with the maximum contaminant level is calculated pursuant to 41.5(1)*"b"*(1). Total trihalomethanes is the sum of the concentrations of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform) and trichloromethane (chloroform).

(1) Applicability. Community water systems which serve a population of 10,000 or more individuals and which add disinfectant (oxidant) to the water in any part of the drinking water treatment process shall analyze for total trihalomethanes in accordance with this subrule.

1. For the purpose of this subrule, samples to be taken by the system shall be based on the number of treatment plants used by the system, except that multiple wells drawing water from a single aquifer may, with approval of the department, be considered as one treatment plant for determining the minimum number of samples.

2. All samples required within a calendar quarter shall be collected within a 24-hour period.

3. The system shall submit the results of at least one sample for maximum TTHM potential using the procedure specified in 41.5(1)*"e"*(5).

4. A sample must be analyzed from each treatment plant used by the system and be taken at a point in the distribution system reflecting the maximum residence time of the water in the system.

(2) General sampling requirements.

1. For all community water systems utilizing surface water sources in whole or in part, and for all community water systems utilizing only groundwater sources that have not been determined by the department to qualify for the monitoring requirements of 41.5(1)*"e"*(3), analyses for total trihalomethanes shall be performed at quarterly intervals on at least four water samples for each treatment plant used by the system. At least 25 percent of the samples shall be taken at locations within the distribution system reflecting the maximum residence time of the water in the system. The remaining 75 percent shall be taken at representative locations in the distribution system, taking into account number of persons served, different sources of water and different treatment methods employed. The results of all analyses per quarter shall be arithmetically averaged. All samples collected shall be used in the computation of the average, unless the analytical results are invalidated for technical reasons. Sampling and analyses shall be conducted in accordance with the methods listed in 41.5(1)*"e"*(5).

2. The department may allow a community water system to reduce the monitoring frequency required by 41.5(1)"*e*"(2)"1" to a minimum of one sample analyzed for TTHMs per quarter taken at a point in the distribution system reflecting the maximum residence time of the water in the system, upon a determination by the department that the data from at least one year of monitoring in accordance with 41.5(1)"*e*"(2)"1" and local conditions demonstrate that total trihalomethane concentrations will be consistently below the maximum contaminant level.

3. If at any time during which the reduced monitoring frequency prescribed under 41.5(1)"*e*"(2)"2" applies, the results from any analysis exceed 0.10 mg/L of TTHMs and such results are confirmed by at least one check sample taken promptly after such results are received, or if the system makes any significant change to its source of water or treatment program, the system shall immediately begin monitoring in accordance with the requirements of 41.5(1)"*e*"(2)"1" which monitoring shall continue for at least one year before the frequency may be reduced again. The department may increase a system's monitoring frequency above the minimum in those cases where the department determines it is necessary to detect variations of TTHM levels within the distribution system.

(3) Groundwater sampling requirements.

1. The department may allow a community water system utilizing only groundwater sources to reduce the monitoring frequency required by 41.5(1)"*e*"(2)"1" to a minimum of one sample for maximum TTHM potential per year for each treatment plant used by the system taken at a point in the distribution system reflecting maximum residence time of the water in the system. The system's monitoring frequency may only be reduced upon a determination by the department that, based upon the data submitted by the system, the system has a maximum TTHM potential of less than 0.10 mg/L and that, based upon an assessment of the local conditions of the system, the system is not likely to approach or exceed the maximum contaminant level for TTHMs. All samples collected shall be used for determining whether the system must comply with the monitoring requirements of 41.5(1)"*e*"(2), unless the analytical results are invalidated for technical reasons. Sampling and analyses shall be conducted in accordance with the methods listed in 41.5(1)"*e*"(5).

2. If at any time during which the reduced monitoring frequency prescribed under 41.5(1)"*e*"(3)"1" applies, the results from any analysis taken by the system for the maximum TTHM potential are equal to or greater than 0.10 mg/L, and such results are confirmed by at least one check sample taken promptly after such results are received, the system shall immediately begin monitoring in accordance with the requirements of 41.5(1)"*e*"(2) and such monitoring shall continue for at least one year before the frequency may be reduced again. In the event of any significant change to the system's raw water or treatment program, the system shall immediately analyze an additional sample for maximum TTHM potential taken at a point in the distribution system reflecting maximum residence time of the water in the system for the purpose of determining whether the system must comply with the monitoring requirements of 41.5(1)"*e*"(2). The department may increase monitoring frequencies above the minimum in those cases where the department determines it is necessary to detect variation of TTHM levels within the distribution system.

(4) Compliance calculation. Compliance with 41.5(1)"*b*"(3) shall be determined based on a running annual average of quarterly samples collected by the system as prescribed in 41.5(1)"*e*"(2)"1" or 41.5(1)"*e*"(2)"2." If the average of samples covering any 12-month period exceeds the maximum contaminant level, the supplier of water shall notify the public pursuant to 567—42.1(455B). Monitoring after public notification shall be at a frequency designated by the department and shall continue until a monitoring schedule as a condition to an operation permit or enforcement action shall become effective.

(5) Sampling and analytical methodology. Sampling and analyses made pursuant to this subrule shall be conducted by one of the approved total trihalomethane methods listed in 41.5(1)"*b*."

Samples for TTHM shall be dechlorinated upon collection to prevent further production of trihalomethanes, according to the procedures described in the above-referenced methods, except acidification is not required if only THMs or TTHMs are to be determined. Samples for maximum TTHM potential should not be dechlorinated or acidified, and should be held for seven days at 25 degrees Celsius (or above) prior to analysis.

(6) System modificiation. Before a community water system makes any modifications to its existing treatment process for the purposes of achieving compliance with the TTHM MCL, such system must submit and obtain department approval of a plan setting forth its proposed modification and any safeguards that it will implement to ensure that the bacteriological quality of the drinking water served by such system will not be adversely affected by such modification.

Each system shall comply with the provisions set forth in the department-approved plan. At a minimum, a department-approved plan shall require any system modifying its disinfection practice to:

1. Evaluate the water system for sanitary defects and evaluate the source for biological quality;
2. Evaluate its existing treatment practices and consider improvements that will minimize disinfectant demand and optimize finished water quality throughout the distribution system;
3. Provide baseline water quality survey data of the distribution system required by the department;
4. Conduct any additional monitoring determined by the department to be necessary to ensure continued maintenance of optimal biological quality in the finished water; and
5. Demonstrate an active disinfectant residual throughout the distribution system at all times during and after the modification.

Before a community water system makes any modifications to its existing physical treatment plant for the purpose of achieving compliance with 41.5(1)*"b"*(3), such system must obtain department approval in accordance with 567—43.3(455B).

(7) Maximum total trihalomethane potential methodology. The water sample for determination of maximum total trihalomethane potential is taken from a point in the distribution system that reflects maximum residence time. Procedures for sample collection and handling are given in the methods. No reducing agent is added to "quench" the chemical reaction producing THMs at the time of sample collection. The intent is to permit the level of THM precursors to be depleted and the concentration of THMs to be maximized for the supply being tested. Four experimental parameters affecting maximum THM production are pH, temperature, reaction time, and the presence of a disinfectant residual. These parameters are dealt with as follows:

1. Measure the disinfectant residual at the selected sampling point. Proceed only if a measurable residual is present.
2. Collect triplicate 40 mL water samples at the pH prevailing at the time of sampling and prepare a method blank according to the methods.
3. Seal and store these samples together for seven days at 25 degrees Celsius or above.
4. After this time period, open one of the sample containers and check for disinfectant residual. Absence of a disinfectant residual invalidates the sample for further analysis.
5. Once a disinfectant residual has been demonstrated, open another of the sealed samples and determine THM concentration using an approved analytical method.

f. Analytical procedures—organics.

(1) Volatile organic chemical (VOC) and synthetic organic chemical (SOC) analytical methods. Analysis for the VOC and SOC contaminants listed in 41.5(1)"b"(1) must be conducted using the specified EPA methods. Other analytical test procedures are contained in Technical Notes on Drinking Water Methods, EPA-600/R-94-173, October 1994, NTIS PB95-104766.

(2) PCB analytical methodology. Analysis for PCBs shall be conducted as follows:

1. Each system which monitors for PCBs shall analyze each sample using either Method 505 or 508 pursuant to 41.5(1)"b."
2. If PCBs (as one of seven Aroclors) are detected in any sample analyzed using Method 505 or 508, the system shall reanalyze the sample using Method 508A to quantitate PCBs as decachlorobiphenyl.

PCB AROCLOR DETECTION LIMITS

Aroclor	Detection Limit (mg/L)
1016	0.00008
1221	0.02
1232	0.0005
1242	0.0003
1248	0.0001
1254	0.0001
1260	0.0002

3. Compliance with the PCB MCL shall be determined based upon the quantitative results of analyses using Method 508A.

41.5(2) *Organic chemicals occurring as (nontrihalomethane) disinfection by-products.* Reserved.

567—41.6(455B) Turbidity. Rescinded IAB 8/18/93, effective 9/22/93.

567—41.7(455B) Physical properties maximum contaminant levels (MCL or treatment technique requirements) and monitoring requirements.

41.7(1) *Turbidity.*

a. Applicability. The maximum contaminant levels (treatment technique requirements) for turbidity are applicable to community and noncommunity public water supply systems using surface water or groundwater under the direct influence of surface water in whole or in part. A system providing filtration on or before December 30, 1991, shall meet the requirements of this subrule on June 29, 1993. A system providing filtration after December 30, 1991, shall meet the requirements of this subrule when filtration is installed. The department may require and the system shall comply with any interim turbidity requirements the department deems necessary. Failure to meet any requirement of this subrule, in accordance with 567—43.5(455B), after the date specified in this paragraph is a treatment technique violation.

b. Maximum contaminant levels (MCL or treatment technique requirement) for turbidity. The maximum contaminant levels (treatment technique requirements) for turbidity in drinking water, measured at representative entry point(s) to the distribution system, are as follows:

(1) Conventional filtration treatment or direct filtration.

1. For systems using conventional filtration or direct filtration, the turbidity level of representative samples of a system's filtered water must be less than or equal to 0.5 nephelometric turbidity units (NTU) in at least 95 percent of the measurements taken each month when measured as specified in 41.7(1)*"c"* and *"e."*

2. The turbidity level of representative samples of a system's filtered water must at no time exceed 5 NTU when measured as specified in 41.7(1)*"c"* and *"e."*

(2) Slow sand filtration.

1. For systems using slow sand filtration, the turbidity level of representative samples of a system's filtered water must be less than or equal to 1 NTU in at least 95 percent of the measurements taken each month when measured as specified in 41.7(1)*"c"* and *"e."*

2. The turbidity level of representative samples of a system's filtered water must at no time exceed 5 NTU when measured as specified in 41.7(1)*"c"* and *"e."*

(3) Diatomaceous earth filtration.

1. For systems using diatomaceous earth filtration, the turbidity level of representative samples of a system's filtered water must be less than or equal to 1 NTU in at least 95 percent of the measurements taken each month when measured as specified in 41.7(1)*"c"* and *"e."*

2. The turbidity level of representative samples of a system's filtered water must at no time exceed 5 NTU when measured as specified in 41.7(1)*"c"* and *"e."*

(4) Other filtration technologies. A public water system may use either a filtration technology not listed in 41.7(1)*"b"*(1) to 41.7(1)*"b"*(3) or a filtration technology listed in 41.7(1)*"b"*(1) and (2) at a higher turbidity level if it demonstrates to the department through a preliminary report submitted by a registered professional engineer, using pilot plant studies or other means, that the alternative filtration technology in combination with disinfection treatment that meets the requirements of 567—subrule 43.5(2), consistently achieves 99.9 percent removal or inactivation of *Giardia lamblia* and 99.99 percent removal or inactivation of viruses. For a system that uses alternative filtration technology and makes this demonstration, the maximum contaminant levels (treatment technique requirements) for turbidity are as follows:

1. The turbidity level of representative samples of a system's filtered water must be less than or equal to 1 NTU in at least 95 percent of the measurements taken each month when measured as specified in 41.7(1)*"c"* and *"e."*

2. The turbidity level of representative samples of a system's filtered water must at no time exceed 5 NTU when measured as specified in 41.7(1)*"c"* and *"e."*

c. Monitoring requirements.

(1) Routine turbidity monitoring. Turbidity measurements as required by 567—subrule 43.5(3) must be performed on representative samples of the system's filtered water every four hours (or more frequently) that the system serves water to the public. A public water system may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a calibration protocol approved by the department and audited for compliance during sanitary surveys. Major elements of the protocol shall include, but are not limited to: method of calibration, calibration frequency, calibration standards, documentation, data collection and data reporting. For any systems using slow sand filtration or filtration treatment other than conventional treatment, direct filtration, or diatomaceous earth filtration, the department may reduce the sampling frequency to once per day if it determines that less frequent monitoring is sufficient to indicate effective filtration performance. For systems serving 500 or fewer persons, the department may reduce the turbidity sampling frequency to once per day, regardless of the type of filtration treatment used, if the department determines that less frequent monitoring is sufficient to indicate effective filtration performance. Approval shall be based upon documentation provided by the system, acceptable to the department and pursuant to the conditions of an operation permit.

(2) Turbidity requirements for population greater than 100,000. A supplier of water serving a population or population equivalent of greater than 100,000 persons shall provide a continuous or rotating cycle turbidity monitoring and recording device or take hourly grab samples to determine compliance with 41.7(1)*"b."*

d. Reserved.

e. Analytical methodology. Public water systems shall conduct turbidity analysis in accordance with 567—subrule 43.5(4) and the following analytical method. Measurements for turbidity shall be conducted by a Grade II, III or IV operator meeting the requirements of 567—Chapter 81, any person under the supervision of a Grade II, III or IV operator meeting the requirements of 567—Chapter 81, or a laboratory certified by the department to perform analysis under 567—Chapter 83.

(1) Turbidity analytical methodology. Turbidity monitoring shall be conducted using the following methodology:

Methodology	Analytical Method		
	EPA	SM	GLI
Nephelometric	180.1[1]	2130B[2]	Method 2[3]

1 "Methods for the Determination of Inorganic Substances in Environmental Samples," EPA-600/R-93-100, August 1993. Available at NTIS, PB94-121811.

2 Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992, American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005.

3 GLI Method 2, "Turbidity," November 2, 1992, Great Lakes Instruments, Inc., 8855 North 55th Street, Milwaukee, WI 53223.

(2) Reporting. The public water supply system shall report the results of the turbidity analysis in accordance with 567—paragraphs 42.4(3)"*a*" and 42.4(3)"*c*."

41.7(2) *Residual disinfectant.*

a. Applicability. Public water supply systems which apply chlorine shall monitor, record, and report the concentrations daily in accordance with 567—subparagraph 42.4(3)"*a*"(2)"5." In addition, all public water supply systems that use a surface water source or a groundwater source under the direct influence of surface water must provide treatment consisting of disinfection, as specified in 567—subrule 43.5(2), and filtration treatment, as specified in 567—subrule 43.5(3), and shall report to the department in accordance with 567—42.4(3)"*c*."

b. Maximum contaminant levels. Reserved.

c. Monitoring requirements. Public water supplies that use surface water or groundwater under the direct influence of surface water shall monitor for the residual disinfectant concentration in both the water entering the distribution system and in water in the distribution system so as to demonstrate compliance with 567—subrule 43.5(2).

(1) Disinfectant residual entering system. Residual disinfectant concentration of the water entering the distribution system shall be monitored continuously, and the lowest value recorded each day, except that if there is a failure in the continuous monitoring equipment, grab sampling every four hours may be conducted in lieu of continuous monitoring, but not to exceed five working days following the failure of the equipment. Systems serving 3,300 or fewer persons may take grab samples in lieu of providing continuous monitoring on an ongoing basis at the frequencies prescribed below:

DISINFECTANT RESIDUAL SAMPLES REQUIRED OF SURFACE WATER OR IGW PWS

System size (persons served)	Samples per day *
less than 500	1
501 to 1,000	2
1,001 to 2,500	3
2,501 to 3,300	4

*When more than one grab sample is required per day, the day's samples cannot be taken at the same time. The sampling intervals must be at a minimum of four-hour intervals.

If at any time the disinfectant concentration falls below 0.3 mg/L free residual or 1.5 mg/L total residual chlorine in a system using grab sampling in lieu of continuous monitoring, the system shall take a grab sample every four hours until the residual disinfectant concentration is equal to or greater than 0.3 mg/L free residual or 1.5 mg/L total residual chlorine.

(2) Disinfectant residual in system. The residual disinfectant concentration must be measured at least at the same points in the distribution system and at the same time as total coliforms are sampled, as specified in 41.2(1)"*c*," except that the department may allow a public water system which uses both a surface water source or a groundwater source under direct influence of surface water, and a groundwater source to take disinfectant residual samples at points other than the total coliform sampling points, if these points are included as a part of the coliform sample site plan meeting the requirements of 41.2(1)"*c*"(1)"1" and the department determines that such points are representative of treated (disinfected) water quality within the distribution system. Heterotrophic bacteria, measured as heterotrophic plate count (HPC) may be measured in lieu of residual disinfectant concentration, using Method 9215B, Pour Plate Method, Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992. The time from sample collection to initiation of analysis may not exceed eight hours. Samples must be kept below 10 degrees Celsius during transit to the laboratory. All samples must be analyzed by a department-certified laboratory.

d. BAT. Reserved.

e. Analytical methodology. Measurements for residual disinfectant concentration shall be conducted by a Grade II, III, or IV operator meeting the requirements of 567—Chapter 81, any person under the supervision of a Grade II, III, or IV operator meeting the requirements of 567—Chapter 81, or a laboratory certified by the department to perform analysis under 567—Chapter 83.

(1) Disinfectant analytical methodology. Public water systems must measure residual disinfectant concentrations with one of the analytical methods in the following table. Residual disinfectant concentrations for free chlorine and combined chlorine also may be measured by using DPD colorimetric test kits. Free and total chlorine residuals may be measured continuously by adapting a specified chlorine residual method for use with a continuous monitoring instrument provided the chemistry, accuracy and precision remain the same. Instruments used for continuous monitoring must be calibrated with a grab sample measurement at least every five days.

DISINFECTANT ANALYTICAL METHODOLOGY

Residual	Methodology	Methods[1, 2]
Free chlorine	Amperometric Titration	4500-Cl D
	DPD Ferrous Titrimetric	4500-Cl F
	DPD Colorimetric	4500-Cl G
	Syringaldazine (FACTS)	4500-Cl H
Total chlorine	Amperometric Titration	4500-Cl D
	Amperometric Titration (low level measurement)	4500-Cl E
	DPD Ferrous Titrimetric	4500-Cl F
	DPD Colorimetric	4500-Cl G
	Iodometric Electrode	4500-Cl I
Chlorine dioxide	Amperometric Titration	4500-ClO_2 C
	DPD Method	4500-ClO_2 D
	Amperometric Titration	4500-ClO_2 E
Ozone	Indigo Method	4500-O_3 B

1 Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992, American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005.

2 Other analytical test procedures are contained within Technical Notes on Drinking Water Methods, EPA-600/R-94-173, October 1994, which is available as NTIS PB95-104766.

(2) Reporting. The public water supply system shall report the results in compliance with 567—paragraphs 42.4(3)*"a"* and 42.4(3)*"c."*

41.7(3) *Temperature.*

a. Applicability. Reserved.

b. Maximum contaminant levels. Reserved.

c. Monitoring requirements. Reserved.

d. BAT. Reserved.

e. Analytical methodology. Measurements for temperature must be conducted by a Grade II, III or IV operator meeting the requirements of 567—Chapter 81, any person under the supervision of a Grade II, III or IV operator meeting the requirements of 567—Chapter 81, or a laboratory certified by the department to perform analysis under 567—Chapter 83. Temperature shall be determined in compliance with the methodology listed in 41.4(1)*"g"*(1).

41.7(4) *Hydrogen ion concentration (pH).*

a. Applicability. Reserved.

b. Maximum contaminant levels. Reserved.

c. Monitoring requirements. Reserved.

d. BAT. Reserved.

e. Analytical methodology. Measurements for pH shall be conducted by a Grade II, III or IV operator meeting the requirements of 567—Chapter 81, any person under the supervision of a Grade II, III or IV operator meeting the requirements of 567—Chapter 81, or a laboratory certified by the department to perform analysis under 567—Chapter 83. pH shall be determined in compliance with the methodology listed in 41.4(1)"*g*"(1).

567—41.8(455B) Radionuclides.

41.8(1) *Radium-226, radium-228, and gross alpha particle radioactivity in community water systems.* The following are the maximum contaminant levels for radium-226, radium-228, and gross alpha particle radioactivity:

	MCL
a. Combined radium-226 and radium-228	5 pCi/l
b. Gross alpha particle activity (including radium-226 but excluding radon and uranium)	15 pCi/l

41.8(2) Beta particle and photon radioactivity from man-made radionuclides in community water systems.

a. Maximum contaminant level. The average annual concentration of beta particle and photon radioactivity from man-made radionuclides in drinking water shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem/year.

b. MCL calculation. Except for the radionuclides listed in the table below, the concentration of man-made radionuclides causing 4 mrem total body or organ dose equivalents shall be calculated on the basis of a 2 liter per day drinking water intake using the 168-hour data listed in "Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure," NBS Handbook 69 as amended August 1963, U.S. Department of Commerce. If two or more radionuclides are present, the sum of their annual dose equivalent to the total body or to any organ shall not exceed 4 millirem/year.

AVERAGE ANNUAL CONCENTRATIONS ASSUMED TO PRODUCE A TOTAL BODY OR ORGAN DOSE OF 4 MREM/YR

Radionuclide	Critical Organ	pCi per liter
Strontium-90	Bone marrow	8
Tritium	Total body	20,000

567—41.9(455B) Sampling and analytical requirements for radionuclides.

41.9(1) *Analytical methods for radioactivity.*

a. Radionuclide analytical methodology. Analysis for the following contaminants shall be conducted to determine compliance with 41.8(1) in accordance with the methods in the following table, or their equivalent as determined by EPA.

RADIONUCLIDE ANALYTICAL METHODOLOGY

Contaminant	Methodology	Reference (method or page number)								
		EPA[1]	EPA[2]	EPA[3]	EPA[4]	SM[5]	ASTM[6]	USGS[7]	DOE[6]	Other
Naturally occurring:										
Gross alpha[11] & beta	Evaporation	900.0	p. 1	00-01	p. 1	302, 7110B		R-1120-76		
Gross alpha[11]	Co-precipitation			00-02		7110C				
Radium 226	Radon emanation	903.1	p. 16	Ra-04	p. 19	7500-Ra C	D 3454-91	R-1141-76	Ra-05	NY[9]
	Radiochemical	903.0	p. 13	Ra-03		304, 305, 7500-Ra B	D 2460-90	R-1140-76		
Radium 228	Radiochemical	904.0	p. 24	Ra-05	p. 19	304, 7500-Ra D		R-1142-76		NY[9] NJ[10]
Uranium[12]	Radiochemical	908.0				7500-U B				
	Fluorometric	908.1				7500-U C[13]	D 2907-91	R-1180-76 R-1181-76	U-04	
	Alpha spectrometry			00-07	p. 33	7500-U C[14]	D 3972-90	R-1182-76	U-02	
	Laser phosphorimetry						D 5174-91			
Man-made:										
Radioactive Cesium	Radiochemical	901.0	p. 4			7500-Cs B	D 2459-72	R-1111-76		
	Gamma ray spectrometry	901.1			p. 92	7120[15]	D 3649-91	R-1110-76	4.5.2.3	
Radioactive Iodine	Radiochemical	902.0	p. 6 p. 9			7500-I B 7500-I C 7500-I D	D 3649-91			
	Gamma ray spectrometry	901.1			p. 92	7120[15]	D 4785-88		4.5.2.3	
Radioactive Strontium 89, 90	Radiochemical	905.0	p. 29	Sr-04	p. 65	303, 7500-Sr B		R-1160-76	Sr-01 Sr-02	
Tritium	Liquid scintillation	906.0	p. 34	H-02	p. 87	306, 7500-3H B	D 4107-91	R-1171-76		
Gamma emitters	Gamma ray spectrometry	901.1			p. 92	7120[15]	D 3649-91	R-1110-76	4.5.2.3	
		902.0				7500-Cs B	D 4785-88			
		901.0				7500-I B				

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of documents 1 through 10 was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51, effective April 4, 1997. Copies of the documents may be obtained from the sources listed below. Contact the Safe Drinking Water Hotline at (800)426-4791 to obtain information about these documents. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street SW, Washington, DC 20460 (telephone (202)260-3027); or at the Office of Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC.

1 "Prescribed Procedures for Measurement of Radioactivity in Drinking Water," EPA 600/4-80-032, August 1980. Available at the US Department of Commerce, NTIS, 5285 Port Royal Road, Springfield, VA 22161 (telephone (800)553-6847) PB 80-224744.

2 "Interim Radiochemical Methodology for Drinking Water," EPA 600/4-75-008(revised), March 1976. Available at NTIS, ibid. PB 253258.

3 "Radiochemistry Procedures Manual," EPA 520/5-84-006, December 1987. Available at NTIS, ibid. PB 84-215581.

4 "Radiochemical Analytical Procedures for Analysis of Environmental Samples." March 1979. Available at NTIS, ibid. EMSL LV 053917.

5 Standard Methods for the Examination of Water and Wastewater, 13th, 17th, 18th, 19th editions, 1971, 1989, 1992, 1995. Available at American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005. All methods are in the 17th, 18th, and 19th editions except 7500-U C Fluorimetric Uranium was discontinued after the 17th edition; 7120 Gamma Emitters is only in the 19th edition; and 302, 303, 304, 305, and 306 are only in the 13th edition.

6 Annual Book of ASTM Standards, Vol. 11.02, 1994. Available at American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

7 "Methods for Determination of Radioactive Substances in Water and Fluvial Sediments," Chapter A5 in Book 5 of Techniques of Water-Resources Investigations of the United States Geological Survey, 1977. Available at US Geological Survey (USGS) Information Services, Box 25286, Federal Center, Denver, CO 80225-0425.

8 "EML Procedures Manual," 27th edition, Volume 1, 1990. Available at the Environmental Measurements Laboratory, US Department of Energy (DOE), 376 Hudson Street, New York, NY 10014-3621.

9 "Determination of Ra-226 and Ra-228 (Ra-02)," January 1980, revised June 1982. Available at Radiological Sciences Institute Center for Laboratories and Research, New York State Department of Health, Empire State Plaza, Albany, NY 12201.

10 "Determination of Ra-228 in Drinking Water," August 1980. Available at State of New Jersey, Department of Environmental Protection, Division of Environmental Quality, Bureau of Radiation and Inorganic Analytical Services, 9 Ewing Street, Trenton, NJ 08625.

11 Natural uranium and thorium-230 are approved as gross alpha calibration standards for gross alpha with co-precipitation and evaporation methods; americium-241 is approved with co-precipitation methods.

12 If uranium (U) is determined by mass, a 0.67 pCi/ug of uranium conversion factor must be used. This conversion factor is based on the 1:1 activity ratio of U-234 to U-238 that is characteristic of naturally occurring uranium.

13 Standard Methods for the Examination of Water and Wastewater, 17th edition, APHA, 1989.

14 Standard Methods for the Examination of Water and Wastewater, 18th or 19th edition, APHA, 1992, 1995.

15 Standard Methods for the Examination of Water and Wastewater, 19th edition, APHA, 1995.

b. Method references for other radionuclides. When the identification and measurement of radionuclides other than those listed in 41.9(2) are required, the following references are to be used, except in cases where alternative methods have been approved in accordance with 41.12(455B).

(1) "Procedures for Radiochemical Analysis of Nuclear Reactor Aqueous Solutions," H. L. Krieger and S. Gold, EPA-R4-73-014, Environmental Protection Agency, Cincinnati, Ohio 45268 (May 1973).

(2) "HASL Procedure Manual," edited by John H. Harley. HASL 300, ERDA Health and Safety Laboratory, New York, NY (1973).

c. Radionuclide detection limits. For the purpose of monitoring radioactivity concentration in drinking water, the required sensitivity of the radioanalysis is defined in terms of a detection limit. The detection limit shall be that concentration which can be counted with a precision of plus or minus 100 percent at the confidence level (1.960 sigma where sigma is the standard deviation of the net counting rate of the sample).

(1) To determine compliance with 41.8(1)*"a,"* the detection limit shall not exceed 1 pCi/l. To determine compliance with 41.8(1)*"b,"* the detection limit shall not exceed 3 pCi/l.

(2) To determine compliance with 41.8(2), the detection limits shall not exceed the concentrations listed in the table below.

TABLE — Detection Limits for Man-Made Beta Particle and Photon Emitters

Radionuclide	Detection Limit
Tritium	1,000 pCi/l
Strontium-89	10 pCi/l
Strontium-90	2 pCi/l
Iodine-131	1 pCi/l
Cesium-134	10 pCi/l
Gross beta	4 pCi/l
Other radionuclides	1/10 of the applicable limit

d. Calculating compliance with radionuclide MCLs. To determine compliance with the maximum contaminant levels listed in 41.8(1) and 41.8(2), averages of data shall be used and shall be rounded to the same number of significant figures as the maximum contaminant level for the substance in question.

41.9(2) *Monitoring frequency for radioactivity in community water systems.*

a. Monitoring requirements for gross alpha particle activity, radium-226 and radium-228.

(1) Initial monitoring requirement and period. Initial sampling to determine compliance with 41.8(1) shall begin by June 24, 1979, and the analysis shall be completed by June 24, 1980. Compliance shall be based on the analysis of an annual composite of four consecutive quarterly samples or the average of the analyses of four samples obtained at quarterly intervals.

A gross alpha particle activity measurement may be substituted for the required radium-226 and radium-228 analysis, provided that the measured gross alpha particle activity does not exceed 5 pCi/l at a confidence level of 95 percent (1.65 0 {sigma} where 0 {sigma} is the standard deviation of the net counting rate of the sample). In localities where radium-228 may be present in drinking water, radium-226 or radium-228 analyses are required when the gross alpha particle activity exceeds 2 pCi/l.

When the gross alpha particle activity exceeds 5 pCi/l, the same or an equivalent sample shall be analyzed for radium-226. If the concentration of radium-226 exceeds 3 pCi/l, the same or an equivalent sample shall be analyzed for radium-228.

(2) Data substitution for initial requirement. For the initial analysis required by 41.9(2)*"a"*(1), data acquired on or after June 24, 1976, may be substituted at the discretion of the department.

(3) Monitoring requirements. Suppliers of water shall monitor at least once every four years following the procedure required by 41.9(2)"*a*"(1). At the discretion of the department, when an annual record taken in conformance with 41.9(2)"*a*"(1) has established that the average annual concentration is less than half the maximum contaminant levels established by 41.8(1), analysis of a single sample may be substituted for the quarterly sampling procedure required by 41.9(2)"*a*"(1).

More frequent monitoring shall be conducted when requested by the department in the vicinity of mining or other operations which may contribute alpha particle radioactivity to either surface or groundwater sources of drinking water.

A supplier of water shall monitor in conformance with 41.9(2)"*a*"(1) within one year of the introduction of a new water source for a community water system. More frequent monitoring shall be conducted when requested by the department in the event of possible contamination or when changes in the distribution system or treatment processing occur which may increase the concentration of radioactivity in finished water.

A community water system using two or more sources having different concentrations of radioactivity shall monitor source water, in addition to water from a free-flowing tap, when requested by the department.

Monitoring for compliance with 41.8(1) after the initial period need not include radium-228 except when required by the department, provided that the average annual concentration of radium-228 has been assayed at least once using the quarterly sampling procedure required by 41.9(2)"*a*"(1).

Suppliers of water shall conduct annual monitoring of any community water system in which the radium-226 concentration exceeds 3 pCi/l, when requested by the department.

(4) Exceedance of the MCL. If the average annual maximum contaminant level for gross alpha particle activity or total radium as set forth in 41.8(1) is exceeded, the supplier of a community water system shall notify the public as required by 567—42.1(455B). Monitoring at quarterly intervals shall be continued until the annual average concentration no longer exceeds the maximum contaminant level or until a monitoring schedule as a condition of an operation permit or enforcement action shall become effective.

b. Monitoring requirements for man-made radioactivity in community water systems.

(1) Applicability and initial monitoring requirements. Systems using surface water sources and serving more than 100,000 persons and such other community water systems as are designated by the department shall be monitored for compliance with 41.8(2) by analysis of a composite of four consecutive quarterly samples. Compliance with 41.8(2) may be assumed without further analysis if the average annual concentration of gross beta particle activity is less than 50 pCi/l and if the average annual concentrations of tritium and strontium-90 are less than those listed in the detection limits table, provided, that if both radionuclides are present, the sum of their annual dose equivalents to bone marrow shall not exceed 4 millirem/year.

If the gross beta particle activity exceeds 50 pCi/l, an analysis of the sample must be performed to identify the major radioactive constituents present, and the appropriate organ and total body doses shall be calculated to determine compliance with 41.8(2).

Suppliers of water shall conduct additional monitoring, as requested by the department, to determine the concentration of man-made radioactivity in principal watersheds designated by the department.

At the discretion of the department, suppliers of water utilizing only groundwaters may be required to monitor for man-made radioactivity.

(2) Data substitution for initial requirement. For the initial analysis required by 41.9(2)"*b*"(1), data acquired on or after June 24, 1976, may be substituted at the discretion of the department.

(3) Monitoring requirement. After the initial analysis required by 41.9(2)"*b*"(1), suppliers of water shall monitor at least every four years following the procedure given in 41.9(2)"*b*"(2).

(4) Monitoring requirements for PWSs receiving effluent from nuclear facilities. The supplier of any community water system designated by the department as utilizing water contaminated by effluents from nuclear facilities shall initiate quarterly monitoring for gross beta particle and iodine-131 radioactivity and annual monitoring for strontium-90 and tritium.

Quarterly monitoring for gross beta particle activity shall be based on the analysis of monthly samples or the analysis of a composite of three monthly samples. The former is recommended. If the gross beta particle activity in a sample exceeds 15 pCi/l, the same or an equivalent sample shall be analyzed for strontium-89 and cesium-134. If the gross beta particle activity exceeds 50 pCi/l, an analysis of the sample must be performed to identify the major radioactive constituents present and the appropriate organ and total body doses shall be calculated to determine compliance with 41.8(2).

For iodine-131, a composite of five consecutive daily samples shall be analyzed once each quarter. As requested by the department, more frequent monitoring shall be conducted when iodine-131 is identified in the finished water.

Annual monitoring for strontium-90 and tritium shall be conducted by means of the analysis of a composite of four consecutive quarterly samples or analysis of four quarterly samples. The latter procedure is recommended.

The department may allow the substitution of environmental surveillance data taken in conjunction with a nuclear facility for direct monitoring of man-made radioactivity by the supplier of water where the department determines such data is applicable to a particular community water system.

(5) Exceedance of the MCL. If the average annual maximum contaminant level for man-made radioactivity set forth in 41.8(2) is exceeded, the operator of a community water system shall give notice to the public as required by 567—42.1(455B). Monitoring at monthly intervals shall be continued until the concentration no longer exceeds the maximum contaminant level or until a monitoring schedule as a condition of an operation permit or enforcement action becomes effective.

567—41.10(455B) Reporting, public notification and record keeping. Rescinded IAB 8/11/99, effective 9/15/99.

567—41.11(455B) Unregulated contaminant monitoring.

41.11(1) *Unregulated monitoring for organic chemicals (VOCs).*

a. Applicability. Community and nontransient noncommunity water systems shall monitor for the contaminants listed in 41.11(1)*"b."*

b. Volatile organic chemical contaminants (VOCs). Community water systems and nontransient, noncommunity water systems shall monitor for the following contaminants except as provided in 41.11(1)*"c"*(4) of this subrule:

(1) Chloroform
(2) Bromodichloromethane
(3) Chlorodibromomethane
(4) Bromoform
(5) Dibromomethane
(6) m-Dichlorobenzene
(7) 1,1-Dichloropropene
(8) 1,1-Dichloroethane
(9) 1,1,2,2-Tetrachloroethane
(10) 1,3-Dichloropropane
(11) Chloromethane
(12) Bromomethane
(13) 1,2,3-Trichloropropane
(14) 1,1,1,2-Tetrachloroethane
(15) Chloroethane
(16) 2,2-Dichloropropane
(17) o-Chlorotoluene
(18) p-Chlorotoluene
(19) Bromobenzene
(20) 1,3-Dichloropropene

c. Special organic chemical (VOC) monitoring protocol.

(1) Surface water monitoring requirements. Surface water systems shall sample at entry points to the distribution system after any application of treatment. The minimum number of samples is one year of quarterly samples per water source.

(2) Groundwater monitoring requirements. Groundwater systems shall sample at points of entry to the distribution system representative of each well after any application of treatment. The minimum number of samples is one sample per entry point of the distribution system.

(3) Confirmation samples. The department may require confirmation samples for positive or negative results.

(4) Ethylene dibromide and 1,2-Dibromo-3-chloropropane monitoring requirements. Monitor for ethylene dibromide (EDB) and 1,2-Dibromo-3-chloropropane (DBCP) only if the department determines they are vulnerable to contamination by either or both of these substances. For the purpose of 41.11(1)*"c,"* a vulnerable system is defined as a system which is potentially contaminated by EDB and DBCP, including surface water systems where these two compounds are applied, manufactured, stored, disposed of, or shipped upstream, and for groundwater systems in areas where the compounds are applied, manufactured, stored, disposed of, or shipped in the groundwater recharge basin, or for groundwater systems, shallow wells as defined in 567—40.2(455B) that are less than 400 feet and deep wells as defined in 567—40.2(455B) that are less than 200 feet from underground storage tanks that contain leaded gasoline.

(5) VOC discretionary compounds. Monitoring for the following list of VOC compounds is required at the discretion of the department. The requirement for a PWS to monitor for the discretionary compounds will be listed in their operation permit, issued by the department.

Bromochloromethane
n-Butylbenzene
sec-Butylbenzene
tert-Butylbenzene
Dichlorodifluoromethane
Fluorotrichloromethane
Hexachlorobutadiene
Isopropylbenzene
p-Isopropyltoluene
Naphthalene
n-Propylbenzene
1,2,3-Trichlorobenzene
1,2,4-Trimethylbenzene
1,3,5-Trimethylbenzene

(6) Small system monitoring waivers. Instead of performing the monitoring required by this subrule, a community water system or nontransient noncommunity water system serving fewer than 150 service connections may send a letter to the department stating that its system is available for sampling. The letter must be sent to the state no later than January 1, 1991. The system is not required to submit samples to a certified laboratory for analysis, unless requested to do so by the department.

(7) Repeat monitoring. All community and nontransient, noncommunity water systems shall repeat the unregulated contaminant monitoring required in this subrule no less frequently than every five years from the dates specified in 41.11(1)*"a."*

(8) Composite samples. The department may reduce the total number of samples a system must analyze by allowing the use of compositing. Composite samples from a maximum of five sampling points are allowed (for the substances in 41.11(1)*"b"* or *"c"*). Compositing of samples must be done in the laboratory and the composite sample must be analyzed within 14 days of collection. If the population served by the system is greater than 3,300 persons, then compositing may only be permitted by the department at sampling points within a single system. In systems serving less than or equal to 3,300 persons, the department may permit compositing among different systems provided the five-sample limit is maintained.

d. Analytical methods.

(1) Methodology references. Analysis under this subrule shall be conducted using the recommended methods as follows, or their equivalent as determined by the department and EPA: 502.2, "Volatile Organic Compounds in Water by Purge and Trap Gas Chromatography with Photoionization and Electrolytic Conductivity Detectors in Series," or 524.2, "Volatile Organic Compounds in Water by Purge and Trap Capillary Column Gas Chromatography/Mass Spectrometry." These methods are contained in "Methods for the Determination of Organic Compounds in Finished Drinking Water and Raw Source Water," September 1986, available from the Drinking Water Public Docket or the National Technical Information Service (NTIS), NTIS PB91-231480 and PB91-146027, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. The toll-free number is 800-336-4700. Analysis for bromodichloromethane, bromoform, chlorodibromomethane, and chloroform also may be conducted by EPA Method 551, and analysis for 1,2,3-trichloropropane also may be conducted by EPA Method 504.1.

(2) Certified laboratory requirements. Analysis under this subrule shall only be conducted by laboratories certified under 567—Chapter 83. In addition to these requirements, each laboratory analyzing for ethylene dibromide (EDB) and 1,2-dibromo-3-chloropropane (DBCP) must achieve a method detection limit for EDB and DBCP of 0.00002 mg/L, according to the procedures in Appendix B of 40 Code of Federal Regulations Part 136, June 20, 1986.

41.11(2) *Inorganic and organic unregulated contaminants monitoring.*

a. Applicability. Monitoring for unregulated contaminants. Monitoring of the contaminants listed in 41.11(2)*"b"* and 41.3(1)*"f"* shall be conducted as follows:

(1) Sampling for organic contaminants. Each community and nontransient noncommunity water system shall take four consecutive quarterly samples at each source/entry point for each contaminant listed in 41.11(2)*"b"* and report the results to the department. Monitoring must be completed by December 31, 1995, and take place during the calendar quarter which is specified by the department.

(2) Sampling for unregulated inorganic contaminants. Each community and nontransient noncommunity water system shall take one sample at each source/entry point for each contaminant listed in 41.3(1)*"f"* and report the results to the department. Monitoring must be completed by December 31, 1995, using the methodology specified in 41.3(1)*"f."*

b. Unregulated organic chemical (SOC) contaminants. Systems shall monitor for the unregulated contaminants listed below, using the methods identified below and using the analytical test procedures contained within Technical Notes on Drinking Water Methods, EPA-600/R-94-173, October 1994, which is available at NTIS, PB95-104766. Method 6610 shall be followed in accordance with the Standard Methods for the Examination of Water and Wastewater, 18th edition Supplement, 1994, American Public Health Association. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51, effective January 4, 1995. Copies of methods listed in Standard Methods for the Examination of Water and Wastewater may be obtained from the American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005. Copies may be inspected at EPA's Drinking Water Docket, 401 M Street SW, Washington, DC 20460; or at the Office of the Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC.

UNREGULATED ORGANIC CONTAMINANTS
AND METHODOLOGY

Organic Contaminants	EPA Analytical Method
Aldicarb	531.1, 6610
Aldicarb sulfone	531.1, 6610
Aldicarb sulfoxide	531.1, 6610
Aldrin	505, 508, 508.1, 525.1
Butachlor	507, 525.1
Carbaryl	531.1, 6610
Dicamba	515.1, 515.2, 555
Dieldrin	505, 508, 508.1, 525.1
3-Hydroxycarbofuran	531.1, 6610
Methomyl	531.1, 6610
Metolachlor	507, 508.1, 525.1
Metribuzin	507, 508.1, 525.1
Propachlor	507, 508.1, 525.1

c. Monitoring protocols.

(1) Groundwater sampling protocols. Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment. Each sample must be taken at the same source/entry point unless conditions make another sampling point more representative of each source or treatment plant.

(2) Surface water sampling protocols. Surface water systems shall take a minimum of one sample at each entry point to the distribution system after treatment. Each sample must be taken at the same source/entry point unless conditions make another sampling point more representative of each source or treatment plant. For purposes of this subparagraph, surface water systems include systems with a combination of surface and ground sources.

(3) Multiple sources. If the system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water representative of all sources is being used). If a representative sample of all water sources cannot be obtained, as determined by the department, separate source/entry points with the appropriate monitoring requirements will be assigned by the department.

(4) Sampling waivers. Each community and nontransient noncommunity water system may apply to the department for a waiver from the requirements of 41.11(2)*"c"*(1) and (2).

(5) Bases of sampling waivers. The department may grant a waiver for the requirements of 41.11(2)*"a"*(1) based on the criteria specified in 41.3(455B) and 41.5(455B). The department may grant a waiver from the requirement of 41.11(2)*"a"*(2) if previous analytical results indicate contamination would not occur, provided this data was collected after January 1, 1990.

(6) Confirmation sampling. A confirmation sample for positive or negative results may be required by the department.

(7) Composite sampling. The department may reduce the total number of samples a system must analyze by allowing the use of compositing. Composite samples from a maximum of five sampling points are allowed. Compositing of samples must be done in the laboratory and the composite sample must be analyzed within 14 days of collection. If the population served by the system is greater than 3,300 persons, then compositing may only be permitted by the department at sampling points within a single system. In systems serving less than or equal to 3,300 persons, the department may permit compositing among different systems provided the five-sample limit is maintained.

(8) Small system exemptions. Instead of performing the monitoring required by this subrule, a community water system or nontransient noncommunity water system serving fewer than 150 service connections may send a letter stating that the system is available for sampling. This letter must be sent by January 1, 1994. The system shall not send such samples, unless requested to do so by the department.

41.11(3) *Special monitoring for sodium.* Suppliers of water for community public water systems shall collect and have analyzed one sample per source or plant, for the purpose of determining the sodium concentration in the distribution system. Systems utilizing multiple wells, drawing raw water from a single aquifer may, with departmental approval, be considered as one source for determining the minimum number of samples to be collected. Sampling frequency and approved analytical methods are as follows:

a. Surface water systems. Systems utilizing a surface water source, in whole or in part, shall monitor for sodium at least once annually;

b. Groundwater systems. Systems utilizing groundwater sources shall monitor at least once every three years;

c. Increased monitoring. Suppliers may be required to monitor more frequently where sodium levels are variable;

d. Analytical methodology. Analyses for sodium shall be performed using the flame photometric method in accordance with 41.3(1)*"e"*(1).

567—41.12(455B) Alternative analytical techniques. With the written permission of this department, concurred in by the EPA, an alternative analytical technique may be employed. An alternative technique shall be acceptable only if it is substantially equivalent to the prescribed test in both precision and accuracy as it relates to the determination of compliance with any maximum contaminant level. The use of the alternative analytical technique shall not decrease the frequency of monitoring required by 41.2(455B) through 41.8(455B).

567—41.13(455B) Monitoring of interconnected public water supply systems. When a public water supply system supplies water to one or more other public water supply systems, the department may modify the monitoring requirements imposed by this part to the extent that the interconnection of the systems justifies treating them as a single system for monitoring purposes. Any modified monitoring shall be conducted pursuant to a schedule specified by the department and concurred in by the administrator of the U.S. Environmental Protection Agency.

567—41.14(455B) Department analytical results used to determine compliance. Analytical results or other information compiled by departmental staff may be used to determine compliance with the maximum contaminant levels, action levels, or treatment techniques listed in 567—Chapters 41 and 43 or for initiating remedial action with respect to these violations.

567—41.15(455B) Monitoring of other contaminants. If the department determines that other contaminants are present in a public water supply, and the contaminants are known to pose, or scientific evidence strongly suggests that they pose, a threat to human health, the supplier of water may be required to monitor for such contaminants. The supplier of water will monitor at a frequency and in a manner which will adequately identify the magnitude and extent of the contamination. The monitoring frequency and sampling location will be determined by the department. All analytical results will be obtained using approved EPA methods and all analytical results will be submitted to the department for review and evaluation. Any monitoring required under this paragraph will be incorporated into an operation permit or an order.

These rules are intended to implement Iowa Code chapter 455B, division III, part 1.

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CHAPTER 42
PUBLIC NOTIFICATION, PUBLIC EDUCATION, CONSUMER CONFIDENCE REPORTS, REPORTING, AND RECORD MAINTENANCE

567—42.1(455B) Public notification. Any public water supply system which incurs a violation of any type must conduct an initial notification of the public for that violation, as required in this rule. Public water supply systems with an acute violation must follow the public notification provisions of both 42.1(1)*"a"* and *"b."*

42.1(1) *Maximum contaminant level (MCL), treatment technique, compliance schedule, and health advisory violations.* The owner or operator of a public water supply system which fails to comply with an applicable MCL established by 567—41.2(455B) through 567—41.8(455B), treatment technique established by 567—subrule 43.3(10), fails to comply with the requirements of any compliance schedule prescribed in an operation permit, administrative order, or court order pursuant to 567—subrule 43.2(5), or fails to comply with a health advisory as determined by the department, shall notify persons served by the system as follows:

a. Distribution of public notice.

(1) Daily newspaper and mail delivery. Notice shall be given by publication in a daily newspaper of general circulation in the area served by the system as soon as possible, but in no case later than 14 days after the violation or failure, and by mail delivery (by direct mail, with the water bill, or by hand delivery) not later than 45 days after the violation or failure. The department may waive mail delivery if it determines that the owner or operator of the public water system in violation has corrected the violation or failure within the 45-day period. The department must issue the waiver in writing and within the 45-day period.

(2) Weekly newspaper and mail delivery. If the area served by a public water supply system is not served by a daily newspaper of general circulation, notice shall instead be given by publication in a weekly newspaper of general circulation serving the area and by mail delivery.

(3) Separable distribution systems. If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, the department may allow the system to give public notice only to the area served by that portion of the system which is out of compliance.

b. Additional acute MCL violation notification requirements (electronic media). For violations of the MCLs of contaminants that may pose an acute risk to human health, the owner or operator of a public water supply system shall, as soon as possible but in no case later than 72 hours after the violation, furnish a copy of the notice to the radio and television stations serving the area served by the public water system in addition to meeting the requirements of 42.1(1)*"a."* The following violations are acute violations:

(1) Any violations specified by the department as posing an acute risk to human health.

(2) Violation of the MCL for nitrate, nitrite, or combined nitrate and nitrite as established in 567—paragraph 41.3(1)*"b"* and determined according to 567—paragraph 41.3(1)*"c."*

(3) Violation of the MCL for total coliforms, when fecal coliforms or *E. coli* are present in the water distribution system, as specified in 567—paragraph 41.2(1)*"b"*(2).

(4) Occurrence of a waterborne disease outbreak.

For contaminants which pose an acute or immediate threat to public health, the department may require immediate public notification for a boil water order or where to obtain bottled water, via electronic media or door-to-door delivery of the notices.

c. Repeat nonacute MCL violation public notice requirements. Following the initial notice given under 42.1(1)*"a,"* the owner or operator of the public water supply system must give notice at least once every three months by mail delivery (by direct mail, with the water bill, or by hand delivery), for as long as the violation or failure exists.

d. Additional public notice distribution methods. The owner or operator of a community water system in an area that is not served by a daily or weekly newspaper of general circulation must, in lieu of the requirements of 42.1(1)*"a," "b,"* and *"c,"* give notice within 14 days (72 hours for an acute violation) after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Hand delivery must be repeated every three months or posting must continue for as long as the violation or failure exists.

e. Noncommunity water system public notice distribution requirements. The owner or operator of a noncommunity water system may, in lieu of the requirements of 42.1(1)*"a," "b,"* and *"c,"* give notice within 14 days (72 hours for an acute violation) after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Hand delivery must be repeated every three months or posting must continue for as long as the violation or failure exists.

f. Notice to new billing units. The owner or operator of a community water system must give a copy of the most recent public notice for any outstanding violation of any health-based standard, treatment technique, or compliance schedule to all billing units or new service connections prior to or at the time service begins.

42.1(2) *Other violations.*

a. Applicability. This subrule applies to all public water supply systems which incur a violation due to:

(1) Failure to perform monitoring required in 567—Chapter 41, this chapter, and 567—Chapter 43;

(2) Failure to comply with a testing procedure established in 567—Chapter 41;

(3) Failure to comply with an interim contaminant level;

(4) Detection of an unregulated contaminant that exceeds the federal health advisory and the department advises that public notification is necessary;

(5) Failure to report the required data to the department;

(6) Failure to meet the requirements of this chapter for public notification, public education, or the development and distribution of the consumer confidence report.

b. Initial notification. The public water supply system must notify, by newspaper and by mail delivery (by direct mail, with the water bill, or by hand delivery), persons served by the system within three months of the violation by the methods described in 42.1(1)*"a"* or by applicable methods described in 42.1(1)*"d"* or *"e."*

c. Repeat notification. Following the initial notice given under 42.1(2)*"b,"* the owner or operator of the public water supply system must give notice at least once every three months by mail delivery (by direct mail, with the water bill, or by hand delivery), for as long as the violation or failure exists.

42.1(3) *Notice of available information for synthetic organic chemicals.* The owner or operator of a public water supply system shall notify persons served by the system of the availability of the results of sampling conducted for synthetic organic chemicals, under 567—paragraphs 41.11(1)*"b"* and *"c,"* by including a notice in the first set of water bills issued by the system after the receipt of the results or by written notice within three months. The public water supply may use the annual consumer confidence report to comply with this requirement. For surface water supply systems, public notification is required only after the first quarter's monitoring and must include a statement that additional monitoring will be conducted for three or more quarters with the results available upon request. The owner or operator shall also provide to all new billing units or new hookups, prior to or at the time service begins, a copy of the most recent public notice for any outstanding violation of any maximum contaminant level established by 567—41.2(455B) through 567—41.8(455B), results of sampling conducted under 567—paragraphs 41.11(1)*"b"* and *"c,"* any notice of a treatment technique requirement established by 567—subrule 43.2(5) and notice of any failure to comply with the requirements of any schedule prescribed pursuant to 567—subrule 43.2(5). The notice shall provide the name and telephone number of a person to contact for information.

42.1(4) *General content of public notice.* Each notice required by this rule must provide a clear and readily understandable explanation of the violation, any potential adverse health effects, the population at risk, the steps that the public water system is taking to correct the violation, the necessity for seeking alternative water supplies, if any, and any preventive measures the consumer should take until the violation is corrected. Each notice shall be conspicuous and shall not contain unduly technical language, unduly small print, language intended to diminish the importance of the notice, or similar problems that frustrate the purpose of the notice. Each notice shall include the telephone number of the owner, operator, or designee of the public water supply system as a source of additional information concerning the notice. Where appropriate, the notice shall be multilingual.

42.1(5) *Mandatory health effects language.* When providing the information on potential adverse health effects required by 42.1(4) in notices of violations of maximum contaminant levels or treatment technique requirements, or notices of the granting or the continued existence of interim contaminant levels or compliance schedules, or notices of failure to comply with an interim contaminant level or compliance schedule, the owner or operator of the public water system shall include the language specified in Appendix A for each contaminant. (If language for a particular contaminant is not specified in Appendix A at the time notice is required and is not provided by the department, this subrule does not apply.)

42.1(6) *Operation permit compliance schedule public notice requirements.* When the director determines that a public water supply system cannot promptly comply with one or more health-based standards of 567—Chapters 41 and 43, and that there is no immediate, unreasonable risk to the health of persons served by the system, a draft operation permit or modified permit will be formulated, which may include interim contaminant levels or a compliance schedule. Prior to issuance of a final permit, notice and opportunity for public participation must be given in accordance with this subrule. The notice shall be circulated in a manner designed to inform interested and potentially interested persons of any proposed interim contaminant level or compliance schedule.

a. Preparation of notice. The public notice shall be prepared by the department and circulated by the applicant within its geographical area as described in 42.1(1)*"a."* The public notice shall be mailed by the department to any person upon request.

b. Public comment period. The department shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the tentative determinations with respect to the operation permit. All written comments submitted during the 30-day comment period shall be retained by the department and considered by the director in the formulation of the director's final determination with respect to the operation permit. The period for comment may be extended at the discretion of the department.

c. Content of notice. The contents of the public notice of a proposed operation permit shall include at least the following:

(1) The name, address, and telephone number of the department.

(2) The name and address of the applicant.

(3) A statement of the department's tentative determination to issue the operation permit.

(4) A brief description of each applicant's water supply operations which necessitate the proposed permit conditions.

(5) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by 42.1(6)*"b."*

(6) The right to request a public hearing pursuant to this paragraph and any other means by which interested persons may influence or comment upon those determinations.

(7) The address and telephone number of places at which interested persons may obtain further information, request a copy of the draft permit prepared pursuant to this paragraph, and inspect and copy the application forms and related documents.

d. Public hearings on proposed operation permits. The applicant or any interested agency, person or group of persons may request or petition for a public hearing with respect to the proposed action. Any such request shall clearly state issues and topics to be addressed at the hearing. Any such request or petition for public hearing must be filed with the director within the 30-day period prescribed in 42.1(6)*"b"* and shall indicate the interest of the party filing such request and the reasons why a hearing is warranted. The director shall hold an informal and noncontested case hearing if there is a significant public interest (including the filing of requests or petitions for such hearing) in holding such a hearing. Frivolous or insubstantial requests for hearing may be denied by the director. Instances of doubt should be resolved in favor of holding the hearing. Any hearing held pursuant to this subrule shall be held in the geographical area of the system, or other appropriate area at the discretion of the director, and may, as appropriate, consider related groups of permit applications.

e. Public notice of public hearings.

(1) Public notice of any hearing held pursuant to this paragraph shall be circulated at least as widely as the notice under 42.1(6)*"a"* at least 30 days in advance of the hearing.

(2) The contents of the public notice of any hearing held pursuant to this paragraph shall include at least the following:

1. The name, address, and telephone number of the department;
2. The name and address of each applicant whose application will be considered at the hearing;
3. A brief reference to the public notice previously issued, including identification number and date of issuance;
4. Information regarding the time and location for the hearing;
5. The purpose of the hearing;
6. A concise statement of the issues raised by the person requesting the hearing;
7. The address and telephone number of the premises where interested persons may obtain further information, request a copy of the draft operation permit or modification prepared pursuant to this paragraph, and inspect and copy the application forms and related documents; and
8. A brief description of the nature of the hearing, including the rules and procedures to be followed.

f. Decision by the director. Within 30 days after the termination of the public hearing held pursuant to this paragraph or if no public hearing is held within 30 days after the termination of the period for requesting a hearing, the director shall issue or deny the operation permit.

Have an electrician check your wiring. If grounding wires from the electrical system are attached to your pipes, corrosion may be greater. Check with a licensed electrician or your local electrical code to determine if your wiring can be grounded elsewhere. DO NOT attempt to change the wiring yourself because improper grounding can cause electrical shock and fire hazards.

(3) The steps described above will reduce the lead concentrations in your drinking water. However, if a water test indicates that the drinking water coming from your tap contains lead concentrations in excess of 15 ppb after flushing, or after we have completed our actions to minimize lead levels, then you may want to take the following additional measures:

Purchase or lease a home treatment device. Home treatment devices are limited in that each unit treats only the water that flows from the faucet to which it is connected, and all of the devices require periodic maintenance and replacement. Devices such as reverse osmosis systems or distillers can effectively remove lead from your drinking water. Some activated carbon filters may reduce lead levels at the tap. However, all lead reduction claims should be investigated. Be sure to check the actual performance of a specific home treatment device before and after installing the unit.

Purchase bottled water for drinking and cooking.

(4) You can consult a variety of sources for additional information. Your family doctor or pediatrician can perform a blood test for lead and provide you with information about the health effects of lead. State and local government agencies that can be contacted include: (insert the name of city or county department of public utilities) at (insert phone number) can provide you with information about your community's water supply, and a list of local laboratories that have been certified by EPA for testing water quality; (insert the name of city or county department that issues building permits) at (insert phone number) can provide you with information about building permit records that should contain the names of plumbing contractors that plumbed your home; and (insert the Iowa department of public health) at (insert phone number) or the (insert the name of the city or county health department) at (insert phone number) can provide you with information about the health effects of lead and how you can have your child's blood tested.

(5) The following is a list of some approved laboratories in your area that you can call to have your water tested for lead. (Insert names and phone numbers of at least two laboratories.)

42.2(3) *Content of broadcast materials.* A water system shall include the following information in all public service announcements submitted under its lead public education program to television and radio stations for broadcasting:

a. Why should everyone want to know the facts about lead and drinking water? Because unhealthy amounts of lead can enter drinking water through the plumbing in your home. That's why I urge you to do what I did. I had my water tested for (insert "free" or dollar amount per sample). You can contact the (insert the name of the city or water system) for information on testing and on simple ways to reduce your exposure to lead in drinking water.

b. To have your water tested for lead, or to get more information about this public health concern, please call (insert the phone number of the city or water system).

42.2(4) *Delivery of a public education program.*

a. In communities where a significant proportion of the population speaks a language other than English, public education materials shall be communicated in the appropriate language(s).

b. A community water system that fails to meet the lead action level on the basis of tap water samples collected in accordance with 567—paragraph 41.4(1)*"c"* shall, within 60 days:

(1) Insert notices in each customer's water utility bill containing the information in 42.2(2) along with the following alert on the water bill itself in large print: "SOME HOMES IN THIS COMMUNITY HAVE ELEVATED LEAD LEVELS IN THEIR DRINKING WATER. LEAD CAN POSE A SIGNIFICANT RISK TO YOUR HEALTH. PLEASE READ THE ENCLOSED NOTICE FOR FURTHER INFORMATION."

(2) Submit the information in 42.2(2) to the editorial departments of the major daily and weekly newspapers circulated throughout the community.

(3) Deliver pamphlets or brochures that contain the public education materials in 42.2(2) to facilities and organizations, including the following: public schools and local school boards; city or county health departments; Women, Infants, and Children and Head Start program(s) whenever available; public and private hospitals and clinics; pediatricians; family planning clinics; and local welfare agencies.

(4) Submit the public service announcement in 42.2(3) to at least five of the radio and television stations with the largest audiences that broadcast to the community served by the water system.

c. A community water system shall repeat the tasks in 42.2(4)*"b"*(1) to (3) every 12 months and the tasks in 42.2(4)*"b"*(4) every 6 months for as long as the system exceeds the lead action level.

d. Within 60 days after it exceeds the lead action level, a nontransient noncommunity water system shall deliver the public education materials in 42.2(2)*"a," "b,"* and *"d"* as follows:

(1) Post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the system; and

(2) Distribute informational pamphlets or brochures on lead in drinking water to each person served by the nontransient noncommunity water system.

e. A nontransient noncommunity water system shall repeat the tasks in 42.2(4)*"c"* at least once during each calendar year in which the system exceeds the lead action level.

f. A water system may discontinue delivery of public education materials if the system has met the lead action level during the most recent six-month monitoring period conducted pursuant to 567—paragraph 41.4(1)*"c."* Such a system shall recommence public education in accordance with this subrule if it subsequently exceeds the lead action level during any monitoring period.

42.2(5) *Supplemental monitoring and notification of results.* A water system that fails to meet the lead action level on the basis of tap samples collected in accordance with 567—paragraph 41.4(1)*"c"* shall offer to sample the tap water of any customer who requests it. The system is not required to pay for collecting or analyzing the sample, nor is the system required to collect and analyze the sample itself.

42.2(6) *Special lead ban public notice.*

a. Applicability of public notice requirement.

(1) The owner or operator of each community water system and each nontransient noncommunity water system shall, except as provided in 42.2(6)*"b,"* issue a notice to persons served by the system that may be affected by lead contamination of their drinking water. The department may require subsequent notices. The owner or operator shall provide notice under this subparagraph even if there is no violation of the lead action level as prescribed in 567—paragraph 41.4(1)*"b."*

(2) Notice required under 42.2(6)*"a"* is not required if the system demonstrates to the department that the water system, including the residential and nonresidential portions connected to the water system, are lead-free as defined in 567—40.2(455B).

b. Manner of notice. Notice shall be given to persons served by the system either by three newspaper notices (one for each of three consecutive months); or once by mailing the notice with the water bill or in a separate mailing; or once by hand delivery. For nontransient noncommunity water systems, notice may be given by continuous posting. If posting is used, the notice shall be posted in a conspicuous place in the area served by the system and must continue to be posted for three months.

c. General content of public notice.

(1) Notices issued under this subparagraph shall provide a clear and readily understandable explanation of the potential sources of lead in drinking water, potential adverse health effects, reasonably available methods of mitigating known or potential lead content in drinking water, any steps the water system is taking to mitigate lead content in drinking water, and the necessity for seeking alternative water supplies, if any. Use of the mandatory language in 42.2(6)*"d"* in the notice will be sufficient to explain potential adverse health effects.

567—42.2(455B) Public education for lead action level exceedance.

42.2(1) *Applicability.* A water system that exceeds the lead action level based on tap water samples collected in accordance with 567—paragraph 41.4(1)"*c*" shall deliver the public education materials contained in 42.2(2) in accordance with the requirements in 42.2(4).

42.2(2) *Content of written materials.* A water system shall include the following text in all of the printed materials it distributes through its lead public education program. Any additional information presented by a system shall be consistent with the information below and be easily understood by laypersons.

a. Introduction. The United States Environmental Protection Agency (EPA) and (insert name of water supplier) are concerned about lead in your drinking water. Although most homes have very low levels of lead in their drinking water, some homes in the community have lead levels above the EPA action level of 15 parts per billion (ppb), or 0.015 milligrams of lead per liter of water (mg/L). Under federal law we are required to have a program in place to minimize lead in your drinking water by (insert date when corrosion control will be completed for your system). This program includes corrosion control treatment, source water treatment, and public education. We are also required to replace each lead service line that we control if the line contributes lead concentrations of more than 15 ppb after we have completed the comprehensive treatment program. If you have any questions about how we are carrying out the requirements of the lead regulation, please give us a call at (insert water system's phone number). This brochure explains the simple steps you can take to protect you and your family by reducing your exposure to lead in drinking water.

b. Health effects of lead. Lead is a common metal found throughout the environment in lead-based paint, air, soil, household dust, food, certain types of pottery, porcelain and pewter, and water. Lead can pose a significant risk to your health if too much of it enters your body. Lead builds up in the body over many years and can cause damage to the brain, red blood cells and kidneys. The greatest risk is to young children and pregnant women. Amounts of lead that won't hurt adults can slow down normal mental and physical development of growing bodies. In addition, a child at play often comes into contact with sources of lead contamination—such as dirt and dust—that rarely affect an adult. It is important to wash children's hands and toys often, and to try to make sure they only put food in their mouths.

c. Lead in drinking water.

(1) Lead in drinking water, although rarely the sole cause of lead poisoning, can significantly increase a person's total lead exposure, particularly the exposure of infants who drink baby formulas and concentrated juices that are mixed with water. The EPA estimates that drinking water can make up 20 percent or more of a person's total exposure to lead.

(2) Lead is unusual among drinking water contaminants in that it seldom occurs naturally in water supplies such as rivers and lakes. Lead enters drinking water primarily as a result of the corrosion, or wearing away, of materials containing lead in the water distribution system and household plumbing. These materials include lead-based solder used to join copper pipe, brass and chrome-plated brass faucets, and in some cases, pipes made of lead that connect your house to the water main (service lines). In 1986, Congress banned the use of lead solder containing greater than 0.2 percent lead and restricted the lead content of faucets, pipes and other plumbing materials to 8.0 percent.

(3) When water stands for several hours or more in lead pipes or plumbing systems containing lead, the lead may dissolve into your drinking water. This means the first water drawn from the tap in the morning, or later in the afternoon after returning from work or school, can contain fairly high levels of lead.

d. Steps you can take in the home to reduce exposure to lead in drinking water.

(1) Despite our best efforts mentioned earlier to control water corrosivity and remove lead from the water supply, lead levels in some homes or buildings can be high. To find out whether you need to take action in your own home, have your drinking water tested to determine if it contains excessive concentrations of lead. Testing the water is essential because you cannot see, taste, or smell lead in drinking water. Some local laboratories that can provide this service are listed at the end of this booklet. For more information on having your water tested, please call (insert phone number of water system).

(2) If a water test indicates that the drinking water drawn from a tap in your home contains lead above 15 ppb, then you should take the following precautions:

Let the water run from the tap before using it for drinking or cooking anytime the water in a faucet has gone unused for more than six hours. The longer water resides in your home's plumbing the more lead it may contain. Flushing the tap means running the cold water faucet until the water gets noticeably colder, usually about 15 to 30 seconds. If your house has a lead service line to the water main, you may have to flush the water for a longer time, perhaps one minute, before drinking. Although toilet flushing or showering flushes water through a portion of your home's plumbing system, you still need to flush the water in each faucet before using it for drinking or cooking. Flushing tap water is a simple and inexpensive measure you can take to protect your family's health. It usually uses less than one or two gallons of water and costs less than (insert a cost estimate based on flushing two times a day for 30 days) per month. To conserve water, fill a couple of bottles for drinking water after flushing the tap, and whenever possible, use the first flush water to wash the dishes or water the plants. If you live in a high-rise building, letting the water flow before using it may not work to lessen your risk from lead. The plumbing systems have more, and sometimes larger, pipes than smaller buildings. Ask your landlord for help in locating the source of the lead and for advice on reducing the lead level.

Try not to cook with, or drink water from, the hot water tap. Hot water can dissolve more lead more quickly than cold water. If you need hot water, draw water from the cold tap and heat it on the stove.

Remove loose lead solder and debris from the plumbing materials installed in newly constructed homes, or homes in which the plumbing has recently been replaced, by removing the faucet strainers from all taps and running the water from three to five minutes. Thereafter, periodically remove the strainers and flush out any debris that has accumulated over time.

If your copper pipes are joined with lead solder that has been installed illegally since it was banned in 1986, notify the plumber who did the work and request that the plumber replace the lead solder with lead-free solder. Lead solder looks dull gray and, when scratched with a key, looks shiny. In addition, notify the Iowa department of natural resources about the violation.

Determine whether or not the service line that connects your home or apartment to the water main is made of lead. The best way to determine if your service line is made of lead is by either hiring a licensed plumber to inspect the line or by contacting the plumbing contractor who installed the line. You can identify the plumbing contractor by checking the city's record of building permits which should be maintained in the files of the (insert name of department that issues building permits). A licensed plumber can at the same time check to see if your home's plumbing contains lead solder, lead pipes, or pipe fittings that contain lead. The public water system that delivers water to your home should also maintain records of the materials located in the distribution system. If the service line that connects your dwelling to the water main contributes more than 15 ppb to drinking water, after our comprehensive treatment program is in place, we are required to replace the line. If the line is only partially controlled by the (insert name of the city, county, or water system that controls the line), we are required to provide you with information on how to replace your portion of the service line, and offer to replace that portion of the line at your expense and take a follow-up tap water sample within 14 days of the replacement. Acceptable replacement alternatives include copper, steel, iron, and plastic pipes.

(2) Each notice shall also include specific advice on how to determine if materials containing lead have been used in homes or the water distribution system and how to minimize exposure to water likely to contain high levels of lead. Each notice shall be conspicuous and shall not contain unduly technical language, unduly small print, or similar problems that frustrate the purpose of the notice. Each notice shall contain the telephone number of the owner, operator, or designee of the public water system as a source of additional information regarding the notice. Where appropriate, the notice shall be multilingual.

d. Mandatory health effects information. When providing the information in public notices required under 42.2(6)*"c"* on the potential adverse health effects of lead in drinking water, the owner or operator of the water system shall include the following specific language in the notice:

"The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that lead is a health concern at certain levels of exposure. There is currently a standard of 0.050 parts per million (ppm). Based on new health information, EPA is likely to lower the standard significantly.

"Part of the purpose of this notice is to inform you of the potential adverse health effects of lead. This is being done even though your water may not be in violation of the current standard.

"EPA and others are concerned about lead in drinking water. Too much lead in the human body can cause serious damage to the brain, kidneys, nervous system, and red blood cells. The greatest risk, even with short-term exposure, is to young children and pregnant women.

"Lead levels in your drinking water are likely to be highest:

—if your home or water system has lead pipes, or

—if your home has copper pipes with lead solder, or

—if your home is less than five years old, or

—if you have soft or acidic water, or

—if water sits in the pipes for several hours."

e. Public notification by the department. The department may give notice to the public required by this subrule on behalf of the owner or operator of the public water system if the department complies with the requirements of this subrule. However, the owner or operator of the public water system remains legally responsible for ensuring that the requirements of this subrule are met.

567—42.3(455B) Consumer confidence reports.

42.3(1) *Applicability and purpose.* This rule applies to all community public water supply systems. The purpose of this rule is to establish the minimum requirements for the content of annual reports that community water systems must deliver to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants in the drinking water in an accurate and understandable manner. The department may assign public notification requirements and assess administrative penalties to any community public water supply system which fails to fulfill the requirements of this rule.

42.3(2) *Reporting frequency.*

a. Existing community water systems. Existing community water systems must deliver the first report by October 19, 1999; the second report by July 1, 2000; and subsequent reports annually by July 1 thereafter.

b. New community water systems. New community water systems must deliver their first report by July 1 of the year after their first full calendar year in operation, and annually thereafter.

c. CWS which sells water to another CWS. A community water system that sells water to another community water system must deliver the applicable information required in subrule 42.3(3) to the buyer system:

(1) No later than April 19, 1999, for the 1998 report; by April 1, 2000, for the 1999 report; and annually by April 1 thereafter, or

(2) On a date mutually agreed upon by the seller and the purchaser, and specifically included in a contract between the parties.

When a consecutive system sells water to another community water system, the seller must provide all applicable information in 42.3(3) to the CWS buying the water from them.

42.3(3) *Content of the reports.* Each annual consumer confidence report must contain the following information, at a minimum:

a. Source water identification. The report must identify the source(s) of water delivered by the community public water supply system, including the following:

(1) Type of water (e.g., surface water, groundwater, groundwater purchased from another public water supply).

(2) Commonly used name of the aquifer, reservoir, or river (if any) and location of the body (or bodies) of water.

(3) If a source water assessment has been completed, notify consumers of the availability of this information and the means to obtain it. In addition, systems are encouraged to highlight in the report significant sources of contamination in the source water area if they have readily available information. Where a system has received a source water assessment from the department, the report must include a brief summary of the system's susceptibility to potential sources of contamination, using language provided by the department or its designee, or written by the owner or operator.

b. Definitions. Each report must include the following definitions:

(1) "Maximum Contaminant Level Goal (MCLG)" means the level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety.

(2) "Maximum Contaminant Level (MCL)" means the highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

(3) "Variances and exemptions" means state permission not to meet an MCL or a treatment technique under certain conditions. This definition is only required for a water system which has been granted a variance, an exemption, or a compliance schedule extension through an operation permit, administrative order, or court order.

(4) A report which contains data on a contaminant for which EPA has set a treatment technique or an action level must include one or both of the following definitions, as applicable:

1. "Treatment technique" means a required process intended to reduce the level of a contaminant in drinking water.
2. "Action level" means the concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

(5) "Detected." For the purposes of this subrule, "detected" means at or above the levels prescribed by the following Chapter 41 references:

1. Inorganic contaminants: 567—paragraph 41.3(1)*"e"*(1).
2. Volatile organic contaminants: 567—paragraph 41.5(1)*"b."*
3. Synthetic organic contaminants: 567—paragraph 41.5(1)*"b."*
4. Radionuclide contaminants: 567—paragraph 41.9(1)*"c."*
5. Other contaminants with health advisory levels, as assigned by the department.

c. Information on detected contaminants. This paragraph specifies the requirements for information to be included in each report for contaminants subject to mandatory monitoring (except Cryptosporidium, which is listed in 42.3(3)"*c*"(2)). It applies to the following: contaminants subject to an MCL, action level, or treatment technique (regulated contaminants); contaminants for which monitoring is required by 567—41.3(1)"*f*," 567—41.11(455B), and 567—41.15(455B) (unregulated and special contaminants); and disinfection by-products or microbial contaminants for which monitoring is required by 567—Chapters 40 to 43, except as provided under 42.3(3)"*e*"(1), and which are detected in the finished water.

(1) The data relating to these contaminants must be displayed in one table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

1. The data must be derived from data collected to comply with departmental monitoring and analytical requirements during calendar year 1998 for the first report and subsequent calendar years thereafter. Where a system is allowed to monitor for contaminants less often than once a year, the table(s) must include the results and date of the most recent sampling and a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulations. No data older than five years need be included.

2. For detected regulated contaminants, which are listed in Appendix D, the table(s) must contain:

- The MCL for that contaminant, expressed as a number equal to or greater than 1.0 (as provided in Appendix C);
- The MCLG for that contaminant, expressed in the same units as the MCL;
- If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definition for treatment technique or action level, as appropriate, specified in 42.3(3)"*b*"(4).

3. For contaminants subject to an MCL, except turbidity and total coliforms, the table must contain the highest contaminant level used to determine compliance with a primary drinking water standard and the range of detected levels, as follows:

- When compliance with the MCL is determined annually or less frequently: the highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL (such as inorganic compounds).
- When compliance with the MCL is determined by calculating a running annual average of all samples taken at a sampling point: the highest average of any of the sampling points and the range of all sampling points expressed in the same units as the MCL (such as organic compounds and radionuclides).
- When compliance with an MCL is determined on a systemwide basis by calculating a running annual average of all samples at all sampling points: the average and range of detection expressed in the same units as the MCL (such as total trihalomethane compounds).

NOTE: When rounding of results to determine compliance with the MCL is allowed by the regulations, rounding should be done prior to multiplying the results by the factor listed in Appendix C.

4. For turbidity:

- When it is reported pursuant to 567—paragraph 41.7(1)"*b*": the highest average monthly value.
- When it is reported pursuant to 567—43.5(455B): the highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in 567—43.5(455B) for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity.

5. For lead and copper: the 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level.

6. For total coliform:

- The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or
- The highest monthly percentage of positive samples for systems collecting at least 40 samples per month.

7. For fecal coliform:

- The total number of positive samples; and
- The likely source(s) of detected contaminants to the best of the owner's or operator's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments. If the owner or operator lacks specific information on the likely contaminant source, the report must include one or more of the typical sources for that contaminant listed in Appendix D, which are most applicable to the system.

8. If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems may produce separate reports tailored to include data for each service area.

9. The table(s) must clearly identify any data indicating violations of a health-based standard, and the report must contain a clear and readily understandable explanation of the violation including:

- The length of the violation,
- The potential adverse health effects,
- Actions taken by the system to address the violation, and
- The relevant language from Appendix E to describe the potential health effects.

10. For detected unregulated contaminants for which monitoring is required, except Cryptosporidium, the table(s) must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.

11. For public water supply systems which have fluoride levels greater than or equal to 2.0 mg/L and less than or equal to 4.0 mg/L, the report may contain the language listed in Appendix F, which is intended to alert families about dental problems that might affect children under nine years of age, instead of providing a separate public notification.

12. Community public water supply systems may list the most recent results of the special sodium monitoring requirement according to 567—subrule 41.11(3) in the annual report, instead of providing a separate public notification.

13. If a contaminant which does not have an MCL, TT, or AL is detected in the water, the PWS must contact the department for the specific health effects language, health advisory level, and contamination sources.

(2) If monitoring indicates that Cryptosporidium may be present in the source water or the finished water, or that radon may be present in the finished water, the report must include:

1. A summary of the results of the monitoring;
2. An explanation of the significance of the results.

(3) If the system has performed additional monitoring which indicates the presence of other contaminants in the finished water, the system must report any results which may indicate a health concern. To determine if results may indicate a health concern, the community public water supply can determine if there is a current or proposed health-based standard by contacting the department or by calling the national Safe Drinking Water Hotline (800-426-4791). The department considers the detection of a contaminant above a proposed MCL or health advisory to indicate possible health concerns. For such contaminants, the report should include:

1. The results of the monitoring; and
2. An explanation of the significance of the results noting the existence of a health advisory or a proposed regulation.

d. Compliance with 567—Chapters 40, 41, 42, and 43. In addition to the requirements of 567—paragraph 42.3(3)*"c"*(1)"9," the report must note any violation that occurred during the year covered by the report of a requirement listed below and include a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps the system has taken to correct the violation. Note any violation of the following requirements:

(1) Monitoring and reporting of compliance data pursuant to 567—Chapters 41 and 43, which includes any contaminant with a health-based standard;

(2) Treatment techniques:

1. Filtration and disinfection prescribed by 567—43.5(455B). For systems which have failed to install adequate filtration or disinfection equipment or processes, or have had a failure of such equipment or processes which constitutes a violation, the report must include the following language as part of the explanation of potential adverse health effects: Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

2. Lead and copper control requirements. For systems which fail to take one or more actions prescribed by 567—Chapters 41 to 43 pertaining to lead and copper, the report must include the applicable language of Appendix E to this chapter for lead or copper, or both.

3. Acrylamide and epichlorohydrin control technologies prescribed by 567—paragraph 41.5(1)*"b"*(3). For systems which violate the requirements of 567—paragraph 41.5(1)*"b"*(3), the report must include the relevant language from Appendix E to this chapter.

(3) Record keeping of compliance data pursuant to 567—Chapters 40 to 43;

(4) Special monitoring requirements; and

(5) Violation of the terms of operation permit compliance schedule, or an administrative order or judicial order.

e. Operation permit or administrative order with a schedule which extends the time period in which compliance must be achieved. If a system has been issued a compliance schedule with an extension for compliance, the report must contain:

(1) An explanation of the reasons for the extension;

(2) The date on which the extension was issued;

(3) A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms of the compliance schedule; and

(4) A notice of any opportunity for public input in the review or renewal of the compliance schedule.

f. Mandatory report language for explanation of contaminant occurrence. The reports must contain a brief explanation regarding contaminants which may reasonably be expected to be found in drinking water including bottled water. This explanation may include the language of the following subparagraphs (1) to (3). Subparagraph (4) is provided as a minimal alternative to subparagraphs (1) to (3). Systems may also develop their own comparable language. The report also must include the language of 42.3(3)*"g."*

(1) The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally occurring minerals and radioactive material, and can pick up substances resulting from the presence of animals or from human activity.

(2) Contaminants that may be present in source water include:

1. Microbial contaminants, such as viruses and bacteria, which may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife.

2. Inorganic contaminants, such as salts and metals, which can be naturally occurring or result from urban storm runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming.

3. Pesticides and herbicides, which may come from a variety of sources such as agriculture, storm water runoff, and residential uses.

4. Organic chemical contaminants, including synthetic and volatile organics, which are by-products of industrial processes and petroleum production, and can also come from gas stations, urban storm water runoff and septic systems.

5. Radioactive contaminants, which can be naturally occurring or be the result of oil and gas production and mining activities.

(3) In order to ensure that tap water is safe to drink, the department prescribes regulations which limit the amount of certain contaminants in water provided by public water systems. The United States Food and Drug Administration regulations establish limits for contaminants in bottled water which must provide the same protection for public heath.

(4) Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the national Safe Drinking Water Hotline (800-426-4791).

g. Required additional health information.

(1) All systems. All reports must prominently display the following language: Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. The guidelines on appropriate means to lessen the risk of infection by Cryptosporidium and other microbial contaminants are available from the national Safe Drinking Water Hotline (800-426-4791).

(2) Arsenic levels greater than half the MCL (25 μg/L). A system which detects arsenic at levels above 25 μg/L, but below the MCL:

1. Must include in its report a short information statement about arsenic, using language such as: EPA is reviewing the drinking water standard for arsenic because of special concerns that it may not be stringent enough. Arsenic is a naturally occurring mineral known to cause cancer in humans at high concentrations.

2. May write its own educational statement, but only in consultation with the department.

(3) Nitrate levels greater than half the MCL (5 mg/L). A system which detects nitrate at levels above 5 mg/L, but below the MCL:

1. Must include a short informational statement about the impacts of nitrate on children using language such as: Nitrate in drinking water at levels above 10 ppm is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant you should ask advice from your health care provider.

2. May write its own education statement, but only in consultation with the department.

(4) Nitrite levels greater than half the MCL (0.5 mg/L). A system which detects nitrite at levels above 0.5 mg/L, but below the MCL:

1. Must include a short informational statement about the impacts of nitrite on children using language such as: Nitrite in drinking water at levels above 1 ppm is a health risk for infants of less than six months of age. High nitrite levels in drinking water can cause blue baby syndrome. If you are caring for an infant you should ask advice from your health care provider.

2. May write its own education statement, but only in consultation with the department.

(5) Lead 95th percentile levels above the action level (0.015 mg/L). Systems which detect lead above the action level in more than 5 percent (95th percentile) but fewer than 10 percent (90th percentile) of homes sampled:

1. Must include a short informational statement about the special impact of lead on children using language such as: Infants and young children are typically more vulnerable to lead in drinking water than the general population. It is possible that lead levels at your home may be higher than at other homes in the community as a result of materials used in your home's plumbing. If you are concerned about elevated lead levels in your home's water, you may wish to have your water tested and flush your tap for 30 seconds to 2 minutes before using tap water. Additional information is available from the Safe Drinking Water Hotline (800-426-4791).

2. May write its own educational statement, but only in consultation with the department.

(6) Total trihalomethane (TTHM) levels above 0.080 mg/L but less than the MCL. Systems that detect TTHMs above 0.080 mg/L, but below the MCL in 567—subrule 41.5(1), as an annual average, monitored and calculated under the provisions of 567—paragraph 41.5(1)*"e,"* must include the health effects language for total trihalomethanes listed in Appendix E.

h. Additional mandatory report requirements.

(1) The report must include the telephone number of the owner, operator, or designee of the community water system as a source of additional information concerning the report.

(2) In communities with a large proportion of non-English speaking residents, as determined by the department, the report must contain information in the appropriate language(s) regarding the importance of the report or contain a telephone number or address where such residents may contact the system to obtain a translated copy of the report or assistance in the appropriate language.

(3) The report must include information (e.g., time and place of regularly scheduled board meetings) about opportunities for public participation in decisions that may affect the quality of the water.

(4) The systems may include such additional information as they deem necessary for the public education consistent with, and not detracting from, the purpose of the report.

42.3(4) *Report delivery.*

a. Required report recipients. Each community water system must mail or otherwise directly deliver one copy of the report to each customer.

(1) The system must make a good-faith effort to reach consumers who do not get water bills, using means recommended by the department. An adequate good-faith effort will be tailored to the consumers who are served by the system but are not bill-paying customers, such as renters or workers. A good-faith effort to reach consumers would include a mix of methods appropriate to the particular system such as:

1. Posting the reports on the Internet;
2. Mailing to postal patrons in metropolitan areas;
3. Advertising the availability of the report in the news media;
4. Publication in a local newspaper;
5. Posting in public places such as cafeterias or lunchrooms of public buildings;
6. Delivery of multiple copies for distribution by single-billed customers such as apartment buildings or large private employers;
7. Delivery to community organizations.

(2) No later than the date the system is required to distribute the report to its customers, each community water system must mail a copy of the report to the department, followed within three months by a certification that the report has been distributed to customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to the department.

(3) No later than the date the system is required to distribute the report to its customers, each community water system must deliver the report to any other agency or clearinghouse identified by the department, such as the Iowa department of public health or county board of health.

b. Availability of report. Each community water system must make its report available to the public upon request. Each community water system serving 100,000 or more persons must post its current year's report to a publicly accessible site on the Internet.

c. Waiver from mailing requirements for systems serving fewer than 10,000 persons. All community public water supply systems with fewer than 10,000 persons served will be granted the waiver, except for those systems which have the following: one or more exceedances of a health-based standard; an administrative order; court order; significant noncompliance with monitoring or reporting requirements; or an extended compliance schedule contained in the operation permit. Even though a public water supply system has been granted a mailing waiver, paragraphs 42.3(4)*"a"*(2) to (4) and 42.3(4)*"b"* still apply to all community public water supply systems. A mailing waiver is not allowed for the report covering the year during which one of the previously listed exceptions occurred. Systems which use the mailing waiver must:

(1) Publish the reports in one or more local newspapers serving the area in which the system is located;

(2) Inform the customers that the reports will not be mailed, either in the newspapers in which the reports are published or by other means approved by the department; and

(3) Make the reports available to the public upon request.

d. Waiver from mailing requirements for systems serving 500 or fewer in population. All community public water supply systems serving 500 or fewer persons will be granted the waiver, except for those systems which have the following: one or more exceedances of a health-based standard; an administrative order; court order; significant noncompliance with monitoring or reporting requirements; or an extended compliance schedule contained in the operation permit. Systems serving 500 or fewer persons which use the waiver may forego the requirements of subparagraphs 42.3(4)*"c"*(1) and (2) if they provide notice at least once per year to their customers by mail; door-to-door delivery, or by posting that the report is available upon request, in conspicuous places within the area served by the system acceptable to the department. A mailing waiver is not allowed for the report covering the year during which one of the previously listed exceptions occurred. Even though a public water supply system has been granted a mailing waiver, paragraphs 42.3(4)*"a"*(2) to (4) and 42.3(4)*"b"* still apply to all community public water supply systems.

567—42.4(455B) Reporting.

42.4(1) *Reporting requirements other than for lead and copper.*

a. When required by the department, the supplier of water shall report to the department within ten days following a test, measurement or analysis required to be made by 567—Chapter 40, 41, 42, or 43 the results of that test, measurement or analysis in the form and manner prescribed by the department. This shall include reporting of all positive detects within the same specific analytical method.

b. Except where a different reporting period is specified in this rule or 567—Chapters 41 and 43, the supplier of water shall report to the department within 48 hours after any failure to comply with the monitoring requirements set forth in 567—Chapters 41 and 43. The supplier of water shall also notify the department within 48 hours of failure to comply with any primary drinking water regulations.

c. The public water supply system, within ten days of completion of each public notification required pursuant to 42.1(455B), shall submit to the department a representative copy of each type of notice distributed, published, posted, or made available to the persons served by the system or to the media.

42.4(2) *Lead and copper reporting requirements.* All water systems shall report all of the following information to the department in accordance with this subrule.

a. Reporting requirements for tap water monitoring for lead and copper and for water quality parameter monitoring.

(1) A water system shall report the information specified below for all tap water samples within the first ten days following the end of each applicable monitoring period specified in 567—41.4(455B) (i.e., every six months, annually, or every three years).

1. The results of all tap samples for lead and copper including the location of each site and the criteria under which the site was selected for the system's sampling pool;

2. A certification that each first draw sample collected by the water system is one liter in volume and, to the best of the collector's knowledge, has stood motionless in the service line, or in the interior plumbing of a sampling site, for at least six hours;

3. Where residents collected samples, a certification that each tap sample collected by the residents was taken after the water system informed them of proper sampling procedures specified in 567—paragraph 41.4(1)*"c"*(2)"2";

4. The 90th percentile lead and copper concentrations measured from among all lead and copper tap water samples collected during each monitoring period (calculated in accordance with 567—paragraph 41.4(1)*"b"*(3));

5. With the exception of initial tap sampling conducted pursuant to 567—paragraph 41.4(1)*"c"*(4)"1," the system shall designate any site which was not sampled during previous monitoring periods, and include an explanation of why sampling sites have changed;

6. The results of all tap samples for pH and, where applicable, alkalinity, calcium, conductivity, temperature, and orthophosphate or silica collected under 567—paragraphs 41.4(1)*"d"*(2) through (5);

7. The results of all samples collected at the entry point(s) to the distribution system for applicable water quality parameters under 567—paragraphs 41.4(1)*"d"*(2) and (5).

(2) By the applicable date in 567—paragraph 41.4(1)*"c"*(4)"1" for commencement of monitoring, each community water system which does not complete its targeted sampling pool with tier 1 sampling sites meeting the criteria in 567—paragraph 41.4(1)*"c"*(1)"3" shall send a letter justifying its selection of tier 2 and tier 3 sampling sites under 567—paragraphs 41.4(1)*"c"*(1)"4" and "5," whichever is applicable.

(3) By the applicable date in 567—paragraph 41.4(1)*"c"*(4)"1" for commencement of monitoring, each nontransient noncommunity water system which does not complete its sampling pool with tier 1 sampling sites meeting the criteria in 567—paragraph 41.4(1)*"c"*(1)"6" shall send a letter to the department justifying its selection of sampling sites under 567—paragraph 41.4(1)*"c"*(1)"7."

(4) By the applicable date in 567—paragraph 41.4(1)*"c"*(4)"1" for commencement of monitoring, each water system with lead service lines that is not able to locate the number of sites served by such lines required under 567—paragraph 41.4(1)*"c"*(1)"8" shall send a letter to the department demonstrating why it was unable to locate a sufficient number of such sites based upon the information listed in 567—paragraph 41.4(1)*"c"*(1)"2."

(5) Each water system that requests that the department reduce the number and frequency of sampling shall provide the information required under 567—paragraph 41.4(1)*"c"*(4)"4."

b. Source water monitoring reporting requirements.

(1) A water system shall report the sampling results for all source water samples collected in accordance with 567— paragraph 41.4(1)*"e"* within the first ten days following the end of each source water monitoring period (i.e., annually, per compliance period or per compliance cycle) specified in 567—paragraph 41.4(1)*"e."*

(2) With the exception of the first round of source water sampling conducted pursuant to 567—paragraph 41.4(1)*"e"*(2), the system shall specify any site which was not sampled during previous monitoring periods, and include an explanation of why the sampling point has changed.

c. Corrosion control treatment reporting requirements. By the applicable dates under 567—subrule 43.7(1), systems shall report the following information:

(1) For systems demonstrating that they have already optimized corrosion control, information required in 567—paragraph 43.7(1)*"b"*(2) or (3).

(2) For systems required to optimize corrosion control, their recommendation regarding optimal corrosion control treatment under 567—paragraph 43.7(2)*"a."*

(3) For systems required to evaluate the effectiveness of corrosion control treatments under 567—paragraph 43.7(2)*"c,"* the information required by that paragraph.

(4) For systems required to install optimal corrosion control designated by the department under 567—paragraph 43.7(2)*"d,"* a letter certifying that the system has completed installing that treatment.

d. Source water treatment reporting requirements. By the applicable dates in 567—paragraph 43.7(3)*"b"*(1), systems shall provide the following information to the department:

(1) If required under 567—paragraph 43.7(3)*"b"*(1), their recommendation regarding source water treatment;

(2) For systems required to install source water treatment under 567—paragraph 43.7(3)*"b"*(1), a letter certifying that the system has completed installing the treatment designated by this department within 24 months after the department designated the treatment.

e. Lead service line replacement reporting requirements. Systems shall report the following information to demonstrate compliance with the requirements of 567—subrule 43.7(4):

(1) Within 12 months after a system exceeds the lead action level in sampling referred to in 567—paragraph 43.7(4)*"a,"* the system shall demonstrate in writing to the department that it has conducted a materials evaluation, including the evaluation pursuant to 567—paragraph 41.4(1)*"c"*(1) to identify the initial number of lead service lines in its distribution system, and shall provide the department with the system's schedule for replacing annually at least 7 percent of the initial number of lead service lines in its distribution system.

(2) Within 12 months after a system exceeds the lead action level in sampling referred to in 567—paragraph 43.7(4)*"a"* and every 12 months thereafter, the system shall demonstrate in writing that the system has either:

1. Replaced in the previous 12 months at least 7 percent of the initial lead service lines (or a greater number of lines specified by the department under 567—paragraph 43.7(4)*"f"* in its distribution system), or

2. Conducted sampling which demonstrates that the lead concentration in all service line samples from individual line(s), taken pursuant to 567—paragraph 41.4(1)*"c"*(2)"3," is less than or equal to 0.015 mg/L. In such cases, the total number of lines replaced and which meet the criteria in 567—paragraph 43.7(4)*"c"* shall equal at least 7 percent of the initial number of lead lines identified under 567—paragraph 43.7(4)*"c"* or the percentage specified by the department under 567—paragraph 43.7(4)*"f."*

(3) The annual letter submitted to the department under 42.4(2)*"e"*(2) shall contain the following information:

1. The number of lead service lines scheduled to be replaced during the previous year of the system's replacement schedule;

2. The number and location of each lead service line replaced during the previous year of the system's replacement schedule;

3. If measured, the water lead concentration and location of each lead service line sampled, the sampling method, and the date of sampling.

(4) As soon as practicable, but in no case later than three months after a system exceeds the lead action level in sampling referred to in 567—paragraph 43.7(4)*"a,"* any system seeking to rebut the presumption that it has control over the entire lead service line pursuant to 567—paragraph 43.7(4)*"d"* shall submit a letter to the department describing the legal authority (e.g., state statutes, municipal ordinances, public service contracts or other applicable legal authority) which limits the system's control over the service lines and the extent of the system's control.

f. Public education program reporting requirements. By December of each year, a water system that is subject to the public education requirements in 42.2(455B) shall submit a letter to the department demonstrating that the system has delivered the public education materials that meet the content requirements in 42.2(2) and 42.2(3) and the delivery requirements in 42.2(4). This information shall include a list of all the newspapers, radio stations, television stations, facilities and organizations to which the system delivered public education materials during the previous year. The water system shall submit the letter annually for as long as it exceeds the lead action level.

g. Reporting of additional monitoring data. A system which collects sampling data in addition to that required by 567—Chapters 41 and 43 shall report the results to the department within the first ten days following the end of the applicable monitoring period under 567—paragraphs 41.4(1)*"c," "d,"* and *"e"* during which the samples are collected.

42.4(3) *Operation and maintenance for PWS.*

a. Required records of operation.

(1) Applicability. Monthly records of operation shall be completed by all public water supplies, on forms provided by the department or on similar forms, unless a public water supply meets all of the following conditions:

1. Supplies an annual average of not more than 25,000 gpd or serves no more than an average of 250 individuals daily;

2. Is a community public water supply and does not provide any type of treatment, or is a non-community system (NTNC and TNC) which has only a cation-exchange softening or iron/manganese removal treatment unit, and meets the requirements of 42.4(3)*"a"*(2)"7";

3. Does not utilize either a surface water or a groundwater under the direct influence of surface water either in whole or in part as a water source.

4. Does not use a treatment technique such as blending to achieve compliance with health-based standards.

The reports shall be completed as described in 42.4(3)*"a"*(2) and maintained at the facility for inspection by the department for a period of five years. For CWS and NTNC PWSs, the monthly operation report must be signed by the certified operator in direct responsible charge or the certified operator's designee. For TNC PWSs, the monthly operation report, if required by the department, must be signed by the owner or the owner's designee.

(2) Contents. Monthly operation reports shall be completed as follows:

1. Pumpage or flow. Noncommunity supplies shall measure and record the total water used each week. It is recommended that a daily measurement and recording be made. Community supplies shall measure and record daily water used. Reporting of pumpage or flow may be required in an operation permit where needed to verify MCL compliance.

2. Treatment effectiveness. Where treatment is practiced, the intended effect of the treatment shall be measured at locations and by methods which best indicate effectiveness of the treatment process. These measurements shall be made pursuant to Appendix B of this chapter. Daily monitoring is seven days a week unless otherwise specified by the department.

3. Treatment effectiveness for a primary standard. Where the raw water quality does not meet the requirements of 567—Chapters 41 and 43 and treatment is practiced for the purpose of complying with a health-based standard drinking water standard, daily measurement of the primary standard constituent or an appropriate indicator constituent designated by the department shall be recorded. The department will require reporting of these results in the operation permit to verify MCL compliance.

4. Treatment effectiveness for a secondary standard. Where treatment is practiced for the purpose of achieving the recommended level of any constituent designated in the federal secondary standards, measurements shall be measured and recorded at a frequency specified in Appendix B. Daily monitoring is seven days a week unless otherwise specified by the department.

5. Chemical application. Chemicals such as fluoride, iodine, bromine and chlorine, which are potentially toxic in excessive concentration, shall be measured and recorded daily. Recording shall include the amount of chemical applied each day. Where the supplier of water is attempting to maintain a residual of the chemical throughout the system, such as chlorine, the residual in the system shall be recorded daily. The quantity of all other chemicals applied shall be measured and recorded at least once each week.

6. Static water levels and pumping water levels must be measured and recorded once per month for all groundwater sources. More or less frequent measurements may be approved by the department where historical data justifies it.

7. Noncommunity systems (NTNC and TNC) are exempt from the self-monitoring requirements for cation-exchange softening and iron/manganese removal if the treatment unit:

- Is a commercially available "off-the-shelf" unit designed for home use;
- Is self-contained, requiring only a piping connection for installation;
- Operates throughout a range of 35 to 80 psi; and
- Has not been installed for the purpose of removing a contaminant which has a health-based standard.

b. Chemical quality and application. Any drinking water system chemical which is added to raw, partially treated, or finished water must be suitable for the intended use in a potable water system. Effective on October 1, 2000, the chemical must be certified to meet the current American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 60, if such certification exists for the particular product, unless certified chemicals are not reasonably available for use, in accordance with guidelines provided by the department. If the chemical is not certified by the ANSI/NSF Standard 60 or no certification is available, the person seeking to supply or use the chemical must prove to the satisfaction of the department that the chemical is not toxic or otherwise a potential hazard in a potable public water supply system.

The supplier of water shall keep a record of all chemicals used. This record should include a clear identification of the chemical by brand or generic name and the dosage rate. When chemical treatment is applied with the intent of obtaining an in-system residual, the residuals will be monitored regularly. When chemical treatment is applied and in-system residuals are not expected, the effectiveness of the treatment will be monitored through an appropriate indicative parameter.

(1) Continuous disinfection.

1. When required. Continuous disinfection must be provided at all public water supply systems, except for the following: groundwater supplies that have no treatment facilities or have only fluoride, sodium hydroxide or soda ash addition and that meet the bacterial standards as provided in 567—41.2(455B) and do not show other actual or potential hazardous contamination by microorganisms.

2. Method. Chlorine is the preferred disinfecting agent. Chlorination may be accomplished with liquid chlorine, calcium or sodium hypochlorites or chlorine dioxide. Other disinfecting agents will be considered, provided a residual can be maintained in the distribution system, reliable application equipment is available and testing procedures for a residual are recognized in Standard Methods for the Analysis of Water and Wastewater.

3. Chlorine residual. A minimum free available chlorine residual of 0.3 mg/L or a minimum total available chlorine residual of 1.5 mg/L must be continuously maintained throughout the water distribution system, except for those points on the distribution system that terminate as dead ends or areas that represent very low use when compared to usage throughout the rest of the distribution system as determined by the department.

4. Test kit. A test kit capable of measuring free and combined chlorine residuals in increments no greater than 0.1 mg/L in the range below 0.5 mg/L, and in increments no greater than 0.2 mg/L in the range from 0.5 mg/L to 1.0 mg/L, and in increments no greater than 0.3 mg/L in the range from 1.0 mg/L to 2.0 mg/L must be provided at all chlorination facilities. The test kit must use a method of analysis that is recognized in Standard Methods for the Analysis of Water and Wastewater.

5. Leak detection, control and operator protection. A bottle of at least 56 percent ammonium hydroxide must be provided at all gas chlorination installations for leak detection. Leak repair kits must be available where ton chlorine cylinders are used.

6. Other disinfectant residuals. If an alternative disinfecting agent is approved by this department, the residual levels and type of test kit used will be assigned by the department in accordance with and based upon analytical methods contained in Standard Methods for the Analysis of Water and Wastewater.

(2) Phosphate compounds.

1. When phosphate compounds are to be added to any public water supply system which includes iron or manganese removal or ion-exchange softening, such compounds must be applied after the iron or manganese removal or ion-exchange softening treatment units, unless the director has received and approved an engineering report demonstrating the suitability for addition prior to these units in accordance with the provisions of 567—subrule 43.3(2). The department may require the discontinuance of phosphate addition where it interferes with other treatment processes, the operation of the water system or if there is a significant increase in microorganism populations associated with phosphate application.

2. The total phosphate concentration in the finished water must not exceed 10 mg/L as PO_4.

3. Chlorine shall be applied to the phosphate solution in sufficient quantity to give an initial concentration of 10 mg/L in the phosphate solution. A chlorine residual must be maintained in the phosphate solution at all times.

4. Test kits capable of measuring polyphosphate and orthophosphate in a range from 0.0 to 10.0 mg/L in increments no greater than 0.1 mg/L must be provided.

5. Continuous application or injection of phosphate compounds directly into a well is prohibited.

(3) Fluorosilicic acid. Where fluorosilicic acid (H_2SiF_6, also called hydrofluosilicic acid) is added to a public water supply, the operator shall be equipped with a fluoride test kit with a minimum range of from 0.0 to 2.0 mg/L in increments no greater than 0.1 mg/L. Distilled water and standard fluoride solutions of 0.2 mg/L and 1.0 mg/L must be provided.

c. Reporting and record-keeping requirements for systems using surface water and groundwater under the direct influence of surface water. In addition to the monitoring requirements required by 42.4(3)*"a"* and *"b,"* a public water system that uses a surface water source or a groundwater source under the direct influence of surface water must report monthly to the department the information specified in this subrule beginning June 29, 1993, or when filtration is installed, whichever is later.

(1) Turbidity measurements as required by 567—subrules 41.7(1) and 43.5(3) must be reported within ten days after the end of each month the system serves water to the public. Information that must be reported includes:

1. The total number of filtered water turbidity measurements taken during the month.

2. The number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to the turbidity limits specified in 567—paragraph 41.7(1)*"b"* for the filtration technology being used.

3. The date and value of any turbidity measurements taken during the month which exceed 5 NTU. If at any time the turbidity exceeds 5 NTU, the system must inform the department as soon as possible, but no later than the end of the next business day. This requirement is in addition to the monthly reporting requirement, pursuant to 567— 43.5(455B).

(2) Disinfection information specified in 567—subrule 41.7(2) and 567—paragraph 42.4(3)*"b"* must be reported to the department within ten days after the end of each month the system serves water to the public. Information that must be reported includes:

1. For each day, the lowest measurement of residual disinfectant concentration in mg/L in water entering the distribution system.

2. The date and duration of each period when the residual disinfectant concentration in water entering the distribution system fell below 0.3 mg/L and when the department was notified of the occurrence. If at any time the residual falls below 0.3 mg/L in the water entering the distribution system, the system must notify the department as soon as possible, but no later than by the end of the next business day. The system also must notify the department by the end of the next business day whether or not the residual was restored to at least 0.3 mg/L within four hours. This requirement is in addition to the monthly reporting requirement, pursuant to 567—43.5(455B).

3. The information on the samples taken in the distribution system in conjunction with total coliform monitoring listed in 567—paragraph 43.5(2)*"d"* and pursuant to 567— paragraph 41.2(1)*"c."*

567—42.5(455B) Record maintenance.

42.5(1) *Record maintenance requirements.* Any owner or operator of a public water system subject to the provisions of this rule shall retain on its premises or at a convenient location near its premises the following records:

a. Analytical records.

(1) Actual laboratory reports shall be kept, or data may be transferred to tabular summaries, provided that the following information is included:

1. The date, place, and time of sampling, and the name of the person who collected the sample;

2. Identification of the sample as to whether it was a routine distribution system sample, check sample, raw or process water sample or other special purpose sample;

3. Date of analysis;

4. Laboratory and person responsible for performing analysis;

5. The analytical technique or method used; and

6. The results of the analysis.

(2) Record retention for specific analytes.

1. Bacteria. Records of bacteriological analyses made pursuant to this subrule shall be kept for not less than five years.

2. Chemical: radionuclide, inorganic compounds, organic compounds. Records of chemical analyses made pursuant to 567—Chapter 41 shall be kept for not less than ten years. Additional lead and copper requirements are listed in 42.5(1)*"b."*

b. Lead and copper record-keeping requirements. A system subject to the requirements of 42.4(2) shall retain on its premises original records of all data and analyses, reports, surveys, public education, letters, evaluations, schedules, and any other information required by 567—41.4(455B) and 567—Chapter 43. Each water system shall retain the records required by this subrule for ten years.

c. Records of action (violation correction). Records of action taken by the system to correct violations of primary drinking water regulations (including administrative orders) shall be kept for not less than five years after the last action taken with respect to the particular violation involved.

d. Reports and correspondence relating to sanitary surveys. Copies of any written reports, summaries, or communications relating to sanitary surveys of the system conducted by the system itself, by a private consultant, or by any local, state or federal agency, shall be kept for a period of not less than ten years after completion of the sanitary survey involved.

e. Operation or construction permits. Records concerning an operation or a construction permit issued pursuant to 567—Chapter 43 to the system shall be kept for a period ending not less than ten years after the system achieves compliance with the health-based standard or after the system in question completes the associated construction project.

f. Public notification. Records of public notification, including the consumer confidence report, public notification examples, and reports requiring certification of who received the public notification, must be kept for at least five years.

g. Self-monitoring requirement records. The monthly records of operation must be completed as described in 42.4(3)*"a"*(2) and maintained at the facility for inspection by the department for a period of at least five years.

42.5(2) Reserved.

These rules are intended to implement Iowa Code sections 17A.3(1)*"b"* and 455B.171 to 455B.192.

APPENDIX A:
MANDATORY HEALTH EFFECTS LANGUAGE FOR PUBLIC NOTIFICATION

1. Acrylamide. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that acrylamide is a health concern at certain levels of exposure. Polymers made from acrylamide are sometimes used to treat water supplies to remove particulate contaminants. Acrylamide has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. Sufficiently large doses of acrylamide are known to cause neurological injury. EPA has set the drinking water standard for acrylamide using a treatment technique to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. This treatment technique limits the amount of acrylamide in the polymer and the amount of the polymer which may be added to drinking water to remove particulates. Drinking water systems which comply with this treatment technique have little to no risk and are considered safe with respect to acrylamide.

2. Alachlor. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that alachlor is a health concern at certain levels of exposure. This organic chemical is a widely used pesticide. When soil and climatic conditions are favorable, alachlor may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for alachlor at 0.002 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to alachlor.

3. Aldicarb. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that aldicarb is a health concern at certain levels of exposure. Aldicarb is a widely used pesticide. Under certain soil and climatic conditions (e.g., sandy soil and high rainfall), aldicarb may leach into groundwater after normal agricultural applications to crops such as potatoes or peanuts or may enter drinking water supplies as a result of surface runoff. This chemical has been shown to damage the nervous system in laboratory animals such as rats and dogs exposed to high levels. EPA has set the drinking water standard for aldicarb at 0.003 parts per million (ppm) to protect against the risk of adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to aldicarb.

4. Aldicarb sulfoxide. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that aldicarb sulfoxide is a health concern at certain levels of exposure. Aldicarb is a widely used pesticide. Aldicarb sulfoxide in groundwater is primarily a breakdown product of aldicarb. Under certain soil and climatic conditions (e.g., sandy soil and high rainfall), aldicarb sulfoxide may leach into groundwater after normal agricultural applications to crops such as potatoes or peanuts or may enter drinking water supplies as a result of surface runoff. This chemical has been shown to damage the nervous system in laboratory animals such as rats and dogs exposed to high levels. EPA has set the drinking water standard for aldicarb sulfoxide at 0.004 parts per million (ppm) to protect against the risk of adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to aldicarb sulfoxide.

5. Aldicarb sulfone. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that aldicarb sulfone is a health concern at certain levels of exposure. Aldicarb is a widely used pesticide. Aldicarb sulfone is formed from the breakdown of aldicarb and is considered for registration as a pesticide under the name aldoxycarb. Under certain soil and climatic conditions (e.g., sandy soil and high rainfall), aldicarb sulfone may leach into groundwater after normal agricultural applications to crops such as potatoes or peanuts or may enter drinking water supplies as a result of surface runoff. This chemical has been shown to damage the nervous system in laboratory animals such as rats and dogs exposed to high levels. EPA has set the drinking water standard for aldicarb sulfone at 0.002 parts per million (ppm) to protect against the risk of adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to aldicarb sulfone.

6. Antimony. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that antimony is a health concern at certain levels of exposure. This inorganic chemical occurs naturally in soils, groundwater and surface waters and is often used in the flame-retardant industry. It is also used in ceramics, glass, batteries, fireworks and explosives. It may get into drinking water through natural weathering of rock, industrial production, municipal waste disposal or manufacturing processes. This chemical has been shown to decrease longevity and to alter blood levels of cholesterol and glucose in laboratory animals such as rats exposed to high levels during their lifetimes. EPA has set the drinking water standard for antimony at 0.006 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to antimony.

7. Asbestos. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that asbestos fibers greater than 10 micrometers in length are a health concern at certain levels of exposure. Asbestos is a naturally occurring mineral. Most asbestos fibers in drinking water are less than 10 micrometers in length and occur in drinking water from natural sources and from corroded asbestos-cement pipes in the distribution system. The major uses of asbestos were in the production of cements, floor tiles, paper products, paint, and caulking; in transportation-related applications; and in the production of textiles and plastics. Asbestos was once a popular insulating and fire-retardant material. Inhalation studies have shown that various forms of asbestos have produced lung tumors in laboratory animals. The available information on the risk of developing gastrointestinal tract cancer associated with the ingestion of asbestos from drinking water is limited. Ingestion of intermediate-range chrysotile asbestos fibers greater than 10 micrometers in length is associated with causing benign tumors in male rats. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for asbestos at 7 million long fibers per liter to reduce the potential risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to asbestos.

8. Atrazine. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that atrazine is a health concern at certain levels of exposure. This organic chemical is a herbicide. When soil and climatic conditions are favorable, atrazine may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to affect offspring of rats and the hearts of dogs. EPA has set the drinking water standard for atrazine at 0.003 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to atrazine.

9. Barium. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that barium is a health concern at certain levels of exposure. This inorganic chemical occurs naturally in some aquifers that serve as sources of groundwater. It is also used in oil and gas drilling muds, automotive paints, bricks, tiles and jet fuels. It generally gets into drinking water after dissolving from naturally occurring minerals in the ground. This chemical may damage the heart and cardiovascular system and is associated with high blood pressure in laboratory animals such as rats exposed to high levels during their lifetimes. In humans, EPA believes that effects from barium on blood pressure should not occur below 2 parts per million (ppm) in drinking water. EPA has set the drinking water standard for barium at 2 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to barium.

10. Benzene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that benzene is a health concern at certain levels of exposure. This chemical is used as a solvent and degreaser of metals. It is also a major component of gasoline. Drinking water contamination generally results from leaking underground gasoline and petroleum tanks or improper waste disposal. This chemical has been associated with significantly increased risks of leukemia among certain industrial workers who were exposed to relatively large amounts of this chemical during their working careers. This chemical has also been shown to cause cancer in laboratory animals when the animals are exposed at high levels over their lifetimes. Chemicals that cause increased risk of cancer among exposed industrial workers and in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for benzene at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

11. Benzo(a)pyrene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that benzo(a)pyrene is a health concern at certain levels of exposure. Cigarette smoke and charbroiled meats are common sources of general exposure. The major source of benzo(a)pyrene in drinking water is the leaching from coal tar lining and sealants in water storage tanks. This chemical has been shown to cause cancer in animals such as rats and mice when the animals are exposed at high levels. EPA has set the drinking water standard for benzo(a)pyrene at 0.0002 parts per million (ppm) to protect against the risk of cancer. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to benzo(a)pyrene.

12. Beryllium. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that beryllium is a health concern at certain levels of exposure. This inorganic metal occurs naturally in soils, groundwater and surface waters and is often used in electrical equipment and electrical components. It generally gets into water from runoff from mining operations, discharge from processing plants and improper waste disposal. Beryllium compounds have been associated with damage to the bones and lungs and induction of cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. There is limited evidence to suggest that beryllium may pose a cancer risk via drinking water exposure. Therefore, EPA based the health assessment on noncancer effects with an extra uncertainty factor to account for possible carcinogenicity. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for beryllium at 0.004 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to beryllium.

13. Cadmium. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that cadmium is a health concern at certain levels of exposure. Food and the smoking of tobacco are common sources of general exposure. This inorganic metal is a contaminant in the metals used to galvanize pipe. It generally gets into water by corrosion of galvanized pipes or by improper waste disposal. This chemical has been shown to damage the kidneys in animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemical during working careers also suffered damage to the kidneys. EPA has set the drinking water standard for cadmium at 0.005 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to cadmium.

14. Carbofuran. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that carbofuran is a health concern at certain levels of exposure. This organic chemical is a pesticide. When soil and climatic conditions are favorable, carbofuran may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to damage the nervous and reproductive systems of laboratory animals such as rats and mice exposed at high levels over their lifetimes. Some humans who were exposed to relatively large amounts of this chemical during their working careers also suffered damage to the nervous system. Effects on the nervous system are generally rapidly reversible. EPA has set the drinking water standard for carbofuran at 0.04 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to carbofuran.

15. Carbon tetrachloride. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that carbon tetrachloride is a health concern at certain levels of exposure. This chemical was once a popular household cleaning fluid. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for carbon tetrachloride at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

16. Chlordane. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that chlordane is a health concern at certain levels of exposure. This organic chemical is a pesticide used to control termites. Chlordane is not very mobile in soils. It usually gets into drinking water after application near water supply intakes or wells. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for chlordane at 0.002 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to chlordane.

17. Chromium. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that chromium is a health concern at certain levels of exposure. This inorganic metal occurs naturally in the ground and is often used in the electroplating of metals. It generally gets into water from runoff from old mining operations and improper waste disposal from plating operations. This chemical has been shown to damage the kidneys, nervous system, and the circulatory system of laboratory animals such as rats and mice when the animals are exposed at high levels. Some humans who were exposed to high levels of this chemical suffered liver and kidney damage, dermatitis and respiratory problems. EPA has set the drinking water standard for chromium at 0.1 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to chromium.

18. Coliforms: Fecal coliforms/*E. coli* (to be used when there is a violation of 567—paragraph 41.2(1)*"b"*(2) or both 567—paragraphs 41.2(1)*"b"*(1) and (2)). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that the presence of fecal coliforms or *E. coli* is a serious health concern. Fecal coliforms and *E. coli* are generally not harmful themselves, but their presence in drinking water is serious because they usually are associated with sewage or animal wastes. The presence of these bacteria in drinking water is generally a result of a problem with water treatment or the pipes which distribute the water and indicates that the water may be contaminated with organisms that can cause disease. Disease symptoms may include diarrhea, nausea, and possibly jaundice, and associated headaches and fatigue. These symptoms, however, are not just associated with disease-causing organisms in drinking water, but also may be caused by a number of factors other than the drinking water. EPA has set an enforceable drinking water standard for fecal coliforms and *E. coli* to reduce the risk of these adverse health effects. Under this standard all drinking water samples must be free of these bacteria. Drinking water which meets this standard is associated with little or none of this risk and should be considered safe. State and local health authorities recommend that consumers take the following precautions: (to be inserted by the public water supply system, according to instructions from state or local authorities).

19. Coliforms: Total coliforms (to be used when there is a violation of 567—paragraph 41.2(1)*"b"*(1) and not a violation of 567—paragraph 41.2(1)*"b"*(2)). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that the presence of total coliforms is a possible health concern. Total coliforms are common in the environment and are generally not harmful themselves. The presence of these bacteria in drinking water, however, generally is a result of a problem with water treatment or the pipes which distribute the water and indicates that the water may be contaminated with organisms that can cause disease. Disease symptoms may include diarrhea, cramps, nausea, and possibly jaundice, and any associated headaches and fatigue. These symptoms, however, are not just associated with disease-causing organisms in drinking water but also may be caused by a number of factors other than the drinking water. EPA has set an enforceable drinking water standard for total coliforms to reduce the risk of these adverse health effects. Under this standard, no more than 5.0 percent of the samples collected during a month can contain these bacteria, except that systems collecting fewer than 40 samples per month that have one total coliform-positive sample per month are not violating the standard. Drinking water which meets this standard is usually not associated with a health risk from disease-causing bacteria and should be considered safe.

20. Copper. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that copper is a health concern at certain exposure levels. Copper, a reddish-brown metal, is often used to plumb residential and commercial structures that are connected to water distribution systems. Copper contaminating drinking water as a corrosion by-product occurs as the result of the corrosion of copper pipes that remain in contact with water for a prolonged period of time. Copper is an essential nutrient, but at high doses it has been shown to cause stomach and intestinal distress, liver and kidney damage, and anemia. Persons with Wilson's disease may be at a higher risk of health effects due to copper than the general public. EPA's national primary drinking water regulation requires all public water systems to install optimal corrosion control to minimize copper contamination resulting from the corrosion of plumbing materials. Public water systems serving 50,000 people or fewer that have copper concentrations below 1.3 parts per million (ppm) in more than 90 percent of tap water samples (the EPA "action level") are not required to install or improve their treatment. Any water system that exceeds the action level must also monitor their source water to determine whether treatment to remove copper in source water is needed.

21. Cyanide. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that cyanide is a health concern at certain levels of exposure. This inorganic chemical is used in electroplating, steel processing, plastics, synthetic fabrics and fertilizer products. It usually gets into water as a result of improper waste disposal. This chemical has been shown to damage the spleen, brain and liver of humans fatally poisoned with cyanide. EPA has set the drinking water standard for cyanide at 0.2 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to cyanide.

22. 2,4-D. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 2,4-D is a health concern at certain levels of exposure. This organic chemical is used as a herbicide and to control algae in reservoirs. When soil and climatic conditions are favorable, 2,4-D may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to damage the liver and kidneys of laboratory animals such as rats exposed at high levels during their lifetimes. Some humans who were exposed to relatively large amounts of this chemical also suffered damage to the nervous system. EPA has set the drinking water standard for 2,4-D at 0.07 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to 2,4-D.

23. Dalapon. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that dalapon is a health concern at certain levels of exposure. This organic chemical is a widely used herbicide. It may get into drinking water after application to control grasses in crops, drainage ditches and along railroads. This chemical has been shown to cause damage to the kidneys and liver in laboratory animals when the animals are exposed to high levels over their lifetimes. EPA has set the drinking water standard for dalapon at 0.2 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to dalapon.

24. Dibromochloropropane (DBCP). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that DBCP is a health concern at certain levels of exposure. This organic chemical was once a popular pesticide. When soil and climatic conditions are favorable, dibromochloropropane may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for DBCP at 0.0002 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to DBCP.

25. 1,2-Dichlorobenzene (ortho-Dichlorobenzene). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that o-dichlorobenzene is a health concern at certain levels of exposure. This organic chemical is used as a solvent in the production of pesticides and dyes. It generally gets into water by improper waste disposal. This chemical has been shown to damage the liver, kidneys and the blood cells of laboratory animals such as rats and mice exposed to high levels during their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemical during working careers also suffered damage to the liver, nervous system, and circulatory system. EPA has set the drinking water standard for o-dichlorobenzene at 0.6 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to o-dichlorobenzene.

26. 1,4-Dichlorobenzene (para-Dichlorobenzene). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that para-dichlorobenzene is a health concern at certain levels of exposure. This chemical is a component of deodorizers, mothballs, and pesticides. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause liver and kidney damage in laboratory animals such as rats and mice when the animals are exposed to high levels over their lifetimes. Chemicals which cause adverse effects in laboratory animals also may cause adverse health effects in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for para-dichlorobenzene at 0.075 parts per million (ppm) to reduce the risk of these adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

27. 1,2-Dichloroethane. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,2-dichloroethane is a health concern at certain levels of exposure. This chemical is used as a cleaning fluid for fats, oils, waxes, and resins. It generally gets into drinking water from improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for 1,2-dichloroethane at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

28. 1,1-Dichloroethylene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,1-dichloroethylene is a health concern at certain levels of exposure. This chemical is used in industry and is found in drinking water as a result of the breakdown of related solvents. The solvents are used as cleaners and degreasers of metals and generally get into drinking water by improper waste disposal. This chemical has been shown to cause liver and kidney damage in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals which cause adverse effects in laboratory animals also may cause adverse health effects in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for 1,1-dichloroethylene at 0.007 parts per million (ppm) to reduce the risk of these adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

29. cis-1,2-Dichloroethylene. The United States Environmental Protection Agency (EPA) establishes drinking water standards and has determined that cis-1,2-dichloroethylene is a health concern at certain levels of exposure. This organic chemical is used as a solvent and intermediate in chemical production. It generally gets into water by improper waste disposal. This chemical has been shown to damage the liver, nervous system, and circulatory system of laboratory animals such as rats and mice when exposed at high levels over their lifetimes. Some humans who were exposed to relatively large amounts of this chemical also suffered damage to the nervous system. EPA has set the drinking water standard for cis-1,2-dichloroethylene at 0.07 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to cis-1,2-dichloroethylene.

30. trans-1,2-Dichloroethylene. The United States Environmental Protection Agency (EPA) establishes drinking water standards and has determined that trans-1,2-dichloroethylene is a health concern at certain levels of exposure. This organic chemical is used as a solvent and intermediate in chemical production. It generally gets into water by improper waste disposal. This chemical has been shown to damage the liver, nervous system, and the circulatory system of laboratory animals such as rats and mice when exposed at high levels over their lifetimes. Some humans who were exposed to relatively large amounts of this chemical also suffered damage to the nervous system. EPA has set the drinking water standard for trans-1,2-dichloroethylene at 0.1 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to trans-1,2-dichloroethylene.

31. Dichloromethane. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that dichloromethane (methylene chloride) is a health concern at certain levels of exposure. This organic chemical is a widely used solvent. It is used in the manufacture of paint remover, as a metal degreaser and as an aerosol propellant. It generally gets into drinking water after improper discharge of waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for dichloromethane at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe with respect to dichloromethane.

32. 1,2-Dichloropropane. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,2-dichloropropane is a health concern at certain levels of exposure. This organic chemical is used as a solvent and pesticide. When soil and climatic conditions are favorable, 1,2-dichloropropane may get into drinking water by runoff into surface water or by leaching into groundwater. It may also get into drinking water through improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for 1,2-dichloropropane at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to 1,2-dichloropropane.

33. Di(2-ethylhexyl)adipate. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that di(2-ethylhexyl)adipate is a health concern at certain levels of exposure. Di(2-ethylhexyl)adipate is a widely used plasticizer in a variety of products, including synthetic rubber, food packaging materials and cosmetics. It may get into drinking water after improper waste disposal. This chemical has been shown to damage liver and testes in laboratory animals such as rats and mice exposed to high levels. EPA has set the drinking water standard for di(2-ethylhexyl)adipate at 0.4 parts per million (ppm) to protect against the risk of adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to di(2-ethylhexyl)adipate.

34. Di(2-ethylhexyl)phthalate. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that di(2-ethylhexyl)phthalate is a health concern at certain levels of exposure. Di(2-ethylhexyl)phthalate is a widely used plasticizer, which is primarily used in the production of polyvinyl chloride (PVC) resins. It may get into drinking water after improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice exposed to high levels over their lifetimes. EPA has set the drinking water standard for di(2-ethylhexyl)phthalate at 0.006 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to di(2-ethylhexyl)phthalate.

35. Dinoseb. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that dinoseb is a health concern at certain levels of exposure. Dinoseb is a widely used pesticide and generally gets into drinking water after application on orchards, vineyards and other crops. This chemical has been shown to damage the thyroid and reproductive organs in laboratory animals such as rats exposed to high levels. EPA has set the drinking water standard for dinoseb at 0.007 parts per million (ppm) to protect against the risk of adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to dinoseb.

36. Diquat. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that diquat is a health concern at certain levels of exposure. This organic chemical is a herbicide used to control terrestrial and aquatic weeds. It may get into drinking water by runoff into surface water. This chemical has been shown to damage the liver, kidneys and gastrointestinal tract and causes cataract formation in laboratory animals such as dogs and rats exposed at high levels over their lifetimes. EPA has set the drinking water standard for diquat at 0.02 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to diquat.

37. Endothall. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that endothall is a health concern at certain levels of exposure. This organic chemical is a herbicide used to control terrestrial and aquatic weeds. It may get into water by runoff into surface water. This chemical has been shown to damage the liver, kidneys, gastrointestinal tract and reproductive system of laboratory animals such as rats and mice exposed at high levels over their lifetimes. EPA has set the drinking water standard for endothall at 0.1 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to endothall.

38. Endrin. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that endrin is a health concern at certain levels of exposure. This organic chemical is a pesticide no longer registered for use in the United States. However, this chemical is persistent in treated soils and accumulates in sediments and aquatic and terrestrial biota. This chemical has been shown to cause damage to the liver, kidneys and heart in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. EPA has set the drinking water standard for endrin at 0.002 parts per million (ppm) to protect against the risk of these adverse health effects which have been observed in laboratory animals. Drinking water that meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to endrin.

39. Epichlorohydrin. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that epichlorohydrin is a health concern at certain levels of exposure. Polymers made from epichlorohydrin are sometimes used in the treatment of water supplies as a flocculent to remove particulates. Epichlorohydrin generally gets into drinking water by improper use of these polymers. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for epichlorohydrin using a treatment technique to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. This treatment technique limits the amount of epichlorohydrin in the polymer and the amount of the polymer which may be added to drinking water as a flocculent to remove particulates. Drinking water systems which comply with this treatment technique have little to no risk and are considered safe with respect to epichlorohydrin.

40. Ethylbenzene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined ethylbenzene is a health concern at certain levels of exposure. This organic chemical is a major component of gasoline. It generally gets into water by improper waste disposal or leaking gasoline tanks. This chemical has been shown to damage the kidneys, liver, and nervous system of laboratory animals such as rats exposed to high levels during their lifetimes. EPA has set the drinking water standard for ethylbenzene at 0.7 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to ethylbenzene.

41. Ethylene dibromide (EDB). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that EDB is a health concern at certain levels of exposure. This organic chemical was once a popular pesticide. When soil and climatic conditions are favorable, EDB may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for EDB at 0.00005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to EDB.

42. Fluoride. The U.S. Environmental Protection Agency requires that we send you this notice on the level of fluoride in your drinking water. The drinking water in your community has a fluoride concentration of _____ (the public water supply shall insert the compliance result which triggered notification under this subrule) milligrams per liter (mg/L).

Federal regulations require that fluoride, which occurs naturally in your water supply, not exceed a concentration of 4.0 mg/L in drinking water. This is an enforceable standard called a Maximum Contaminant Level (MCL), and it has been established to protect the public health. Exposure to drinking water levels above 4.0 mg/L for many years may result in some cases of crippling skeletal fluorosis, which is a serious bone disorder.

Federal law also requires that we notify you when monitoring indicates that the fluoride in your drinking water exceeds 2.0 mg/L. This is intended to alert families about dental problems that might affect children under nine years of age. The fluoride concentration of your water exceeds this federal guideline.

Fluoride in children's drinking water at levels of approximately 1 mg/L reduces the number of dental cavities. However, some children exposed to levels of fluoride greater than about 2.0 mg/L may develop dental fluorosis. Dental fluorosis, in its moderate and severe forms, is a brown staining or pitting of the permanent teeth.

Because dental fluorosis occurs only when developing teeth (before they erupt from the gums) are exposed to elevated fluoride levels, households without children are not expected to be affected by this level of fluoride. Families with children under the age of nine are encouraged to seek other sources of drinking water for their children to avoid the possibility of staining and pitting.

Your water supplier can lower the concentration of fluoride in your water so that you will still receive the benefits of cavity prevention while the possibility of stained and pitted teeth is minimized. Removal of fluoride may increase your water costs. Treatment systems are also commercially available for home use. Information on such systems is available at the address given below. Low fluoride bottled drinking water that would meet all standards is also commercially available.

For further information, contact ___ (the public water supply shall insert the name, address, and telephone number of a contact person at the public water system) at your water system.

43. Glyphosate. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that glyphosate is a health concern at certain levels of exposure. This organic chemical is a herbicide used to control grasses and weeds. It may get into drinking water by runoff into surface water. This chemical has been shown to cause damage to the liver and kidneys in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. EPA has set the drinking water standard for glyphosate at 0.7 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to glyphosate.

44. Heptachlor. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that heptachlor is a health concern at certain levels of exposure. This organic chemical was once a popular pesticide. When soil and climatic conditions are favorable, heptachlor may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standards for heptachlor at 0.0004 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to heptachlor.

45. Heptachlor epoxide. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that heptachlor epoxide is a health concern at certain levels of exposure. This organic chemical was once a popular pesticide. When soil and climatic conditions are favorable, heptachlor epoxide may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standards for heptachlor epoxide at 0.0002 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to heptachlor epoxide.

46. Hexachlorobenzene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that hexachlorobenzene is a health concern at certain levels of exposure. This organic chemical is produced as an impurity in the manufacture of certain solvents and pesticides. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed to high levels during their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for hexachlorobenzene at 0.001 parts per million (ppm) to protect against the risk of cancer and other adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to hexachlorobenzene.

47. Hexachlorocyclopentadiene. The United States Environmental Protection Agency (EPA) establishes drinking water standards and has determined that hexachlorocyclopentadiene is a health concern at certain levels of exposure. This organic chemical is used as an intermediate in the manufacture of pesticides and flame retardants. It may get into water by discharge from production facilities. This chemical has been shown to damage the kidneys and the stomach of laboratory animals when exposed at high levels over their lifetimes. EPA has set the drinking water standard for hexachlorocyclopentadiene at 0.05 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to hexachlorocyclopentadiene.

48. Lead. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that lead is a health concern at certain exposure levels. Materials that contain lead have frequently been used in the construction of water supply distribution systems, and plumbing systems in private homes and other buildings. The most commonly found materials include service lines, pipes, brass and bronze fixtures, and solders and fluxes. Lead in these materials can contaminate drinking water as a result of the corrosion that takes place when water comes into contact with those materials. Lead can cause a variety of adverse health effects in humans. At relatively low levels of exposure, these effects may include interference with red blood cell chemistry, delays in normal physical and mental development in babies and young children, slight deficits in the attention span, hearing, and learning abilities of children, and slight increases in the blood pressure of some adults. EPA's national primary drinking water regulation requires all public water systems to optimize corrosion control to minimize lead contamination resulting from the corrosion of plumbing materials. Public water systems serving 50,000 people or fewer that have lead concentrations below 15 parts per billion (ppb) in more than 90 percent of tap water samples (the EPA "action level") have optimized their corrosion control treatment. Any water system that exceeds the action level must also monitor its source water to determine whether treatment to remove lead in source water is needed. Any water system that continues to exceed the action level after installation of corrosion control or source water treatment must eventually replace all lead service lines contributing in excess of 15 ppb of lead to drinking water. Any water system that exceeds the action level must also undertake a public education program to inform consumers of ways they can reduce their exposure to potentially high levels of lead in drinking water.

49. Lindane. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that lindane is a health concern at certain levels of exposure. This organic chemical is used as a pesticide. When soil and climatic conditions are favorable, lindane may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to damage the liver, kidneys, nervous system, and immune system of laboratory animals such as rats, mice and dogs exposed at high levels during their lifetimes. Some humans who were exposed to relatively large amounts of this chemical also suffered damage to the nervous system and circulatory system. EPA has established the drinking water standard for lindane at 0.0002 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to lindane.

50. Mercury. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that mercury is a health concern at certain levels of exposure. This inorganic metal is used in electrical equipment and some water pumps. It usually gets into water as a result of improper waste disposal. This chemical has been shown to damage the kidneys of laboratory animals such as rats when the animals are exposed at high levels over their lifetimes. EPA has set the drinking water standard for mercury at 0.002 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to mercury.

51. Methoxychlor. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that methoxychlor is a health concern at certain levels of exposure. This organic chemical is used as a pesticide. When soil and climatic conditions are favorable, methoxychlor may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to damage the liver, kidneys, nervous system, and reproductive system of laboratory animals such as rats exposed at high levels during their lifetimes. It has also been shown to produce growth retardation in rats. EPA has set the drinking water standard for methoxychlor at 0.04 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to methoxychlor.

52. Microbiological contaminants (for use when there is a violation of the treatment technique requirements for filtration and disinfection in 567—43.5(455B)). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that the presence of microbiological contaminants is a health concern at certain levels of exposure. If water is inadequately treated, microbiological contaminants in that water may cause disease. Disease symptoms may include diarrhea, cramps, nausea, and possibly jaundice, and any associated headaches and fatigue. These symptoms, however, are not just associated with disease-causing organisms in drinking water, but also may be caused by a number of factors other than drinking water. EPA has set enforceable requirements for treating drinking water to reduce the risk of these adverse health effects. Treatment such as filtering and disinfecting the water removes or destroys microbiological contaminants. Drinking water which is treated to meet EPA requirements is associated with little or no risk and should be considered safe.

53. Monochlorobenzene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that monochlorobenzene is a health concern at certain levels of exposure. This organic chemical is used as a solvent. It generally gets into water by improper waste disposal. This chemical has been shown to damage the liver, kidneys and nervous system of laboratory animals such as rats and mice exposed to high levels during their lifetimes. EPA has set the drinking water standard for monochlorobenzene at 0.1 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to monochlorobenzene.

54. Nitrate. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that nitrate poses an acute health concern at certain levels of exposure. Nitrate is used in fertilizer and is found in sewage and wastes from humans or farm animals and generally gets into drinking water from those activities. Excessive levels of nitrate in drinking water have caused serious illness and sometimes death in infants under six months of age. The serious illness in infants is caused because nitrate is converted to nitrite in the body. Nitrite interferes with the oxygen carrying capacity of the child's blood. This is an acute disease in that symptoms can develop rapidly in infants. In most cases, health deteriorates over a period of days. Symptoms include shortness of breath and blueness of the skin. Clearly, expert medical advice should be sought immediately if these symptoms occur. The purpose of this notice is to encourage parents and other responsible parties to provide infants with an alternate source of drinking water. Local and state health authorities are the best source for information concerning alternate sources of drinking water for infants. EPA has set the drinking water standard at 10 parts per million (ppm) for nitrate to protect against the risk of these adverse effects. EPA has also set a drinking water standard for nitrite at 1 ppm. To allow for the fact that the toxicity of nitrate and nitrite is additive, EPA has also established a standard for the sum of nitrate and nitrite at 10 ppm. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to nitrate.

55. Nitrite. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that nitrite poses an acute health concern at certain levels of exposure. This inorganic chemical is used in fertilizers and is found in sewage and wastes from humans or farm animals and generally gets into drinking water as a result of those activities. While excessive levels of nitrite in drinking water have not been observed, other sources of nitrite have caused serious illness and sometimes death in infants under six months of age. The serious illness in infants is caused because nitrite interferes with the oxygen carrying capacity of the child's blood. This is an acute disease in that symptoms can develop rapidly. However, in most cases, health deteriorates over a period of days. Symptoms include shortness of breath and blueness of the skin. Clearly, expert medical advice should be sought immediately if these symptoms occur. The purpose of this notice is to encourage parents and other responsible parties to provide infants with an alternate source of drinking water. Local and state health authorities are the best source for information concerning alternate sources of drinking water for infants. EPA has set the drinking water standard at 1 part per million (ppm) for nitrite to protect against the risk of these adverse effects. EPA has also set a drinking water standard for nitrate (converted to nitrite in humans) at 10 ppm and for the sum of nitrate and nitrite at 10 ppm. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to nitrite.

56. Oxamyl. The United States Environmental Protection Agency (EPA) establishes drinking water standards and has determined that oxamyl is a health concern at certain levels of exposure. This organic chemical is used as a pesticide for the control of insects and other pests. It may get into drinking water by runoff into surface water or leaching into groundwater. This chemical has been shown to damage the kidneys of laboratory animals such as rats when exposed at high levels over their lifetimes. EPA has set the drinking water standard for oxamyl at 0.2 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to oxamyl.

57. Pentachlorophenol. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that pentachlorophenol is a health concern at certain levels of exposure. This organic chemical is used as a wood preservative, herbicide, disinfectant, and defoliant. It generally gets into drinking water by runoff into surface water or leaching into groundwater. This chemical has been shown to produce adverse reproductive effects and to damage the liver and kidneys of laboratory animals such as rats exposed to high levels during their lifetimes. Some humans who were exposed to relatively large amounts of this chemical also suffered damage to the liver and kidneys. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for pentachlorophenol at 0.001 parts per million (ppm) to protect against the risk of cancer or other adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to pentachlorophenol.

58. Picloram. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that picloram is a health concern at certain levels of exposure. This organic chemical is used as a pesticide for broadleaf weed control. It may get into drinking water by runoff into surface water or leaching into groundwater as a result of pesticide application and improper waste disposal. This chemical has been shown to cause damage to the kidneys and liver in laboratory animals such as rats when the animals are exposed at high levels over their lifetimes. EPA has set the drinking water standard for picloram at 0.5 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to picloram.

59. Polychlorinated biphenyls (PCBs). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that polychlorinated biphenyls (PCBs) are a health concern at certain levels of exposure. These organic chemicals were once widely used in electrical transformers and other industrial equipment. They generally get into drinking water by improper waste disposal or leaking electrical industrial equipment. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for PCBs at 0.0005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to PCBs.

60. Selenium. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that selenium is a health concern at certain high levels of exposure. Selenium is also an essential nutrient at low levels of exposure. This inorganic chemical is found naturally in food and soils and is used in electronics, photocopy operations, the manufacture of glass, chemicals, drugs, and as a fungicide and a feed additive. In humans, exposure to high levels of selenium over a long period of time has resulted in a number of adverse health effects, including a loss of feeling and control in the arms and legs. EPA has set the drinking water standard for selenium at 0.05 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to selenium.

61. Simazine. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that simazine is a health concern at certain levels of exposure. This organic chemical is a herbicide used to control annual grasses and broadleaf weeds. It may leach into groundwater or run off into surface water after application. This chemical may cause cancer in laboratory animals such as rats and mice exposed at high levels during their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for simazine at 0.004 parts per million (ppm) to reduce the risk of cancer or other adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to simazine.

62. Styrene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that styrene is a health concern at certain levels of exposure. This organic chemical is commonly used to make plastics and is sometimes a component of resins used for drinking water treatment. Styrene may get into drinking water from improper waste disposal. This chemical has been shown to damage the liver and nervous system in laboratory animals when exposed at high levels during their lifetimes. EPA has set the drinking water standard for styrene at 0.1 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to styrene.

63. 2,3,7,8-TCDD (Dioxin). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that dioxin is a health concern at certain levels of exposure. This organic chemical is an impurity in the production of some pesticides. It may get into drinking water by industrial discharge of wastes. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for dioxin at 0.00000003 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe with respect to dioxin.

64. 2,4,5-TP. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 2,4,5-TP is a health concern at certain levels of exposure. This organic chemical is used as a herbicide. When soil and climatic conditions are favorable, 2,4,5-TP may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to damage the liver and kidneys of laboratory animals such as rats and dogs exposed to high levels during their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemical during working careers also suffered damage to the nervous system. EPA has set the drinking water standard for 2,4,5-TP at 0.05 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to 2,4,5-TP.

65. Tetrachloroethylene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that tetrachloroethylene is a health concern at certain levels of exposure. This organic chemical has been a popular solvent, particularly for dry cleaning. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for tetrachloroethylene at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to tetrachloroethylene.

66. Thallium. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that thallium is a health concern at certain high levels of exposure. This inorganic metal is found naturally in soils and is used in electronics, pharmaceuticals, and the manufacture of glass and alloys. This chemical has been shown to damage the kidneys, liver, brain and intestines of laboratory animals when the animals are exposed at high levels over their lifetimes. EPA has set the drinking water standard for thallium at 0.002 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to thallium.

67. Toluene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that toluene is a health concern at certain levels of exposure. This organic chemical is used as a solvent and in the manufacture of gasoline for airplanes. It generally gets into water by improper waste disposal or leaking underground storage tanks. This chemical has been shown to damage the kidneys, nervous system, and circulatory system of laboratory animals such as rats and mice exposed to high levels during their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemical during working careers also suffered damage to the liver, kidneys and nervous system. EPA has set the drinking water standard for toluene at 1 part per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to toluene.

68. Toxaphene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that toxaphene is a health concern at certain levels of exposure. This organic chemical was once a pesticide widely used on cotton, corn, soybeans, pineapples and other crops. When soil and climatic conditions are favorable, toxaphene may get into drinking water by runoff into surface water or by leaching into groundwater. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed over long periods of time. EPA has set the drinking water standard for toxaphene at 0.003 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water that meets this standard is associated with little to none of this risk and is considered safe with respect to toxaphene.

69. 1,2,4-Trichlorobenzene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,2,4-trichlorobenzene is a health concern at certain levels of exposure. This organic chemical is used as a dye carrier and as a precursor in herbicide manufacture. It generally gets into drinking water by discharges from industrial activities. This chemical has been shown to cause damage to several organs, including the adrenal glands. EPA has set the drinking water standard for 1,2,4-trichlorobenzene at 0.07 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to 1,2,4-trichlorobenzene.

70. 1,1,1-Trichloroethane. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,1,1-trichloroethane is a health concern at certain levels of exposure. This chemical is used as a cleaner and degreaser of metals. It generally gets into drinking water by improper waste disposal. This chemical has been shown to damage the liver, nervous system, and circulatory system of laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemical during their working careers also suffered damage to the liver, nervous system, and circulatory system. Chemicals which cause adverse effects among exposed industrial workers and in laboratory animals also may cause adverse health effects in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for 1,1,1-trichloroethane at 0.2 parts per million (ppm) to protect against the risk of these adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

71. 1,1,2-Trichloroethane. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,1,2-trichloroethane is a health concern at certain levels of exposure. This organic chemical is an intermediate in the production of 1,1-dichloroethylene. It generally gets into water by industrial discharge of wastes. This chemical has been shown to damage the kidneys and liver of laboratory animals such as rats exposed to high levels during their lifetimes. EPA has set the drinking water standard for 1,1,2-trichloroethane at 0.005 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water which meets the EPA standard is associated with little to none of this risk and should be considered safe with respect to 1,1,2-trichloroethane.

72. Trichloroethylene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that trichloroethylene is a health concern at certain levels of exposure. This chemical is a common metal-cleaning and dry-cleaning fluid. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set forth the enforceable drinking water standard for trichloroethylene at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

73. Vinyl chloride. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that vinyl chloride is a health concern at certain levels of exposure. This chemical is used in industry and is found in drinking water as a result of the breakdown of related solvents. The solvents are used as cleaners and degreasers of metals and generally get into drinking water by improper waste disposal. This chemical has been associated with significantly increased risks of cancer among certain industrial workers who were exposed to relatively large amounts of this chemical during their working careers. This chemical has also been shown to cause cancer in laboratory animals when the animals are exposed at high levels over their lifetimes. Chemicals that cause increased risk of cancer among exposed industrial workers and in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for vinyl chloride at 0.002 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

74. Xylene. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that xylene is a health concern at certain levels of exposure. This organic chemical is used in the manufacture of gasoline for airplanes and as a solvent for pesticides, and as a cleaner and degreaser of metals. It usually gets into water by improper waste disposal. This chemical has been shown to damage the liver, kidneys and nervous system of laboratory animals such as rats and dogs exposed to high levels during their lifetimes. Some humans who were exposed to relatively large amounts of this chemical also suffered damage to the nervous system. EPA has set the drinking water standard for xylene at 10 parts per million (ppm) to protect against the risk of these adverse health effects. Drinking water that meets the EPA standard is associated with little to none of this risk and is considered safe with respect to xylene.

APPENDIX B:
MINIMUM SELF-MONITORING REQUIREMENTS (SMR)

I. Minimum Self-Monitoring Requirements for TNCs (excluding surface water or influenced groundwater PWSs)

Notes:

- The self-monitoring requirements (SMRs) only apply to those supplies meeting the criteria in 42.4(3)*"a"*(1).
- TNCs are exempt from the self-monitoring requirements for point-of-use treatment devices, unless the device is used to remove a contaminant which has a health-based standard, in which case additional SMRs will be assigned by the department.
- Daily monitoring for TNCs applies only when the facility is in operation.
- Additional or more frequent monitoring requirements may be assigned by the department in the operation permit.
- Additional SMRs are required if treatment is used to remove a regulated contaminant. See Section II for the requirements under the specific treatment type.

General Requirements

All TNCs which meet the criteria in 42.4(3)*"a"*(1) must measure the following parameters, where applicable. Additional SMRs are required if treatment is used to remove a contaminant which has a health-based standard. See Section II for the requirements under the specific treatment type.

	PWS Type:	TNC*
Parameter	Sample Site	Frequency
Pumpage (Flow)	raw: final:	1/week 1/week
Disinfectant Residual	final: distribution system**:	1/day 1/day
Disinfectant, quantity used	day tank/scale:	1/day
Static Water and Pumping Water Levels (Drawdown)	each active well:	1/month

*TNCs must measure and record the total water used each week, but daily measurements are recommended, and may be required by the department in specific PWSs.

**Monitoring is to be conducted at representative points in the distribution system which adequately demonstrate compliance with 42.4(3)*"b"*(1).

II. Minimum Self-Monitoring Requirements for CWS, NTNC, and IGW/SW TNC

Notes:

- The self-monitoring requirements (SMR) only apply to those supplies meeting the criteria in 42.4(3)*"a"*(1).
- NTNCs are exempt from the self-monitoring requirements for point-of-use treatment devices, unless the device is used to remove a contaminant which has a health-based standard, in which case additional SMRs will be assigned by the department.
- Daily monitoring for NTNCs applies only when the facility is in operation.
- These are the minimum self-monitoring requirements. Additional or more frequent monitoring requirements may be assigned by the department in the operation permit.

A. General Requirements

All PWSs which meet the criteria in 42.4(3)*"a"*(1) must measure the following parameters, where applicable:

	PWS Type:	NTNC*	CWS
Parameter	Sample Site	Frequency	Frequency
Pumpage (Flow)	raw:	1/week	1/day
	bypass:	1/week	1/day
	final:	1/week	1/day
Static Water and Pumping Water Levels (Drawdown)	each active well:	1/month	1/month

*NTNCs must measure and record the total water used each week, but daily measurements are recommended, and may be required by the department in specific PWSs.

B. Chemical Addition

All PWSs which apply chemicals in the treatment process must monitor the following parameters, for the applicable processes:

	Pumpage or Flow:	0.025-0.1 MGD	0.1-0.5 MGD	>0.5 MGD
Parameter	Sample Site	Frequency	Frequency	Frequency
DISINFECTION				
Disinfectant Residual	final:	1/day	1/day	1/day
	distribution system*:	1/day	1/day	1/day
Disinfectant, quantity used	day tank/scale:	1/day	1/day	1/day
FLUORIDATION				
Fluoride	raw:	1/quarter	1/month	1/month
	final:	1/day	1/day	1/day
Fluoride, quantity used	day tank/scale:	1/day	1/day	1/day
pH ADJUSTMENT				
pH	final:	1/week	2/week	1/day
Caustic Soda, quantity used	day tank/scale:	1/week	1/week	1/week
PHOSPHATE ADDITION				
Phosphate, as PO_4	final:	1/week	2/week	1/day
Phosphate, quantity used	day tank/scale:	1/week	1/week	1/week
OTHER CHEMICALS				
Chemical	final:	1/week	2/week	1/day
Chemical, quantity used	day tank/scale:	1/week	1/week	1/week

Monitoring is to be conducted at representative points in the distribution system which adequately demonstrate compliance with 42.4(3)"b"*(1).

C. Iron or Manganese Removal

Nonmunicipalities except rural water systems, benefited water districts, and publicly owned PWSs are exempt from monitoring of iron/manganese removal equipment unless the treatment is or was installed to remove a contaminant which has a health-based standard. Any chemicals which are applied during the treatment process must be measured under section "B. Chemical Addition" of this table.

	Pumpage or Flow:	0.025-0.1 MGD	0.1-0.5 MGD	>0.5 MGD
Parameter	Sample Site	Frequency	Frequency	Frequency
Iron	raw:	1/quarter	1/month	1/month
	final:	1/week	2/week	1/day
Manganese	raw:	1/quarter	1/month	1/month
	final:	1/week	2/week	1/day

D. pH Adjustment for Iron and Manganese Removal, by precipitation and coagulation processes utilizing lime, soda ash, or other chemical additions. Testing is only required if a specific chemical is added.

	Pumpage or Flow:	0.025-0.1 MGD	0.1-0.5 MGD	>0.5 MGD
Parameter	Sample Site	Frequency	Frequency	Frequency
Alkalinity	raw:	1/quarter	1/month	1/month
	final:	1/week	2/week	1/day
Iron	raw:	1/quarter	1/month	1/month
	final:	1/week	2/week	1/day
Manganese	raw:	1/quarter	1/month	1/month
	final:	1/week	2/week	1/day
pH	raw:	1/week	1/week	1/week
	final:	1/week	2/week	1/day

E. Catione Exchange (Zeolite) Softening

Nonmunicipalities except for rural water systems and benefited water districts are exempt from the monitoring of water quality parameters associated with ion-exchange softening unless the treatment is or was installed to remove a contaminant which has a health-based standard.

	Pumpage or Flow:	0.025-0.1 MGD	0.1-0.5 MGD	>0.5 MGD
Parameter	Sample Site	Frequency	Frequency	Frequency
Hardness as $CaCO_3$	raw:	1/quarter	1/month	1/month
	final:	1/week	2/week	1/day
pH	final:	1/week	2/week	1/day
Sodium	final:	1/year	1/year	1/year

F. Direct Filtration of Surface Waters or Influenced Groundwaters

	Pumpage or Flow:	All
Parameter	Sample Site	Frequency
CT Ratio	final:	1/day
Disinfectant Residual	source/entry point: distribution system*:	see 567—subrules 43.5(2) and 43.5(4) for the specific requirements
Disinfectant, quantity used	day tank/scale:	1/day
pH	final:	1/day
Temperature	raw:	1/day
Turbidity	raw: final:	see 567—subrules 43.5(3) and 43.5(4) for the specific requirements

*Monitoring is to be conducted at representative points in the distribution system which adequately demonstrate compliance with 567—subrule 43.5(2) and 567—subrule 43.5(4).

G. Clarification or Lime Softening of Surface Waters or Influenced Groundwaters

	Pumpage or Flow:	All
Parameter	Sample Site	Frequency
Alkalinity	raw: final:	1/day 1/day
Caustic Soda, quantity used	day tank/scale:	1/week
CT Ratio	final:	1/day
Disinfectant Residual	source/entry point: distribution system*:	see 567—subrules 43.5(2) and 43.5(4) for the specific requirements
Disinfectant, quantity used	day tank/scale:	1/day
Hardness as $CaCO_3$	raw: final:	1/day 1/day
Odor	raw: final:	1/week 1/day
pH	raw: final:	1/day 1/day
Temperature	raw:	1/day
Turbidity	raw: final:	see 567—subrules 43.5(3) and 43.5(4) for the specific requirements

*Monitoring is to be conducted at representative points in the distribution system which adequately demonstrate compliance with 567—subrule 43.5(2) and 567—subrule 43.5(4).

H. Lime Softening of Groundwaters (excluding IGW)

	Pumpage or Flow:	0.025-0.1 MGD	>0.1 MGD
Parameter	Sample Site	Frequency	Frequency
Alkalinity	raw:	1/quarter	1/month
	final:	1/day	1/day
Hardness as $CaCO_3$	raw:	1/quarter	1/month
	final:	1/day	1/day
pH	raw:	1/week	1/week
	final:	1/day	1/day
Temperature	raw:	1/week	1/week

I. Reverse Osmosis or Electrodialysis

	Pumpage or Flow:	0.025-0.1 MGD	>0.1 MGD
Parameter	Sample Site	Frequency	Frequency
Alkalinity	raw:	1/quarter	1/month
	final:	1/day	1/day
Hardness as $CaCO_3$	raw:	1/quarter	1/month
	final:	1/day	1/day
Iron	raw:	1/day	1/day
Manganese	raw:	1/day	1/day
pH	raw:	1/week	1/week
	final:	1/day	1/day
Total Dissolved Solids	raw:	1/month	1/month

J. Anion Exchange (i.e., Nitrate Reduction)

	Pumpage or Flow:	0.025-0.1 MGD	>0.1 MGD
Parameter	Sample Site	Frequency	Frequency
Nitrate	raw:	1/day	1/day
	final:	1/day	1/day
Sulfate	raw:	1/week	1/week
	final:	1/week	1/week

K. Activated Carbon for TTHM, VOC, or SOC Removal (GAC or PAC)

	Pumpage or Flow:	0.025-0.1 MGD	>0.1 MGD
Parameter	Sample Site	Frequency	Frequency
Total Organic Carbon (TOC)	final:	1/quarter	1/month

L. Air-Stripping for TTHM, VOC, or SOC Removal

	Pumpage or Flow:	0.025-0.1 MGD	>0.1 MGD
Parameter	Sample Site	Frequency	Frequency
Total Organic Carbon (TOC)	final:	1/quarter	1/month

M. Lead and Copper: Corrosion Control and Water Quality Parameters

The specific SMRs for corrosion control and water quality parameters are listed in 567—paragraph 41.4(1)*"d"* and 567—subrules 43.8(1) and 43.8(2).

N. Consecutive PWSs Supplied by a Surface Water or IGW PWS

	Pumpage or Flow:	All
Parameter	Sample Site	Frequency
Disinfectant Residual	source/entry point:	1/day
	distribution system*:	1/day
Disinfectant, quantity used (if applicable)	day tank/scale:	1/day
Pumpage or Flow	master meter:	1/day

*Monitoring is to be conducted at representative points in the distribution system.

APPENDIX C:
CONVERTING MCL COMPLIANCE VALUES FOR CONSUMER CONFIDENCE REPORTS

Key

AL	Action Level
MCL	Maximum Contaminant Level
MCLG	Maximum Contaminant Level Goal
MFL	million fibers per liter
mrem/year	millirems per year (a measure of radiation absorbed by the body)
NTU	nephelometric turbidity units
pCi/L	picocuries per liter (a measure of radioactivity)
ppb	parts per billion, or micrograms per liter (μg/L)
ppm	parts per million, or milligrams per liter (mg/L)
ppq	parts per quadrillion, or picograms per liter (pg/L)
ppt	parts per trillion, or nanograms per liter (ng/L)
TT	Treatment Technique

MICROBIOLOGICAL CONTAMINANTS

Contaminant	MCL in compliance units (mg/L)	multiply by...	MCL in CCR units	MCLG in CCR units
Total coliform bacteria			presence of coliform bacteria in > 5% of monthly samples	0
Fecal coliform and *E. coli*			A routine sample and a repeat sample are total coliform positive, and one is also fecal coliform or *E. coli* positive	0
Turbidity			TT (NTU)	n/a

RADIONUCLIDE CONTAMINANTS

Contaminant	MCL in compliance units (mg/L)	multiply by...	MCL in CCR units	MCLG in CCR units
Beta/photon emitters	4 mrem/yr		4 mrem/yr	0
Alpha emitters	15 pCi/L		15 pCi/L	0
Combined radium	5 pCi/L		5 pCi/L	0

INORGANIC CONTAMINANTS

Contaminant	MCL in compliance units (mg/L)	multiply by...	MCL in CCR units	MCLG in CCR units
Antimony	0.006	1000	6 ppb	6
Arsenic	0.05	1000	50 ppb	n/a
Asbestos	7 MFL		7 MFL	7
Barium	2		2 ppm	2
Beryllium	0.004	1000	4 ppb	4
Cadmium	0.005	1000	5 ppb	5
Chromium	0.1	1000	100 ppb	100
Copper	AL = 1.3		AL=1.3 ppm	1.3
Cyanide	0.2	1000	200 ppb	200
Fluoride	4		4 ppm	4
Lead	AL = 0.015	1000	AL=15 ppb	0
Mercury (inorganic)	0.002	1000	2 ppb	2
Nitrate (as Nitrogen)	10		10 ppm	10
Nitrite (as Nitrogen)	1		1 ppm	1
Selenium	0.05	1000	50 ppb	50
Thallium	0.002	1000	2 ppb	0.5

SYNTHETIC ORGANIC CONTAMINANTS, including Pesticides and Herbicides

Contaminant	MCL in compliance units (mg/L)	multiply by...	MCL in CCR units	MCLG in CCR units
2,4-D	0.07	1000	70 ppb	70
2,4,5-TP (Silvex)	0.05	1000	50 ppb	50
Acrylamide	0		TT	0
Alachlor	0.002	1000	2 ppb	0
Atrazine	0.003	1000	3 ppb	3
Benzo(a)pyrene [PAHs]	0.0002	1,000,000	200 ppt	0
Carbofuran	0.04	1000	40 ppb	40
Chlordane	0.002	1000	2 ppb	0
Dalapon	0.2	1000	200 ppb	200
Di (2-ethylhexyl) adipate	0.4	1000	400 ppb	400
Di (2-ethylhexyl) phthalate	0.006	1000	6 ppb	0
Dibromochloropropane	0.0002	1,000,000	200 ppt	0
Dinoseb	0.007	1000	7 ppb	7
Diquat	0.02	1000	20 ppb	20
Dioxin [2,3,7,8-TCDD]	0.00000003	1,000,000,000	30 ppq	0
Endothall	0.1	1000	100 ppb	100
Endrin	0.002	1000	2 ppb	2
Epichlorohydrin			TT	0
Ethylene dibromide	0.00005	1,000,000	50 ppt	0
Glyphosate	0.7	1000	700 ppb	700
Heptachlor	0.0004	1,000,000	400 ppt	0
Heptachlor epoxide	0.0002	1,000,000	200 ppt	0
Hexachlorobenzene	0.001	1000	1 ppb	0
Hexachlorocyclopentadiene	0.05	1000	50 ppb	50
Lindane	0.0002	1,000,000	200 ppt	200
Methoxychlor	0.04	1000	40 ppb	40
Oxamyl [Vydate]	0.2	1000	200 ppb	200
PCBs [Polychlorinated biphenyls]	0.0005	1,000,000	500 ppt	0
Pentachlorophenol	0.001	1000	1 ppb	0
Picloram	0.5	1000	500 ppb	500
Simazine	0.004	1000	4 ppb	4
Toxaphene	0.003	1000	3 ppb	0

VOLATILE ORGANIC CONTAMINANTS

Contaminant	MCL in compliance units (mg/L)	multiply by...	MCL in CCR units	MCLG in CCR units
Benzene	0.005	1000	5 ppb	0
Carbon tetrachloride	0.005	1000	5 ppb	0
Chlorobenzene	0.1	1000	100 ppb	100
o-Dichlorobenzene	0.6	1000	600 ppb	600
p-Dichlorobenzene	0.075	1000	75 ppb	75
1,2-Dichloroethane	0.005	1000	5 ppb	0
1,1-Dichloroethylene	0.007	1000	7 ppb	7
cis-1,2-Dichloroethylene	0.07	1000	70 ppb	70
trans-1,2-Dichloroethylene	0.1	1000	100 ppb	100
Dichloromethane	0.005	1000	5 ppb	0
1,2-Dichloropropane	0.005	1000	5 ppb	0
Ethylbenzene	0.7	1000	700 ppb	700
Styrene	0.1	1000	100 ppb	100
Tetrachloroethylene	0.005	1000	5 ppb	0
1,2,4-Trichlorobenzene	0.07	1000	70 ppb	70
1,1,1-Trichloroethane	0.2	1000	200 ppb	200
1,1,2-Trichloroethane	0.005	1000	5 ppb	3
Trichloroethylene	0.005	1000	5 ppb	0
TTHM [Total trihalomethanes]	0.1	1000	100 ppb	0
Toluene	1		1 ppm	1
Vinyl Chloride	0.002	1000	2 ppb	0
Xylene	10		10 ppm	10

APPENDIX D:
REGULATED CONTAMINANTS TABLES FOR CONSUMER CONFIDENCE REPORTS

Key

AL	Action Level
MCL	Maximum Contaminant Level
MCLG	Maximum Contaminant Level Goal
MFL	million fibers per liter
mrem/year	millirems per year (a measure of radiation absorbed by the body)
NTU	nephelometric turbidity units
pCi/L	picocuries per liter (a measure of radioactivity)
ppb	parts per billion, or micrograms per liter (μg/L)
ppm	parts per million, or milligrams per liter (mg/L)
ppq	parts per quadrillion, or picograms per liter (pg/L)
ppt	parts per trillion, or nanograms per liter (ng/L)
TT	Treatment Technique

MICROBIOLOGICAL CONTAMINANTS

Contaminant (units)	MCLG	MCL	Major Source in drinking water
Total coliform bacteria	0	presence of coliform bacteria in >5% of monthly samples	Naturally present in the environment
Fecal coliform and *E. coli*	0	A routine sample and a repeat sample are total coliform positive, and one is also fecal coliform or *E. coli* positive	Human and animal fecal waste
Turbidity	N/A	TT	Soil runoff

RADIONUCLIDE CONTAMINANTS

Contaminant (units)	MCLG	MCL	Major Source in drinking water
Beta/photon emitters (mrem/yr)	0	4	Decay of natural and man-made deposits
Alpha emitters (pCi/L)	0	15	Erosion of natural deposits
Combined radium (pCi/L)	0	5	Erosion of natural deposits

INORGANIC CONTAMINANTS

Contaminant (units)	MCLG	MCL	Major Source in drinking water
Antimony (ppb)	6	6	Discharge from petroleum refineries; fire retardants; ceramics; electronics; solder
Arsenic (ppb)	N/A	50	Erosion of natural deposits; runoff from orchards; natural deposits; runoff from glass and electronic production wastes
Asbestos (MFL)	7	7	Decay of asbestos cement water mains; erosion of natural deposits
Barium (ppm)	2	2	Discharge of drilling wastes; discharge from metal refineries; erosion of natural deposits
Beryllium (ppb)	4	4	Discharge from metal refineries and coal-burning factories; discharge from electrical, aerospace, and defense industries
Cadmium (ppb)	5	5	Corrosion of galvanized pipes; erosion of natural deposits; discharge from metal refineries; runoff from waste batteries and paints
Chromium (ppb)	100	100	Discharge from steel and pulp mills; erosion of natural deposits
Copper (ppm)	1.3	AL=1.3	Corrosion of household plumbing systems; erosion of natural deposits; leaching from wood preservatives
Cyanide (ppb)	200	200	Discharge from steel/metal factories; discharge from plastic and fertilizer factories
Fluoride (ppm)	4	4	Water additive which promotes strong teeth; erosion of natural deposits; discharge from fertilizer and aluminum factories
Lead (ppb)	0	AL=15	Corrosion of household plumbing systems; erosion of natural deposits
Mercury [inorganic] (ppb)	2	2	Erosion of natural deposits; discharge from refineries and factories; runoff from landfills; runoff from cropland
Nitrate [as N] (ppm)	10	10	Runoff from fertilizer use; leaching from septic tanks, sewage; erosion of natural deposits
Nitrite [as N] (ppm)	1	1	Runoff from fertilizer use; leaching from septic tanks, sewage; erosion of natural deposits
Selenium (ppb)	50	50	Discharge from petroleum and metal refineries; erosion of natural deposits; discharge from mines
Thallium (ppb)	0.5	2	Leaching from ore-processing sites; discharge from electronics, glass, and drug factories

SYNTHETIC ORGANIC CONTAMINANT, including Pesticides and Herbicides

Contaminant (units)	MCLG	MCL	Major Source in drinking water
2,4-D (ppb)	70	70	Runoff from herbicide used on row crops
2,4,5-TP (Silvex) (ppb)	50	50	Residue of banned herbicide
Acrylamide	0	TT	Added to water during sewage/wastewater treatment
Alachlor (ppb)	0	2	Runoff from herbicide used on row crops
Atrazine (ppb)	3	3	Runoff from herbicide used on row crops
Benzo(a)pyrene [PAHs] (ppt)	0	200	Leaching from linings of water storage tanks and distribution lines
Carbofuran (ppb)	40	40	Leaching of soil fumigant used on rice and alfalfa
Chlordane (ppb)	0	2	Residue of banned termiticide
Dalapon (ppb)	200	200	Runoff from herbicide used on rights of way
Di (2-ethylhexyl)adipate (ppb)	400	400	Leaching from PVC plumbing systems; discharge from chemical factories
Di (2-ethylhexyl)phthalate (ppb)	0	6	Discharge from rubber and chemical factories
Dibromochloropropane (ppt)	0	200	Runoff/leaching from soil fumigant used on soybeans, cotton, pineapples, and orchards
Dinoseb (ppb)	7	7	Runoff from herbicide used on soybeans and vegetables
Diquat (ppb)	20	20	Runoff from herbicide use
Dioxin [2,3,7,8-TCDD] (ppq)	0	30	Emissions from waste incineration and other combustion; discharge from chemical factories
Endothall (ppb)	100	100	Runoff from herbicide use
Endrin (ppb)	2	2	Residue of banned insecticide
Epichlorohydrin	0	TT	Discharge from industrial chemical factories; an impurity of some water treatment chemicals
Ethylene dibromide (ppt)	0	50	Discharge from petroleum refineries

Contaminant (units)	MCLG	MCL	Major Source in drinking water
Glyphosate (ppb)	700	700	Runoff from herbicide use
Heptachlor (ppt)	0	400	Residue of banned termiticide
Heptachlor epoxide (ppt)	0	200	Breakdown of heptachlor
Hexachlorobenzene (ppb)	0	1	Discharge from metal refineries and agricultural chemical factories
Hexachlorocyclopentadiene (ppb)	50	50	Discharge from chemical factories
Lindane (ppt)	200	200	Runoff/leaching from insecticide used on cattle, lumber, gardens
Methoxychlor (ppb)	40	40	Runoff/leaching from insecticide used on fruits, vegetables, alfalfa, livestock
Oxamyl [Vydate] (ppb)	200	200	Runoff/leaching from insecticide used on apples, potatoes and tomatoes
PCBs (ppt) [Polychlorinated biphenyls]	0	500	Runoff from landfills; discharge of waste chemicals
Pentachlorophenol (ppb)	0	1	Discharge from wood preserving factories
Picloram (ppb)	500	500	Herbicide runoff
Simazine (ppb)	4	4	Herbicide runoff
Toxaphene (ppb)	0	3	Runoff/leaching from insecticide used on cotton and cattle

VOLATILE ORGANIC CONTAMINANTS

Contaminant (units)	MCLG	MCL	Major Source in drinking water
Benzene (ppb)	0	5	Discharge from factories; leaching from gas storage tanks and landfills
Carbon tetrachloride (ppb)	0	5	Discharge from chemical plants and other industrial activities
Chlorobenzene (ppb)	100	100	Discharge from chemical and agricultural chemical factories
o-Dichlorobenzene (ppb)	600	600	Discharge from industrial chemical factories
p-Dichlorobenzene (ppb)	75	75	Discharge from industrial chemical factories
1,2-Dichloroethane (ppb)	0	5	Discharge from industrial chemical factories
1,1-Dichloroethylene (ppb)	7	7	Discharge from industrial chemical factories
cis-1,2-Dichloroethylene (ppb)	70	70	Discharge from industrial chemical factories
trans-1,2-Dichloroethylene (ppb)	100	100	Discharge from industrial chemical factories
Dichloromethane (ppb)	0	5	Discharge from pharmaceutical and chemical factories
1,2-Dichloropropane (ppb)	0	5	Discharge from industrial chemical factories
Ethylbenzene (ppb)	700	700	Discharge from petroleum refineries
Styrene (ppb)	100	100	Discharge from rubber and plastic factories; leaching from landfills
Tetrachloroethylene (ppb)	0	5	Leaching from PVC pipes; discharge from factories and dry cleaners
1,2,4-Trichlorobenzene (ppb)	70	70	Discharge from textile-finishing factories
1,1,1-Trichloroethane (ppb)	200	200	Discharge from metal degreasing sites and other factories
1,1,2-Trichloroethane (ppb)	3	5	Discharge from industrial chemical factories
Trichloroethylene (ppb)	0	5	Discharge from metal degreasing sites and other factories
TTHM (ppb) [Total trihalomethanes]	0	100	By-products of drinking water chlorination
Toluene (ppm)	1	1	Discharge from petroleum factories
Vinyl Chloride (ppb)	0	2	Leaching from PVC piping; discharge from plastics factories
Xylene (ppm)	10	10	Discharge from petroleum factories; discharge from chemical factories

APPENDIX E:
HEALTH EFFECTS LANGUAGE FOR CONSUMER CONFIDENCE REPORTS

MICROBIOLOGICAL CONTAMINANTS

(1) Total coliform. Coliforms are bacteria which are naturally present in the environment and are used as an indicator that other, potentially harmful bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.

(2) Fecal coliform/*E. coli*. Fecal coliform and *E. coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, and people with severely compromised immune systems.

(3) Turbidity. Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

RADIOACTIVE CONTAMINANTS

(4) Beta/photon emitters. Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer.

(5) Alpha emitters. Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. People who drink water containing these alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.

(6) Combined radium 226/228. Some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer.

INORGANIC CONTAMINANTS

(7) Antimony. Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar.

(8) Arsenic. Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.

(9) Asbestos. Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps.

(10) Barium. Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure.

(11) Beryllium. Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions.

(12) Cadmium. Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.

(13) Chromium. Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.

(14) Copper. Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's disease should consult their personal doctor.

(15) Cyanide. Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.

(16) Fluoride. Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Children may get mottled teeth.

(17) Lead. Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure.

(18) Mercury (inorganic). Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.

(19) Nitrate. Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome.

(20) Nitrite. Infants below the age of six months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome.

(21) Selenium. Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail loss, numbness in fingers or toes, or problems with their circulation.

(22) Thallium. Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.

SYNTHETIC ORGANIC CONTAMINANTS INCLUDING PESTICIDES AND HERBICIDES

(23) 2,4-D. Some people who drink water containing the weedkiller 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands.

(24) 2,4,5-TP (Silvex). Some people who drink water containing Silvex in excess of the MCL over many years could experience liver problems.

(25) Acrylamide. Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood and may have an increased risk of getting cancer.

(26) Alachlor. Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer.

(27) Atrazine. Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or difficulties with their reproductive system.

(28) Benzo(a)pyrene (PAHs). Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer.

(29) Carbofuran. Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood or nervous or reproductive systems.

(30) Chlordane. Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system and may have an increased risk of getting cancer.

(31) Dalapon. Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes.

(32) Dibromochloropropane (DBCP). Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.

(33) Di(2-ethylhexyl)adipate. Some people who drink water containing di(2-ethylhexyl)adipate well in excess of the MCL over many years could experience general toxic effects or reproductive difficulties.

(34) Di(2-ethylhexyl)phthalate. Some people who drink water containing di(2-ethylhexyl)phthalate in excess of the MCL over many years may have problems with their liver or experience reproductive difficulties and may have an increased risk of getting cancer.

(35) Dinoseb. Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties.

(36) Dioxin (2,3,7,8-TCDD). Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.

(37) Diquat. Some people who drink water containing diquat in excess of the MCL over many years could get cataracts.

(38) Endothall. Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.

(39) Endrin. Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems.

(40) Epichlorohydrin. Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems and may have an increased risk of getting cancer.

(41) Ethylene dibromide. Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys and may have an increased risk of getting cancer.

(42) Glyphosate. Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties.

(43) Heptachlor. Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.

(44) Heptachlor epoxide. Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.

(45) Hexachlorobenzene. Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, adverse reproductive effects, and may have an increased risk of getting cancer.

(46) Hexachlorocyclopentadiene. Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their stomach or kidneys.

(47) Lindane. Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver.

(48) Methoxychlor. Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties.

(49) Oxamyl (Vydate). Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects.

(50) PCBs (Polychlorinated biphenyls). Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer.

(51) Pentachlorophenol. Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys and may have an increased risk of getting cancer.

(52) Picloram. Some people who drink water containing picloram well in excess of the MCL over many years could experience problems with their liver.

(53) Simazine. Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood.

(54) Toxaphene. Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid and may have an increased risk of getting cancer.

VOLATILE ORGANIC CONTAMINANTS

(55) Benzene. Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets and may have an increased risk of getting cancer.

(56) Carbon tetrachloride. Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

(57) Chlorobenzene. Some people who drink water containing chlorobenzene well in excess of the MCL over many years could experience problems with their kidneys or liver.

(58) o-Dichlorobenzene. Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory system.

(59) para-Dichlorobenzene. Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood.

(60) 1,2-Dichloroethane. Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer.

(61) 1,1-Dichloroethylene. Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

(62) cis-1,2-Dichloroethylene. Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

(63) trans-1,2-Dicholoroethylene. Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver.

(64) Dichloromethane. Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer.

(65) 1,2-Dichloropropane. Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer.

(66) Ethylbenzene. Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys.

(67) Styrene. Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system.

(68) Tetrachloroethylene. Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver and may have an increased risk of getting cancer.

(69) 1,2,4-Trichlorobenzene. Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands.

(70) 1,1,1-Trichloroethane. Some people who drink water containing 1,1,1-trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system or circulatory system.

(71) 1,1,2-Trichloroethane. Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune system.

(72) Trichloroethylene. Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

(73) TTHMs (Total Trihalomethanes). Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous system and may have an increased risk of getting cancer.

(74) Toluene. Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver.

(75) Vinyl chloride. Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer.

(76) Xylene. Some people who drink water containing xylene in excess of the MCL over many years could experience damage to their nervous system.

APPENDIX F:
HEALTH EFFECTS LANGUAGE FOR FLUORIDE LEVELS BETWEEN 2 AND 4 MG/L

Your public water supplier must notify customers when monitoring indicates that the fluoride in your drinking water exceeds 2.0 mg/L. This is intended to alert families about dental problems that might affect children under nine years of age. The fluoride concentration of your water exceeds this federal guideline.

Fluoride in children's drinking water at levels of approximately 1 mg/L reduces the number of dental cavities. However, some children exposed to levels of fluoride greater than about 2.0 mg/L may develop dental fluorosis. Dental fluorosis, in its moderate and severe forms, is a brown staining or pitting of the permanent teeth, or both.

Because dental fluorosis occurs only when developing teeth (before they erupt from the gums) are exposed to elevated fluoride levels, households without children are not expected to be affected by this level of fluoride.

Families with children under the age of nine are encouraged to seek other sources of drinking water for their children to avoid the possibility of staining and pitting.

Your water supplier can lower the concentration of fluoride in your water so you will still receive the benefits of cavity prevention while the possibility of stained and pitted teeth is minimized. Removal of fluoride may increase your water costs. Treatment systems are also commercially available for home use. Information on such systems is available at the address given by your public water supplier. Low fluoride bottled drinking water that would meet all standards is also commercially available.

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CHAPTER 43
WATER SUPPLIES — DESIGN AND OPERATION
[Prior to 12/12/90, portions of this chapter appeared in 567—Ch 41]

567—43.1(455B) General information.

43.1(1) *Emergency actions regarding water supplies.* When, in the opinion of the director, an actual or imminent hazard exists, the supplier of water shall comply with the directives or orders of the director necessary to eliminate or minimize that hazard.

43.1(2) *Prohibition on the use of lead pipes, solder and flux.* Any pipe, solder or flux which is used in the installation or repair of any public water supply system or any plumbing in a residential or nonresidential facility providing water for human consumption which is connected to a public water supply system shall be lead-free as defined in 567—40.2(455B). This action shall not apply to leaded joints necessary for the repair of cast iron pipe.

43.1(3) *Use of noncentralized treatment devices.*

a. Community PWS. Community public water systems shall not use bottled water, point-of-use (POU) or point-of-entry (POE) devices to achieve permanent compliance with a health-based standard in 567—Chapters 41 and 43.

b. Noncommunity PWS. Noncommunity public water supply systems may be allowed by the department to use point-of-use devices to achieve MCL compliance provided the contaminant does not pose an imminent threat to health (such as bacteria) nor place a sensitive population at risk (such as infants for nitrate or nitrite).

c. Reduced monitoring requirements. Bottled water, point-of-use, or point-of-entry devices cannot be used to avoid the monitoring requirements of 567—Chapters 41 and 43, but the department may allow reduced monitoring requirements in specific instances.

d. Bottled water requirements. The department may require a public water system exceeding a maximum contaminant level, action level, or treatment technique requirement specified in 567—Chapters 41 and 43 to use bottled water as a condition of an interim compliance schedule or as a temporary measure to avoid an unreasonable risk to health. Any bottled water must, at a minimum, meet the federal Food and Drug Administration bottled water standards, listed in the Code of Federal Regulations, Title 21, Chapter 165.110. The system must meet the following requirements:

(1) Monitoring program. Submit for approval to the department a monitoring program for bottled water. The monitoring program must provide reasonable assurances that the bottled water complies with all the health-based standards in 567—Chapters 41 and 43. The public water system must monitor a representative sample of bottled water for all contaminants regulated under 567—Chapters 41 and 43 the first quarter that it supplies the bottled water to the public, and annually thereafter. Results of the monitoring program shall be provided to the department annually.

(2) Certification and monitoring requirements. The public water system must receive a certification from the bottled water company that the bottled water supplied has been taken from an "approved source"; the bottled water company has conducted monitoring in accordance with 43.1(3)"*b*"(1); and the bottled water meets MCLs, action levels, or treatment technique requirements as set out in 567—Chapters 41 and 43. The public water system shall provide the certification to the department the first quarter after it supplies bottled water and annually thereafter.

(3) Provision of bottled water to consumers. The public water supply system is fully responsible for the provision of sufficient quantities of bottled water to every person supplied by the public water system via door-to-door bottled water delivery.

e. Point-of-use devices. Reserved.

f. Point-of-entry devices. Reserved.

43.1(4) *Cross-connection control.* To prevent backflow or backsiphonage of contaminants into a public water supply, connection shall not be permitted between a public water supply and any other system which does not meet the monitoring and drinking water standards required by this chapter except as provided below in *"a"* or *"b."*

a. Piping and plumbing systems. Piping systems or plumbing equipment carrying nonpotable water, contaminated water, stagnant water, liquids, mixtures or waste mixtures shall not be connected to a public water supply unless properly equipped with an antisiphon device or backflow preventer acceptable to the department.

b. Bulk water loading stations. Positive separation shall be provided through the use of an air gap separation or a backflow preventer, which is acceptable to the department, at all loading stations for bulk transport tanks.

(1) Minimum air gap. The minimum required air gap shall be twice the diameter of the discharge pipe.

(2) Backflow preventer criteria. An approved backflow preventer for this application shall be a reduced pressure backflow preventer or an antisiphon device which complies with the standards of the American Water Works Association and has been approved by the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California.

When, in the opinion of the department, evidence clearly indicates the source of contamination within the system is the result of a cross-connection, the department may require a public water supply to identify and eliminate the connection, and implement a systemwide cross-connection program.

43.1(5) *Requirement for certified operator.*

a. CWS and NTNC systems. All community and nontransient noncommunity public water supply systems must have a certified operator in direct responsible charge of the treatment and distribution systems, in accordance with 567—Chapters 40 through 44 and 81.

b. TNC systems. Any transient noncommunity public water supply system which is owned by the state or federal government, such as a state park, state hospital, or interstate rest stop, or is using a groundwater under the direct influence of surface water or surface water source, must have a certified operator in direct responsible charge of the treatment and distribution systems, in accordance with 567—Chapters 40 through 44 and 81. The department may require any TNC to have a certified operator in direct responsible charge.

567—43.2(455B) Permit to operate.

43.2(1) *Operation fees.*

a. Annual fee. A nonrefundable fee for the operation of a public water supply system shall be paid annually. The fee shall be based on the population served. The fee shall be the greater of $25 per year or $0.14 multiplied by the total population served by the public water supply for all community and nontransient noncommunity public water supply systems. The fee shall be $25 per year for all transient noncommunity water systems. Where a system provides water to another public water supply system (consecutive public water supply system) which is required to have an operation permit, the population of the recipient water supply shall not be counted as a part of the water system providing the water.

b. Fee notices. The department will send annual notices to public water supply systems at least 60 days prior to the date that the operation fee is due.

c. Fee payments. For the state fiscal year beginning July 1, 1996, and thereafter, the annual operation fee must be paid to the department by September 1 each year.

d. New public water systems. The initial operation fee payment for a new public water supply is due with the initial application for the annual operation permit. The amount of the initial yearly payment of the operation fee shall be determined based upon the population served. The operation fee will not be prorated. Annual operation fee payments after obtaining an initial operation permit shall be due by September 1 each year, in accordance with the fee schedule outlined in 43.2(3)*"b"*(1).

e. Fee schedule adjustment. The environmental protection commission may adjust the per capita fee payment by up to +/– $0.02 per person served so as to achieve the targeted revenue. The environmental protection commission may hold a public hearing concerning the necessity for making a fee schedule adjustment upward or downward for a particular state fiscal year. The extent of the fee adjustment is limited by the intent of 1994 Iowa Acts, Senate File 2314, section 48, and 1995 Iowa Acts, House File 553, section 39. The fee payments will produce revenue amounts of $350,000 during each fiscal year.

f. Exempted public water supply systems. Public water supply systems located on Indian lands are exempt from the fee requirements.

g. Late fees. When the owner of a public water supply fails to make timely application or payment of fees, the department will notify the system by a single notice of violation. The department may thereafter issue an administrative order pursuant to Iowa Code section 455B.175(1) or request a referral to the attorney general under Iowa Code section 455B.175(3) as necessary.

43.2(2) *Operation permit requirement.* Except as provided in 43.2(3) and 43.2(4), no person shall operate any public water supply system or part thereof without, or contrary to any condition of, an operation permit issued by the director.

43.2(3) *Application for operation permit.* The owner of any public water supply system or part thereof must make application for an operation permit. No such system shall be operated without an operation permit, unless proper application has been made. Upon submission of a completed application form, the time requirement for having a valid operation permit is automatically extended until the application has either been approved or disapproved by the director.

43.2(4) *Operation permit application form issuance..*

a. Operation permit application form. Application for operation permits shall be made on forms provided by the department. The application for an operation permit shall be filed at least 90 days prior to the date operation is scheduled to begin unless a shorter time is approved by the director. The director shall issue or deny operation permits for facilities within 60 days of receipt of a completed application, unless a longer period is required and the applicant is so notified. The director may require the submission of additional information deemed necessary to evaluate the application. If the application is incomplete or otherwise deficient, processing of the application shall not be completed until such time as the applicant has supplied the missing information or otherwise corrected the deficiency.

b. Identity of signatories of operation permit applications. The person who signs the application for an operation permit shall be:

(1) Corporation. In the case of a corporation, a principal executive officer of at least the level of vice president. The corporation has the option of appointing a designated signatory to satisfy this requirement.

(2) Partnership. In the case of a partnership, a general partner.

(3) Sole proprietorship. In the case of a sole proprietorship, the proprietor.

(4) Public facility. In the case of a municipal, state or other public facility, by either the principal executive officer or the ranking elected official.

c. Appeal. The denial of a permit, or any permit condition, may be appealed by the applicant to the environmental protection commission pursuant to 567—Chapter 7.

43.2(5) *Operation permit conditions.*

a. Operation permit conditions. Operation permits may contain such conditions as are deemed necessary by the director to ensure compliance with all applicable rules of the department, to ensure that the public water supply system is properly operated and maintained, to ensure that potential hazards to the water consumer are eliminated promptly, and to ensure that the requirements of the Safe Drinking Water Act are met.

b. Compliance schedule. Where one or more health-based standards cannot be met immediately, a compliance schedule for achieving compliance with standards may be made a condition of the permit. A compliance schedule requiring alterations in accordance with the standards for construction in 43.3(1) and 43.3(2) may also be included for any supply that, in the opinion of the director, contains a potential hazard.

c. Treatment. If the department determines that a treatment method identified in 43.3(10) is technically feasible, the department may require the system to install or use that treatment method in connection with a compliance schedule issued under the provisions of 43.2(5)*"b."* The department's determination shall be based upon studies by the system and other relevant information.

43.2(6) *Notification of change in operation permit application conditions.* The owner of a public water supply system shall notify the director within 30 days of any change in conditions identified in the permit application. This notice does not relieve the owner of the responsibility to obtain a construction permit as required by 43.3(455B).

43.2(7) *Renewal of operation permits.* The department may issue operation permits for durations of up to five years. Operation permits must be renewed prior to expiration in order to remain valid. The renewal date shall be specified in the permit or in any renewal. Application for renewal must be received by the director, or postmarked, 60 days prior to the renewal date, on forms provided by the department.

43.2(8) *Denial, modification, or suspension of operation permit.* The director may deny renewal of, modify, or suspend, in whole or in part, any operation permit for good cause. Denial of a new permit, renewal of an existing permit, or modification of a permit, may be appealed to the environmental protection commission pursuant to 567—Chapter 7. Suspension or revocation may occur after hearing, pursuant to 567—Chapter 7. Good cause includes the following:

a. Violation of any term or condition of the permit.

b. Obtaining a permit by misrepresentation of fact or failure to disclose fully all material facts.

c. A change in any condition that requires either a permanent or temporary modification of a permit condition.

d. Failure to submit such records and information as the director may require both generally and as a condition of the operation permit in order to ensure compliance with conditions specified in the permit.

e. Violation of any of the requirements contained in 567—Chapters 40 to 43.

f. Inability of a system to either achieve or maintain technical, managerial, or financial viability, as determined in rule 567—43.8(455B).

567—43.3(455B) Public water supply system construction.

43.3(1) *Standards for public water supplies.* Any public water supply that does not meet the drinking water standards contained in 567—Chapters 41 and 43 shall make the alterations in accordance with the standards for construction contained in 43.3(2) necessary to comply with the drinking water standards unless the public water supply has been granted a variance from a health-based standard as a provision of its operation permit pursuant to 43.2(455B), provided that the public water supply meets the schedule established pursuant to 43.2(455B). Any public water supply that, in the opinion of the director, contains a potential hazard shall make the alterations in accordance with the standards for construction contained in this rule necessary to eliminate or minimize that hazard.

43.3(2) *Standards for construction.*

a. The standards for a project are the Ten States Standards and the American Water Works Association (AWWA) Standards as adopted through 1998 and 43.3(7) to 43.3(9). Polyvinyl chloride (PVC) pipe manufactured in accordance with ASTM D2241 or ASTM F1483 may also be used in Iowa. To the extent of any conflict between the Ten States Standards and the American Water Works Association Standards and 43.3(7) to 43.3(9), the Ten States Standards, 43.3(2), and 43.3(7) to 43.3(9) shall prevail. The maximum allowable pressure for PVC or polyethylene (PE) pipe shall be determined based on a safety factor of 2.5 and a surge allowance of no less than two feet per second (2 fps).

b. Variance. When engineering justification satisfactory to the director is provided substantially demonstrating that variation from the design standards will result in equivalent or improved effectiveness, such a variation from design standards may be accepted by the director. A variance denial may be appealed to the environmental protection commission pursuant to 567—Chapter 7. Variance requests for projects qualifying for a waiver from the engineering requirement of 43.3(4) may be made without the retained services of a professional engineer.

43.3(3) *Construction permits.* No person shall construct, install or modify any project without first obtaining, or contrary to any condition of, a construction permit issued by the director or by a local public works department authorized to issue permits under 567—Chapter 9 except as provided in 43.3(3)*"b,"* 43.3(4) and 43.3(6). Construction permits are not required for point-of-use treatment devices installed by a noncommunity water system except those devices required by the department to meet a drinking water standard pursuant to 567—Chapters 41 and 43. No construction permit will be issued for a new public water supply system without a completed viability assessment, which has been approved by the department, and demonstrates that the system is viable, pursuant to 43.8(455B).

a. Construction permit issuance conditions. A permit to construct shall be issued by the director if the director concludes from the application and specifications submitted pursuant to 43.3(4)*"b"* and 567—40.4(455B) that the project will comply with the rules of the department.

b. Construction permit application. Application for any project shall be submitted to the department at least 30 days prior to the proposed date for commencing construction or awarding of contracts. This requirement may be waived when it is determined by the department that an imminent health hazard exists to the consumers of a public water supply. Under this waiver, construction, installation, or modification may be allowed by the department prior to review and issuance of a permit if all the following conditions are met:

(1) The construction, installation or modification will alleviate the health hazard;

(2) The construction is done in accordance with the standards for construction pursuant to 43.3(2);

(3) Plans and specifications are submitted within 30 days after construction;

(4) An engineer, registered in the state of Iowa, supervises the construction; and

(5) The supplier of water receives approval of this waiver prior to any construction, installation, or modification.

43.3(4) *Waiver from engineering requirements.* The requirement for plans and specifications prepared by a registered engineer may be waived for the following types of projects, provided the improvement complies with the standards for construction. This waiver does not relieve the supplier of water from meeting the application and permit requirements pursuant to 43.3(3), except that the applicant need not obtain a written permit prior to installing the equipment.

a. Simple chemical feed, if all the following conditions are met:

(1) The improvement consists only of a simple chemical solution application or installation, which in no way affects the performance of a larger treatment process, or is included as part of a larger treatment project;

(2) The chemical application is by a positive displacement pump (of the piston type with a solenoid operated diaphragm), the acceptability of said pump to be determined by the department;

(3) The supplier of water provides the department with a schematic of the installation and manufacturer's specifications sufficient enough to determine if the simple chemical feed installation meets, where applicable, standards for construction pursuant to 43.3(2);

(4) The final installation is approved based on an on-site review and inspection by department staff; and

(5) The installation includes only the prepackaged delivery of chemicals (from sacks, containers, or carboys) and does not include the bulk storage or transfer of chemicals (from a delivery vehicle).

b. Self-contained treatment unit, if all the following conditions are met:

(1) The installation is proposed for the purpose of eliminating a maximum contaminant level violation and is of a type which can be purchased "off the shelf," is self-contained requiring only a piping hookup for installation and operates throughout a range of 35 to 80 pounds per square inch;

(2) The plant is designed to serve no more than an average of 250 individuals per day;

(3) The department receives adequate information from the supplier of water on the type of treatment unit, such as manufacturer's specifications, a schematic indicating the installation's location within the system and any other information necessary for review by the department to determine if the installation will alleviate the maximum contaminant level violation; and

(4) The final installation is approved based on an on-site inspection by department staff.

43.3(5) *Project planning and basis of design.* An engineering report containing information and data necessary to determine the conformance of the project to the standards for construction and operation in 43.3(2) and the adequacy of the project to supply water in sufficient quantity and at sufficient pressure and of a quality that complies with drinking water standards pursuant to 567—Chapters 41 and 43 must be submitted to the department either with the project or in advance.

a. Such information and data must supply pertinent information as set forth in chapter 1 of the "Iowa Water Supply Facilities Design Standards."

b. The department may reject receipt or delay review of the plans and specifications until an adequate basis of design is received.

43.3(6) *Standard specifications for water main construction.* Standard specifications for water main construction by an entity may be submitted to the department or an authorized local public works department for approval. Such approval shall apply to all future water main construction by or for that entity for which plans are submitted with a statement requiring construction in accordance with all applicable approved standard specifications unless the standards for public water supply systems specified in 43.3(2) are modified subsequent to such approval and the standard specifications would not be approvable under the modified standards. In those cases where such approved specifications are on file, construction may commence 30 days following receipt of such plans by the department or an authorized local public works department if no response has been received indicating construction shall not commence until a permit is issued.

43.3(7) *Proposed raw or finished water site approval.*

a. Approval required. The site for each proposed raw water supply source or finished water below-ground level storage facility must be approved by the department prior to the submission of plans and specifications.

b. Criteria for approval. A site may be approved by the director if the director concludes that the criteria in this paragraph are met.

(1) Groundwater source. A well site must be separated from sources of contamination by at least the distances specified in Table A.*

Drainage must be away from the well in all directions for a minimum radius of 15 feet.

After the well site has received preliminary approval from the department, the owner of the proposed public well shall submit proof of legal control of contiguous land, through purchase, lease, easement, ordinance, or other similar means that ensures that the siting criteria for distances of 200 feet or less described in the above table will be maintained for the life of the well. Such control shall also provide for a minimum separation distance of at least 200 feet between a public well and sources of contamination listed in Table A* with distances equal to or greater than 200 feet. Proof of legal control should be submitted as part of the construction permit application and shall be submitted prior to issuance of a permit to construct.

When a proposed well is located in an existing well field and will withdraw water from the same aquifer as the existing well or wells, individual separation distances may be waived if substantial historical data is available indicating that no contamination has resulted.

(2) Surface water source. The applicant must submit proof that a proposed surface water source can, through readily available treatment methodology, comply with 567—Chapter 41 and that the raw water source is adequately protected against potential health hazards including, but not limited to, point source discharges, hazardous chemical spills, and the potential sources of contamination listed in Table A.*

*See end of chapter for TABLE A.

After a surface water impoundment has received preliminary approval from the department for use as a raw water source, the owner of the water supply system shall submit proof of legal control through ownership, lease, easement, or other similar means, of contiguous land for a distance of 400 feet from the shoreline at the maximum water level. Legal control shall be for the life of the impoundment and shall control location of sources of contamination within the 400-foot distance. Proof of legal control should be submitted as part of the construction permit application and shall be submitted prior to issuance of a permit to construct.

(3) Below-ground storage facilities. The minimum separation between a below-ground level finished water storage facility and any source of contamination, listed in Table A as being 50 feet or more, shall be 50 feet. Separation distances listed in Table A as being less than 50 feet shall apply to a below-ground level finished water storage facility.

(4) Separation distances. Greater separation distances may be required where necessary to ensure that no adverse effects to water supplies or the existing environment will result. Lesser separation distances may be considered if detailed justification is provided by the applicant's engineer showing that no adverse effects will result from a lesser separation distance, and the regional staff recommends approval of the lesser distance. Such exceptions must be based on special construction techniques or localized geologic or hydrologic conditions.

c. New source water monitoring. Water quality monitoring shall be conducted on all new water sources and results submitted to the department prior to placing the new water source into service.

(1) All sources. Water samples shall be collected from each new water source and analyzed for all appropriate contaminants as specified in 567—Chapter 41 consistent with the particular water system classification. If multiple new sources are being added, compositing of the samples (within a single system) shall be allowed in accordance with the composite sampling requirements outlined in 567—Chapter 41. A single sample may be allowed to meet this requirement, if approved by the department. Subsequent water testing shall be conducted consistent with the water system's water supply operation permit monitoring schedule.

(2) Groundwater sources. Water samples collected from groundwater sources in accordance with 43.3(7)*"c"*(1) shall be conducted at the conclusion of the drawdown/yield test pumping procedure, with the exception of bacteriological monitoring. Bacteriological monitoring must be conducted after disinfection of each new well and subsequent pumping of the chlorinated water to waste. Water samples should also be analyzed for alkalinity, pH, calcium, chloride, copper, hardness, iron, magnesium, manganese, potassium, silica, specific conductance, sodium, sulfate, filterable and nonfilterable solids, and zinc.

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

43.3(8) *Drinking water system components.* Any drinking water system component which comes into contact with raw, partially treated, or finished water must be suitable for the intended use in a potable water system. The component must meet the current American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 61 specifications, if such specification exists for the particular product, unless approved components are not reasonably available for use, in accordance with guidance provided by the department. If the component does not meet the ANSI/NSF Standard 61 specifications or no specification is available, the person seeking to supply or use the component must prove to the satisfaction of the department that the component is not toxic or otherwise a potential hazard in a potable public water supply system.

43.3(9) *Water treatment filter media material.* For single media filters, grain sizes up to 0.8 mm effective size may be approved for filters designed to remove constituents other than those contained in the primary drinking water standards. Pilot or full-scale studies demonstrating satisfactory treatment efficiency and operation with the proposed media will be required prior to issuing any construction permits which allow filter media sizes greater than 0.55 mm.

43.3(10) *Best available treatment technology.*

a. BATs for organic compounds. The department identifies as indicated in the table below either granular activated carbon (GAC), packed tower aeration (PTA), or oxidation (OXID) as the best available technology, treatment technique, or other means available for achieving compliance with the maximum contaminant level for organic contaminants identified in 567—paragraph 41.5(1)*"b."* For the purposes of setting MCLs for synthetic organic chemicals, any BAT must be at least as effective as granular activated carbon.

ORGANIC CONTAMINANT	GAC	PTA	OXID
Alachlor	x		
Aldicarb	x		
Aldicarb sulfone	x		
Aldicarb sulfoxide	x		
Atrazine	x		
Benzene	x	x	
Benzo(a)pyrene	x		
Carbofuran	x		
Carbon tetrachloride	x	x	
Chlordane	x		
2,4-D	x		
Dalapon	x		
Dibromochloropropane (DBCP)	x	x	
o-Dichlorobenzene	x	x	
p-Dichlorobenzene	x	x	
1,2-Dichloroethane	x	x	
cis-1,2-Dichloroethylene	x	x	
trans-1,2-Dichloroethylene	x	x	
1,1-Dichloroethylene	x	x	
Dichloromethane		x	
1,2-Dichloropropane	x	x	
Di(2-ethylhexyl)adipate	x	x	
Di(2-ethylhexyl)phthalate	x		
Dinoseb	x		

Diquat	x		
Endothall	x		
Endrin	x		
Ethylene dibromide (EDB)	x	x	
Ethylbenzene	x	x	
Glyphosate			x
Heptachlor	x		
Heptachlor epoxide	x		
Hexachlorobenzene	x		
Hexachlorocyclopentadiene	x	x	
Lindane	x		
Methoxychlor	x		
Monochlorobenzene	x	x	
Oxamyl (Vydate)	x		
Pentachlorophenol	x		
Picloram	x		
Polychlorinated biphenyls (PCB)	x		
Simazine	x		
Styrene	x	x	
2,4,5-TP (Silvex)	x		
Tetrachloroethylene	x	x	
1,2,4-Trichlorobenzene	x	x	
1,1,1-Trichloroethane	x	x	
1,1,2-Trichloroethane	x	x	
Trichloroethylene	x	x	
2,3,7,8-TCDD (Dioxin)	x		
Toluene	x	x	
Toxaphene	x		
Vinyl chloride		x	
Xylene	x	x	

b. BATs for inorganic compounds. The department identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for the inorganic contaminants listed in 567—paragraph 41.3(1)*"b,"* except arsenic and fluoride.

INORGANIC CHEMICAL	BAT(s)
Antimony	2,7
Asbestos	2,3,8
Barium	5,6,7,9
Beryllium	1,2,5,6,7
Cadmium	2,5,6,7
Chromium	2,5,6[b],7
Cyanide	5,7,10
Mercury	2[a],4,6[a],7[a]
Nickel	5,6,7
Nitrate	5,7,9
Nitrite	5,7
Selenium	1,2[c],6,7,9
Thallium	1,5

Key to BATs

1=Activated Alumina	4=Granular Activated Carbon	7=Reverse Osmosis
2=Coagulation/Filtration	5=Ion Exchange	8=Corrosion Control
3=Direct and Diatomite Filtration	6=Lime Softening	9=Electrodialysis
		10=Chlorine

[a]BAT only if influent Hg concentrations are less than 10 micrograms/liter.

[b]BAT for Chromium III only.

[c]BAT for Selenium IV only.

c. Requirement to install BAT. The department shall require community water systems and nontransient noncommunity water systems to install and use any treatment method identified in 43.3(10) as a condition for granting an interim contaminant level except as provided in paragraph *"d."* If, after the system's installation of the treatment method, the system cannot meet the maximum contaminant level, the system shall be eligible for a compliance schedule with an interim contaminant level granted under the provisions of 567—42.2(455B) and 43.2(455B).

d. Engineering assessment option. If a system can demonstrate through comprehensive engineering assessments, which may at the direction of the department include pilot plant studies, that the treatment methods identified in 43.3(10) would only achieve a de minimis reduction in contaminants, the department may issue a schedule of compliance that requires the system being granted the variance to examine other treatment methods as a condition of obtaining the interim contaminant level.

e. Compliance schedule. If the department determines that a treatment method identified in 43.3(10)*"a"* and *"b"* is technically feasible, the department may require the system to install or use that treatment method in connection with a compliance schedule issued under the provisions of 567—42.2(455B) and 43.2(455B). The determination shall be based upon studies by the system and other relevant information.

f. Avoidance of unacceptable risk to health (URTH). The department may require a public water system to use bottled water, point-of-use devices, point-of-entry devices or other means as a condition of granting a variance or an exemption, or issuance of a compliance schedule, from the requirements of 43.3(10) to avoid an unreasonable risk to health.

567—43.4(455B) Certification of completion. Within 30 days after completion of construction, installation or modification of any project, the permit holder shall submit a certification by a registered professional engineer that the project was completed in accordance with the approved plans and specifications except if the project received a waiver pursuant to 43.3(4).

567—43.5(455B) Filtration and disinfection for surface water and influenced groundwater public water supply systems.

43.5(1) *Applicability/general requirements.*

a. These rules apply to community and noncommunity public water supply systems using surface water or groundwater under the direct influence of surface water in whole or in part. The rules establish criteria under which filtration is required as a treatment technique. In addition, these rules establish treatment technique requirements in lieu of maximum contaminant levels for Giardia lamblia, heterotrophic bacteria, Legionella, viruses and turbidity. Each public water system with a surface water source or a groundwater source under the direct influence of surface water must provide treatment of that source water which complies with these treatment technique requirements. The treatment technique requirements consist of installing and properly operating water treatment processes which reliably achieve:

(1) At least 99.9 percent (3-log) removal or inactivation of Giardia lamblia cysts between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer; and

(2) At least 99.99 percent (4-log) removal or inactivation of viruses between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer.

b. Criteria for identification of groundwater under the direct influence of surface water. "Groundwater under the direct influence of surface water" means any water beneath the surface of the ground with: (1) significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as Giardia lamblia, or (2) significant and relatively rapid shifts in water characteristics such as turbidity (particulate content), temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence must be determined for individual sources in accordance with criteria established by the department. The department determination of direct influence may be based on site-specific measurements of water quality or documentation of well construction characteristics and geology with field evaluation. Only surface water and groundwater sources under the direct influence of surface water that are at risk to the contamination from Giardia cysts are subject to the requirements of this rule. Groundwater sources shall not be subject to this rule. The evaluation process shall be used to delineate between surface water, groundwater under the direct influence of surface water and groundwater. The identification of a source as surface water and groundwater under the direct influence of surface water shall be determined for an individual source, by the department, in accordance with the following criteria. The public water supply shall provide to the department that information necessary to make the determination. The evaluation process will involve one or more of the following steps:

(1) Preliminary review. The department shall conduct a preliminary evaluation of information on the source provided by the public water supply to determine if the source is an obvious surface water (e.g., pond, lake, stream) or groundwater under the direct influence of surface water. The source shall be evaluated during that period of highest susceptibility to influence from surface water. The preliminary evaluation may include a review of surveys, reports, geological information of the area, physical properties of the source, and a review of departmental and public water system records. If the source is identified as a surface water, no additional evaluation shall be conducted. If the source is a groundwater and identified as a deep well, it shall be classified as a groundwater not under the direct influence of surface water and no additional evaluation shall be conducted, unless through direct knowledge or documentation the source does not meet the requirements of 43.5(1)*"b"*(2). The deep well shall then be evaluated in accordance with 43.5(1)*"b"*(3). If the source is a shallow well, the source shall be evaluated in accordance with 43.5(1)*"b"*(2). If the source is a spring, infiltration gallery, radial collector well, or any other subsurface source, it shall be evaluated in accordance with 43.5(1)*"b"*(3).

(2) Well source evaluation. Shallow wells greater than 50 feet in lateral distance from a surface water source shall be evaluated for direct influence of surface water through a review of departmental or public water system files in accordance with 43.5(1)*"b"*(2)"1" and 43.5(1)*"b"*(2)"2." Sources that meet the criteria shall be considered to be not under the direct influence of surface water. No additional evaluation will be required. Shallow wells 50 feet or less in lateral distance from a surface water shall be in accordance with 43.5(1)*"b"*(3) and (4).

1. Well construction criteria. The well shall be constructed so as to prevent surface water from entering the well or traversing the casing.

2. Water quality criteria. Water quality records shall indicate:

- No record of total coliform or fecal coliform contamination in untreated samples collected over the past three years.
- No history of turbidity problems associated with the well, other than turbidity as a result of inorganic chemical precipitates.
- No history of known or suspected outbreak of Giardia or other pathogenic organisms associated with surface water (e.g., Cryptosporidium) which has been attributed to the well.

3. Other available data. If data on particulate matter analysis of the well are available, there shall be no evidence of particulate matter present that is associated with surface water. If information on turbidity or temperature monitoring of the well and nearby surface water is available, there shall be no data on the source which correlates with that of a nearby surface water.

4. Further evaluation. Wells that do not meet all the requirements listed shall require further evaluation in accordance with 43.5(1)*"b"*(3) and (4).

(3) Formal evaluation. The evaluation shall be conducted by the department or registered engineer at the direction of the public water supply. The evaluation shall include:

1. Complete file review. In addition to the information gathered in 43.5(1)*"b"*(1), the complete file review shall consider but not be limited to: design and construction details; evidence of direct surface water contamination; water quality analysis; indications of waterborne disease outbreaks; operational procedures; and customer complaints regarding water quality or water-related infectious illness. Sources other than a well source shall be evaluated in a like manner to include a field survey.

2. Field survey. A field survey shall substantiate findings of the complete file review and determine if the source is at risk to pathogens from direct surface water influence. The field survey shall examine the following criteria for evidence that surface water enters the source through defects in the source which include but are not limited to: a lack of a surface seal on wells, infiltration gallery laterals exposed to surface water, springs open to the atmosphere, surface runoff entering a spring or other collector, and distances to obvious surface water sources.

A report summarizing the findings of the complete file review and field survey shall be submitted to the department for final review and classification of the source. If the complete file review or field survey demonstrates conclusively that the source is subject to the direct surface water influence, the source shall be classified as under the direct influence of surface water. Either method or both may be used to demonstrate that the source is a surface water or groundwater under the direct influence of surface water. If the findings do not demonstrate conclusive evidence of direct influence of surface water, the analysis outlined in 43.5(1)*"b"*(4) should be conducted.

(4) Particulate analysis and physical properties evaluation.

1. Surface water indicators. Particulate analysis shall be conducted to identify organisms which only occur in surface waters as opposed to groundwaters, and whose presence in a groundwater would indicate the direct influence of surface water.

- Identification of a Giardia cyst, live diatoms, and blue-green, green, or other chloroplast containing algae in any source water shall be considered evidence of direct surface water influence.
- Rotifers and insect parts are indicators of surface water. Without knowledge of which species is present, the finding of rotifers indicates that the source is either directly influenced by surface water, or the water contains organic matter sufficient to support the growth of rotifers. Insects or insect parts shall be considered strong evidence of surface water influence, if not direct evidence.
- The presence of coccidia (e.g., Cryptosporidium) in the source water is considered a good indicator of direct influence of surface water. Other macroorganisms (greater than 7 um) which are parasitic to animals and fish such as, but not limited to, helminths (e.g., tapeworm cysts), ascaris, and Diphyllobothrium, shall be considered as indicators of direct influence of surface water.

2. Physical properties. Turbidity, temperature, pH and conductivity provide supportive, but less direct, evidence of direct influence of surface water. Turbidity fluctuations of greater than 0.5-1.0 NTU over the course of a year may be indicative of direct influence of surface water. Temperature fluctuations may also indicate surface water influence. Changes in other chemical parameters such as pH, conductivity, or hardness may also give an indirect indication of influence by nearby surface water.

c. Compliance. A public water system using a surface water source or a groundwater source under the direct influence of surface water is considered to be in compliance with the requirements of this subrule if it meets the filtration requirements in 43.5(3) and the disinfection requirements in 43.5(2) in accordance with the effective dates specified within the respective subrules.

d. Certified operator requirement. Each public water system using a surface water source or a groundwater source under the direct influence of surface water must be operated by a certified operator who meets the requirements of 567—Chapter 81.

43.5(2) *Disinfection.* All community and noncommunity public water supply systems using surface water or groundwater under the direct influence of surface water in whole or in part shall be required to provide disinfection in compliance with this subrule and filtration in compliance with 43.5(3). If the department has determined that filtration is required, the system must comply with any interim disinfection requirements the department deems necessary before filtration is installed. A system providing filtration on or before December 30, 1991, must meet the disinfection requirements of this subrule beginning June 29, 1993. A system providing filtration after December 30, 1991, must meet the disinfection requirements of this subrule when filtration is installed. Failure to meet any requirement of this subrule after the applicable date specified in this subrule is a treatment technique violation. The disinfection requirements are as follows:

a. Disinfection treatment criteria. The disinfection treatment must be sufficient to ensure that the total treatment processes of that system achieve at least 99.9 percent (3-log) inactivation or removal of *Giardia lamblia* cysts and at least 99.99 percent (4-log) inactivation or removal of viruses, acceptable to the department.

b. Disinfection system. The disinfection system must include:

(1) Redundant components, including an auxiliary power supply with automatic start-up and alarm to ensure that disinfectant application is maintained continuously while water is being delivered to the distribution system, or

(2) Automatic shutoff of delivery of water to the distribution system whenever there is less than 0.3 mg/L of residual disinfectant concentration in the water. If the department determines that automatic shutoff would cause unreasonable risk to health or interfere with fire protection, the system must comply with 43.5(2)*"b"*(1).

c. Disinfectant residual entering system. The residual disinfectant concentration in the water entering the distribution system, measured as specified in 567—paragraphs 41.7(2)*"c"* and *"e,"* cannot be less than 0.3 mg/L free residual or 1.5 mg/L total residual chlorine for more than four hours.

d. Disinfectant residual in the system. The residual disinfectant concentration in the distribution system, measured as total chlorine, combined chlorine, or chlorine dioxide, as specified in 567—paragraphs 41.7(2)*"c"* and *"e,"* cannot be undetectable in more than 5 percent of the samples each month for any two consecutive months that the system serves water to the public. Water within the distribution system with a heterotrophic bacteria concentration less than or equal to 500/mL, measured as heterotrophic plate count (HPC) as specified in 567—paragraph 41.2(3)*"e,"* is deemed to have a detectable disinfectant residual for purposes of determining compliance with this requirement. Therefore, the value "V" in the following formula cannot exceed 5 percent in one month for any two consecutive months.

$$V = \frac{c + d + e}{a + b} \times 100$$

where:

a = number of instances where the residual disinfectant concentration is measured;

b = number of instances where the residual disinfectant concentration is not measured but heterotrophic bacteria plate count (HPC) is measured;

c = number of instances where the residual disinfectant concentration is measured but not detected and no HPC is measured;

d = number of instances where no residual disinfectant concentration is detected and where the HPC is greater than 500/mL; and

e = number of instances where the residual disinfectant concentration is not measured and HPC is greater than 500/mL.

43.5(3) *Filtration.* A public water system that uses a surface water source or a groundwater source under the direct influence of surface water must provide treatment consisting of both disinfection, as specified in 43.5(2), and filtration treatment which complies with the turbidity requirements of 567—subrule 41.7(1). A system providing or required to provide filtration on or before December 30, 1991, must meet the requirements of 567—subrule 41.7(1) by June 29, 1993. A system providing or required to provide filtration after December 30, 1991, must meet the requirement of 567—subrule 41.7(1) when filtration is installed. A system shall install filtration within 18 months after the department determines, in writing, that filtration is required. The department may require and the system shall comply with any interim turbidity requirements the department deems necessary. Failure to meet any requirements of the referenced subrules after the dates specified is a treatment technique violation.

43.5(4) *Analytical and monitoring requirements.*

a. Analytical requirements. Only the analytical method(s) specified in this paragraph, or otherwise approved by the department, may be used to demonstrate compliance with the requirements of 43.5(2) and 43.5(3). Measurements for pH, temperature, turbidity, and residual disinfectant concentrations must be conducted by a Grade II, III or IV operator meeting the requirements of 567—Chapter 81, any person under the supervision of a Grade II, III or IV operator meeting the requirements of 567—Chapter 81, or a laboratory certified by the department to perform analysis under 567—Chapter 83. For consecutive public water supplies from a surface water or groundwater under the direct influence of surface water system, the disinfectant concentration analyses must be conducted by a certified operator who meets the requirements of 567—Chapter 81. Measurements for heterotrophic plate count bacteria must be conducted by a laboratory certified by the department to do such analysis. The procedures shall be performed in accordance with 567—Chapters 41 and 83 as listed below and the referenced publications.

(1) Heterotrophic plate count-567—subrule 41.2(3)
(2) Turbidity-567—subrule 41.7(1)
(3) Residual disinfectant concentration-567—subrule 41.7(2)
(4) Temperature-567—subrule 41.7(3)
(5) pH-567—subrule 41.7(4)

b. Monitoring requirements. A public water system that uses a surface water source or a groundwater source under the influence of surface water must monitor in accordance with this paragraph or some interim requirements required by the department, until filtration is installed.

(1) Turbidity measurements to demonstrate compliance with 43.5(3) shall be performed in accordance with 567—subrule 41.7(1).

(2) Residual disinfectant concentration of the water entering the distribution system to demonstrate compliance with 43.5(2)*"d"* shall be monitored in accordance with 567—subparagraph 41.7(2)*"c"*(1).

(3) The residual disinfectant concentration of the water in the distribution system to demonstrate compliance with 43.5(2)*"d"* shall be monitored in accordance with 567—subparagraph 41.7(2)*"c"*(2).

(4) Reporting and response to violation. Public water supplies shall report the results of routine monitoring required to demonstrate compliance with 43.5(455B) and treatment technique violations as follows:

1. Each system, upon discovering that a waterborne disease outbreak potentially attributable to that water system has occurred, must report that occurrence to the department as soon as possible, but no later than by the end of the next business day.

2. If at any time the turbidity exceeds 5 NTU, the system must inform the department as soon as possible, but no later than the end of the next business day.

3. If at any time the residual falls below 0.3 mg/L in the water entering the distribution system, the system must notify the department as soon as possible, but no later than by the end of the next business day. The system also must notify the department by the end of the next business day whether or not the residual was restored to at least 0.3 mg/L within four hours.

4. Routine monitoring results shall be provided as part of the monthly operation reports in accordance with 567—40.3(455B) and 42.4(3).

567—43.6(455B) Disinfectant and disinfectant by-products. Reserved.

567—43.7(455B) Lead and copper treatment techniques.

43.7(1) *Corrosion control.*

a. Applicability of corrosion control treatment steps to small, medium-size and large water systems. (Corrosion control treatment compliance dates.) Systems shall complete the applicable corrosion control treatment requirements by the following deadlines:

(1) Population >50,000. Large systems (serving greater than 50,000 persons) shall complete the corrosion control treatment steps specified in 43.7(1)*"d,"* unless it is deemed to have optimized corrosion control under 43.7(1)*"b"*(2) or (3).

(2) Population ≤50,000. Small systems (serving less than or equal to 3,300 persons) and medium-size systems (serving greater than 3,300 and less than or equal to 50,000 persons) shall complete the corrosion control treatment steps specified in 43.7(1)*"e,"* unless it has optimized corrosion control under 43.7(1)*"b"*(1), (2), or (3).

b. Optimum corrosion control. A public water supply system has optimized corrosion control and is not required to complete the applicable corrosion control treatment steps identified in this subrule if the system satisfies one of the following criteria:

(1) A small or medium-size water supply system has optimized corrosion control if the system meets the lead and copper action levels during each of two consecutive six-month monitoring periods.

(2) Any public water supply system may be deemed to have optimized corrosion control treatment if the system demonstrates it has conducted activities equivalent to the corrosion control steps applicable to such system under this subrule. If the department makes this determination, it shall provide the water supply system with written notice explaining the basis for its decision and shall specify the water quality control parameters representing optimal corrosion control in accordance with 43.7(2)*"f."* A system shall provide the department with the following information in order to support a determination under this paragraph:

1. The results of all test samples collected for each of the water quality parameters in 43.7(2)*"c"*(3);

2. A report explaining the test methods used by the water system to evaluate the corrosion control treatments listed in 43.7(2)*"c"*(1), the results of all tests conducted, and the basis for the system's selection of optimal corrosion control treatment;

3. A report explaining how corrosion control was installed and how it is being maintained to ensure minimal lead and copper concentrations at consumers' taps; and

4. The results of tap water samples collected in accordance with 567—paragraph 41.4(1)*"c"* at least once every six months for one year after corrosion control has been installed.

(3) Any water system has optimized corrosion control if it submits results of tap water monitoring conducted in accordance with 567—paragraph 41.4(1)*"c"* and source water monitoring conducted in accordance with 567—paragraph 41.4(1)*"e"* that demonstrates for two consecutive six-month monitoring periods that the difference between the 90th percentile tap water lead level computed under 567—paragraph 41.4(1)*"b"*(3) and the highest source water lead concentration, is less than the Practical Quantitation Level for lead specified in 567—paragraph 41.4(1)*"g."*

c. Recommence corrosion control. Any small or medium-size water system that is required to complete the corrosion control steps due to its exceedance of the lead or copper action level may cease completing the treatment steps whenever the system meets both action levels during each of two consecutive monitoring periods conducted pursuant to 567—paragraph 41.4(1)*"c"* and submits the results to the department. If any such water system thereafter exceeds the lead or copper action level during any monitoring period, the system shall recommence completion of the applicable treatment steps, beginning with the first treatment step which was not previously completed in its entirety. The department may require a system to repeat treatment steps previously completed by the system where it is determined that this is necessary to implement properly the treatment requirements of this rule. The department will notify the system in writing of such a determination and explain the basis for its decision. The requirement for any small or medium-size system to implement corrosion control treatment steps in accordance with 43.7(1)*"e"* (including systems deemed to have optimized corrosion control under 43.7(1)*"b"*(1)) is triggered whenever any small or medium-size system exceeds the lead or copper action level.

d. Treatment steps and deadlines for large systems. Except as provided in 43.7(1)*"b"*(2) or (3), large systems shall complete the following corrosion control treatment steps (described in the referenced portions of 43.7(1)*"b,"* subrule 43.7(2), and 567—paragraphs 41.4(1)*"c"* and *"d"*) by the dates indicated below.

(1) Step 1. The system shall conduct initial monitoring pursuant to 567—paragraph 41.4(1)*"c"*(4)"1" and 567—paragraph 41.4(1)*"d"*(2) during two consecutive six-month monitoring periods by January 1, 1993.

(2) Step 2. The system shall complete corrosion control studies pursuant to 43.7(2)*"c"* by July 1, 1994.

(3) Step 3. The department will designate optimal corrosion control treatment within six months of receiving the corrosion control study results (by January 1, 1995).

(4) Step 4. The system shall install optimal corrosion control treatment by January 1, 1997.

(5) Step 5. The system shall complete follow-up sampling pursuant to 567—paragraph 41.4(1)*"c"*(4)"2" and 567—paragraph 41.4(1)*"d"*(3) by January 1, 1998.

(6) Step 6. The department will review installation of treatment and designate optimal water quality control parameters pursuant to 43.7(2)*"f"* by July 1, 1998.

(7) Step 7. The system shall operate in compliance with optimal water quality control parameters delineated by the department and continue to conduct tap sampling.

e. Treatment steps and deadlines for small and medium-size systems. Except as provided in 43.7(2), small and medium-size systems shall complete the following corrosion control treatment steps (described in subrule 43.7(2) and 567—paragraphs 41.4(1)*"c"* and *"d"*) by the indicated time periods listed below.

(1) Step 1. The system shall conduct initial tap sampling pursuant to 567—paragraph 41.4(1)*"c"*(4)"1" and 567—paragraph 41.4(1)*"d"*(2) until the system either exceeds the lead or copper action level or becomes eligible for reduced monitoring under 567—paragraph 41.4(1)*"c"*(4)"4." A system exceeding the lead or copper action level shall recommend optimal corrosion control treatment under 43.7(2)*"a"* within six months after it exceeds one of the action levels.

(2) Step 2. Within 12 months after a system exceeds the lead or copper action level, the department may require the system to perform corrosion control studies under 43.7(2)*"b."* If the system is not required to perform such studies, the department will specify optimal corrosion control treatment under 43.7(2)*"d"* as follows: for medium-size systems, within 18 months after such system exceeds the lead or copper action level, and, for small systems, within 24 months after such system exceeds the lead or copper action level.

(3) Step 3. If a system is required to perform corrosion control studies under Step 2, the system shall complete the studies (under 43.7(2)*"c"*) within 18 months after such studies are required to commence.

(4) Step 4. If the system has performed corrosion control studies under Step 2, the department will designate optimal corrosion control treatment under 43.7(2)*"d"* within six months after completion of Step 3.

(5) Step 5. The system shall install optimal corrosion control treatment under 43.7(2)*"e"* within 24 months after such treatment is designated.

(6) Step 6. The system shall complete follow-up sampling pursuant to 567—paragraph 41.4(1)*"c"*(4)"2" and 567—paragraph 41.4(1)*"d"*(3) within 36 months after optimal corrosion control treatment is designated.

(7) Step 7. The department will review the system's installation of treatment and designate optimal water quality control parameters pursuant to 43.7(2)*"f"* within six months after completion of Step 6.

(8) Step 8. The system shall operate in compliance with the department-designated optimal water quality control parameters under 43.7(2)*"f"* (and continue to conduct tap sampling as per 567—paragraph 41.4(1)*"c"*(4)"3" and 567—paragraph 41.4(1)*"d"*(4)).

43.7(2) *Description of corrosion control treatment requirements.* Each public water supply system shall complete the corrosion control treatment requirements described below which are applicable to such systems under 43.7(1).

a. Public water supply system recommendation regarding corrosion control treatment. Based upon the results of lead and copper tap monitoring and water quality parameter monitoring, small and medium-size water systems exceeding the lead or copper action level shall recommend installation of one or more of the corrosion control treatments listed in 43.7(2)*"c"* which the system believes constitute optimal corrosion control for that system. The department may require the system to conduct additional water quality parameter monitoring in accordance with 567—paragraph 41.4(1)*"d"*(2) to assist in reviewing the system's recommendation.

b. Department decision to require studies of corrosion control treatment (applicable to small and medium-size systems). The department may require any small or medium-size system that exceeds the lead or copper action level to perform corrosion control studies under 43.7(2)*"c"* to identify optimal corrosion control treatment for the system.

c. Performance of corrosion control studies.

(1) Any public water supply system performing corrosion control studies shall evaluate the effectiveness of each of the following treatments and, if appropriate, combinations of the following treatments to identify the optimal corrosion control treatment: alkalinity and pH adjustment; calcium hardness adjustment; and the addition of a phosphate or silicate-based corrosion inhibitor at a concentration sufficient to maintain an effective residual concentration in all test tap samples.

(2) The water system shall evaluate each of the corrosion control treatments using either pipe rig/loop tests, metal coupon tests, partial-system tests, or analyses based on documented analogous treatments with other systems of similar size, water chemistry and distribution system configuration.

(3) The public water supply system shall measure the following water quality parameters in any tests conducted under this paragraph before and after evaluating the corrosion control treatments listed above:

1. Lead;
2. Copper;
3. pH;
4. Alkalinity;
5. Calcium;
6. Conductivity;
7. Orthophosphate (when an inhibitor containing a phosphate compound is used);
8. Silicate (when an inhibitor containing a silicate compound is used);
9. Water temperature.

(4) The public water supply system shall identify all chemical or physical constraints that limit or prohibit the use of a particular corrosion control treatment and outline such constraints with the following: documentation showing that a particular corrosion control treatment has adversely affected other water treatment processes when used by another water system with comparable water quality characteristics; or documentation demonstrating that the water system has previously attempted to evaluate a particular corrosion control treatment and has found that the treatment is ineffective or adversely affects other water quality treatment processes.

(5) The water system shall evaluate the effect of the chemicals used for corrosion control treatment on other water quality treatment processes.

(6) On the basis of an analysis of the data generated during each evaluation, the water system shall recommend in writing to the department the treatment option that the corrosion control studies indicate constitutes optimal corrosion control treatment for that system. The water system shall provide a rationale for its recommendation along with all supporting documentation required by 43.7(2)*"c"*(1) through (5).

d. Department designation of optimal corrosion control treatment.

(1) Based upon consideration of available information including, where applicable, studies performed under 43.7(2)*"c"* and a system's recommended treatment alternative, the department will either approve the corrosion control treatment option recommended by the public water supply system, or designate alternative corrosion control treatment(s) from among those listed in 43.7(2)*"c."* The department will consider the effects that additional corrosion control treatment will have on water quality parameters and on other water quality treatment processes (when designating optimal corrosion control treatment).

(2) The department will notify the public water supply system of its decision on optimal corrosion control treatment in writing and explain the basis for this determination. If the department requests additional information to aid its review, the public water supply system shall provide the information.

e. Installation of optimal corrosion control. Each public water supply system shall properly install and operate throughout its distribution system the optimal corrosion control treatment designated under 43.7(2)*"d."*

f. Department review of treatment and specification of optimal water quality control parameters.

(1) The department will evaluate the results of all lead and copper tap samples and water quality parameter samples submitted by the public water supply system and determine whether the system has properly installed and operated the optimal corrosion control treatment designated in 43.7(2)*"d."* Upon reviewing the results of tap water and water quality parameter monitoring by the public water supply system, both before and after the system installs optimal corrosion control treatment, the department will designate the following:

1. A minimum value or a range of values for pH measured at each entry point to the distribution system;

2. A minimum pH value, measured in all tap samples. Such value shall be equal to or greater than 7.0 unless meeting a pH level of 7.0 is not technologically feasible or is not necessary for the public water supply system to optimize corrosion control;

3. If a corrosion inhibitor is used, a minimum concentration or a range of concentrations for the inhibitor, measured at each entry point to the distribution system and in all tap samples, necessary to form a passivating film on the interior walls of the pipes of the distribution system;

4. If alkalinity is adjusted as part of optimal corrosion control treatment, a minimum concentration or a range of concentrations for alkalinity, measured at each entry point to the distribution system and in all tap samples; or

5. If calcium carbonate stabilization is used as part of corrosion control, a minimum concentration or a range of concentrations for calcium, measured in all tap samples.

(2) The values for the applicable water quality control parameters listed above shall be those which reflect optimal corrosion control treatment for the public water supply system. The department may designate values for additional water quality control parameters determined by the department to reflect optimal corrosion control for the system. The department will notify the system in writing of these determinations and explain the basis for its decisions.

g. Continued operation and monitoring. All public water supply systems shall maintain water quality parameter values at or above minimum values or within ranges designated by the department under 43.7(2)*"f"* in each sample collected under 567—paragraph 41.4(1)*"d"*(4). If the water quality parameter value of any sample is below the minimum value or outside the range designated, the public water supply system is out of compliance. As specified in 567—paragraph 41.4(1)*"d"*(4), the public water supply system may take a confirmation sample for any water quality parameter value no later than three days after the first sample. If a confirmation sample is taken, the result must be averaged with the first sampling result and the average must be used for any compliance determinations under this paragraph.

h. Modification of department treatment decisions. A determination of the optimal corrosion control treatment under 43.7(2)*"d"* or optimal water quality control parameters under 43.7(2)*"f"* may be modified. A request for modification by a public water supply system or other interested party shall be in writing, explain why the modification is appropriate, and provide documentation. The department may modify its determination where it concludes that such change is necessary to ensure that the public water supply system continues to optimize corrosion control treatment. A revised determination will be made in writing, which will set forth the new treatment requirements, explain the basis for the decision, and provide an implementation schedule for completing the treatment modifications.

43.7(3) *Source water treatment requirements.* Public water supply systems shall complete the applicable source water monitoring and treatment requirements, as described in the referenced portions of 43.7(3)*"b,"* and in 567—paragraphs 41.4(1)*"c"* and *"e,"* by the following deadlines.

a. Deadlines for completing source water treatment steps.

(1) Step 1. A public water supply system exceeding the lead or copper action level shall complete lead and copper source water monitoring under 567—paragraph 41.4(1)*"e"*(2) and make a written treatment recommendation to the department within six months after exceeding the lead or copper action level.

(2) Step 2. The department will make a determination regarding source water treatment pursuant to 43.7(3)*"b"*(2) within six months after submission of monitoring results under Step 1.

(3) Step 3. If installation of source water treatment is required, the system shall install the treatment pursuant to 43.7(3)*"b"*(3) within 24 months after completion of Step 2.

(4) Step 4. The public water supply system shall complete follow-up tap water monitoring under 567—paragraph 41.4(1)*"c"*(4)"2" and source water monitoring under 567—paragraph 41.4(1)*"e"*(3) within 36 months after completion of Step 2.

(5) Step 5. The department will review the system's installation and operation of source water treatment and specify maximum permissible source water levels under 43.7(3)*"b"*(4) within six months after completion of Step 4.

(6) Step 6. The public water supply system shall operate in compliance with the specified maximum permissible lead and copper source water levels under 43.7(3)*"b"*(4) and continue source water monitoring pursuant to 567—paragraph 41.4(1)*"e"*(4).

b. Description of source water treatment requirements.

(1) System treatment recommendation. Any system which exceeds the lead or copper action level shall recommend in writing to the department the installation and operation of one of the source water treatments listed in 43.7(3)*"b"*(2). A system may recommend that no treatment be installed based upon a demonstration that source water treatment is not necessary to minimize lead and copper levels at users' taps.

(2) Source water treatment determinations. The department will complete an evaluation of the results of all source water samples submitted by the public water supply system to determine whether source water treatment is necessary to minimize lead or copper levels in water delivered to user taps. If the department determines that treatment is needed, the department will require installation and operation of the source water treatment recommended by the public water supply system or require the installation and operation of another source water treatment from among the following: ion exchange, reverse osmosis, lime softening or coagulation/filtration. If the department requests additional information to aid in its review, the water system shall provide the information by the date specified in its request. The department will notify the system in writing of its determination and set forth the basis for its decision.

(3) Installation of source water treatment. Public water supply systems shall properly install and operate the source water treatment designated by the department under 43.7(3)*"b"*(2).

(4) Department review of source water treatment and specification of maximum permissible source water levels. The department will review the source water samples taken by the water supply system both before and after the system installs source water treatment and determine whether the public water supply system has properly installed and operated the designated source water treatment. Based upon its review, the department will designate maximum permissible lead and copper concentrations for finished water entering the distribution system. Such levels shall reflect the contaminant removal capability of the treatment (properly operated and maintained). The department will notify the public water supply system in writing and explain the basis for its decision.

(5) Continued operation and maintenance. Each public water supply system shall maintain lead and copper levels below the maximum permissible concentrations designated by the department at each sampling point monitored in accordance with 567—paragraph 41.4(1)*"e."* The system is out of compliance with this paragraph if the level of lead or copper at any sampling point is greater than the maximum permissible designated concentration.

(6) Modification of treatment decisions. The department may modify its determination of the source water treatment under 43.7(3)*"b"*(6), or maximum permissible lead and copper concentrations for finished water entering the distribution system under 43.7(3)*"b"*(4). A request for modification by a public water supply system or other interested party shall be in writing, explain why the modification is appropriate, and provide supporting documentation. The department may modify its determination where it concludes that such change is necessary to ensure that the system continues to minimize lead and copper concentrations in source water. A revised determination will be made in writing, set forth the new treatment requirements, explain the basis for the decision, and provide an implementation schedule for completing the treatment modifications.

43.7(4) *Lead service line replacement requirements.*

a. Applicability. Public water supply systems that fail to meet the lead action level in tap samples taken pursuant to 567—paragraph 41.4(1)*"c"*(4)"2" after installing corrosion control or source water treatment (whichever sampling occurs later) shall replace lead service lines in accordance with the requirements of this subrule. If a system is in violation of 43.7(1) and 43.7(3) for failure to install source water or corrosion control treatment, the department may require the system to commence lead service line replacement under this subrule after the date by which the system was required to conduct monitoring under 567—paragraph 41.4(1)*"c"*(4)"2" has passed.

b. Lead service line replacement schedule. A public water supply system shall replace annually at least 7 percent of the initial number of lead service lines in its distribution system. The initial number of lead service lines is the number of lead lines in place at the time the replacement program begins. The system shall identify the initial number of lead service lines in its distribution system based upon a materials evaluation, including the evaluation required under 567—paragraph 41.4(1)*"c"*(1). The first year of lead service line replacement shall begin on the date the action level was exceeded in tap sampling referenced in 43.7(4)*"a."*

c. Exemption. A public water supply system is not required to replace an individual lead service line if the lead concentration in all service line samples from that line, taken pursuant to 567—paragraph 41.4(1)*"c"*(2)"3," is less than or equal to 0.015 mg/L.

d. Lead service line control. A public water supply system shall replace the entire service line (up to the building inlet) unless it demonstrates to the satisfaction of the department that it controls less than the entire service line. In such cases, the system shall replace the portion of the line which the department determines is under the system's control. The system shall notify the user served by the line that the system will replace the portion of the service line under its control and shall offer to replace the building owner's portion of the line, but is not required to bear the cost of replacing the building owner's portion of the line. For buildings where only a portion of the lead service line is replaced, the water system shall inform the resident(s) that the system will collect a first flush tap water sample after partial replacement of the service line is completed if the resident(s) so desires. In cases where the resident(s) accepts the offer, the system shall collect the sample and report the results to the resident(s) within 14 days following partial lead service line replacement.

e. Lead service line control—department review. A public water supply system is presumed to control the entire lead service line (up to the building inlet) unless the system demonstrates to the satisfaction of the department in a letter submitted under 567—paragraph 42.4(2)*"e"*(4) that it does not have any of the following forms of control over the entire line (as defined by state statutes, municipal ordinances, public service contracts or other applicable legal authority): authority to set standards for construction, repair, or maintenance of the line, authority to replace, repair, or maintain the service line, or ownership of the service line. The department will review the information supplied by the system and determine whether the system controls less than the entire service line and, in such cases, will determine the extent of the system's control. The determination will be in writing and it must explain the basis underlying the decision.

f. Lead service line replacement schedule. The department may require a public water supply system to replace lead service lines on a shorter schedule than that required by this subrule, taking into account the number of lead service lines in the system, where such a shorter replacement schedule is feasible. The department will make this determination in writing and notify the system of its finding within six months after the system is triggered into lead service line replacement based on monitoring referenced in 43.7(4)*"a."*

g. Cessation of lead service line replacement. Any public water supply system may cease replacing lead service lines whenever first draw samples collected pursuant to 567—paragraph 41.4(1)*"c"*(2)"2" meet the lead action level during each of two consecutive monitoring periods and the system submits the results. If the first draw tap samples collected in any such water system thereafter exceed the lead action level, the system shall recommence replacing lead service lines, as detailed in 43.7(4)*"b."*

h. Reporting requirements. To demonstrate compliance with 43.7(4)*"a"* through *"d,"* a system shall report the information specified in 567—paragraph 42.4(2)*"e."*

567—43.8(455B) Viability assessment.

43.8(1) *Definitions specific to viability assessment.*

"New system" for viability assessment purposes includes public water supply systems which are newly constructed after the effective date of this rule, as well as systems which do not currently meet the definition of a PWS, but which expand their infrastructure and thereby grow to become a PWS. Systems not currently meeting the definition of a PWS and which add additional users and thereby become a PWS without constructing any additional infrastructure are not "new systems" for the purposes of this subrule.

"Nonviable system" for viability assessment purposes means a system lacking the technical, financial, and managerial ability to comply with 567—Chapters 40 through 43 and 81.

"Significant noncompliance (SNC)" for viability assessment purposes means the failure to comply with any drinking water standard as adopted by the state of Iowa as designated by the department.

"Viability" for viability assessment purposes is the ability to remain in compliance insofar as the requirements of the federal Safe Drinking Water Act and 567—Chapters 40 through 43 and 81.

"Viable system" for viability assessment purposes means a system with the technical, financial, and managerial ability to comply with applicable drinking water standards adopted by the state of Iowa.

43.8(2) *Applicability and purpose.* These rules apply to all new and existing public water supplies, including the following: new systems commencing operation after October 1, 1999; systems deemed to be in significant noncompliance with the primary drinking water standards; DWSRF applicants; and existing systems. The purpose of the viability assessment program is to ensure the safety of the public drinking water supplies and ensure the viability of new public water supply systems upon commencement of operation. The department may assess public notification requirements and administrative penalties to any public water supply system which fails to fulfill the requirements of this rule.

43.8(3) *Contents of a viability assessment.* The viability assessment must address the areas of technical, financial, and managerial viability for a public water supply system. The assessment must include evaluation of the following areas at a minimum, and the public water supply system may be required to include additional information as directed by the department. The viability of a system should be forecast for a 20-year period.

a. Technical viability.

(1) Supply sources and facilities
(2) Treatment
(3) Infrastructure (examples: pumping, storage, distribution)

b. Financial viability.

(1) Capital and operating costs
(2) Revenue sources
(3) Contingency plans

c. Managerial viability.

(1) Operation
(2) Maintenance
(3) Management
(4) Administration

43.8(4) *New systems.*

a. Submission of system viability assessment. New public water supply systems (including community, nontransient noncommunity systems, and transient noncommunity systems) commencing operation after the effective date of this rule are required to submit a completed system viability assessment for review by the department, prior to obtaining a construction permit. The viability assessment may be submitted with the application for a construction permit. The department may reject receipt or delay review of the construction plans and specifications until an adequate viability assessment is provided. If the department finds, upon review and approval of the viability assessment, that the PWS will be viable, a construction permit will be issued in accordance with 567—Chapters 40 and 43. Prior to beginning operation, a public water supply operation permit must be obtained in accordance with 43.2(455B) and 567—40.5(455B).

b. Review of the viability assessment. If the department declines to approve the viability assessment as submitted by the applicant, or if the department finds that the PWS is not viable, approval of construction and operation permit applications will be denied. If the viability assessment is conditionally approved, construction and operation permits will be issued, with conditions and a schedule to achieve compliance specified in the operation permit.

43.8(5) *Existing systems.*

a. Submission of system viability assessment. Any community, nontransient noncommunity, or transient noncommunity water system which operated prior to October 1, 1999, and was regulated as a public water system by the department shall be considered an existing system. Any system which does not currently meet the definition of a PWS, but which expands their infrastructure and thereby grows to become a PWS is considered a new system. Systems not currently meeting the definition of a PWS and which add additional users and thereby become a PWS without constructing any additional infrastructure are considered existing systems for the purposes of this subrule. All PWSs should complete a viability assessment. However, only those existing PWSs which meet one or more of the following criteria are required to complete a viability assessment for the department's review and approval.

(1) Systems applying for DWSRF loan funds.

(2) Systems categorized as being in significant noncompliance by the department, due to their history of failure to comply with drinking water standards.

(3) Systems identified by the department via a sanitary survey as having technical, managerial, or financial problems as evidenced by such conditions as poor operational control, a poor state of repair or maintenance, vulnerability to contamination, or inability to maintain adequate distribution system operating pressures.

(4) Systems which have been unable to retain a certified operator in accordance with 567—Chapter 81.

b. Review of viability assessments for systems required to submit an assessment. If the assessment is incomplete and does not include all of the required elements, the supply will be notified in writing and will be given an opportunity to modify and resubmit the assessment within the time period specified by the department. If the system fails to resubmit a completed viability assessment as specified by the department, the department may find that the system is not viable. If the submitted assessment is complete, the department will either indicate that the system is viable or not viable after the assessment review process. The system will be notified of the results of the evaluation by the department.

c. Review of voluntarily submitted viability assessments. It is recommended that all existing systems complete the viability assessment and submit it to the department. Voluntarily submitted assessments may be reviewed upon request and will be exempt from any requirements to modify the assessment if it is not approved, or from a determination that the system is not viable, providing the system does not meet any of the criteria for mandatory completion of a viability assessment as set forth in 43.8(4)*"a"* above.

43.8(6) *Systems which are determined to be not viable.*

a. Applicability. The following applies to community, nontransient noncommunity, and transient noncommunity systems:

(1) Systems applying for DWSRF loan funds must be viable, or the loan funds must be used to assist the system in attaining viable status. If a system making a loan application is found to be not viable, and loan funds will not be sufficient or available to ensure viability, then the situation must be corrected to the department's satisfaction prior to qualification to apply for loan funds.

(2) Systems which meet the department's criteria of significant noncompliance are not considered viable. The viability assessment completed by the public water supply and the most recent sanitary survey results will be evaluated by the department to assist the system in returning to and remaining in compliance, which would achieve viability. Required corrective actions will be specified in the system's operation permit and will include a compliance schedule. Field office inspections will be conducted on an as-needed basis to assist the system in implementing the required system improvements.

(3) Systems experiencing technical, managerial, or financial problems as noted by department in the sanitary survey will be considered not viable. The viability assessment completed by the public water supply will be evaluated by the department to assist the system in attaining viability, and any required corrective actions will be specified in the system's operation permit.

(4) Systems unable to retain a certified operator will be considered not viable. All community and nontransient noncommunity water systems, and transient noncommunity water systems as denoted by the department, are required to have a certified operator who meets the requirements of 567—Chapter 81. The viability assessment completed by the public water supply will be used to determine the source of the problem, and required corrective actions will be specified in the system's operation permit.

b. Reserved.

43.8(7) *Revocation or denial of operation or construction permit.*

a. Revocation or denial of an operation permit. Failure to correct the deficiencies regarding viability, as identified in accordance with a compliance schedule set by the department, may result in revocation or denial of the system's operation permit. If the department revokes or denies the operation permit, the owner of the system must negotiate an alternative arrangement with the department for providing treatment or water supply services within 30 days of receipt of the notification by the department unless the owner of the supply appeals the decision to the department. The public water supply is required to provide water that continually meets all health-based standards during the appeal process.

b. Denial of new construction permits for an existing system. In addition to the criteria provided in 567—Chapters 40 through 44, new construction permits for water system improvements may be denied until the system makes the required corrections and attains viable status unless the proposed project is necessary to attain viability.

c. Failure to conform to approved construction plans and specifications, or to comply with the requirements of 567—Chapters 40 to 44. Failure of a project to conform to approved construction plans and specifications, or failure to comply with the requirements of 567—Chapters 40 to 44, constitutes grounds for the director to withhold the applicable construction and operation permits. The system is then responsible for ensuring that the identified problem with the project is rectified so that permits may be issued. Once an agreement for correcting the problem is reached between the department and the system, the department will issue the appropriate permits according to the provisions of the agreement. If an agreement cannot be reached within a reasonable time period, the permit shall be denied.

d. Contents of the notification denying the permit. The notification of denial or withholding approval of the operation or construction permit will state the department's reasons for withholding or denying permit approval.

43.8(8) *Appeals.*

a. Request for formal review of determination of viability. A person or entity who disagrees with the decision regarding the viability of a public water supply system may request a formal review of the action. A request for review must be submitted in writing to the director by the owner or their designee within 30 days of the date of notification by the department of the viability decision.

b. Appeal of denial of operation or construction permit. A decision to deny an operation or construction permit may be appealed by the applicant to the environmental protection commission pursuant to 567—Chapter 7. The appeal must be made in writing to the director within 30 days of receiving the notice of denial by the owner of the public water supply.

TABLE A: SEPARATION DISTANCES FROM WELLS

SOURCE OF CONTAMINATION		REQUIRED DISTANCE FROM WELL, IN FEET								
		5	10	25	50	75	100	200	400	1000
WASTEWATER STRUCTURES										
POINT OF DISCHARGE TO GROUND SURFACE	Well house floor drains	A								
	Water treatment plant wastes				A					
	Sanitary & industrial discharges								A	
SEWERS AND DRAINS	Well house floor drains to surface	A-EWM	A-WM	A-WM	A-SP					
	Well house floor drains to sewers			A-WM	A-WM	A-SP	A-SP			
	Water plant wastes			A-WM	A-WM	A-SP	A-SP			
	Sanitary & storm sewers, drains			A-WM	A-WM	A-SP	A-SP			
	Sewer force mains					A-WM	A-WM	A-WM	A-SP	A-SP
LAND DISPOSAL OF WASTES	Land application of solid wastes						D	S		
	Irrigation of wastewater						D	S		
Concrete vaults & septic tanks							D	S		
Mechanical wastewater treatment plants								D	S	
Cesspools & earth pit privies								D	S	
Soil absorption fields								D	S	
Lagoons									D	S
CHEMICALS										
Chemical application to ground surface							D	S		
CHEMICAL AND MINERAL STORAGE	Above ground						D	S		
	On or under ground							D	S	
ANIMALS										
Animal pasturage					A					
Animal enclosure							D	S		

SOURCE OF CONTAMINATION		REQUIRED DISTANCE FROM WELL, IN FEET								
		5	10	25	50	75	100	200	400	1000
ANIMAL WASTES	Land application of solids						D	S		
	Land application of liquid or slurry						D	S		
	Storage tank						D	S		
	Solids stockpile							D	S	
	Storage basin or lagoon								D	S
Earthen silage storage trench or pit							D	S		
MISCELLANEOUS										
Basements, pits, sumps			A							
Flowing streams or other surface water bodies					A					
Cisterns					D		S			
Cemeteries								A		
Private wells								D	S	
Solid waste disposal sites										A

A: All wells
D: Deep wells
S: Shallow wells

EWM: Water main pipe specifications encased in 4" of concrete
SP: Pipe of sewer pipe specifications
WM: Pipe of water main specifications

TABLE B
Minimum Self-Monitoring Requirements
Public Water Supply Systems

[Prior to 12/12/90, appeared in 567—Ch 41, Table D]
[Rescinded IAB 8/11/99, effective 9/15/99]

These rules are intended to implement Iowa Code chapter 455B, division III, part 1.

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*Effective date of 43.2(3)"*b*"(1) to (9) and 43.3(3)"*b*"(1) and (2) delayed until adjournment of the 1995 General Assembly by the Administrative Rules Review Committee at its meeting held March 13, 1995.

CHAPTER 54
CRITERIA AND CONDITIONS FOR PERMIT RESTRICTIONS OR COMPENSATION BY PERMITTED USERS TO NONREGULATED USERS DUE TO WELL INTERFERENCE

[Prior to 12/3/86, Water, Air and Waste Management[900]]

567—54.1(455B) Scope of chapter. This chapter provides an administrative means for resolving well interference conflicts in situations where an existing or proposed permitted use causes or will cause well interference in a nonregulated well. While administrative resolution is available, informal negotiations between affected parties must first be attempted and are encouraged throughout the procedure. This chapter applies only to situations in which an adequate groundwater supply is available from the utilized aquifer, but withdrawal for a permitted use causes or will cause such a water level decline in a nonregulated well that it does not provide a sufficient water supply. Situations with inadequate groundwater supply in the utilized aquifer will be managed according to Iowa Code section 455B.266 regarding priority allocation. Resolution of well interference conflicts is predicated on the nonregulated well providing a sufficient water supply prior to well interference. These rules do not apply to situations in which the permitted use existed prior to construction of the nonregulated well, unless a significant change in the permitted use occurs.

567—54.2(455B) Requirements for informal negotiations. The complainant and permittee or applicant must attempt to negotiate an informal settlement prior to the department becoming involved in the verification and settlement procedures described in rules 54.6(455B) and 54.7(455B). If good faith negotiations fail, a letter stating the reasons for the failure to achieve a settlement and signed by all parties to the complaint or identifying those parties who refuse to sign shall be sent to the department. Verbal notification will be accepted if followed by written confirmation.

Guidelines for informal negotiations are provided in Bulletin No. 23. Settlements which result from informal negotiations may be registered with the department for consideration in subsequent conflicts.

567—54.3(455B) Failure to cooperate. If any party refuses to cooperate, fails to provide the required information, or fails to meet the specified deadlines, the complaint may be dismissed, a permanent permit modification or cancellation order may be issued pursuant to 567—subrule 52.7(1) or an application may be conditioned or denied.

567—54.4(455B) Well interference by proposed withdrawals. If the department, using supporting data provided by the applicant pursuant to rule 567—50.6(455B), determines that a proposed withdrawal will cause verified well interference in a nonregulated well(s), the applicant will be given options for resolving the imminent conflict(s) in accordance with 567—subrule 50.7(2). If the applicant selects an option involving compensation to the nonregulated well owner(s), the applicant and nonregulated well owner(s) must attempt to negotiate an informal settlement in accordance with rule 54.2(455B). If informal negotiations fail, administrative resolution of a well interference conflict will be taken pursuant to rule 54.7(455B). The applicant will remain liable for future well interference which is proven to be greater than the amount resolved in the original settlement and for other well interference which was not previously verified.

567—54.5(455B) Well interference by existing permitted uses. If a complaint is made to the department by the owner of a nonregulated well regarding suspected well interference, the following procedures will be followed.

54.5(1) *Initial notification of complaint.* The complainant shall provide the department with the following information:

a. Name, address, and telephone number.

b. Description of the nonregulated well, including: location, depth, construction data and other pertinent information, as available.

c. Description of the problem.

d. Suspected cause of well interference.

54.5(2) *Initial response by the department.* The department will provide the complainant with a description of procedures, guidelines for resolving well interference complaints and information from department files on permitted uses in the area. The department will also notify any permitted user who is suspected of causing well interference of a possible well interference complaint.

54.5(3) *Well inspection.* It is the responsibility of the complainant to have the affected well inspected by a certified well contractor, to have the contractor complete Form 122: Water Well Inspection Report, and to submit the report to the department. Costs for a well inspection are eligible for compensation if well interference is subsequently verified.

54.5(4) *Corrective work prior to a settlement.* The complainant may proceed with corrective measures prior to a settlement and remain eligible for compensation if well interference is subsequently verified. However there will be no assurance of compensation. To be eligible for compensation, conditions prior to the corrective work must be documented on Form 122: Water Well Inspection Report.

The department and suspect permittee(s) should be notified and given opportunity to inspect the nonregulated well and consider alternative means for resolving the possible conflict prior to proceeding with the corrective work. If not, and well interference is subsequently verified but a reasonable settlement other than compensation is available, no compensation will be awarded.

Determination of apparent well interference, verified well interference and compensation, if any, will proceed in accordance with subrule 54.5(5) and rules 54.6(455B) and 54.7(455B).

54.5(5) *Determination of apparent well interference.* The department will determine that the complaint appears valid if all of the following criteria are met:

a. The well inspection found no mechanical or structural reason for well failure.

b. A permitted use can be identified as an apparent cause of well interference.

c. The nonregulated well was in use when the permitted use began or the suspect permitted use changed significantly while the nonregulated well was still active.

d. The suspect permittee and complainant withdraw water from the same aquifer or sources likely to be in close hydraulic connection.

e. The suspect permittee was withdrawing water during the period when well interference was claimed.

f. Well interference is reasonably possible with known conditions (i.e., pumping rates, separation distances, aquifer properties and relative water levels in the wells).

g. Other obvious causes of water level decline are not apparent.

The department may identify permitted uses, in addition to those identified by the complainant, as apparent causes of well interference and will so notify the complainant and each suspect permittee. The department or a suspect permittee may identify other nonregulated wells which may also be affected by well interference caused by the suspected permittee(s), and the department will so notify the suspect permittee(s) and each potential complainant who has been so identified.

If the department determines that apparent well interference exists, the department will immediately notify the complainant and suspect permittee(s) of the situation, procedures, and required informal negotiations. If the department determines that apparent well interference does not exist, the complaint will be dismissed and the complainant and each suspect permittee will be so notified. A dismissal may be appealed by the complainant as provided in rule 54.10(455B).

54.5(6) *Emergency withdrawal suspension or restrictions.* If the complainant's well is not able to deliver a sufficient water supply due to apparent well interference, the department may immediately suspend or restrict withdrawal by the suspect permittee(s) pursuant to 567—subrule 52.7(2). Restrictions may include, but are not limited to, scheduling withdrawals or reducing withdrawal rates. If approved by the department, the permittee(s) may elect to provide a temporary water supply to the complainant or take other appropriate measures as an alternative to withdrawal suspension or restrictions. A temporary water supply must meet the needs of the intended use in terms of both quantity and quality.

567—54.6(455B) Verification of well interference.

54.6(1) *Test pumping.* Test pumping of the complainant's and permittee's wells may be required for verification of well interference. A permittee may perform test pumping to verify well interference even if it is not required by the department. Test pumping shall be authorized by the department and supervised by a certified well contractor, registered professional engineer or other designee of the department. The test pumping shall be performed within 30 days of notification by the department to the permittee and the complainant that test pumping is to be conducted. The permittee and complainant shall each be responsible for all costs associated with test pumping their own wells, although the complainant's costs may be eligible for compensation.

The complainant shall provide access to the nonregulated well for water level measurements during test pumping by the permittee. The permittee may be required to provide the complainant with a temporary water supply during test pumping by the permittee. Test pumping shall be performed in accordance with procedures specified in Bulletin No. 23.

54.6(2) *Determination of verified well interference.* The department will evaluate the occurrence of well interference based on data from the test pumping or other available hydrologic information and notify the affected parties of the results. If the test pumping was not performed under critical conditions (e.g., pumping rate less than maximum permitted rate, pumping duration less than critical duration, recharge more than minimum, etc.), the department will adjust test pumping results accordingly and qualify estimations in reporting the test pumping results.

The results of this evaluation will be used by the department to determine if well interference is verified in accordance with guidelines in Bulletin No. 23. In general, well interference will be verified if it causes the water in a nonregulated well to drop to a level below the pump suction, or it is shown to significantly diminish well performance.

If well interference is verified, settlement procedures according to rule 54.7(455B) will be followed. If well interference is not verified, the complaint will be dismissed and any emergency order will be removed. The department will notify the complainant and permittee of its decision regarding the complaint and either party may appeal pursuant to rule 54.10(455B).

567—54.7(455B) Settlement procedures.

54.7(1) *Settlement options.* At the same time as notification prescribed in subrule 54.6(2) or upon notice to the applicant of verified well interference according to 567—subrule 50.7(2), the department will also advise the permittee or applicant of available settlement options including:

a. Permanent permit modifications (i.e., reduced pumping rate or scheduled pumping).

b. Compensation to the complainant (see subrule 54.7(3) and guidelines in Bulletin No. 23).

In situations in which verified well interference has occurred due to an existing permitted use, the permittee shall notify the department of the selected option within 30 days of notification.

54.7(2) *Compensation offer requirements.* If the compensation option is selected, the applicant or permittee shall submit a notarized offer to the complainant and the department. This offer shall be submitted by a permittee within 30 days of the notification prescribed in subrules 54.6(2) and 54.7(1). An offer must include the following:

a. Written comments by a registered well driller or registered professional engineer detailing well improvements needed in order to provide the complainant with a sufficient water supply.

b. Itemized costs of the improvements by a registered well driller with a breakdown of costs eligible for compensation (see subrule 54.7(3) and guidelines in Bulletin No. 23).

c. A water quality analysis of the existing well water, if a new well is proposed. The analysis shall include, at minimum, determination of nitrate, bacteria, iron and hardness.

d. A statement of what is being offered to the complainant and terms of the offer (timing, who will do the work, cash or completed work settlement, etc.).

54.7(3) *General criteria for cost liability.* The nonregulated well owner's cost for well inspection and test pumping are eligible for compensation. All costs for remedial work necessary to resolve a verified well interference problem are eligible for compensation, except as noted below. (Technical Bulletin No. 23 includes additional details on cost liability.)

a. When the existing well does not comply with applicable well construction standards (567—Chapter 49), costs which are required to bring the well "up to standards" are not eligible for compensation.

b. Costs for work requested by the nonregulated well owner which result in upgrading the nonregulated water supply are not eligible for compensation.

c. Costs for legal fees are not eligible for compensation.

d. Operation and maintenance costs of the water supply system are not eligible for compensation.

e. Costs of the well rejuvenation, unless the well still fails to provide a sufficient water supply after well rejuvenation requested by the permittee is completed, are not eligible for compensation.

f. Costs due to temporary loss of water for such things as hauling water and going to a laundromat are not eligible for compensation, unless the permittee refuses to comply with an emergency order by the department.

54.7(4) *Complainant's response to the offer.* The complainant shall respond in writing to the department within 15 days of receipt of the offer. The response shall indicate acceptance or rejection of the offer. If the offer is rejected, the complainant shall submit a counteroffer with the response. The counteroffer shall contain supporting information including an itemized cost estimate of needed improvements by a registered well driller or registered professional engineer, if appropriate.

54.7(5) *Department review of offer and counteroffer.* The department will review the offer and counteroffer and determine if the offer is reasonable in accordance with criteria given in Bulletin No. 23. If the offer is determined to be reasonable but is rejected by the complainant, the complainant will be given 15 days to reconsider the offer after which the complaint will be dismissed and any suspension or restrictions on withdrawals by the permittee will be removed or, in the case of an application, the permit process will be continued. A dismissal may be appealed by the complainant as provided in rule 54.10(455B).

If the offer is not found to be reasonable, the permittee will be given one opportunity to revise the offer in accordance with determinations of the department. If a revised offer is not received within 15 days or the revised offer is determined by the department not to be reasonable, the department will determine the amount of compensation or withdrawal restrictions to resolve the well interference. This determination will be enforced through the imposition of permit conditions, or permit revocation or denial. In the case of an existing permit the department will modify or revoke the permit as provided in 567—subrule 52.7(1). For a pending permit application the department will render an initial decision pursuant to rule 567—50.8(455B) which denies the application or subjects the permit to appropriate conditions.

567—54.8(455B) Recurring complaints. If a complainant accepts compensation from a permittee for settlement of a well interference conflict, any future complaint by the complainant against the same permittee will not be considered unless: a significant change in the permitted withdrawal occurs; the permittee utilized simplified test pumping procedures or other less than optimal verification methods, as described in Bulletin No. 23; or the permittee provided compensation to resolve less than the estimated worst-case well interference. A complainant who accepts compensation from an applicant is still eligible for compensation if subsequent well interference is proven to be greater than that resolved in the original settlement.

If a previous complaint was dismissed or settled without compensation, a new complaint must include justification for reconsideration. Justification may include a significant change in withdrawals by the suspect permittee or water level measurements from the complainant's well which indicate more well interference than found in the previous complaint. A physical change to withdrawal facilities may be considered a significant change to a permitted use (e.g., moving the withdrawal location, installing a new well, or installing a higher-capacity pump).

A complaint which was dismissed due to failure to cooperate, as provided in rule 54.3(455B), will be reconsidered when the required cooperation is demonstrated. However, it will be treated as a new complaint.

567—54.9(455B) Variances. Variance to these rules may be granted by the department provided just cause can be demonstrated. Requests for variances and supporting information shall be submitted in writing to the department.

567—54.10(455B) Appeal procedures. Determinations of the department under subrules 54.5(5), 54.6(2) and 54.7(4) may be appealed by following the procedure in 567—subrule 7.5(1).

These rules are intended to implement Iowa Code sections 455B.171 and 455B.281.

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CHAPTER 55
AQUIFER STORAGE AND RECOVERY: CRITERIA AND CONDITIONS FOR AUTHORIZING STORAGE, RECOVERY, AND USE OF WATER

567—55.1(455B) Statutory authority. The authority for the department of natural resources to permit persons to inject, store, and recover treated water for potable use is given by Iowa Code sections 455B.261, 455B.265 and 455B.269. This permit requirement applies to any aquifer storage and recovery (ASR) system, including projects involving border streams. The person or water system seeking an aquifer storage and recovery permit must review the criteria for ASR permits and contact the department if a permit is required.

567—55.2 Reserved.

567—55.3(455B) Purpose. The aquifer storage and recovery rules are intended to describe aquifer storage and recovery, including defining the affected area within the aquifer, creating a permit program with technical criteria for evaluating ASR projects, and incorporating technical additions for the practice of treated water recovery. Legal rights and obligations affecting ASR permit holders are defined.

567—55.4(455B) Definitions. The following definitions shall apply to this chapter:

"Aquifer storage and recovery (ASR)" means the injection and storage of treated water in an aquifer through a permitted well during times when treated water is available and withdrawal of the treated water from the same aquifer through the same well during times when treated water is needed.

"Contiguous" means directly adjacent or touching along all or part of one side of a legally defined piece of property. Tracts of land involved in the same water supply and separated only by separators such as roads, railroads, or bike trails are deemed contiguous tracts.

"Displacement zone" means the three-dimensional area of dispersion into which treated water is injected for storage, subject to later recovery.

"Drawdown" means the decrease in water level at a pumping well due to the action of the pump.

"Limited registration" means a one-year written authorization for a nonrecurring use of water for the purpose of forecasting and testing the ASR well system, to include cyclic test pumping as necessary.

"Mechanical integrity" means any structural or material defect in the ASR well or well casing or appurtenances which will prevent or materially impair the injection or pumping of water (to and from) within an aquifer or contribute to aquifer contamination or impairment.

"Permit" means a written authorization issued to a permittee by the department for the storage of treated water in an existing aquifer or the subsequent withdrawal of treated water from an existing aquifer. The permit specifies the quantity, duration, location, and instantaneous rate of this storage or withdrawal.

"Permittee" means a water supply system which obtains a permit from the department authorizing the injection of and possession by storage of treated water in an aquifer, withdrawal of this water at a later date, and the actual beneficial use of the water.

"Receiving aquifer" means the aquifer into which treated water is injected under terms of an ASR permit.

"Recovered water" means water which is recovered from storage within the displacement zone under terms of an ASR permit.

"Stored water" means injected treated potable water which is stored in a receiving aquifer within the displacement zone under terms of an ASR permit.

"Treated water" for the purposes of this chapter means water which has been physically, chemically, or biologically treated to meet national primary and secondary drinking water standards and is fit for human consumption as defined in 567—Chapters 40 to 43, Iowa Administrative Code.

"Zone of influence" means a circular area surrounding a pumping water well where the water table has been measurably lowered due to the action of the pump.

567—55.5(455B) Application processing.

55.5(1) *Application.*

a. Initial application for approval of an aquifer storage and recovery (ASR) project. A permit shall be required for the storage of all treated water in an aquifer for later recovery for potable uses. New permit applications (a request for a new permit, as distinguished from modification or renewal of an existing permit) shall be made on a form obtained from the department. An application form must be submitted by or on behalf of the water supply system owner, lessee, easement holder, or option holder of the area where the water is to be stored and recovered from an aquifer. An application must be accompanied by a map portraying:

(1) The points of injection and withdrawal,

(2) The immediate vicinity (topography) of the receiving aquifer,

(3) Any production, test or other observation wells within the aquifer, and

(4) The area of water storage.

The application must also include a description of the land where wells are located and water will be injected, withdrawn and used, oriented as to quarter section, section, township, and range. One application will be adequate for all uses on contiguous tracts of land. A water supply construction permit issued pursuant to 567—Chapter 43 will also be required for all injection/recovery wells.

b. Limited registration. The department's response to an initial application will be to issue a limited registration to initiate an ASR pretesting program pursuant to paragraph 55.6(1)*"a"*; only after approval of and completion of an ASR pretesting program with appropriate public notification pursuant to subrule 55.5(3) and proper evaluation of the test results will the department issue an ASR permit.

c. A request for modification or renewal of a permit shall be made in a similar manner. This application does not need to reiterate map and location information as previously submitted to the department (unless the information has changed). The limited registration requirement for aquifer pretesting does not apply to modified or renewed ASR permit requests (unless required by the department).

55.5(2) *Application fee.* A nonrefundable fee in the form of a credit card, check, or money order in the amount of $200 payable to the Department of Natural Resources must accompany an application for a permit (and limited registration for aquifer pretesting) for aquifer storage and recovery. A $200 fee must accompany an application for modification or renewal of an ASR permit.

55.5(3) *Published notice—applicant limited registration.* The department will issue a limited registration allowing the applicant to conduct test pumping of an ASR site pursuant to paragraph 55.6(1)*"a."* The applicant shall first publish notice of intent to test the injection and water pumpage/recovery equipment prior to receiving the limited registration. Publication shall be in a form and manner acceptable to the department, in the newspaper of largest circulation in the county where the ASR project is located, and proof of publication shall be submitted to the department. The department will then issue the limited registration, and the applicant shall notify contiguous landowners by U.S. mail of the receipt of the limited registration and the intent to test an ASR site.

55.5(4) *Published notice—departmental intent to issue a final ASR permit.* Before issuance of a final ASR permit, the department shall publish notice of proposed decision to issue an ASR permit or deny the ASR application. Publication shall be in the newspaper of largest circulation in the county where the ASR project is located. This publication shall summarize the department's findings on whether the application conforms to relevant criteria as outlined in subrule 55.6(1). An engineering or hydrogeological summary report prepared by department staff may be attached to the published summary of findings. Copies of the proposed decision shall be mailed to the applicant, any person who commented, and any other person who requests a copy of the decision. The decision shall be accompanied by a certification of the date of mailing. A proposed decision becomes the final decision of the department unless a timely notice of appeal is filed in accordance with 55.5(6).

55.5(5) *Form of department decision.* The decision on an application shall be a permit or denial letter issued by the department. Each permit shall include appropriate standard and special conditions consistent with Iowa Code sections 455B.261 to 455B.274 and 455B.281 and 567—Chapters 52 to 55. The decision may incorporate by reference and attachment the summary report described in 55.5(4). Each decision shall include the following:

a. Determinations as to whether the project satisfies all relevant criteria not addressed in an attached summary report.

b. An explanation of the purpose for imposing each special condition.

c. An explanation of consideration given to all comments submitted pursuant to 55.5(3) and 55.5(4) unless the comments are adequately addressed in the attached summary report.

55.5(6) *Appeal of department decision.* Any person aggrieved by an initial ASR permit decision may appeal the action. The person must submit a request for appeal in writing to the director within 30 days of the date of issuance of the final decision made by the department. A decision by the director on an appeal may be further appealed to the environmental protection commission (EPC). The form of appeal and appeal procedures are governed by 567—Chapter 7. The department shall mail a copy of the notice of appeal to each person who commented on the application.

55.5(7) *ASR permit public hearing.* Reserved.

567—55.6(455B) Aquifer storage and recovery technical evaluation criteria.

55.6(1) *Requirements.* Injections into aquifers for the purpose of treated water storage and subsequent withdrawals from the receiving aquifers intended for potable uses shall be subject to the following requirements:

a. Aquifer pretesting. Procurement of a limited registration for aquifer pretesting as outlined in subrule 55.5(1). The limited registration shall be for the period of one year and may be renewed for two additional one-year periods, for a total cumulative registration time not to exceed three years at the discretion of the department should the project require more than one year to be completed. The limited registration shall allow initial aquifer testing for determining the feasibility of aquifer storage and recovery, including placement of pumping and storage/extraction equipment. The testing approach shall be designed to provide information as needed to evaluate the ultimate capacity anticipated for the ASR project and provide assurance that the ASR site shall not restrict other uses of the aquifer. The testing program shall include injection rates and schedules, water storage volumes, recovery rates and schedule, and a final testing report.

b. Engineering report. An engineering evaluation of the technical feasibility of the proposed water injection and the probable percentage of recovery of treated water when pumped for recovery shall be submitted to the department. The engineering report shall include preliminary information from conceptual evaluations and aquifer pretesting such as:

(1) Injection rates and schedules,
(2) Water storage volumes,
(3) The length of time the injected water will be stored,
(4) The projected recovery rate,
(5) Water quality data necessary to demonstrate the percentage of recovered water and that the water meets national drinking water standards,
(6) Water level monitoring data including the location of observation wells, if any,
(7) A plan detailing what to do with the recovered water if the intended use is not possible, and
(8) A final testing protocol.

If the report can demonstrate by field test results or by a conceptual or mathematical hydrogeologic modeling that the injection, storage, and subsequent recovery will not adversely affect nearby users, the ASR project may be permitted after review by the department. A displacement zone containing the stored volume of water will not be allowed if it adversely affects another user's zone of influence. If the department finds through hydrogeologic modeling or during pretesting that the proposed displacement zone may impact the zone of influence of another user's existing well, additional testing will be required. The department may require the applicant to construct observation wells between the ASR site and nearby wells and may designate project-specific monitoring and reporting requirements at the observation wells.

c. Hydrogeologic evaluation. Hydrogeologic investigation of the site to evaluate potential quantitative and qualitative impacts to the aquifer, including changes to localized aquifer geochemistry, shall be part of the engineering report. Preliminary hydrogeologic information shall include:

(1) The local geology,
(2) A hydrogeologic flow model of the areal flow patterns,
(3) A description of the aquifer targeted for storage,
(4) Estimated flow direction and rate of movement,
(5) Both permitted and private wells within the area affected by ASR wells, including best estimates of respective zones of influence,

(6) Basis for estimating the displacement zone,

(7) Anticipated changes to the receiving aquifer geochemistry due to the proposed ASR testing and use, and

(8) Potable water quantity recovery estimates.

d. Protection of nearby existing water uses. The aquifer storage and recovery permit applicant shall demonstrate that the ASR site shall not restrict other uses of the aquifer by nearby water use permittees. An ASR applicant shall conduct and submit an inventory of nearby wells. The department, after considering the rate and amount of the ASR injections and withdrawals and the characteristics of the aquifer, will determine the extent of the inventory and the appropriate radius from the proposed ASR site. The department shall provide a map specifying the area in which the inventory is needed and forms specifying information to be gathered. The ASR permit applicant shall make a good-faith effort in obtaining available information from public records to identify nearby landowners and occupants and from drilling contractors identified by a landowner or occupant who responds to the inventory. The ASR applicant shall immediately notify the department of all objections raised by nearby landowners or other on-site problems such as the structural integrity of the injection equipment. Well interference conflicts arising from the proposed ASR site/project shall be resolved as outlined in 567—Chapter 54 or as otherwise specified by the department. Water recovery from an ASR site will not be permitted to any user other than the ASR permittee.

e. MCL exceedance limitation. No permit shall allow injected water to contain contaminants in excess of the maximum contaminant levels (MCLs) established by the department in 567—Chapters 40 to 43. Chemicals associated with disinfection of the water may be injected into the aquifer up to the standards established under 567—Chapters 40 to 43 or as otherwise specified by the department.

f. Reporting and record keeping. The permittee shall maintain a monthly record of injection and recovery, including the total number of hours of injection and recovery and the total metered quantity injected and recovered. The records must be submitted to the department annually. Project records including water quality testing records must be kept by the applicant for a period of five years. Water quality monitoring shall be at the frequency required by 567—Chapters 40 to 43 and as identified in the water system's public water supply operation permit. The applicant shall keep project records for a period of three years after termination of an ASR project and closure of the recovery wells.

g. Follow-up analysis by permittee. Reserved.

h. Vacating a permit for failure to construct and nonuse. The department may vacate the permit if the applicant fails to construct injection and water pumpage/recovery and ancillary equipment within three years of issuance of the permit (or subsequent permit modifications or renewals). The permit may also be vacated if the applicant does not use the storage system within three years of acquisition of the permit. A site abandonment plan including the physical removal of injection and water recovery equipment and the abandonment of all injection/recovery and observation wells pursuant to 567—Chapter 39 will be required of the applicant if the permit is vacated. A permittee whose permit is vacated may request a formal review of the action. The permittee must submit a request for review in writing to the director within 30 days of the date of notification of the final decision made by the department. A decision by the director in a formal review case may be further appealed to the environmental protection commission (EPC).

i. Mechanical integrity. Other conditions that are necessary to ensure adequate protection of water supplies may be imposed for mechanical integrity checks of the injection and treated water recovery well.

j. Revocation. The department may revoke or modify a permit to prevent or mitigate injury to other water users or otherwise protect aquifer water quality. The department may, based upon valid scientific data, further restrict certain chemicals in the injection source water if the department finds the constituents will interfere with or pose a threat to the maintenance of the water resources of the state for present or future beneficial uses.

k. Nonpotable uses. Reserved.

55.6(2) *Duration of permit, conditions of permit, and applicant property rights.* Permits for aquifer storage and recovery shall be issued for 20 years.

a. Conditions of permit. The permit will specify the maximum allowable injection rate at each well, the maximum allowable annual quantitative storage volume, and the maximum allowable instantaneous water withdrawal rate at each well.

b. Property of permittee. The department shall not authorize withdrawals of treated water from an aquifer storage and recovery site by anyone other than the permittee during the period of the permit and each subsequent renewal permit. Treated water injected into a receiving aquifer (and thereby comprising the "displacement zone") as part of an ASR permit is the property of the permittee. Treated water which is recovered from storage within a displacement zone under terms of a permit shall be referred to as "recovered water" and shall be the property of the permittee. If a permit is revoked or otherwise surrendered, the ownership of the injected water within the aquifer (the water considered as "property") reverts to the state of Iowa.

c. Restrictions on other wells within displacement zone. Existing wells within the displacement zone shall be plugged pursuant to 567—Chapter 39. No new private water wells, injection/withdrawal wells, observation wells, or public water supply wells shall be permitted by any governmental entity within the ASR displacement zone while the ASR permit is in effect. An ASR permit shall be filed with the appropriate county recorder to give constructive notice to present and future landowners of all conditions or requirements imposed by the final decision on an ASR application, including the well prohibition condition.

These rules are intended to implement Iowa Code sections 455B.261, 455B.265 and 455B.269.

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CHAPTERS 56 to 59
Reserved

CHAPTER 83
LABORATORY CERTIFICATION
[Prior to 4/10/96, see 567—Chapter 42]

PART A
GENERAL

567—83.1(455B) Authority, purpose, and applicability.

83.1(1) *Authority.* Pursuant to Iowa Code section 455B.113, a laboratory certification program is required for laboratories performing analyses of samples which are required to be submitted to the department as a result of Iowa Code provisions, rules, operation permits, or administrative orders. Pursuant to Iowa Code section 455B.114, the department may suspend or revoke the certification of a laboratory upon determination of the department that the laboratory no longer fulfills one or more of the requirements for certification.

83.1(2) *Purpose.* The purpose of these rules is to provide the procedures for laboratories to use to apply for certification, to establish laboratory certification fees, to maintain certification, and to provide the appropriate methods and references for evaluating laboratory competence including the requirements for laboratories to become certified.

83.1(3) *Applicability to environmental program areas.*

a. Water supply (drinking water). The requirements of this chapter apply to all laboratories conducting drinking water analyses (with the exception of the University of Iowa Hygienic Laboratory) pursuant to 567—Chapters 40, 41, 42, 43, and 47. Routine, on-site monitoring for pH, turbidity, and chlorine residual and on-site operation and maintenance-related analytical monitoring are excluded from this requirement.

b. Underground storage tanks. The requirements of this chapter also apply to all laboratories conducting underground storage tank analyses (with the exception of the University of Iowa Hygienic Laboratory) for petroleum constituents pursuant to 567—Chapter 135. Routine on-site monitoring conducted by or for underground storage tank owners for leak detection or a nonregulatory purpose are excluded from this requirement.

c. Wastewater. The requirements of this chapter also apply to all laboratories conducting analyses of wastewater, groundwater or sewage sludge (with the exception of the University of Iowa Hygienic Laboratory) pursuant to 567—Chapters 63, 67, and 69. Routine on-site monitoring for pH, temperature, dissolved oxygen, total residual chlorine and other pollutants that must be analyzed immediately upon sample collection, settleable solids, physical measurements such as flow and cell depth, and operational monitoring tests specified in 567—subrule 63.3(4) are excluded from this requirement.

567—83.2(455B) Definitions.

"Certified" means a laboratory demonstrates to the satisfaction of the department its ability to consistently produce valid data within the acceptance limits as specified within the department's requirements for certification and meets the minimum requirements of this chapter and all applicable regulatory requirements. A laboratory may be certified for an analyte, an analytical series, or an environmental program area, except in the UST program area, where certification for individual analytes is not allowed.

"Environmental program area" means the water supply (drinking water) program, underground storage tank program, or wastewater program pursuant to 83.1(3).

"Manual for the Certification of Laboratories Analyzing Environmental Samples for the Iowa Department of Natural Resources" (1999) (Iowa Manual) is incorporated by reference in this chapter.

1. Chapter 1 of the Iowa Manual pertains to certification of laboratories analyzing samples of drinking water and incorporates by reference the Manual for the Certification of Laboratories Analyzing Drinking Water, 4th edition, March 1997, EPA document 815-B-97-001.

2. Chapter 2 of the Iowa Manual pertains to laboratories analyzing samples for the underground storage tank program.

3. Chapter 3 of the Iowa Manual pertains to laboratories analyzing samples for the wastewater and sewage sludge disposal programs.

"Performance evaluation sample (PE)" means a reference sample provided to a laboratory for the purpose of demonstrating that a laboratory can successfully analyze the sample within limits of performance specified by the department. The true value of the concentration of the reference material is unknown to the laboratory at the time of analysis.

"Provisional certification" means a laboratory has deficiencies, which must be corrected within the specified time frames listed in 83.7(2)*"d,"* but demonstrates to the satisfaction of the department its ability to consistently produce valid data within the acceptance limits as specified within the department's certification requirements.

"Revoked certification" means a laboratory no longer fulfills the requirements of this chapter, and certification is revoked by the director upon determination of the director that the laboratory no longer fulfills the requirements for certification (455B.114).

"Suspended certification" means a temporary suspension of certification for a laboratory, conditional upon meeting the time frames in 83.7(4)*"d"* for the correction of the deficiency.

"Temporary certification" means short-term transitional certification granted in certain circumstances when the department implements certification in a new environmental program area.

PART B
CERTIFICATION PROCESS

567—83.3(455B) Application for laboratory certification.

83.3(1) *Application forms.* Application for laboratory certification, other than for temporary certification, shall be made on forms provided by the department and shall be accompanied by the nonrefundable fee specified in 83.3(2). The application for renewal of certification shall be made at least 60 days prior to the certification expiration date. The department may require submission of additional information necessary to evaluate the application. All required documentation must be supplied to the department prior to the on-site visit. Failure to submit a complete application may result in denial of the renewal.

83.3(2) *Fees and expenses.*

a. A nonrefundable fee for the administration, completion of on-site laboratory surveys and assessments, and enforcement of laboratory certification requirements shall be paid with the certification application.

(1) The on-site visit will not be conducted and certification will not be issued until the fees and expenses are paid and all other certification requirements are met. The fee for certification will not be refunded if an on-site visit is not performed.

(2) Out-of-state laboratories will be responsible for paying the expenses of an on-site visit, in addition to the standard certification fee if required, and the department or its agent will bill the out-of-state laboratory directly for the expenses.

(3) When a laboratory's certification is changed to "provisional" or "suspended" and the period for correcting deficiencies extends beyond the certification period, the laboratory must continue to pay the required fees in order to maintain its certification status.

(4) Any laboratory requiring additional on-site visits is responsible for paying the expenses of the additional on-site visits. The department or its agent will bill the laboratory directly for these expenses. The laboratory certification fees will be increased by $300 per visit in those cases where multiple on-site visits are necessary.

b. Certification in multiple environmental program areas. Where a laboratory is certified for the same analyte in more than one environmental program area, the laboratory must meet all the applicable certification requirements in addition to the payment of the fees.

c. The applicable fees shall be based on the type of analytical service provided as follows. The fee for certification of a single analyte, or for any analyses not covered in subparagraphs (1) to (4) below, shall be $300.

(1) Water supply laboratory certification fees.

1. The fee for microbiological analyses including total coliform, fecal coliform, *E. coli*, heterotrophic bacteria, viruses, algae, diatoms, rotifers, and *Giardia* shall be $600. Laboratories may also be certified for fluoride, nitrate and nitrite with no additional fee (when they are certified for microbiological analyses) providing they are not seeking certification for any other inorganic analyte.

2. The fee for inorganic analyses including nitrate, nitrite, fluoride, arsenic, sodium, and other inorganics shall be $1,200. However, a laboratory certified to conduct inorganic analyses under the wastewater program may be certified to conduct inorganic analyses under the water supply program for an additional $300 ($1,500 total).

3. The fee for volatile organic chemical analyses such as benzene and trichloroethylene shall be $1,200. However, a laboratory certified to conduct analyses for volatile organic chemicals under the wastewater program may be certified to conduct analyses for volatile organic compounds under the water supply program for an additional $600 ($1,800 total).

4. The fee for synthetic (nonvolatile) organic chemical analyses such as atrazine and pentachlorophenol shall be $1,200. However, a laboratory certified to conduct analyses for synthetic organic chemicals under the wastewater program may be certified to conduct analyses for synthetic organic chemicals under the water supply program for an additional $600 ($1,800 total).

5. The fee for chemical analyses for dioxins shall be $600.

6. The fee for asbestos fiber analyses shall be $300.

7. The fee for analyses of radionuclides shall be $300. However, a laboratory certified to conduct radionuclide analyses under the wastewater program may be certified to conduct the same analyses for the water supply program for an additional $100 ($400 total).

8. The fee for certification of Information Collection Rule (ICR) parameters shall be $300.

(2) Underground storage tank laboratory certification fees. The fee for analyses for petroleum constituents using methods OA-1 and OA-2 shall be $1,200. However, a laboratory certified to conduct analyses for petroleum constituents under the wastewater program may be certified to conduct the same analyses for the underground storage tank program for an additional $300 ($1,500 total).

(3) Wastewater program laboratory certification fees.

1. The fee for analyses of basic wastewater constituents which includes biochemical oxygen demand (BOD), carbonaceous biochemical oxygen demand (CBOD), total suspended solids (TSS), and ammonia nitrogen (NH_3) shall be $300.

2. The fee for microbiological analyses shall be $600.

3. The fee for effluent toxicity analyses shall be $600.

4. The fee for inorganic analyses shall be $300 per analyte to a maximum of $1,200. However, a laboratory certified to conduct inorganic analyses under the water supply program may be certified to conduct inorganic analyses under the wastewater program for an additional $300 ($1,500 total).

5. The fee for synthetic (nonvolatile) organic chemical analyses shall be $1,200. However, a laboratory certified to conduct analyses for synthetic organic chemicals under the water supply program may be certified to conduct analyses for synthetic organic chemicals under the wastewater program for an additional $600 ($1,800 total).

6. The fee for volatile organic chemical analyses shall be $1,200. However, a laboratory certified to conduct analyses for volatile organic chemicals under the water supply program may be certified to conduct analyses for volatile organic compounds under the wastewater program for an additional $600 ($1,800 total).

7. The fee for analyses for petroleum products using methods OA-1 or OA-2 shall be $1,200. However, a laboratory certified to conduct analyses for petroleum constituents under the underground storage tank program may be certified to conduct the same analyses for the wastewater program for an additional $300 ($1,500 total).

8. The fee for analyses of radionuclides shall be $300. However, a laboratory certified to conduct radionuclide analyses under the water supply program may be certified to conduct the same analyses for the wastewater program for an additional $100 ($400 total).

(4) The fee for certification of a single analyte, or for any analyses not covered by subparagraphs (1) to (3), shall be $300.

d. Payment of fees. Fees shall be paid by bank draft, check, money order, or other means acceptable to the department, made payable to the Iowa Department of Natural Resources. Purchase orders are not an acceptable form of payment.

83.3(3) *Reciprocity.* Reciprocal certification of out-of-state laboratories by Iowa, and of Iowa laboratories by other states or accreditation providers, is encouraged. A laboratory must meet all Iowa certification criteria and pay all applicable fees, pursuant to 567—Chapter 83. Any laboratory which is granted reciprocal certification in Iowa using primary certification from another state or provider is required to report any change in certification status from the accrediting state or provider to the department within 14 days of notification.

a. *Out-of-state laboratories.* Where an out-of-state laboratory has received an on-site visit within its own state, the fee for certification shall not be reduced if an on-site visit is not performed by Iowa.

b. Third-party accreditation. The department may accept third-party accreditation from national accreditation providers on an individual basis.

567—83.4(455B) Procedure for initial laboratory certification for wastewater laboratories. Rescinded IAB 8/11/99, effective 9/15/99.

567—83.5(455B) Procedures for certification of new laboratories or changes in certification. Laboratories that wish to become certified to conduct testing for an analyte or a method after the deadline for initial certification has passed, and any laboratory seeking initial certification, shall follow the procedures specified in 567—83.6(455B) for laboratory recertification. For changes in certification, the relevant fee must accompany the application where appropriate.

567—83.6(455B) Laboratory recertification. Laboratories shall be recertified every two years after initial certification. Applications for recertification must be on forms provided by the department and must be postmarked at least 60 days prior to the renewal date. Applications shall be accompanied by the fee specified in 83.3(2). To be recertified, laboratories must meet the following requirements.

83.6(1) Laboratories must use the approved methodology for all analyses the results of which are to be submitted to the department. A laboratory may not analyze and report data from samples collected for an environmental program area until certified in that area.

83.6(2) Certified laboratories must satisfactorily analyze PEs at least once every 12 months for each analyte by each method for which the laboratory wishes to retain certification unless a PE sample is not available for the particular analyte or method. Results must be submitted to Iowa department of natural resources or as otherwise directed, along with a statement of the method used within 30 days of receipt from the provider. The laboratory must maintain records of all PE samples for a minimum of 5 years.

83.6(3) Laboratories must notify the department, in writing, within 30 days of major changes in essential personnel, equipment, laboratory location, or other major change which might alter or impair analytical capability. Examples of a major change in essential personnel are the loss or replacement of the laboratory supervisor, or a trained and experienced analyst is no longer available to analyze a particular parameter for which certification has been granted.

83.6(4) Site visits.

(1) Certification of the University of Iowa Hygienic Laboratory (UHL), as the designee of the department for appraisal authority, is the responsibility of the UHL quality assurance officer. The quality assurance officer reports directly to the office of the director and operates independently of all areas of the laboratory generating data to ensure complete objectivity in the evaluation of laboratory operations. The quality assurance officer will schedule a biennial on-site inspection of the UHL and review results for acceptable performance. Inadequacies or unacceptable performance shall be reported by the quality assurance officer to the UHL and the department for correction. The department shall be notified if corrective action is not taken.

(2) Laboratories must consent to a periodic site visit by the department or its designee, at least every two years. However, an on-site visit may be conducted more frequently if the laboratory undergoes a major change which may alter or impair analytical capability, fails a PE sample analysis, or if the department questions an aspect of data submitted which is not satisfactorily resolved.

83.6(5) Period of validity. Certification shall be valid for a period not to exceed two years from the date of issuance, except in the case of reciprocal certification of an out-of-state laboratory. Reciprocal certification shall be valid for a period equal to that of the resident state in which the laboratory is certified, but shall not exceed two years. Certification shall remain in effect provided a laboratory has submitted a timely and complete application, until certification is either renewed or revoked.

83.6(6) Reporting requirements. Laboratories may not analyze or report sample results for any analyte, analytical series, or environmental program area until the initial certification status of "certified" or "temporary" has been granted by the department. Any data generated before certification status is granted will be considered invalid for compliance purposes. A laboratory with "provisional" status may analyze and report analyses for compliance purposes.

A certified laboratory may contract analyses to another certified laboratory. The responsibility lies with the primary certified laboratory contracting for services to verify that the secondary contracting laboratory is certified by the department and to ensure that reporting requirements and deadlines are met.

a. Water supply program.

(1) Certified laboratories must report to the department, or its designee such as the University Hygienic Laboratory, all analytical test results for all public water supplies, using forms provided or approved by the department or by electronic means acceptable to the department. If a public water supply is required by the department to collect and analyze a sample for an analyte not normally required by 567—Chapters 41 and 43, the laboratory testing for that analyte must also be certified and report the results of that analyte to the department. It is the responsibility of the laboratory to correctly assign and track the sample identification number as well as source/entry point data for all reported samples.

1. The following are examples of sample types for which data results must be reported:

- Routine: a regular sample which includes samples collected for compliance purposes from such locations as the source/entry point and in the distribution system, at various sampling frequencies;
- Repeat: a sample which must be collected after a positive result from a routine or previous repeat total coliform sample, per 567—41.2(455B);
- Confirmation: a sample which verifies a routine sample, normally used in determination of compliance with a health-based standard, such as nitrate;
- Special: a nonroutine sample, such as raw, plant, and troubleshooting samples;
- Maximum residence time: a sample which is collected at the maximum residence time location in the distribution system, usually for total trihalomethane measurement; and
- Replacement: a sample which replaces a missed sample from a prior monitoring period resulting in a monitoring violation.

2. The following additional types of data must be reported to the department:

- Monthly Operation Report (MOR) data which has been specifically required by the department to demonstrate compliance with public health standards;

• Chemical results not required to be analyzed but which are detected during analysis, such as detection of a synthetic organic chemical during a routine analysis of that related analytical series for compliance reporting; and

• Raw water sampling results specifically covered by 567—Chapters 40 to 43 for new surface water or groundwater sources, or reconstruction of groundwater sources.

3. The following are examples of data results that are not required to be reported by the laboratory to the department:

• Routine MOR data;

• Distribution samples for the Total Coliform Rule for water main repair or installation; or

• Results for contaminants that are not required by the department to be analyzed, which are below detection level.

4. The sample type cannot be changed after submittal to the laboratory, without approval by the department. The prescreening, splitting, or selective reporting of compliance samples is not allowed.

(2) Certified laboratories must report all analytical results to the public water supply for which the analyses were performed.

(3) Analytical results must be reported to and received by the department's designee by the seventh day of the month following the month in which the samples were analyzed.

(4) In addition to the monthly reporting of the analytical results, the following results must be reported within 24 hours of the completion of the analysis to the department by facsimile transmission (fax) or other method acceptable to the department, and to the public water supply for which the analyses were conducted:

1. Results of positive coliform bacteria samples and their associated repeat and follow-up samples.

2. Results of any contaminant which exceeds public drinking water standards (maximum contaminant level, treatment technique, or health advisory), and any subsequent confirmation samples, excluding lead and copper.

b. Underground storage tank program. Certified laboratories must report to the person requesting the analysis and include the information required in 567—subrule 135.10(2) in their laboratory report.

c. Wastewater program. Certified laboratories must report to the person requesting the analysis and include the information required in 567—paragraphs 63.2(2)*"b"* to *"e"* in their laboratory report.

83.6(7) Performance evaluation (PE) and acceptance limits. All PE samples must be obtained from EPA; a provider accredited by EPA, the National Environmental Laboratory Accreditation Program (NELAP) or National Institute of Standards and Technology (NIST); or other provider acceptable to the department. All PE samples must have statistical acceptance limits. Certain environmental program areas may have specific PE requirements, as follows:

a. Water supply program. In addition to the analytes specifically listed in 83.6(7)*"a,"* PE samples are required for certification of the unregulated and discretionary compounds listed in 567—Chapter 41, using statistical acceptance limits determined by the PE sample provider.

(1) Volatile organic chemical (VOC) PE laboratory certification. Analysis for VOCs shall only be conducted by laboratories certified by EPA or the department or its authorized designee according to the following conditions. To receive approval to conduct analyses for the VOC contaminants in 567—subparagraph 41.5(1)*"b"*(1), except for vinyl chloride, the laboratory must:

1. Analyze PE samples provided by EPA, the department, or its designee, at least once a year.

2. Achieve the quantitative acceptance limits for at least 80 percent of the regulated organic chemicals included in the PE sample, except for vinyl chloride.

3. Achieve quantitative results on the PE samples within plus or minus 20 percent of the actual amount of the substances when the actual amount is greater than or equal to 0.010 mg/L.

4. Achieve quantitative results on the PE samples within plus or minus 40 percent of the actual amount of the substances when the actual amount is less than 0.010 mg/L.

5. Achieve a VOC method detection limit of 0.0005 mg/L.

(2) To receive approval for vinyl chloride, the laboratory must:

1. Analyze PE samples which include vinyl chloride provided by EPA, the department, or its authorized designee, at least once a year.

2. Achieve quantitative results on the PE samples within plus or minus 40 percent of the actual amount of vinyl chloride.

3. Achieve a method detection limit of 0.0005 mg/L.

(3) Synthetic organic chemicals (SOCs) PEs—laboratory certification. Analysis under this paragraph shall only be conducted by laboratories certified by EPA or the department or its authorized designee. To receive approval to conduct analyses for the SOC contaminants in 567—subparagraph 41.5(1)*"b"*(2), the laboratory must:

1. Analyze PE samples which include those substances provided by EPA, the department, or its authorized designee, at least once a year.

2. For each contaminant that has been included in the PE sample, achieve quantitative results on the analyses that are within the following acceptance limits:

ACCEPTANCE LIMITS

Contaminant	Acceptance Limit, in percent
Alachlor	(+ or -) 45
Aldicarb	2 standard deviations
Aldicarb sulfoxide	2 standard deviations
Aldicarb sulfone	2 standard deviations
Atrazine	(+ or -) 45
Benzo(a)pyrene	2 standard deviations
Carbofuran	(+ or -) 45
Chlordane	(+ or -) 45
2,4-D	(+ or -) 50
Dalapon	2 standard deviations
Dibromochloropropane (DBCP)	(+ or -) 40
Di(2-ethylhexyl)adipate	2 standard deviations
Di(2-ethylhexyl)phthalate	2 standard deviations
Dinoseb	2 standard deviations
Diquat	2 standard deviations
Endothall	2 standard deviations
Endrin	(+ or -) 30
Ethylene dibromide (EDB)	(+ or -) 40
Glyphosate	2 standard deviations
Heptachlor	(+ or -) 45
Heptachlor epoxide	(+ or -) 45
Hexachlorobenzene	2 standard deviations
Hexachlorocyclopentadiene	2 standard deviations
Lindane	(+ or -) 45
Methoxychlor	(+ or -) 45
Oxamyl	2 standard deviations
Pentachlorophenol	(+ or -) 50
Picloram	2 standard deviations
Polychlorinated biphenyls (PCBs as decachlorobiphenyl)	0 - 200
Simazine	2 standard deviations
2,3,7,8-TCDD (Dioxin)	2 standard deviations
2,4,5-TP (Silvex)	2 standard deviations
Toxaphene	(+ or -) 45

(4) Inorganic chemical PE—laboratory certification. Analysis under this paragraph shall be conducted only by laboratories certified by EPA or the department or its authorized designee. To receive approval to conduct analyses for antimony, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, nitrate, nitrite, selenium and thallium, the laboratory must:

1. Analyze PE samples which include those substances provided by EPA, the department, or its designee, at least once a year.

2. For each contaminant that has been included in the PE sample, achieve quantitative results on the analyses that are within the following acceptance limits:

ACCEPTANCE LIMITS

Contaminant	Acceptance Limit
Antimony	(+ or -) 30% at greater than or equal to 0.006 mg/L
Asbestos	2 standard deviations based on study statistics
Barium	(+ or -) 15% at greater than or equal to 0.15 mg/L
Beryllium	(+ or -) 15% at greater than or equal to 0.001 mg/L
Cadmium	(+ or -) 20% at greater than or equal to 0.002 mg/L
Chromium	(+ or -) 15% at greater than or equal to 0.01 mg/L
Cyanide	(+ or -) 25% at greater than or equal to 0.1 mg/L
Fluoride	(+ or -) 10% at greater than or equal to 1 to 10 mg/L
Mercury	(+ or -) 30% at greater than or equal to 0.0005 mg/L
Nickel	(+ or -) 15% at greater than or equal to 0.01 mg/L
Nitrate	(+ or -) 10% at greater than or equal to 0.4 mg/L
Nitrite	(+ or -) 15% at greater than or equal to 0.4 mg/L
Selenium	(+ or -) 20% at greater than or equal to 0.01 mg/L
Thallium	(+ or -) 30% at greater than or equal to 0.002 mg/L

(5) Lead and copper PE—laboratory certification. To obtain certification to conduct analyses for lead and copper, laboratories must:

1. Analyze PE samples which include lead and copper provided by EPA, the department, or its designee, at least once a year; and

2. Achieve quantitative acceptance limits as follows:

- Lead: plus or minus 30 percent of the actual amount in the PE sample when the actual amount is greater than or equal to 0.005 mg/L. The practical quantitation level or PQL for lead is 0.005 mg/L; and
- Copper: plus or minus 10 percent of the actual amount in the PE sample when the actual amount is greater than or equal to 0.050 mg/L. The practical quantitation level or PQL for copper is 0.050 mg/L;

3. Achieve method detection limits as follows:

- Lead: 0.001 mg/L (only if source water compositing is done); and
- Copper: 0.001 mg/L or 0.020 mg/L when atomic absorption direct aspiration is used (only if source water compositing is done);

4. Be currently certified by EPA or the department to perform analyses to the specifications described in 567—paragraph 41.4(1)*"g."*

b. Underground storage tank program. A laboratory must achieve quantitative results on PE samples every 12 months within plus or minus 20 percent of the true value for individual compounds (i.e., benzene, ethylbenzene, toluene, xylene by OA-1) and plus or minus 40 percent of the true value for multicomponent materials (i.e., gasoline, diesel fuel, motor oil by either OA-1 or OA-2).

c. Wastewater program. Achieve acceptable quantitative results on PE samples every 12 months equivalent to those used in the Water Pollution (WP) proficiency program, or the Discharge Monitoring Report Quality Assurance (DMRQA) program, both of which are administered by EPA or its designee.

567—83.7(455B) Criteria and procedure for provisional, suspended, and revoked laboratory certification.

83.7(1) *Provisional certification criteria.*

a. The department may downgrade certification to "provisional" status based on cause. The reasons for which a laboratory may be downgraded to "provisionally certified" status include, but are not limited to, the following list.

(1) Failure to analyze a performance evaluation (PE) sample annually within Iowa acceptance limits;

(2) Failure to notify the department within 30 days of changes in essential personnel, equipment, laboratory facilities or other major change which might impair analytical capability;

(3) Failure to satisfy the department that the laboratory is maintaining the required standard of quality based on an on-site visit;

(4) Failure to report compliance data in a timely manner to the department or the client, thereby preventing timely compliance with environmental program regulations.

b. The department may assess an administrative penalty for a laboratory's failure to comply with the laboratory certification or reporting requirements.

c. A laboratory will not be granted provisional certification by the department for contaminants which pose an acute risk to human health, including nitrate, nitrite, fecal coliform bacteria, and *Escherichia coli* bacteria.

83.7(2) *Provisional certification procedure.*

a. Notification to the laboratory. If a laboratory is subject to downgrading to "provisional" status on the basis of 83.7(1), the department will notify the laboratory or owner in writing of the downgraded status. Certification may be downgraded to provisional for an analyte, a related analytical series, an environmental program area, or the entire laboratory.

b. Reporting. A provisionally certified laboratory may continue to analyze samples for compliance purposes, but must notify the laboratory's IDNR-regulated clientele and other state certifying agencies of the change in laboratory certification status. If there is cause to question the quality of the data generated by the laboratory, the department may suspend the laboratory's ability to submit data to the department for any or all analytes, pursuant to 83.7(3), which includes suspension of the ability of the laboratory's client to report the data of questionable quality to the department.

c. Right to appeal. There is no appeal for this process, as it does not affect a laboratory's ability to analyze and report to the department.

d. Correction of deficiencies.

(1) If a laboratory failed to analyze a PE sample within acceptance limits, the laboratory has 60 days from receipt of the notification of the failure to identify and correct the problem to the department's satisfaction, and analyze a second PE sample. If the laboratory fails to analyze this second sample within acceptance limits and has had acceptable PE sample results within the last year, the department will downgrade the laboratory to "provisionally certified" status and notify the laboratory in writing.

(2) Once the department notifies a laboratory in writing that it has been downgraded to "provisionally certified" status, the laboratory must correct the problem within the following time frames, unless a written extension is obtained from the department. If the problem is not corrected, the laboratory is subject to suspension or revocation for that analyte, related analytical series, environmental program area, or the entire laboratory.

1. Unacceptable PE sample result within two months of notification.
2. Procedural deficiency within three months of notification.
3. Administrative deficiency within three months of notification.
4. Minor equipment deficiency within three months of notification. Examples of a minor equipment deficiency are inadequate analytical balances or incubators.

(3) The laboratory shall review the problems cited and, within the time period designated by the department, specify in writing to the department the corrective actions being taken, including an appropriate implementation schedule. The department shall consider the adequacy of the response and notify the laboratory of its certification status in a timely basis by mail, and may follow up to ensure corrective actions have been taken.

e. Reinstatement. Certification will be reinstated when the laboratory can demonstrate that all conditions for laboratory certification have been met to the satisfaction of the department and that the deficiencies which resulted in provisional certification status have been corrected. This may include an on-site visit, successful analysis of unknown samples, or any other measure that the department deems appropriate.

83.7(3) *Suspended certification criteria.*

a. The department may downgrade certification to "suspended" status based on cause. The reasons for which a laboratory may be downgraded to "suspended" status include, but are not limited to, the following list.

(1) Failure to analyze a PE sample annually for contaminants which pose an acute risk to human health, including nitrate, nitrite, fecal coliform bacteria, and *Escherichia coli* bacteria, or which pose an imminent risk to the environment;

(2) Failure to analyze a PE sample annually within Iowa acceptance limits for contaminants which pose an acute risk to human health, including nitrate, nitrite, fecal coliform bacteria, and *Escherichia coli* bacteria, or which pose an imminent risk to the environment;

(3) Failure to correct previously identified deficiencies, which resulted in "provisional" certification status, within the prescribed time frames of 83.7(2)*"d"*;

(4) Failure to analyze a PE sample within Iowa acceptance limits when there is not a reliable history of successful PE sample analysis within the past 12 months;

(5) Failure to satisfy the department that the laboratory is producing accurate data.

b. Administrative penalty. The department may assess an administrative penalty for a laboratory's failure to comply with the laboratory certification or reporting requirements.

c. Emergency suspension. The department may suspend certification without providing notice and opportunity to the laboratory to be heard if the department finds that the public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its administrative order, pursuant to 561—subrule 7.16(6).

83.7(4) *Suspended certification procedure.*

a. Notification to the laboratory. If a laboratory is subject to downgrading to "suspended" status on the basis of 83.7(3), the department will notify the laboratory or owner in writing of its intent to suspend certification in accordance with 561—7.16(17A,455A). Certification may be suspended for an analyte, a related analytical series, an environmental program area, or the entire laboratory.

b. Reporting. Once the suspension is effective, a laboratory must immediately discontinue analysis and reporting of compliance samples, may not analyze or report samples for compliance with departmental standards, and must notify the laboratory's Iowa regulated clientele and other state certifying agencies of the change of the laboratory certification status. Any results generated during the period of suspension may not be used for compliance purposes by the department.

c. Right to appeal.

(1) The laboratory may appeal this decision by filing a written notice of appeal and request an administrative hearing with the department director within 30 days of receipt of the notice of suspension of certification. Contested case procedures under 561—Chapter 7 shall govern administration of the appeal.

The appeal must identify the specific portion(s) of the department action being appealed and be supported with a statement of the reason(s) for the challenge and must be signed by a responsible official from the laboratory such as the president or owner for a commercial laboratory, or the laboratory supervisor in the case of a municipal laboratory, or the laboratory director for a state laboratory.

(2) If no timely notice of appeal is filed, suspension is effective 30 days after receipt of the notice of suspension unless an emergency suspension order is in effect.

d. Correction of deficiencies.

(1) If a laboratory failed to analyze a PE sample within acceptance limits, the laboratory has 30 days from receipt of the notification of the failure to identify and correct the problem to the department's satisfaction. If the laboratory fails to analyze this second sample within acceptance limits, the department will downgrade the laboratory to "suspended" status and notify the laboratory in writing.

(2) Once the department notifies a laboratory in writing that it has been downgraded to suspended status, the laboratory must correct the problem within the following timetable, unless a written extension is obtained from the department. If the problem is not corrected, the laboratory is subject to revocation for that analyte, related analytical series, environmental program area, or the entire laboratory.

1. Unacceptable PE sample result within two months of notification.
2. Procedural deficiency within three months of notification.
3. Administrative deficiency within three months of notification.
4. Minor equipment deficiency within three months of notification. Examples of a minor equipment deficiency are inadequate analytical balances or incubators.
5. Major equipment deficiency within six months of notification. An example of a major equipment deficiency would be the inability of existing complex analytical equipment to produce acceptable results, such as a chromatograph or spectrophotometer.

(3) The laboratory shall review the problems cited and, within the time period designated by the department, specify in writing to the department the corrective actions being taken including an appropriate implementation schedule. The department shall consider the adequacy of the response and notify the laboratory of its certification status in a timely basis by mail, and may follow up to ensure that corrective actions have been taken.

e. Reinstatement.

(1) Fee.

1. The laboratory will not be required to pay an additional fee if recertification affects an analyte or related analytical series, provided that:

- The laboratory is currently certified for other analytes, or
- A fee was paid within the two-year certification period for that related analytical series and the laboratory is certified for other parameters within that related analytical series.

2. A fee will be required if suspension affects a related analytical series effectively deleting that fee group from certification (such as all microbiological parameters in SDWA-MICRO), an environmental program area, or the entire laboratory. A fee will also be required if an additional on-site visit is required.

(2) Certification will be reinstated when the laboratory can demonstrate that all conditions for laboratory certification have been met to the department's satisfaction and, in particular, that the deficiencies which produced the suspension have been corrected. This may include an on-site visit, successful analysis of unknown samples, or any other measure that the department deems appropriate.

83.7(5) *Revoked certification criteria.*

a. A laboratory may have its certification revoked for cause including, but not limited to, any of the following reasons.

(1) For laboratories of any status, failure to analyze a PE sample within Iowa acceptance limits;

(2) Failure to satisfy the department that the laboratory has corrected deficiencies identified during the on-site visit within three months for a procedural or administrative deficiency or within six months for an equipment deficiency;

(3) Submission of a PE sample to another laboratory for analysis and reporting the data as its own;

(4) Falsification of data or other deceptive practices;

(5) Failure to use required analytical methodology for analyses submitted to the department;

(6) Failure to satisfy the department that the laboratory is maintaining the required standard of quality based on the on-site visit.

(7) Persistent failure to report compliance data to the regulated client or the department in a timely manner, thereby preventing compliance with state regulations and endangering public health.

(8) Subverting compliance with state regulations by actions such as changing the sample type for a noncompliance sample to a compliance sample after submission to the laboratory, allowing compliance samples to be changed to other noncompliance sample types, or selective reporting of split sample results.

b. The department may either downgrade or revoke certification based on cause.

c. Emergency revocation. The department may revoke certification without providing notice and opportunity to the laboratory to be heard if the department finds that the public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its administrative order, pursuant to 561—subrule 7.16(6).

83.7(6) *Revoked certification procedure.*

a. Notification to the laboratory. If a laboratory is subject to revocation on the basis of 83.7(5), the department will notify the party in writing of its intent to revoke certification in accordance with 561—7.16(17A,455A). Certification may be revoked for an analyte, a related analytical series, an environmental program area, or the entire laboratory.

b. Reporting. A laboratory must notify the laboratory's IDNR-regulated clientele and other state certifying agencies, to which the notice of revocation is pertinent, of the department's intent to revoke certification, within 30 days of receipt of the notice.

c. Right to appeal. There is no appeal process for revocation of an analyte or a related analytical series unless the analyte(s) represents an entire environmental program area, such as underground storage tank parameters, or the entire laboratory.

(1) For an environmental program area or for the entire laboratory, the laboratory may appeal this decision by filing a written notice of appeal and request for an administrative hearing with the department director within 30 days of receipt of the notice of revocation of certification. Contested case procedures under 561—Chapter 7 shall govern further administration of the appeal.

The appeal must identify the specific portion(s) of the department action being appealed and be supported with a statement of the reason(s) for the challenge and must be signed by a responsible official from the laboratory such as the president or owner for a commercial laboratory, or the laboratory supervisor in the case of a municipal laboratory, or the laboratory director for a state laboratory.

(2) If no timely notice of appeal is filed within the 30-day time period, revocation is effective 30 days after receipt of the notice of intent.

d. Reinstatement. A laboratory which has had its certification revoked may apply for certification in accordance with 83.3(455B) once the deficiencies have been corrected.

These rules are intended to implement Iowa Code sections 455B.113 to 455B.115.

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CHAPTERS 84 to 89
Reserved

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**Effective date of Ch 83 delayed 70 days by the Administrative Rules Review Committee at its meeting held May 14, 1996.

TITLE III
LICENSING

CHAPTER 10
GENERAL
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—10.1(153) Licensed personnel. Persons engaged in the practice of dentistry in Iowa must be licensed by the board as a dentist and persons performing services under Iowa Code section 153.15, must be licensed by the board as a dental hygienist.

This rule is intended to implement Iowa Code sections 147.2 and 153.17.

650—10.2(153) Display of license and license renewal. The license to practice dentistry or dental hygiene and the current license renewal must be prominently displayed by the licensee at the principal office of employment.

10.2(1) Additional license certificates shall be obtained from the board whenever a licensee practices at more than one address. If more than two additional certificates are requested, explanation must be made in writing to the board.

10.2(2) Duplicate licenses shall be issued by the board upon satisfactory proof of loss or destruction of original license.

This rule is intended to implement Iowa Code sections 147.7, 147.10 and 147.80(17).

650—10.3(153) Supervision of dental hygienist.

10.3(1) The monitoring of nitrous oxide inhalation analgesia pursuant to 650—29.6(153) and the administration of local anesthesia shall only be provided under the direct supervision of a dentist. Direct supervision of the dental hygienist requires that the supervising dentist be present in the treatment facility, but it is not required that the dentist be physically present in the treatment room.

10.3(2) All other authorized services provided by a dental hygienist shall be performed under the general supervision of a dentist currently licensed in the state of Iowa. General supervision shall mean that a dentist has examined the patient and has prescribed authorized services to be provided by a dental hygienist. The dentist need not be present in the facility while these services are being provided. If a dentist will not be present, the following requirements shall be met:

1. Patients or their legal guardian must be informed prior to the appointment that no dentist will be present and therefore no examination will be conducted at that appointment.
2. The hygienist must consent to the arrangement.
3. Basic emergency procedures must be established and in place and the hygienist must be capable of implementing these procedures.
4. The treatment to be provided must be prior prescribed by a licensed dentist and must be entered in writing in the patient record.

Subsequent examination and monitoring of the patient, including definitive diagnosis and treatment planning, is the responsibility of the dentist and shall be carried out in a reasonable period of time in accordance with the professional judgment of the dentist based upon the individual needs of the patient.

General supervision shall not preclude the use of direct supervision when in the professional judgment of the dentist such supervision is necessary to meet the individual needs of the patient.

Nothing in these rules shall be interpreted so as to prevent a licensed dental hygienist from providing educational services, assessment, screening, or data collection for the preparation of preliminary written records for evaluation by a licensed dentist.

10.3(3) A dental hygienist shall not practice independent from the supervision of a dentist nor shall a dental hygienist establish or maintain an office or other workplace separate or independent from the office or other workplace in which the supervision of a dentist is provided.

This rule is intended to implement Iowa Code section 153.15.

650—10.4(153) Unauthorized practice. A dental hygienist who assists a dentist in practicing dentistry in any capacity other than as an employee or independent contractor supervised by a licensed dentist or who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor, director, or supervisor of a practice as a guise or subterfuge to enable such dental hygienist to engage in the practice of dentistry or dental hygiene, or who renders dental service(s) directly or indirectly on or for members of the public other than as an employee or independent contractor supervised by a licensed dentist shall be deemed to be practicing illegally. The unauthorized practice of dental hygiene means allowing a person not licensed in dentistry or dental hygiene to perform dental hygiene services authorized in Iowa Code section 153.15 and rule 650—1.1(153). The unauthorized practice of dental hygiene also means the performance of services by a dental hygienist which exceeds the scope of practice granted in Iowa Code section 153.15.

This rule is intended to implement Iowa Code sections 147.10, 147.57 and 153.15.

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c. Has submitted evidence of successful completion of conscious sedation experience at the graduate level, which is approved by the board. The applicant shall document this experience by specifying the type of experience; the number of hours; the length of training; and the number of patient contact hours including documentation of the number of supervised conscious sedation cases; or

d. Has successfully completed a formal training program, approved by the board, which included physical evaluation, IV sedation, airway management, monitoring, basic life support and emergency management.

29.4(2) When an applicant has not met the above requirements, the applicant must complete a remedial training program in conscious sedation and related academic subjects beyond the undergraduate dental school level. The remedial training program shall be prior approved by the board. The applicant may be subject to professional evaluation as part of the application process. The professional evaluation shall be conducted by the anesthesia credentials committee and include at a minimum the evaluation of the applicant's knowledge of case management and airway management.

29.4(3) A dentist utilizing conscious sedation shall maintain a properly equipped facility. The facility shall maintain and the dentist shall be trained on the following equipment: anesthesia or analgesia machine, EKG monitor, positive pressure oxygen, suction, laryngoscope and blades, endotracheal tubes, magill forceps, oral airways, stethoscope, blood pressure monitoring device, pulse oximeter, emergency drugs, defibrillator. The facility shall be staffed with trained auxiliary personnel capable of reasonably handling procedures, problems, and emergencies incident to the administration of conscious sedation. A licensee may submit a request to the board for waiver of any of the provisions of this subrule. Waiver requests will be considered by the board on an individual basis and shall be granted only if the board determines that there is a reasonable basis for the waiver.

29.4(4) A dentist administering conscious sedation must document and maintain current, successful completion of an Advanced Cardiac Life Support (ACLS) course, and the auxiliary personnel shall maintain certification in basic life support and be capable of administering basic life support.

29.4(5) A dentist who is performing a procedure for which conscious sedation is being employed shall not administer the pharmacologic agents and monitor the patient without the presence and assistance of at least one qualified auxiliary personnel in the room who is qualified under subrule 29.4(4).

29.4(6) A licensed dentist who has been utilizing conscious sedation on an outpatient basis in a competent manner for five years preceding July 9, 1986, but has not had the benefit of formal training as outlined in this rule, may apply for a permit provided the dentist fulfills the provisions set forth in subrules 29.4(3), 29.4(4) and 29.4(5).

29.4(7) Dentists qualified to administer conscious sedation may administer nitrous oxide inhalation analgesia provided they meet the requirement of 29.6(153).

29.4(8) If conscious sedation results in a general anesthetic state, the rules for deep sedation/general anesthesia apply.

650—29.5(153) Application for permit.

29.5(1) No dentist shall use or permit the use of deep sedation/general anesthesia or conscious sedation in a dental office for dental patients, unless the dentist possesses a current permit issued by the Iowa board of dental examiners. A dentist holding a permit shall be subject to review and facility inspection as deemed appropriate by the board.

29.5(2) An application for a deep sedation/general anesthesia permit must include the appropriate fee as specified in 650—Chapter 15, as well as evidence indicating compliance with rule 29.3(153).

29.5(3) An application for a conscious sedation permit must include the appropriate fee as specified in 650—Chapter 15, as well as evidence indicating compliance with rule 29.4(153).

29.5(4) A provisional permit may be granted the new applicant based solely on credentials until all processing and investigation have been completed. A provisional permit may be issued only if the applicant will be practicing at a facility that has been previously inspected and approved by the board.

29.5(5) Permits shall be renewed biennially following submission of proper application and may involve board reevaluation of credentials, facilities, equipment, personnel, and procedures of a previously qualified dentist to determine if the dentist is still qualified. The appropriate fee for renewal as specified in 650—Chapter 15 of these rules must accompany the application.

29.5(6) Based on the evaluation of credentials, facilities, equipment, personnel and procedures of a dentist, the board may determine that restrictions may be placed on a permit.

29.5(7) The actual costs associated with the on-site evaluation of the facility shall be the primary responsibility of the licensee. The cost to the licensee shall not exceed $150 per facility.

650—29.6(153) Nitrous oxide inhalation analgesia.

29.6(1) A dentist may use nitrous oxide inhalation analgesia sedation on an outpatient basis for dental patients provided the dentist:

a. Has completed a board approved course of training; or

b. Has training equivalent to that required in 29.6(1)*"a"* while a student in an accredited school of dentistry, and

c. Has adequate equipment with fail-safe features and minimum oxygen flow which meets FDA standards.

d. Performs routine maintenance on equipment every two years and maintains documentation of such maintenance, and provides such documentation to the board upon request.

29.6(2) A dentist utilizing nitrous oxide inhalation analgesia and auxiliary personnel shall be trained and capable of administering basic life support.

29.6(3) A licensed dentist who has been utilizing nitrous oxide inhalation analgesia in a dental office in a competent manner for the 12-month period preceding July 9, 1986, but has not had the benefit of formal training outlined in paragraph 29.6(1)*"a"* or 29.6(1)*"b,"* may continue the use provided the dentist fulfills the requirements of paragraphs 29.6(1)*"c"* and *"d"* and subrule 29.6(2).

29.6(4) Dental hygienists may under direct supervision, pursuant to 650—10.3(153) of these rules, assist the dentist with the monitoring of nitrous oxide inhalation analgesia, so long as the dentist has established an office protocol for taking vital signs, adjusting anesthetic concentrations, and addressing emergency situations that may arise during monitoring. The requirements of 29.6(2) and 29.6(5) must be satisfied. The dentist must carry out the appropriate physical evaluation of the patient. The dentist shall induce the nitrous oxide inhalation analgesia and shall be available for consultation or treatment during the rest of the procedure. It must be determined by the dentist that the patient is appropriately responsive and physiologically stable prior to discharge.

29.6(5) The dental hygienist shall satisfactorily complete a course of instruction in the use of nitrous oxide inhalation analgesia which includes both didactic and clinical instruction offered by a teaching institution accredited by the American Dental Association. The course of study shall include instruction in the theory of pain control, anatomy, medical history, pharmacology and emergencies and complications. Dental hygienists who have been assisting in the monitoring of nitrous oxide inhalation analgesia under the direct supervision of a licensed dentist in a competent manner for the previous 12-month period, but have not had the benefit of a formal course of instruction, may continue to assist with the monitoring of nitrous oxide inhalation analgesia under the direct supervision of a licensed dentist provided the dental hygienist meets the requirements of subrule 29.6(2).

29.6(6) If the dentist intends to achieve a state of conscious sedation from the administration of nitrous oxide inhalation analgesia, the rules for conscious sedation apply.

650—29.7(153) Antianxiety premedication.

29.7(1) Antianxiety premedication is the prescription or administration of pharmacologic substances for the relief of anxiety and apprehension.

29.7(2) The regulation and monitoring of this modality of treatment are the responsibility of the ordering dentist.

29.7(3) If a dentist intends to achieve a state of conscious sedation from the administration of an antianxiety premedication, the rules for conscious sedation shall apply.

29.7(4) A dentist utilizing antianxiety premedication and auxiliary personnel shall be trained in and capable of administering basic life support.

650—29.8(153) Noncompliance. Violations of the provisions of this chapter may result in revocation or suspension of the dentist's permit or other disciplinary measures as deemed appropriate by the board.

650—29.9(153) Reporting of adverse occurrences related to deep sedation/general anesthesia, conscious sedation, nitrous oxide inhalation analgesia, and antianxiety premedication.

29.9(1) *Reporting.* All licensed dentists in the practice of dentistry in this state must submit a report within a period of 30 days to the board of any mortality or other incident which results in temporary or permanent physical or mental injury requiring hospitalization of the patient during, or as a result of, antianxiety premedication, nitrous oxide inhalation analgesia, conscious sedation or deep sedation/general anesthesia related thereto. The report shall include responses to at least the following:

a. Description of dental procedure.

b. Description of preoperative physical condition of patient.

c. List of drugs and dosage administered.

d. Description, in detail, of techniques utilized in administering the drugs utilized.

e. Description of adverse occurrence:

1. Description, in detail, of symptoms of any complications, to include but not be limited to onset, and type of symptoms in patient.
2. Treatment instituted on the patient.
3. Response of the patient to the treatment.

f. Description of the patient's condition on termination of any procedures undertaken.

29.9(2) *Failure to report.* Failure to comply with subrule 29.9(1), when the occurrence is related to the use of deep sedation/general anesthesia, conscious sedation, nitrous oxide inhalation analgesia, or antianxiety premedication, may result in the dentist's loss of authorization to administer deep sedation/general anesthesia, conscious sedation, nitrous oxide inhalation analgesia, or antianxiety premedication or in other sanctions provided by law.

650—29.10(153) Anesthesia credentials committee.

29.10(1) The anesthesia credentials committee is a peer review committee appointed by the board to assist the board in the administration of this chapter. This committee shall be chaired by a member of the board and shall include at least six additional members who are licensed to practice dentistry in Iowa. At least four members of the committee shall hold deep sedation/general anesthesia or conscious sedation permits issued under this chapter.

29.10(2) The anesthesia credentials committee shall perform the following duties at the request of the board:

a. Review all permit applications and make recommendations to the board regarding those applications.

b. Conduct site visits at facilities under subrule 29.5(1) and report the results of those site visits to the board. The anesthesia credentials committee may submit recommendations to the board regarding the appropriate nature and frequency of site visits.

c. Perform professional evaluations under subrules 29.3(2) and 29.4(2) and report the results of those evaluations to the board.

650—29.11(153) Renewal. Beginning 12 months from December 10, 1997, and for each renewal thereafter, permit holders are required to maintain evidence of renewal of ACLS certification.

Beginning 12 months from December 10, 1997, and for each renewal thereafter, permit holders are required to submit a minimum of six hours of continuing education in the area of sedation. These hours may also be submitted as part of license renewal requirements.

650—29.12(153) Rules for denial or nonrenewal. A dentist who has been denied a deep sedation/general anesthesia or conscious sedation permit or renewal may appeal the denial and request a hearing on the issues related to the permit or renewal denial by serving a notice of appeal and request for hearing upon the executive director not more than 30 days following the date of the mailing of the notification of the permit or renewal denial, or not more than 30 days following the date upon which the dentist was served notice if notification was made in the manner of service of an original notice. The hearing shall be considered a contested case proceeding and shall be governed by the procedures set forth in 650 IAC 51.

650—29.13(153) Record keeping. The patient chart must include preoperative and postoperative vital signs, drugs administered, dosage administered, anesthesia time in minutes, and monitors used. Intermittent vital signs shall be taken and recorded in patient chart during procedures and until the patient is fully ambulatory. The chart should contain the name of the person to whom the patient was discharged.

These rules are intended to implement Iowa Code sections 153.33 and 153.34.

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CHAPTER 523
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[Transferred from IDR 1973, Commerce Commission, Ch 3, 7/1/75]
[Prior to 6/3/87, Transportation Department[820]—(07,F)Ch 3]
Rescinded IAB 8/11/99, effective 9/15/99

CHAPTER 524
FOR-HIRE INTRASTATE MOTOR CARRIER AUTHORITY

761—524.1(325A) Purpose and applicability.

524.1(1) This chapter establishes requirements concerning for-hire intrastate motor carriers.

524.1(2) This chapter applies to motor carriers of household goods, liquid commodities, all other property, and passengers.

761—524.2(325A) General information.

524.2(1) *Information and location.* Applications, forms and information on motor carrier permits and motor carrier certificates are available by mail from the Office of Motor Carrier Services, Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at its location in Park Fair Mall, 100 Euclid Avenue, Des Moines, Iowa; by telephone at (515)237-3224; or by fax at (515)237-3354.

524.2(2) *Waiver of rules.* The director of the motor vehicle division may waive provisions of this chapter after determining that special or emergency circumstances exist or that the waiver is in the best interest of the public.

a. "Special or emergency circumstances" means one or more of the following:

(1) Circumstances where the movement is necessary to cooperate with cities, counties, other state agencies or other states in response to a national or other disaster.

(2) Circumstances where the movement is necessary to cooperate with national defense officials.

(3) Circumstances where the movement is necessary to cooperate with public or private utilities in order to maintain their public services.

(4) Circumstances where the movement is essential to ensure safety and protection of any person or property due to events such as, but not limited to, pollution of natural resources, a potential fire or an explosion.

(5) Circumstances where weather or transportation problems create an undue hardship for citizens of the state of Iowa.

(6) Circumstances where movement involves emergency-type vehicles.

(7) Uncommon and extraordinary circumstances where the movement is essential to the existence of an Iowa business and the move may be accomplished without causing undue hazards to the safety of the traveling public or undue damage to private or public property.

b. A request for a waiver must be submitted in writing to the Director of the Motor Vehicle Division, Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204.

c. The request should include the following information where applicable and known to the requester:

(1) The name, address and motor carrier permit or certificate number.

(2) The specific rule from which a waiver is requested.

(3) The specific waiver requested.

(4) The reasons for the request.

(5) The relevant facts supporting the request.

d. The request shall be acknowledged immediately and shall be responded to in writing within 60 days of receipt.

e. The decision on the waiver is the final decision of the department.

524.2(3) *Complaints.* Complaints against motor carriers pertaining to the provisions of this chapter shall be submitted in writing to the office of motor carrier services.

761—524.3(325A) Applications and supporting documents.

524.3(1) *Application.* An application for a motor carrier permit or motor carrier certificate shall be made to the office of motor carrier services on a form prescribed for that purpose and furnished upon request.

524.3(2) *Application fee.* An application for a motor carrier permit or motor carrier certificate shall be accompanied by the statutory application fee. This fee shall be paid by cash, check or money order made payable to the Iowa Department of Transportation.

524.3(3) *Supporting documents.* An application for a motor carrier permit or motor carrier certificate must be accompanied by the following:

a. Proof of insurance.

b. Safety self-certification. (See rule 524.9(325A).)

c. Form MCS 150, if the motor carrier does not have a U.S. DOT number.

d. Financial statement, only for motor carriers of liquid commodities (nondairy) and regular-route passengers. (See rule 524.10(325A).)

e. Tariff, only for motor carriers of household goods.

761—524.4(325A) Issuance of credentials. When all requirements are met, the department shall issue the motor carrier permit or certificate. The motor carrier shall make a copy of the permit or certificate and carry it in each motor vehicle at all times. The permit or certificate shall be available for display to any peace officer upon request.

761—524.5(325A) Duplicate motor carrier permit or motor carrier certificate. Written requests for a duplicate motor carrier permit or motor carrier certificate shall be sent to the office of motor carrier services. Requests shall include the carrier name or U.S. DOT number. Any motor carrier in good standing shall be issued a duplicate document upon payment of the required fee.

761—524.6(325A) Amendment to a motor carrier permit or certificate.

524.6(1) *Update to a motor carrier permit.* To change the commodities being transported under a permit, an updated application must be submitted to the office of motor carrier services. The updated application shall include the permit number and the required fee for a duplicate permit. Transporting of commodities not listed on the permit shall not commence until a new permit or temporary permit has been issued and is carried in the vehicle.

524.6(2) *Change of name or address for a motor carrier permit or certificate.* Notification of a name or address change shall be sent to the office of motor carrier services within 30 days after the change. Notification shall include the permit or certificate number, old name or address, new name or address, and the required fee.

761—524.7(325A) Insurance—suspension.

524.7(1) *Insurance.* Each motor carrier shall at all times maintain on file with the department the effective certificate(s) of insurance or a surety bond on a form prescribed by the department.

a. The insurance or the surety bond shall be written for a period of one year or more.

b. The department shall be given written notice 30 days prior to the cancellation of the insurance or the surety bond.

524.7(2) *Self-insurance.* In lieu of maintaining the above insurance, intrastate carriers that also operate interstate and have been approved by a federal agency to self-insure may apply to the department to self-insure by submitting a written request to the office of motor carrier services. The written request shall include a copy of the federal agency's approval. The department shall allow self-insurance as long as a federal agency has approved the carrier to self-insure and the motor carrier provides the department with copies of any information required by that federal agency. The department must be notified immediately by the motor carrier if there is any change in the status of the self-insurance for interstate operation.

524.7(3) *Suspension for no insurance.* If a motor carrier fails to maintain the required insurance on file with the department, the department shall suspend the motor carrier's permit or certificate in accordance with Iowa Code chapter 325A and rule 524.17(325A). The suspension shall remain in effect until the requirements are met and a reinstatement fee is paid. A motor carrier shall not continue operation without proper insurance.

761—524.8(325A) Self-insurance for motor carriers of passengers.

524.8(1) *Applications for self-insurance.* A motor carrier of passengers with more than 25 motor vehicles may request self-insurance by submitting a written request to the office of motor carrier services. The written request shall include a copy of the most recent audited financial statement and a vehicle list.

524.8(2) *Review by the department.* The department may request additional information. The department shall deny the request to self-insure or suspend existing approval if the motor carrier fails to meet the self-insurance standard. Approval of self-insurance is continuous. However, the motor carrier shall annually file audited financial statements with the office of motor carrier services within 60 days after the end of the motor carrier's fiscal year.

524.8(3) *Cancellation of self-insurance approval.* The department may cancel approval of self-insurance on reasonable grounds. Reasonable grounds include, but are not limited to, the following: failure to pay a final judgment within 30 days or failure to file an annual, audited financial statement. The department shall give five days' notice to the motor carrier prior to any hearing to cancel approval of self-insurance.

761—524.9(325A) Safety self-certification. All motor carriers shall follow the safety regulations as stated in 761—Chapter 520 concerning operation, maintenance and inspection of vehicles used in the business. Motor carriers shall submit on a form prescribed by the department a self-certification stating knowledge, understanding and willingness to follow these safety regulations.

761—524.10(325A) Financial statement. An application by a motor carrier of liquid commodities (nondairy) or regular-route passengers must include a statement signed by an authorized agent of a lending institution or a certified public accountant attesting to the financial capability of that carrier. At a minimum, the certification shall be based on meeting the following ratios:

Current Ratio: Minimum of 1.2:1

$$\frac{\text{Current Assets}}{\text{Current Liabilities}} = \underline{\qquad\qquad}$$

Projected Operating Ratio: Maximum of 95

1. New Operation (Use 5-Year Projection)
2. Existing Operation (Use 1-Year Projection)

$$\frac{\text{Operating Expenses}}{\text{Operating Revenue}} \times 100 = \underline{\qquad}$$

Working Capital Ratio: Minimum 12 days Capital

$$\frac{\text{Current Assets Less Current Liabilities}}{\text{Average Daily Operating Expenses}} = \underline{\qquad\qquad}$$

761—524.11(325A) Safety education seminar.

524.11(1) *Requirement.* Motor carriers of liquid commodities (nondairy) and passengers shall attend an approved safety education seminar within six months of issuance of the permit or certificate except as provided in subrule 524.11(4). This includes transfers of motor carrier certificates. The individuals in attendance shall be the persons responsible for the safety records and driver training. Failure to attend an approved safety education seminar within the time provided shall result in suspension of the motor carrier permit or certificate.

524.11(2) *Availability.* The department shall provide an approved safety education seminar periodically. Information on the seminar schedule shall be available from the Office of Motor Vehicle Enforcement, 100 Euclid Avenue, Des Moines, Iowa 50306-0473; telephone (800)925-6469.

524.11(3) *Third-party safety education seminar approval.* The office of motor vehicle enforcement shall approve the course curriculum before approving individuals outside the department to conduct safety education seminars. The course curriculum shall be submitted for approval to the office of motor vehicle enforcement. At a minimum, the safety course curriculum shall include the following information:

a. Commercial driver's license regulations.

b. A general overview of the U.S. DOT's motor carrier safety regulations and hazardous materials regulations which are adopted annually by the department.

c. Iowa Code sections 321.449 and 321.450 and all associated administrative rules.

d. Iowa Code section 321.463 and all associated administrative rules.

e. Out-of-service criteria.

f. A general overview of the U.S. DOT's Emergency Response Guide Book.

524.11(4) *Exemption.* Passenger carriers with vehicles not meeting the definition of a commercial vehicle as defined in Iowa Code section 321.1 are exempt from attending the safety education seminar and paying the seminar fee. A motor carrier certificate issued for such a carrier contains the statement: "limited to noncommercial vehicles only." If a motor carrier wishes to start operating vehicles that meet the definition of a commercial motor vehicle, the motor carrier must update its authority with the office of motor carrier services. A motor carrier must pay the seminar fee and attend the seminar within six months of updating the certificate. A new motor carrier certificate removing the limitation would then be issued.

761—524.12(325A) Marking of motor vehicles. "Motor vehicle" is defined in Iowa Code chapter 325A. Before placing any motor vehicle in service, the motor vehicle shall be clearly marked with letters and figures large enough to be easily read at a distance of 50 feet and in a color in contrast to the background. These markings shall be painted on each side of the motor vehicle or may consist of a removable device that meets identification and legibility requirements and is securely placed on each side of the motor vehicle.

524.12(1) Motor carriers operating intrastate only shall display:

a. Name of motor carrier under whose authority the motor vehicle is being operated.

b. City and state where the motor carrier maintains its principal place of business or in which the commercial motor vehicle is customarily based.

c. U.S. DOT number followed by the letters "IA."

524.12(2) Motor carriers operating both interstate and intrastate shall display:

a. Name of motor carrier under whose authority the motor vehicle is being operated.

b. City and state where the motor carrier maintains its principal place of business or in which the commercial motor vehicle is customarily based. EXCEPTION: City and state is not needed if the federal motor carrier number is displayed.

c. U.S. DOT number or federal motor carrier number.

761—524.13(325A) Bills of lading or freight receipts.

524.13(1) *Requirements.* Every motor carrier operating under a motor carrier permit, except for those motor carriers transporting unprocessed agricultural and horticultural products and livestock, shall issue a bill of lading or receipt in triplicate on the date freight is received for shipment. The bill of lading or receipt shall show the following:

a. Name of motor carrier.

b. Date and place received.

c. Name of consignor.

d. Name of consignee.

e. Destination.

f. Description of shipment.

g. Signature of motor carrier or agent issuing the bill of lading or receipt.

h. Freight described in apparent good order unless an exception is noted.

524.13(2) *Retention.* There shall be one copy of the bill of lading or receipt for the consignor, one for the consignee and one to be kept by the motor carrier. The motor carrier's copy shall be carried with the cargo and shall show the total of all charges made for the movement of freight. The motor carrier shall keep the bill of lading or receipt for a period of not less than one year. At any reasonable time, the bill of lading or receipt is subject to inspection by the department's representatives.

761—524.14(325A) Lease of a vehicle.

524.14(1) *Lease defined.* "Lease," for the purpose of these rules, means a written document providing for the exclusive possession, control and responsibility over the operation of a vehicle by the lessee for a specific period of time as if the lessee were the owner. A copy of the lease must be carried in the leased vehicle at all times. No motor carrier may have more than one lease covering a specific vehicle in effect at a given time.

524.14(2) *Lease of a vehicle to a shipper or a receiver.* No motor carrier shall lease a vehicle with or without a driver to a shipper or a receiver.

524.14(3) *Marking of a motor vehicle.* Each lessee shall properly identify each motor vehicle during the period of the lease as specified in rule 524.12(325A).

524.14(4) *Lease requirements.* Any lease of a vehicle by any motor carrier except under the following conditions is prohibited:

a. Every lease must be in writing and signed by the parties or their regular employees or agents duly authorized to act for them.

b. Every lease shall specify the time that the lease begins and the time or circumstances on which it ends.

761—524.15(325A) Tariffs.

524.15(1) *Requirements.* All motor carriers of household goods shall maintain on file with the office of motor carrier services a tariff stating the rates and charges that apply for the services performed under the permit.

524.15(2) *Printing.* All tariffs and amendments or supplements must be in book, pamphlet or loose-leaf form. They must be plainly printed or reproduced. No alteration in writing or erasure shall be made in any tariff or supplement.

524.15(3) *Filing date.* All changes to tariffs and supplements must be filed with the office of motor carrier services at least seven days prior to the effective date. Tariffs, supplements or adoption notices issued in connection with applications for motor carriers of household goods may become effective on the date the permits are issued.

524.15(4) *Copy to department.* To file a tariff with the office of motor carrier services, motor carriers of household goods or their agents shall submit a transmittal letter listing all the enclosed tariffs and include one copy of each tariff, supplement or revised page.

524.15(5) *Title page.* The title page of every tariff and supplement shall include the following:

a. Each tariff shall be numbered in the upper right-hand corner, beginning with number 1. The number shall be shown as follows: Ia. DOT No. ....

When a tariff is issued canceling a tariff previously filed, the Ia. DOT number that has been canceled must be shown in the right-hand corner under the Ia. DOT number of the new tariff.

b. Supplements or changes to a tariff shall be numbered beginning with number 1, and this information shall be shown in the upper right-hand corner along with the number of any previous supplements canceled or changed by the supplement.

c. The name of each motor carrier of household goods must be the same as it appears on the permit. If the motor carrier of household goods is not a corporation and uses a trade name, the name of the individual or partners must precede the trade name.

d. Each tariff shall include a brief description of the territory or points from which and to which the tariff applies.

e. Each tariff shall contain the issue and effective dates.

f. Each tariff shall include the name, title and street address of the motor carrier of household goods or the agent by whom the tariff is issued.

524.15(6) *Contents of tariff.* Each tariff shall include the following:

a. A table of contents that is arranged alphabetically.

b. A complete index of all commodities including the page number. However, no index or table of contents is needed in tariffs of less than five pages or if the rates are alphabetically arranged by commodities.

c. An explanation of all abbreviations, symbols and reference marks used.

d. All rates in the tariff explicitly stated in cents or in dollars and cents per one hundred pounds, per mile, per hour, per ton or two thousand pounds, per truck load (of stated amount) or other definable measure. Where rates are stated in amounts per package or bundle, definite specifications of the packages or bundles must be shown and ambiguous terms, rates, descriptions or plans for determining charges shall not be accepted.

524.15(7) *Duplication of rates.* Motor carriers of household goods or their agents shall not publish duplicate or conflicting rates.

524.15(8) *Tariff changes.* All rates and charges which have been filed with the office of motor carrier services must be allowed to become effective and remain in effect for a period of at least seven days before being changed, canceled or withdrawn. All tariffs, supplements and revised pages shall indicate changes from the preceding issue by use of the following symbols:

(R) to denote reductions

(A) to denote increases

(C) to denote changes, the result of which is neither an increase nor a reduction.

The proper symbol must be shown directly in connection with each change.

524.15(9) *Posting regulations.* Each motor carrier of household goods must post and file at its principal place of business all of its tariffs and supplements. All tariffs must be kept available for public inspection.

524.15(10) *Application for special permission.* Motor carriers of household goods and agents when making application for permission to establish rates, charges, or rules of the tariff on less than the statutory seven days' notice shall use the form prescribed by the office of motor carrier services.

524.15(11) Powers of attorney and participation notices.

a. Whenever a motor carrier of household goods desires to give authority to an agent or to another motor carrier of household goods to issue and file tariffs and supplements in its stead, a power of attorney in the form prescribed by the department must be used.

b. The original power of attorney shall be filed with the office of motor carrier services and a copy sent to the agent or motor carrier of household goods on whose behalf the document was issued.

c. Whenever a motor carrier of household goods desires to cancel the authority granted an agent or another motor carrier of household goods by power of attorney, this may be done by a letter addressed to the department revoking the authority on 60 days' notice. For good cause, the department may authorize less than 60 days' notice. Copies of the notice must also be mailed to all interested parties by the motor carrier.

524.15(12) *Nonconforming tariffs.* The office of motor carrier services shall review tariffs that do not conform with subrules 524.15(1) to 524.15(11) to determine if they contain the necessary information and if they are acceptable. Tariffs that are unacceptable shall be returned with an explanation.

761—524.16(325A) Transfer of motor carrier regular-route passenger certificate or motor carrier permit for household goods. A motor carrier regular-route passenger certificate or motor carrier permit for household goods shall not be sold, transferred, leased, or assigned until the transaction is approved by the department. Motor carrier permits for other property and all liquid commodities are not transferable. Motor carrier certificates for charter operations are not transferable.

524.16(1) *Transfer application.* An application to transfer a motor carrier regular-route passenger certificate or motor carrier permit for household goods shall be submitted to the office of motor carrier services. The transfer application shall be signed and sworn to by the affected parties.

a. The transfer application shall contain the following:

(1) The name and address of the holder of the certificate or permit, the certificate or permit number and the authority granted.

(2) The name and address of the person proposing to take over or lease the certificate or permit.

(3) A statement as to whether the motor carrier proposes to purchase, transfer, lease, or assign the certificate or permit.

b. The transferee shall submit an application for a motor carrier permit or motor carrier certificate in compliance with rule 524.3(325A).

c. The transferee shall attend an approved safety education seminar in compliance with rule 524.11(325A).

d. The office of motor carrier services shall issue a new certificate or permit upon completion of the transfer and application process.

524.16(2) Reserved.

761—524.17(325A) Suspension, revocation or reinstatement. The department may suspend or revoke a motor carrier permit or certificate for a violation of Iowa Code chapter 325A or this chapter. The suspension or revocation shall continue until the motor carrier is no longer in violation and the reinstatement fee is paid. A new permit or certificate shall be issued upon reinstatement. A hearing may be requested for reasons other than violation of insurance requirements. The motor carrier may request a hearing by submitting a written request to the director of the office of motor carrier services within 20 days after the suspension or revocation notice is served. The request shall include the motor carrier's name, permit or certificate number, complete address and telephone number.

These rules are intended to implement Iowa Code chapter 325A.

[Filed 7/14/99, Notice 5/19/99—published 8/11/99, effective 9/15/99]

CHAPTER 525
MOTOR CARRIERS AND CHARTER CARRIERS

[Prior to 6/3/87, Transportation Department [820]—(07F)Ch 4]

Rescinded IAB 8/11/99, effective 9/15/99

CHAPTERS 526 and 527
Reserved

CHAPTER 528
LIQUID TRANSPORT CARRIERS

[Prior to 6/3/87, Transportation Department[820]—(07,F)Ch 13]

Rescinded IAB 8/11/99, effective 9/15/99

CHAPTER 529
FOR-HIRE INTERSTATE MOTOR CARRIER AUTHORITY
[Prior to 6/3/87, Transportation Department[820]—(07,F)Ch 5]

761—529.1(327B) Motor carrier regulations. The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-379, dated October 1, 1998, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library.

761—529.2(327B) Registering interstate authority in Iowa. Registration for interstate exempt and nonexempt authority shall be submitted to the Office of Motor Carrier Services, Department of Transportation, Park Fair Mall, 100 Euclid Avenue, P.O. Box 10382, Des Moines, Iowa 50306-0382.

761—529.3(327B) Waiver of rules. The director of the motor vehicle division may waive provisions of this chapter after determining that special or emergency circumstances exist or the waiver is in the best interest of the public for interstate travel through Iowa.

529.3(1) "Special or emergency circumstances" means one or more of the following:

a. Circumstances where the movement is necessary to cooperate with cities, counties, other state agencies or other states in response to a national or other disaster.

b. Circumstances where the movement is necessary to cooperate with national defense officials.

c. Circumstances where the movement is necessary to cooperate with public or private utilities in order to maintain their public services.

d. Circumstances where the movement is essential to ensure safety and protection of any person or property due to events such as, but not limited to, pollution of natural resources, a potential fire or explosion.

e. Circumstances where weather or transportation problems create an undue hardship for citizens of the state of Iowa.

f. Circumstances where movement involves emergency-type vehicles.

g. Uncommon and extraordinary circumstances where the movement is essential to the existence of an Iowa business and the move may be accomplished without causing undue hazard to the safety of the traveling public or undue damage to private or public property.

529.3(2) A request for a waiver must be submitted in writing to the Director of the Motor Vehicle Division, Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204.

529.3(3) The request should include the following information where applicable and known to the requester:

a. The name, address and motor carrier permit or certificate number.

b. The specific waiver requested.

c. The reasons for the request.

d. The relevant facts supporting the request.

529.3(4) The request shall be acknowledged immediately and shall be responded to in writing within 60 days of receipt.

529.3(5) The decision on the waiver is the final decision of the department.

These rules are intended to implement Iowa Code chapter 327B.

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[Filed 7/14/99, Notice 5/19/99—published 8/11/99, effective 9/15/99]

CHAPTERS 530 to 599
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*Rules 645—chs 6–17 apply to all professional licensure boards

*Rules 645—chs 6–17 apply to all professional licensure boards

*Rules **645**—chs 6-17 apply to all professional licensure boards