



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXXIII
April 20, 2011

NUMBER 21
Pages 1403 to 1482

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PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

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

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

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

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

NOTE: In accordance with Iowa Code section 7.17, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

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Dec. 22 '10	Jan. 12 '11	Feb. 1 '11	Feb. 16 '11	Feb. 18 '11	Mar. 9 '11	Apr. 13 '11	July 11 '11
Jan. 7	Jan. 26	Feb. 15	Mar. 2	Mar. 4	Mar. 23	Apr. 27	July 25
Jan. 21	Feb. 9	Mar. 1	Mar. 16	Mar. 18	Apr. 6	May 11	Aug. 8
Feb. 4	Feb. 23	Mar. 15	Mar. 30	Apr. 1	Apr. 20	May 25	Aug. 22
Feb. 18	Mar. 9	Mar. 29	Apr. 13	Apr. 15	May 4	June 8	Sep. 5
Mar. 4	Mar. 23	Apr. 12	Apr. 27	Apr. 29	May 18	June 22	Sep. 19
Mar. 18	Apr. 6	Apr. 26	May 11	May 13	June 1	July 6	Oct. 3
Apr. 1	Apr. 20	May 10	May 25	***May 25***	June 15	July 20	Oct. 17
Apr. 15	May 4	May 24	June 8	June 10	June 29	Aug. 3	Oct. 31
Apr. 29	May 18	June 7	June 22	***June 22***	July 13	Aug. 17	Nov. 14
May 13	June 1	June 21	July 6	July 8	July 27	Aug. 31	Nov. 28
May 25	June 15	July 5	July 20	July 22	Aug. 10	Sep. 14	Dec. 12
June 10	June 29	July 19	Aug. 3	Aug. 5	Aug. 24	Sep. 28	Dec. 26
June 22	July 13	Aug. 2	Aug. 17	Aug. 19	Sep. 7	Oct. 12	Jan. 9 '12
July 8	July 27	Aug. 16	Aug. 31	***Aug. 31***	Sep. 21	Oct. 26	Jan. 23 '12
July 22	Aug. 10	Aug. 30	Sep. 14	Sep. 16	Oct. 5	Nov. 9	Feb. 6 '12
Aug. 5	Aug. 24	Sep. 13	Sep. 28	Sep. 30	Oct. 19	Nov. 23	Feb. 20 '12
Aug. 19	Sep. 7	Sep. 27	Oct. 12	Oct. 14	Nov. 2	Dec. 7	Mar. 5 '12
Aug. 31	Sep. 21	Oct. 11	Oct. 26	***Oct. 26***	Nov. 16	Dec. 21	Mar. 19 '12
Sep. 16	Oct. 5	Oct. 25	Nov. 9	***Nov. 9***	Nov. 30	Jan. 4 '12	Apr. 2 '12
Sep. 30	Oct. 19	Nov. 8	Nov. 23	***Nov. 23***	Dec. 14	Jan. 18 '12	Apr. 16 '12
Oct. 14	Nov. 2	Nov. 22	Dec. 7	***Dec. 7***	Dec. 28	Feb. 1 '12	Apr. 30 '12
Oct. 26	Nov. 16	Dec. 6	Dec. 21	***Dec. 21***	Jan. 11 '12	Feb. 15 '12	May 14 '12
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Nov. 23	Dec. 14	Jan. 3 '12	Jan. 18 '12	Jan. 20 '12	Feb. 8 '12	Mar. 14 '12	June 11 '12
Dec. 7	Dec. 28	Jan. 17 '12	Feb. 1 '12	Feb. 3 '12	Feb. 22 '12	Mar. 28 '12	June 25 '12
Dec. 21	Jan. 11 '12	Jan. 31 '12	Feb. 15 '12	Feb. 17 '12	Mar. 7 '12	Apr. 11 '12	July 9 '12

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
23	Friday, April 29, 2011	May 18, 2011
24	Friday, May 13, 2011	June 1, 2011
25	Wednesday, May 25, 2011	June 15, 2011

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, May 10, 2011, at 8:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Supplemental Agenda to be published in the May 4, 2011, Iowa Administrative Bulletin.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Animal welfare—applicability to commercial establishments with federal permits, 67.8

Filed Emergency **ARC 9456B** 4/6/11

CORRECTIONS DEPARTMENT[201]

Jail facilities; temporary holding facilities, amendments to chs 50, 51 Notice **ARC 9442B** 4/6/11

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Iowa main street program, 39.1 to 39.11 Filed **ARC 9455B** 4/6/11

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

Denial of application during a pending professional practices case, 11.39 Notice **ARC 9450B** 4/6/11

Renewal of Class A license, 18.7(7) Filed **ARC 9453B** 4/6/11

Timely renewal, 20.3(6) Filed **ARC 9451B** 4/6/11

Timely renewal, 27.7 Filed **ARC 9452B** 4/6/11

EDUCATION DEPARTMENT[281]

Extracurricular interscholastic competition, 36.1, 36.14 to 36.17, 36.20 Filed **ARC 9475B** 4/20/11

Interscholastic athletics—elimination of exemption from physical examination, 36.14(1)

Filed **ARC 9477B** 4/20/11

Extracurricular interscholastic competition—open gym, 36.15(6)“c” Filed **ARC 9476B** 4/20/11

Bus driver training, 43.32 Filed **ARC 9472B** 4/20/11

Standards for school business official preparation programs, ch 81 Filed **ARC 9474B** 4/20/11

Removal of unreserved fund balances as classifications, 96.4(2)“h” Filed **ARC 9473B** 4/20/11

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Academic transcripts, 3.1(3) Filed **ARC 9462B** 4/20/11

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Air quality program—scope, services, and funding options, 22.1(3)“b,” 22.106, ch 30, 33.1,

33.2 Regulatory Analysis 4/20/11

HUMAN SERVICES DEPARTMENT[441]

Family investment program (FIP) and Medicaid for noncitizens, 40.21, 41.23(5), 41.24(2)“f,”

41.26(9), 41.27(10), 41.30(3)“a,” 75.11 Filed **ARC 9439B** 4/6/11

Annual update of premium levels for employed people with disabilities; payment address,

75.1(39)“b” Notice **ARC 9479B** 4/20/11

Assertive community treatment, amendments to chs 77 to 79 Filed Emergency After Notice **ARC 9440B** 4/6/11

Medicaid case management services—coverage and payment provisions, 78.33, 79.1, 90.5,

90.8(2) Amended Notice **ARC 9448B** 4/6/11

Record checks for volunteers or substitutes at child care centers, 109.6(5)“c” Filed **ARC 9441B** 4/6/11

IOWA FINANCE AUTHORITY[265]

Homeless shelter assistance program, rescind ch 14 Filed Emergency **ARC 9454B** 4/6/11

Iowa jobs program—calculation of jobs created, 32.7 Notice **ARC 9457B** 4/6/11

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Boat motor regulations—horsepower limitations, 45.4, 45.5 Filed **ARC 9446B** 4/6/11

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA

COMPREHENSIVE[591]

Innocent landowner claims—waiver of copayment, 11.2(8) Notice **ARC 9461B** 4/20/11

Eligible costs—permanent closure of an underground storage tank system, 11.3(11)

Notice **ARC 9460B** 4/20/11

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Board meetings, 4.3(5) Notice **ARC 9459B** 4/20/11
 Discipline for podiatrists, 224.2(12) Notice **ARC 9449B**..... 4/6/11

PUBLIC HEALTH DEPARTMENT[641]

Emergency medical services—provider education/training/certification, ch 131 Filed **ARC 9443B** 4/6/11
 Electronic submission of ambulance report data, 132.8(3), 136.2(3) Filed **ARC 9444B**..... 4/6/11
 Trauma care and facility categorization criteria adopted by reference, 134.2(3) Filed **ARC 9445B**..... 4/6/11

REAL ESTATE COMMISSION[193E]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Licensee provision of proof of insurability, 19.6(8) Filed **ARC 9458B**..... 4/20/11

REVENUE DEPARTMENT[701]

Valuation of agricultural real estate, 71.3, 71.12(1) Filed **ARC 9478B** 4/20/11

SECRETARY OF STATE[721]

Form of primary and general election ballots, 21.202(2), 21.203(2) Notice of Termination **ARC 9463B**..... 4/20/11
 Satellite absentee voting, 21.300 Notice of Termination **ARC 9464B**..... 4/20/11
 Absentee ballots returned by mail without postmark; calculation of voter registration totals,
 21.360, 21.500 Notice **ARC 9467B**, also Filed Emergency **ARC 9466B**..... 4/20/11
 Direct recording electronic devices, amendments to chs 22, 26 Filed **ARC 9468B** 4/20/11

SOIL CONSERVATION DIVISION[27]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

Coal mining—Code of Federal Regulations updates, amendments to ch 40 Notice **ARC 9470B** 4/20/11

STATE PUBLIC DEFENDER[493]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Attorney fee contracts; fee limitations, 7.1, 11.2, 12.2(1)"c," 12.5, 12.6 Filed **ARC 9447B**..... 4/6/11

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]

Advisory committees; divisions, 1.3, 1.5(2) Notice **ARC 9469B**..... 4/20/11

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Injured veterans grant program—expanded coverage, 11.3(2), 11.4 Filed Emergency **ARC 9471B**..... 4/20/11

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

EDITOR'S NOTE: Terms ending April 30, 2011.

Senator Merlin Bartz
2081 410th Street
Grafton, Iowa 50440

Senator Thomas Courtney
2200 Summer Street
Burlington, Iowa 52601

Senator Wally Horn
101 Stoney Point Road, SW
Cedar Rapids, Iowa 52404

Senator John P. Kibbie
P.O. Box 190
Emmetsburg, Iowa 50536

Senator James Seymour
901 White Street
Woodbine, Iowa 51579

Joseph A. Royce
Legal Counsel
Capitol
Des Moines, Iowa 50319
Telephone (515)281-3084
Fax (515)281-8451

Representative David Heaton
510 East Washington Street
Mt. Pleasant, Iowa 52641

Representative Rick Olson
3012 East 31st Court
Des Moines, Iowa 50317

Representative Janet Petersen
4300 Beaver Hills Drive
Des Moines, Iowa 50310

Representative Dawn Pettengill
P.O. Box 76
Mt. Auburn, Iowa 52313

Representative Linda Upmeyer
2175 Pine Avenue
Garner, Iowa 50438

Brenna Findley
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone (515)281-5211

CORRECTIONS DEPARTMENT[201]

Jail facilities; temporary holding facilities, amendments to chs 50, 51 IAB 4/6/11 ARC 9442B	First Floor Conference Room Jessie M. Parker State Office Bldg. 510 E. 12th St. Des Moines, Iowa	April 26, 2011 11 a.m. to 1 p.m.
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EDUCATIONAL EXAMINERS BOARD[282]

Denial of application during a pending professional practices case, 11.39 IAB 4/6/11 ARC 9450B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	April 27, 2011 1 p.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Air quality program—scope, services, and funding options, 22.1(3)“b,” 22.106, ch 30, 33.1, 33.2 IAB 2/9/11 ARC 9366B (See Regulatory Analysis herein)	Air Quality Bureau, Suite 1 7900 Hickman Rd. Windsor Heights, Iowa	May 10, 2011 1 p.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Board meetings, 4.3(5) IAB 4/20/11 ARC 9459B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	May 10, 2011 9 to 9:30 a.m.
Discipline for podiatrists, 224.2(12) IAB 4/6/11 ARC 9449B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	April 27, 2011 8 to 8:30 a.m.

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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ENVIRONMENTAL PROTECTION COMMISSION[567]**Regulatory Analysis****ARC 9366B: Iowa Administrative Code 567 Chapter 22, “Controlling Pollution,” Chapter 30, “Fees,” and Chapter 33, “Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality”****Summary**

On March 14, 2011, the Administrative Rules Review Committee requested that the Department address concerns over the inverse relationship between the level of emissions and fees generated (addressed in Section I of this document); respond to suggestions that the fees generated were used for purposes beyond funding the Title V program (addressed in Section II of this document); and complete a regulatory analysis for **ARC 9366B** (Section III). The purpose of the proposed rule making contained in **ARC 9366B** is to maintain sufficient funding for status quo program services. The Department acknowledges the current Title V fee structure is not sustainable.

The Clean Air Act (Act) requires states to charge fees sufficient to cover all reasonable direct and indirect costs required to develop and administer the Title V program requirements (42 U.S.C. 7661a). The Act provides an outline for program requirements and allows flexibility for states to implement programs. EPA issued additional guidance, known as Matrix of Title V-Related and Air Grant-Eligible Activities. The matrix document describes a variety of program activities which are necessary for the development and implementation of a Title V operating permit program and which EPA expects to be covered by Title V fees. The Department closely tracks Title V and non-Title V activities to ensure Title V fees are not misapplied. All activities that the Department is funding with Title V fees are allowable under EPA’s “Matrix of Title V-Related and Air Grant-Eligible Activities” document.

The Department developed the Title V fee structure, including eligible program activities, with stakeholder collaboration in the early 1990s. Stakeholders preferred an annual emission fee instead of other Title V program fees when the Title V program was established. There has been a dramatic decline in chargeable emissions since the inception of the program. Emissions are anticipated to continue declining based on implemented and proposed federal regulations.

An inverse relationship exists between the level of emissions and fees. When chargeable emissions are declining, the cost of regulatory oversight for each Title V facility does not decrease in proportion to the emission levels. A reduction in chargeable emissions does not mean a reduction in the Department’s workload, unless a facility reduces its emissions to the point the facility is no longer subject to the Title V program. Also, the Department’s workload continues to increase due to new federal regulatory requirements the Department must implement for facilities with Title V permits. Balancing the current Title V fee and emissions relationship can be accomplished by the substitution of non-emissions-based Title V fees.

ENVIRONMENTAL PROTECTION COMMISSION[567]

The Department closely tracks Title V and non-Title V staff activities to ensure Title V fees are not used to fund ineligible program services. Title V program activities constitute 75-80% of the Department's work in air quality each year. In the proposed SFY 2012 budget as presented to the March 2011 Environmental Protection Commission, the Title V portion represents 76.5% of the total air quality budget. The Department currently uses Title V fees to fund the issuance of construction permits that must be included in Title V permits. If funding is not provided through the current mechanism, an alternative mechanism must be established so that industry can continue to construct and expand.

The proposed rule making impacts large industrial facilities with emissions over 100 tons of air pollutants or significant hazardous air emissions. Currently, Iowa has 278 Title V facilities which are affected by the proposed rule making. The financial impact of the proposed rule making is \$1.2 million across 278 facilities.

Public and private entities and individuals utilizing the air resources for economic gain or private enjoyment will be directly and indirectly affected by these rules. In qualitative terms, air pollution creates public health problems that also can have negative economic impacts. Funding mechanisms that provide sufficient resources for compliance and technical assistance may help avoid public health costs associated with lower compliance and increased air pollution.

The consequences of underfunding the Title V program include loss of data necessary for complex permitting projects; and loss of industry's ability to meet federal requirements; and delays in permit issuance. Businesses seeking to construct a new facility or expand an existing facility will bear the burden of installing ambient air monitors and collecting data for the required one-year period prior to construction. With the construction monitoring and permitting process, construction for such projects would be delayed for up to 18 months.

To identify alternative methods for achieving the purpose of the proposed rule making, the Department reviewed fee programs used to fund other states' air quality programs. Iowa is the only state in the region that does not charge construction permit fees. All surrounding states charge both Title V and construction permit fees. One of the five options in the proposed rule making establishes a construction permit fee.

Public Comment

This notice extends the public comment period through May 10, 2011. Notice of Intended Action was published in the Iowa Administrative Bulletin on February 9, 2011, as **ARC 9366B**. A summary of public comments is in Attachment 1. Persons are invited to present oral or written comments on **ARC 9366B** and the regulatory analysis at a public hearing which will be held on May 10, 2011, at 1 p.m. at the Department's Air Quality Bureau offices, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources to advise the Department of any specific needs.

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Any person may make written suggestions or comments on the regulatory analysis on or before May 10, 2011. Written comments should be directed to Wendy Walker, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324. Comments may be sent by fax to (515)242-5094 or by electronic mail to wendy.walker@dnr.iowa.gov. All comments must be received no later than 4:30 p.m. on May 10, 2011.

Title V Program Background

The Clean Air Act (Act) establishes a national operating permit program (Title V). A Title V facility, also referred to as a major stationary source of air pollutants, is a facility that has the potential to emit 100 tons per year (tpy) or more of any air pollutant; or the potential to emit 10 tpy or more of any individual hazardous air pollutant; or the potential to emit 25 tpy or more of any combination of hazardous air pollutants.

A Title V operating permit incorporates into one document all of the construction permit and state and federal regulatory requirements of the air quality program for each facility that is a major source of air pollution. The operating permit includes provisions describing how compliance with each requirement will be maintained on a continuous basis to assure compliance. Facilities are required to provide semiannual emissions monitoring reports and an annual compliance certification report. The Title V operating permit provides a comprehensive review of a facility's requirements under the Act.

The operating permit program requires Title V permit holders to pay a fee sufficient to cover all reasonable direct and indirect costs required to develop and administer the Title V program requirements (42 U.S.C. 7661a). The Act (Section 502(b)(3)(A)) and the Code of Federal Regulations (40 CFR 70.9) outline expected Title V program activities and allow states some flexibility in how they design their Title V programs and fee schedules. For guidance, EPA developed the "Matrix of Title V-Related and Air Grant-Eligible Activities" document (<http://www.epa.gov/region7/air/title5/t5memos/matrix.pdf>) in 1993. The matrix document describes a variety of program activities which are necessary for the development and implementation of a Title V operating permit program and which EPA expects to be covered by Title V fees.

The Department developed the Title V fee structure, including eligible program activities, with stakeholder input in the early 1990s. EPA issued final interim approval of the Iowa Title V program in 1995 (60 FR 45764-45673) and final approval in 1997 (62 FR 37514-37516). Costs for activities currently funded by the Department with Title V fees are allowed in the matrix document and have been affirmed by EPA program reviews in 2005 and 2009.

The cost to the Department to implement the Title V program has significantly increased since the program's creation. New and changed federal regulations must be incorporated into permits and administrative rules. Unless a facility reduces its emissions to the point it is no longer subject to the Title V program, the Department's workload will not decrease. Less permitting would be required only when a facility reduces its emissions to the point where the facility is no longer subject to the Title V program.

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Since the inception of the Title V program, the Department has had an open and transparent budget process with stakeholders. States have flexibility within the federally approved air quality programs to fund activities with a variety of funding mechanisms including service-based fees such as construction permit fees. However, through informal discussions, the Department and stakeholders have not been able to reach a consensus on alternative funding. Therefore the Department initiated the proposed rule making.

Title V Fee

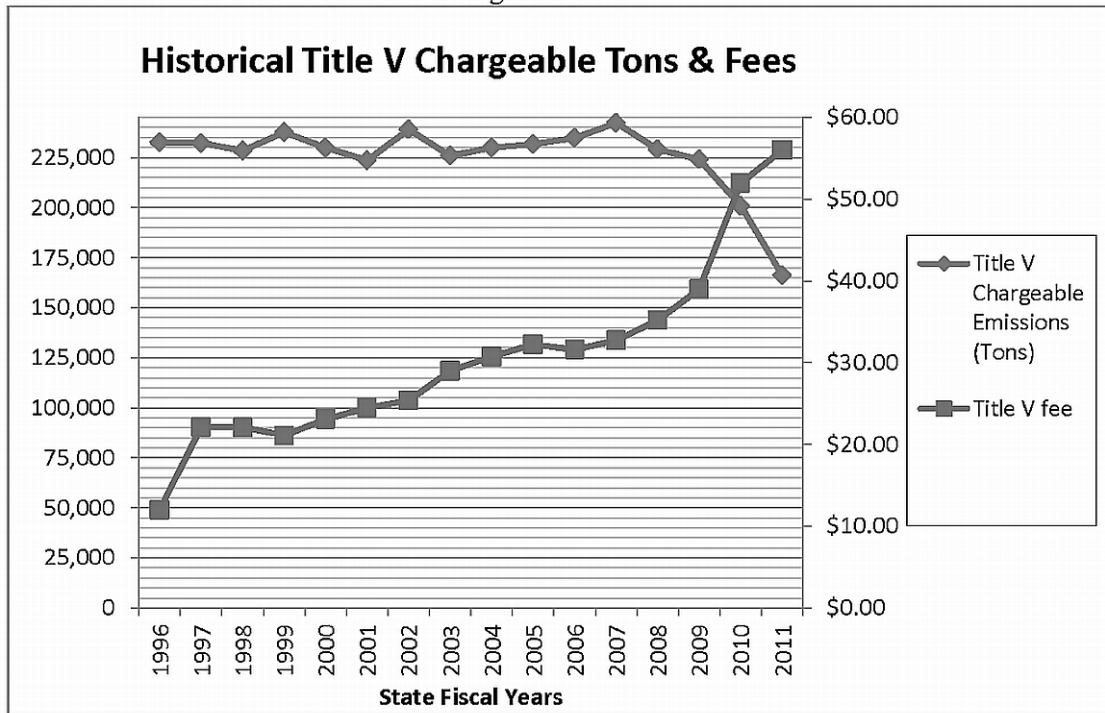
The Title V fee is paid by facilities required to obtain a Title V permit. In Iowa, the Title V fee is currently based on the first 4,000 chargeable tons of each regulated air pollutant emitted each year from each major stationary source. No fees are paid for emissions in excess of 4,000 tons of each regulated air pollutant. In 2009, over 62,000 tons of emissions occurred at Iowa Title V facilities where no Title V fees were assessed. Regulated air pollutants for which Title V fees are paid include: particulate matter equal to or less than 10 micrometers in diameter (PM10), sulfur dioxide (SO₂), nitrogen oxides (NO_x), volatile organic compounds (VOC), lead (Pb), and 187 hazardous air pollutants (HAP).

Each March, the Department presents an estimated or proposed budget to cover the reasonable cost of administering the Title V program to the Environmental Protection Commission (Commission). The Department calculates the Title V fee by dividing the estimated budget by the chargeable emissions as reported by facilities each March 31. Each May, the Commission sets the Title V fee. The annual fee must be set at or below the maximum Title V fee (fee cap), which can only be changed through administrative rule making (567 IAC 22.106(1)).

I. Relationship between the Title V Fees and Emissions

There is an inverse relationship between the Title V fee and Title V emissions. Chargeable emissions are declining and the costs of program services are increasing. Emission levels have varied over the history of the program (Chart 1). Chargeable tons have declined dramatically since the inception of the program. A sharp decline in tons occurred from SFY2007 to SFY2011, when chargeable air emissions decreased by 76,000 tons to 166,000 tons. This sharp decline was due to a combination of loss of production caused by the 2008 floods in eastern Iowa, the economic downturn, and ongoing implementation of new federal standards.

Chart 1: Historical Title V Fees and Chargeable Tons



Emissions are anticipated to continue declining based on ongoing implementation of current and proposed federal regulations. While emissions are declining, the federal regulatory requirements the Department must implement are increasing. The combination of emission decreases coupled with the increased costs for program services has resulted in an increase of 66.7% in Title V fees from SFY 2009 to projected SFY 2012 (Table 1).

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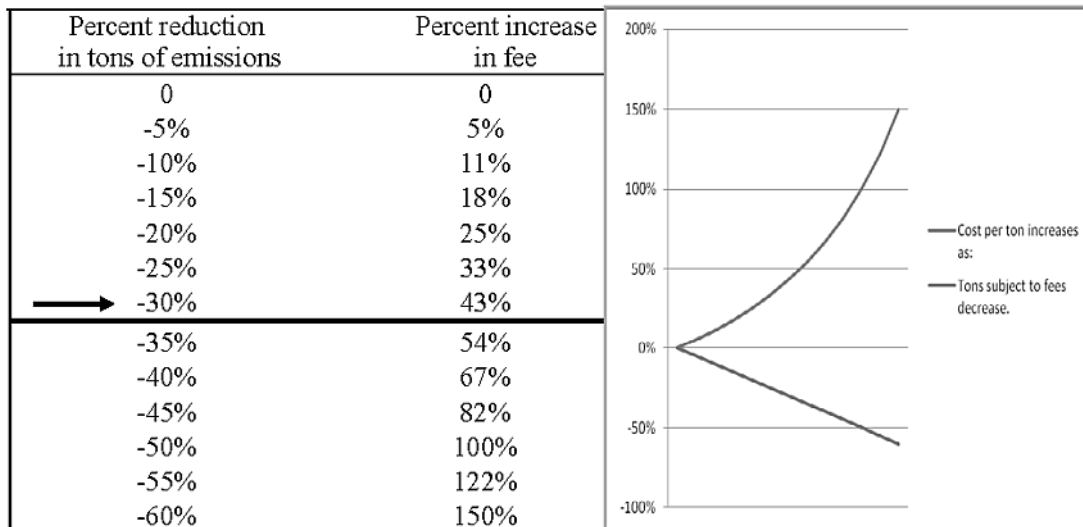
Table 1: Four-year history of Title V expenditures, fees, and emissions

State Fiscal year:	SFY 2009	SFY 2010	SFY 2011	SFY 2012	Change from SFY 2009
Fee due July 1 of this year:	\$Yr 2008	\$Yr 2009	\$Yr 2010	\$Yr 2011	
Emission year fee based on:	EY 2007	EY 2008	EY 2009	EY 2010 (Projected)	
Expenditures in SFY	\$9,529,582	\$9,751,409	\$9,940,058	\$10,726,972	\$1,197,390
Exp. % change from prior year	9.3%	2.3%	1.9%	7.9%	12.6%
Tons of Emissions subject to fee	224,067	200,872	166,210	158,000	-66,067
Tons % change from prior year	-2.2%	-10.4%	-17.3%	-4.9%	-29.5%
Fee per ton of emissions	\$39.00	\$52.00	\$56.00	\$65.00	\$26.00
Fee % change from prior year	10.8%	33.3%	7.7%	16.1%	66.7%

Note: SFY: State Fiscal Year; \$Yr: Year fee paid; EY: Emission year.

If the budget were held constant, because there are fewer tons across which to spread the costs, every \$1 per ton previously spent on emission fees would require \$1.43 per ton on the remaining emissions to be paid to generate an equal amount of revenue (Table 2).

Table 2: Increase in fees due solely to reduction in tons of air pollutants across which to distribute the same cost. Shows linear reduction in tons yields exponential increase in cost per ton.



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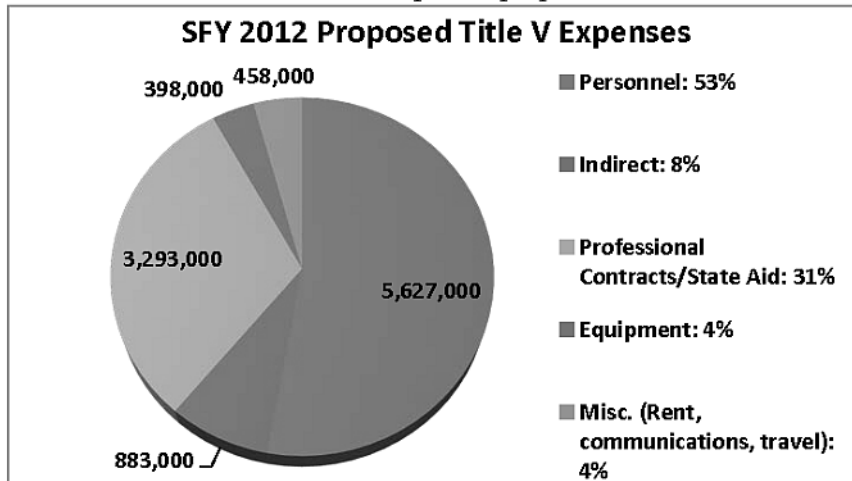
Expenditure changes since the fee was set at \$39 per ton for fees collected in 2008 (SFY 2009) are outlined in Table 3 below. DNR personnel costs plus indirect charges comprise approximately 61% of Title V expenditures annually (Chart 2). Annual increases in personnel costs generally account for \$250,000 in increased costs. Contracts with Linn and Polk Counties to operate the program in those counties and the contract with the State Hygienic Laboratory to conduct ambient air monitoring accounts for 31% of the Title V expenditures annually. Increases in contracts with Linn County, Polk County, and the State Hygienic Laboratory generally account for \$100,000 annually in increased costs. The remainder of cost increases and decreases varies depending on specific activities that were included in program goals for that year.

Table 3: Expenditures and Changes in Expenditures from Prior Year

State Fiscal year: Fee due July 1 of this year: Emission year fee based on:	SFY 2009 \$Yr 2008 EY 2007	SFY 2010 \$Yr 2009 EY 2008	SFY 2011 \$Yr 2010 EY 2009	SFY 2012 \$Yr 2011 EY 2010
Expenditures in SFY	9,529,582	9,751,409	9,940,058	10,726,972
Change in expenditures from prior SFY		221,827	188,649	786,913
FTE	65.25	65.25	63.25	63.25
Change in FTE		0.00	-2.00	0.00
Personnel & Indirect	5,787,872	6,006,020	6,279,011	6,518,952
Change in Personnel & Indirect		218,148	272,991	239,941
Contracts	2,997,864	3,105,691	2,964,505	3,293,767
Change in Contracts		107,827	-141,186	329,262
Equipment	135,055	67,581	148,000	141,500
Change in Equipment		-67,474	80,419	-6,500
Monitoring Equipment	198,140	251,567	100,000	250,000
Change in Monitoring		53,427	-151,567	150,000
Misc.	410,475	320,416	448,543	464,350
Change in Misc.		-90,059	128,127	15,807

Note: SFY: State Fiscal Year (July 1 – June 30. E.g., SFY 2009 = July 1, 2008 – June 30, 2009); \$Yr: Calendar year fee paid (July 1); EY: Calendar year emission recorded.

Chart 2. Distribution of Title V Expenses proposed for SFY 2012



II. Use of Title V Fees

All activities that the Department is funding with Title V fees are allowable under EPA's "Matrix of Title V-Related and Air Grant-Eligible Activities" document. The Department closely tracks Title V and non-Title V staff activities to ensure Title V fees are not used to fund ineligible program services. Personnel time is tracked to assure that Title V funds are expended solely for allowable program services. Quarterly, the Department reviews the data provided by the Department's Budget and Finance Bureau to ensure accuracy. Title V program activities constitute 75-80% of the Department's work in air quality each year. Table 4 lists the current fiscal year's program services (July 1, 2010 – June 30, 2011) by funding source. A summary of the Title V and non-Title V full-time equivalent (FTE) data is listed in Tables 5 and 6 below. (FTEs are calculated by dividing the hours charged in a given program area by 2,080 hours.) In the proposed SFY 2012 budget as presented to the March 2011 Commission, the Title V portion represents 76.5% of the total air quality budget.

The Department currently uses Title V fees to fund the issuance of construction permits that must be included in Title V permits. If funding is not provided through the current mechanism, an alternative mechanism must be established so that industry can continue to construct and expand. The Department also uses Title V fees to fund other activities related to regulating Title V facilities, such as implementation, compliance, administrative support, stack test observation, ambient monitoring, emission inventory, and dispersion modeling.

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Table 4: SFY 2010 Budget

Program Service*	Title V Funding	Non-Title V Funding
Asbestos	107,000	107,000
Bureau Administration	214,000	39,000
Compliance/Field Inspection	1,258,000	401,000
Construction Permitting	1,279,000	582,000
Emission Inventory	338,000	38,000
Greenhouse Gas Activities	58,000	50,000
Outreach	98,000	0
IT/Support**	832,000	0
Legal Services/Attorney General	168,000	0
Linn & Polk County CAA Implementation***	1,282,000	335,000
Modeling	297,000	99,000
Monitoring	1,988,000	608,000
Other federal grants	0	2,124,000
Program Development	481,000	53,000
Regional Modeling	214,000	0
Small Business Assistance	683,000	0
Stack Test Observation	265,000	88,000
Title V Operating Permits	1,148,000	0
Total	10,710,000	4,524,000

*Departmental indirect rates, contractual expenses, and overhead costs are included in the amounts.

**IT support for non-Title V services is funded through the Department's indirect rate.

***Does not include local permit fee revenue from each Local Program.

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Table 5: SFY 2010 Title V FTE Data by Program Activity

Code	Activity	Program Area	Hours	Amount	FTE
3117	GENERAL UNSPECIFIED ACTIVIT	All areas	3,186.50	194,804	1.7702
3141	AIR TOXICS ACT-MAJOR SOURCE	All areas	1,238.10	54,399	0.6878
3440	TRAINING	All areas	1,080.90	48,119	0.6005
3118	PUBLIC MEDIA, LEGIS INQ MAJOR	All areas/Management	389.50	18,620	0.2163
3325	AIR TITLE 5 INFO AND EDUCATION	Communications	1,467.60	62,188	0.8153
1424	AIR ENFORCEMENT COORDINATION	Compliance	861.00	57,440	0.4783
1430	Legal Services Activities	Compliance		130,900	
3115	ENFORCEMT ACT-MAJOR SOURCES	Compliance	4,710.30	220,863	2.6167
3116	FIELD INSP-MAJOR SOURCES	Compliance	8,182.80	398,991	4.5459
3397	MAJOR SRCE ASBESTOS ACTIVITIES	Compliance	1,921.80	87,690	1.0676
1094	MAJOR SOURCE- CONSTRUCTION P	Construction permits	2,462.50	115,358	1.3680
3916	MAJOR STANDARD CONSTR PERMITS	Construction permits	7,907.50	411,153	4.3930
3917	MAJOR COMPLEX(INCL PDS) CONSTR	Construction permits	3,714.50	213,728	2.0636
3264	COMPL AST VISIT-MAJOR SOURC	Construction permits; compliance	124.50	5,737	0.0691
1623	BIOFUELS PROJECTS	Construction permits; modeling	755.00	39,797	0.4194
3423	EMISSIONS INVENTORY	Emission Inventory	9,813.30	385,768	5.4518
1501	DATA SYSTEMS MGMT-MAJOR SOURCE	IT	2,187.90	142,087	1.2155
3298	DATA SYST COORD/MAINT/MGMT	IT	2,359.80	100,740	1.3110
3434	COMPUTER SUPORT	IT	78.00	3,551	0.0433
3119	TITLE V MGMT & SUPERVISION	Management	10,194.50	652,608	5.6635
3279	MONITORING ACT - MAJOR SOUR	Monitoring	5,428.80	234,441	3.0160
3266	PLAN/RULES/BDGT ACT- MAJOR S	Planning	6,307.60	311,738	3.5042
2022	MGMT & COORD DOCDNA ACTIVITIES	Support	232.50	9,485	0.1291
3265	MGT TRACK/RPT-MAJOR SOURCES	Support	5,486.70	166,603	3.0481
2604	OPERATING PERMITS	Title V permits	10,581.00	423,226	5.8783

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3553	MAJOR SOURCE-FACILITY WIDE	Modeling	53.50	2,535	0.0297
3554	REGIONAL MODELING	Planning	3,646.00	150,822	2.0255
3555	LEGAL ACTIVITIES	Legal	108.00	1,279	0.0600
3579	STACK TEST OBSV/RPT- MAJORS	Compliance	5,215.30	201,089	2.8973
3779	KAIZEN PERMITTING PROCESS IMPR	All areas	1,556.10	86,289	0.8645
3943	LOCAL PROGRAM MAJOR ACTIVITIES	All areas	450.70	22,564	0.2503
3994	CLERICAL & OTHER SUPPORT ACTIV	Support	2,755.60	79,068	1.5308
4081	CAA SECTION 507 SMALL BUSINESS	All areas	1,194.50	59,549	0.6636
6592	AIR TOXIC STUDY	All areas	2,848.40	120,470	1.5824
6783	PM2.5 DEV & IMPL PLANNING	All areas	275.60	13,784	0.1531
6785	SO2 DEV & IMPL PLANNING	All areas	2.00	95	0.0011
7250	Greenhouse Gas Activities (TV portion)	Greenhouse Gas Activity		35,163	
Percent of Total FTE			108,778.30	\$5,227,578	60.4308
Percent of Total FTE					81%

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Table 6: Non-Title V Personnel Data by Program Activity

Code	Activity	Program Area	Hours	Amount	FTE
1098	OTHER UNSPECIFIED ACTIVITIES	All areas	330.20	17,301	0.1834
3259	AIR TOXICS ACT-MINOR SOURC	All areas	79.40	3,886	0.0441
3260	COMPL AST VISIT-MINOR SOURC	All areas	134.00	6,825	0.0744
3552	TRAINING	All areas	119.30	4,783	0.0662
3942	LOCAL PROGRAM MINOR ACTIVITIES	All areas	168.70	8,635	0.0937
6782	PM2.5 DEV & IMPL PLANNING	All areas	88.20	4,230	0.0490
1114	PUBLIC MEDIA, LEGIS INQ MINOR	All areas/Management	208.00	10,179	0.1155
1111	STACK TEST OBSV/RPT-MINOR S	Compliance	1,792.70	72,264	0.9959
3111	ASBESTOS ACTIVITIES	Compliance	2,458.60	105,617	1.3658
3261	ENFORCEMT ACT-MINOR SOURCES	Compliance	1,304.80	61,413	0.7248
3262	FIELD INSP-MINOR SOURCES	Compliance	3,275.30	160,968	1.8196
3301	NON-FACILITY FIELD ACTIVITIES	Compliance	1,360.60	68,102	0.7558
3914	MINOR STANDARD CONSTR PERMITS	Compliance	3,714.60	187,150	2.0636
3915	MINOR COMPLEX CONSTR PERMITS	Compliance	202.00	8,226	0.1122
4037	AIR QUALITY FIELD EMERGENCY R	Compliance	40.50	1,961	0.0225
1113	TAX CERTIFICATIONS	Construction permits	19.50	959	0.0108
3113	CONSTR PERMITS-MINOR SOURCE	Construction permits	2.00	117	0.0011
1622	BIOFUELS PROJECTS	Construction permits; modeling	306.00	16,879	0.1700
3422	EMISSIONS INVENTORY	Emission Inventory	1,059.20	37,063	0.5884
1082	DATA SYSTEMS COORD/MAINT/MG	IT/Support	393.50	17,078	0.2186
1092	MANAGEMENT & SUPERVISION	Management	1,103.00	70,950	0.6127
3550	DISPERSION MODELING	Modeling	1,794.70	79,512	0.9970
1095	MONITORING ACT - MINOR SOUR	Monitoring	1,807.00	81,948	1.0038
1100	PLAN/RULES/BDGT ACT-MINOR S	Planning	1,446.10	71,403	0.8033
1093	MGT TRACK/RPT-MINOR SOURCES	Support	499.30	15,475	0.2773

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2021	MGMT & COORD DOCDNA ACTIVITIES	Support	229.00	9,343	0.1272
3993	CLERICAL & OTHER SUPPORT ACTIV	Support	972.00	34,413	0.5400
General Fund & Federal Grant (PPG) Total			24,908.20	\$1,156,682	13.8367
Code		Activity			
7250	Greenhouse Gas Activities (Env. First)	Greenhouse Gas Activity		50,000	
Environment First Total				\$50,000	
7260	Clean Diesel Grants	Clean Diesel Grants	56.70	2,407	0.0314
7270	ARRA Clean Diesel Grants	Clean Diesel Grants	940.00	43,070	0.5220
Federal Clean Diesel Total			996.70	\$45,477	0.5534
Percent of Total FTE					19%

III. Formal Regulatory Analysis

Iowa Code section 17A.4A(2)“a”(1) to (6):

(1) *A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.*

The classes of persons most affected by the proposed rule making will be the owners and operators of Title V facilities. A table of the Title V facilities, grouped by standard industrial classification (SIC) codes (a four-digit code system developed by the federal government to classify similar industries) is listed below (Table 7). Currently, Iowa has 278 Title V facilities which are affected by the proposed rule making. Public and private entities and individuals utilizing the air resources for economic gain or private enjoyment will be directly and indirectly affected by these rules.

Table 7: Summary of Title V Facilities by Standard Industrial Classification (SIC)

SIC Description	SIC Codes	Number of Title V Facilities
Electric Services; Electric & Other Services, Natural Gas Transmission	4911, 4922, 4931	61
Cereal Breakfast Food, Prepared Feed for Animals, Wet Corn Milling, Food Preparations, Flour, Soybean Oil Mills	2043, 2048, 2041, 2046, 2075, 2099	27
Nitrogen Fertilizers, Pesticides & Agricultural Chemicals, Industrial Organic Chemicals, Industrial Gases, Medicinal Chemicals, Ink	2813, 2833, 2869, 2873, 2879, 2893	21

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SIC Description	SIC Codes	Number of Title V Facilities
Steel Works, Iron Foundries, Primary Nonferrous Smelting, Copper, Aluminum, Steel Foundries, Aluminum Sheet	3312, 3321, 3325, 3339, 3351, 3353, 3365	17
Metal Cans, Structural Metal, Metal Doors, Fabricated Plate Metal, Metal Buildings, Valves & Pipe Fittings, Fabricated Metals, Metal Coating & Engraving	3411, 3441, 3442, 3443, 3448, 3479, 3494, 3499	16
Plastics Foam & Products, Laminated Plastic Plate, Custom Compounding, Tires, Rubber Products, Plastic Plumbing Fixtures	3011, 3069, 3083, 3086, 3087, 3088, 3089	16
Water Supply, Sanitary Service, Sewerage Systems, Refuse Systems	4941, 4952, 4959, 4953	15
Farm Machinery and Equipment, Construction Machinery and Equipment, Turbine Generation, HVAC equipment, Cylinders	3511, 3523, 3531, 3585, 3593	15
Flat Glass, Glass Products, Cut Stone, Minerals, Gypsum Products, Cement, Brick & Tile	3211, 3231, 3241, 3251, 3275, 3281, 3295	14
Truck & Bus Bodies, Vehicle Parts, Motor Vehicle, Truck Trailers; Motor Homes, Transportation Equipment	3711, 3713, 3714, 3715, 3716, 3799	12
Millwork, Wood Kitchen Cabinets, Wood Products, Reconstituted Wood Products	2431, 2434, 2493, 2499	12
Refined Petroleum Pipelines, Pipelines, NEC	4613, 4619	11
Petroleum Bulk Stations and Terminals	5171	6
Motors & Generators, Communication Equipment, Refrigerators, Freezers	3621, 3632, 3663	4
Plastics, Coating & Laminating, Paperboard Mills	2631, 2672, 2673	4
Colleges, Universities, and Professional Schools	8221	4
Hospital, Research, Testing Laboratory	8062, 8733, 8734	3
Canned fruits, Prepared Meat, Meat Packing	2011, 2013, 2033	3
Scrap and Waste Materials, Automobiles and Other Motor Vehicles	5012, 5093	2
Commercial Printing	2754, 2759	2
Office Furniture, Office Fixtures	2522, 2542	2
National Security	9711	1
Correctional Institutions	9223	1
Top, Body, and Upholstery Repair Shops and Paint Shops	7532	1
Life Insurance	6311	1
Rental of Railroad Cars	4741	1
Fasteners, Buttons, Needles, and Pins	3965	1

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(2) *A description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons, including a description of the nature and amount of all of the different kinds of costs that would be incurred in complying with the proposed rule.*

The quantitative impact of the proposed rule making is \$1.2 million distributed across the 278 facilities. The quantitative impact of the proposed rule making on each Title V facility depends on the option proposed. The Department proposed five options in **ARC 9366B** to address funding challenges facing the Department's air quality program. The Department developed an analysis to determine the impact of each of the five options on each affected Title V facility. The analysis is included in Attachment 2 and is also available at <http://www.iowadnr.gov/air/prof/progdev/progdev.html>, under Title V Fee Rulemaking. Projected impacts of each option on each Title V facility are for SFY 2012 and are based on the projected 2010 emissions for each facility. The options included in the proposed rule making are summarized below (Table 8).

Table 8: Summary of Rule-Making Options

Alternatives in Rule Making	Title V Fee Cap	Summary
Option 1	\$65.00	1 year Title V fee cap.
Option 2	\$89.00	5 year Title V fee cap, Title V fee likely set at \$65/ton the first year.
Option 3	\$65.00	\$5,000 minimum Title V fee. Title V emission fee could remain at \$56/ton. The fee cap is estimated to be sufficient for 2 years.
Option 4	\$56.00	Remove 4,000 ton cap on emissions subject to fees. Title V fee could be lowered to \$47/ton.
Option 5	\$56.00	Construction permit application fees from \$3,000 - \$20,000 or more per project. Title V fee could remain at \$56/ton.

Option #1: Establish a Title V fee cap of \$65 per ton based on an estimate of the budgetary needs for the next year. This option is the original proposal provided to the Commission at the December 2010 Commission meeting. This option provides status quo services and does not address funding for critical program elements indicated in Table 10.

Option #2: Establish a Title V fee cap of \$89 per ton based on an estimate of the budgetary needs for the next five years. It would fund the program and allow time to find additional efficiencies and funding resources. This proposal was provided to stakeholders in November 2010. This option anticipated that the Title V fee would likely be set at \$65 per ton at the May 2011 Commission meeting. This option provides status quo services and does not address funding for critical program elements indicated in Table 10.

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Option #3: Establish an annual minimum Title V fee of \$5,000 and raise the Title V fee cap to \$65 per ton. Every Title V facility would pay a \$5,000 minimum fee and also pay a \$47 per ton emission fee. A minimum Title V fee would provide for a more equitable system as each facility would pay for the costs to issue initial Title V permits and renewals, and modify Title V permits, review emissions, and inspect facilities. A minimum Title V fee also would provide the Department with a more stable basis of funding and rely less on fees based on variable emissions. This option anticipated that the Title V fee cap of \$65 per ton would provide sufficient funds through the next two years (state fiscal year (SFY) 2012-2013). This option also anticipated that the first payment of the base fee would be due on July 1, 2011. This option provides status quo services and does not address funding for critical program elements indicated in Table 10.

Option #3 establishes a \$5,000 minimum Title V fee and the remainder of the Title V budget would be accommodated by a \$56 per ton emission fee. The \$5,000 Title V minimum fee and emission fee of \$56 per ton would increase fees paid by approximately 250 facilities and decrease fees paid by approximately 25 facilities. An annual base fee would serve to stabilize program revenue by reducing reliance on emission fees and increasing reliance on base fees.

Option #4: Remove the 4,000-ton ceiling on emissions, reduce the fee to \$47 per ton, and retain the existing fee cap of \$56 per ton. Based on the SFY 2012 budget estimate and using 158,000 tons of chargeable emissions, with an additional 62,000 tons of pollutants that currently exceed the 4,000-ton cap, the Title V fee could be reduced to \$47 per ton. Carbon monoxide would continue to be excluded from the list of chargeable pollutants. This option provides status quo services and does not address funding for critical program elements indicated in Table 10.

Under Option #4, five facilities would incur higher fees because the emissions in excess of 4,000 tons per pollutant would no longer be exempt from fees. The remaining 270 facilities would have reduced fees. These five facilities may reduce emissions in the future based on existing and proposed federal regulations.

Option #5: Establish a construction permit application fee for Title V facilities. The Department's air pollution control program is one of the few in the country that does not charge a pre-construction permit fee. A Title V or major source construction permit application fee would fund construction permitting activities and remove those expenses from the emissions-based fee. Stakeholders have commented on the desire to fund construction permit activities in an alternate manner. In the current fee structure, all Title V facilities support construction permit activities. This option would charge fees on those Title V facilities that use the service. Three separate levels of application fees are proposed and described in Table 9.

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Table 9: Proposed Construction Project Application Fees

Type of Application	Description	Amount
PSD	Prevention of Significant Deterioration projects.	\$20,000 per project and \$5,000 per point
Non-PSD Complex	A non-PSD project with more than 5 permits, or involves 112(g), or requires a public comment period.	\$10,000 per project and \$1,500 per point
Standard	A non-PSD project with 5 or less permit applications and does not involve 112(g), and does not involve a public comment period.	\$3,000 per project

Construction permit activities include application completeness review; site visits as needed; review of application purpose with applicant; emission calculations review; applicability determination; modeling, stack test observations, record keeping, and reporting determinations; engineering evaluation; permit drafting; modification of draft permit based on applicant comments; permit issuance; and associated tracking database and records support.

The proposed rule making establishes an applicability determination fee of \$1,000 for each determination request submitted to the Department, outside of a construction permit application.

The Department does not anticipate any direct fiscal or economic impacts from the proposed fee options on the public. The proposed fee options could indirectly affect the public because any increases in fees could be passed through by Title V permit holders, resulting in increases in the costs of products or services provided by businesses with Title V permits. Funding mechanisms that provide sufficient resources for compliance and technical assistance may help avoid public health costs associated with lower compliance and increased air pollution.

(3) The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

As documented in the Fiscal Impact Statement that was included with the Notice of Intended Action, the purpose of the proposed rule making is to maintain sufficient funding for status quo program services.

A county- or local government-owned facility already subject to the Title V operating permit program, such as a municipal electric utility, would be subject to the fees proposed in each of the five options. It is not anticipated that the rule making will have an effect on state revenues. If the rule making is not approved, the Linn and Polk County air quality programs would have to scale back their assistance and rate of permitting.

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(4) A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The probable cost of the proposed rule making will depend on the affected Title V facility, the emissions, and the final option chosen in the rule making. The Department provided the estimated cost to stakeholders prior to the rule-making process. This information is also found in Attachment 2. The probable benefit of the proposed rule making is to provide sufficient funding for a status quo program and establish an alternate funding mechanism.

The probable cost of inaction would be a decrease or loss in the services industry has received in the past. Consequences of underfunding of the Title V program include: loss of data necessary for complex permitting projects; and loss of industry's ability to meet federal requirements; and delays in permit issuance. Businesses seeking to construct a new facility or expand an existing facility will bear the burden of installing ambient air monitors and collecting data for the required one-year period prior to construction. With the construction monitoring and permitting process, construction for such projects would be delayed for up to 18 months.

Reduced levels of funding would curtail the development of compliance assistance tools and outreach activities. Facilities and industry groups will no longer have specific guidance from the Department on the implementation of new Hazardous Air Pollutant or New Source Performance Standards, likely decreasing the level of compliance. Outreach on explaining permit requirements or permitting site visits will also be drastically reduced or possibly eliminated.

Reducing support for the operation and maintenance of the ambient air monitoring network and equipment replacement would result in increased periods of downtime on monitors. Increased downtime will increase the number of federally mandated instances where high values will be required to be substituted for missing data. This will increase the likelihood of "calculated" violations of the air quality standards, leading to the designation of additional nonattainment areas by EPA.

Eliminating supplemental funding of the Attorney General's support would eliminate the early review and prioritization of enforcement cases. Failure to take timely action when appropriate may excessively disrupt industry efforts to come back into compliance.

Reducing assistance to facilities and communities in areas approaching or near nonattainment would result in increasing numbers of areas showing exceedances of the health standards. Severe impacts on economic growth would result if nonattainment requirements come into effect in those areas.

Reducing the level of effort in regional modeling of interstate transport of air pollutants would result in mischaracterizations of Iowa facilities' emissions. These mischaracterizations would be carried into federal and regional air pollution reduction plans. This may result in unnecessary and ineffective regulation of Iowa facilities in the future.

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Significantly reducing or eliminating the small business assistance programs currently located at the University of Northern Iowa's Iowa Waste Reduction Center and the Iowa Department of Economic Development would shift the federal requirement to assist small businesses to Department staff that already have full permitting and compliance assistance duties.

Reducing funding to local air quality programs for major source support would force the Linn and Polk County local air quality programs to scale back their assistance and rate of permitting. Reductions at the state level would also likely result in increases in county expenditures from the collection of additional fees locally to maintain the same level of service.

Elimination of the cost of server storage and other costs for currently held electronic records would cause facilities and the public to physically come to the Department's Air Quality Bureau for records or pay higher costs to obtain records. Lack of additional staffing will result in delays in facilities' ability to apply for permits.

If Iowa's implementation of its Title V program declines below levels acceptable under the Act, EPA may pursue a deficiency finding for all or part of the state's implementation of the Act. EPA may withdraw approval of the program. Iowa businesses would then have to work with EPA regarding all Title V program requirements. Sanctions and consequences of failing to attain/maintain an approved program are outlined in 42 U.S.C. § 7509. Sanctions available to the EPA Administrator include withholding a portion of the federal highway funds.

If the Title V fee cap is not raised, or if one of the other options is not implemented, reduced staffing would increase the issuance time for construction and operating permits. Significant additional federal standards such as new ambient air quality standards, and emissions standards for hazardous air pollutants, already have increased permit issuance time. Permit issuance times will continue to climb without sustained or increasing support.

The proposed rule making does not provide sufficient funding for critical program elements but rather only maintains the status quo program services. These critical elements are as follows: additional staffing required for mandatory greenhouse gas permitting; resources and staffing needed to comply with new requirements of federal air quality standards; staffing requirements for nonattainment areas in the state; and restoration of a portion of the small business permit assistance program that was eliminated to help balance the SFY 2010 budget (Table 10).

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Table 10: **Unfunded** Requirements & Needs for SFY 2012

Unfunded Requirements	Explanation	Cost
Greenhouse Gas permitting	Based on current estimates	\$300,000
NO2 Monitoring Equipment, Operation, Maint.	New NAAQS requirements	\$218,000
SO2 Monitoring Equipment, Operation, Maint.	New NAAQS requirements	\$332,000
Ozone Monitoring Equipment, Operation, Maint.	New NAAQS requirements	\$783,000
PM2.5 Monitoring Equipment, Operation, Maint.	New NAAQS requirements	\$161,000
Nonattainment staffing	Six FTEs in 2 areas	\$450,000
Unfunded Needs	Explanation	Cost
Air Toxics at schools evaluations	Three FTEs and equipment	\$275,000
Records Imaging	Backlog and ongoing	\$130,000
Reinvest in Small Business Assistance	Restore permitting assistance	\$230,000

New reviews of greenhouse gases in permits will slow permitting without investment of additional resources. The ambient air monitoring network, which informs Iowans whether their health is being protected, would be reduced or eliminated since the network provides critical data to industry in support of quick permitting; reduction or elimination would significantly slow economic development projects. Support for new monitoring to determine whether air quality meets new federal standards for air quality for sulfur dioxide, nitrogen dioxide, and ozone, and ongoing support for monitoring is critical.

The Department is faced with curtailing its investigation of the Air Toxics at Schools report that indicated dangerous levels of toxics near some schools in Iowa. Electronic access to records will only maintain the existing records. Expanded electronic storage of records will not be possible without sufficient funding. Electronic records access is now only available for most document types created prior to January 2005. Small business assistance provided by the University of Northern Iowa and the Iowa Department of Economic Development would be further reduced or eliminated.

These unfunded activities will have significant consequences to both business and industry and the general public. A reduction in the level of effort could result in the Department's inability to ensure that the quality of the air Iowans breathe meets federally established, scientifically credible air quality standards. Those standards are set to ensure that children, the elderly, those with health challenges, and the healthy have air to breathe that is not injurious to health.

(5) A determination of whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule.

The purpose of the proposed rule making is to maintain sufficient funding for status quo program services. The Department proposed five options in **ARC 9366B** to gather input on alternate funding scenarios.

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The Department and interested stakeholders have discussed construction permit application fees and other funding options over the past several years, beginning in 2004. More recently, the Department met with members of the public, industry, and environmental groups to obtain preliminary input on the Title V fee cap. Meetings were conducted on November 12, November 19, and December 2, 2010. The Department and stakeholders have not been able to reach a consensus on alternative funding through informal discussions.

In December, the Department presented the Commission with a proposed one-year fee cap of \$65. Members of the Commission suggested the Department explore alternate proposals to provide funding.

In consideration of existing regulatory authority, previous meetings and discussions with stakeholders on funding alternatives, and the time constraints for developing this rule making, the following alternatives were explored.

- Should the fee cap be set for one or more years?
- Would a standard base fee be appropriate?
- Which pollutants should fees be assessed on and should a pollutant ceiling of 4,000 tons be retained or modified?
- Should a construction permit fee be established to supplant a portion of the fees?

These alternatives were developed into specific funding options as presented in the rule making. The Department specifically requested comments regarding the possibility of adopting rules that combine aspects of the proposed options.

(6) A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.

In an effort to identify alternative methods for achieving the purpose of the proposed rule making, the Department reviewed fee programs used to fund other states' air quality programs as part of the development of the options included in the rule making. The Act provided minimum requirements for the Title V program but allowed states flexibility to establish a Title V program to meet specific needs. The flexibility resulted in differences, some significant, in each state's Title V program, making direct comparisons impossible. A summary of Title V and construction permit fees is provided below (Table 11). A brief overview is provided on each state's program in Attachment 3. Iowa is the only state in the region that does not charge construction permit fees. All surrounding states charge both Title V and construction permit fees.

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Table 11: Current Title V and Other Fees

State	Title V Fee	Construction Permit Fees
Nebraska	\$70.00	\$250 - \$3,000
Minnesota	\$63.84	\$285 - \$21,375
Iowa	\$56.00	\$0
Missouri	\$40.00	\$100 +\$50/hour - \$700
Kansas	\$37.00	\$50 - \$4,000
Wisconsin	\$35.71	\$7,500 + \$500 - \$16,000
Illinois	\$18.00	\$500 - \$25,000

Comparing the level of the Title V fees in each state does not provide an accurate comparison of the state Title V program costs. For example, the Minnesota emission fee applies to a larger universe than the Title V program (e.g., includes minor sources), does not have a ceiling on emissions in comparison to the 4,000-ton ceiling in Iowa, and is not charged on hazardous air pollutants that are not criteria pollutants. The Illinois emission fee is assessed based on allowable emissions which are typically higher than actual emissions. Illinois also charges emission fees on non-Title V sources. Also in Illinois, allowable emissions are established in a permit and are also referred to as potential emissions. Iowa's Title V fee is based on actual emissions. Illinois charges \$1,800 for permitted facilities with less than 100 tons of allowable emissions; \$18/ton on 100 – 13,888 tons of allowable emissions; and \$250,000 on greater than 13,888 tons of allowable emissions.

Scenarios were not pursued that were perceived to be confusing to stakeholders or difficult to navigate or costly to implement. Options that would create additional administrative support burdens for the Department, such as an extensive point system like the system in Minnesota, were also rejected.

Similar to Iowa, Title V fees in the surrounding states are used to pay for at least a portion of the major source inspections; technical assistance; enforcement; rule and policy development; data management; and reporting to the EPA. Title V fees in surrounding states also support a portion of air quality monitoring, air quality planning and air program management costs.

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Iowa Code section 17A.4A(2)“b”(1) to (5):

b. In the case of a rule that would have a substantial impact on small business, the regulatory analysis must contain a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rule on small business:

- (1) Establish less stringent compliance or reporting requirements in the rule for small business.*
- (2) Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small business.*
- (3) Consolidate or simplify the rule's compliance or reporting requirements for small business.*
- (4) Establish performance standards to replace design or operational standards in the rule for small business.*
- (5) Exempt small business from any or all requirements of the rule.*

None of the proposed rule-making options will result in an increase in the compliance or reporting requirements for businesses that meet the definition of a small business. Small businesses that would be impacted by proposed Option #5 would need to submit fees for construction permit application review. Whether the facility incurs a higher or lower fee will be dependent on the level of construction permit services that are requested by the facility. Based on these considerations, the Department has determined that the proposed rule making would have no substantial compliance or reporting impact on small businesses that are already part of the Title V program.

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Attachment 1. Summary of Public Comments to ARC 9366B

567 Iowa Administrative Code

Chapter 22, “Controlling Pollution,” Chapter 30, “Fees,” and Chapter 33, “Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality”

Introduction

The purpose of the proposed rule making is to maintain sufficient funding for status quo program services. Five options are proposed. Currently, the Title V Operating permit program rules allow the Department to collect up to \$56 per ton for air pollutants emitted. The options included in the rule making are outlined in the table below.

Alternatives in Rule Making	Title V Fee Cap	Summary
Option 1	\$65.00	1 year Title V fee cap.
Option 2	\$89.00	5 year Title V fee cap, Title V fee likely set at \$65/ton the first year.
Option 3	\$65.00	\$5,000 minimum Title V fee. Title V emission fee could remain at \$56/ton. The fee cap is estimated to be sufficient for 2 years.
Option 4	\$56.00	Remove 4,000 ton cap on emissions subject to fees. Title V fee could be lowered to \$47/ton.
Option 5	\$56.00	Construction permit fees from \$3,000 - \$20,000 or more per project. Title V fee could remain at \$56/ton.

The Notice of Intended Action was approved by the Commission on January 18, 2011, and was published in the Iowa Administrative Bulletin as **ARC 9366B** on February 9, 2011. The public hearing was held on March 11, 2011. The Department received one oral comment at the public hearing from SSAB. The Department received 10 written comments before the close of the public comment period on March 11, 2011. Written comments were received from the following parties:

- Ag Processing Inc.
- Alliant Energy
- Iowa Association of Business and Industry
- Iowa Environmental Council
- Iowa State University
- Iowa Waste Reduction Center
- Linn County
- MidAmerican Energy
- South Central Iowa Solid Waste Agency
- U.S. Environmental Protection Agency

A summary of comments from each of these organizations is listed below.

Attachment 1. Summary of Public Comments to ARC 9366B**Ag Processing Inc. (AGP)**

AGP supports the annual base fee approach (option 3) and the removal of the 4,000-ton cap per regulated pollutant. AGP opposes the increase in the Title V fee cap and strongly opposes construction permit fees. AGP believes that the DNR includes in the Title V budget a large number of expenses that are not 'Title V only' expenses and which should not be funded solely by Title V fees, but that General Funds should be allocated to fund those portions of the air program.

Alliant Energy/Iowa Power & Light (IPL)

IPL does not support IDNR proposed Options 1 and/or 2 to simply extend the current fee system. Option 1 should only be considered in the event additional time is required to implement one or more of the other options. IPL supports DNR Option 3 of a fixed fee per each permit. IPL is neutral for DNR Option 4 of removing the current 4,000-ton cap per pollutant. IPL supports DNR Option 5 to establish a construction permit fee program.

IPL recommends DNR consider implementation of the concepts reflected in both Option 3 and Option 5, recognizing that more stakeholder discussions may be appropriate to finalize actual fee values. IPL further encourages DNR to consider incorporating features of both Option 3 and Option 5, and even a modified version of Option 4 which would not overly skew fees to a small group of permit holders.

Iowa Association of Business and Industry (ABI)

ABI members believe the current \$56/ton is more than sufficient to cover the costs of the Title V program. ABI is not willing to support any increase in fees, or additional revenue producing proposals, until regulatory reform at the Department takes place. Option 3 proposes to raise the fee cap and charge a minimum fee. This shifts the Title V increases disproportionately to smaller Title V facilities. Lifting the ceiling on fees collected (option 4) does one thing: increase costs to all Iowa consumers. Establishing construction permitting fees (option 5) would be a cost to existing industries who want to expand facilities, or new companies looking to relocate in Iowa. A construction permit program at this time would be premature. If the DNR is interested in establishing a construction permit fee, ABI believes the DNR needs to provide additional information to fee payers on this subject.

Iowa Environmental Council (Council)

The Council believes construction fees for ...small major sources (option 5) should be graduated in order to avoid placing a prohibitive cost burden on essential industries and employers. The Council cannot emphasize strongly enough that maintenance of the current program is a crucial minimum, because it retains Iowa's flexibility within Clean Air Act provisions rather than constraining our options and possibly resulting in expensive U.S. EPA actions against the state.

The Council's analysis indicates that longer permit review periods may have little to no practical impact on existing industries, but longer periods caused by staff layoffs and other detriments to the DNR's programs could curtail new economic growth and job creation, including small business start-ups.

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Attachment 1. Summary of Public Comments to ARC 9366B

The Council's view is that any reduction in permitting, compliance and enforcement, and implementation of current and future federal rules is likely to cause worsened air quality in at least some parts of the state. The consequences may be a greater number of nonattainment designations, poorer protections for public health and environment, and failure to apply the most recent scientific research on pollutants and health within the state.

Iowa State University

Iowa State would support either Option #3 or #5. Iowa State feels that the \$5,000 (option 3) may be a burden on some smaller businesses and would recommend lowering that to start with to an amount like \$2,000 per Title V facility. Iowa State feels that this makes sense that you pay for the services used (option 5). Iowa State understands the majority of construction permits that the DNR issues would fall into the "standard" category. As proposed, that would carry a hefty price tag of \$3,000. Iowa State would recommend lowering this to somewhere around the \$1,200-1,500 range.

Iowa Waste Reduction Center (IWRC)

The IWRC was disappointed that the proposed Air Quality Bureau's budget was not sufficient to reinstate previous funding cuts (made in SFY 2011) to the small business assistance programs. Small business assistance programs effectively promote environmental and economic development to Iowa small businesses. As regulatory requirements become more prevalent for businesses, assistance programs will become even more important in helping small business obtain/maintain compliance and remain economically competitive. The IWRC encourages the DNR, EPC, and the Iowa General Assembly to actively support funding of Iowa's established and highly effective small business assistance programs.

Linn County

Linn County Public Health believes that the \$/ton fee approach has flaws when it stands alone as the only basis to fund Title V program work. Therefore, Linn County Public Health encourages the EPC to allow the DNR flexibility to combine aspects of the proposed funding options to more equitably distribute the cost of regulating air pollution in Iowa. Specifically, we support the establishment of a minimum annual Title V fee, removal of the 4,000-ton ceiling on emissions combined with an appropriate fee cap, and the establishment of reasonable construction permit fees. This approach recognizes that the issuance and ongoing support of Title V permits requires a base load of resources to comply with federal, state and local requirements, regardless of actual emissions. It also supports our position that an arbitrary ceiling on chargeable tons is not representative of the public health impact from the Title V facility.

The establishment of construction permit fees would allow the IDNR to offset a portion of the Title V emission fees by shifting to more of a fee-for-service model in which the cost of issuing construction permits is partially borne by the facilities consuming the agency's resources. It should be noted that IDNR is only one of a few air pollution control programs in the country that does not charge construction permit fees at this point.

Attachment 1. Summary of Public Comments to ARC 9366B**MidAmerican Energy**

MidAmerican commends the DNR for addressing stakeholder concerns. In general terms, MidAmerican does not specifically endorse any one of the five proffered options. Instead, we continue to promote that the DNR should solicit stakeholder feedback through this process and adopt a future funding formula that is fair and equitable to all aligned Title V fee payers and will be sustainable for the long-term, effectively meeting any future funding requirements.

South Central Iowa Solid Waste Agency (SCISWA)

Funding Options 1, 2, and 4 are acceptable to SCISWA because the fees remain in the range of those currently paid for the emissions reported. Option 3 would add a minimum annual fee of \$5,000 to the emission fees, a rather significant increase over our previous annual fees and one not included in the approved SCISWA budget effective July 1, 2011.

If the current system must change, SCISWA asks an additional option be developed that provides a more realistic fee structure for Iowa's smallest Title V participants. Even establishing an annual flat fee of \$1,000 for the smallest entities, to cover the annual emissions fees and provide added financial DNR support, would be a more equitable and reasonable approach in our opinion.

SSAB (oral comments provided by Tom Sanicola)

SSAB wouldn't like to see a fee increase because it is a cost of doing business here. We urge the Department to really look at the operations and to really evaluate the efficiencies and squeeze as much efficiency out of the system as possible.

U.S. Environmental Protection Agency (EPA)

EPA believes that it is imperative that the State maintain a Title V Operating Permit fee structure that is sufficient to cover the permit program's costs (40 CFR 5 70.9(a)).

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Attachment 2. Title V Emission Inventory for CY 2009
Title V fee Scenarios for SFY 2012

This spreadsheet was created to show emissions reported for calendar year (CY) 2009 and Title V Fee Scenario options for the upcoming state fiscal year (July 1, 2011 - June 30, 2012). CY 2009 emissions fees, paid on July 1, 2010, funded the current state fiscal year. CY 2010 emissions, to be reported by March 31, 2011, have been estimated for the purposes of the budget planning.

This spreadsheet lists facilities alphabetically by name, number and county. All pollutants are listed. Please note that some pollutants are both criteria pollutants and hazardous air pollutants. The totals provided in columns O & P have been adjusted to eliminate double counting. Fees are not charged on carbon monoxide, which is a criteria pollutant. Information is provided for CY 2009 emissions with both chargeable emissions and total criteria and hazardous air pollutant emissions (excluding carbon monoxide).

CY 2010 emissions are anticipated to decline by 8% or approximately 5,000 tons based on implemented federal regulations. The CY 2009 emissions have been adjusted to reflect the further decline and are listed in columns EO & EP. Columns EQ - ET reflect the options proposed in the Notice of Intended Action. Cells EW1 - FA1 are used to calculate the different fee scenarios in Columns EQ - ET.

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Attachment 2. Title V Emission Inventory for CY 2009
Title V fee Scenarios for SFY 2012

Title V Emission Inventory for CY 2009
Title V fee Scenarios for SFY 2012

Facility Name	O Total tons (excluding CO)	P Total Tons Subject to Fees	Q Calculated Fee	EO Estimated 2010 Tons subject to Fees	EP Estimated 2010 Emissions Criteria & HAP (no CO)	EQ Option #1 & 2: Fee Cap and Fee at \$65/ton	ER Option #3: Fee Cap & Base Fee \$56/ton	ES Option #4: Charge Fees on all Criteria & HAP's excluding CO \$47/ton	ET Option #5: Emissions Fee \$56/ton (Major Source CP Fees not listed)
3M (MINNESOTA MINING & MFG CO) - KNOXVILLE	220	220	12,300	213	213	13,849	16,931	10,014	11,931
A-1 FIBERGLASS - RINEHART MFG	10	10	557	10	10	627	5,540	453	540
ACH FOAM TECHNOLOGIES, LLC	114	114	6,381	111	111	7,185	11,190	5,195	6,190
ACO YP, INC	3	3	146	3	3	165	5,142	119	142
ADM - DES MOINES SOYBEAN	769	769	43,047	746	746	48,466	46,755	35,045	41,755
ADM CORN PROCESSING - CEDAR RAPIDS	5,150	5,150	288,406	4,996	4,996	324,714	284,754	234,793	279,754
ADM CORN PROCESSING - CLINTON	1,768	1,768	98,994	1,715	1,715	111,457	101,024	80,592	96,024
ADM CORN PROCESSING / COGEN PLANT - CLINTON	1,824	1,824	102,153	1,769	1,769	115,014	104,089	83,164	99,089
ADM CORN PROCESSING / PHA POLYMERS PLANT- CLINTON	3	3	165	3	3	186	5,160	134	160
ADVANCED COMPONENT TECHNOLOGIES	19	19	1,039	18	18	1,170	6,008	846	1,008
AG PROCESSING, INC - EAGLE GROVE	1,169	1,169	65,449	1,134	1,134	73,689	68,486	53,283	63,486
AG PROCESSING, INC - EMMETSBURG	123	123	6,911	120	120	7,781	11,704	5,626	6,704
AG PROCESSING, INC - MANNING	177	177	9,902	172	172	11,149	14,605	8,061	9,605
AG PROCESSING, INC - MASON CITY	148	148	8,295	144	144	9,340	13,046	6,753	8,046
AG PROCESSING, INC - SERGEANT BLUFF	354	354	19,827	343	343	22,323	24,232	16,141	19,232
AG PROCESSING, INC - SHELDON	296	296	16,560	287	287	18,645	21,063	13,482	16,063
AJIMOMOTO HEARTLAND LLC	100	100	5,581	97	97	6,284	10,414	4,543	5,414
ALCOA INC	510	510	28,558	495	495	32,154	32,702	23,250	27,702
ALLIANCE PIPELINE L.P. - MANCHESTER	72	72	4,006	69	69	4,510	8,885	3,261	3,885
ALLSTEEL MUSCATINE COMPONENTS PLANT	45	45	2,539	44	44	2,858	7,462	2,067	2,462
AMERICAN PACKAGING CORPORATION	113	113	6,310	109	109	7,104	11,120	5,137	6,120
AMSTED RAIL COMPANY, INC	103	103	5,772	100	100	6,499	10,599	4,699	5,599
ANAMOSA STATE PENITENTIARY	24	24	1,359	24	24	1,530	6,318	1,106	1,318
ANR PIPELINE CO - BIRMINGHAM COMPRESSOR	1,218	1,218	68,223	1,182	1,182	76,811	71,176	55,540	66,176
ANR PIPELINE CO - LINEVILLE COMPRESSOR	659	659	36,892	639	639	41,536	40,785	30,034	35,785
ARCH MIRROR NORTH	41	41	2,286	40	40	2,574	7,217	1,861	2,217
ARCHER DANIELS MIDLAND - KEOKUK	9	9	478	8	8	538	5,464	389	464
ASTORIA INDUSTRIES OF IOWA, INC - OSCEOLA	53	53	2,950	51	51	3,322	7,862	2,402	2,862
BERTCH CABINET MFG, INC - LEGACY DIVISION - JESUP	64	64	3,589	62	62	4,041	8,482	2,922	3,482
BERTCH CABINET MFG, INC - OASIS FACILITY	16	16	920	16	16	1,035	5,892	749	892
BERTCH CABINET MFG, INC - OELWEIN	48	48	2,682	46	46	3,020	7,602	2,184	2,602
BERTCH CABINET MFG, INC - WATERLOO	132	132	7,392	128	128	8,323	12,171	6,018	7,171

ENVIRONMENTAL PROTECTION COMMISSION[567]

Attachment 2. Title V Emission Inventory for CY 2009
Title V fee Scenarios for SFY 2012

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BESSER QUINN MACHINE & FOUNDRY	5	5	288	5	5	324	5,279	234	279
BFC ELECTRIC COMPANY, LLC	55	55	3,086	53	53	3,475	7,994	2,513	2,994
BIG RIVER RESOURCES WEST BURLINGTON, LLC	310	310	17,363	301	301	19,549	21,842	14,135	16,842
BLACK HAWK COUNTY SANITARY LANDFILL	5	5	295	5	5	332	5,286	240	286
BLACKHAWK FOUNDRY & MACHINE CO. INC	46	46	2,556	44	44	2,878	7,479	2,081	2,479
BLOOMFIELD FOUNDRY, INC	21	21	1,174	20	20	1,322	6,139	956	1,139
BP - BETTENDORF TERMINAL	236	236	13,235	229	229	14,901	17,838	10,775	12,838
BP - CEDAR RAPIDS TERMINAL / N LIBERTY	136	136	7,643	132	132	8,606	12,414	6,223	7,414
BP - DES MOINES TERMINAL	8	8	435	8	8	489	5,421	354	421
BRAND FX BODY COMPANY - POCAHONTAS	34	34	1,879	33	33	2,115	6,822	1,530	1,822
BRAND FX BODY COMPANY - SWEA CITY	20	20	1,108	19	19	1,247	6,074	902	1,074
BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC	470	470	26,327	456	456	29,642	30,537	21,433	25,537
BUNGE NORTH AMERICA, INC - 19560 BUNGE AVE	339	339	18,962	328	328	21,349	23,393	15,437	18,393
CARGILL, INC - CEDAR RAPIDS	1,444	1,444	80,843	1,400	1,400	91,020	83,417	65,815	78,417
CARGILL, INC - CEDAR RAPIDS - SOYBEAN EAST PLANT	311	311	17,441	302	302	19,637	21,918	14,199	16,918
CARGILL, INC - DES MOINES	213	213	11,923	207	207	13,424	16,565	9,707	11,565
CARGILL, INC - DOMESTIC SOYBEAN PROCESSING	150	150	8,406	146	146	9,464	13,154	6,844	8,154
CARGILL, INC - EDDYVILLE	3,981	3,981	222,940	3,862	3,862	251,006	221,252	181,497	216,252
CARGILL, INC - IOWA FALLS	248	248	13,873	240	240	15,620	18,457	11,294	13,457
CARGILL, INC - SIOUX CITY	430	430	24,056	417	417	27,085	28,335	19,585	23,335
CDI, LLC - CHARLES CITY				0	0	0	5,000	0	0
CDI, LLC - FOREST CITY	36	36	2,042	35	35	2,299	6,981	1,663	1,981
CECO BUILDING SYSTEMS	17	17	966	17	17	1,088	5,937	786	937
CEDAR FALLS MUNICIPAL ELECTRIC UTILITY	359	359	20,103	348	348	22,634	24,500	16,366	19,500
CEDAR FALLS MUNICIPAL ELECTRIC UTILITY - CTS	2	2	86	1	1	97	5,084	70	84
CEDAR RAPIDS LINN CITY SLD WEST AGCY SANI LANDFILL	4	4	245	4	4	276	5,238	199	238
CEDAR RAPIDS WPCF	26	26	1,445	25	25	1,627	6,401	1,176	1,401
CENTRAL DISPOSAL SYSTEMS, INC	104	104	5,800	100	100	6,530	10,626	4,722	5,626
CENTRAL IOWA POWER COOP - FAIR STATION	6,076	5,046	282,602	4,895	5,894	318,179	279,124	277,003	274,124
CENTRAL IOWA POWER COOP - SUMMIT LAKE	4	4	249	4	4	280	5,241	202	241
CERTANTEED GYPSUM & CEILING MFG, INC	93	93	5,234	91	91	5,893	10,077	4,261	5,077
CHARITON VALLEY RESOURCE CONSERV & DEVL, INC	0	0	0	0	0	0	5,000	0	0

ENVIRONMENTAL PROTECTION COMMISSION[567]

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CHICAGO BRIDGE & IRON CO	16	16	888	15	15	1,000	5,862	723	862
CITY OF AMES COMBUSTION TURBINE	4	4	232	4	4	261	5,225	189	225
CITY OF AMES STEAM ELECTRIC PLANT	2,117	2,117	118,549	2,053	2,053	133,474	119,993	96,512	114,993
CITY OF CEDAR FALLS - MUNICIPAL WATER UTILITY	0	0	13	0	0	15	5,013	11	13
CLIMAX MOLYBDENUM COMPANY	203	203	11,350	197	197	12,779	16,010	9,240	11,010
GLOW VALVE COMPANY - FOUNDRY	25	25	1,420	25	25	1,598	6,377	1,156	1,377
GLOW VALVE COMPANY - MACHINE SHOP	12	12	697	12	12	785	5,676	568	676
CMC JOIST AND DECK	32	32	1,808	31	31	2,036	6,754	1,472	1,754
CNH AMERICA, LLC.	34	34	1,889	33	33	2,127	6,832	1,538	1,832
CONSTRUCTION PRODUCTS, INC	12	12	667	12	12	751	5,647	543	647
CORN BELT POWER - WISDOM GENERATING STATION CORN, LP	114 261	114 261	6,390 14,642	111 254	111 254	7,195 16,485	11,198 19,203	5,202 11,920	6,198 14,203
CR-1, LP - DBA CARGILL NUTRIPRODUCTS - EDDYVILLE	6	6	312	5	5	352	5,303	254	303
CRESTON BEAN PROCESSING, LLC	122	122	6,810	118	118	7,667	11,605	5,544	6,605
CRYOVAC INC, SEALED AIR CORPORATION	49	49	2,723	47	47	3,065	7,641	2,216	2,641
CUMMINS FILTRATION	89	89	4,976	86	86	5,603	9,827	4,051	4,827
CURRIES DIVISION OF AADG, INC - 12TH ST NE	1	1	44	1	1	50	5,043	36	43
CURRIES DIVISION OF AADG, INC - 12TH ST NW	62	62	3,488	60	60	3,927	8,384	2,840	3,384
CURRIES DIVISION OF AADG, INC - 9TH STREET	111	111	6,221	108	108	7,004	11,034	5,065	6,034
CURWOOD, INC	30	30	1,680	29	29	1,891	6,630	1,368	1,630
DES MOINES COUNTY REGIONAL SANITARY LANDFILL	6	6	348	6	6	392	5,338	284	338
DEXTER FOUNDRY, INC	55	55	3,057	53	53	3,442	7,965	2,489	2,965
DIAMOND V MILLS, INC	167	167	9,367	162	162	10,586	14,086	7,625	9,086
DODGEN INDUSTRIES, INC	4	4	222	4	4	250	5,215	181	215
DONALDSON COMPANY, INC - CRESCO	26	26	1,466	25	25	1,651	6,422	1,194	1,422
DUBUQUE METROPOLITAN SANITARY LANDFILL	4	4	250	4	4	281	5,242	203	242
DUBUQUE WATER POLLUTION CONTROL PLANT	40	40	2,215	38	38	2,494	7,148	1,803	2,148
DUPONT PERFORMANCE COATINGS	15	15	859	15	15	967	5,833	699	833
EAGLE WINDOW & DOOR, INC	130	130	7,270	126	126	8,185	12,052	5,918	7,052
ELECTRIMOLD	12	12	672	12	12	757	5,652	547	652
ELECTROLUX HOME PRODUCTS	54	54	3,018	52	52	3,398	7,927	2,457	2,927
ENTERPRISE NGL PIPELINE, LLC - IOWA CITY TERMINAL	57	57	3,211	56	56	3,616	8,115	2,614	3,115

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EQUSTAR CHEMICALS, LP	2,023	2,023	113,309	1,963	1,963	127,573	114,909	92,245	109,909
FANSTEEL WELLMAN DYNAMICS	115	115	6,444	112	112	7,255	11,251	5,246	6,251
FEATHERLITE MANUFACTURING, INC - CRESCO	3	3	166	3	3	187	5,161	135	161
FRES-CO SYSTEM USA, INC	34	34	1,895	33	33	2,134	6,838	1,543	1,838
GENERAL MILLS OPERATIONS, INC	148	148	8,305	144	144	9,350	13,055	6,761	8,055
GEORGIA-PACIFIC GYPSUM, LLC - FORT DODGE	170	170	9,513	165	165	10,710	14,227	7,744	9,227
GERDAU AMERISTEEL US, INC.	126	126	7,051	122	122	7,938	11,839	5,740	6,839
GKN ARMSTRONG WHEELS, INC - ARMSTRONG	26	26	1,444	25	25	1,626	6,401	1,176	1,401
GKN ARMSTRONG WHEELS, INC - ESTHERVILLE	30	30	1,681	29	29	1,892	6,630	1,368	1,630
GLEN-GERY CORPORATION	33	33	1,822	32	32	2,051	6,767	1,483	1,767
GLOBAL ETHANOL, LLC - LAKOTA	174	174	9,771	169	169	11,002	14,478	7,955	9,478
GOLDEN GRAIN ENERGY, LLC - MASON CITY	213	213	11,931	207	207	13,433	16,573	9,713	11,573
GRAIN PROCESSING CORPORATION	16,490	7,292	408,328	7,073	15,996	459,734	401,078	751,800	396,078
GREAT RIVER REGIONAL WASTE AUTHORITY	5	5	278	5	5	313	5,269	226	269
GREEN VALLEY CHEMICAL CORPORATION	318	318	17,816	309	309	20,058	22,281	14,504	17,281
GREGORY MANUFACTURING CO, INC	15	15	850	15	15	957	5,824	692	824
GRIFFIN PIPE PRODUCTS COMPANY	232	232	13,012	225	225	14,650	17,622	10,593	12,622
GROSCHOPP	9	9	499	9	9	562	5,484	406	484
GUARDIAN INDUSTRIES CORPORATION	1,529	1,529	85,650	1,484	1,484	96,432	88,080	69,728	83,080
H.J. HEINZ, L.P.	25	25	1,425	25	25	1,605	6,382	1,160	1,382
HARSCO METALS	10	10	557	10	10	627	5,540	453	540
HENNINGES AUTOMOTIVE IOWA, INC	46	46	2,597	45	45	2,924	7,519	2,114	2,519
HOLCIM (US) INC - MASON CITY	2,576	2,576	144,253	0	0	0	0	0	0
HOMELAND ENERGY SOLUTIONS, LLC	96	96	5,374	93	93	6,051	10,213	4,375	5,213
IAC IOWA CITY, LLC	42	42	2,371	41	41	2,670	7,300	1,930	2,300
INDUSTRIAL LAMINATES/NORPLEX, INC	511	511	28,642	496	496	32,248	32,783	23,318	27,783
IOWA ARMY AMMUNITION PLANT	1,590	1,590	89,054	1,543	1,543	100,265	91,382	72,459	86,382
IOWA CITY SANITARY LANDFILL	54	54	3,012	52	52	3,391	7,922	2,452	2,922
IOWA E.P.S. PRODUCTS, INC. - DES MOINES	138	138	7,719	134	134	8,691	12,487	6,284	7,487
IOWA METHODIST MEDICAL CENTER	36	36	2,006	35	35	2,258	6,946	1,633	1,946
IOWA STATE UNIVERSITY	11	11	600	10	10	675	5,582	488	582
IOWA STATE UNIVERSITY - POWER PLANT	3,015	3,015	168,849	2,925	2,925	190,106	168,783	137,461	163,783

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IPL - AMES DIESELS STATION	0	0	0	0	0	0	5,000	0	0
IPL - BURLINGTON AGENCY STREET COMBUSTION TURBINES	2	2	110	2	2	124	5,107	90	107
IPL - BURLINGTON GENERATING STATION	6,493	5,896	330,157	5,719	6,298	371,722	325,252	296,023	320,252
IPL - CENTERVILLE COMBUSTION TURBINES AND DIESELS	2	2	116	2	2	131	5,113	95	113
IPL - DUBUQUE GENERATING STATION	1,463	1,463	81,905	1,419	1,419	92,216	84,447	66,679	79,447
IPL - EMERY GENERATING STATION	61	61	3,388	59	59	3,815	8,286	2,758	3,286
IPL - GRINNELL COMBUSTION TURBINES STATION	1	1	55	1	1	62	5,053	45	53
IPL - LANSING GENERATING STATION	8,678	7,736	433,236	7,504	8,418	487,778	425,239	395,631	420,239
IPL - LIME CREEK COMBUSTION TURBINES STATION	4	4	225	4	4	253	5,218	183	218
IPL - M.L. KAPP GENERATING STATION	3,844	3,844	215,271	3,729	3,729	242,372	213,813	175,254	208,813
IPL - OTTUMWA GENERATING STATION	19,579	10,188	570,538	9,883	18,992	642,364	558,421	892,605	553,421
IPL - PRAIRIE CREEK GENERATING STATION	1,951	1,951	109,238	1,892	1,892	122,950	110,960	88,931	105,960
IPL - SIXTH STREET GENERATING STATION	99	99	5,569	96	96	6,270	10,402	4,533	5,402
IPL - SUTHERLAND GENERATING STATION	4,617	4,617	258,529	4,478	4,478	291,076	255,773	210,470	250,773
JELD-WEN, INC - DBA JELD-WEN - DUBUQUE	102	102	5,739	99	99	6,462	10,567	4,672	5,567
JOHN DEERE DAVENPORT WORKS	62	62	3,489	60	60	3,928	8,384	2,840	3,384
JOHN DEERE DES MOINES WORKS	139	139	7,773	135	135	8,752	12,540	6,328	7,540
JOHN DEERE DUBUQUE WORKS	907	907	50,793	880	880	57,187	54,269	41,351	49,269
JOHN DEERE ENGINE WORKS	41	41	2,300	40	40	2,590	7,231	1,873	2,231
JOHN DEERE FOUNDRY WATERLOO	93	93	5,206	90	90	5,862	10,050	4,239	5,050
JOHN DEERE OTTUMWA WORKS	134	134	7,511	130	130	8,457	12,286	6,115	7,286
JOHN DEERE PRODUCT ENGINEERING CENTER	87	87	4,861	84	84	5,473	9,716	3,958	4,716
JOHN DEERE WATERLOO WORKS - DONALD STREET	58	58	3,259	56	56	3,669	8,161	2,653	3,161
JOHN DEERE WATERLOO WORKS - WESTFIELD AVE	13	13	730	13	13	822	5,708	594	708
KEOKUK STEEL CASTING, INC - HAWKEYE FACILITY	110	110	6,162	107	107	6,938	10,977	5,017	5,977
KIEFER BUILT, LLC	5	5	306	5	5	345	5,297	249	297
KOCH NITROGEN COMPANY - FORT DODGE	255	255	14,303	248	248	16,103	18,874	11,644	13,874
LAFARGE NORTH AMERICA, INC	3,442	3,442	192,776	3,339	3,339	217,045	191,993	156,940	186,993
LEHIGH CEMENT COMPANY - MASON CITY	812	812	45,491	788	788	51,218	49,127	37,035	44,127
LENNOX INDUSTRIES INC - MARSHALLTOWN	105	105	5,905	102	102	6,649	10,728	4,807	5,728
LINCOLNWAY ENERGY, LLC	295	295	16,501	286	286	18,578	21,006	13,434	16,006
LINWOOD MINING & MINERALS CORP	237	237	13,288	230	230	14,961	17,889	10,818	12,889

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LOPAREX, INC	147	147	8,224	142	142	9,260	12,978	6,695	7,978
LSCP, L.P DBA LITTLE SIOUX CORN PROCESSORS, LP	205	205	11,491	199	199	12,937	16,146	9,355	11,146
MAAX US CORP				0	0	0	5,000	0	0
MAGELLAN PIPELINE CO, LLC - DES MOINES	105	105	5,888	102	102	6,629	10,712	4,794	5,712
MAGELLAN PIPELINE CO, LLC - DUBUQUE	142	142	7,975	138	138	8,979	12,736	6,493	7,736
MAGELLAN PIPELINE CO, LLC - FORT DODGE TRMNL	42	42	2,343	41	41	2,638	7,273	1,908	2,273
MAGELLAN PIPELINE CO, LLC - IOWA CITY	61	61	3,392	59	59	3,819	8,290	2,762	3,290
MAGELLAN PIPELINE CO, LLC - MASON CITY	22	22	1,235	21	21	1,390	6,198	1,005	1,198
MAGELLAN PIPELINE CO, LLC - MILFORD	268	268	14,999	260	260	16,888	19,549	12,211	14,549
MAGELLAN PIPELINE CO, LLC - SIOUX CITY	45	45	2,523	44	44	2,840	7,447	2,054	2,447
MAGELLAN PIPELINE CO, LLC - WATERLOO	17	17	929	16	16	1,046	5,902	757	902
MAHLE ENGINE COMPONENTS USA, INC	6	6	330	6	6	371	5,320	268	320
MANLY TERMINAL, LLC	21	21	1,184	21	21	1,334	6,149	964	1,149
MAQUOKETA MUNICIPAL ELEC UTILITY	6	6	340	6	6	383	5,330	277	330
MAQUOKETA MUNICIPAL UTILITIES - 105 GENERAC DR	1	1	29	1	1	33	5,028	24	28
MCREE BUTTON COMPANY	2	2	127	2	2	143	5,123	103	123
MERIDIAN MANUFACTURING GROUP	74	74	4,146	72	72	4,668	9,021	3,375	4,021
METOKOTE CORPORATION - PLANT 15 - CEDAR FALLS	63	63	3,537	61	61	3,982	8,431	2,879	3,431
METOKOTE CORPORATION - PLANT 24	33	33	1,835	32	32	2,066	6,780	1,494	1,780
METRO METHANE RECOVERY FACILITY	160	160	8,957	155	155	10,084	13,688	7,292	8,688
METRO PARK EAST SANITARY LANDFILL	159	159	8,882	154	154	10,001	13,616	7,231	8,616
MIDAMERICAN ENERGY CO - CORALVILLE TURBINES	5	5	273	5	5	308	5,265	222	265
MIDAMERICAN ENERGY CO - ELECTRIARM TURBINES	76	76	4,266	74	74	4,803	9,138	3,473	4,138
MIDAMERICAN ENERGY CO - GEORGE NEAL NORTH	32,160	9,890	553,843	9,593	31,195	623,568	542,228	1,466,180	537,228
MIDAMERICAN ENERGY CO - GEORGE NEAL SOUTH	17,176	8,524	477,318	8,268	16,661	537,409	467,999	783,052	462,999
MIDAMERICAN ENERGY CO - KNOXVILLE POWER STATION	2	2	113	2	2	127	5,109	92	109
MIDAMERICAN ENERGY CO - LOUISA STATION	6,597	6,459	361,693	6,265	6,399	407,228	355,843	300,746	350,843
MIDAMERICAN ENERGY CO - MERL PARR TURBINES	0	0	0	0	0	11	5,009	8	9
MIDAMERICAN ENERGY CO - PLEASANT HILL/GDMC	39	39	2,199	38	38	2,476	7,133	1,790	2,133
MIDAMERICAN ENERGY CO - RIVER HILLS TURBINES	2	2	98	2	2	110	5,095	80	95
MIDAMERICAN ENERGY CO - RIVERSIDE STATION	4,195	4,195	234,900	4,069	4,069	264,473	232,853	191,234	227,853
MIDAMERICAN ENERGY CO - SHENANDOAH POWER STATION	1	1	45	1	1	51	5,044	37	44

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MIDAMERICAN ENERGY CO - SYCAMORE TURBINES	32	32	1,795	31	31	2,021	6,741	1,462	1,741
MIDAMERICAN ENERGY CO - WATERLOO LUNDQUIST STA.	1	1	44	1	1	49	5,042	36	42
MODERNFOLD, INC	37	37	2,059	36	36	2,318	6,997	1,676	1,997
MONSANTO COMPANY - MUSCATINE 3670	46	46	2,581	45	45	2,906	7,504	2,101	2,504
MONSANTO COMPANY - MUSCATINE 6908	5	5	284	5	5	320	5,275	231	275
MONSANTO COMPANY - MUSCATINE 6909	579	579	32,402	561	561	36,481	36,430	26,378	31,430
MORSE RUBBER, LLC	5	5	282	5	5	317	5,273	229	273
MUSCATINE POWER & WATER	5,124	5,124	286,964	4,971	4,971	323,090	283,355	233,619	278,355
NATIONAL COOPERATIVE REFINERY ASSOCIATION	52	52	2,913	50	50	3,279	7,825	2,371	2,825
NATURAL GAS PIPELINE CO OF AMERICA - STATION 107	2,592	2,592	145,168	2,515	2,515	163,443	145,813	118,182	140,813
NATURAL GAS PIPELINE CO OF AMERICA - STATION 108	3,281	3,281	183,743	3,183	3,183	206,875	183,231	149,587	178,231
NATURAL GAS PIPELINE CO OF AMERICA - STATION 109	1,761	1,761	98,591	1,708	1,708	111,002	100,633	80,263	95,633
NATURAL GAS PIPELINE CO OF AMERICA - STATION 198	166	166	9,282	161	161	10,451	14,004	7,557	9,004
NATURAL GAS PIPELINE CO OF AMERICA - STATION 199	8	8	468	8	8	527	5,454	381	454
NATURAL GAS PIPELINE CO OF AMERICA - STATION 204	690	690	38,664	670	670	43,532	42,504	31,477	37,504
NATURAL GAS PIPELINE CO OF AMERICA - STATION 205	149	149	8,326	144	144	9,374	13,076	6,778	8,076
NICHOLS ALUMINUM - CASTING	114	114	6,367	110	110	7,168	11,176	5,183	6,176
NICHOLS ALUMINUM - DAVENPORT	16	16	903	16	16	1,017	5,876	735	876
NORTHERN NATURAL GAS CO - GARNER LNG PLANT	2	2	127	2	2	143	5,123	104	123
NORTHERN NATURAL GAS CO - OAKLAND COMPRESSOR	632	632	35,419	614	614	39,878	39,356	28,835	34,356
NORTHERN NATURAL GAS CO - OGDEN COMPRESSOR	2,029	2,029	113,613	1,968	1,968	127,916	115,205	92,493	110,205
NORTHERN NATURAL GAS CO - PAULLINA COMPRESSOR	90	90	5,033	87	87	5,666	9,882	4,097	4,882
NORTHERN NATURAL GAS CO - REDFIELD COMPRESSOR	451	451	25,272	438	438	28,454	29,514	20,574	24,514
NORTHERN NATURAL GAS CO - VENTURA COMPRESSOR	234	234	13,130	227	227	14,783	17,736	10,689	12,736
NORTHERN NATURAL GAS CO - WATERLOO COMPRESSOR	387	387	21,654	375	375	24,380	26,004	17,628	21,004
NUSTAR PIPELINE OP PARTNERSHIP LP - LE MARS	50	50	2,798	48	48	3,151	7,714	2,278	2,714
NUSTAR PIPELINE OP PARTNERSHIP LP - MILFORD	199	199	11,162	193	193	12,568	15,828	9,087	10,828
NUSTAR PIPELINE OP PARTNERSHIP LP - ROCK RAPIDS	49	49	2,769	48	48	3,118	7,686	2,254	2,686
OMEGA CABINETS, LTD	122	122	6,830	118	118	7,690	11,625	5,561	6,625
PELLA CORPORATION - CARROLL DIVISION	57	57	3,209	56	56	3,613	8,113	2,612	3,113
PELLA CORPORATION - PELLA DIVISION	261	261	14,617	253	253	16,457	19,179	11,900	14,179
PELLA CORPORATION - SHENANDOAH	95	95	5,344	93	93	6,017	10,184	4,351	5,184

ENVIRONMENTAL PROTECTION COMMISSION[567]

Attachment 2. Title V Emission Inventory for CY 2009
Title V fee Scenarios for SFY 2012

Title V Emission Inventory for CY 2009
Title V fee Scenarios for SFY 2012

Facility Name	O Total tons (excluding CO)	P Total Tons Subject to Fees	Q Calculated Fee	EO Estimated 2010 Tons subject to Fees	EP Estimated 2010 Emissions Criteria & HAP (no CO)	EQ Option #1 & 2: Fee Cap and Fee at \$65/ton	ER Option #3: Fee Cap & Base Fee \$56/ton	ES Option #4: Charge Fees on all Criteria & HAP's excluding CO \$47/ton	ET Option #5: Emissions Fee \$56/ton (Major Source CP Fees not listed)
PELLA CORPORATION - SIOUX CENTER	37	37	2,070	36	36	2,330	7,008	1,685	2,008
PELLA MUNICIPAL POWER PLANT	528	528	29,550	512	512	33,270	33,664	24,057	28,664
PENFORD PRODUCTS CO	398	398	22,289	386	386	25,095	26,620	18,145	21,620
PLATINUM ETHANOL, LLC	293	293	14,167	245	245	15,950	18,742	11,533	13,742
PMX INDUSTRIES, INC	57	57	3,185	55	55	3,586	8,089	2,593	3,089
POET BIOREFINING - COON RAPIDS	150	150	8,417	146	146	9,476	13,164	6,852	8,164
POLARIS INDUSTRIES, INC	41	41	2,289	40	40	2,577	7,220	1,863	2,220
PRAXAIR, INC	2	2	96	2	2	108	5,093	78	93
PRAXIS COMPANIES	33	33	1,866	32	32	2,101	6,810	1,520	1,810
PRINCIPAL LIFE INSURANCE COMPANY	2	2	117	2	2	132	5,114	95	114
QUAKER OATS COMPANY	87	87	4,862	84	84	5,474	9,716	3,958	4,716
RED STAR YEAST COMPANY, LLC	93	93	5,223	90	90	5,881	10,067	4,252	5,067
RILEY INDUSTRIAL PAINTING	3	3	170	3	3	191	5,165	138	165
ROQUETTE AMERICA, INC	1,056	1,056	59,148	1,025	1,025	66,594	62,373	48,153	57,373
SCOTT COUNTY LANDFILL	18	18	1,032	18	18	1,162	6,001	841	1,001
SEABEE - 1ST ST - HAMPTON HYDRAULICS	17	17	956	17	17	1,076	5,927	778	927
SIEGWERK USA INC - 129 SE 18TH ST	168	168	9,395	163	163	10,577	14,113	7,648	9,113
SIEMENS POWER GENERATION, INC - FORT MADISON	33	33	1,847	32	32	2,080	6,792	1,504	1,792
SILGAN CONTAINERS MFG CORP - FORT DODGE	185	185	10,340	179	179	11,642	15,030	8,418	10,030
SILGAN CONTAINERS MFG. CORP. - FORT MADISON	131	131	7,332	127	127	8,255	12,112	5,969	7,112
SIOUX CITY BRICK & TILE COMPANY	102	102	5,715	99	99	6,434	10,543	4,652	5,543
SIYVER STEEL CORPORATION	106	106	5,944	103	103	6,692	10,766	4,839	5,766
SNAP-ON TOOLS MANUFACTURING COMPANY	10	10	586	10	10	660	5,569	477	569
SOUTH CENTRAL IOWA SOLID WASTE AGENCY (SCISWA)	2	2	86	1	1	97	5,084	70	84
SOUTHWEST IOWA RENEWABLE ENERGY, LLC	135	135	7,576	131	131	8,530	12,349	6,168	7,349
SSAB IOWA, INC - MUSCATINE	866	866	48,506	840	840	54,612	52,050	39,489	47,050
STAR BUILDING SYSTEMS	48	48	2,661	46	46	2,996	7,581	2,166	2,581
STELLAR INDUSTRIES, INC	2	2	132	2	2	148	5,128	107	128
TAMA PAPERBOARD	82	82	4,601	80	80	5,180	9,463	3,746	4,463
TASLER, INC - EPS	57	57	3,189	55	55	3,590	8,093	2,596	3,093
TERRA NITROGEN - PORT NEAL COMPLEX	553	553	30,994	537	537	34,896	35,064	25,233	30,064
THE HON COMPANY - OAK STEEL PLANT	106	106	5,958	103	103	6,708	10,780	4,851	5,780

ENVIRONMENTAL PROTECTION COMMISSION[567]

Attachment 2. Title V Emission Inventory for CY 2009
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Facility Name	O Total tons (excluding CO)	P Total Tons Subject to Fees	Q Calculated Fee	EO Estimated 2010 Tons subject to Fees	EP Estimated 2010 Emissions Criteria & HAP (no CO)	EQ Option #1 & 2: Fee Cap and Fee at \$65/ton	ER Option #3: Fee Cap & Base Fee \$56/ton	ES Option #4: Charge Fees on all Criteria & HAPs excluding CO \$47/ton	ET Option #5: Emissions Fee \$56/ton (Major Source CP Fees not listed)
TITAN TIRE CORPORATION	236	236	13,235	229	229	14,901	17,838	10,775	12,838
TRAJET PRODUCTS, INC	1	1	28	0	0	32	5,027	23	27
TYSON DELI, INC - CHEROKEE	12	12	697	12	12	784	5,676	567	676
TYSON FRESH MEATS, INC - WATERLOO	58	58	3,224	56	56	3,630	8,128	2,625	3,128
UI (MAIN CAMPUS, HOSPITALS AND OAKDALE CAMPUS)	10	10	573	10	10	646	5,556	467	556
UNION TANK CAR CO - MUSCATINE	51	51	2,872	50	50	3,233	7,786	2,338	2,786
UNITED BRICK & TILE	61	61	3,428	59	59	3,859	8,325	2,791	3,325
UNITED STATES GYPSUM CO - FORT DODGE	27	27	1,495	26	26	1,683	6,450	1,217	1,450
UNITED STATES GYPSUM CO - SPERRY	119	119	6,680	116	116	7,521	11,479	5,438	6,479
UNIVERSITY OF IOWA MAIN POWER PLANT	2,013	2,013	112,711	1,952	1,952	126,900	114,329	91,758	109,329
UNIVERSITY OF NORTHERN IOWA - MAIN CAMPUS	1	1	30	1	1	34	5,029	25	29
UNIVERSITY OF NORTHERN IOWA - POWER PLANT	961	961	53,837	933	933	60,614	57,222	43,829	52,222
UNVERFERTH MANUFACTURING CO, INC	64	64	3,571	62	62	4,021	8,464	2,907	3,464
USDA - NATIONAL ANIMAL DISEASE CENTER	35	35	1,963	34	34	2,210	6,904	1,598	1,904
USDA - NATIONAL VETERINARY SERVICES LABORATORIES	0	0	20	0	0	23	5,020	17	20
VEOLIA WATER NORTH AMERICA - DAVENPORT	3	3	153	3	3	173	5,149	125	149
VERMEER CORPORATION	48	48	2,688	47	47	3,026	7,607	2,188	2,607
VOGEL PAINT & WAX CO, INC - ALBANY PL & ARIZONA PL	16	16	914	16	16	1,029	5,887	744	887
WACKER CHEMICAL CORPORATION	34	34	1,884	33	33	2,121	6,827	1,534	1,827
WALTER SCOTT JR ENERGY CTR	22,226	9,710	543,756	9,419	21,559	612,210	532,443	1,013,266	527,443
WAVERLY LIGHT & POWER - NORTH & SOUTH PLANTS	7	7	411	7	7	463	5,399	335	399
WEBSTER CITY COMBUSTION TURBINE	0	0	13	0	0	15	5,012	10	12
WESTERN MINNESOTA MUNICIPAL POWER AGENCY	2	2	92	2	2	103	5,089	75	89
WHIRLPOOL CORPORATION - AMANA DIVISION	40	40	2,251	39	39	2,534	7,183	1,832	2,183
WINEGARD COMPANY	34	34	1,910	33	33	2,151	6,853	1,555	1,853
WINNEBAGO INDUSTRIES, INC - CHARLES CITY	27	27	1,490	26	26	1,677	6,445	1,213	1,445
WINNEBAGO INDUSTRIES, INC - FOREST CITY	63	63	3,524	61	61	3,967	8,418	2,869	3,418
WINNEBAGO INDUSTRIES, INC - HAMPTON	14	14	791	14	14	891	5,768	644	768
WOODHARBOR DOORS & CABINETRY - MASON CITY	75	75	4,213	73	73	4,743	9,086	3,430	4,086
WOODHARBOR DOORS & CABINETRY - NORTHWOOD	26	26	1,455	25	25	1,639	6,412	1,185	1,412
XERXES CORPORATION	57	57	3,176	55	55	3,576	8,080	2,585	3,080

ENVIRONMENTAL PROTECTION COMMISSION[567]

Attachment 3. Summary of Surrounding States – Fee Information

Illinois

The Illinois emission fee is assessed based on allowable emissions which are different than actual emissions. Allowable emissions are established in a permit and are also referred to as potential emissions. Iowa's Title V fee is based on actual emissions. Illinois charges \$1,800 for permitted facilities with less than 100 tons of allowable emissions; \$18/ton on 100 - 13,888 tons of allowable emissions; and \$250,000 on greater than 13,888 tons of allowable emissions.

Illinois's program also charges construction permit fees. A base fee of \$2,000 - \$4,000 is assessed for Title V facilities with supplemental fees ranging from \$500 - \$20,000. Non-Title V facilities' base fee ranges are \$500 - \$1,000 with supplemental fees ranging from \$500 - \$15,000. More information is at <http://www.epa.state.il.us/fees/combined-list.html>.

Kansas

Title V fees in Kansas are applied on the 4,000 tons per pollutant which is similar to the Iowa program. The fee is currently \$37/ton. Construction permit fees are based on a formula ranging from \$50 - \$4,000. An additional fee of \$1,500 is required for prevention of significant deterioration permit applications. More information is at http://www.kssos.org/Pubs/register/2010/Vol_29_No_42_October_21_2010_p_1493-1544.pdf p 1493-1544.pdf, and http://www.kdheks.gov/air-permit/forms/Informational_Sheet.pdf.

Minnesota

The Minnesota emission fee is assessed to a larger universe than the Title V program, does not have a ceiling on emissions in comparison to the 4,000-ton ceiling in Iowa, and is not charged on hazardous air pollutants that are not volatile organic compounds.

The Minnesota Legislature directed the Minnesota Pollution Control Agency to conduct rule making to amend air emission fees. Per the 2009 Legislation, fees for air quality permits for Title V and non-Title V facilities became effective on July 1, 2009. To determine the application fees for each application submitted, multiply the number of points assessed for the type of application by \$285 per point:

$$\text{Application Fee (\$ per application)} = \text{Points per application} \times \$285/\text{point}.$$

More information is at <http://www.pca.state.mn.us/index.php/air/air-monitoring-and-reporting/air-emissions-and-monitoring/criteria-air-pollutant-emission-inventory/minnesota-criteria-pollutant-emission-inventory-%E2%80%94-fees.html?menuid=&redirect=1>; and <http://www.pca.state.mn.us/index.php/air/air-permits-and-rules/air-permits-and-forms/air-permits/air-permit-fees.html>.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Attachment 3. Summary of Surrounding States – Fee Information

Missouri

The Title V program in Missouri has a maximum tonnage of 12,000 tons of a combination of pollutants. Iowa's program has a maximum of 4,000 tons per pollutant. Construction permits have a filing or application fee of \$100 for most permits with a \$50/hour rate. Smaller permits waive the filing fee and have a flat rate of \$200 - \$700. More information is available at <http://www.sos.mo.gov/adrules/csr/current/10csr/10c10-6a.pdf> and <http://dnr.mo.gov/env/apcp/docs/cp-applicprocess.pdf>.

Nebraska

The Title V program in Nebraska is similar to Iowa's program with the exception of a 400-ton per pollutant maximum on electrical generation facilities that have a nameplate capacity of between 70 and 115 megawatts.

The construction permit program is based on a facility-wide potential to emit value. Potential emissions are the maximum emissions that would result from operating the facility at full capacity 24 hours a day, 365 days a year, or the maximum emissions listed in a construction permit. Title V facilities would pay \$3,000. Smaller facilities would pay \$250 - \$1,500 depending on the potential to emit value. More information is at <http://www.deq.state.ne.us/Publica.nsf/Pages/05-159> and <http://www.deq.state.ne.us/Publica.nsf/Pages/10-005>.

Wisconsin

The Wisconsin emission fee is charged on a larger source than the Title V facilities and has a ceiling of 5,000 tons of emissions. Non-Title V sources pay between \$300 - \$4,100 annually. Wisconsin updated the construction permitting fees on January 1, 2011. An initial application fee of \$7,500 is required with each permit application. Other fees range from \$500 - \$16,000. More information is at http://dnr.wi.gov/air/emission/crs/crs_environmental_fee.htm and <http://dnr.wi.gov/air/permits/constperm.html>.

ARC 9479B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

The proposed amendments provide the annual update of the premium levels for the Medicaid coverage group for employed people who are disabled (known as MEPD). The Deficit Reduction Act of 2005

HUMAN SERVICES DEPARTMENT[441](cont'd)

limits premiums and other cost sharing for most Medicaid coverage groups to 5 percent of an individual or family's income. Consistent with that limit, the Department proposes that all MEPD premiums be limited to less than 5 percent of income, leaving some of the 5 percent amount for other cost sharing.

Iowa Code section 249A.3(2)(a)(1) requires that "[t]he maximum premium payable by an individual whose income exceeds one hundred fifty percent of the official poverty guidelines shall be commensurate with the cost of state employees' group health insurance in this state." The average cost to the state of state employees' health insurance for a single person is now \$660. Therefore, the maximum premium must be set at that amount.

Together, increasing the maximum premium to \$660 and limiting all premiums to less than 5 percent of income requires that most of the poverty level income increments and premium amounts be changed in order to maintain a sliding scale with a reasonable number of gradually increasing income and premium increments. Under the new schedule, some MEPD members will be required to pay a higher premium. However, all MEPD members assessed a premium will pay less than 5 percent of their household income in Medicaid cost sharing. (Only 5 percent of MEPD members have individual income higher than 200 percent of the federal poverty level. Currently, there are no MEPD members with individual income higher than 400 percent of the federal poverty level.)

These amendments also include a change to the address where premium payments are mailed. The Department is proposing to require that payments be mailed to a designated lock box for processing. Members will have the choice of payment with personal check or money order. Payment with cash will no longer be acceptable.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before May 10, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

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

These amendments are intended to implement Iowa Code section 249A.3(2)(a)(1).

The following amendments are proposed.

ITEM 1. Amend subparagraph **75.1(39)“b”(3)** as follows:

(3) Premiums shall be assessed as follows:

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
150% of Federal Poverty Level	\$ 33 <u>\$34</u>
180% 165% of Federal Poverty Level	\$ 53 <u>\$44</u>
220% 180% of Federal Poverty Level	\$ 73 <u>\$54</u>
250% 200% of Federal Poverty Level	\$ 94 <u>\$65</u>
280% 225% of Federal Poverty Level	\$ 109 <u>\$75</u>
310% 250% of Federal Poverty Level	\$ 129 <u>\$86</u>
340% 300% of Federal Poverty Level	\$ 154 <u>\$106</u>
370% 350% of Federal Poverty Level	\$ 188 <u>\$127</u>
400% of Federal Poverty Level	\$ 221 <u>\$148</u>
430% 450% of Federal Poverty Level	\$ 255 <u>\$169</u>
460% 550% of Federal Poverty Level	\$ 295 <u>\$209</u>
510% 650% of Federal Poverty Level	\$ 342 <u>\$250</u>

HUMAN SERVICES DEPARTMENT[441](cont'd)

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
590% <u>750%</u> of Federal Poverty Level	\$396 <u>\$292</u>
680% <u>850%</u> of Federal Poverty Level	\$457 <u>\$335</u>
775% <u>1000%</u> of Federal Poverty Level	\$524 <u>\$399</u>
900% <u>1150%</u> of Federal Poverty Level	\$608 <u>\$469</u>
<u>1300%</u> of Federal Poverty Level	<u>\$560</u>
<u>1480%</u> of Federal Poverty Level	<u>\$660</u>

ITEM 2. Amend subparagraph **75.1(39)“b”(8)** as follows:

(8) Premiums may be submitted in the form of ~~cash~~, money orders, or personal checks to the department at the following address: ~~Department of Human Services, Supply Unit A-Level, Room 77, Hoover State Office Building, 1305 East Walnut~~ Iowa Medicaid Enterprise, P.O. Box XXXXX, Des Moines, Iowa 50319.

ARC 9461B

**PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD,
IOWA COMPREHENSIVE[591]**

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 455G.4, the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby gives Notice of Intended Action to amend Chapter 11, “Claims,” Iowa Administrative Code.

This proposed amendment to Chapter 11 is intended to implement Iowa Code section 455G.9(4), which was amended by 2010 Iowa Acts, House File 2531, section 181, to waive the copayment requirement for innocent landowner claimants where the claim was not filed by an owner or operator of the tank.

Public comments concerning the proposed amendment will be accepted until 4 p.m. on May 20, 2011. Interested persons may submit written or oral comments by contacting the Administrator, Iowa UST Fund, 2700 Westown Parkway, Suite 320, West Des Moines, Iowa 50266; telephone (515)440-7015.

This amendment mandates additional combined expenditures exceeding \$100,000 by all affected political subdivisions or agencies and entities which contract with political subdivisions to provide services.

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

This amendment is intended to implement Iowa Code section 455G.9.

The following amendment is proposed.

Amend subrule 11.2(8) as follows:

11.2(8) Innocent landowner claims. Consistent with Iowa Code chapter 455G, the board may reimburse an owner of petroleum-contaminated property, or an owner or operator of an underground storage tank located on such property, who, but for this rule because of the date the release was reported, because of the date the claim was filed, because the tank(s) in question was removed from service prior to January 1, 1974, or because the tank(s) in question was removed or permanently closed prior to July 1, 1985, would not be eligible to receive benefits under Iowa Code section 455G.9. Eligible expenses

PETROLEUM UST FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

shall not exceed the benefits such claimant would otherwise receive if such claimant were eligible under Iowa Code section 455G.9(1) "a"(1) to (3). All such reimbursements shall be subject to:

- The copayment requirements of Iowa Code section 455G.9(4); claims filed that meet the priority in paragraph "b" or "d" of this subrule shall not incur any copayment for costs incurred after January 1, 2010;

- The requirements of 11.2(1)₂; and
- The available funding and limitations of the innocent landowner fund created by Iowa Code section 455G.21(2) "a" for corrective action.

In the event the innocent landowner fund lacks sufficient funds to pay all claims submitted, innocent landowner claims shall be subject to the following priority:

a. Late filed retroactive claims. For releases reported to DNR on or after January 1, 1984, but prior to May 5, 1989:

- (1) Claims must be filed with the board by February 26, 1994.
- (2) All costs incurred on or after July 10, 1996, must be preapproved by the board to be eligible for reimbursement.

b. Preregulation claims. For releases from petroleum underground storage tanks (USTs) which are not eligible for remedial account benefits under Iowa Code section 455G.9(1) "a"(1) to (3) only because the USTs were taken out of use prior to January 1, 1974, or permanently closed or removed before July 1, 1985:

- (1) Claims must be filed with the board by December 1, 1997.
- (2) USTs must not have been operated on the site since the time the tanks were taken out of use or permanently closed.
- (3) All costs incurred after July 10, 1996, must be preapproved by the board to be eligible for reimbursement.

- (4) The owner cannot have claimed bankruptcy on or after the date of the reported release.

c. Late filed remedial claims. For releases reported by owners of petroleum-contaminated property as defined under Iowa Code section 455G.9(8) who did not comply with the reporting or filing deadlines identified in this chapter, with priority to those owners who did not have knowledge of the USTs or did not have control over the property:

- (1) Claims must be filed with the board by December 1, 1997.
- (2) The owner or operator must have reported a known release to DNR consistent with DNR requirements.
- (3) The owner did not have knowledge of the UST or of a release impacting the property prior to acquisition of the property if the property was acquired on or after October 26, 1990, or, if the owner did have such knowledge, the acquisition was necessary to protect a security interest.

- (4) All costs incurred on or after July 10, 1996, must be approved by the board to be eligible for reimbursement.

- (5) The owner cannot have claimed bankruptcy on or after the date of the reported release.

d. Acquired properties. For releases reported by owners of petroleum-contaminated property as defined under Iowa Code section 455G.9(8) who acquired the petroleum-contaminated property after October 26, 1990, and who did not comply with the reporting or filing deadlines identified in this chapter:

- (1) Claims must be filed with the board by December 1, 1997.
- (2) The owner or operator must have reported a known release to the DNR consistent with DNR requirements.

- (3) The owner could not have been the owner or operator of the UST system which caused the release prior to acquiring the property after October 26, 1990.

- (4) All costs incurred on or after December 1, 1996, must be preapproved by the board to be eligible for reimbursement.

- (5) For claims submitted under this paragraph, the precorrective action value shall be the purchase price paid by the owner after October 26, 1990.

- (6) For claims submitted under this paragraph, the purchase must have been an arm's-length transaction.

PETROLEUM UST FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

- (7) The owner cannot have claimed bankruptcy on or after the date of the reported release.
- e. Other innocent landowner claims.* Claims for releases submitted to the board after December 1, 1997, which would have been eligible for benefits pursuant to paragraphs “a” through “d” of this subrule if filed by December 1, 1997, will be eligible for reimbursement subject to a first-in, first-out priority and the funding limitations of the innocent landowner fund. The owner must demonstrate that the owner has met all other requirements of this subrule in order to receive benefits.

ARC 9460B**PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD,
IOWA COMPREHENSIVE[591]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455G.4 and 455G.9(1)“1,” the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby gives Notice of Intended Action to amend Chapter 11, “Claims,” Iowa Administrative Code.

The proposed amendment to Chapter 11 is intended to implement 2010 Iowa Acts, House File 2531, section 180, which changes the authority to pay for the removal of underground storage tanks. Notably, the legislation places a dollar cap on the amount that may be expended per site.

Public comments concerning the proposed amendment will be accepted until 4 p.m. on May 20, 2011. Interested persons may submit written or oral comments by contacting the Administrator, Iowa UST Fund, 2700 Westown Parkway, Suite 320, West Des Moines, Iowa 50266; telephone (515)440-7015.

This amendment does not mandate additional combined expenditures exceeding \$100,000 by all affected political subdivisions or agencies and entities which contract with political subdivisions to provide services.

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

This amendment is intended to implement Iowa Code section 455G.9.

The following amendment is proposed.

Rescind subrule 11.3(11) and adopt the following **new** subrule in lieu thereof:

11.3(11) Permanent closure of an underground storage tank system.

a. Costs for the permanent closure of an underground storage tank system are eligible for reimbursement from the board if the following requirements are met:

(1) The underground storage tank system to be permanently closed meets one or more of the following criteria:

1. The system does not meet department performance standards for a new or an upgraded tank, or
2. The system is required to be closed in accordance with department rules, or
3. The owner of the system has opted to close the system at the owner’s own will prior to allowing the tank to become out of compliance.

(2) For the purpose of this rule, an “underground storage tank system” means all of the underground storage tanks, any connected underground piping, any underground ancillary equipment and any containment system on a particular site identified by a department UST registration number.

(3) The permanent closure activities occurred on or after July 1, 2010.

b. A claim for reimbursement from the board is subject to board preapproval requirements.

c. The board may elect to provide for the direct removal of any tanks eligible through a board-contracted vendor. If costs exceed the \$15,000 limit, the board may pursue a cost-recovery action in accordance with Iowa Code section 455G.13.

PETROLEUM UST FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

d. Claimants shall be responsible for ensuring that any persons performing work meet all applicable licensing requirements or all applicable certification requirements or both that may exist at the time of completion of the work to be reimbursed. If the work is performed by a board-contracted vendor, the board shall ensure that licensing and certification requirements of the general contractor are met.

e. Claims made under this subrule are not subject to Iowa Code chapter 455G copayment requirements.

f. The board may contract with a vendor to remove tanks at sites that fail to meet the requirements of subparagraph 11.3(11)“a”(1). These sites shall be subject to cost recovery, which may include placement of a lien on the property.

g. Prior to the permanent closure, budgets shall be provided to the administrator that outline the cost and scope of work proposed. The cost for system closure shall be separated from all other corrective action costs incurred on an individual tank site.

h. The maximum closure benefit payable from the remedial account on any tank system to be permanently closed after July 1, 2010, shall be \$15,000 for any one site identified by a department UST registration number.

i. Tanks and sites not eligible. Underground storage tanks that are not eligible for underground storage tank system closure benefits include:

- (1) Farm or residential tanks of 1100 gallons or less capacity used for storing motor fuel for noncommercial purposes,
- (2) Tanks used for storing heating oil for consumptive use on the premises where stored,
- (3) Septic tanks, and
- (4) Underground storage tanks which do not contain petroleum.

ARC 9459B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.76, the Professional Licensure Division hereby gives Notice of Intended Action to amend Chapter 4, “Board Administrative Processes,” Iowa Administrative Code.

The proposed amendment removes the requirement to use Robert’s Rules of Order when conducting meetings, as advised by the Attorney General’s Office. Removing the requirement does not preclude the use of Robert’s Rules of Order if circumstances merit.

Any interested person may make written comments on the proposed amendment no later than May 10, 2011, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, E-mail pwilson@idph.state.ia.us.

A public hearing will be held on May 10, 2011, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. The Board requests that, if possible, oral presentations also be shared in writing; however, this is not required. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

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

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

The following amendment is proposed.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Amend subrule 4.3(5) as follows:

4.3(5) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

ARC 9463B

SECRETARY OF STATE[721]

Notice of Termination

Pursuant to the authority of Iowa Code section 17A.3(1)“b,” the Secretary of State hereby terminates the rule making initiated by its Notice of Intended Action to amend Chapter 21, “Election Forms and Instructions,” published in the Iowa Administrative Bulletin as **ARC 9050B** on September 8, 2010. The amendments were also Adopted and Filed Emergency as **ARC 9049B** and published on the same date.

The period for comments passed without the Secretary's receiving any comments requiring changes to the amendments as they appeared in the Iowa Administrative Bulletin on September 8, 2010. The Secretary of State finds no further need to proceed with rule making for **ARC 9050B**.

ARC 9464B

SECRETARY OF STATE[721]

Notice of Termination

Pursuant to the authority of Iowa Code section 17A.3(1)“b,” the Secretary of State hereby terminates the rule making initiated by its Notice of Intended Action to amend Chapter 21, “Election Forms and Instructions,” published in the Iowa Administrative Bulletin as **ARC 9140B** on October 6, 2010. The amendments were also Adopted and Filed Emergency as **ARC 9139B** and published on the same date.

The period for comments passed without the Secretary's receiving any comments requiring changes to the Notice of Intended Action as it appeared in the Iowa Administrative Bulletin on October 6, 2010. The Secretary of State finds no further need to proceed with rule making for **ARC 9140B**.

ARC 9467B

SECRETARY OF STATE[721]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, “Election Forms and Instructions,” Iowa Administrative Code.

These proposed amendments provide an extension of an upcoming deadline for calculating voter registration totals when that deadline falls on a day on which the auditor's office is closed. These amendments also rescind a rule related to absentee ballots returned by mail without postmarks that a district court judge in November 2010 ruled inapplicable to a ballot received by the Wapello County Auditor's office.

Any interested person may make written suggestions or comments on these proposed amendments on or before May 10, 2011. Written suggestions or comments should be directed to Sarah Reisetter, Director of Elections, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

SECRETARY OF STATE[721](cont'd)

Persons who want to convey their views orally should contact the Secretary of State's office by telephone at (515)281-0145 or in person at the Secretary of State's office on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by May 10, 2011.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 9466B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

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

These amendments are intended to implement Iowa Code sections 277.4 and 279.7.

ARC 9470B

SOIL CONSERVATION DIVISION[27]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 207.6, 207.7, 207.12(1)“b,” 207.18 and 207.19, the Division of Soil Conservation hereby gives Notice of Intended Action to amend Chapter 40, “Coal Mining,” Iowa Administrative Code.

The proposed amendments update references to the applicable provisions in the Code of Federal Regulations.

Any interested persons may make written comments or suggestions on the proposed amendments on or before 4:30 p.m. on May 10, 2011. Written comments should be sent to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa; or faxed to (515)281-6236. E-mail comments may be sent to Margaret.Thomson@IowaAgriculture.gov.

These proposed amendments are subject to the Division's general waiver provisions.

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

These amendments are intended to implement Iowa Code chapter 207.

The following amendments are proposed.

ITEM 1. Amend subrule 40.1(1) as follows:

40.1(1) Parts and sections of the federal regulations of the U.S. Office of Surface Mining Reclamation and Enforcement, U.S. Department of Interior, promulgated pursuant to the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87), are incorporated by reference as rules of the division as specified in this chapter, with exceptions as indicated. Rules incorporated by reference, as specified in each specific rule, are those from the Code of Federal Regulations (30 CFR), as in effect on July 1, ~~2002~~ 2010.

ITEM 2. Amend rule 27—40.3(207), introductory paragraph, as follows:

27—40.3(207) General. The following is incorporated by reference: 30 CFR Part 700, as in effect on July 1, ~~2002~~ 2010, except for 30 CFR 700.1, 700.2, 700.3, 700.4, 700.10 and 700.12. The phrase “section 520 of the Act” is deleted from 30 CFR 700.13(a) and the words “Iowa Code section 207.17” are inserted in lieu thereof.

ITEM 3. Amend rule 27—40.4(207), introductory paragraph, as follows:

27—40.4(207) Permanent regulatory program and exemption for coal extraction incidental to the extraction of other minerals. The following is incorporated by reference: 30 CFR Part 701 and 30 CFR Part 702, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

SOIL CONSERVATION DIVISION[27](cont'd)

ITEM 4. Amend rule 27—40.5(207), introductory paragraph, as follows:

27—40.5(207) Restrictions on financial interests of state employees. The general word substitutions used elsewhere in these rules do not apply to Iowa's incorporation of 30 CFR Part 705. The following is incorporated by reference: 30 CFR Part 705, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 5. Amend rule 27—40.6(207), introductory paragraph, as follows:

27—40.6(207) Exemptions for coal extraction incident to government-financed highway or other constructions. The following is incorporated by reference: 30 CFR Part 707, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 6. Amend rule 27—40.7(207), introductory paragraph, as follows:

27—40.7(207) Protection of employees. The following is incorporated by reference: 30 CFR Part 865, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 7. Amend rule 27—40.11(207), introductory paragraph, as follows:

27—40.11(207) Initial regulatory program. The following is incorporated by reference: 30 CFR Part 710, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 8. Amend rule 27—40.12(207), introductory paragraph, as follows:

27—40.12(207) General performance standards—initial program. The following is incorporated by reference: 30 CFR Part 715, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 9. Amend rule 27—40.13(207), introductory paragraph, as follows:

27—40.13(207) Special performance standards—initial program. The following is incorporated by reference: 30 CFR Part 716, as in effect on July 1, ~~2002~~ 2010, with the following exception:

ITEM 10. Amend rule 27—40.21(207), introductory paragraph, as follows:

27—40.21(207) Areas designated by an Act of Congress. The following is incorporated by reference: 30 CFR Part 761, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 11. Amend rule 27—40.22(207), introductory paragraph, as follows:

27—40.22(207) Criteria for designating areas as unsuitable for surface coal mining operations. The following is incorporated by reference: 30 CFR Part 762, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 12. Amend rule 27—40.23(207), introductory paragraph, as follows:

27—40.23(207) State procedures for designating areas unsuitable for surface coal mining operations. The following is incorporated by reference: 30 CFR Part 764, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 13. Amend rule 27—40.30(207), introductory paragraph, as follows:

27—40.30(207) Requirements for coal exploration. The following is incorporated by reference: 30 CFR Part 772, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 14. Amend rule 27—40.31(207), introductory paragraph, as follows:

27—40.31(207) Requirements for permits and permit processing. The following is incorporated by reference: 30 CFR Part 773, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

SOIL CONSERVATION DIVISION[27](cont'd)

ITEM 15. Amend rule 27—40.32(207), introductory paragraph, as follows:

27—40.32(207) Revision or amendment; renewal; and transfer, assignment, or sale of permit rights. The following is incorporated by reference: 30 CFR Part 774, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 16. Amend rule 27—40.33(207), introductory paragraph, as follows:

27—40.33(207) General content requirements for permit applications. The following is incorporated by reference: 30 CFR Part 777, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 17. Amend rule 27—40.34(207), introductory paragraph, as follows:

27—40.34(207) Permit application—minimum requirements for legal, financial, compliance, and related information. The following is incorporated by reference: 30 CFR Part 778, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 18. Amend rule 27—40.35(207), introductory paragraph, as follows:

27—40.35(207) Surface mining permit applications—minimum requirements for information on environmental resources. The following is incorporated by reference: 30 CFR Part 779, as in effect on July 1, ~~2002~~ 2010, except as modified by subrule 40.1(3) and with the following exceptions:

ITEM 19. Amend rule 27—40.36(207), introductory paragraph, as follows:

27—40.36(207) Surface mining permit applications—minimum requirements for reclamation and operation plan. The following is incorporated by reference: 30 CFR Part 780, as in effect on July 1, ~~2002~~ 2010, except as modified by subrules 40.1(3) and 40.1(5) and with the following exceptions and clarifications:

ITEM 20. Amend rule 27—40.37(207), introductory paragraph, as follows:

27—40.37(207) Underground mining permit applications—minimum requirements for information on environmental resources. The following is incorporated by reference: 30 CFR Part 783, as in effect on July 1, ~~2002~~ 2010, except as modified by subrules 40.1(3) and 40.1(5) and with the following exceptions:

ITEM 21. Amend rule 27—40.38(207), introductory paragraph, as follows:

27—40.38(207) Underground mining permit applications—minimum requirements for reclamation and operation plan. The following is incorporated by reference: 30 CFR Part 784, as in effect on July 1, ~~2002~~ 2010, except as modified by subrules 40.1(3) and 40.1(5) and with the following exceptions and clarifications:

ITEM 22. Amend rule 27—40.39(207), introductory paragraph, as follows:

27—40.39(207) Requirements for permits for special categories of mining. The following is incorporated by reference: 30 CFR Part 785, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 23. Amend rule 27—40.41(207), introductory paragraph, as follows:

27—40.41(207) Permanent regulatory program—small operator assistance program. The following is adopted by reference: 30 CFR Part 795, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

SOIL CONSERVATION DIVISION[27](cont'd)

ITEM 24. Amend rule 27—40.51(207), introductory paragraph, as follows:

27—40.51(207) Bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs. The following is incorporated by reference: 30 CFR Part 800, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 25. Amend rule 27—40.61(207), introductory paragraph, as follows:

27—40.61(207) Permanent program performance standards—general provisions. The following is incorporated by reference: 30 CFR Part 810, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 26. Amend rule 27—40.62(207) as follows:

27—40.62(207) Permanent program performance standards—coal exploration. The following is incorporated by reference: 30 CFR Part 815, as in effect on July 1, ~~2002~~ 2010.

ITEM 27. Amend rule 27—40.63(207), introductory paragraph, as follows:

27—40.63(207) Permanent program performance standards—surface mining activities. The following is incorporated by reference: 30 CFR Part 816, as in effect on July 1, ~~2002~~ 2010, except as modified by subrules 40.1(3), 40.1(4), and 40.1(5) and with the following exceptions:

ITEM 28. Amend rule 27—40.64(207), introductory paragraph, as follows:

27—40.64(207) Permanent program performance standards—underground mining activities. The following is incorporated by reference: 30 CFR Part 817, as in effect on July 1, ~~2002~~ 2010, except as modified by subrules 40.1(3), 40.1(4), and 40.1(5) and with the following exceptions:

ITEM 29. Amend rule 27—40.65(207) as follows:

27—40.65(207) Special permanent program performance standards—auger mining. The following is incorporated by reference: 30 CFR Part 819, as in effect on July 1, ~~2002~~ 2010.

ITEM 30. Amend rule 27—40.66(207) as follows:

27—40.66(207) Special permanent program performance standards—operations on prime farmland. The following is incorporated by reference: 30 CFR Part 823, as in effect on July 1, ~~2002~~ 2010, except for 30 CFR 823.11(a) which is deleted.

ITEM 31. Amend rule 27—40.67(207), introductory paragraph, as follows:

27—40.67(207) Permanent program performance standards—coal preparation plants not located within the permit area of a mine. The following is incorporated by reference: 30 CFR Part 827, as in effect on July 1, ~~2002~~ 2010, except for the following:

ITEM 32. Amend rule 27—40.71(207), introductory paragraph, as follows:

27—40.71(207) State regulatory authority—inspection and enforcement. The following is incorporated by reference: 30 CFR Part 840, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 33. Amend rule 27—40.74(207), introductory paragraph, as follows:

27—40.74(207) Civil penalties. The following is incorporated by reference: 30 CFR Part 845, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

SOIL CONSERVATION DIVISION[27](cont'd)

ITEM 34. Amend rule 27—40.75(207), introductory paragraph, as follows:

27—40.75(207) Individual civil penalties. The following is adopted by reference: 30 CFR Part 846, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 35. Amend rule 27—40.81(207), introductory paragraph, as follows:

27—40.81(207) Permanent regulatory program requirements—standards for certification of blasters. The following is incorporated by reference: 30 CFR Part 850, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 36. Amend rule 27—40.82(207), introductory paragraph, as follows:

27—40.82(207) Certification of blasters. The following is incorporated by reference: 30 CFR Part 955, as in effect on July 1, ~~2002~~ 2010, with the following exceptions:

ITEM 37. Amend subrule 40.92(8) as follows:

40.92(8) A request to conduct mining in areas where otherwise prohibited by Iowa Code section 207.8 and 30 CFR 761.11, revised July 1, ~~2002~~ 2010.

ARC 9469B

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 8D.3(3)“b,” the Iowa Telecommunications and Technology Commission hereby gives Notice of Intended Action to amend Chapter 1, “Description of Organization,” Iowa Administrative Code.

The purpose of Chapter 1 is to describe the administrative structure of the Iowa Telecommunications and Technology Commission and the Iowa Communications Network. Item 1 reflects changes made in the advisory committees to the Iowa Telecommunications and Technology Commission pursuant to Iowa Code section 8D.6 and the repeal of Iowa Code section 8D.7 by 2006 Iowa Acts, chapter 1126. Item 2 aligns the rules with changes made in the organizational structure of the Iowa Communications Network.

Any interested person may make written comments or suggestions on the proposed amendments on or before May 10, 2011. Such written comments should be directed to Tamara Fujinaka, Government Relations Manager, Iowa Communications Network, First Floor, Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa 50319. E-mail may be sent to tami.fujinaka@iowa.gov.

These amendments were approved at the March 31, 2011, meeting of the Iowa Telecommunications and Technology Commission.

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

These amendments are intended to implement Iowa Code chapter 8D.

The following amendments are proposed.

ITEM 1. Amend rule 751—1.3(17A,8D) as follows:

751—1.3(17A,8D) Advisory committees.

~~1.—The telemedicine advisory committee performs advisory functions related to the delivery of telemedicine applications.~~

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751](cont'd)

- ~~2. The telecommunications advisory committee provides technical expertise to the network.~~
~~3. The commission may establish or dissolve other committees and advisory groups from time to time as necessary.~~

ITEM 2. Amend subrule 1.5(2) as follows:

1.5(2) Administrative elements. In order to carry out the functions of the commission, the following divisions and offices have been established:

~~a. The office of the deputy director is responsible for agency information systems functions, legislative liaison, public information, maintenance of a circuit database, and administrative support to the commission. The office also provides information and education to the public about the commission and the fiberoptic network and maintains the commission's Web site.~~

~~b. The office of the chief financial officer is responsible for final review of the financial books and records prepared by the finance division prior to providing them to the commission, asset inventory and management, personnel transactions, and purchasing and contracting activities, as well as coordination with the attorney general's office for legal counsel.~~

~~c. The finance division is responsible for maintaining the financial books and records of the commission, accounting, billing, asset inventory and management, personnel transactions, travel vouchers, claims for payments of goods and services, processing cash receipts, purchasing and contracting activities, and facilities.~~

a. The business and governmental services division coordinates the activities between the engineers, individual sites, and authorized users. The division is responsible for providing cost estimates for services; tracking service requests; executing installation services; assisting authorized users in finding the best structure to meet the users' needs; developing new products and services; maintaining price tables; and providing customer service and assistance. The division is responsible for providing legislative liaison and public information functions as well as providing administrative support to the commission. The division provides information and education to the public about the commission and the fiberoptic network and maintains the commission's Web site.

b. The finance division is responsible for maintaining the financial books and records of the commission, accounting, billing, asset inventory and management, personnel transitions, travel vouchers, claims for payments of goods and services, processing cash receipts, purchasing, and contracting activities, as well as coordination with the attorney general's office for legal counsel.

c. The network operations and engineering division is responsible for provisioning of video services, data/Internet services, and voice services for authorized users. The division is responsible for all operational aspects of the fiberoptic network. The division is also responsible for the technical operation of the fiberoptic network, including research and development, and network systems; agency information systems functions; and maintenance of a circuit database.

~~e. The service delivery division coordinates the activities between the engineers, individual sites, and authorized users. The division is responsible for providing cost estimates for services; tracking service requests; executing installation services; assisting authorized users in finding the best structure to meet the users' needs; developing new products and services; maintaining price tables; and providing customer service and assistance.~~

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions JoAnn Johnson, Superintendent of Banking James M. Schipper, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for April is 5.50%.

TREASURER OF STATE(cont'd)

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective April 9, 2011, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .05%
One year to 397 days	Minimum .20%
More than 397 days	Minimum .70%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 9466B

SECRETARY OF STATE[721]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State amends Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

These amendments are necessary to provide an extension of an upcoming deadline for calculating voter registration totals when that deadline falls on a day on which the auditor's office is closed. These amendments also rescind a rule related to absentee ballots returned by mail without postmarks that a district court judge in November 2010 ruled inapplicable to a ballot received by the Wapello County Auditor's office.

Pursuant to Iowa Code section 17A.4(3), the Secretary of State finds that notice and public participation are unnecessary because one amendment is purely technical and results in no substantive change to the election process and the other amendment rescinds a rule that was determined by a judge to be in conflict with an Iowa Code section.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Secretary of State further finds that the normal effective date of these amendments, 35 days after publication, should be waived and these amendments should be made effective upon filing. The normal effective date should be waived because one amendment is necessary before May 1, 2011, and the other amendment rescinding the rule should be effective as soon as possible. Both amendments confer benefits on the voting public by eliminating an unnecessary requirement and by rescinding a rule that has been judicially determined to conflict with a statutory provision.

These amendments are also published herein under Notice of Intended Action as **ARC 9467B** to allow for public comment.

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

These amendments are intended to implement Iowa Code sections 277.4 and 279.7.

These amendments became effective March 31, 2011.

The following amendments are adopted.

ITEM 1. Rescind and reserve rule **721—21.360(53)**.

ITEM 2. Amend rule 721—21.500(277) as follows:

721—21.500(277) Signature requirements for school director candidates. The number of signatures required to be filed by candidates for the office of director in the regular school election shall be calculated from the number of registered voters in the district on May 1 of the year in which the election will be held. If May 1 falls on a day when the commissioner's office is closed for business, the commissioner shall use the number of registered voters in the district on the next day that the commissioner's office is open for business to determine the number of required signatures. Candidates who are seeking election in districts with election plans as specified in Iowa Code section 275.12(2) "b" and "c," where the candidate must reside in a specific director district, but is voted upon by all of the electors of the school district, shall be required to file a number of signatures calculated from the number of registered voters in the whole school district. Candidates who will be voted upon only by the electors of a director district shall be required to file a number of signatures calculated from the number of registered voters in the director district in which the candidate resides and seeks to represent.

SECRETARY OF STATE[721](cont'd)

If a special election is to be held to fill a vacancy on the school board, the number of registered voters on the ~~first day of the month preceding~~ the date the commissioner receives notice of the special election shall be used to calculate the number of signatures required for the special election.

This rule is intended to implement Iowa Code sections 277.4 and 279.7.

[Filed Emergency 3/31/11, effective 3/31/11]

[Published 4/20/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/20/11.

ARC 9471B

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 35A.14(5), the Department of Veterans Affairs hereby amends Chapter 11, “Injured Veterans Grant Program,” Iowa Administrative Code.

These amendments implement the provisions of 2010 Iowa Acts, House File 755, and 2011 Iowa Acts, Senate File 402, which expand coverage under the Injured Veterans Grant Program to a veteran who suffered an injury in a combat zone requiring at least 30 consecutive days of hospitalization at a military hospital but who was not evacuated from the combat zone contemporaneously with or near the time of the injury. In addition, coverage is expanded to allow for additional grant awards for subsequent, unrelated injuries.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable and contrary to public interest because of the immediate need for amendments to implement provisions of 2010 Iowa Acts, House File 755, and 2011 Iowa Acts, Senate File 402, to permit eligible veterans to apply for grants immediately upon adoption.

The Department also finds that these amendments confer a benefit on the persons affected, eligible injured veterans, in that they ease and speed the administration of an important state grant program benefiting those veterans, and should be implemented as soon as feasible in order to facilitate the award of grants under the program. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

The Department adopted these amendments on March 31, 2011.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(4) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

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

These amendments are intended to implement Iowa Code section 35A.14(5) as amended by 2011 Iowa Acts, Senate File 402.

These amendments became effective March 31, 2011, upon filing with the Administrative Rules Coordinator.

The following amendments are adopted.

ITEM 1. Amend paragraphs **11.3(2)“b”** and **“c”** as follows:

b. The injury or illness was serious enough to require medical evacuation from the combat zone to a military hospital or the injury or illness required at least 30 consecutive days of hospitalization at a military hospital; and

c. The injury or illness was or is considered by the military to have been received in the line of duty, based upon the circumstances known at the time of evacuation, injury or illness.

ITEM 2. Amend subparagraph **11.4(1)“b”(3)** as follows:

(3) Medical records or military orders to document date of medical evacuation and periods of continued medical treatment or rehabilitation; and

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

ITEM 3. Adopt the following **new** subrules 11.4(3) and 11.4(4):

11.4(3) Commission review.

a. A three-person subcommittee of commissioners will review applications for those veterans not evacuated but requiring 30 days of consecutive treatment.

b. An applicant may appeal a grant award decision to the commission.

11.4(4) Subsequent award.

a. A seriously injured veteran meeting all other requirements of this rule may receive additional grants for subsequent, unrelated injuries that meet the requirements of this rule. Any subsequent, unrelated injury shall be treated as if it were an initial injury for the purposes of determining eligibility or allotment.

b. Grants for veterans suffering subsequent, unrelated injuries after September 11, 2001, but prior to March 30, 2011, shall be payable, upon a showing that the veteran would have been eligible for payment had the subsequent, unrelated injury occurred on or after March 30, 2011.

ITEM 4. Amend **801—Chapter 11**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 35A.14 as amended by ~~2007 Iowa Acts, House File 767~~ 2011 Iowa Acts, Senate File 402.

[Filed Emergency 3/31/11, effective 3/31/11]

[Published 4/20/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/20/11.

ARC 9475B

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 36, "Extracurricular Interscholastic Competition," Iowa Administrative Code.

The amendments are the result of a periodic review of Chapter 36 that the Department undertakes with executive directors of the Iowa High School Athletic Association (IHSAA) and the Iowa Girls High School Athletic Union (IGHSAU).

The amendments in Items 1, 2, and 7 clarify the prohibition against all-star players competing in all-star contests.

Item 3 rescinds the definition of "organization" because the definition includes only "registered organizations," which are specified in rule 281—36.2(280).

Because several rules within Chapter 36 use "school" or "calendar" to modify "days," Items 4, 6, 8, 9, and 10 add a clarifying modifier to "days" in other rules.

The changes in Item 5 to the awards rule are adopted in an attempt to keep that rule current with inflation.

The amendment in Item 8 clarifies that it is not appropriate for academically ineligible students to appeal a failing grade to the IHSAA or IGHSAU; such appeals must be pursued with the student's local school inasmuch as the athletic organizations have no authority regarding the validity of locally issued grades.

Finally, the change in Item 10 reflects actual practice regarding cooperative sharing programs.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the October 6, 2010, Iowa Administrative Bulletin as **ARC 9144B**. Notice was also provided to all members of the Iowa High School Athletic Directors Association through the Association's November 2010 newsletter and was published in the October 2010 "School Leaders Update," an electronic publication sent to school superintendents and available to the public on the Department's Web site. A public hearing was held on October 26, 2010, and public comments were allowed until 4:30 p.m. on that same day. No written or oral comments were received by the Department.

These amendments are identical to those published under Notice.

These amendments shall become effective May 25, 2011.

These amendments are intended to implement Iowa Code section 280.13.

The following amendments are adopted.

ITEM 1. Rescind the definition of "All-star" in rule **281—36.1(280)** and adopt the following **new** definition in lieu thereof:

"*All-star*" means a secondary student from a high school interscholastic athletic team whose outstanding performance is the basis for the student's selection to compete individually in an all-star contest or on an all-star high school team to compete with other all-stars from several other high school teams against another all-star team in an all-star contest. An "all-star" shall not include a twelfth grade student whose interscholastic athletic season for the sport in question has concluded.

NOTE: Bylaw 14.6 of the National Collegiate Athletic Association (NCAA) (as revised 7/30/10) states that a "student-athlete shall be denied the first year of intercollegiate athletics competition if, following completion of high-school eligibility in the student-athlete's sport and prior to the student-athlete's high-school graduation, the student-athlete competes in more than two all-star football contests or two all-star basketball contests."

ITEM 2. Adopt the following **new** definition of "All-star contest" in rule **281—36.1(280)**:

"*All-star contest*" means an event for which admission is charged and at which all-stars compete during the school year against other all-stars, either individually or as all-star teams. "All-star contests" shall not include noninvitational events for which students audition or try out or the auditions or try outs themselves.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 3. Rescind the definition of "Organization" in rule **281—36.1(280)**.

ITEM 4. Amend subrule 36.14(1) as follows:

36.14(1) Physical examination. Every year each student shall present to the student's superintendent a certificate signed by a licensed physician and surgeon, osteopathic physician and surgeon, osteopath, qualified doctor of chiropractic, licensed physician assistant, or advanced registered nurse practitioner, to the effect that the student has been examined and may safely engage in athletic competition.

Each doctor of chiropractic licensed as of July 1, 1974, shall affirm on each certificate of physical examination completed that the affidavit required by Iowa Code section 151.8 is on file with the Iowa board of chiropractic examiners.

The certificate of physical examination is valid for the purpose of this rule for one calendar year. A grace period not to exceed 30 calendar days is allowed for expired physical certifications.

A student shall not be required to submit to a physical examination if the student's parent or the 18-year-old student submits to a school administrator an affidavit that the physical examination requirement conflicts with the tenets and practice of a recognized religious denomination of which the student is an adherent or member.

ITEM 5. Amend subrule 36.14(3) as follows:

36.14(3) Awards.

a. Awards from ~~the student's a secondary school or registered organization.~~ ~~A For participation in an interscholastic athletic contest or program, a student will be permitted to receive only the customary ribbon or medal for participation in an interscholastic athletic contest. A student will be allowed to receive from the student's school, another secondary school, a registered organization, or the host of an event sanctioned by a registered organization for participation in the interscholastic athletic program, an award whose value cannot exceed \$25 \$50. Nothing in this subrule shall preclude or prevent the awarding and the acceptance of an inexpensive, unmounted, unframed paper certificate of recognition as an award, or an inexpensive table favor which is given to everyone attending a banquet.~~

b. Awards for participation in school programs from ~~other than the student's school~~ an individual or organization other than a secondary school or registered organization. No student shall receive any award from an individual or outside organization for high school participation while enrolled in high school, except that nothing in this subrule shall preclude the giving of a complimentary dinner by local individuals, organizations, or groups, with approval of the superintendent, to members of the local high school athletic squad. No student shall accept any trip or excursion of any kind by any individual, organization, or group outside the student's own school or the governing organization, with the exception of bona fide recruiting trips that meet NCAA requirements. Nothing in this subrule shall preclude or prevent the awarding and the acceptance of an inexpensive, unmounted, unframed paper certificate of recognition as an award, or an inexpensive table favor which is given to everyone attending a banquet.

c. Awards for participation in nonschool programs. If a student participates in an outside school activity ~~during the school year,~~ the student may not receive any award ~~the value of which exceeds \$25~~ provided that the award does not violate the amateur award rule of the amateur sanctioning body for that sport. ~~During the summer months, a student may enter an event in any sport as an individual or as a member of a team not representing the student's school, subject to subrule 36.15(6). If the student wins an award, the student may accept the award provided it does not violate the amateur award rule of the amateur sanctioning body for that sport. In the absence of an applicable amateur award rule, the student shall not receive any award the value of which exceeds \$50.~~

d. Absolute prohibition on cash ~~or cash equivalent.~~ At no time may any student accept an award of cash ~~or cash equivalent.~~

e. No change.

ITEM 6. Amend paragraph **36.15(3)"a,"** introductory paragraph, as follows:

a. Exceptions. The executive officer or executive board shall consider and apply the following exceptions in formally or informally ruling upon the eligibility of a transfer student and may make eligibility contingent upon proof that the student has been in attendance in the new school for at least ten school days:

EDUCATION DEPARTMENT[281](cont'd)

ITEM 7. Amend paragraph **36.15(6)“a”** as follows:

a. School personnel, whether employed or volunteers, of a member or associate member school shall not coach that school's student athletes during the school year in a sport for which the school personnel are currently under contract or are volunteers, outside the period from the official first day of practice through the finals of tournament play. Provided, however, school personnel may coach a senior student from the coach's school in an all-star contest once the senior student's interscholastic athletic season for that sport has concluded. ~~Not shall~~ In addition, volunteer or compensated coaching personnel shall not require students to participate in any activities outside the season of that coach's sport as a condition of participation in the coach's sport during its season.

ITEM 8. Amend rule 281—36.16(280) as follows:

281—36.16(280) Executive board review. A student, parent of a minor student, or school contesting the ruling of a student's eligibility based on these rules, other than subrule 36.15(1); or paragraph 36.15(2)“c,” “d,” “f,” or “k,” or a school contesting a penalty imposed under ~~subrule paragraph 36.15(6), paragraph “b,”~~ shall be required to state the basis of the objections in writing ~~and may also request an oral hearing,~~ addressed to the executive officer of the board of the governing organization. The Upon request of a student, parent of a minor student, or a school, the executive officer shall schedule a hearing before the executive board on or before the next regularly scheduled meeting of the executive board; but not later than 20 calendar days following the receipt of the objections unless a later time is mutually agreeable. The executive board shall give at least 5 business days' written notice of the hearing. The executive board shall consider the evidence presented and issue findings and conclusions in a written decision within 5 business days of the hearing; and shall mail a copy to appellant.

ITEM 9. Amend rule 281—36.17(280) as follows:

281—36.17(280) Appeals to director. If the claimant is still dissatisfied, an appeal may be made in writing to the director of education by giving written notice of the appeal to the state director of education with a copy by registered mail to the executive officer of the governing organization. An appeal shall be in the form of an affidavit and shall be filed within 10 business days after the date of mailing of the decision of the governing organization. The director of education shall establish a date for hearing within 20 calendar days of receipt of written notice of appeal by giving at least 5 business days' written notice of hearing to the appellant unless another time is mutually agreeable. The procedures for hearing adopted by the state board of education and found at 281—Chapter 6 shall be applicable, except that the decision of the director is final. Appeals to the executive board and the state director are not contested cases under Iowa Code subsection 17A.2(2)(5).

ITEM 10. Amend subrules 36.20(6) and 36.20(7) as follows:

36.20(6) A copy of the written agreement between the governing boards of the particular schools involved, and all amendments to the agreement, shall be filed with the appropriate governing organization(s) no later than April 30 for the subsequent year, unless exception is granted by the organization for good cause shown. The agreements and amendments shall be deemed approved unless denied by the governing organization(s) within ten calendar days;

36.20(7) ~~Interscholastic competition is engaged in only under the name of the host school.~~ It is the purpose of this rule to allow individual students participation in interscholastic competition in activities not available to them at the school they attend, through local policy or arrangements made between the governing boards of the schools involved, so long as the interscholastic activities of other schools are not substantially prejudiced. Substantial prejudice shall include, but not necessarily be limited to, situations where a cooperative effort may result in an unfair domination of an activity; or substantial disruption of activity classifications and management. In the event an activity organization determines, after investigation, that an agreement between schools that was developed under the terms of ~~these subrules~~ this rule results in substantial prejudice to other schools engaged in the activity, or the terms of the agreement are not in conformity with the purpose and terms of this rule, the activity organization may give timely notice to the schools involved that the local policy or agreement between them is null

EDUCATION DEPARTMENT[281](cont'd)

and void for the purposes of this rule, insofar as cooperative student participation is concerned with a particular activity. Determinations are appealable to the director of education under the applicable terms of 281—36.17(280). For notice to be timely, it must be given at least 45 calendar days prior to the beginning of the activity season.

[Filed 4/1/11, effective 5/25/11]

[Published 4/20/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/20/11.

ARC 9477B

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 36, "Extracurricular Interscholastic Competition," Iowa Administrative Code.

The amendment eliminates a religious beliefs-based exemption to the requirement that all secondary students who desire to participate in interscholastic athletics undergo a physical examination prior to such participation. Department staff have researched the issue and determined that there is no basis for the exemption, and as a matter of student safety, the language allowing the exemption should be stricken.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the February 23, 2011, Iowa Administrative Bulletin as **ARC 9374B**. Notice was also provided to all members of the Iowa High School Athletic Directors Association through the Association's March 2011 newsletter and was published in the February 2011 "School Leaders Update," an electronic publication sent to school superintendents and available to the public on the Department's Web site. Public comments were allowed until 4:30 p.m. on March 15, 2011. No written or oral comments were received by the Department.

This amendment is identical to that published under Notice.

This amendment shall become effective May 25, 2011.

This amendment is intended to implement Iowa Code section 280.13.

The following amendment is adopted.

Amend subrule 36.14(1) as follows:

36.14(1) Physical examination. Every year each student shall present to the student's superintendent a certificate signed by a licensed physician and surgeon, osteopathic physician and surgeon, osteopath, qualified doctor of chiropractic, licensed physician assistant, or advanced registered nurse practitioner, to the effect that the student has been examined and may safely engage in athletic competition.

Each doctor of chiropractic licensed as of July 1, 1974, shall affirm on each certificate of physical examination completed that the affidavit required by Iowa Code section 151.8 is on file with the Iowa board of chiropractic examiners.

The certificate of physical examination is valid for the purpose of this rule for one calendar year. A grace period not to exceed 30 days is allowed for expired physical certifications.

~~A student shall not be required to submit to a physical examination if the student's parent or 18-year-old student submits to a school administrator an affidavit that the physical examination requirement conflicts with the tenets and practice of a recognized religious denomination of which the student is an adherent or member.~~

[Filed 4/1/11, effective 5/25/11]

[Published 4/20/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/20/11.

ARC 9476B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 36, "Extracurricular Interscholastic Competition," Iowa Administrative Code.

This amendment eliminates what was commonly referred to as the "open gym" rule, while retaining all current prohibitions against out-of-season contact by coaches of students during the school year. The effect of adoption of this amendment is to give local school administrators discretion to decide when to make school athletic facilities open to students or to the public.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the December 15, 2010, Iowa Administrative Bulletin as **ARC 9270B**. Notice was also provided to all members of the Iowa High School Athletic Directors Association through the Association's November 2010 newsletter and was published in the December 2010 "School Leaders Update," an electronic publication sent to school superintendents and available to the public on the Department's Web site. Public comments were allowed until 4:30 p.m. on January 4, 2011. No written or oral comments were received by the Department. This amendment is identical to that published under Notice.

This amendment shall become effective May 25, 2011.

This amendment is intended to implement Iowa Code section 280.13.

The following amendment is adopted.

Rescind and reserve paragraph **36.15(6)"c."**

[Filed 4/1/11, effective 5/25/11]

[Published 4/20/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/20/11.

ARC 9472B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 43, "Pupil Transportation," Iowa Administrative Code.

Because the training for new bus drivers is more extensive and comprehensive than was the former training, it is no longer necessary for new drivers to be required to take the annual training in the year in which they must receive the new training. However, an employer retains the power to require additional training, at the discretion of the employer.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the February 23, 2011, Iowa Administrative Bulletin as **ARC 9372B**. Public comments were allowed until 4:30 p.m. on March 15, 2011. No written or oral comments were received.

This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 285.

This amendment will become effective May 25, 2011.

The following amendment is adopted.

Amend rule 281—43.32(285) as follows:

281—43.32(285) Drivers' schools. All school bus drivers shall attend classes or schools of instruction as approved by the department of education and provided for in Iowa Code subsection 321.376(2). ~~The course of instruction for new drivers, to be successfully completed within the first six months of~~

EDUCATION DEPARTMENT[281](cont'd)

~~employment, shall also include the annual course of instruction for the school year in which the new driver is hired.~~ All new drivers shall, within the first six months of employment, successfully complete the “new driver STOP class” approved by the department. All current school bus drivers shall attend the only annual course of instruction, unless the current driver misses a year of instruction. Upon missing a year of instruction, a current driver shall successfully complete the course of instruction for new drivers prior to receiving an authorization. The employer of a school bus driver may impose additional training requirements for any new or current driver.

[Filed 4/1/11, effective 5/25/11]

[Published 4/20/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/20/11.

ARC 9474B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby adopts new Chapter 81, “Standards for School Business Official Preparation Programs,” Iowa Administrative Code.

This chapter provides standards and procedures for the approval of training programs for individuals who seek authorization issued by the Board of Educational Examiners for employment as school business officials responsible for the financial operations of a school district.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the February 23, 2011, Iowa Administrative Bulletin as **ARC 9379B**. A public hearing was held on March 15, 2011, and public comments were allowed until 4:30 p.m. on that same day. No written or oral comments were received by the Department.

This amendment is identical to that published under Notice.

This amendment shall become effective May 25, 2011.

This amendment is intended to implement Iowa Code section 256.7 as amended by 2010 Iowa Acts, chapter 1099.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [Ch 81] is being omitted. This amendment is identical to that published under Notice as **ARC 9379B**, IAB 2/23/11.

[Filed 4/1/11, effective 5/25/11]

[Published 4/20/11]

[For replacement pages for IAC, see IAC Supplement 4/20/11.]

ARC 9473B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 96, “Statewide/Local Option Sales and Services Tax for School Infrastructure,” Iowa Administrative Code.

As of June 30, 2010, unreserved, undesignated fund balances ceased to exist as classifications pursuant to Statement 54 issued by the Governmental Accounting Standards Board (GASB 54). This amendment conforms the rules to comply with GAAP (Generally Accepted Accounting Principles).

An agencywide waiver provision is provided in 281—Chapter 4.

EDUCATION DEPARTMENT[281](cont'd)

Notice of Intended Action was published in the February 23, 2011, Iowa Administrative Bulletin as **ARC 9373B**. Public comments were allowed until 4:30 p.m. on March 15, 2011. No written or oral comments were received.

This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapters 423E and 423F and GASB 54.

This amendment will become effective May 25, 2011.

The following amendment is adopted.

Amend paragraph **96.4(2)“h”** as follows:

h. Evidence of a healthy financial condition and long-term financial stability. The school district shall provide:

(1) Calculation of unspent balance on the generally accepted accounting principles (GAAP) basis. The calculation shall include five years of history and three years of projected balances. The calculation of budget authority shall show and project the effect of the phaseout of the budget guarantee. Projected allowable growth shall be that known or generally anticipated at the time of the application. If the percent of allowable growth is not known or anticipated, an allowable growth of no more than 2 percent shall be utilized in the annual projections.

(2) If the unspent balance is negative in any current or projected year on the GAAP basis, the school district shall include a copy of the corrective action plan, if any, submitted to the SBRC.

(3) Calculation of ~~unreserved~~ fund balance on the GAAP basis by fund. The calculation shall include five years of history and three years of projected balances.

[Filed 4/1/11, effective 5/25/11]

[Published 4/20/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/20/11.

ARC 9462B

**ENGINEERING AND LAND SURVEYING
EXAMINING BOARD[193C]**

Adopted and Filed

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board amends Chapter 3, “Application and Renewal Process,” Iowa Administrative Code.

This amendment clarifies requirements regarding academic transcripts for license and examination applicants. This clarification will enable license and examination applicants to submit materials that are in line with Board expectations and will therefore provide for a more efficient application process.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 9, 2011, as **ARC 9369B**. No public comments were received. This amendment is identical to that published under Notice of Intended Action.

This amendment was adopted by the Board on March 17, 2011.

This amendment is subject to waiver or variance pursuant to 193—Chapter 5.

This amendment will become effective on May 25, 2011.

This amendment is intended to implement Iowa Code sections 542B.2, 542B.13, 542B.14, and 542B.20.

The following amendment is adopted.

Amend subrule 3.1(3) as follows:

3.1(3) Academic transcripts.

a. United States institutions. Completion of post-high school education shall be evidenced by the board's receipt of an applicant's transcripts directly from the office of the registrar of each institution attended.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

b. Institutions outside the United States. Transcripts from institutions located outside the boundaries of the United States of America shall be sent directly from the institution to an evaluation service and shall be evaluated for authenticity and substantial equivalency with Accreditation Board for Engineering and Technology, Inc. (ABET) or Engineering Accreditation Commission (EAC) accredited engineering programs. To be readily acceptable, such evaluations shall be from the Center for Professional Engineering Education Services (CPEES) National Council of Examiners for Engineering and Surveying (NCEES). However, the board may accept evaluations from other recognized foreign credential evaluators satisfactorily satisfactory to the board. The expense of the evaluation is at the expense responsibility of the applicant. Each evaluation shall be sent directly to the board from the evaluation service and shall include a copy of the transcript in the form sent to the evaluation service directly from the educational institution. Each evaluation must address both whether the transcript is authentic and whether the engineering program is equivalent to those accredited by ABET or EAC.

[Filed 3/31/11, effective 5/25/11]

[Published 4/20/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/20/11.

ARC 9458B

REAL ESTATE COMMISSION[193E]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 543B.47 and 543B.18, the Real Estate Commission hereby amends Chapter 19, "Requirements for Mandatory Errors and Omissions Insurance," Iowa Administrative Code.

New subrule 19.6(8) requires that a licensee provide proof of insurability within 30 days of written notice by the Commission.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 9338B** on January 26, 2011. No comments were received from the public. This amendment is identical to that published under Notice.

This amendment was adopted by the Commission on March 24, 2011.

This amendment shall become effective on May 25, 2011.

This amendment is intended to implement Iowa Code section 543B.47.

The following amendment is adopted.

Adopt the following **new** subrule 19.6(8):

19.6(8) Failure to provide required proof of insurability within 30 days of written notice by the commission shall result in the placement of the license on inactive status. A license that has been placed on inactive status pursuant to this provision shall not be reactivated until satisfactory evidence has been provided verifying that coverage is current and in full force and effect.

[Filed 3/25/11, effective 5/25/11]

[Published 4/20/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/20/11.

ARC 9478B

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code section 421.17, the Department of Revenue hereby adopts amendments to Chapter 71, "Assessment Practices and Equalization," Iowa Administrative Code.

REVENUE DEPARTMENT[701](cont'd)

Notice of Intended Action was published in IAB Vol. XXXIII, No. 7, pp. 527–531, on October 6, 2010, as **ARC 9113B**.

Item 1 amends rule 701—71.3(421,428,441), valuation of agricultural real estate, to remove the Iowa Crop and Livestock Reporting Service as a potential source of data for assessors, which is no longer an applicable agency. The rule lists other sources of data derived from the United States Department of Agriculture (USDA).

Item 2 rescinds subrule 71.12(1), determination of aggregate actual values, and adopts a new subrule from which references to the Iowa Crop and Livestock Reporting Service and specific divisions of the USDA have been removed. The subrule lists other sources of data derived from the USDA. In addition, the new subrule incorporates the numbering system required in the Iowa Administrative Code.

These amendments are identical to those published under Notice of Intended Action.

The Department circulated the rule making prior to submitting it as a Notice of Intended Action. At that time, the Department received comments from two interested parties:

1. Iowa Association of Assessors. The Association generally supported the changes. They were concerned about the removal of the fertilizer cost adjustment from the existing rule.

2. Iowa Farm Bureau. The Farm Bureau was also concerned about the removal of the fertilizer cost adjustment.

As a result of those comments, the Department reinserted the fertilizer cost adjustment, and that was included in the Notice of Intended Action and is included in this Adopted and Filed rule making.

There was one public comment at the Notice hearing before the Administrative Rules Review Committee. One county assessor expressed general concerns with the methodology used in determining the Agricultural Productivity Factor. The framework for calculating the Agricultural Productivity Factor has been in place for decades and was the result of an independent study. The Department's position is that the concerns expressed by the assessor are beyond the scope of what this rule making was undertaken to accomplish.

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

These amendments are intended to implement Iowa Code chapter 441.

These amendments will become effective May 25, 2011, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

The following amendments are adopted.

ITEM 1. Amend rule 701—71.3(421,428,441) as follows:

701—71.3(421,428,441) Valuation of agricultural real estate. Agricultural real estate shall be assessed at its actual value as defined in Iowa Code section 441.21 by giving exclusive consideration to its productivity and net earning capacity. In determining the actual value of agricultural real estate, city and county assessors shall use the “Iowa Real Property Appraisal Manual” and any other guidelines issued by the department of revenue pursuant to Iowa Code section 421.17(18).

71.3(1) Productivity. In determining the productivity and net earning capacity of agricultural real estate, the assessor shall also use available data from Iowa State University, ~~the Iowa crop and livestock reporting service,~~ the United States Department of Agriculture (USDA) National Agricultural Statistics Service, the USDA Farm Service Agency, the Iowa department of revenue, or other reliable sources. The assessor shall also consider the results of a modern soil survey, if completed. The assessor shall determine the actual valuation of agricultural real estate within the assessing jurisdiction and spread such valuation throughout the jurisdiction so that each parcel of real estate is assessed at its actual value as defined in Iowa Code section 441.21.

71.3(2) Agricultural factor. In order to determine a productivity value for agricultural buildings and structures, assessors must make an agricultural adjustment to the market value of these buildings and structures by developing an “agricultural factor” for the assessors’ jurisdictions. The agricultural factor for each jurisdiction is the product of the ratio of the productivity and net earning capacity value per acre as determined under subrule 71.12(1) over the market value of agricultural land within the assessing jurisdiction. The resulting ratio is then applied to the actual value of the agricultural buildings and structures as determined under the Iowa Real Property Appraisal Manual prepared by the department.

REVENUE DEPARTMENT[701](cont'd)

The agricultural factor must be applied uniformly to all agricultural buildings and structures in the assessing jurisdiction. As an example, if a building’s actual value is \$500,000 and the agricultural factor is 30 percent, the productivity value of that building is \$150,000. See *H & R Partnership v. Davis County Board of Review*, 654 N.W.2d 521 (Iowa 2002). The 2007, 2008, and 2009 average of the market value of land will be used in determining the agricultural factor for assessment year 2011. A five-year market value average of land for years used to determine the productivity formula will be used to determine the agricultural factor for assessment year 2013 and subsequent assessment years.

71.3(3) Classification. Land classified as agricultural real estate includes the land beneath any dwelling and appurtenant structures located on that land and shall be valued by the assessor pursuant to rule 701—71.3(421,428,441). An assessor shall not value a part of the land as agricultural real estate and a part of the land as if it is residential real estate.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

ITEM 2. Rescind subrule 71.12(1) and adopt the following **new** subrule in lieu thereof:

71.12(1) Agricultural real estate.

a. *Use of income capitalization study.* The equalized valuation of agricultural realty shall be based upon its productivity and net earning capacity and shall be determined in accordance with the provisions of this subrule. Data used shall pertain to crops harvested during the five-year period ending with the calendar year in which assessments were last equalized. The equalized valuation of agricultural realty shall be determined for each county as follows:

(1) Computation of county acres. This information shall be obtained from the USDA National Agricultural Statistics Service.

1. Total acres in farms: Total acreage used for agricultural purposes.
2. Corn acres: Sum of corn acres harvested including silage, popcorn and acres planted for sorghum.
3. Oats and wheat acres: Sum of oats and wheat acres harvested.
4. Soybean acres: Soybean acres harvested.
5. Hay acres: All hay acres harvested.
6. Pasture acres: All pasture acres. Total pasture acres shall be determined by multiplying the total acres in farms reported by the USDA National Agricultural Statistics Service by the percentage which total pasture land as reported in the most recent U.S. Census of Agriculture bears to the total acreage in farmland also reported in the most recent U.S. Census of Agriculture. The amount of tillable and nontillable pasture acres shall be determined as follows:

1.	From the most recent U.S. Census of Agriculture obtain the following:		
	Cropland used only for pasture and grazing	_____	acres
	Woodland pasture	_____	acres
	Pasture land and rangeland (other than cropland and woodland pasture)	_____	acres
	TOTAL PASTURE LAND (total of above):	_____	acres
2.	Determine what percentage of the total pasture land is cropland used only for pasture:	_____	%
3.	Apply the percentage in “2” above to the 5-year average total acres of pasture as determined above to determine the pasture acres to be classified as tillable pasture. The remainder of the 5-year average shall be classified as nontillable pasture land.	_____	acres

REVENUE DEPARTMENT[701](cont'd)

7. Government programs: Determine the 5-year average acres participating in applicable government programs. Obtain data from the USDA Farm Service Agency, including but not limited to acreage devoted to the Payment-In-Kind (PIK), diverted and deficiency programs.

8. Other acres: The difference between the total acreage for land uses listed above and the total of all land in farms. Add the total of the corn, oats, soybeans, hay, tillable and nontillable pasture and diverted acres. Subtract this total from total acres in farms. The residual is classified as other acres.

(2) Computation of county yields. This information shall be obtained for each county from the USDA National Agricultural Statistics Service.

1. Corn yield (including silage): Number of bushels of corn harvested for grain per acre.

2. Oat yield (including wheat): Number of bushels of oats harvested per acre.

3. Soybean yield: Number of bushels per acre harvested.

4. Hay yield in tons: Number of tons per acre harvested.

(3) Computation of county gross income.

1. Corn: One-half of the 5-year average production multiplied by the 5-year average price received for corn.

2. Silage: One-half of the 5-year average number of acres devoted to the production of silage multiplied by the 5-year average production per acre for corn. The amount of production so determined shall be added to the 5-year average production for corn and included in the determination of the gross income for corn.

3. Soybeans: One-half of the 5-year average production multiplied by the 5-year average price received.

4. Oats: One-half of the 5-year average production of oats and wheat multiplied by the 5-year average price received for oats.

5. Price adjustment: For corn, soybeans, hay, and oats, the prices used shall be as obtained from the USDA National Agricultural Statistics Service and shall be adjusted to reflect any individual county price conditions prior to the 2007 crop year. For the 2007 crop year and later, the USDA National Agricultural Statistics Service district prices shall be used and shall be adjusted to reflect any individual county price conditions.

6. Government programs: Gross income shall be one-half of the 5-year average amount of cash payments or equivalent (such as PIK bushels) including but not limited to diverted, deficiency and PIK programs as reported by the USDA Farm Service Agency.

7. Hay: Gross income shall be a cash rent amount determined by multiplying the 5-year average number of acres devoted to hay by the product obtained by multiplying one-fourth of the 5-year average hay yield by the 5-year average price received for all types of hay.

8. Tillable pasture: Gross income shall be a cash rent amount determined by multiplying the 5-year average number of acres devoted to tillable pasture by the product obtained in "hay" above.

9. Nontillable pasture: Gross income shall be a cash rent amount determined by multiplying the 5-year average number of acres devoted to nontillable pasture by one-half the product obtained in "hay" above.

10. Other acres: Income shall be the product of the number of other acres multiplied by 17 percent of the net income per acre for all other land uses.

(4) Computation of county production costs. The following data and procedures shall be used to determine specific county production costs.

1. Basic average landlord production costs. Landlord production costs for corn, soybeans, oats, diverted acres, hay, tillable pasture, nontillable pasture, fertilizer costs, and facilities' costs shall be obtained for each year from Iowa State University.

2. Production cost adjustment. The production costs for corn, soybeans, oats, and hay are adjusted for each county by multiplying the difference between the 5-year state average yield per acre and the 5-year county average yield per acre by the 5-year average facilities' costs. If a county's yield exceeds the state yield, production costs are increased by this amount. If a county's yield is less than the state yield, production costs are reduced by this amount.

REVENUE DEPARTMENT[701](cont'd)

3. Fertilizer cost adjustment. The adjustment for fertilizer costs is determined as follows: Multiply the difference between the 5-year state average corn yield per acre and the 5-year county average corn yield per acre obtained from the USDA National Agricultural Statistics Service by the fertilizer cost amount per bushel determined by dividing the statewide average cost of landlord's share of fertilizer cost per acre from Iowa State University by the statewide average corn yield per acre to produce the corn fertilizer cost per bushel adjustment. This amount is then multiplied by the 5-year county average corn acres determined in (2) above.

4. Expense adjustments. If a county's 5-year average corn yield is greater than the state 5-year average corn yield, this amount is allowed as an additional expense. If the county's average is less than the state average, this amount is an expense reduction.

5. Liability insurance cost adjustment. The 5-year average per acre cost of obtaining tort liability insurance shall be determined.

(5) Computation of county net income. From the total gross income, subtract the total expenses. Divide the resulting total by the total number of acres.

(6) Computation of dwelling adjustment factor. The amount determined in (5) above shall be reduced by 10.6 percent.

(7) Computation of county tax adjustment. Subtract the 5-year average per acre real estate taxes levied for land and structures including drainage and levee district taxes but excluding those levied against agricultural dwellings from the amount determined in (6) above. Taxes shall be the tax levied for collection during the 5-year period as reported by county auditors, and reduced by the amount of the agricultural land tax credit.

(8) Calculation of county valuation per acre. Divide the net income per acre ((7) above) for each county as determined above by the capitalization rate specified in Iowa Code section 441.21. The quotient shall be the actual per acre equalized valuation of agricultural land and structures for the current equalization year.

b. Use of other relevant data. The director may also consider other relevant data, including field investigations conducted by representatives of the department of revenue, to determine the level of assessment of agricultural real estate.

c. Determination of value. The aggregate actual value of agricultural real estate in each county shall be determined by multiplying the equalized per acre value by the number of acres of agricultural real estate reported on the abstract of assessment for the current year, adjusted where necessary by the results of any field investigations conducted by the department of revenue and any other relevant data available.

[Filed 4/1/11, effective 5/25/11]

[Published 4/20/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/20/11.

ARC 9468B

SECRETARY OF STATE[721]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State hereby amends Chapter 22, "Voting Systems," and Chapter 26, "Counting Votes," Iowa Administrative Code.

These amendments are necessary to remove obsolete references to direct recording electronic devices or DREs, which were eliminated as an option for county use by 2008 Iowa Acts, Senate File 2347, codified in Iowa Code section 52.2.

These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin as **ARC 9292B** on December 29, 2010. No public comments were received. These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code section 52.2.

SECRETARY OF STATE[721](cont'd)

These amendments will become effective May 25, 2011.


EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 22, 26] is being omitted. These amendments are identical to those published under Notice as **ARC 9292B**, IAB 12/29/10.

[Filed 3/31/11, effective 5/25/11]

[Published 4/20/11]

[For replacement pages for IAC, see IAC Supplement 4/20/11.]

AGENCY	RULE	DELAY
Human Services Department[441]	78.34(5)“d,” 78.38(5)“h,” 78.41(2)“g,” 78.43(3)“d,” 78.52(5)“a” [IAB 3/9/11, ARC 9403B]	Effective date of May 1, 2011, delayed 70 days by the Administrative Rules Review Committee at its meeting held April 11, 2011. [Pursuant to §17A.4(7)]
Professional Licensure Division[645]	124.2(6) [IAB 3/9/11, ARC 9424B]	Effective date of April 13, 2011, delayed 70 days by the Administrative Rules Review Committee at its meeting held April 11, 2011. [Pursuant to §17A.4(7)]



State of Iowa
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

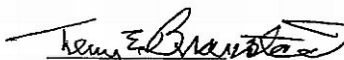
EXECUTIVE ORDER NUMBER SEVENTY-TWO

- WHEREAS, when adopting regulations to protect the health, safety and welfare of the people of the State of Iowa, state agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens that reduce jobs and hurt job growth; and
- WHEREAS, the federal government should also take into account the impact of their regulations on the states; and
- WHEREAS, the federal government, through the Environmental Protection Agency ("EPA"), recently adopted a new National Emission Standards for Hazardous Air Pollutants ("NESHAP") Reciprocating Internal Combustion Engine ("RICE") standard that imposes unnecessary and crippling costs on small Iowa municipal utilities; and
- WHEREAS, some Iowa municipal utilities have found that the unnecessary, increased regulatory burden could cost their consumers, on average, hundreds of dollars each year; and
- WHEREAS, the NESHAP RICE standards may make it cost prohibitive for some utilities to maintain and operate emergency engines, jeopardizing the security of the national power grid; and
- WHEREAS, in response to widespread concerns that the EPA regulations are unworkable, the EPA has reopened the RICE NESHAP rulemaking to consider how to accommodate emergency engines and provide greater flexibility; and
- WHEREAS, according to Iowa Code Chapter 17A, the Iowa Administrative Procedure Act the governor may rescind an adopted rule by executive order within seventy days of the rule becoming effective; and
- WHEREAS, on February 2, 2011 the Iowa administrative rule implementing the federal standard for RICE NESHAP went into effect; and
- WHEREAS, it is in the best interests of the state of Iowa to rescind the Iowa rule implementing the federal RICE NESHAP standard for emergency engines because the federal RICE NESHAP standard for requirements for existing stationary diesel engines is likely to change.


NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, declare that the regulatory burden imposed by the RICE NESHAP rule hurts the interests of people of the State of Iowa. I hereby order and direct that ARC 9154, Item 4, the state administrative rules implementing the RICE NESHAP standard for emergency engines, be immediately rescinded pursuant to the authority granted to me by Iowa Code Chapter 17A.4(8).



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 4th day of April in the year of our Lord two thousand eleven.


TERRY E. BRANSTAD
GOVERNOR

ATTEST:


MATTHEW SCHULTZ
SECRETARY OF STATE