# IOWA ADMINISTRATIVE BULLETIN

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August 19, 2026 Pages 775 to 1402

## CONTENTS IN THIS ISSUE

Pages 1006 to 1402 include **ARC 0477D** to **ARC 0502D**

PUBLISHED UNDER AUTHORITY OF IOWA CODE SECTIONS 2B.5 AND 17A.6

# 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]; usury rates [535.2(3)"a"]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

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

| | | |
|---|---|---|
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**CITATION of Administrative Rules**

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

This citation format applies only to external citations to the Iowa Administrative Code or Iowa Administrative Bulletin and does not apply to citations within the Iowa Administrative Code or Iowa Administrative Bulletin.

| | |
|---|---|
| 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) |
| 441 IAC 79.1(1)"a"(1)"1" | (Numbered paragraph) |

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 2B.5A, 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).

The Administrative Rules Review Committee will hold its regular, statutory meeting on Monday, September 14, 2026, at 10 a.m. in Room 116, State Capitol, Des Moines, Iowa. For more information, contact Jack Ewing at jack.ewing@legis.iowa.gov. The following rules will be reviewed:

NOTE: See also Agenda published in the September 2, 2026, Iowa Administrative Bulletin.

## ENVIRONMENTAL PROTECTION COMMISSION[567]

**NATURAL RESOURCES DEPARTMENT[561]"umbrella"**

Air emissions, amendments to chs 21 to 24, 27, 33 Notice **ARC 0477D** . . . . . . . . 8/19/26
Scope of title—definitions—rules of practice, ch 100 Filed **ARC 0481D** . . . . . . . . 8/19/26
Sanitary disposal projects, adopt ch 101; rescind chs 106, 113 to 115 Filed **ARC 0482D** . . . . . . . . 8/19/26
Solid waste management, adopt ch 102; rescind chs 108, 116 to 118, 120 to 122 Filed **ARC 0483D** . . . . . . . . 8/19/26
Financial and operating license requirements for regional collection centers and satellite facilities, adopt ch 103; rescind chs 123, 211 Filed **ARC 0484D** . . . . . . . . 8/19/26
Solid waste comprehensive planning and environmental management system requirements, adopt ch 104; rescind ch 111 Filed **ARC 0485D** . . . . . . . . 8/19/26
Hazardous conditions, adopt ch 105; rescind chs 131, 133, 137 Filed **ARC 0486D** . . . . . . . . 8/19/26
Beverage container deposits, ch 107 Filed **ARC 0487D** . . . . . . . . 8/19/26
Landfill alternatives financial assistance programs, adopt ch 109; rescind ch 209 Filed **ARC 0488D** . . . . . . . . 8/19/26
Used oil and used oil filters; household batteries; packaging—heavy metal content, rescind chs 119, 145, 213 Filed **ARC 0489D** . . . . . . . . 8/19/26
Underground storage tank certification programs, ch 134 Filed **ARC 0490D** . . . . . . . . 8/19/26
Technical standards and corrective action requirements for owners and operators of underground storage tanks, ch 135 Filed **ARC 0491D** . . . . . . . . 8/19/26
Financial responsibility for underground storage tanks, ch 136 Filed **ARC 0492D** . . . . . . . . 8/19/26
Fees for transportation, treatment and disposal of hazardous waste, rescind ch 149 Filed **ARC 0493D** . . . . . . . . 8/19/26
Criteria for siting low-level radioactive waste disposal facilities, rescind ch 152 Filed **ARC 0494D** . . . . . . . . 8/19/26

## HUMAN RIGHTS DEPARTMENT[421]

Agency realignment, rescind chs 1, 20 to 23, 25 Filed **ARC 0495D** . . . . . . . . 8/19/26

## HUMAN SERVICES DEPARTMENT[441]

Community services block grant (CSBG), ch 58 Filed **ARC 0496D** . . . . . . . . 8/19/26
Low-income home energy assistance program (LIHEAP), ch 59 Filed **ARC 0497D** . . . . . . . . 8/19/26
Weatherization, ch 63 Filed **ARC 0498D** . . . . . . . . 8/19/26
Individual development account (IDA), ch 64 Filed **ARC 0499D** . . . . . . . . 8/19/26
State training school, ch 103 Notice **ARC 0456D** . . . . . . . . 8/5/26
Certification of adoption investigators, ch 107 Notice **ARC 0479D** . . . . . . . . 8/19/26
Social casework, rescind ch 131 Filed **ARC 0458D** . . . . . . . . 8/5/26
IV-A emergency assistance program, ch 133 Filed **ARC 0500D** . . . . . . . . 8/19/26
Foster care contracting, ch 152 Notice **ARC 0480D** . . . . . . . . 8/19/26
Foster home insurance fund, ch 158 Notice **ARC 0478D** . . . . . . . . 8/19/26
Quality improvement initiative grants, ch 166 Filed **ARC 0459D** . . . . . . . . 8/5/26
In-home health-related care, ch 177 Filed **ARC 0460D** . . . . . . . . 8/5/26

## INSPECTIONS AND APPEALS DEPARTMENT[481]

Public records and fair information practices, ch 5 Filed **ARC 0461D** . . . . . . . . 8/5/26
Rules of procedure and practice before the administrative hearings division; procedure for contested cases involving permits to carry weapons and acquire firearms, adopt ch 10; rescind ch 11 Filed **ARC 0462D** . . . . . . . . 8/5/26
Iowa code of administrative judicial conduct, ch 15 Filed **ARC 0463D** . . . . . . . . 8/5/26
Administrative electronic document management system, ch 16 Filed **ARC 0464D** . . . . . . . . 8/5/26
Physicians, acupuncturists—special license and foreign-trained provisional license testing options, 653.4, 653.6, 656.3(1)"c"(2) Filed **ARC 0465D** . . . . . . . . 8/5/26
Occupational therapists and occupational therapy assistants—occupational therapy licensure compact, 804.1, 804.2, 804.4 to 804.10 Filed **ARC 0501D** . . . . . . . . 8/19/26
Funeral directors, funeral establishments, and cremation establishments—practice, licensure, amendments to chs 900, 901 Filed **ARC 0466D** . . . . . . . . 8/5/26
Appraisal management companies, ch 2050 Notice **ARC 0457D** . . . . . . . . 8/5/26

**PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]**
Agency realignment, rescind chs 1 to 4, 9, 11, 13, 16, 17 Filed **ARC 0502D** . . . . . . . . 8/19/26

**PUBLIC DEFENSE DEPARTMENT[601]**
Public records and fair information practices, rescind ch 2; adopt ch 2505 Notice **ARC 0475D** Filed Emergency **ARC 0476D** . . . . . . . . 8/5/26

**PUBLIC HEALTH DEPARTMENT[641]**
State-funded family medicine obstetrics fellowship program; medical residency training state matching grants program; center for rural health and primary care; Iowa needs nurses now infrastructure account, rescind chs 106, 108, 110, 111 Filed **ARC 0467D** . . . . . . . . 8/5/26

**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**
Organization and procedures, ch 1 Filed **ARC 0468D** . . . . . . . . 8/5/26
County commission of veteran affairs fund and training program, ch 7 Filed **ARC 0469D** . . . . . . . . 8/5/26
Injured veterans grant program, ch 11 Filed **ARC 0470D** . . . . . . . . 8/5/26

**VOLUNTEER SERVICE, IOWA COMMISSION ON[817]**
Organization and operation, ch 1 Filed **ARC 0471D** . . . . . . . . 8/5/26
Red tape review, rescind chs 8 to 12 Filed **ARC 0472D** . . . . . . . . 8/5/26
Future ready Iowa volunteer mentor program, ch 13 Filed **ARC 0473D** . . . . . . . . 8/5/26
Iowa national service corps program, ch 14 Filed **ARC 0474D** . . . . . . . . 8/5/26

# ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular, statutory meetings are held 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.

Senator Kara Warme
Chair
Senate District 26

Senator Mike Bousselot
Senate District 21

Senator Dan Dawson
Senate District 10

Senator Janet Petersen
Senate District 18

Senator Cindy Winckler
Senate District 49

Representative Chad Ingels
Vice Chair
House District 68

Representative Austin Harris
House District 26

Representative Joshua Meggers
House District 54

Representative Amy Nielsen
House District 85

Representative Rick Olson
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Governor's Ex Officio Representative
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## Schedule for Rulemaking—2026

| REGULATORY ANALYSIS SUBMISSION DEADLINE | REGULATORY ANALYSIS PUB. DATE | HEARING AND COMMENTS 20 DAYS | FIRST † POSSIBLE NOTICE SUBMISSION DEADLINE | NOTICE PUB. DATE | HEARING AND COMMENTS 20 DAYS | FIRST POSSIBLE ADOPTION DATE 35 DAYS | FIRST POSSIBLE ADOPTED FILING SUBMISSION DEADLINE | ADOPTED PUB. DATE | FIRST POSSIBLE EFFECTIVE DATE 35 DAYS | FIRST POSSIBLE EXPIRATION OF NOTICE 180 DAYS |
|---|---|---|---|---|---|---|---|---|---|---|
| **Dec. 17 ’25** | Jan. 7 | Jan. 27 | Jan. 29 | Feb. 18 | Mar. 10 | Mar. 25 | Mar. 26 | Apr. 15 | May 20 | Aug. 17 |
| **Dec. 31 ’25** | Jan. 21 | Feb. 10 | Feb. 12 | Mar. 4 | Mar. 24 | Apr. 8 | Apr. 9 | Apr. 29 | June 3 | Aug. 31 |
| Jan. 15 | Feb. 4 | Feb. 24 | Feb. 26 | Mar. 18 | Apr. 7 | Apr. 22 | Apr. 23 | May 13 | June 17 | Sep. 14 |
| Jan. 29 | Feb. 18 | Mar. 10 | Mar. 12 | Apr. 1 | Apr. 21 | May 6 | **May 6** | May 27 | July 1 | Sep. 28 |
| Feb. 12 | Mar. 4 | Mar. 24 | Mar. 26 | Apr. 15 | May 5 | May 20 | May 21 | June 10 | July 15 | Oct. 12 |
| Feb. 26 | Mar. 18 | Apr. 7 | Apr. 9 | Apr. 29 | May 19 | June 3 | June 4 | June 24 | July 29 | Oct. 26 |
| Mar. 12 | Apr. 1 | Apr. 21 | Apr. 23 | May 13 | June 2 | June 17 | **June 17** | July 8 | Aug. 12 | Nov. 9 |
| Mar. 26 | Apr. 15 | May 5 | **May 6** | May 27 | June 16 | July 1 | July 2 | July 22 | Aug. 26 | Nov. 23 |
| Apr. 9 | Apr. 29 | May 19 | May 21 | June 10 | June 30 | July 15 | July 16 | Aug. 5 | Sep. 9 | Dec. 7 |
| Apr. 23 | May 13 | June 2 | June 4 | June 24 | July 14 | July 29 | July 30 | Aug. 19 | Sep. 23 | Dec. 21 |
| **May 6** | May 27 | June 16 | **June 17** | July 8 | July 28 | Aug. 12 | Aug. 13 | Sep. 2 | Oct. 7 | Jan. 4 ’27 |
| May 21 | June 10 | June 30 | July 2 | July 22 | Aug. 11 | Aug. 26 | **Aug. 26** | Sep. 16 | Oct. 21 | Jan. 18 ’27 |
| June 4 | June 24 | July 14 | July 16 | Aug. 5 | Aug. 25 | Sep. 9 | Sep. 10 | Sep. 30 | Nov. 4 | Feb. 1 ’27 |
| **June 17** | July 8 | July 28 | July 30 | Aug. 19 | Sep. 8 | Sep. 23 | Sep. 24 | Oct. 14 | Nov. 18 | Feb. 15 ’27 |
| July 2 | July 22 | Aug. 11 | Aug. 13 | Sep. 2 | Sep. 22 | Oct. 7 | Oct. 8 | Oct. 28 | Dec. 2 | Mar. 1 ’27 |
| July 16 | Aug. 5 | Aug. 25 | **Aug. 26** | Sep. 16 | Oct. 6 | Oct. 21 | **Oct. 21** | Nov. 11 | Dec. 16 | Mar. 15 ’27 |
| July 30 | Aug. 19 | Sep. 8 | Sep. 10 | Sep. 30 | Oct. 20 | Nov. 4 | **Nov. 4** | Nov. 25 | Dec. 30 | Mar. 29 ’27 |
| Aug. 13 | Sep. 2 | Sep. 22 | Sep. 24 | Oct. 14 | Nov. 3 | Nov. 18 | **Nov. 18** | Dec. 9 | Jan. 13 ’27 | Apr. 12 ’27 |
| **Aug. 26** | Sep. 16 | Oct. 6 | Oct. 8 | Oct. 28 | Nov. 17 | Dec. 2 | **Dec. 2** | Dec. 23 | Jan. 27 ’27 | Apr. 26 ’27 |
| Sep. 10 | Sep. 30 | Oct. 20 | **Oct. 21** | Nov. 11 | Dec. 1 | Dec. 16 | **Dec. 16** | Jan. 6 ’27 | Feb. 10 ’27 | May 10 ’27 |
| Sep. 24 | Oct. 14 | Nov. 3 | **Nov. 4** | Nov. 25 | Dec. 15 | Dec. 30 | **Dec. 30** | Jan. 20 ’27 | Feb. 24 ’27 | May 24 ’27 |
| Oct. 8 | Oct. 28 | Nov. 17 | **Nov. 18** | Dec. 9 | Dec. 29 | Jan. 13 ’27 | Jan. 14 ’27 | Feb. 3 ’27 | Mar. 10 ’27 | June 7 ’27 |
| **Oct. 21** | Nov. 11 | Dec. 1 | **Dec. 2** | Dec. 23 | Jan. 12 ’27 | Jan. 27 ’27 | Jan. 28 ’27 | Feb. 17 ’27 | Mar. 24 ’27 | June 21 ’27 |
| **Nov. 4** | Nov. 25 | Dec. 15 | **Dec. 16** | Jan. 6 ’27 | Jan. 26 ’27 | Feb. 10 ’27 | Feb. 11 ’27 | Mar. 3 ’27 | Apr. 7 ’27 | July 5 ’27 |
| **Nov. 18** | Dec. 9 | Dec. 29 | **Dec. 30** | Jan. 20 ’27 | Feb. 9 ’27 | Feb. 24 ’27 | Feb. 25 ’27 | Mar. 17 ’27 | Apr. 21 ’27 | July 19 ’27 |
| **Dec. 2** | Dec. 23 | Jan. 12 ’27 | Jan. 14 ’27 | Feb. 3 ’27 | Feb. 23 ’27 | Mar. 10 ’27 | Mar. 11 ’27 | Mar. 31 ’27 | May 5 ’27 | Aug. 2 ’27 |
| **Dec. 16** | Jan. 6 ’27 | Jan. 26 ’27 | Jan. 28 ’27 | Feb. 17 ’27 | Mar. 9 ’27 | Mar. 24 ’27 | Mar. 25 ’27 | Apr. 14 ’27 | May 19 ’27 | Aug. 16 ’27 |
| **Dec. 30** | Jan. 20 ’27 | Feb. 9 ’27 | Feb. 11 ’27 | Mar. 3 ’27 | Mar. 23 ’27 | Apr. 7 ’27 | Apr. 8 ’27 | Apr. 28 ’27 | June 2 ’27 | Aug. 30 ’27 |

**PLEASE NOTE:**

Rules will not be accepted by the Publications Editing Office after **12:00 p.m. noon** on a submission deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor. If the submission deadline falls on a legal holiday, submissions made on the following business day will be accepted.

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more business days in advance of the deadline. The first possible Notice submission deadline noted above may not allow sufficient time for this. **Agencies should plan accordingly.**

**Bold and asterisks indicate change of regular submission deadline**

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.

ADMINISTRATIVE RULES COORDINATOR[7]
ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
  Soil Conservation and Water Quality Division[27]
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LIVESTOCK HEALTH ADVISORY COUNCIL[521]
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  Natural Resource Commission[571]

**RA 26-221**

# CORRECTIONS DEPARTMENT[201]

**Regulatory Analysis**

Notice of Intended Action to be published: 201—Chapter 1
"Departmental Organization and Procedures"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 904.103
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 904

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>10:30 to 11:30 a.m. | Via Google Meet<br>meet.google.com/ikd-tecb-vuh<br>Or dial: 1.317.469.9645<br>PIN: 984 771 251# |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Corrections no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Jen Rathje
Iowa Department of Corrections
Jessie Parker State Office Building
510 East 12th Street
Des Moines, Iowa 50319
Phone: 515.802.0898
Email: jen.rathje1@iowa.gov

*Purpose and Summary*

This proposed rulemaking rescinds and replaces Chapter 1 with revised administrative rules to satisfy the requirements of Executive Order 10. The purpose of Chapter 1 is to provide the public with a clear, accessible overview of the Department's organizational structure, mission, and central contact protocols.

Pursuant to Executive Order 10, the Department conducted a comprehensive review of this chapter to eliminate restrictive terms, obsolete rules, and language that duplicates State statutes. Specifically, this rulemaking:

- Updates the description of the Board of Corrections to align its function with the statutory changes mandated by 2024 Iowa Acts, chapter 1182 (House File 2686).
- Consolidates and streamlines public contact paths.
- Deletes granular internal staff responsibilities and specific facility contact metrics that are more accurately maintained on the Department's active website, thereby preventing the rules from becoming instantly obsolete.
- Eliminates redundant text regarding topics that are already comprehensively governed by Iowa Code chapters 21 and 904.

The result is a streamlined chapter that maintains essential public transparency while ensuring alignment with provisions of the Iowa Code.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

No classes of persons will bear any costs from this proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

The general public, Department stakeholders, and individuals interacting with the Department will benefit from the increased clarity, streamlined communication channels, and updated statutory references provided by this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no known quantitative or financial impact.

- **Qualitative description of impact:**

There is no known qualitative impact.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no additional implementation or enforcement costs borne by the Department or any other agency because these updates align administrative rules with current agency practices.

- **Anticipated effect on State revenues:**

There is no effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The benefit of the proposed rulemaking is an accurate, streamlined, and legally compliant chapter that satisfies Executive Order 10 at no additional cost. Inaction is not permissible.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

No less costly or less intrusive methods exist. Rulemaking is the legally required method to maintain an administrative framework that complies with the Iowa Code and the mandates of Executive Order 10.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Alternative methods were not considered because formal rulemaking is required to bring the chapter into compliance with Executive Order 10 directives.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

This proposed rulemaking has no impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 201—Chapter 1 and adopt the following **new** chapter in lieu thereof:

TITLE I
*GENERAL DEPARTMENTAL PROCEDURES*

CHAPTER 1
DEPARTMENTAL ORGANIZATION AND PROCEDURES

**201—1.1(904) Title I definitions.**

*"Department"* means the department of corrections.

*"Director"* means the director of the department of corrections.

*"District department"* means the same as defined in Iowa Code section 904.101(7).

**201—1.2(904) Mission and function.**

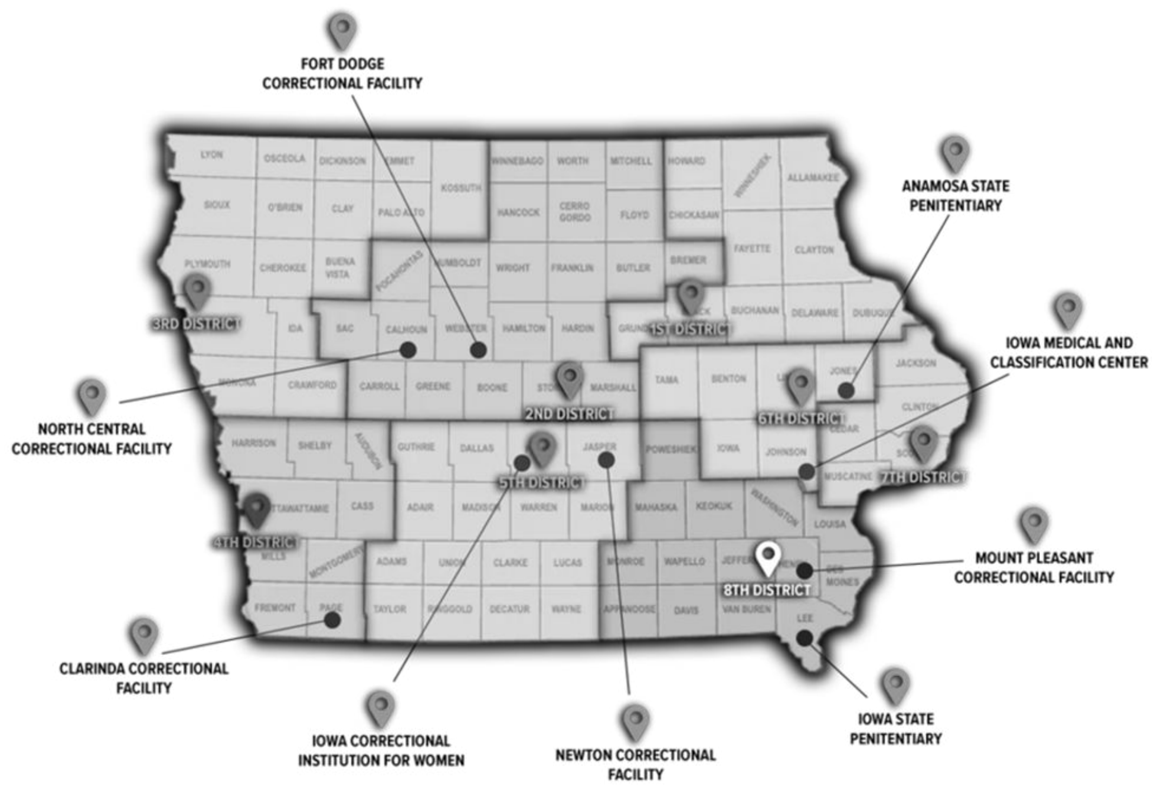
**1.2(1)** The department is established by Iowa Code chapter 904 and consists of an advisory board, a director and areas of responsibility.

**1.2(2)** The mission of the department is creating opportunities for safer communities.

**201—1.3(904) Offices.**

**1.3(1)** *Central office.* The central office for the department is located in the Jessie Parker State Office Building in the Capitol Complex in Des Moines. Its mailing address is the Department of Corrections, Jessie Parker State Office Building, 510 East 12th Street, Des Moines, Iowa 50319.

**1.3(2)** *Contact information.* Contact information for correctional institutions, district departments and other offices located outside the principal headquarters may be found on the department's website at doc.iowa.gov. The following map provides a general overview of district department and correctional institution locations.




**201—1.4(904) Public contact information.**

**1.4(1)** Information regarding department offices and methods for contacting the department are available on the department's website.

**1.4(2)** Public records requests shall be submitted in accordance with 201—Chapter 2505.

**201—1.5(904) Board of corrections.**

**1.5(1)** The director of the department has, by statute, the advice and counsel of the board of corrections. This seven-member board is appointed by the governor with confirmation by the senate, and its powers and duties are advisory with respect to the services and programs operated by the department.

**1.5(2)** The board will oversee the work of the department as defined in Iowa Code section 904.105 and, for this purpose, will have access at any time to all books, papers, documents, and records of the department.

**1.5(3)** Meetings of the board and any committees appointed by the chairperson will be conducted in accordance with Iowa Code chapter 21. The chairperson may appoint committees as necessary to conduct the business of the board.

**1.5(4)** A quorum shall consist of two-thirds of the membership appointed and qualified to vote.

**1.5(5)** When a quorum is present, a position is carried by a majority of the qualified members of the board.

**1.5(6)** Persons wishing to appear before the board shall submit their request to the department office not less than ten days prior to the meeting. Presentations may be made at the discretion of the chairperson and only upon matters appearing on the agenda.

**1.5(7)** Persons wishing to submit written material should do so at least ten days in advance of the scheduled meeting to ensure that board members have adequate time to receive and evaluate the material.

**201—1.6(904) Director.**

**1.6(1)** The governor appoints the director of the department. The director is responsible for the daily administration of the department.

**1.6(2)** The appointment, qualifications, and duties of the director are mandated in Iowa Code sections 904.107 and 904.108 and other applicable provisions of the Iowa Code.

**201—1.7(904) Organization of the department.** The department is established by Iowa Code section 904.102 to perform the functions and duties set forth in that section, in Iowa Code section 904.103, in other applicable provisions of the Iowa Code, and in the Iowa Administrative Code.

These rules are intended to implement Iowa Code sections 904.101 through 904.108.

**RA 26-222**

# CORRECTIONS DEPARTMENT[201]

**Regulatory Analysis**

Notice of Intended Action to be published: 201—Chapter 20
"Institutions Administration"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 904.103, 904.108, 904.310A, 904.320, 904.506, and 904.910

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 904, 910, and 915 and sections 2C.14 and 80A.2

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>10:30 to 11:30 a.m. | Via Google Meet:<br>meet.google.com/ikd-tecb-vuh<br>Or dial: 1.317.469.9645<br>PIN: 984 771 251# |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Corrections no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Jen Rathje
Iowa Department of Corrections
Jessie Parker State Office Building
510 East 12th Street
Des Moines, Iowa 50319
Phone: 515.802.0898
Email: jen.rathje1@iowa.gov

*Purpose and Summary*

Pursuant to Executive Order 10, the Department proposes to rescind Chapter 20 and adopt a new chapter with revisions. This new chapter consolidates public engagement frameworks while providing necessary public transparency regarding public-facing systems such as facility visitation, correspondence, publications, fiduciary transactions, and victim notification. This proposed rulemaking eliminates language that is overly restrictive or duplicative of State statutes, removes historical placeholders, and removes an obsolete rule regarding outdated federal parameters.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

No classes of persons will bear any additional costs from this proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

The general public, Department stakeholders, crime victims, and individuals interacting with incarcerated individuals will benefit from the clarity provided by this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no known quantitative or financial impact.

- **Qualitative description of impact:**

There is no known qualitative impact.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no additional implementation or enforcement costs borne by the Department or any other agency because these updates align administrative rules with current agency practices.

- **Anticipated effect on State revenues:**

There is no effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Given the directive under Executive Order 10, inaction is not permissible. The benefit of the proposed rulemaking is a legally compliant chapter that removes obsolete or redundant text at no additional cost.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

No less costly or less intrusive methods exist. Rulemaking is the legally required method to maintain an administrative framework that complies with the Iowa Code and the mandates of Executive Order 10.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Alternative methods were not considered because formal rulemaking is required to bring the chapter into compliance with Executive Order 10 directives.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

This proposed rulemaking has no impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 201—Chapter 20 and adopt the following **new** chapter in lieu thereof:

TITLE II
*INSTITUTIONS*

# CHAPTER 20
# INSTITUTIONS ADMINISTRATION

**201—20.1(904) Application of rules.** The rules in this chapter apply to all adult correctional institutions outlined in Iowa Code section 904.102 unless otherwise stated.

This rule is intended to implement Iowa Code section 904.102.

**201—20.2(904) Title II definitions.**

*"Commercially published information or material"* means any book, booklet, pamphlet, magazine, periodical, newsletter, photograph or other pictorial depiction, or similar document, including stationery and greeting cards, published by any individual, organization, company, or corporation, that is distributed or made available through any means or media for commercial purposes. This definition includes any portion extracted, photocopied, or clipped from such items.

*"Contraband"* means weapons; alcohol; drugs; money; obscene materials; or materials advocating disruption of or injury to incarcerated individuals, employees, programs, or physical facilities. Contraband shall also include anything that is illegal to possess under federal or state law; anything that is against institutional regulations; drugs or alcohol or materials that are used in the production or use of drugs or alcohol or weapons, explosives, or potential weapons and explosives; and altered authorized property. "Contraband" also includes possession or use of any prohibited communication device.

*"Department"* means the Iowa department of corrections.

*"Features"* means that the publication contains depictions of nudity or sexually explicit conduct on a routine or regular basis or promotes itself based upon such depictions in the case of individual one-time issues. Publications containing nudity illustrative of medical, educational, or anthropological content may be excluded from this definition.

*"Furlough"* means any temporary release from custody as granted in accordance with Iowa Code section 904.108(2).

*"Furlough residence"* means any private dwelling, apartment, house, mobile home park, hotel, motel or community dwelling place.

*"Immediate family"* means an incarcerated individual's spouse, mother, father, sister, brother, child, grandparent, established legal guardian or other who acted in place of parents, and step- or half-relation if the step- or half-relation and the incarcerated individual were raised as cohabiting siblings.

For the purpose of visitation, all of the above will be included as immediate family provided a positive relationship exists. Immediate family members may be subject to criminal background investigation.

*"Medical practitioner"* means medical doctor, osteopathic physician or physician associate employed by the department.

*"Nudity"* means a pictorial depiction where genitalia or female breasts are exposed. When the pictorial depiction of the female breast displays the areola or nipple, this material will be rejected.

*"Obscene material"* means the same as that described in subrule 20.6(5).

*"Plan of payment"* means the method by which the incarcerated individual is to make restitution. The plan may include legal financial obligations. The plan is to reflect the incarcerated individual's present circumstances, such as income, physical and mental health, education, employment and family circumstances.

*"Plan of restitution"* means a plan stating the amount of restitution as set by the court.

*"Publication"* means a book, booklet, pamphlet, or similar document, or a single issue of a magazine, periodical, newsletter, newspaper, plus such other materials addressed to a specific incarcerated individual, such as catalogs.

*"Sexually explicit"* means a pictorial depiction of actual or simulated sexual acts including sexual intercourse, oral sex, or masturbation. Sexually explicit material does not include material of a news or information type. Publications concerning research or opinions on sexual, health, or reproductive issues should be admitted unless the publications are otherwise a threat to legitimate institutional interests.

This rule is intended to implement Iowa Code section 904.108(1)*"k."*

**201—20.3(904) Visits to incarcerated individuals.** Visiting is a privilege that allows incarcerated individuals to maintain and strengthen relationships with family members and friends. Though visits are encouraged, institutions' space, schedules, personnel constraints, treatment considerations, or other safety and security issues of the institutions and their operations may result in limiting the number and length of visits. Visitation is additionally governed by the provisions of department policy OP-MTV-04.

**20.3(1)** Incarcerated individuals will be provided information on the structured visiting process during orientation to the institution and are responsible to communicate visiting procedures to potential visitors.

**20.3(2)** The visiting application and information pertaining to the visitation of incarcerated individuals are available on the department's website at doc.iowa.gov. Visitor applications may also be provided to the incarcerated individual at each institution to be mailed by the incarcerated individual to potential visitors.

This rule is intended to implement Iowa Code section 904.512.

**201—20.4(2C,904) Mail.** Constructive, unlimited correspondence with family, friends, and community sources will be encouraged and facilitated. Incarcerated individuals have the responsibility in the use of correspondence to be truthful and honest. Institutions have the responsibility to maintain a safe, secure, and orderly procedure for use of the mail by an incarcerated individual.

**20.4(1)** *Nonconfidential.*

*a.* In an effort to maintain proper security measures, mail may be monitored and read on a random basis.

*b.* All nonconfidential mail will be inspected for contraband and processed through a central processing facility.

**20.4(2)** *Confidential.*

*a.* Confidential mail will not be read or censored.

*b.* Confidential mail will be delivered unopened and then, in the presence of the incarcerated individual, will be opened and inspected for contraband and to ensure that the contents are from the return addressee.

*c.* Confidential mail may be read only after a finding of probable cause by a court of competent jurisdiction that a threat to the order and security of the institution or abuse of correspondence exists.

*d.* The incarcerated individual receiving confidential mail will be directed to photocopy each page using the designated copier under direct supervision of a staff person. Upon completion of copying each page, the incarcerated individual will check to verify that all original documents have been copied appropriately.

*e.* The incarcerated individual will choose to have the original documents either sent out at the incarcerated individual's expense or destroyed by shredding in the presence of the incarcerated individual.

*f.* Pursuant to Iowa Code chapter 2C, mail addressed to and received from the ombudsman office will be delivered unopened.

**20.4(3)** *General.*

*a.* Mail is additionally governed by the provisions of department policy OP-MTV-01.

*b.* Information on how to correspond with an incarcerated individual is available on the department's website at doc.iowa.gov.

*c.* Misuse of mails will result in institution discipline and be reported to the United States Postal Inspector or other state or federal agencies for action.

This rule is intended to implement Iowa Code sections 2C.14 and 904.108(1)*"k."*

**201—20.5(904) Money orders, cashier's checks, and electronic funds transfers for incarcerated individuals.** A person may deposit funds in an incarcerated individual's account by money order, cashier's check, or electronic funds transfer unless the person is the protected party of an active no contact order. Personal checks and cash will not be accepted. Only money orders and cashier's checks will be accepted for deposit into an incarcerated individual's account by mail. Money orders and cashier's checks must be made payable to the Iowa Department of Corrections Offender Fiduciary Account (IDOC OFA); must be sent to Fort Dodge Correctional Facility, 1550 L Street, Suite B, Fort Dodge, Iowa 50501; and must include the incarcerated individual's name and ID number and the sender's name and complete address. Funds will also be accepted via electronic funds transfers from authorized vendors. An incarcerated individual's suspected abuse of requests for money from the public may be cause for limits or restrictions on the amounts of money that can be received and from whom money can be received.

This rule is intended to implement Iowa Code section 904.506.

**201—20.6(904) Publications.**

**20.6(1)** The institution will allow incarcerated individuals access to publications when doing so is consistent with institutional goals of maintaining internal order, safety, security, and rehabilitation. Publications are additionally governed by the provisions of department policy OP-MTV-02.

**20.6(2)** Publications include any periodical, newspaper, book, pamphlet, magazine, newsletter, or similar material published by any individual, organization, company, or corporation and made available for a commercial purpose. Publications may be purchased by a third party or an incarcerated individual and shall be unused and sent directly from an approved publisher or bookstore that does mail order business. Any exceptions must be authorized by the warden. No publication will be denied solely on the basis of its appeal to a particular ethnic, racial, religious, or political group. The quantity of printed materials, as with other personal property, shall be controlled for safety and security reasons.

**20.6(3)** All publications not on the approved list will be reviewed by a publication review committee for approval or denial.

*a.* The committee will be appointed by the director of the department or the director's designee and include:

(1) A person with broad exposure to various publications.

(2) Two representatives of correctional operations.

*b.* The committee will fairly review all types of publications to be received by incarcerated individuals in accordance with these rules.

**20.6(4)** The following procedures will be used when a publication not on the approved list is reviewed:

*a.* The committee will approve or deny publications within 30 working days of receipt of the publication.

*b.* When a publication is denied, the committee will send the incarcerated individual a written notice stating the publication involved, the reason for denial, and the incarcerated individual's available appeal process.

*c.* The incarcerated individual will have ten days from receipt of the notice of denial to notify the designated institution staff to destroy the publication, to specify where to send the publication at the incarcerated individual's expense, or to notify the institution that the decision is being appealed.

*d.* A list of approved publications will be maintained.

**20.6(5)** A publication may be denied when the publication presents a danger to the security or order of an institution or is inconsistent with rehabilitation goals. Authorized reasons for denying a publication are that the publication:

*a.* Is likely to be disruptive or produce violence.

*b.* Contains material that portrays or simulates a minor (any person 17 years of age or younger) engaged in or simulating any act that is sexual in nature.

*c.* Contains lewd exhibition of the genitals or material that is sexually explicit or features nudity.

*d.* Contains information relating to escapes or formulating escape plans.

*e.* Contains information relating to provoking a riot or disturbance.

*f.* Contains information relating to obtaining an emotional or behavioral state comparable to those produced by a controlled substance, by using aerosols, glue, or other chemical materials.

*g.* Contains materials that illustrate, explain, describe, or teach martial arts, or other manufacture of weapons or explosives, or advocate behavior contrary to duly established institution rules or Iowa statutes. Contains materials that illustrate, explain, describe, or teach ability to frustrate crowd or riot control methods. Contains materials that illustrate, explain, describe, or teach ability to sabotage or disrupt communications networks, including a prison's internal and external communications and automated information systems.

*h.* Contains information concerning criminal activities.

*i.* Contains encoded material. This will not automatically include foreign language publications not otherwise prohibited in these rules.

*j.* May violate postal regulations, such as threats, blackmail, contraband, or similar violations.

*k.* Is a catalog or other publication whose purpose is primarily or significantly to sell items or materials that are expressly prohibited inside any of the department institutions. The warden can make exceptions for materials that serve reentry efforts.

This rule is intended to implement Iowa Code sections 904.108(1)*"k"* and 904.310A.

**201—20.7(904) Interviews and statements.**

**20.7(1)** When incarcerated individuals are selected to be interviewed and photographed within the institution, either individually or as part of a group, identifiable interviews or pictures will have the written consent of the incarcerated individual involved as well as prior consent of the warden or designee, and the department chief of staff.

**20.7(2)** The warden is responsible for all communications with mass media after consultation and approval by the department chief of staff.

This rule is intended to implement Iowa Code section 904.108(1)*"k."*

**201—20.8(904) Guests of institution.** Persons wishing to visit the institution are to give prior notice of their intended visit and receive approval for the visit. The prior notice and approval may be waived by the warden or designee for emergencies.

**20.8(1)** Any guest must agree to comply with the policy and procedures of the institution when signing in at the control center.

**20.8(2)** Persons under 18 years of age may only visit with prior approval of the warden or designee and shall be accompanied by a responsible adult. An adult shall be in charge of no more than four children. Persons under 18 years of age shall not be allowed to make institutional tours of maximum security prisons.

**20.8(3)** Guests will be escorted by a staff member. Any exception will have prior approval of the warden or designee.

**20.8(4)** Guests will be allowed personal contact with an incarcerated individual only when it serves the best interests of the incarcerated individual as determined by the warden or designee.

**20.8(5)** All contacts with incarcerated individuals will be absent of any encouragement, support, or suggestion of activity that would bring disorder to the institution.

This rule is intended to implement Iowa Code sections 904.108(1)*"k"* and 904.512.

**201—20.9(904) Donations.** Donations of money, books, games, recreation equipment or other such gifts will be made directly to the warden or the warden's designee. The warden or the warden's designee will evaluate the donation in terms of the nature of the contribution to the institution program. The warden or the warden's designee is responsible for accepting the donation and reporting the gift to the deputy director of institutional operations on a monthly basis.

This rule is intended to implement Iowa Code section 904.113.

**201—20.10(904) Incarceration fees.** The director may charge incarcerated individuals an incarceration fee pursuant to Iowa Code section 904.108.

This rule is intended to implement Iowa Code section 904.108(6).

**201—20.11(904,910) Restitution.**

**20.11(1)** Every incarcerated individual required by a court order to pay restitution will have a restitution plan and a restitution plan of payment developed, unless a court-ordered restitution plan has been completed.

**20.11(2)** The restitution plan of payment will consider the present circumstances of an incarcerated individual's physical/mental health and other legal financial obligations.

**20.11(3)** The deputy director of institutions will ensure that there are written procedures governing the development and modification of each restitution plan and plan of payment.

**20.11(4)** Each incarcerated individual will be given a Predeprivation Notice: Notice of Intent to Deduct Restitution From All Account Credits and Notice of Opportunity to Respond during initial reception following admission to the Iowa medical and classification center (IMCC) or the Iowa correctional institution for women (ICIW).

**20.11(5)** Initial complaints by incarcerated individuals regarding restitution plans of payment or modifications may be addressed via the grievance procedure for incarcerated individuals.

**20.11(6)** Each incarcerated individual will receive a copy of the restitution plan of payment.

**20.11(7)** Restitution payments will be deducted from all credits to an incarcerated individual's account. Up to 50 percent may be deducted. The following are exempt for deductions from credits to an incarcerated individual's account from an outside source:

*a.* An amount, assessed by the warden or designee, specifically for medical costs. The same percent as established in the restitution plan will be deducted from any amount over the total amount assessed. If the medical procedures are not performed or carried out, the money will be returned to the sender at the incarcerated individual's expense.

*b.* An amount, assessed by the warden or designee, specifically for the cost of a funeral trip. The same percent as established in the restitution plan will be deducted from any amount over the total amount assessed.

*c.* An amount as assessed by the appropriate authority specifically for transportation fees as a result of work release/OWI violations or compact transfers. The same percent as established in the restitution plan will be deducted from any amount over the total amount assessed.

*d.* Refunds from outside vendors or institution commissaries.

*e.* Property tort claims.

*f.* Any other exception approved by the warden or designee.

**20.11(8)** Restitution deductions will be forwarded to the clerk of court in the county of commitment on a quarterly basis.

**20.11(9)** When the department has knowledge of other income or assets, the district court clerk of the sentencing county will be notified.

**20.11(10)** A percent greater than that established in the restitution plan of payment may be deducted from a credit to an incarcerated individual's account by authorization of either the incarcerated individual or the warden or designee or by court order.

**20.11(11)** The restitution plan of payment may be modified through each level of commitment. (This includes preinstitutional services and postinstitutional services.)

This rule is intended to implement Iowa Code chapter 904 and sections 910.2, 910.3 and 910.5.

**201—20.12(904) Furloughs.**

**20.12(1)** Furloughs are a privilege, not a right, and may be denied or canceled at any time for reasons deemed sufficient by the warden. Reasons for denial or cancellation will be given to the incarcerated individual.

**20.12(2)** Emergency family furlough will be considered in the event of a death or imminent death in the immediate family.

**20.12(3)** Emergency medical furlough is for those incarcerated individuals whose medical condition has deteriorated to the point of incapacitation or to a comatose state.

**20.12(4)** Both emergency family furloughs and emergency medical furloughs will have approval of the warden and the deputy director of institutional operations.

**20.12(5)** Furloughs are additionally governed by the provisions of the department's furlough policy IS-RL-04.

This rule is intended to implement Iowa Code section 904.108(2).

**201—20.13(904) Board of parole interviews.** Each institution provides space for the conduct of interviews between the Iowa board of parole and institutional incarcerated individuals.

**20.13(1)** All board of parole interviews and case reviews are conducted virtually and closed to in-person attendance.

*a.* Members of the public may listen to hearings online; instructions for access are on the board of parole website at bop.iowa.gov.

*b.* Registered victims may participate in a hearing online and should coordinate with the board of parole victim liaison prior to the proceeding.

**20.13(2)** Interviews may be temporarily modified or suspended in the following circumstances: riot, disturbance, fire, labor dispute, space restriction, natural disaster, or other extreme emergency.

**20.13(3)** Rules governing conduct at the hearings as required by the board of parole are contained in the board's administrative rules under agency number [205].

**20.13(4)** Provisions that apply to registered victims are found in subrule 20.15(7).

This rule is intended to implement Iowa Code sections 904.102 and 904.103.

**201—20.14(80A) Transportation for incarcerated individuals.**

**20.14(1)** Companies under contract to county or state agencies to transport Iowa incarcerated individuals must meet the requirements of this rule to qualify for exemption under Iowa Code section 80A.2.

**20.14(2)** To comply with the exemption in Iowa Code section 80A.2, the following requirements shall apply:

*a.* Companies contracting with any jurisdiction/agency within the state of Iowa will provide, upon request, training and compliance with policy standards governing weapons, security, transportation, and management procedures for incarcerated individuals essential to accomplishing safe and secure movement of incarcerated individuals.

*b.* Companies contracting to provide transportation for incarcerated individuals with a jurisdiction/agency within the state of Iowa will provide proof of insurance coverage including but not limited to comprehensive general liability, automobile liability, workers' compensation insurance, all inclusive policies, general liability, and errors or omissions.

*c.* Companies contracting with any jurisdiction/agency within the state of Iowa will provide the names, dates of birth, and social security numbers of all transportation personnel for criminal history checks.

*d.* All transporting personnel will possess appropriate and valid driver's licenses as required by the regulatory agencies.

*e.* All transporting vehicles will be licensed under the appropriate Interstate Commerce Commission (ICC) regulations and the state where the vehicle is registered.

*f.* All transmitting/receiving radios and communication equipment will comply with Federal Communications Commission (FCC) regulations.

*g.* This exemption applies only to transportation companies for incarcerated individuals. This exemption does not provide exemption for any other part of this statute.

This rule is intended to implement Iowa Code sections 80A.2 and 904.320.

**201—20.15(915) Victim notification.**

**20.15(1)** Definitions.

*"Notification"* means the same as defined in Iowa Code section 915.10(1).

*"Registered"* means having provided the appropriate office, agency, or department with the victim's written request for notification and current mailing address and telephone number.

*"Victim"* means a person who has suffered physical, emotional, or financial harm as the result of a public offense, other than a simple misdemeanor, committed in this state. The term also includes the immediate family members of a victim who died or was rendered incompetent as a result of the offense or who was under 18 years of age at the time of the offense.

*"Violent crime"* means the same as defined in Iowa Code section 915.10(5).

**20.15(2)** Victims may become registered with the department, which entitles the victim to be notified of changes in an incarcerated individual's status as outlined in Iowa Code sections 915.17 and 915.17A.

**20.15(3)** A victim will become registered upon official request by the county attorney to the director of the department or the director's designee.

**20.15(4)** Assistance for registering may be obtained through the county attorney or by contacting the department's office of victim programs at 800.778.1182.

**20.15(5)** All information with regard to a registered victim will be kept confidential.

**20.15(6)** A registered victim is responsible for notifying the department of address or telephone changes.

**20.15(7)** Registered victims of the board of parole may attend hearings in accordance with procedures established by the board of parole pursuant to Iowa Code section 915.18. Information on this process may be accessed on the board of parole website at bop.iowa.gov.

This rule is intended to implement Iowa Code chapter 915.

**201—20.16(904) Institutional community placement.**

**20.16(1)** *Home care program.* This program allows for selected incarcerated individuals to be released from institutional confinement for a set period of time for the purpose of caring for the incarcerated individual's immediate family. Release may be to a community correction residential facility/halfway house or to the incarcerated individual's home, the home of an immediate family member, or other approved arrangements, provided the living environment is suitable to institutional requirements. Release may be for a set number of hours or days as appropriate.

*a.* *Eligibility criteria.*

(1) The incarcerated individual must be the natural parent or legal guardian of the child(ren).

(2) The incarcerated individual must show cause that this program can provide more suitable care than the present living situation of the child(ren).

(3) The child(ren) must be minor(s).

(4) The incarcerated individual must have been the primary caretaker of the child(ren) prior to incarceration.

(5) Investigating staff must be able to confirm that the incarcerated individual had satisfactorily served this care prior to incarceration.

(6) The proposed living arrangements shall provide a suitable environment for the incarcerated individual and dependents.

(7) The physical structure of the residence shall provide for adequate space; meet sanitary, health and safety requirements; and be in good repair. A functional telephone must be maintained in the residence at all times.

(8) It will be verified that the incarcerated individual, including a spouse or immediate family member living at the same residence, can and will provide adequate support toward the child, children, or other dependent. Eligibility requirements for assistance through the department of health and human services programs (FIP, food stamps, etc.) will be verified prior to final approval.

(9) It will be verified that the incarcerated individual or immediate family living at the residence can provide adequate transportation or that public transportation is available.

(10) Adequate support services (medical, psychological, educational, as well as other treatment programs) must be arranged and available to both the incarcerated individual and dependents.

(11) Dependent care for an adult member of the incarcerated individual's immediate family must include a medically documented need with periodic supervision or other approved arrangements by a health-trained professional.

*b. Requirements.*

(1) Education/employment/child care/adult dependent care. Where all dependents are involved in full-time school, participation in an educational or employment program may be required of the incarcerated individual. Where such dependents are not yet in school, child care may be considered as full-time employment.

(2) Child care/adult dependent care. Child care shall be provided in the home. Therefore, the residence will be considered as the designated place of assignment. Deviations from the same shall be reported to staff in advance.

**20.16(2)** *Work program—eligibility criteria.* This program allows for selected incarcerated individuals to be released from institutional confinement for a period of time for gainful employment in the community. The program may also include placement in a community corrections residential facility/halfway house or to the incarcerated individual's home, the home of an immediate family member, or other approved arrangements, provided the living environment is suitable to institutional requirements. Release may be for a set number of hours or days as appropriate.

*a.* The incarcerated individual must show a substantial need and interest for participation in the program.

*b.* The incarcerated individual must seek and apply for employment through established procedures of the furlough program or through institutional correspondence, telephone, or visiting procedures.

*c.* Suitable employment and verification must be obtained by staff prior to consideration.

**20.16(3)** *Educational program—eligibility criteria.* This program allows for selected incarcerated individuals to be released from institutional confinement for a period of time for educational opportunities in the community. This program may also include placement in a community corrections residential facility/halfway house or to the incarcerated individual's home, the home of an immediate family member, or other approved arrangements, provided the environment is suitable to institutional requirements. Release may be for a set number of hours or days as appropriate.

*a.* The incarcerated individual must show a substantial need and interest for participation in the program.

*b.* The incarcerated individual must seek educational opportunities and financial support through established procedures of the furlough program or through institutional correspondence, telephone, or visiting procedures (financial arrangements can only include family support or grants). Educational loans or loans of any type will not be allowed while on institutional count. Additional community corrections restriction may apply while under community supervision.

**20.16(4)** *General requirements for all three programs.*

*a.* Participation in any of these programs at any level is a privilege, not a right, of which participating incarcerated individuals are subject to and held accountable for all provisions of this policy as well as the specific program plan.

*b.* Institutional progress and recommended program participation must reflect an average or above rating.

*c.* Incarcerated individuals must be furlough-eligible in accordance with furlough eligibility standards in department policy IS-RL-04 and rule 201—20.12(904).

*d.* If applicable, community corrections residential/halfway house rules and regulations will apply, as well as institutional rules including all program plan rules.

*e.* Local authorities will be contacted to determine possible concerns (correctional services, county attorney, law enforcement).

*f.* The incarcerated individual may be required to submit to periodic or regular urinalysis testing (this procedure may be completed at any correctional institution, community corrections facility/office, or at the residence).

*g.* All activity will be monitored by community corrections staff and institutional staff as agreed.

*h.* All employment and educational earnings, less payroll deductions including education grants and expenses, will be surrendered to the residential facility/halfway house staff according to established procedures or to the institution business manager, whichever applies, according to the program plan. Employment earning deductions will be prioritized in accordance with Iowa Code section 904.905 for all levels of placement.

*i.* Contact frequency. A minimum of one home visit and one other face-to-face contact per month is required of staff. Furthermore, a sufficient number of collateral contacts will be made each month to ensure that the incarcerated individual is meeting requirements of the program plan.

*j.* Special needs. In situations where incarcerated individuals or the family have special needs, a case planning system will be incorporated to address needs, capabilities, and specific goals. Special attention shall be given to past or immediate problems.

*k.* Travel. Supervisory staff may grant permission for travel within the state. Standard policy will apply to out-of-state travel.

*l.* Temporary absence. Incarcerated individuals may temporarily leave the residence for necessary purposes such as shopping, religious services, family recreation, medical appointments, and employment as indicated on the plan.

**20.16(5)** *Application procedures.*

*a.* Applications must be made to the present institutional classification committee.

*b.* The application must contain all pertinent information and resources for the requested program.

*c.* The classification committee shall review each case considering all standards and criteria.

*d.* The classification committee's recommendation must be approved by the warden.

*e.* If approved by the warden, the recommendation and all pertinent information shall be forwarded to the institutional deputy director for final approval.

*f.* If the recommendation is approved by the institutional deputy director, the incarcerated individual must agree to abide by all rules established in the program plan, including institutional rules and community corrections rules as well as all local, state, and federal laws.

*g.* Each level of review has the authority to deny the application or to make changes in the program plan, including level of placement (i.e., institutional, residential/halfway house, home) and electronic monitoring devices.

*h.* Incarcerated individuals placed in any of these programs will not be relieved of paying restitution or any other financial obligation as required by the court or institution.

**20.16(6)** *Violations.*

*a.* Violation of any rule set forth in the program plan, including any additional rules set forth by any authority listed in this policy, may constitute the revocation of participation in either program at any level.

*b.* Revocation may also occur for improper care of children or dependents, inadequate earnings, failure to maintain employment or unacceptable employment conduct, rule violations, or failure to meet program expectations.

**20.16(7)** *Program activity.* This rule does not create any liberty interest in the incarcerated individual's continued participation in any of the programs at any level listed under this rule, and the department or its designee(s) reserves the right to revoke, suspend, or limit/restrict program activity from the listed programs for any reason, without hearing.

**20.16(8)** *Waiver of liberty interests.* As a condition for an incarcerated individual to participate in any of the programs at any level listed under this rule, the incarcerated individual must voluntarily waive any and all liberty interests to a hearing should the department exercise its right to revoke, suspend or limit/restrict program activity. This waiver must be signed prior to an incarcerated individual's acceptance into a program. The signed waiver shall remove any and all rights to due process should the department exercise its right to revoke, suspend or limit/restrict program activity.

This rule is intended to implement Iowa Code section 904.910.

**RA 26-223**

# CORRECTIONS DEPARTMENT[201]

**Regulatory Analysis**

Notice of Intended Action to be published: 201—Chapter 38
"Sex Offender Management and Treatment"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 903B.10
State or federal law(s) implemented by the rulemaking: Iowa Code chapters 692A and 903B

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>10:30 to 11:30 a.m. | Via Google Meet<br>meet.google.com/ikd-tecb-vuh<br>Or dial: 1.317.469.9645<br>PIN: 984 771 251# |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Corrections no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Jen Rathje
Iowa Department of Corrections
Jessie Parker State Office Building
510 East 12th Street
Des Moines, Iowa 50319
Phone: 515.802.0898
Email: jen.rathje1@iowa.gov

*Purpose and Summary*

This proposed rulemaking rescinds and replaces Chapter 38 to fulfill the requirements of Executive Order 10. The intended benefit of Chapter 38 is public safety through the reduction of sexual recidivism. The chapter provides the necessary clinical and administrative frameworks to manage individuals under sex offender supervision, specifically addressing electronic tracking, pharmacological intervention, or both.

Pursuant to Executive Order 10, the chapter was evaluated to realign the text with baseline regulatory drafting standards. Specifically, this rulemaking:

- Removes former rule 201—38.3(692A) (rescinded in 2010) and sequentially renumbers the subsequent rule to maintain numerical continuity.
- Removes text that duplicates provisions directly set forth in Iowa Code chapter 692A and sections 903B.10 and 915.17A.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

No classes of persons will bear any additional costs from this proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

The general public, Department stakeholders, and community corrections staff will benefit from an updated regulatory chapter that omits a previously rescinded rule and aligns directly with the Iowa Code.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no known quantitative or financial impact.

- **Qualitative description of impact:**

There is no known qualitative impact.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

No additional costs will be borne by any agency. The Department will still operate consistent with Iowa Code section 903B.10.

- **Anticipated effect on State revenues:**

There is no effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Given the directive under Executive Order 10, inaction is not permissible. The benefit of the proposed rulemaking is a legally compliant chapter that removes obsolete or redundant text at no additional cost.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

No less costly or less intrusive methods exist. Rulemaking is the legally required method to maintain an administrative framework that complies with the Iowa Code and the mandates of Executive Order 10.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Alternative methods were not considered because formal rulemaking is required to bring the chapter into compliance with Executive Order 10 directives.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking’s compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

This proposed rulemaking has no impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 201—Chapter 38 and adopt the following **new** chapter in lieu thereof:

CHAPTER 38
SEX OFFENDER MANAGEMENT AND TREATMENT

**201—38.1(692A,903B) Application.** This chapter applies to sex offender electronic monitoring and hormonal intervention therapy.

**201—38.2(692A,903B) Electronic monitoring.** It is the intent of the department of corrections that the electronic monitoring system (EMS) will be used to enhance public safety. Appropriate levels of EMS should be used to verify the location and restrict the movement of sex offenders in accordance with the provisions of Iowa Code section 692A.124(2). EMS is additionally governed by the provisions of department of corrections policies OP-SOP-06, CBC-15, and CBC-HRU-04.

**38.2(1)** *Definitions.*

*"Client"* means a person who is required to register with the Iowa sex offender registry.

*"Electronic monitoring system"* or *"EMS"* is a term used collectively for technology that determines the location of clients who have restricted movement while being supervised in their respective community.

**38.2(2)** *Selection of clients for EMS.* All clients on supervision for a current sex offense who are required to be registered as a sex offender under Iowa Code chapter 692A may be placed on EMS immediately after assignment to supervision. This level may be changed based on risk assessment.

**38.2(3)** *Risk assessment instrument.* Districts will use the statewide approved and validated risk/needs assessment.

**38.2(4)** *Notification of victims.* The department of corrections shall notify a registered victim regarding a sex offender in accordance with the provisions of Iowa Code section 915.17A.

**38.2(5)** *Additional rules.* The department of public safety's rules regarding the Iowa sex offender registry are contained in 661—Chapter 83.

**201—38.3(903B) Hormonal intervention therapy.**

**38.3(1)** *Affected clients.* All clients convicted of a serious sex offense in which the victim was a child who, at the time the offense was committed, was 12 years of age or younger; or clients convicted of a second or subsequent offense may be required to undergo hormonal intervention therapy as ordered by the court or board of parole in accordance with the provisions of Iowa Code section 903B.10.

**38.3(2)** *Agency responsibility.* The department of corrections' and the board of parole's responsibilities are defined in accordance with the provisions of Iowa Code section 903B.10.

**38.3(3)** *Assessment of affected clients.*

*a.* *Psychosexual assessment.* A psychosexual assessment will be conducted on all affected clients as a part of the presentence investigation (PSI) prior to sentencing or upon entry into community supervision or institutional placement if a referral for hormonal intervention therapy is being made.

(1) The psychosexual assessment will be conducted by or under the direction of:

1. A licensed psychologist; or

2. A person specifically trained and experienced in the professional administration, scoring and interpretation of psychological tests (graduate level coursework in testing and assessment); or

3. A staff member who meets the experience and educational requirements of the department of administrative services or department of corrections behavioral health professional classification.

(2) The psychosexual assessment includes:

1. Evaluation of emotional and mental health stability.
2. IQ to measure cognitive, overall functioning, personality, impulsivity and judgment capability.
3. Measure of denial, minimization or distortions of deviant sexual characteristics.
4. Plethysmography, if clinically indicated.

(3) The assessment will follow the statewide standardized format and will include a determination as to the need and effectiveness of hormonal intervention therapy as well as treatment recommendations.

*b. Medical assessment.* If hormonal intervention therapy is recommended as an appropriate treatment component, the client will receive a medical assessment to determine biological factors as related to hormonal intervention therapy.

**38.3(4)** *Pharmaceuticals and distribution.* The director of corrections may contract the purchase and distribution process to reduce pharmaceutical costs and ensure effective distribution and management of all pharmaceuticals related to the hormonal therapy program.

**38.3(5)** *Educational/treatment programming.*

*a.* Hormonal intervention therapy is to be utilized in conjunction with a sex offender treatment program (SOTP). The client should be involved in concurrent cognitive-behavioral treatment. In all cases where the treatment plan includes hormonal therapy, the plan will also include monitoring and counseling.

*b.* All SOTPs will meet the current Iowa board for the treatment of sexual abusers (IBTSA) standards.

**38.3(6)** *Application of hormonal therapy.*

*a. Utilization of hormonal therapy.*

(1) Therapy will utilize medroxyprogesterone acetate (MPA) or other approved pharmaceutical agents.

(2) Therapy will be initiated as soon as reasonably possible after the client is sentenced.

1. If the client is incarcerated within a local jurisdiction (jail, residential facility), the supervising district will coordinate initiation of treatment prior to the release of the client from custody.
2. If the client is incarcerated within a correctional institution, initiation of treatment will be determined by department of corrections medical staff.

(3) Requests for hormonal therapy by the client when the aforementioned criteria are not met will be reviewed for consideration by the agency of jurisdiction.

(4) At any time during the course of supervision, the agency of jurisdiction may conduct a reassessment to determine whether hormonal therapy should be considered or reconsidered as part of the treatment plan.

*b. Monitoring/termination of hormonal therapy.*

(1) Monitoring. The agency of jurisdiction will continue to monitor the client's therapy throughout the client's confinement or supervision and may adjust medication, initiate other medication, or continue prescribed therapy with medical approval.

(2) Termination. Hormonal therapy may be discontinued only by the medical authority, with consent of the supervising officer. Termination requires a reassessment conclusion that the therapy has been determined ineffective or is no longer necessary.

**38.3(7)** *Client fees.* Clients are responsible for the costs related to hormonal therapy. Client fees are based on the client's ability to pay as determined by the statewide client fee policy.

**38.3(8)** *Maintenance/transfer of records.* Client file information will be available and shared upon request between responsible agencies, including court of jurisdiction.

These rules are intended to implement Iowa Code chapters 692A and 903B.

**RA 26-224**

# ECONOMIC DEVELOPMENT AUTHORITY[261]

**Regulatory Analysis**

Notice of Intended Action to be published: 261—Chapter 414
"Review and Compliance Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 15.121

State or federal law(s) implemented by the rulemaking: Iowa Code section 15.121 and 54 U.S.C. Subtitle III, Division A

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>2 to 2:15 p.m. | Via Microsoft Teams<br>Information about Teams participation can be found at<br>opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Economic Development Authority no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Email: lisa.connell@iowaeda.com

*Purpose and Summary*

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 414 and adopt a new chapter in lieu thereof. The chapter describes the policies and procedures related to review of federal agency undertakings by the State Historic Preservation Office as required by Section 106 of the National Historic Preservation Act.

The updated chapter will be clearer and more concise throughout. Definitions will be added for clarity. Language that duplicates federal law or regulation will be omitted from the chapter. The chapter will include new language to address consultation required by Iowa Code section 15.121(7) for State-owned properties.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Entities for which consultation of the State Historic Preservation Office is required pursuant to Section 106 or Iowa Code section 15.121(7) will bear the costs of the proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

Entities for which consultation of the State Historic Preservation Office is required pursuant to Section 106 or Iowa Code section 15.121(7) will benefit from the proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Costs may be incurred to gather materials necessary for review and consultation.

- **Qualitative description of impact:**

Only entities and individuals that are required to consult with the State Historic Preservation Office pursuant to Section 106 or Iowa Code section 15.121(7) will incur any costs. The costs to the State to administer the program are proportional to the directives in Section 106 and Iowa Code section 15.121(7).

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Authority staff time is required to review materials submitted for historic property evaluation. The new language regarding review of modifications to State-owned properties captures existing policies and procedures.

- **Anticipated effect on State revenues:**

This proposed rulemaking does not have an impact on State revenues. The new language regarding review of modifications to State-owned properties captures existing policies and procedures.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The costs associated with the proposed rulemaking are necessary to carry out the directives in Section 106 and Iowa Code section 15.121(7).

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Authority has not identified any less costly methods or less intrusive methods for carrying out the directives in Section 106 or Iowa Code section 15.121(7).

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Authority did not consider any other methods.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The Authority did not consider any other methods.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

The proposed rulemaking impacts only small businesses for which consultation of the State Historic Preservation Office is required. The requirements are no more stringent than necessary to comply with federal statute and regulations and Iowa Code section 15.121(7). The rulemaking does not establish schedules or deadlines for small businesses. The rulemaking does not establish design or operational standards.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 261—Chapter 414 and adopt the following **new** chapter in lieu thereof:

CHAPTER 414
REVIEW AND COMPLIANCE PROGRAM

**261—414.1(15) Definitions.** For purposes of this chapter, unless the context otherwise requires:

*"Act"* means the National Historic Preservation Act of 1966, PL 89-665, 54 U.S.C. Subtitle III, Division A.

*"Advisory Council"* means the Advisory Council on Historic Preservation established under the Act.

*"Agency"* means the same as defined in 54 U.S.C. §300301.

*"Historic property"* means the same as defined in 54 U.S.C. §300308.

*"National Register of Historic Places"* or *"National Register"* means the federal government's list of historic properties authorized under the Act, administered by the National Park Service, United States Department of the Interior.

*"Section 106"* means the section of the Act that requires federal agencies to take into account the effects of the undertakings that the agencies carry out, fund, license, permit or approve on historic properties and afford the Advisory Council a reasonable opportunity to comment.

*"State historic preservation officer"* or *"SHPO"* means the officer appointed and certified pursuant to Iowa Code section 15.121.

*"Undertaking"* means the same as defined in 54 U.S.C. §300320.

**261—414.2(15) Laws, regulations, and other requirements.** In addition to this chapter, the Iowa review and compliance program shall operate in accordance with the following:

**414.2(1)** The Act, including but not limited to Section 106.

**414.2(2)** 36 CFR Part 60 (National Register of Historic Places).

**414.2(3)** 36 CFR Part 61 (Procedures for State, Tribal, Local Government Historic Preservation Programs).

**414.2(4)** 36 CFR Part 63 (Determinations of Eligibility for Inclusion in the National Register of Historic Places).

**414.2(5)** 36 CFR Part 800 (Protection of Historic Properties).

**414.2(6)** Contract terms outlined in a Historic Preservation Fund grant agreement between the SHPO and the National Park Service.

**414.2(7)** Iowa Code sections 15.121 and 15.122.

**261—414.3(15) Procedures.**

**414.3(1)** *Technical assistance.* In addition to the technical assistance described in rule 261—415.3(303), the SHPO shall advise and assist agencies as prescribed in 36 CFR §800.2(c)(1)(i).

**414.3(2)** *SHPO review of federal undertakings.*

*a.* Agency officials and agency program applicants or recipients requesting consultation with the SHPO on an undertaking pursuant to Section 106 shall submit documentation regarding the undertaking and potential effects to historic properties.

*b.* The SHPO will make appropriate forms and guidelines available to the public for submission of project documentation to the SHPO.

**261—414.4(15) State-owned properties.** This rule applies to consultation with the SHPO required pursuant to Iowa Code section 15.121(7).

**414.4(1)** If a property owned by a state agency has not been listed in, or identified as eligible for, the National Register of Historic Places, the state agency shall submit information sufficient for the SHPO to determine if the property is a historic property. The SHPO will determine whether a property is eligible for listing on the National Register or state register of historic places. A property may be reevaluated for this purpose for subsequent modifications to the property. Consultation with the Keeper of the National Register of Historic Places may be requested to determine whether a property is a historic property.

**414.4(2)** The SHPO will make appropriate forms and guidelines available to state agencies for submission of project documentation for review and comment by the SHPO. Required information shall include but not be limited to the area of potential effects and a description of modifications to the historic property.

**414.4(3)** The SHPO shall provide comments within 45 days of submission of required information. If the information is incomplete when submitted, the 45-day review period will restart when the SHPO receives a complete submission. Comments may include requests for further information or address any of the following:

*a.* The scope, scale, and nature of the proposed project;

*b.* The potential for effects on historic properties;

*c.* The likelihood that historic properties are present within the area of potential effects; and

*d.* Applicable professional standards and state, tribal, and local laws, regulations, and guidelines.

**414.4(4)** Modifications to historic properties that may be considered adverse effects include but are not limited to physical destruction of or damage to the historic property, alteration of a property that would affect the eligibility for or listing on the National Register, or removal of the property from its historic location. The SHPO will consult with the state agency to evaluate potential methods to avoid or minimize effects to the historic property. Alternatively, the state agency and SHPO may enter into an agreement to mitigate the adverse effects.

**261—414.5(15) References.** All references to the Act, United States Code, or Code of Federal Regulations in this chapter are as in effect on [effective date of this rulemaking].

These rules are intended to implement Iowa Code section 15.121 and 54 U.S.C. Subtitle III, Division A.

**RA 26-225**

# EDUCATION DEPARTMENT[281]

**Regulatory Analysis**

Notice of Intended Action to be published: subrule 1.1(5)
"Organization and Operation—Failure to Appeal Proposed Decision"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.7
State or federal law(s) implemented by the rulemaking: Iowa Code chapters 17A and 290

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>1 to 2 p.m. | Room B50<br>Grimes State Office Building<br>meet.google.com/onj-hcyu-sze<br>Or dial: (US) +1 470.705.3905<br>PIN: 891 715 855# |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Education no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Thomas A. Mayes
Rules Coordinator, Department of Education
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661
Email: thomas.a.mayes@iowa.gov

*Purpose and Summary*

This proposed rulemaking clarifies the State Board of Education's role when there is no appeal of a proposed decision in contested cases under its jurisdiction.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**
- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no known costs to this proposed rulemaking.
- **Classes of persons that will benefit from the proposed rulemaking:**

Parties to proceedings before the State Board would benefit from the clarity of this rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**
- **Quantitative description of impact:**

There is no known quantitative impact.
- **Qualitative description of impact:**

Parties to proceedings before the State Board would benefit from the clarity of this rulemaking.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Implementation costs are expected to be minimal and absorbed within existing agency resources.

- **Anticipated effect on State revenues:**

The proposed rulemaking is not anticipated to have a direct effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Parties to proceedings before the State Board would benefit from the clarity of this rulemaking. Failure to adopt this proposed rulemaking may needlessly increase the workload of the State Board.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Department determined that rulemaking is the least costly and least intrusive method available to implement statutory requirements and provide statewide consistency.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No other methods were seriously considered by the Department since the method proposed is the most cost-efficient and seamless for all entities involved.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Alternative methods were rejected because they would not provide the clarity and consistency sought.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

The proposed rulemaking is not expected to have an impact on small businesses.

*Text of Proposed Rulemaking*

ITEM 1. Adopt the following **new** subrule 1.1(5):

**1.1(5)** *Failure to appeal proposed decision to the state board.* A proposed decision of the presiding officer, if there is no timely appeal under 7—subrule 2506.27(1), is placed on the consent agenda of the next regular board meeting for summary adoption unless the decision is within the province of the director to make.

**RA 26-226**

# EDUCATION DEPARTMENT[281]

**Regulatory Analysis**

Notice of Intended Action to be published: 281—Chapter 14
"School Health Services"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 256.7
State or federal law(s) implemented by the rulemaking: 2025 Iowa Acts, House Files 2670 and 2676

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>1 to 2 p.m. | Room B50<br>Grimes State Office Building<br>meet.google.com/onj-hcyu-sze<br>Or dial: (US) +1 470.705.3905<br>PIN: 891 715 855# |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Education no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Thomas A. Mayes
Rules Coordinator, Iowa Department of Education
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661
Email: thomas.a.mayes@iowa.gov

*Purpose and Summary*

This proposed rulemaking makes technical corrections required by 2025 Iowa Acts, House Files 2670 and 2676.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no known costs of this proposed rulemaking. No Fiscal Note was provided for the relevant portions of the underlying Iowa Acts.

- **Classes of persons that will benefit from the proposed rulemaking:**

Students, teachers, and parents will benefit from the clarity this proposed rulemaking would provide.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no known quantitative impact.

- **Qualitative description of impact:**

The proposed rulemaking will align with underlying statutory requirements.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Implementation costs are expected to be minimal and absorbed within existing agency resources.

- **Anticipated effect on State revenues:**

The proposed rulemaking is not anticipated to have a direct effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The underlying legislation requires rulemaking.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The underlying legislation requires rulemaking.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No other methods were seriously considered by the Department since the underlying legislation requires rulemaking.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Alternative methods were rejected. The underlying legislation requires rulemaking.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

The proposed rulemaking is not expected to have an impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Amend subrule 14.1(3) as follows:

**14.1(3)** A statement that authorized persons administering medication include licensed health personnel working under the auspices of the school, such as licensed registered nurses, physicians, physician associates, and persons to whom authorized practitioners have delegated the administration of prescription and nonprescription drugs (who have successfully completed a medication administration course). Individuals who have demonstrated competency in administering their own medications may self-administer their medication. Individuals may self-administer asthma or other airway constricting disease medication, use a bronchodilator canister or bronchodilator canister and spacer, or possess and have use of an epinephrine ~~auto-injector~~ delivery system with parent and physician (or physician associate) consent on file for each school year, without the necessity of demonstrating competency to self-administer these medications. If a student misuses this privilege, it may be withdrawn. For purposes of this chapter, "self-administration" and "medication" mean the same as defined in Iowa Code section 280.16(1).

ITEM 2. Amend paragraph **14.1(7)"d"** as follows:

*d.* Medication name and purpose, including the use of a bronchodilator canister or a bronchodilator canister and spacer or the use of an epinephrine ~~auto-injector~~ delivery system.

ITEM 3. Amend rule 281—14.3(256) as follows:

**281—14.3(256) School district and accredited nonpublic school stock epinephrine ~~auto-injector~~ delivery system, bronchodilator canister, or bronchodilator canister and spacer voluntary supply.**

**14.3(1)** *Definitions.* For the purpose of this rule, the following definitions apply:

*"Act"* means 2015 Iowa Acts, Senate File 462, which amended Iowa Code section 280.16 and created Iowa Code section 280.16A.

*"Bronchodilator"* means the same as defined in Iowa Code section 280.16(1)*"a."*

*"Bronchodilator canister"* means the same as defined in Iowa Code section 280.16(1)*"b."*

*"Department"* means the department of education.

*"Epinephrine ~~auto-injector~~ delivery system"* means the same as defined in Iowa Code section 280.16(1)*"c."*

*"Licensed health care professional"* means the same as defined in Iowa Code section 280.16(1)*"d."*

*"Medication administration course"* means a course approved or provided by the department that includes safe storage of medication, handling of medication, general principles, procedural aspects, skills demonstration and documentation requirements of safe medication administration in schools.

*"Medication error"* means the failure to administer an epinephrine ~~auto-injector~~ delivery system to a student or individual by proper route, failure to administer the correct dosage, or failure to administer an epinephrine ~~auto-injector~~ delivery system, bronchodilator, or bronchodilator canister and spacer according to generally accepted standards of practice.

*"Medication incident"* means accidental injection of an epinephrine ~~auto-injector~~ delivery system into a digit of the authorized personnel administering the medication.

*"Personnel authorized to administer epinephrine or a bronchodilator"* means the same as defined in Iowa Code section 280.16A(1)*"e."*

*"School building"* means each attendance center within a school district or accredited nonpublic school where students or other individuals are present.

*"School nurse"* means the same as defined in Iowa Code section 280.16A(1)*"f."*

*"Spacer"* means the same as defined in Iowa Code section 280.16A(1)*"g."*

**14.3(2)** *Applicability.* This rule applies to and permits:

*a.* A licensed health care professional to prescribe a stock epinephrine ~~auto-injector~~ delivery system, a bronchodilator canister, or a bronchodilator canister and spacer in the name of a school district or accredited nonpublic school for use in accordance with the Act and this rule;

*b.* A pharmacist to dispense a stock supply pursuant to paragraph 14.3(2)*"a"*; and

*c.* A school district or accredited nonpublic school to acquire and maintain a stock supply pursuant to paragraphs 14.3(2)*"a"* and 14.3(2)*"b."*

**14.3(3)** *Prescription for stock epinephrine ~~auto-injectors~~ delivery systems, bronchodilator canisters, and bronchodilator canisters and spacers.* A school district or accredited nonpublic school may obtain a prescription for epinephrine ~~auto-injectors~~ delivery systems, bronchodilator canisters, and bronchodilator canisters and spacers from a licensed health care professional annually in the name of the school district or accredited nonpublic school for administration to a student or individual who may be experiencing an anaphylactic reaction or may need treatment for respiratory distress, asthma, or other airway constricting disease. The school district or accredited nonpublic school is to maintain the supply of such ~~auto-injectors~~ delivery systems, bronchodilator canisters, and bronchodilator canisters and spacers according to manufacturer instructions. If a school district or accredited nonpublic school obtains a prescription pursuant to the Act and these rules for epinephrine ~~auto-injectors~~ delivery systems, the school district or accredited nonpublic school will stock a minimum of one pediatric dose and one adult dose for each school building. A school district or accredited nonpublic school may obtain a prescription for more than the minimum and may maintain a supply in other buildings.

**14.3(4)** *Authorized personnel and stock epinephrine ~~auto-injector~~ delivery system, bronchodilator canister, or bronchodilator canister and spacer administration.* A school nurse or personnel trained and authorized may provide or administer an epinephrine ~~auto-injector~~ delivery system, bronchodilator canister, or bronchodilator canister and spacer from a school supply to a student or individual in circumstances authorized by Iowa Code section 280.16.

*a.* Pursuant to Iowa Code section 280.23, authorized personnel will submit a signed statement to the school nurse stating that the authorized personnel agree to perform the service of administering a stock epinephrine ~~auto-injector~~ delivery system to a student or individual who may be experiencing an anaphylactic reaction or administering a bronchodilator canister or a bronchodilator canister and spacer to a student or individual experiencing respiratory distress, asthma, or other airway constricting disease.

*b.* Emergency medical services (911) will be contacted immediately after a stock epinephrine ~~auto-injector~~ delivery system is administered to a student or individual, and the school nurse or authorized personnel will remain with the student or individual until emergency medical services arrive. In the event of administration of a stock bronchodilator or bronchodilator canister and spacer to a student or individual, the school nurse will be contacted and will determine, based on professional judgment, the necessary care of a student or individual.

*c.* The administration of an epinephrine ~~auto-injector~~ delivery system, a bronchodilator, or a bronchodilator canister and spacer in accordance with this rule is not the practice of medicine.

**14.3(5)** *Stock epinephrine ~~auto-injector~~ delivery system, bronchodilator, or bronchodilator canister and spacer training.* School employees may obtain a signed certificate to become authorized personnel.

*a.* Training to obtain a signed certificate may be accomplished by:

(1) Successfully completing, every five years, the medication administration course provided by the department;

(2) Annually demonstrating to the school nurse a procedural return-skills check on medication administration;

(3) Annually completing an anaphylaxis, asthma, or airway constricting disease training program approved by the department;

(4) Demonstrating to the school nurse a procedural return-skills check on the use of an epinephrine ~~auto-injector~~ delivery system, bronchodilator canister, and bronchodilator canister and spacer using information from the training, using authorized prescriber instructions, and as directed by the prescription manufacturing label; and

(5) Providing to the school nurse a signed statement, pursuant to Iowa Code section 280.23, that the person agrees to perform one or more of the services described in this rule.

*b.* Training required after a medication error or medication incident. Authorized personnel or the school nurse directly involved with a medication error or medication incident involving the administration of stock epinephrine ~~auto-injectors~~ delivery systems, bronchodilators, or bronchodilator canisters and spacers are required to follow the medication error or medication incident protocol adopted by the board of directors of the school district or authorities in charge of the school district or accredited nonpublic school. To retain authorization to administer stock epinephrine ~~auto-injectors~~ delivery systems, bronchodilators, or bronchodilator canisters and spacers in the school setting, authorized personnel directly involved with a medication error or medication incident will be required to provide a procedural skills demonstration to the school nurse demonstrating competency in the administration of stock epinephrine ~~auto-injectors~~ delivery systems, bronchodilators, or bronchodilator canisters and spacers.

**14.3(6)** *Procurement and maintenance of stock epinephrine ~~auto-injector~~ delivery system, bronchodilator, or bronchodilator canister and spacer supplies.* A school district or accredited nonpublic school may obtain a prescription to stock, possess, and maintain epinephrine ~~auto-injectors~~ delivery systems, bronchodilators, or bronchodilator canisters and spacers.

*a.* Stock epinephrine ~~auto-injectors~~ delivery systems, bronchodilator canisters, and bronchodilator canisters and spacers will be stored in a secure, easily accessible area for an emergency within the school building, or in addition to other locations as determined by the school district or accredited nonpublic school, and in accordance with the manufacturing label of the stock epinephrine ~~auto-injector~~ delivery system, bronchodilator canister, or bronchodilator canister and spacer.

*b.* A school district or school will designate an employee to routinely check stock epinephrine ~~auto-injectors~~ delivery systems, bronchodilator canisters, and bronchodilator canisters and spacers and document the following in a log monthly throughout the calendar year:

(1) The expiration date;

(2) Any visualized particles or color change, for epinephrine ~~auto-injectors~~ delivery systems; or

(3) Bronchodilator canister damage.

*c.* The school district or school will develop a protocol to replace as soon as reasonably possible any logged epinephrine ~~auto-injector~~ delivery system, bronchodilator canister, or bronchodilator canister and spacer that is used, is damaged, is close to expiration, or is discolored or has particles visible in the epinephrine ~~auto-injector~~ delivery system liquid.

**14.3(7)** *Disposal of used stock epinephrine ~~auto-injectors~~ delivery systems, bronchodilators, or bronchodilator canisters and spacers.* The school district or school that administers epinephrine ~~auto-injectors~~ delivery systems, bronchodilators, or bronchodilator canisters and spacers shall dispose of used cartridge injectors as infectious waste pursuant to the department's medication waste guidance and bronchodilators or bronchodilator canisters and spacers pursuant to the department's medication waste guidance. For purposes of this rule, a multiuse bronchodilator canister is considered "used" when it no longer contains sufficient active ingredient to be medically useful.

**14.3(8)** *Reporting.* A school district or school that obtains a prescription for stock medications under this rule will report to the department within 48 hours, using the reporting format approved by the department, each medication incident or error with the administration of a stock epinephrine injector, bronchodilator canister, or bronchodilator canister and spacer or administration of a stock epinephrine ~~auto-injector~~ delivery system.

**14.3(9)** *School district or accredited nonpublic school policy.* A school district or school may stock epinephrine ~~auto-injectors~~ delivery systems, bronchodilator canisters, or bronchodilator canisters and spacers. The board of directors in charge of the school district or authorities in charge of the accredited nonpublic school that stocks epinephrine ~~auto-injectors~~ delivery systems, bronchodilator canisters, or bronchodilator canisters and spacers shall establish a policy and procedure for the administration of a stock epinephrine ~~auto-injector~~ delivery system, bronchodilator canister, or bronchodilator canister and spacer, which is to comply with the minimum provisions of this rule.

**14.3(10)** *Rule of construction.* This rule will not be construed to require school districts or accredited nonpublic schools to maintain a stock of epinephrine ~~auto-injectors~~ delivery systems, bronchodilator canisters, or bronchodilator canisters and spacers. An election not to maintain such a stock is not to be considered to be negligence.

**14.3(11)** *Opioid antagonists.* A school district may obtain a valid prescription for an opioid antagonist and maintain a supply of opioid antagonists in a secure location at each location where a student may be present for use as provided in this rule. Any school district that does so is to comply with rules and procedures adopted by the department of health and human services.

ITEM 4. Amend rule 281—14.4(279) as follows:

**281—14.4(279) Suicide prevention~~, identification of adverse childhood experiences, and strategies to mitigate toxic stress response~~.** Iowa Code section 279.70 is incorporated by this reference.

**RA 26-227**

# EDUCATION DEPARTMENT[281]

**Regulatory Analysis**

Notice of Intended Action to be published: 281—Chapter 17
"Open Enrollment and Other Enrollment Options"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 282.18
State or federal law(s) implemented by the rulemaking: 2026 Iowa Acts, House File 2754

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>1 to 2 p.m. | Room B50<br>Grimes State Office Building<br>meet.google.com/onj-hcyu-sze<br>Or dial: (US) +1 470.705.3905<br>PIN: 891 715 855# |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Education no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Thomas A. Mayes
Rules Coordinator, Iowa Department of Education
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.8661
Email: thomas.a.mayes@iowa.gov

*Purpose and Summary*

This proposed rulemaking adds a reporting requirement enacted by 2026 Iowa Acts, House File 2754 and makes a technical terminology change.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no known costs of this proposed rulemaking. There were no Fiscal Notes provided for the relevant portions of the underlying Iowa Acts.

- **Classes of persons that will benefit from the proposed rulemaking:**

Students, teachers, and parents will benefit from the transparency concerning open enrollment decision making that the proposed rulemaking provides.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no known quantitative impact.

- **Qualitative description of impact:**

The proposed rulemaking will align with underlying statutory requirements.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Implementation costs are expected to be minimal and absorbed within existing agency resources.

- **Anticipated effect on State revenues:**

The proposed rulemaking is not anticipated to have a direct effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The underlying legislation requires rulemaking.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The underlying legislation requires rulemaking.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No other methods were seriously considered by the Department since the underlying legislation requires rulemaking.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Alternative methods were rejected. The underlying legislation requires rulemaking.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

The proposed rulemaking is not expected to have an impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Adopt the following **new** paragraph **17.2(3)"f"**:

*f.* A receiving district that denies a request for open enrollment will comply with Iowa Code section 282.18(2)*"b"*(2) as amended by 2026 Iowa Acts, House File 2754, section 95.

ITEM 2. Amend rule 281—17.10(282), catchwords, as follows:

**281—17.10(282) ~~Special education students~~ Students requiring special education services.**

**RA 26-228**

# EMPLOYMENT APPEAL BOARD[486]

**Regulatory Analysis**

Notice of Intended Action to be published: 486—Chapter 10
"Bargaining Unit and Bargaining Representative Determination"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 20.6(5)
State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, Senate File 2385, and Iowa Code chapter 20

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 24, 2026<br>9 a.m. | Via videoconference:<br>meet.google.com/hxy-euaj-uzq |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Employment Appeal Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Christine Louis
Employment Appeal Board
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Email: eab.elections@eab.iowa.gov

*Purpose and Summary*

This proposed rulemaking includes revisions to administrative rules based on the requirements of Executive Order 10 and statutory changes based on 2024 Iowa Acts, Senate File 2385. This proposed rulemaking provides procedural rules in regard to actions that may be filed relating to representation of public sector bargaining units.

This chapter is being moved from the legacy Public Employee Relations Board agency number [621] to a new chapter within the Employment Appeal Board agency number [486]. These rules were previously located in 621—Chapter 4.

The rules under legacy agency number [621] are proposed to be rescinded and reserved herein (**RA 26-246**, IAB 8/19/26).

All references to 486—Chapter 11 and rules therein and 486—Chapter 18 are to those as published herein as **RA 26-229** and **RA 26-236**, respectively, IAB 8/19/26.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There is no additional expected cost to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

Public sector employers, employees, and employee organizations and Board staff will benefit from this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no expected economic impact created by this proposed rulemaking.

- **Qualitative description of impact:**

There is no expected economic impact created by this proposed rulemaking.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There is no expected economic impact created by this proposed rulemaking.

- **Anticipated effect on State revenues:**

There is no expected economic impact created by this proposed rulemaking.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The changes are mandated by statute and Executive Order 10.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

There is no expected impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Adopt the following **new** 486—Chapter 10:

CHAPTER 10
BARGAINING UNIT AND BARGAINING
REPRESENTATIVE DETERMINATION

**486—10.1(20) General.**

**10.1(1)** *General.* A public employer, public employee, or employee organization may file a petition for bargaining unit determination with the appeal board. After a unit is initially determined, parties may file a petition to request certification of a bargaining representative for the unit, decertification of the bargaining representative of the unit, reconsideration of the unit, amendment of the unit, or clarification of the unit. Any petition filed under this chapter may only be withdrawn with approval from the appeal board.

**10.1(2)** *Electronic filing mandatory.* The petition and all subsequent documents in the case types referenced in this chapter must be filed in the appeal board's electronic document management system (EDMS) pursuant to 486—Chapter 18. The matter will be assigned a case number, and all subsequent documents in that proceeding before the appeal board must be filed under the same case number.

**10.1(3)** *Intervention.* Any interested person may request intervention in any proceedings before the appeal board. An application for intervention shall be in writing, except that applications made during a hearing may be made orally to the hearing officer, and shall contain a statement of the reasons for such intervention. When necessary to achieve a proper decision, the appeal board or administrative law judge may, on its own motion or the motion of any party, order the bringing in of additional parties. When so ordered, the appeal board will serve all relevant pleadings on additional parties and allow the parties a reasonable time to respond.

**486—10.2(20) Petition for unit determination.**

**10.2(1)** *Petition.* A public employer, public employee, or employee organization may file a petition for bargaining unit determination with the appeal board.

**10.2(2)** *Contents of petition.* The petitioner may use a form available on the appeal board's website. The petition must be in writing, signed by the petitioner or designated representative, identify the public employer and its contact information, identify the employee organization and its contact information, identify and describe the proposed unit, and identify whether the proposed unit is a public safety or nonpublic safety unit.

**10.2(3)** *Service of petition.* Upon the filing of a proper petition, the appeal board will serve copies of the petition upon other interested parties by electronic means when possible or, where service by electronic means is not possible, by personal service as provided in the Iowa Rules of Civil Procedure; by certified mail, return receipt requested; by first-class mail; or by publication as provided in the Iowa Rules of Civil Procedure.

**10.2(4)** *Notice to employees.* The appeal board will create a notice to employees stating that the petition has been filed and setting forth the rights of employees under Iowa Code chapter 20. The appeal board will send the notice and a copy of the petition to the employer, which shall promptly distribute, electronically or by hard copy, the petition and notice to employees to the affected employees. The employer shall also promptly post the petition and notice to employees in the manner and locations customarily used for the posting of information to employees.

**10.2(5)** *Professional/nonprofessional unit elections.* If the appeal board determines that professional and nonprofessional employees are included in the same proposed bargaining unit, the appeal board will file an order directing that an election be conducted to determine whether the professional and nonprofessional employees wish to be represented in a single bargaining unit. The election will be conducted in accordance with rule 486—11.5(20).

**10.2(6)** *Informal settlement of bargaining unit determination.*

*a.* The parties may file a stipulation agreeing on the composition of the unit. The parties may use a form available on the appeal board's website. The stipulation must set forth in detail the composition of the bargaining unit as agreed to by the parties and must be signed by the authorized representatives of the parties. In the event the parties agree to a combined unit of professional and nonprofessional employees, the stipulation must set forth both those job classifications included within the professional category and those job classifications included within the nonprofessional category.

*b.* The appeal board will review the stipulation for tentative approval. If the appeal board tentatively approves the stipulation, the appeal board will file a tentative approval and public notice of the proposed decision. The notice of the proposed decision will identify the parties; specify the terms of the proposed decision; list the names, addresses, telephone numbers, and email addresses of the parties or their authorized representatives to whom inquiries by the public should be directed; and, further, state the date and method by which written objection to the proposed decision must be filed with the appeal board. The appeal board will notify the parties if the appeal board decides not to tentatively approve the stipulation. Unless the parties amend the stipulation in a manner to gain tentative approval of the appeal board, the matter will proceed to a contested case hearing as set out in subrule 10.2(7).

*c.* After the appeal board files the tentative approval and public notice of proposed decision, the public employer shall promptly post copies of the notice of the proposed decision, for a period of not less than one calendar week, in a prominent place in the main office of the public employer accessible to the general public. The employer shall promptly distribute, electronically or by hard copy, the notice of the proposed decision to the affected employees. The employer shall also promptly post the notice of the proposed decision in the manner and locations customarily used for the posting of information to employees.

*d.* Objections to the notice of proposed decision must be electronically filed with the appeal board by the date posted in the notice. Objections must set out the specific grounds of objection. The objecting party must identify itself and provide a mailing address, telephone number, and email address, if available.

*e.* The appeal board shall promptly advise the parties of the objections and may make any investigation deemed appropriate. If the objections cannot be informally resolved, they may be dismissed or resolved at hearing.

*f.* The appeal board may not make the final decision on informal settlement until the time for objection has expired. If no objections have been filed; or if filed objections have been resolved through amendment of the proposed decision; or if filed objections, after inquiry by the appeal board, were found to be frivolous, the appeal board shall endorse the proposed decision as final.

**10.2(7)** *Transmission of contested case hearing.*

*a.* If the parties do not agree to the composition of the bargaining unit, the appeal board may transmit the matter to the administrative hearings division created by Iowa Code section 10A.801. The appeal board will file a transmittal form with a copy of the petition attached. After the matter is transmitted, future filings must be made in the administrative hearings division's administrative electronic document management system.

*b.* After the case is transmitted to the administrative hearings division, it will be assigned a case number. The administrative hearings division will assign the proceeding to an administrative law judge to serve as a presiding officer. The administrative law judge will issue a notice for a prehearing conference or a notice of hearing.

*c.* The contested case proceeding will be conducted pursuant to 481—Chapter 10 and any other administrative rule applicable to the specific type of proceeding.

*d.* The proposed decision of the presiding officer may be reviewed by the appeal board in accordance with rules 7—2506.27(17A) and 7—2506.28(17A).

**486—10.3(20) Petition for certification.**

**10.3(1)** *Petition.* A public employer or employee organization may file a petition for bargaining representative certification with the appeal board. A combined petition for both bargaining unit determination and bargaining representative certification must be filed whenever the bargaining unit has not been previously determined and a representative has not been certified by the agency.

**10.3(2)** *Contents of petition.* The petitioner may use a form available on the appeal board's website. The petition must be in writing, signed by the petitioner or designated representative, identify the public employer and its contact information, identify the employee organization and its contact information, and identify and describe the proposed or existing bargaining unit. The petition shall further make the allegations described in Iowa Code section 20.14.

**10.3(3)** *Service of petition.* Upon the filing of a proper petition, the appeal board will serve copies of the petition as described in subrule 10.2(3).

**10.3(4)** *Notice to employees.* The appeal board will notify employees of the petition in the manner described in subrule 10.2(4).

**10.3(5)** *Showing of interest.* When a petition for certification is filed, the petitioner shall submit, by ordinary mail or personal delivery, evidence that the petition is supported by 30 percent of the employees in the bargaining unit. In petitions for certification for intervention, such showing of interest shall be dated and signed not more than one year prior to its submission; shall contain the job classification of the signatory; and shall contain a statement that the signatory is a member of the employee organization or has authorized the employee organization to bargain collectively on the signatory's behalf.

**10.3(6)** *Determination of showing of interest.*

*a.* The public employer shall, within seven days of the bargaining unit being established, file in the appeal board's EDMS a list of the names and job classifications of the employees in the unit which is the subject of the petition or, in the case of a combined petition, the employees in the bargaining unit that has been established. If the employer fails to furnish the list of employees, the appeal board will determine the sufficiency of the showing of interest by whatever means it deems appropriate.

*b.* The appeal board will determine the sufficiency of the showing of interest upon receipt of the list. This determination, including the identification and number of signers of the showing of interest, shall be confidential and not subject to review, and persons other than the party submitting the showing of interest are not entitled to a copy or examination of the showing of interest.

*c.* If the appeal board determines a sufficient show of interest has not been established, it will issue an order providing the parties with an additional 30 days to alter the employee list or submit additional show of interest cards. If after the 30 days expire the appeal board determines that a sufficient show of interest has not been made, the petition will be dismissed.

*d.* If the appeal board determines a sufficient show of interest has been established, it will issue an order for an election to be conducted in accordance with the provisions of 486—Chapter 11.

**10.3(7)** *Intervention.*

*a.* No employee organization other than the petitioner can be placed on the ballot unless an employee organization files an application for intervention with the appeal board within seven days after the filing of the appeal board's order directing the election in which intervention is sought. An employee organization seeking intervention must also submit to the appeal board, by ordinary mail or personal delivery, an adequate showing of interest as provided in subrule 10.3(2) within seven days after the appeal board's direction of an election.

*b.* Any time prior to the election period, the intervening employee organization may, upon its filing of a written request, be removed from the ballot with the approval of the appeal board.

**486—10.4(20) Petitions for decertification.**

**10.4(1)** *Petition.* A bargaining unit employee can file a petition to request an election to determine whether a majority of the employees in the bargaining unit wish to continue to be presented by a certified employee organization.

**10.4(2)** *Contents of petition.* The petitioner may use a form available on the appeal board's website. The petition must be in writing, signed by the petitioner or designated representative, identify the public employer and its contact information, identify employee organization and its contact information, and identify and describe the unit. The petition shall further make the allegations described in Iowa Code section 20.14.

**10.4(3)** *Service of petition.* Upon the filing of a proper petition, the appeal board will serve copies of the petition as described in subrule 10.2(3).

**10.4(4)** *Notice to employees.* The appeal board will notify employees of the petition in the manner described in subrule 10.2(4).

**10.4(5)** *Showing of interest.* Upon the filing of a petition for decertification, the petitioner shall submit evidence of support as described in subrule 10.3(5).

**10.4(6)** *Determination of showing of interest.* The appeal board will determine the show of interest as described in subrule 10.3(6).

**486—10.5(20) Petition for unit reconsideration.** A petition for reconsideration of a previously established bargaining unit may be filed by an employee organization, public employer, or an employee of the public employer. This petition may be filed only in combination with a certification petition. Rule 486—10.3(20) shall apply. A petition for reconsideration of a previously established bargaining unit covering state employees may not be filed for at least one year after the initial unit determination. The appeal board may dismiss the petition for unit reconsideration if the petitioner fails to establish that the previously determined bargaining unit is inappropriate.

**486—10.6(20) Petition for amendment of unit.**

**10.6(1)** *Petition.* A public employer or the certified employee organization may file a petition to amend a bargaining unit previously approved by the appeal board.

**10.6(2)** *Contents of petition.* The petitioner may use a form available on the appeal board's website. The petition must be in writing, signed by the petitioner or designated representative, identify the public employer and its contact information, identify the employee organization and its contact information, identify and describe the current bargaining unit and the proposed unit, and identify the names and addresses of any other employee organization that claims to represent any employees affected by the proposed amendment, if any. The petition should identify whether the unit is a public safety or nonpublic safety unit and whether the proposed amendment would change that status.

**10.6(3)** *Service of petition.* Upon the filing of a proper petition, the appeal board will serve copies of the petition as described in subrule 10.2(3).

**10.6(4)** *Notice to employees.* The appeal board will notify employees of the petition in the manner described in subrule 10.2(4).

**10.6(5)** *Informal settlement.* Insofar as appropriate, subrule 10.2(6) shall apply.

**10.6(6)** *Contested case hearing.* Insofar as appropriate, subrule 10.2(7) shall apply.

**10.6(7)** *Election.* When a question of representation exists, the appeal board will conduct an amendment of unit election pursuant to rule 486—11.6(20). A question of representation exists when the job classification(s) sought to be amended into a bargaining unit was in existence at the time the employee organization was certified to represent the bargaining unit and the job classification(s) separately constitutes an appropriate bargaining unit.

**486—10.7(20) Unit clarification.**

**10.7(1)** *Petition.* A petition to clarify the inclusion or exclusion of job classifications or employees in a previously determined bargaining unit may be filed by the public employer, an affected public employee, or the certified employee organization. Such petition may be filed only if the bargaining unit is represented by a certified bargaining representative.

**10.7(2)** *Contents of petition.* The petitioner may use a form available on the appeal board's website. The petition must be in writing, signed by the petitioner or designated representative, identify the public employer and its contact information, identify the employee organization and its contact information, and identify and describe the current bargaining unit. The petition should identify whether the unit is a public safety or nonpublic safety unit and whether the proposed clarification would change that status.

**10.7(3)** *Service of petition.* Upon the filing of a proper petition, the appeal board will serve copies of the petition as described in subrule 10.2(3).

**10.7(4)** *Notice to employees.* The appeal board will notify employees of the petition in the manner described in subrule 10.2(4).

**10.7(5)** *Informal settlement.* Insofar as appropriate, subrule 10.2(6) shall apply.

**10.7(6)** *Contested case hearing.* Insofar as applicable, subrule 10.2(7) shall apply.

**486—10.8(20) Amendment of certification.**

**10.8(1)** *Petitions.* The certified employee organization, public employer, or the appeal board may file a petition to amend the certified employee organization's certification to reflect an act or occurrence affecting the organization or the public employer.

**10.8(2)** *Employee organization.* The employee organization must file its petition with the following:

*a.* Affidavit(s) that establish:

(1) That the act or occurrence, which the requested amendment would reflect, was authorized by and accomplished in accordance with the certified employee organization's constitution and bylaws, which provided members with adequate due process; and

(2) That substantial continuity of representation has been maintained.

*b.* Updated reports if there is a change in the employee organization's name or if there is a change to the employee organization's governing body. The reports must include the following:

(1) An updated annual report that covers the time period from the last annual report to the time of the filing of the petition.

(2) An updated registration report.

(3) An updated constitution and bylaws.

*c.* Final agency reports for dissolved organizations resulting from a merger. The final agency report must include an annual report that covers the time period from the last annual report to the time of the merger and must reflect the closing of the books and accounts of the dissolved employee organization. The certified employee organization may wait and submit its final reports following the appeal board's tentative approval of the amendment of certification.

**10.8(3)** *Public employer.* The public employer must file its petition with an affidavit, affidavits or other documents, such as the public employer's board minutes, establishing a change in the name of the public employer.

**10.8(4)** *Appeal board.* The appeal board may, at any time, file a petition with a document or documents establishing the basis for the amendment.

**10.8(5)** *Service of petition.* Upon the filing of a proper petition, the appeal board will serve copies of the petition as described in subrule 10.2(3).

**10.8(6)** *Notice to employees.* The appeal board will notify employees of the petition in the manner described in subrule 10.2(4).

**10.8(7)** *Procedure—decision.* Insofar as appropriate, subrules 10.3(6) and 10.3(7) shall apply.

**10.8(8)** *Elections; when required.* When a question of representation exists, the appeal board will conduct an amendment of unit election pursuant to rule 486—11.6(20).

**486—10.9(20) Merger of units represented by the same certified employee organization.** A certified employee organization may petition the agency to merge two of the bargaining units the organization represents into one successive unit. This proceeding does not apply to school districts' and area education agencies' reorganizations and mergers pursuant to Iowa Code chapter 273 or 275.

**10.9(1)** *Petition.* A certified employee organization may file a petition to amend a bargaining unit to reflect a merger of two previously determined bargaining units that have the same public employer and are represented by the same certified employee organization.

**10.9(2)** *Contents of petition.* The petitioner may use a form available on the appeal board's website. The petition must be in writing, signed by the petitioner or designated representative, and identify:

*a.* The names, addresses, telephone numbers, and email addresses of the public employer and the employee organization or their respective representatives.

*b.* A listing of all cases relevant to the first unit and its certification history followed by a current description of the unit.

*c.* A listing of all cases relevant to the second unit and its certification history followed by a current description of the unit.

*d.* An identification and description of the proposed amended unit.

*e.* The names and addresses of any other employee organizations that claim to represent any employees affected by the proposed amendment or a statement that the petitioner has no knowledge of any other such organization.

*f.* The current status of the units as either public safety units or nonpublic safety units and the change, if any, to the status of the unit, which would result from the requested merger.

*g.* A specific statement of the petitioner's reasons for seeking amendment of the unit and any other relevant factors.

**10.9(3)** *Accompanying documents.* The successive employee organization must file its petition with an affidavit(s) establishing the following for each unit:

*a.* That the act or occurrence (merger), which the requested amendment would reflect, was authorized by and accomplished in accordance with the certified employee organization's constitution and bylaws, which provided members with adequate due process; and

*b.* That substantial continuity of representation has been maintained.

**10.9(4)** *Service of petition.* Upon the filing of a proper petition, the appeal board will serve copies of the petition as described in subrule 10.2(3).

**10.9(5)** *Notice to employees.* The appeal board will notify employees of the petition in the manner described in subrule 10.2(4).

**10.9(6)** *Procedure—decision.* Insofar as appropriate, subrules 10.3(6) and 10.3(7) shall apply.

**486—10.10(20) Merger of two units represented by affiliated certified employee organizations.**

**10.10(1)** *Petition.* A successive employee organization may file a combined petition to amend a bargaining unit and an employee organization's certification to reflect a merger of two previously determined bargaining units that have the same public employer and are represented by affiliated certified employee organizations. This proceeding does not apply to school districts' and area education agencies' reorganizations and mergers pursuant to Iowa Code chapter 273 or 275.

**10.10(2)** *Contents of petition.* The petitioner may use a form available on the appeal board's website. The combined petition shall contain:

*a.* The names, addresses, telephone numbers, and email addresses of the public employer and the employee organization or their respective representatives.

*b.* A listing of all cases relevant to the first unit and its certification history followed by a current description of the unit.

*c.* A listing of all cases relevant to the second unit and its certification history followed by a current description of the unit.

*d.* An identification and description of the proposed amended unit.

*e.* The names and addresses of any other employee organizations that claim to represent any employees affected by the proposed amendment or a statement that the petitioner has no knowledge of any other such organization.

*f.* A statement identifying the current status of the units as either public safety units or nonpublic safety units and the change, if any, to the status of the unit, which would result from the requested merger.

*g.* A specific statement of the petitioner's reasons for seeking amendment of the unit and any other relevant factors.

**10.10(3)** *Accompanying documents.* The successive employee organization must file its petition with the following:

*a.* Affidavit(s) that establish the following:

(1) That the act or occurrence, which the requested amendment would reflect, was authorized by and accomplished in accordance with the certified employee organization's constitution and bylaws, which provided members with adequate due process; and

(2) That substantial continuity of representation has been maintained.

*b.* Updated reports if there is a change in the employee organization's name or if there is a change to the employee organization's governing body. The reports must include the following:

(1) An updated annual report that covers the time period from the last annual report to the time of the filing of the petition.

(2) An updated registration report.

(3) An updated constitution and bylaws.

*c.* Final reports for dissolved organizations resulting from a merger. The agency report shall include an annual report that covers the time period from the last annual report to the time of the merger and shall reflect the closing of the books and accounts of the dissolved employee organization. The certified employee organization may wait and submit its final reports following the appeal board's tentative approval of the amendment of certification.

**10.10(4)** *Service of petition.* Upon the filing of a proper petition, the appeal board will serve copies of the petition as described in subrule 10.2(3).

**10.10(5)** *Notice to employees.* The appeal board will notify employees of the petition in the manner described in subrule 10.2(4).

**10.10(6)** *Procedure—decision.* Insofar as appropriate, subrules 10.3(6) and 10.3(7) shall apply.

**10.10(7)** *Elections.* Should the appeal board determine that it is appropriate to merge one unit into the successive unit, the appeal board will file an order directing that an election be conducted to determine whether the employees of the unit getting merged into the successive unit wish to be represented by the successive certified employee organization. The election will be conducted in accordance with rule 486—11.6(20).

**486—10.11(20) Disclaimer of interest.**

**10.11(1)** *Contents of request.* In order for a certified employee organization to disclaim interest in representing a bargaining unit, the certified employee organization must file a written request in EDMS under the bargaining unit case number. The request must include an assertion by the certified employee organization that no collective bargaining agreement covering bargaining unit members is in effect and that the certified employee organization has no outstanding financial obligations related to election costs; the grievance process, including arbitration; or impasse resolution proceedings.

**10.11(2)** *Posting of notice of disclaimer.* If there is no collective bargaining agreement in effect and the certified employee organization asserts that there are no outstanding financial obligations, the appeal board will prepare a notice of disclaimer for posting by the employer or for distribution directly to the affected employees. The appeal board may require the employer or the certified employee organization to provide the appeal board with the mailing addresses of all unit members to enable the appeal board to distribute notices of the petition for disclaimer.

**10.11(3)** *Objection to disclaimer.* The petition to disclaim may be denied upon the objection of any interested party. An objection must be filed in EDMS under the bargaining unit case number within 15 calendar days of the issuance of the notice.

**10.11(4)** *Consideration of objection.* After receipt of an objection to a petition to disclaim, the appeal board shall consider the nature of the objection and take appropriate action. This action may include formal or informal mechanisms to resolve the dispute, including but not limited to granting or denying the petition to disclaim.

**10.11(5)** *Effect of disclaimer.* Upon approval of a request to disclaim interest, the appeal board shall revoke certification or recognition.

These rules are intended to implement Iowa Code chapter 20.

**RA 26-229**

# EMPLOYMENT APPEAL BOARD[486]

## Regulatory Analysis

Notice of Intended Action to be published: 486—Chapter 11
"Elections"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 20.6(5)

State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, Senate File 2385; 2026 Iowa Acts, Senate File 472; and Iowa Code chapter 20

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 24, 2026<br>9 a.m. | Via videoconference:<br>meet.google.com/hxy-euaj-uzq |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Employment Appeal Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Christine Louis
Employment Appeal Board
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Email: eab.elections@eab.iowa.gov

*Purpose and Summary*

This proposed rulemaking includes revisions to administrative rules based on the requirements of Executive Order 10 and statutory changes based on 2024 Iowa Acts, Senate File 2385, and 2026 Iowa Acts, Senate File 472. This proposed rulemaking provides procedural rules in regard to public sector bargaining unit representation elections.

This chapter is being moved from the legacy Public Employee Relations Board agency number [621] to a new chapter within the Employment Appeal Board agency number [486]. These rules were previously located in 621—Chapter 5.

The rules under legacy agency number [621] are proposed to be rescinded and reserved herein (**RA 26-246**, IAB 8/19/26).

The references to 486—subrule 10.3(6) and 486—Chapter 18 are to those as published herein as **RA 26-228** and **RA 26-236**, respectively, IAB 8/19/26.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There is no additional expected cost to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

Public sector employers, employees, and employee organizations and Board staff will benefit from this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no expected economic impact created by this proposed rulemaking.

- **Qualitative description of impact:**

There is no expected economic impact created by this proposed rulemaking.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There is no expected economic impact created by this proposed rulemaking.

- **Anticipated effect on State revenues:**

There is no expected economic impact created by this proposed rulemaking.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The changes are mandated by statute and executive order.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

There is no expected impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Adopt the following **new** 486—Chapter 11:

CHAPTER 11
ELECTIONS

**486—11.1(20) General procedures.**

**11.1(1)** *Definitions.* For purposes of this chapter, the following definitions apply:

*"Date of election"* means the date on which the ballots were tallied.

*"Election"* means an election conducted by the appeal board of the types that are listed in subrule 11.1(2).

*"Election period"* means the period of time from the time and date the board sets for when eligible voters may first cast a ballot until the time and date the appeal board sets for the tally of ballots.

*"Void ballot"* means a ballot that does not indicate the clear intent of the voter or that appears to identify the voter.

**11.1(2)** *Election types.* There are five types of elections the appeal board conducts:

*a.* Certification election.

*b.* Retention and recertification election.

*c.* Decertification election.

*d.* Professional and nonprofessional election.

*e.* Amendment of unit election.

**11.1(3)** *Electronic filing mandatory.*

*a.* The employer and employee organization(s) involved in an election are required to register for an account in the appeal board's electronic document management system (EDMS) as described in 486—Chapter 18. All bargaining units will be assigned an adjudicatory case number for retention and recertification election-related notices. Election-related notices will be filed in EDMS under the applicable case number. Employers and employee organizations must have a representative or agent for service listed in each applicable case number in EDMS. Employers and employee organizations have a continuing duty to update their representative or agent for service in EDMS.

*b.* The employer and employee organization(s) involved in an election must register for an account in Superb as described in 486—Chapter 18. The parties will be required to upload and approve voter lists for elections in Superb. Employers and employee organizations must have a representative or agent for service listed in the applicable bargaining unit number in Superb. Employers and employee organizations have a continuing duty to update the representative or agent for service in Superb.

**11.1(4)** *Method of voting.* The appeal board conducts all elections by secret ballot. The appeal board will conduct the fall recertification and retention election by telephonic/web-based means. The appeal board will conduct all other elections by mail ballot.

*a.* When conducting a telephonic/web-based election, the appeal board will file a notice of election in EDMS under the bargaining unit case number that includes the dates of the election, the telephone number the voter is to call to cast a ballot, the website address for web-based voting, and a sample ballot or script. The appeal board may use an election services vendor for the receipt of telephonic and web-based ballots and for the tabulation of those ballots. The appeal board may extend the period of the election due to inoperable voting systems.

*b.* When conducting an election by mail ballot, the appeal board will send an official voting package to each eligible voter by ordinary mail. Voting packages sent to eligible voters will consist of voting instructions that direct a date by which voted ballots must be received by the appeal board in order to be counted, a ballot, a secret envelope in which the marked ballot is to be inserted, and a postage-paid, return-addressed outer envelope that identifies the voter for purposes of proposing the challenges to the voter's eligibility. In the event of a voter eligibility challenge, both envelopes must remain sealed until the challenge is resolved.

**11.1(5)** *Eligible voters.*

*a.* Eligible voters are those employees who were employed and included in the bargaining unit on the date of the order directing an election and are employed in the bargaining unit on the date of the election.

*b.* Only parties may challenge the eligibility of a voter. A voter eligibility challenge must be made by filing a completed voter eligibility form prior to the end of the election period. Whenever challenged ballots are unresolved and determinative of the outcome of an election, the appeal board will schedule and conduct a hearing to determine the eligibility of the challenged voter(s) or transmit the matter to the administrative hearings division created by Iowa Code section 10A.801 for a hearing. After the conclusion of the hearing, the presiding officer may, if necessary, order a new election, and the cost of the court reporter may be taxed to the nonprevailing party.

**11.1(6)** *Election fees.* Where applicable, the election fee must be paid by check payable to the Employment Appeal Board. The fee is deemed paid upon receipt by the appeal board or, if submitted by mail, on the date of the U.S. Postal Service postmark affixed to the envelope in which the payment was mailed. The fee for the fall recertification and retention election will be the greater of $2 per voter or $20 per bargaining unit. The fee for all other elections will be the greater of $3 per voter or $50 per bargaining unit. The election fee is not refundable. At any time on or before the date the election fee is due, the employee organization may request an extension of time to pay the election fee. The request must be in writing and filed in EDMS. The appeal board will grant the extension of time to pay the election fee for good cause.

**486—11.2(20) Certification elections.**

**11.2(1)** *General procedures.* After a bargaining unit has been determined and an adequate show of interest has been made, the appeal board will file an order in EDMS directing that a certification election be conducted by mail ballot.

**11.2(2)** *Voter list.*

*a.* Within ten days of the appeal board filing an order directing a certification election, the employer must submit a voter list in Superb. The list must include each employee's first name and last name, home address, work or personal email address, work or personal telephone number, job classification, date of birth, and the last four digits of each employee's social security number.

*b.* At any time on or before the date the voter list is due, the employer may request an additional three days to submit a voter list. The request must be in writing and filed in EDMS. The appeal board will grant a request for an extension for good cause. If the appeal board provides the employer a three-day extension to upload the voter list, it will automatically provide the employee organization an extension of three days to approve the voter list and pay the election fee.

*c.* Promptly after submission, the employer must send an email to the employee organization's representatives stating that it submitted the voter list in Superb.

*d.* The employee organization will have seven days from the date the employer submitted the voter list to challenge or approve the list. The employee organization may suggest modifications to the voter list. The suggested modifications must be made through Superb. The employee organization may request an extension of time of three days to approve or challenge the voter list at any time on or before the deadline to do so expires. The request must be in writing and filed in EDMS. The appeal board will grant a request for an extension for good cause. If the employee organization does not challenge or approve the voter list by the deadline, the appeal board will use the voter list that was uploaded by the employer without modification.

*e.* The employer shall promptly review the suggested modifications the employee organization makes to the voter list. The employer should approve the suggested modifications in Superb when the parties agree on the change. When the parties do not agree on modifications, either party can file a voter eligibility challenge in EDMS as outlined in subrule 11.1(5). If neither party files a voter eligibility challenge prior to the deadline for the employee organization to challenge or approve the list, the appeal board will use the voter list uploaded by the employer without modification.

*f.* The employer must notify the appeal board and the employee organization of any employees on the voter list who become unemployed prior to the close of the election and after the deadline for changes to the list. If, after the tally of the ballot, the removal of the voter would be outcome determinative, the appeal board will re-tally the ballot as if the employee who is no longer employed were never on the list. Failing to notify the appeal board and the employee organization that an employee is no longer employed with the employer is grounds for an objection.

**11.2(3)** *Election fee.* The election fee will be based on the final voter list used by the appeal board to conduct the election. The appeal board will issue a fee notice by filing it in EDMS under the election case number. The employee organization will have seven days from the date of notice to pay the fee. The appeal board will not conduct an election prior to receiving the applicable election fee from the employee organization. An employee organization's failure to pay the applicable election fee in a timely manner will result in the appeal board's dismissal of the certification petition. The employee organization may request an extension of time to pay the election fee as described in subrule 11.1(6).

**11.2(4)** *Notice of election.* Following the employer's submission of the list of eligible voters and the employee organization's payment of the applicable election fee, the appeal board will file a notice of election containing a sample ballot or script and setting forth the date, time, place, method, and purpose of the election and such additional information as the appeal board may deem appropriate. The employer must distribute, either electronically or by hard copy, the notice to the affected employees. The employer must also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

**11.2(5)** *Intervention.*

*a.* No employee organization other than the petitioner can be placed on the ballot unless application for intervention is filed with the appeal board within seven days after the filing of the appeal board's order directing the election in which intervention is sought. An employee organization seeking intervention must submit to the appeal board, by ordinary mail or personal delivery, an adequate showing of interest as provided in 486—subrule 10.3(6) within seven days after the appeal board's direction of an election.

*b.* The election fee will be based on the final voter list used by the appeal board to conduct the election. The appeal board will issue a fee notice by filing it in EDMS under the election case number. The employee organization will have seven days from the date of notice to pay the fee. Failure to pay the applicable election fee in a timely manner will result in the intervenor's exclusion from the ballot. The employee organization may request an extension of time to pay the election fee as described in subrule 11.1(6).

*c.* Any time prior to the election period, the intervening employee organization may, upon its filing of a written request in EDMS, be removed from the ballot with the approval of the appeal board.

**11.2(6)** *Ballots.* The question in an election where only one employee organization appears on the ballot will ask, "Do you wish to be represented for purposes of collective bargaining by [name of employee organization]?" followed by the choices "Yes" and "No". The question in an election where more than one employee organization appears on the ballot will ask: "Do you wish to be represented for purposes of collective bargaining by:" and will then list horizontally or vertically thereafter the choices available, including the name of each employee organization and the choice of "Neither" or "No Representative", as is applicable.

**11.2(7)** *Ballot tally.*

*a.* The appeal board will tally the ballots by manual count. The appeal board will set a time and place for the tally of ballots. Observers designated by the parties to the election are entitled to be present.

*b.* The appeal board will file the tally after the count is complete. The tally will identify the number of votes for each choice presented and the number of void ballots.

*c.* The employer must promptly distribute, either electronically or by hard copy, copies of the tally of ballots to the affected employees. The employer must also promptly post copies of the tally of ballots in the manner and locations customarily used for the posting of information to employees.

*d.* In the absence of litigation over the validity or outcome of an election, after a period of 60 days has elapsed from the date of filing of an order regarding the certification of the unit, the appeal board will destroy the mail ballots.

**11.2(8)** *Certification of results and compliance with Iowa Code section 20.25.*

*a.* Upon completion of a valid certification election in which an employee organization received the votes of a majority of the employees in the bargaining unit and the employee organization complies with the provisions of Iowa Code section 20.25, the appeal board will file an order certifying that employee organization as the exclusive bargaining representative of the employees in the bargaining unit.

*b.* Upon completion of a valid certification election in which none of the employee organizations on the ballot received the votes of a majority of the employees in the bargaining unit, the appeal board will file an order of noncertification.

*c.* If an employee organization that received the votes of a majority of the employees in the bargaining unit fails to comply with the provisions of Iowa Code section 20.25 within 90 days of the completion of a valid certification election, the appeal board will file an order of noncertification. Upon good cause shown, the appeal board may grant an extension of the 90-day period.

**486—11.3(20) Decertification elections.**

**11.3(1)** *General procedures.* After a decertification petition meeting the requirements of Iowa Code section 20.15(3) has been filed and an adequate show of interest has been made, the appeal board will file an order directing that a decertification election be conducted by mail ballot.

**11.3(2)** *Voter list.* Upon the appeal board filing an order directing a decertification election, the parties shall complete the actions as described in subrule 11.2(2).

**11.3(3)** *Election fee.* The election fee will be based on the final voter list used by the appeal board to conduct the election. The appeal board will assess the fee by filing a fee notice in EDMS under the election case number. The employee organization will have seven days from the date of notice to pay the fee. The appeal board will not conduct an election prior to receiving the applicable election fee from the employee organization. An employee organization's failure to pay the applicable election fee in a timely manner will result in the decertification of the employee organization. The employee organization may request an extension of time to pay the election fee as described in subrule 11.1(6).

**11.3(4)** *Notice of election.* Following the employer's submission of the list of eligible voters and the employee organization's payment of the applicable election fee, the appeal board will file a notice of election as described in subrule 11.2(4). The employer shall meet the requirements set out in subrule 11.2(4).

**11.3(5)** *Ballots.* Ballots will contain the question "Do you want [name of certified employee organization] to be decertified by the Employment Appeal Board and cease to be your exclusive bargaining representative?" followed by the choices "Yes, I no longer wish to be represented by [name of certified employee organization]" and "No, I want to continue to be represented by [name of certified employee organization]".

**11.3(6)** *Ballot tally.* The ballots will be tallied as described in subrule 11.2(7).

**11.3(7)** *Certification of results.*

*a.* Upon completion of a valid decertification election in which a majority of the employees in the bargaining unit voted to decertify the employee organization, the appeal board will file an order decertifying the employee organization as the exclusive bargaining representative of the employees in the bargaining unit.

*b.* Upon completion of a valid decertification election in which fewer than a majority of the employees in the bargaining unit voted to decertify the employee organization, the appeal board will file an order continuing the certification of the employee organization as the exclusive bargaining representative of the employees in the bargaining unit.

**486—11.4(20) Retention and recertification elections.**

**11.4(1)** *General procedures.*

*a.* The appeal board will issue the calendar containing specific dates for the retention and recertification election to be held in the fall on July 1 of each year. The appeal board will issue the calendar containing specific dates for the retention and recertification election to be held in the spring on December 1 of each year.

*b.* The appeal board will determine which bargaining units are subject to a retention and recertification election pursuant to Iowa Code section 20.15 by examining the collective bargaining agreements stored in Superb. The employer is responsible for submitting the collective bargaining agreement to the appeal board in accordance with Iowa Code section 20.29.

*c.* Upon determining that a retention and recertification election is required, the appeal board will file a notice of intent to conduct an election in the applicable bargaining unit case number in EDMS. The notice of intent to conduct an election will include the dates of the election calendar, including the election period, the date the voter list is due, and the deadline to pay the election fee.

*d.* An extension of a collective bargaining agreement will alter the timing of the retention and recertification election only if the parties have uploaded a written agreement in Superb prior to the deadline as set forth in the election calendar. If a collective bargaining agreement indicates the agreement is for a term of one year but does not clearly specify the effective commencement and termination dates, the appeal board will presume the collective bargaining agreement is for a term of one year commencing July 1 and ending June 30. Should the parties' collective bargaining agreement inclusive of any extensions exceed five years, the appeal board will, for purposes of scheduling the election, presume a maximum duration of five years pursuant to Iowa Code section 20.9 or two years pursuant to Iowa Code section 20.15, whichever is applicable.

*e.* The certified employee organization or employer may file an objection asserting that the election should not be conducted for reasons set forth in the objection. The objection must be in writing and electronically filed no later than seven days following the date of the notice of intent to conduct an election. The appeal board may conduct a preliminary investigation of the objection and determine if the objection has merit. The appeal board may informally resolve objections and will dismiss objections without merit. The appeal board may transmit an objection to the administrative hearings division created by Iowa Code section 10A.801 for a hearing.

*f.* If a writ of mandamus is sustained pursuant to Iowa Code section 20.15, the petitioner must notify the appeal board. The appeal board will either issue a new notice of intent to conduct an election and conduct an election by mail ballot or include the bargaining unit in the next web-based election.

**11.4(2)** *Voter list.* Upon the appeal board filing a notice of intent to conduct an election, the process and deadlines described in subrule 11.2(2) are applicable to the employer and the employee organization. If the employer does not provide the voter list by the deadline, the appeal board will issue an order automatically recertifying the employee organization as the representative of the bargaining unit.

**11.4(3)** *Election fee.* The election fee will be based on the final list used by the appeal board to conduct the election. The appeal board will issue a fee notice by filing it in EDMS under the bargaining unit adjudicatory case number. The employee organization will have seven days from the date of notice to pay the fee. The appeal board will not conduct an election prior to receiving the applicable election fee from the employee organization. An employee organization's failure to pay the applicable election fee in a timely manner will result in decertification. The employee organization may request an extension of time to pay the election fee as described in subrule 11.1(6).

**11.4(4)** *Notice of election.* Following the employer's submission of the list of eligible voters and the employee organization's payment of the applicable election fee, the appeal board will file a notice of election as described in subrule 11.2(4). The employer shall meet the distribution and posting requirements set out in subrule 11.2(4).

**11.4(5)** *Ballots.* The question on the ballot for a retention and recertification election will be as stated in Iowa Code section 20.15.

**11.4(6)** *Ballot tally.* For a spring election, the appeal board will tally the ballots by manual count as described in subrule 11.2(7). For a fall election, the ballots may be tabulated by an election services vendor.

**11.4(7)** *Certification of results.*

*a.* Upon completion of a valid recertification and retention election in which an employee organization received the votes of a majority of the employees in the bargaining unit, the appeal board will file an order recertifying that employee organization as the exclusive bargaining representative of the employees in the bargaining unit.

*b.* Upon completion of a valid recertification and retention election in which an employee organization did not receive the votes of a majority of the employees in the bargaining unit, the appeal board will file an order decertifying that employee organization as the exclusive bargaining representative of the employees in the bargaining unit.

**11.4(8)** *Transit units.* Units recognized as transit units under Iowa Code section 20.32 will not be served a notice of intent to conduct an election. If a transit unit does receive a notice in error, the unit or the employer may petition the appeal board to be removed from the election. The appeal board may informally determine the unit's transit status and remove the unit from the recertification election. Once a transit determination has been made, the unit will be considered transit by default until designated otherwise.

**486—11.5(20) Professional and nonprofessional elections.**

**11.5(1)** *General procedure.* Should the appeal board determine that professional and nonprofessional employees are appropriately included in the same bargaining unit, the appeal board will file an order directing that an election be conducted to determine whether those professional and nonprofessional employees agree to be represented in a single bargaining unit.

**11.5(2)** *Voter eligibility list.* Upon the appeal board filing a notice of intent to conduct an election, the employer and employee organization shall complete the actions as described in subrule 11.2(2).

**11.5(3)** *Notice of election.* Following the employer's submission of the list of eligible voters and the employee organization's payment of the applicable election fee, the appeal board will file a notice of election as described in subrule 11.2(4). The employer shall meet the distribution and posting requirements set out in subrule 11.2(4).

**11.5(4)** *Election fee.* No election fee is assessed for an election held pursuant to this rule.

**11.5(5)** *Ballots.* Ballots will contain the following question, "Do you agree to the inclusion of professional and nonprofessional employees in the same bargaining unit?" followed by the choices "Yes" and "No".

**11.5(6)** *Ballot tally.* The appeal board will tally the ballots by manual count as described in subrule 11.2(7).

**11.5(7)** *Certification of results.*

*a.* Upon completion of a valid professional and nonprofessional election in which separate majorities of employees voting in both the professional and nonprofessional categories voted in favor of their inclusion in the same bargaining unit, the appeal board will define a bargaining unit that includes both professional and nonprofessional employees.

*b.* Upon completion of a valid professional and nonprofessional election if the vote in favor of inclusion failed to obtain a majority either of voters in the professional category of employees or voters in the nonprofessional category of employees, then the appeal board will not define a bargaining unit that includes both professional and nonprofessional employees.

**486—11.6(20) Amendment of unit elections.**

**11.6(1)** *General procedure.* Should the appeal board determine that a job classification is appropriately amended into a bargaining unit but that the classification existed at the time the employee organization was certified and would separately constitute an appropriate unit, the appeal board will file an order directing that an election be conducted. The election will determine whether a majority of the employees in the classification wish to be represented by the existing certified employee organization.

**11.6(2)** *Voter eligibility list.* Upon the appeal board filing a notice of intent to conduct an election, the employer and employee organization shall complete the actions described in subrule 11.2(2).

**11.6(3)** *Notice of election.* Following the employer's submission of the list of eligible voters and the employee organization's payment of the applicable election fee, the appeal board will file a notice of election as described in subrule 11.2(4). The employer shall meet the distribution and posting requirements set out in subrule 11.2(4).

**11.6(4)** *Election fee.* No election fee is assessed for an election held pursuant to this rule.

**11.6(5)** *Ballots.* Ballots will contain the following question, "Do you wish to be represented for purposes of collective bargaining by [name of employee organization]?" followed by the choices "Yes" and "No".

**11.6(6)** *Ballot tally.* The appeal board will tally the ballots by manual count as described in subrule 11.2(7).

**11.6(7)** *Certification of results.*

*a.* Upon completion of a valid amendment of unit election in which a majority of employees voting cast ballots in favor of representation by the certified employee organization, the appeal board will file an order amending the unit as previously determined to be appropriate by the appeal board.

*b.* Upon completion of a valid amendment of unit election in which less than a majority of employees voting cast ballots in favor of representation by the certified employee organization, the appeal board will file an order dismissing the amendment of unit petition.

**486—11.7(20) Objections to an election.**

**11.7(1)** *Objections.* The appeal board or any public employee, public employer, or employee organization involved in an election may file an objection to the election. Objections must be filed in EDMS within ten days of the filing of the tally of ballots, even when challenges to eligible voters may be determinative of the outcome of the election. The person or organization filing the objection may use a form available on the appeal board's website. The objection must identify the objecting party; provide the objecting party's mailing address, telephone number, and email address, if available; and contain a statement of facts upon which the objections are based. The appeal board can conduct any investigation deemed appropriate. The appeal board may sustain or overrule an objection. If a factual or legal dispute exists, the appeal board may transmit the matter to the administrative hearings division created by Iowa Code section 10A.801 for a hearing.

**11.7(2)** *Objectionable conduct during election campaigns.* The following types of activity, if conducted during the period beginning with the filing of an election petition with the appeal board or the appeal board's filing of a notice of intent to conduct a retention and recertification election and ending at the conclusion of the election, will be considered to be objectionable conduct sufficient to invalidate the results of an election if the appeal board determines such activity could have affected the results of the election:

*a.* Misstatements of material facts by any party to the election or its representative without sufficient time for the adversely affected party to adequately respond;

*b.* Any misuse of appeal board documents, including an indication that the appeal board endorses any particular choice appearing on the ballot;

*c.* Campaign speeches by an employer to assembled groups of employees during working hours within the period beginning 24 hours before the mailing of ballots in an election to be conducted by mail ballot or the commencement of the telephonic/web-based election period and extending until the deadline for the appeal board's receipt of mail ballots or the close of the election period in a telephonic/web-based election;

*d.* Any polling of employees by a public employer that relates to the employees' preference for or against a bargaining representative;

*e.* Commission of a prohibited practice;

*f.* Any other misconduct or other circumstance that prevents employees from freely expressing their preferences in the election.

These rules are intended to implement Iowa Code chapter 20.

**RA 26-230**

# EMPLOYMENT APPEAL BOARD[486]

**Regulatory Analysis**

Notice of Intended Action to be published: 486—Chapter 12
"Prohibited Practice Proceedings"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 20.6(5)
State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, Senate File 2385, and Iowa Code chapter 20

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 24, 2026<br>9 a.m. | Via videoconference:<br>meet.google.com/hxy-euaj-uzq |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Employment Appeal Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Christine Louis
Employment Appeal Board
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Email: eab.elections@eab.iowa.gov

*Purpose and Summary*

This proposed rulemaking includes revisions to administrative rules based on the requirements of Executive Order 10 and statutory changes based on 2024 Iowa Acts, Senate File 2385. This proposed rulemaking provides procedural rules for filing prohibited practice complaints.

This chapter is being moved from the legacy Public Employee Relations Board agency number [621] to a new chapter within the Employment Appeal Board agency number [486]. These rules were previously located in 621—Chapter 3.

The rules under legacy agency number [621] are proposed to be rescinded and reserved herein (**RA 26-246**, IAB 8/19/26).

The reference to 486—Chapter 18 is to that as published herein as **RA 26-236**, IAB 8/19/26.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There is no additional expected cost to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

Public sector employers, employees, and employee organizations and Board staff will benefit from this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no expected economic impact created by this proposed rulemaking.

- **Qualitative description of impact:**

There is no expected economic impact created by this proposed rulemaking.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There is no expected economic impact created by the revisions to this proposed rulemaking.

- **Anticipated effect on State revenues:**

There is no expected economic impact created by the revisions to this proposed rulemaking.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The changes are mandated by statute and executive order.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

There is no expected impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Adopt the following **new** 486—Chapter 12:

CHAPTER 12
PROHIBITED PRACTICE PROCEEDINGS

**486—12.1(20) Filing of complaint.** Any person or organization may file a complaint with the appeal board alleging that any public employer or its agents, public employee, or employee organization or its agents has committed a prohibited practice in accordance with the requirements set forth in Iowa

Code section 20.11. The complaint and all subsequent documents in the case must be filed in the appeal board's electronic document management system pursuant to 486—Chapter 18. The matter will be assigned a case number, and all subsequent documents in that proceeding before the appeal board must be filed under the same case number.

**486—12.2(20) Contents of complaint.** The complainant may use the complaint form available on the appeal board's website. The complaint must be signed by the complainant or designated representative and include the following:

**12.2(1)** The name, address, telephone number and email address of the complainant and, if filed by the complainant's designated representative, the name, title, telephone number and email address of that representative.

**12.2(2)** The name and address of the respondent(s) alleged to have committed the prohibited practice.

**12.2(3)** A clear and concise statement of the facts constituting the alleged prohibited practice, including the names of the individuals involved in the alleged act(s), the date(s) and place(s) of the alleged act(s), and the specific subsection(s) and paragraph(s) of Iowa Code section 20.10 alleged to have been violated.

**486—12.3(20) Service of complaint.** Upon the filing of a proper complaint, the appeal board will serve copies of the complaint upon other interested parties by electronic means when possible or, where service by electronic means is not possible, by personal service as provided in the Iowa Rules of Civil Procedure; by certified mail, return receipt requested; by first-class mail; or by publication as provided in the Iowa Rules of Civil Procedure.

**486—12.4(20) Answer to complaint.**

**12.4(1)** *Filing and service.* Within ten days of service of a complaint, the respondent(s) must file with the appeal board an answer to the complaint in accordance with Iowa Code sections 20.11 and 20.24.

**12.4(2)** *Extension of time to answer.* The parties may agree to an extension of the time to answer and shall inform the appeal board of their agreement. If the parties cannot agree on an extension, the respondent may file a motion for an extension of the time to answer. The appeal board will grant a request for an extension for good cause.

**12.4(3)** *Contents of answer.* The respondent must file an answer within ten days of service of the complaint unless otherwise ordered. The answer must state the name, address, email, and telephone number of the person filing the answer; the person on whose behalf it is filed; and the attorney representing that person, if any. The answer must specifically admit, deny, or otherwise respond to material allegations of the complaint. Any allegation in the complaint not denied in the answer is considered admitted.

**12.4(4)** *Failure to answer.* The appeal board may deem that a respondent who has failed to timely file an answer has thereby admitted the material facts alleged in the complaint and waived the right to a hearing.

**486—12.5(20) Voluntary dismissal or withdrawal of complaint.** A complainant may voluntarily dismiss a complaint at any time prior to a proposed decision being issued. After a proposed decision is issued, a complainant may only withdraw a complaint with the consent of the board.

**486—12.6(20) Costs of certified shorthand reporters and transcripts.**

**12.6(1)** *Initial payment.* The appeal board will arrange for a certified shorthand reporter to report the contested case hearing and request that an original transcript of the hearing be prepared by the reporter for the board's use. The appeal board will initially pay the reporter's reasonable compensation for reporting the hearing and producing the requested transcript.

**12.6(2)** *Taxation as costs.* The nonprevailing party or parties will be taxed the full cost of reporting and transcription unless the final order apportions these costs in another manner.

**12.6(3)** *Payment of taxed costs.* Following final agency action in a case, the appeal board will prepare and serve a bill of costs upon the party or parties against whom the costs have been taxed. Those parties shall, within 30 days of such service, remit to the appeal board the amount specified in the bill of costs. Sums remitted to the appeal board will be considered appropriated receipts as defined in Iowa Code section 8.2.

**486—12.7(20) Transmission for contested case hearing.**

**12.7(1)** After the respondent files an answer to the prohibited practice complaint, the appeal board may transmit the matter to the administrative hearings division created by Iowa Code section 10A.801. The board will file a transmittal form with a copy of the complaint and answer attached. After the matter is transmitted, future filings must be made in the administrative hearings division's administrative electronic document management system.

**12.7(2)** After the case is transmitted to the administrative hearings division, it will be assigned a case number. The administrative hearings division will assign the proceeding to an administrative law judge to serve as a presiding officer. The administrative law judge will issue a notice for a prehearing conference or a notice of hearing.

**12.7(3)** The contested case proceeding will be conducted pursuant to 481—Chapter 10 and any other administrative rule applicable to the specific type of proceeding.

**12.7(4)** The proposed decision of the presiding officer may be reviewed by the appeal board in accordance with rules 7—2506.27(17A) and 7—2506.28(17A).

These rules are intended to implement Iowa Code chapter 20.

**RA 26-231**

# EMPLOYMENT APPEAL BOARD[486]

## Regulatory Analysis

Notice of Intended Action to be published: 486—Chapter 13
"Negotiations and Negotiability Disputes"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 20.6(5)
State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, Senate File 2385, and Iowa Code chapter 20

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 24, 2026<br>9 a.m. | Via videoconference:<br>meet.google.com/hxy-euaj-uzq |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Employment Appeal Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Christine Louis
Employment Appeal Board
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Email: eab.elections@eab.iowa.gov

*Purpose and Summary*

This proposed rulemaking includes revisions to administrative rules based on the requirements of Executive Order 10 and statutory changes based on 2024 Iowa Acts, Senate File 2385. This proposed rulemaking provides procedural rules for quick resolution of negotiability disputes in public sector collective bargaining.

This chapter is being moved from the legacy Public Employee Relations Board agency number [621] to a new chapter within the Employment Appeal Board agency number [486]. These rules were previously located in 621—Chapter 6.

The rules under legacy agency number [621] are proposed to be rescinded and reserved herein (**RA 26-246**, IAB 8/19/26).

The references to 486—Chapter 18 are to those as published herein as **RA 26-236**, IAB 8/19/26.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There is no additional expected cost to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

Public sector employers, employees, and employee organizations and Board staff will benefit from this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no expected economic impact created by this proposed rulemaking.

- **Qualitative description of impact:**

There is no expected economic impact created by this proposed rulemaking.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There is no expected economic impact created by this proposed rulemaking.

- **Anticipated effect on State revenues:**

There is no expected economic impact created by this proposed rulemaking.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The changes are mandated by statute and executive order.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

There is no expected impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Adopt the following **new** 486—Chapter 13:

CHAPTER 13
NEGOTIATIONS AND NEGOTIABILITY DISPUTES

**486—13.1(20) Background.**

**13.1(1)** *Definitions.* For purposes of this chapter, the following definitions apply:

*"Mandatory subject of collective bargaining"* means the mandatory subjects of collective bargaining as described in Iowa Code section 20.9(1).

*"Negotiability dispute"* means a dispute arising in good faith during the course of collective bargaining as to whether a proposal made during bargaining is a mandatory, permissive, or prohibited subject of collective bargaining. Questions of negotiability that do not arise during the course of collective bargaining are not negotiability disputes.

*"Permissive subject of collective bargaining"* means all other subjects of bargaining except those prohibited by Iowa Code section 20.9(3).

*"Public safety employee"* means a public safety employee as defined in Iowa Code section 20.3.

*"Public safety unit"* means a bargaining unit in which at least 30 percent of the employees are public safety employees.

**13.1(2)** *Scope of negotiations.* The scope of negotiations must include the mandatory subjects of collective bargaining. Either party may introduce permissive subjects for negotiation, and negotiation on these matters may continue until resolved by mutual agreement of the parties or until negotiations reach the arbitration stage of impasse; however, no party is required to negotiate on permissive subjects of bargaining. Unresolved permissive subjects of collective bargaining may be included in arbitration only upon mutual agreement. The agreement is not binding on the parties in future negotiations.

**486—13.2(20) Consolidated negotiations.** Nothing in these rules prohibits, by agreement of the parties, more than one certified bargaining representative from bargaining jointly with a common public employer or more than one public employer from bargaining jointly with a common certified bargaining representative.

**486—13.3(20) Negotiability disputes.**

**13.3(1)** *Petitions for expedited resolution.*

*a.* A public employer or certified employee organization may petition the appeal board for expedited resolution of a negotiability dispute. The petition must set forth the following:

(1) The name and address of the petitioner and the name, address, telephone number, and email address of the petitioner's representative;

(2) The name and address of the respondent and the name, address, telephone number, and email address of the respondent's representative;

(3) The material facts of the dispute; and

(4) The verbatim text of the proposal at issue.

*b.* The petition must be filed in the applicable bargaining unit case number in the electronic document management system (EDMS) described in 486—Chapter 18.

**13.3(2)** *Preliminary ruling.* The appeal board will give priority to a petition that involves a negotiability dispute. Parties may file informal position statements in support of their positions within the time specified by the appeal board, and the appeal board may set the matter for oral argument. The appeal board or appointed administrative law judge may issue a preliminary ruling, without analysis, that the proposal is mandatory, permissive, or prohibited.

**13.3(3)** *Final ruling.* Within 20 days following the issuance of a preliminary ruling, either party may request the appeal board to issue a final ruling, which will set forth the appeal board's analysis and conclusions.

**13.3(4)** *Arbitration.* Unless the dispute is resolved prior to the arbitration hearing, the parties shall present evidence on all items to the arbitrator, including the item that is the subject of the negotiability dispute. A negotiability dispute raised at the arbitration hearing must be upon written objection to the submission of the proposal to the arbitrator. The objection must state that the objecting party will file a petition for resolution of the dispute with the appeal board, which petition must be filed within five days of the making of the objection. Arbitrators shall rule on all items submitted to them, including the item that is the subject of the negotiability dispute, unless explicitly stayed by the appeal board. Arbitration awards issued prior to the final determination of the negotiability dispute are contingent upon the appeal board's determination.

**486—13.4(20) Public safety unit determination.**

**13.4(1)** *Applicability.* This rule applies only to bargaining units that include at least one public safety employee.

**13.4(2)** *Determination of public safety unit status.* A bargaining unit will constitute a public safety unit if at least 30 percent of the employees in the unit were public safety employees at any one time in the six months preceding the applicable date identified in subrule 13.4(6).

**13.4(3)** *Identification of public safety or nonpublic safety unit.* Parties engaging in negotiations for a collective bargaining agreement shall endeavor to agree upon and stipulate to the public safety or nonpublic safety status of the unit at issue.

**13.4(4)** *Agreement and stipulation.* If the parties agree on the public safety status of the unit, the parties may complete a stipulation form prescribed by the appeal board. The stipulation must be signed by the authorized representatives of the parties, and either party may submit it to the appeal board by filing the stipulation under the applicable bargaining unit case number in the EDMS described in 486—Chapter 18.

**13.4(5)** *Petition, response and hearing for determination of public safety or nonpublic safety unit status.*

*a.* If the parties fail to agree, the party asserting public safety unit status may file a petition for determination of the unit status on or before the applicable date identified in subrule 13.4(6). The petition must be electronically filed in accordance with 486—Chapter 18. The appeal board will promptly serve the other party by electronic means when possible or, where service by electronic means is not possible, by personal service as provided in the Iowa Rules of Civil Procedure; by certified mail, return receipt requested; by first-class mail; or by publication as provided in the Iowa Rules of Civil Procedure.

*b.* The nonpetitioning party shall, within ten days following the filing of the petition with the appeal board, file a response asserting its basis for identifying the unit as a nonpublic safety unit.

*c.* The appeal board will vote on whether to transmit the matter to the administrative hearings division created by Iowa Code section 10A.801 for a hearing.

**13.4(6)** *Deadlines.* The stipulation must be submitted or a petition filed on or before the dates indicated:

*a.* August 1 for contracts that expire January 1 to March 31 of the subsequent year.

*b.* November 1 for contracts that expire April 1 to June 30 of the subsequent year.

*c.* February 1 for contracts that expire July 1 to September 30 of the same year.

*d.* May 1 for contracts that expire October 1 to December 31 of the same year.

**486—13.5(20) Voluntary settlement procedures.**

**13.5(1)** *Terms made public.* Where the parties have reached a proposed (or "tentative") collective bargaining agreement, the public employer shall make the terms of the agreement public.

**13.5(2)** *Ratification or rejection by employee organization.* Within seven days of the date of the tentative agreement, the employee organization shall conduct a ratification election on the proposed collective bargaining agreement. The employee organization shall give reasonable notice of the date, time and place of the election to the public employees; however, such notice shall be at least 24 hours prior to the election. The vote shall be by secret ballot, and the majority of votes cast will determine acceptance or rejection of the proposed collective bargaining agreement. Only members of the employee organization will be entitled to vote; however, the employee organization may, pursuant to its internal procedures, extend voting rights to nonmember bargaining unit employees. The employee organization shall, within 24 hours of the conclusion of the election, serve notice on the public employer as to whether the proposed collective bargaining agreement has been ratified.

**13.5(3)** *Acceptance or rejection by public employer.* The public employer shall, within ten days of the tentative agreement, likewise accept or reject the proposed collective bargaining agreement and shall within 24 hours of the acceptance or rejection of the proposed collective bargaining agreement serve notice on the employee organization of its acceptance or rejection of the proposed collective bargaining agreement; however, the public employer shall not be required to either accept or reject the proposed collective bargaining agreement if it has been rejected by the employee organization.

**13.5(4)** *Time limits.*

*a.* The time limits described in subrules 13.5(2) and 13.5(3) may be modified by a written mutual agreement between the public employer and the employee organization.

*b.* The time limits described in subrules 13.5(2) and 13.5(3) shall not apply to proposed agreements between the state and any bargaining unit of state employees.

**486—13.6(20) Filing of agreement.** A public employer shall file a copy of the collective bargaining agreement entered into between the public employer and a certified employee organization and made final under Iowa Code chapter 20. Filing must be completed by uploading the collective bargaining agreement into Superb, the appeal board's database. The certified employee organization will be notified of the filing of the collective bargaining agreement through Superb. The public employer shall file the copy within ten days of the date on which the agreement is entered into.

These rules are intended to implement Iowa Code chapter 20.

**RA 26-232**

# EMPLOYMENT APPEAL BOARD[486]

**Regulatory Analysis**

Notice of Intended Action to be published: 486—Chapter 14
"Impasse Procedures"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 20.6(5)
State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, Senate File 2385, and Iowa Code chapter 20

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 24, 2026<br>9 a.m. | Via videoconference:<br>meet.google.com/hxy-euaj-uzq |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Employment Appeal Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Christine Louis
Employment Appeal Board
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Email: eab.elections@eab.iowa.gov

*Purpose and Summary*

This proposed rulemaking includes revisions to administrative rules based on the requirements of Executive Order 10 and statutory changes based on 2024 Iowa Acts, Senate File 2385. This proposed rulemaking provides statutorily mandated guidance regarding impasse, mediation, and arbitration for issues related to public collective bargaining.

This chapter is being moved from the legacy Public Employee Relations Board agency number [621] to a new chapter within the Employment Appeal Board agency number [486]. These rules were previously located in 621—Chapter 7.

The rules under legacy agency number [621] are proposed to be rescinded and reserved herein (**RA 26-246**, IAB 8/19/26).

The references to rule 486—13.3(20) and 486—Chapter 18 are to those as published herein as **RA 26-231** and **RA 26-236**, respectively, IAB 8/19/26.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There is no additional expected cost to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

Public sector employers, employees, and employee organizations and Board staff will benefit from this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no expected economic impact created by this proposed rulemaking.

- **Qualitative description of impact:**

There is no expected economic impact created by this proposed rulemaking.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There is no expected economic impact created by this proposed rulemaking.

- **Anticipated effect on State revenues:**

There is no expected economic impact created by this proposed rulemaking.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The changes are mandated by statute and executive order.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

There is no expected impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Adopt the following **new** 486—Chapter 14:

CHAPTER 14
IMPASSE PROCEDURES

**486—14.1(20) Definitions.** For purposes of this chapter, the following definitions apply:

*"Arbitration"* means the same as defined in Iowa Code section 20.3(1).

*"Grievance arbitration"* means proceedings on an alleged contract violation as provided in a collective bargaining agreement entered into pursuant to Iowa Code chapter 20.

*"Impasse"* means the same as defined in Iowa Code section 20.3(6).

*"Interest arbitration"* means the binding arbitration contemplated by Iowa Code section 20.22 or by an impasse agreement entered into pursuant to Iowa Code section 20.19.

*"Mediation"* means the same as defined in Iowa Code section 20.3(7).

**486—14.2(20) General.** Nothing in this chapter prohibits the parties from entering into their own impasse agreement or from proceeding directly to binding arbitration at any time after an impasse.

**486—14.3(20) Mediation.**

**14.3(1)** *Request for mediation.* Either party to an impasse may request that the appeal board assign a mediator by requesting mediation services. Forms to request mediation are available on the appeal board's website. Parties requesting mediation must email the completed form to the appeal board. The requesting party must also email or mail a copy of the request to the other parties involved in negotiations.

**14.3(2)** *Appointment of mediator.* Upon receipt of a request for mediation, the appeal board may appoint an impartial and disinterested person as mediator of the dispute and notify all parties of the appointment of the mediator. The appeal board will determine the effective date of this appointment. The appeal board has the sole discretion to make and modify mediation assignments except those that are created by private agreement of the parties.

**14.3(3)** *Confidential nature of mediation.* Any information obtained by the mediator in the performance of mediation duties is subject to the privilege described in Iowa Code section 20.31.

**14.3(4)** *Mediation proceedings.* The mediator may hold separate or joint meetings with the parties or their representatives, and those meetings shall not be public. Mediation meetings will be conducted at a time and place designated by the mediator.

**14.3(5)** *Board mediator.* When the mediator is an employee of the state of Iowa, that mediator will not participate in any contested case arising out of any transaction or occurrence relating to those mediation activities.

**14.3(6)** *Costs of mediation.* When the appeal board appoints a state of Iowa or federal government employee as a mediator, the parties will not incur the costs of mediation. The appeal board has the right to limit the scope of the mediation and the amount of time the mediator is available to the parties. The parties may waive mediation or hire a private mediator at their own cost.

**486—14.4(20) List and status of mediators.**

**14.4(1)** *List.* The appeal board will maintain a list of mediators who meet the appeal board's qualifications. Placement on the list shall be at the sole discretion of the board.

**14.4(2)** *Adherence to standards and requirements.* Mediators must comply with the appeal board's administrative rules pertaining to mediation. Mediators must conform to generally accepted professional ethical standards and procedures.

**14.4(3)** *Minimum qualifications for mediators.* Mediators must establish requisite knowledge and abilities as follows:

*a.* Good verbal and written communication skills;

*b.* The ability and willingness to use technology that allows the mediator to participate remotely;

*c.* Knowledge of Iowa Code chapter 20, the appeal board's administrative rules, and principles and practices of contracts, public finance, and labor relations; and

*d.* The ability and willingness to conduct a mediation in a fair and impartial manner.

**14.4(4)** *Complaints.* Any affected person may submit a complaint to the appeal board regarding a mediator who was appointed by the board. The board will consider the complaint and other relevant information and take such action it deems appropriate.

**486—14.5(20) Binding arbitration.**

**14.5(1)** *Request for arbitration.* Either party may request arbitration subject to the conditions in Iowa Code section 20.22(1). The parties may also request grievance arbitration.

**14.5(2)** *Form and contents of request.* Forms to request arbitration are available on the appeal board's website. The request for arbitration must be emailed to the appeal board and include the name, address, email address, and signature of the requesting party and the capacity in which the requesting party is acting.

**14.5(3)** *Service of request.* The requesting party must mail or email a copy of the request for arbitration to the opposing party.

**14.5(4)** *Exchange of final offers.* Within four days of the appeal board's receipt of the request for arbitration, each party shall mail or email its final offer on each of the impasse items to the other party to the impasse. Final offers cannot be amended. A party cannot submit a final offer for arbitration that has not been offered to the other party in the course of negotiations.

**14.5(5)** *Selection of arbitrator.* Upon the filing of a timely request for arbitration, the appeal board will email a list of five arbitrators to the parties. Within five days from when that email is sent, the parties must select their arbitrator from the list in the manner specified in Iowa Code section 20.22(4).

**14.5(6)** *Date and conduct of hearings.*

*a.* Impasse items are deemed submitted to binding arbitration on the date of the commencement of the arbitration hearing, regardless of its duration. In disputes where the public employer is a community college or any portion of the public employees in the bargaining unit are teachers licensed under Iowa Code chapter 256 and the public employer is a school district or area education agency, the submission of impasse items to binding arbitration shall occur not later than May 13 of the year when the resulting collective bargaining agreement is to become effective.

*b.* Arbitration hearings must be open to the public and recorded either by mechanized means or by a certified shorthand reporter.

*c.* The arbitration hearing will be limited to those factors listed in Iowa Code section 20.22 and such other relevant factors as may enable the arbitrator to select the most reasonable offer, in the arbitrator's judgment, of the final offers submitted by the parties on each impasse item. Arbitrators appointed pursuant to impasse procedures agreed upon by the parties shall likewise consider these same factors.

**14.5(7)** *Arbitration involving a bargaining unit that has at least 30 percent of members who are public safety employees.* The arbitrator must consider and address factors in compliance with Iowa Code section 20.22(7).

**14.5(8)** *Arbitration involving a bargaining unit that does not have at least 30 percent of members who are public safety employees.*

*a.* The arbitrator must consider and address factors in compliance with Iowa Code section 20.22(8) and 20.22(9).

*b.* The arbitrator's award on the impasse item of base wages is limited as set forth in Iowa Code section 20.22(10)*"b"*(1).

**14.5(9)** *Continued bargaining.* The parties may continue to bargain on the impasse items the arbitrator may consider until the arbitrator's selections are made. Should the parties reach agreement on an impasse item following its submission to arbitration, the parties shall immediately report their agreement to the arbitrator. The agreed upon term will be incorporated into the parties' collective bargaining agreement, and the arbitrator may no longer consider the final offers of the parties on that impasse item.

**14.5(10)** *Report of the arbitrator.* With respect to each impasse item, the arbitrator's award shall be restricted to the final offers on each impasse item submitted by the parties to the arbitrator except as provided in paragraph 14.5(8)*"b."* Within 15 days after the arbitration hearing, the arbitrator shall:

*a.* Issue a written award specifying and explaining the arbitrator's selection, and

*b.* Send by email or by ordinary mail a copy of the award to each party and to the appeal board.

**14.5(11)** *Dismissal of arbitrator.* In the event of a failure of the arbitrator to issue an award within 15 days after the arbitration hearing, the arbitrator shall notify the appeal board and the parties of this failure. Either party may thereafter request a new arbitrator. Unless the parties agree otherwise, the procedures in this rule shall apply provided, however, that the parties may submit new final offers. An arbitrator may not issue a partial award except by mutual consent of the parties.

**14.5(12)** *Costs of arbitration.* The arbitrator shall submit to the parties a written statement of fees and expenses with a copy sent to the appeal board. The parties shall share the costs of arbitration equally. Qualified arbitrators selected from the roster may be compensated by a sum not to exceed $1,800 per day of service, plus their necessary expenses incurred.

**486—14.6(20) List and status of arbitrators.**

**14.6(1)** *List.* The appeal board will maintain a list of arbitrators who meet the appeal board's qualifications. A person may be placed on the list only if the person first files an application. Placement on the list is at the sole discretion of the appeal board.

**14.6(2)** *Initial application procedures.* Persons seeking to be on the arbitrator list must submit an application to the appeal board. Applicants must submit at least one reference from management, one reference from labor, and applicable writing samples. The appeal board will review the application under the criteria, as set forth in subrules 14.6(3) and 14.6(4), and will make a final decision concerning whether an applicant will be included on the list. Each applicant shall be notified in writing of the appeal board's decision. The applicant should identify whether the applicant is available to conduct interest arbitrations, grievance arbitrations, or both.

**14.6(3)** *Knowledge and abilities.* Applicants must establish requisite knowledge and abilities as follows:

*a.* Good verbal and written communication skills;

*b.* The ability and willingness to travel throughout Iowa or use technology that allows for remote hearings;

*c.* Knowledge of Iowa Code chapter 20, the appeal board's administrative rules, and principles and practices of contracts, public finance, and labor relations; and

*d.* The ability to conduct evidentiary hearings in a fair and impartial manner, develop an accurate record, and prepare and issue clear, reasoned and timely awards.

**14.6(4)** *Experience.* Applicants must demonstrate requisite experience in labor relations or arbitration in one of the following ways:

*a.* Issuance of at least four arbitration decisions;

*b.* At least three years' experience as a mediator in collective bargaining interest disputes, with training and experience in conducting hearings and issuing reasoned awards; or

*c.* At least five years' experience in labor relations or labor law, with training and experience in conducting hearings and issuing reasoned awards.

**14.6(5)** *Adherence to standards and requirements.* Arbitrators on the list must comply with the appeal board's administrative rules pertaining to arbitrators. Arbitrators shall conform to generally accepted professional ethical standards and procedures.

**14.6(6)** *Status of arbitrators.* Persons who are listed on the roster are not employees of the state of Iowa. A selected arbitrator's contractual relationship is solely with the parties to the dispute.

**14.6(7)** *Application fee.* The appeal board charges an application fee of $50 for each applicant. This fee shall be considered an appropriated receipt as defined in Iowa Code section 8.2.

**14.6(8)** *Biography.* Each arbitrator shall maintain a biography on the appeal board's website. The arbitrator is responsible for ensuring that the biography is accurate and current. The appeal board bears no responsibility for inaccurate, incomplete, or outdated information in biographies. The arbitrator's biography should contain the following:

*a.* Name, address, telephone number, and email address;

*b.* Current and past employment, including the arbitrator's representative client base if not readily identifiable;

*c.* Education history;

*d.* Per diem rate and other applicable charges or fees;

*e.* Relevant experience, including but not limited to listing on other arbitrator rosters or memberships/associations; and

*f.* Potential or actual conflicts of interest.

**14.6(9)** *Complaints.* Any affected person may submit a complaint to the appeal board regarding an arbitrator who is on the list. The appeal board will consider the complaint and other relevant information and take such action it deems appropriate.

**486—14.7(20) Impasse procedures after completion deadline.**

**14.7(1)** *Objections.* Any objection by a party to mediation or the conduct of arbitration proceedings that will not be completed by the applicable deadline for completion of impasse procedures must be electronically filed with the appeal board in accordance with 486—Chapter 18. The objection must be filed in the bargaining unit case number no later than ten days after service of the request to mediation or arbitration with the appeal board. The appeal board will follow the expedited procedure outlined in rule 486—13.3(20) in ruling on objections. Filing of an objection before the applicable deadline for completion of impasse procedures does not affect the obligation of each party to continue the impasse procedures.

**14.7(2)** *Deferred board action.* Further, the appeal board may postpone ruling on the objection if it determines that mediation may take place or that an arbitration award may be rendered by the applicable deadline. In making that determination, the appeal board will attempt to expedite any remaining impasse proceedings. In no event will a party be required to comply with a mandatory statutory deadline sooner than the date set by the statute.

**486—14.8(20) Impasse procedures for state employees.**

**14.8(1)** *Procedures.* Impasse procedures must provide that the impasse be submitted to binding arbitration and the arbitration hearing concluded no later than February 28 and that any arbitrator's award be issued on or before March 15. This rule does not preclude the parties from mutually agreeing to a date other than February 28, but the agreement must result in an arbitration award on or before March 15.

**14.8(2)** *Procedures for state agreements effective in a year following an Iowa Code section 39.9 gubernatorial election.*

*a.* A ratification election referred to in Iowa Code section 20.17(4) may not be held and the parties may not request arbitration pursuant to Iowa Code section 20.22(1) until at least two weeks after the beginning date of the governor's term of office.

*b.* Within five days from the beginning date of the governor's term of office, the governor shall accept or reject a proposed statewide collective bargaining agreement if one exists. If the proposed agreement is rejected, the parties shall commence bargaining anew in accordance with Iowa Code section 20.17 and exchange initial proposals within the same five-day period.

*c.* Negotiations must be complete not later than March 15 of that year unless the parties mutually agree to a different deadline.

*d.* The parties shall mutually agree to alternative deadlines for the completion of bargaining procedures set forth in Iowa Code sections 20.19, 20.20, and 20.22 to ensure the completion of negotiations not later than March 15 or other mutually agreeable deadline.

**14.8(3)** *Independent procedures.* Independent impasse procedures negotiated by the parties must provide that the impasse will be submitted to binding arbitration, and any hearing thereon concluded no later than February 28, and that any arbitrator's award will be issued on or before March 15.

**14.8(4)** *Statutory procedures.* In the absence of independent procedures, the procedures in Iowa Code sections 20.20 and 20.22 and this chapter apply except that a single-party request for mediation must be filed no later than December 14, a request for binding arbitration must be filed by February 1, and an arbitration hearing must be concluded no later than February 28.

**14.8(5)** *New certifications.* Statutory impasse procedures under these rules are not available if the employee organization is certified later than December 1. This rule does not preclude the parties from negotiating independent impasse procedures if an employee organization is certified later than December 1 so long as procedures will result in an arbitration award on or before March 15.

**14.8(6)** *Negotiability disputes.* Disputes concerning the negotiability of any subject of bargaining shall be submitted to the board for determination pursuant to rule 486—13.3(20) no later than March 1. An arbitration award rendered prior to final determination of the negotiability dispute will be made conditional upon such determination. The appeal board will not grant a stay of impasse procedures during the pendency of any negotiability dispute, petition for declaratory order, or prohibited practice complaint.

These rules are intended to implement Iowa Code chapter 20.

**RA 26-233**

# EMPLOYMENT APPEAL BOARD[486]

## Regulatory Analysis

Notice of Intended Action to be published: 486—Chapter 15
"Internal Conduct of Employee Organizations"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 20.6(5)
State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, Senate File 2385, and Iowa Code chapter 20

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 24, 2026<br>9 a.m. | Via videoconference:<br>meet.google.com/hxy-euaj-uzq |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Employment Appeal Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Christine Louis
Employment Appeal Board
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Email: eab.elections@eab.iowa.gov

*Purpose and Summary*

This proposed rulemaking includes revisions to administrative rules based on the requirements of Executive Order 10 and statutory changes based on 2024 Iowa Acts, Senate File 2385. This proposed rulemaking provides procedural rules that govern the internal conduct of employee organizations involved in public collective bargaining.

This chapter is being moved from the legacy Public Employee Relations Board agency number [621] to a new chapter within the Employment Appeal Board agency number [486]. These rules were previously located in 621—Chapter 8.

The rules under legacy agency number [621] are proposed to be rescinded and reserved herein (**RA 26-246**, IAB 8/19/26).

All references to 486—Chapter 18 are to those as published herein as **RA 26-236**, IAB 8/19/26.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There is no additional expected cost to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

Public sector employers, employees, and employee organizations and Board staff will benefit from this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no expected economic impact created by this proposed rulemaking.

- **Qualitative description of impact:**

There is no expected economic impact created by this proposed rulemaking.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There is no expected economic impact created by this proposed rulemaking.

- **Anticipated effect on State revenues:**

There is no expected economic impact created by this proposed rulemaking.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The changes are mandated by statute and executive order.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

There is no expected impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Adopt the following **new** 486—Chapter 15:

CHAPTER 15
INTERNAL CONDUCT OF EMPLOYEE ORGANIZATIONS

**486—15.1(20) Requirements.**

**15.1(1)** *Certification requirements.* An employee organization may not be certified by the appeal board as the exclusive representative of a bargaining unit until that employee organization has uploaded in Superb, the appeal board's database, a complete registration report, its constitution and bylaws, and an annual report.

**15.1(2)** *Bylaw and constitution requirement.* Changes or amendments to a certified employee organization's constitution or bylaws will not be recognized until that certified employee organization has uploaded in Superb both a complete registration report and its constitution and bylaws.

**15.1(3)** *Petitions to amend certification.* A certified employee organization's filing of a petition to amend its certification will not be accepted until that certified employee organization has uploaded in Superb a complete registration report, its constitution and bylaws, and an annual report.

**486—15.2(20) Registration report.** An employee organization shall file a complete registration report:

**15.2(1)** Before the employee organization may be certified as the exclusive representative of a bargaining unit; and

**15.2(2)** Whenever changes or amendments are made to its constitution or bylaws after the employee organization has been certified; and

**15.2(3)** When the certified employee organization files a petition to amend its certification.

**486—15.3(20) Constitution and bylaws.**

**15.3(1)** *Time of filing.* An employee organization shall file its constitution and bylaws:

*a.* Before the employee organization may be certified as the exclusive representative of a bargaining unit; and

*b.* Whenever changes or amendments are made to its constitution or bylaws after the employee organization has been certified; and

*c.* When the certified employee organization files a petition to amend its certification.

**15.3(2)** *Form and content.*

*a.* The constitution or bylaws of every employee organization shall contain the information required by Iowa Code section 20.25 and be uploaded in Superb.

*b.* The employee organization's national or international constitution and bylaws will be accepted in lieu of the employee organization's constitution and bylaws provided that such national or international constitution and bylaws conform to the requirements of Iowa Code section 20.25.

**486—15.4(20) Annual report.**

**15.4(1)** *Time of filing.* A certified employee organization shall file a complete annual report within 90 days following the certified employee organization's fiscal year end.

**15.4(2)** *Form and content.* The annual report must be on the form on the appeal board's website. The annual report must also be uploaded in Superb and contain the information required by Iowa Code section 20.25.

*a.* The financial report that must accompany the annual report must contain the following information: the cash balance from the previous year; a listing of sources and amounts of income; an identified listing of disbursements; and a closing balance. For the first annual report filed by an employee organization, the financial report shall reflect the last completed fiscal year of the organization or, in the case of a new organization, the last completed quarter or quarters of the current fiscal year. For annual reports filed mid-fiscal year, the financial report must reflect the last completed quarter of the current fiscal year.

*b.* The audit that accompanies the annual report must include a statement that the financial report has been reviewed and found to be true and accurate. The audit must be signed by an auditing committee or a person or persons who hold no office in the employee organization and who did not prepare the financial report.

*c.* All annual reports must contain the name of any person required to be bonded by rule 486—15.5(20), the amount of that bond, and the name of the corporate surety company that issued the bond.

**486—15.5(20) Bond required.** Every person required by Iowa Code section 20.25(3)*"c"* to be bonded shall be bonded to provide protection against loss by reason of act of fraud or dishonesty on the part of such person, directly or through connivance with others.

**15.5(1)** *Bond requirements.* The bond of each such person shall be fixed at the beginning of the employee organization's fiscal year and shall be in an amount of not less than 10 percent of the funds handled by such person or that person's predecessor, if any, during the preceding fiscal year. The bond may not be less than $2,000 nor more than $500,000. If the employee organization or the trust in which an employee organization is interested does not have a preceding fiscal year, the amount of the bond may not be less than $2,000. Such bonds must have a corporate surety company as surety thereon.

**15.5(2)** *Prohibitions.* No person will be permitted to receive, handle, disburse or otherwise exercise control of the funds or other property of an employee organization or of a trust in which an employee organization is interested unless that person is covered by a bond as set forth in subrule 15.5(1). No such bond may be placed through an agent or broker or with a surety company in which any employee organization or any officer, agent, shop steward or other representative of an employee organization has any direct or indirect interest.

**486—15.6(20) Trusteeships.**

**15.6(1)** *Application and establishment.* Prior to establishing a trusteeship, an organization shall file an application to establish or administer a trusteeship over a subordinate employee organization certified by the appeal board. The organization shall attach a copy of its constitution and bylaws to its application.

*a.* The appeal board will review the organization's constitution and bylaws and permit the establishment of a trusteeship if the trusteeship procedures are reasonable.

*b.* Trusteeships may be established or administered by an organization over a subordinate employee organization only in accordance with the constitution or bylaws of the organization that has assumed trusteeship over the subordinate body and for the purpose of correcting corruption or financial malpractice, assuring the performance of collective bargaining agreements or other duties of a bargaining representative, restoring democratic procedures or otherwise carrying out the legitimate objectives of the employee organization.

**15.6(2)** *Reports.*

*a.* Every organization that assumes trusteeship over any subordinate employee organization shall file with the appeal board within 30 days after the imposition of any such trusteeship, and semiannually thereafter, a report, signed by its president and treasurer or corresponding principal officers, as well as by the designated trustees of such subordinate employee organization. The report must contain the following information:

(1) The name and address of the subordinate employee organization;

(2) The date of the establishment of the trusteeship;

(3) A detailed statement of the reason for the establishment or the continuation of the trusteeship; and

(4) The nature and extent of participation by the membership of the subordinate employee organization in the selection of delegates to represent such employee organization in regular or special conventions or other policy-determining bodies and in the election of officers of the organization that has assumed trusteeship over the employee organization.

*b.* The initial report of the establishment of the trusteeship must include a full and complete account of the financial condition of the subordinate employee organization as of the time trusteeship was assumed over it.

**15.6(3)** *Continuing duty to report.* During the continuance of a trusteeship, the organization that has assumed trusteeship over a subordinate employee organization shall file on behalf of the subordinate employee organization all reports required by this chapter. Such reports must be signed by the president and treasurer or corresponding principal officers of the organization that has assumed such trusteeship and the designated trustees for the subordinate employee organization.

**15.6(4)** *Method of filing.* The application and any required reports must be electronically filed in the electronic document management system (EDMS) pursuant to 486—Chapter 18.

**486—15.7(20) Failure to comply with employee organization requirements.**

**15.7(1)** *Upon completion of a valid certification election.* If an employee organization fails within 90 days following the completion of a valid certification election to file a registration report, its constitution and bylaws, or an annual report or fails to otherwise comply with Iowa Code section 20.25, the appeal board will not certify the employee organization and will serve notice of noncertification. The appeal board may grant extensions of time for good cause.

**15.7(2)** *Failure to file reports once certified.* If an employee organization fails to file a registration report, its constitution and bylaws, or an annual report or fails to otherwise comply with Iowa Code section 20.25, the agency appeal board may revoke the certification of the employee organization.

**15.7(3)** *Complaints by affected parties.*

*a.* Any affected person may file with the appeal board a complaint that an employee organization has violated Iowa Code section 20.25. The complaint and all subsequent documents in the case must be filed in the appeal board's EDMS pursuant to 486—Chapter 18. The matter will be assigned a case number and all subsequent documents in that proceeding before the appeal board must be filed under the same case number.

*b.* Upon receipt of a complaint, the appeal board will serve copies of the complaint upon the employee organization by electronic means when possible and, where service by electronic means is not possible, by personal service as provided in the Iowa Rules of Civil Procedure; by certified mail, return receipt requested; by first-class mail; or by publication as provided in the Iowa Rules of Civil Procedure.

*c.* The appeal board shall conduct a preliminary investigation of the alleged violation. In conducting the investigation, the appeal board may require the production of evidence, including affidavits and documents. If the investigation shows there is no reasonable cause to believe a violation has occurred, the complaint will be dismissed and the parties notified.

*d.* If the investigation shows reasonable cause to believe a violation has occurred, the appeal board may transmit the matter to the administrative hearings division created by Iowa Code section 10A.801. The board will file a transmittal form with a copy of the complaint and answer attached. After the matter is transmitted, future filings must be made in the administrative hearings division's administrative electronic document management system.

*e.* After the case is transmitted to the administrative hearings division, it will be assigned a case number. The administrative hearings division will assign the proceeding to an administrative law judge to serve as a presiding officer. The administrative law judge will issue a notice for a prehearing conference or a notice of hearing.

*f.* The contested case proceeding will be conducted pursuant to 481—Chapter 10 and any other administrative rule applicable to the specific type of proceeding.

*g.* The proposed decision of the presiding officer may be reviewed by the appeal board in accordance with rules 7—2506.27(17A) and 7—2506.28(17A).

These rules are intended to implement Iowa Code chapter 20.

**RA 26-234**

# EMPLOYMENT APPEAL BOARD[486]

## Regulatory Analysis

Notice of Intended Action to be published: 486—Chapter 16
"State Employee Appeals of Grievance Decisions and Disciplinary Actions"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 8A.415

State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, Senate File 2385, and Iowa Code chapter 8A

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 24, 2026<br>9 a.m. | Via videoconference:<br>meet.google.com/hxy-euaj-uzq |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Employment Appeal Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Christine Louis
Employment Appeal Board
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Email: eab.elections@eab.iowa.gov

*Purpose and Summary*

This proposed rulemaking includes revisions to administrative rules based on the requirements of Executive Order 10 and statutory changes based on 2024 Iowa Acts, Senate File 2385. This proposed rulemaking provides procedural rules for state employee appeals of grievance decisions and disciplinary actions.

This chapter is being moved from the legacy Public Employee Relations Board agency number [621] to a new chapter within the Employment Appeal Board agency number [486]. These rules were previously located in 621—Chapter 11.

The rules under legacy agency number [621] are proposed to be rescinded and reserved herein (**RA 26-246**, IAB 8/19/26).

The reference to 486—Chapter 18 is to that as published herein as **RA 26-236**, IAB 8/19/26.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There is no additional expected cost to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

State of Iowa agencies and State of Iowa employees will benefit from this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no expected economic impact created by this proposed rulemaking.

- **Qualitative description of impact:**

There is no expected economic impact created by this proposed rulemaking.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There is no expected economic impact created by this proposed rulemaking.

- **Anticipated effect on State revenues:**

There is no expected economic impact created by this proposed rulemaking.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The changes are mandated by statute and executive order.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

There is no expected impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Adopt the following **new** 486—Chapter 16:

CHAPTER 16
STATE EMPLOYEE APPEALS OF GRIEVANCE DECISIONS AND DISCIPLINARY ACTIONS

**486—16.1(8A,20) Notice of appeal rights.** When the director of the department of administrative services (hereinafter referred to as the director) issues a response to an employee pursuant to Iowa Code section 8A.415 and the response does not grant the relief sought by the employee, the response shall include notice to the affected employee that the employee may appeal the response by filing an appeal with the appeal board within 30 days of the date of the director's response.

**486—16.2(8A,20) Filing of appeal.**

**16.2(1)** *Grievances.* An employee, except an employee covered by a collective bargaining agreement that provides otherwise, who has filed a grievance and is not satisfied with the director's response may file an appeal with the appeal board. Such appeal must be filed within 30 calendar days following the date the director's response was issued. However, if no response was issued by the director within 30 calendar days following the filing of the third-step grievance with the director, the employee may consider the grievance denied.

**16.2(2)** *Disciplinary appeals.* A nonprobationary merit system employee as described in Iowa Code section 8A.412, except an employee covered by a collective bargaining agreement that provides otherwise, who is discharged, suspended, demoted, or otherwise receives a reduction in pay and who appeals the action to the director and is not satisfied with the director's response may file an appeal with the appeal board. Such appeal must be filed within 30 calendar days following the date the director's response was issued. However, if the director fails to issue a response within 30 calendar days following the filing of the appeal with the director, then the employee may consider the appeal denied and file an appeal with the appeal board.

**16.2(3)** *Method of filing.* Appeals and all other pleadings must be electronically filed pursuant to 486—Chapter 18.

**486—16.3(8A,20) Service of appeal.** The appeal board will serve a copy of the appeal on the director by electronic means when possible and, where service by electronic means is not possible, by personal service as provided in the Iowa Rules of Civil Procedure; by certified mail, return receipt requested; by first-class mail; or by publication as provided in the Iowa Rules of Civil Procedure.

**486—16.4(8A,20) Content of appeal.**

**16.4(1)** The appeal shall contain the following:

*a.* Name, address, telephone number, and email address of the appealing employee;

*b.* Name of agency/department by which the appealing employee is/was employed;

*c.* A brief statement of the reasons for the appealing employee's dissatisfaction with the director's response;

*d.* A statement of the requested remedy;

*e.* The name, address, telephone number, and email address of the appealing employee's representative, if any;

*f.* Signature of the appealing employee or employee's representative; and

*g.* In the case of a disciplinary action appeal filed pursuant to Iowa Code section 8A.415(2), a statement of whether the employee requests a hearing open to the public.

**16.4(2)** Completion of the State Employee Grievance and Disciplinary Action Appeal Form complies with all the requirements in subrule 16.4(1).

**486—16.5(8A,20) Content of director's response to the appeal.**

**16.5(1)** The director should file a motion or answer within 15 days from the date of service of the employee's appeal.

**16.5(2)** The motion or answer must contain the following:

*a.* The names of the appealing employee and the employing agency/department;

*b.* The name, address, telephone number, and email address of the employing agency's/department's representative; and

*c.* Signature of the employing agency's/department's representative.

**486—16.6(8A,20) Right to a hearing.**

**16.6(1)** An employee appealing a grievance pursuant to Iowa Code section 8A.415(1) has a right to a hearing. The hearing must be open to the public. An employee appealing disciplinary action pursuant to Iowa Code section 8A.415(2) has a right to a hearing that is closed to the public unless the employee requests a hearing open to the public.

**16.6(2)** The board will file a transmittal form with a copy of the appeal attached. After the matter is transmitted, future filings must be made in the administrative hearings division's electronic document management system.

**16.6(3)** After the case is transmitted to the administrative hearings division, it will be assigned a case number. The administrative hearings division will assign the proceeding to an administrative law judge to serve as a presiding officer. The administrative law judge will issue a notice for a prehearing conference or a notice of hearing.

**16.6(4)** The contested case proceeding will be conducted pursuant to 481—Chapter 10 and any other administrative rule applicable to the specific type of proceeding.

**16.6(5)** The proposed decision of the presiding officer may be reviewed by the appeal board in accordance with rules 7—2506.27(17A) and 7—2506.28(17A). Appeals and appeal briefs must be filed in the appeal board's electronic document management system under the original case number.

**486—16.7(8A,20) Costs of certified shorthand reporters and transcripts.**

**16.7(1)** *Initial payment.* The appeal board will arrange for a certified shorthand reporter to report the contested case hearing and request that an original transcript of the hearing be prepared by the reporter for the appeal board's use. The appeal board initially shall pay the reporter's reasonable compensation for reporting the hearing and producing the transcript.

**16.7(2)** *Taxation as costs.* The nonprevailing party or parties will be taxed the full cost of reporting and transcription unless the final order apportions these costs in another manner.

**16.7(3)** *Payment of taxed costs.* Following final action of the appeal board in a case, the appeal board will prepare and serve a bill of costs upon the party or parties against whom the costs have been taxed. Those parties shall, within 30 days of such service, remit to the appeal board the amount specified in the bill of costs. Sums remitted to the agency shall be considered appropriated receipts as defined in Iowa Code section 8.2.

These rules are intended to implement Iowa Code chapters 8A and 20.

**RA 26-235**

# EMPLOYMENT APPEAL BOARD[486]

**Regulatory Analysis**

Notice of Intended Action to be published: 486—Chapter 17
"State Employee Whistleblower Actions"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 20.6(5)
State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, Senate File 2385, and Iowa Code section 70A.28

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 24, 2026<br>9 a.m. | Via videoconference:<br>meet.google.com/hxy-euaj-uzq |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Employment Appeal Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Christine Louis
Employment Appeal Board
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Email: eab.elections@eab.iowa.gov

*Purpose and Summary*

This proposed rulemaking includes revisions to administrative rules based on the requirements of Executive Order 10 and statutory changes based on 2024 Iowa Acts, Senate File 2385. This proposed rulemaking provides procedural rules for State employee appeals of administrative whistleblower actions.

This chapter is being moved from the legacy Public Employee Relations Board agency number [621] to a new chapter within the Employment Appeal Board agency number [486]. These rules were previously located in 621—Chapter 17.

The rules under legacy agency number [621] are proposed to be rescinded and reserved herein (**RA 26-246**, IAB 8/19/26).

The reference to 486—Chapter 18 is to that as published herein as **RA 26-236**, IAB 8/19/26.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There is no additional expected cost to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

State of Iowa agencies and State of Iowa employees will benefit from this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no expected economic impact created by this proposed rulemaking.

- **Qualitative description of impact:**

There is no expected economic impact created by this proposed rulemaking.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There is no expected economic impact created by this proposed rulemaking.

- **Anticipated effect on State revenues:**

There is no expected economic impact created by this proposed rulemaking.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The changes are mandated by statute and executive order.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

There is no expected impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Adopt the following **new** 486—Chapter 17:

CHAPTER 17
STATE EMPLOYEE WHISTLEBLOWER ACTIONS

**486—17.1(20,70A) Notice of appeal rights.** A state executive branch employee, except a merit system employee or an employee covered by a collective bargaining agreement, may file an appeal with the appeal board as stated in Iowa Code section 70A.28(6).

**486—17.2(20,70A) Filing of appeal.**

**17.2(1)** *Timeline.* The employee must file the appeal within the timeline provided in Iowa Code section 70A.28(6).

**17.2(2)** *Method of filing.* Appeals and all subsequent pleadings must be electronically filed pursuant to 486—Chapter 18.

**486—17.3(20,70A) Service of appeal.** Upon the filing of a proper petition, the appeal board will serve copies of the petition upon the department of administrative services director (hereafter referred to as the director) by electronic means when possible and, where service by electronic means is not possible, by personal service as provided in the Iowa Rules of Civil Procedure; by certified mail, return receipt requested; by first-class mail; or by publication as provided in the Iowa Rules of Civil Procedure.

**486—17.4(20,70A) Content of appeal.**

**17.4(1)** The appeal must contain the following:

*a.* Name, address, telephone number, and email address of the appealing employee;

*b.* Name of agency/department by which the appealing employee is/was employed;

*c.* A brief statement of the reasons for the employee's appeal;

*d.* A statement of the requested remedy;

*e.* The name, address, telephone number, and email address of the appealing employee's representative, if any;

*f.* The signature of the appealing employee or employee's representative;

*g.* A statement of whether the employee requests a hearing open to the public; and

*h.* A statement of whether the employee filed a complaint with the office of ombudsman and the date of the filing, if applicable.

**17.4(2)** Completion of the State Employee Whistleblower Action Appeal Form available on the appeal board's website constitutes compliance with all of the requirements in subrule 17.4(1).

**486—17.5(20,70A) Content of director's response to the appeal.** The director shall file an answer as directed in 7—subrule 2506.11(3).

**486—17.6(20,70A) Hearing.**

**17.6(1)** After the director files an answer to the appeal, the appeal board may transmit the matter to the administrative hearings division created by Iowa Code section 10A.801. The board will file a transmittal form with a copy of the appeal and answer attached. After the matter is transmitted, future filings must be made in the administrative hearings division's administrative electronic document management system.

**17.6(2)** After the case is transmitted to the administrative hearings division, it will be assigned a case number. The administrative hearings division will assign the proceeding to an administrative law judge to serve as a presiding officer. The administrative law judge will issue a notice for a prehearing conference or a notice of hearing.

**17.6(3)** The contested case proceeding will be conducted pursuant to 481—Chapter 10 and any other administrative rule applicable to the specific type of proceeding.

**17.6(4)** The proposed decision of the presiding officer may be reviewed by the appeal board in accordance with rules 7—2506.27(17A) and 7—2506.28(17A).

These rules are intended to implement Iowa Code chapters 20 and 70A.

**RA 26-236**

# EMPLOYMENT APPEAL BOARD[486]

**Regulatory Analysis**

Notice of Intended Action to be published: 486—Chapter 18
"Electronic Document Management System"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 20.6(5)
State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, Senate File 2385, and Iowa Code section 20.24

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 24, 2026<br>9 a.m. | Via videoconference:<br>meet.google.com/hxy-euaj-uzq |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Employment Appeal Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Christine Louis
Employment Appeal Board
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Email: eab.elections@eab.iowa.gov

*Purpose and Summary*

This proposed rulemaking includes revisions to administrative rules based on the requirements of Executive Order 10 and statutory changes based on 2024 Iowa Acts, Senate File 2385. This proposed rulemaking provides rules and guidance for using the Board's electronic filing system.

This chapter is being moved from the legacy Public Employee Relations Board agency number [621] to a new chapter within the Employment Appeal Board agency number [486]. These rules were previously located in 621—Chapter 16.

The rules under legacy agency number [621] are proposed to be rescinded and reserved herein (**RA 26-246**, IAB 8/19/26).

All references to 486—Chapters 10 through 17 are to those as published herein as **RA 26-228** through **RA 26-235**, IAB 8/19/26.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There is no additional expected cost to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

State of Iowa agencies, State of Iowa employees, public employers, public employees, and Board staff will benefit from this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no expected economic impact created by this proposed rulemaking.

- **Qualitative description of impact:**

There is no expected economic impact created by this proposed rulemaking.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There is no expected economic impact created by this proposed rulemaking.

- **Anticipated effect on State revenues:**

There is no expected economic impact created by this proposed rulemaking.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The changes are mandated by statute and executive order.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

There is no expected impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Adopt the following **new** 486—Chapter 18:

CHAPTER 18
ELECTRONIC DOCUMENT MANAGEMENT SYSTEM

**486—18.1(20) Effective date and scope.** This chapter governs the filing of documents in all proceedings before the appeal board brought pursuant to 486—Chapters 10 through 17.

**486—18.2(20) Definitions.**

*"Confidential"* means information excluded from public access by federal or state law or administrative rule, court rule, court order, or case law.

*"EDMS"* means the electronic document management system the appeal board uses to collect, store, and send documents related to recertification elections cases likely to proceed to a contested case hearing.

*"Electronic filing"* means the electronic transmission of a document in EDMS together with the production and transmission of a notice of electronic filing.

*"Electronic record"* means a record, file, or document created, generated, sent, communicated, received, or stored by electronic means.

*"Electronic service"* means EDMS electronic posting of a notice of electronic filing or presentation into the registered parties' or attorneys' EDMS accounts, along with a link to the document presented or filed.

*"Nonelectronic filing"* means a process by which a paper document or other nonelectronic item is filed with the appeal board.

*"Notice of electronic filing"* means the notice EDMS generates when a document is electronically filed or electronically presented to the appeal board.

*"PDF"* means a portable document format that is readable by the free Adobe® Acrobat® Reader.

*"Protected information"* means personal information, the nature of which warrants protection from unlimited public access, including:

1. Social security numbers.
2. Financial account numbers.
3. Dates of birth.
4. Names of minor children.
5. Individual taxpayer identification numbers.
6. Personal identification numbers.
7. Other unique identifying numbers.
8. Confidential information.

*"Public"* refers to appeal board files, documents, or information that is not confidential or protected.

*"Public access terminal"* means a computer located at the appeal board's office where the public may view, print, and electronically file documents.

*"Registered user"* means an individual who has registered for an account in the appeal board's EDMS. A registered user can electronically file documents and electronically view and download files through the use of a username and password. In cases in which the registered user has entered an appearance or filed an answer, the registered user will electronically serve and receive notice of electronic filing in cases in which the registered user has appeared.

*"Remote access"* means a registered user's ability to electronically search, view, copy, or download electronic documents in an electronic record without the need to physically visit the appeal board's office.

*"Signature"* means the following:

1. For a registered user electronically filing a document in EDMS, "signature" means the registered user's username and password accompanied by one of the following:

- *"Digitized signature"* means an embeddable image of a person's handwritten signature;
- *"Electronic signature"* means an electronic symbol ("/s/" or "/registered user's name/") executed or adopted by a person with the intent to sign; or
- *"Nonelectronic signature"* means a handwritten signature applied to an original document that is then scanned and electronically filed.

2. For a party signing a document that another registered user will electronically file, "signature" means the signatory's name affixed to the document as a digitized or nonelectronic signature.

*"Superb"* means a web interface database used by the appeal board for the secure upload of various documents generally related to public collective bargaining under Iowa Code chapter 20.

**486—18.3(20) EDMS registration, username, and password.**

**18.3(1)** *Registration.*

*a.* *Registration required.* Every individual filing documents or viewing or downloading filed documents must register as a registered user of EDMS.

*b.* *How to register.* To register, the individual must complete the registration process located at perb.iowa.gov/efiling and obtain a username and password for EDMS.

*c.* *Registration complete.* When the registration process is completed, the registered user will be assigned a username and password, and the registered user may utilize EDMS.

*d.* *Changing passwords.* Once registered, the registered user may change the user's password. If the registered user believes the security of an existing password has been compromised, the registered user must change the password immediately.

*e.* *Changes in registered user's contact information.* If a registered user's email address, mailing address, or telephone number changes, the registered user must promptly make the necessary changes to the registered user's information contained in EDMS. The registered user shall promptly give notice of changes in contact information to any nonregistered party in every active proceeding in which the registered user is a party.

*f.* *Duties of registered user.* Each registered user shall ensure that the registered user's email account information is current, that the account is monitored regularly, and that email notices sent to the account are timely opened.

*g.* *Canceling registration.* Withdrawal from participation in EDMS cancels the registered user's profile but does not authorize nonelectronic filing of documents and is not a withdrawal from a proceeding.

*h.* *Appeal board-initiated registration.* The appeal board may complete the registration process on behalf of an individual in certain instances and email the username and password to the user. When the appeal board completes the registration process, the registered user is required to promptly log in and change the password. Following initial notification regarding account registration, the registered user is required to promptly update and maintain accurate contact information for the EDMS account.

**18.3(2)** *Use of username and password.* A registered user is responsible for all documents filed with the registered user's username and password unless proven by clear and convincing evidence that the registered user did not make or authorize the filing.

**18.3(3)** *Username and password security.* If a username or password is lost, misappropriated, misused, or compromised, the registered user of that username or password must notify the appeal board promptly.

**18.3(4)** *Denial of access.* The appeal board may refuse to allow an individual to electronically file or download information in EDMS due to misuse, fraud or other good cause.

**486—18.4(20) Mandatory electronic filing and exceptions.**

**18.4(1)** *Electronic filing mandatory.* Unless otherwise required or authorized by these rules, documents in all proceedings and documents required to be filed pursuant to 486—Chapters 10 through 17 must be filed using EDMS.

**18.4(2)** *Exceptions.*

*a.* A show of interest submitted in a representative certification, combined bargaining unit determination or reconsideration/representative certification, or decertification proceeding will not be filed electronically.

*b.* Any item that is not capable of being filed in an electronic format must be filed in a nonelectronic format.

*c.* Upon a showing of exceptional circumstances that it is not feasible for an individual to file documents by electronic means, the appeal board may excuse the individual from electronic filing in a particular proceeding.

*d.* Any item that is required by rule to be filed in Superb, including but not limited to voter lists, contracts, annual reports, registration reports, constitutions, and bylaws, will not be filed electronically in EDMS.

**18.4(3)** *What constitutes filing.* The electronic transmission of a document to EDMS consistent with the procedures specified in these rules, together with the production and transmission of a notice of electronic filing, constitutes filing of the document.

**18.4(4)** *Electronic file stamp.* Electronic documents are officially filed when affixed with an electronic file stamp. Filings so endorsed shall have the same force and effect as documents time-stamped in a nonelectronic manner.

**18.4(5)** *Email or fax.* Emailing or faxing a document to the appeal board will not generate a notice of electronic filing and does not constitute electronic filing of the document unless otherwise ordered by the appeal board.

**18.4(6)** *Public assistance.* The appeal board will assist a member of the public with electronic filing upon request.

**486—18.5(20) Filing of paper documents.**

**18.5(1)** *Conversion of paper documents filed.* If the appeal board allows a party to file paper documents in accordance with paragraph 18.4(2)*"c,"* the appeal board will convert the filed documents to an electronic format viewable to registered users of EDMS.

**18.5(2)** *Form of paper documents.* Each document must be printed on only one side and be delivered to the appeal board with no tabs, staples, or permanent clips but may be organized with paperclips, clamps, or some other type of temporary fastener or may be delivered to the appeal board in an appropriate file folder.

**18.5(3)** *Return of copies by mail.* If a party wants a document filed in paper form to be returned by mail, the party must deliver to the appeal board a self-addressed envelope, with proper postage, large enough to accommodate the returned document.

**486—18.6(20) Date and time of filing.**

**18.6(1)** *Date of filing.* An electronic filing may be made any day of the week, including holidays and weekends, and any time of the day EDMS is available.

**18.6(2)** *Time of filing.* A document is timely filed if it is filed before midnight on the date the filing is due.

**18.6(3)** *Returned filing.* A rejected filing is not filed. In such instances, the date and time of filing will be when the filer submits a corrected document and it is approved.

**486—18.7(20) Signatures.**

**18.7(1)** *Registered user.* A username and password accompanied by a digitized, electronic, or nonelectronic signature serve as the registered user's signature on all electronically filed documents.

**18.7(2)** *Documents requiring oaths, affirmations or verifications.* Any document filed requiring a signature under oath or affirmation or with verification may be signed electronically or nonelectronically but shall be filed electronically.

**18.7(3)** *Format.* Any filing requiring a signature must be signed with a nonelectronic signature, an electronic signature, or a digitized signature. The following information about the person shall be included under the person's signature:

*a.* Name;

*b.* Name of firm, certified employee organization, or governmental agency;

*c.* Mailing address;

*d.* Telephone number; and

*e.* Email address.

**18.7(4)** *Multiple signatures.* By filing a document containing multiple signatures, the registered user confirms that the content of the document is acceptable to all persons signing the document and that all such persons consent to having their signatures appear on the document.

**486—18.8(20) Redaction of electronic documents.**

**18.8(1)** *Responsibilities of filers generally.*

*a.* Prior to filing any document, the registered user must ensure that the document is certified as confidential or the confidential information is omitted or redacted and that protected information is omitted or redacted unless the protected information is required by statute or rule to be included or is material to the proceeding. This responsibility exists even when the filer did not create the document.

*b.* The appeal board will not review filings to determine whether appropriate omissions or redactions have been made.

**18.8(2)** *Omission and redaction requirements.*

*a.* *Protected information that is not material to the proceedings.* A filer may redact protected information from documents filed with the appeal board when the information is not material to the proceedings.

*b.* *Protected information that is material to the proceedings.* When protected information is material to the proceedings, a filer must certify the document as confidential when submitting the filing to the appeal board.

**18.8(3)** *Information that may be redacted.* A filer may redact the following information from documents available to the public unless the information is material to the proceedings:

*a.* Driver's license numbers.

*b.* Information concerning medical treatment or diagnosis.

*c.* Personal financial information.

*d.* Sensitive security information.

*e.* Home addresses.

**18.8(4)** *Improperly included protected information.* A party may ask the appeal board to restrict access to improperly included protected information from a filed document. The appeal board may order a properly redacted document to be filed.

**486—18.9(20) General requirements when filing documents.**

**18.9(1)** *Format.* All documents must be converted to a PDF before they are filed in EDMS. Documents submitted must be properly scanned, which includes having the pages in the correct order and facing right-side up and having the scanned content of the document be legible.

**18.9(2)** *Separating documents.* Each document must be separated and uploaded with the correct document type selection on the document upload page. Any attachments to a document shall be uploaded as such and linked to the correct document prior to submission.

**18.9(3)** *Selecting document types.* For each electronically filed document, a filer must choose an accurate document type from the options listed on the document upload page. Once a document is submitted into EDMS, only the appeal board may make corrections to the document type the filer has chosen.

**18.9(4)** *Correcting errors.* If a filer discovers an error in the electronic filing or docketing of a document, the filer must contact the appeal board as soon as possible. When contacting the appeal board, the filer must have available the case number of the document that was filed or docketed erroneously. If the appeal board discovers an error in the filing or docketing of a document, the appeal board will ordinarily notify the filer of the error and advise the filer of what further action the filer must take, if any, to address the error.

**486—18.10(20) Service.**

**18.10(1)** *Initial filing.* An initial filing in a proceeding shall be served upon other parties in the manner specified in the chapter governing that type of proceeding. The document being served must be accompanied by a board-approved information sheet regarding mandatory electronic filing.

**18.10(2)** *Subsequent filings.* All subsequent filings shall be electronically served via EDMS unless a party to the proceeding is exempted from electronically filing documents by subrule 18.4(2). If a party is so exempted, all documents filed by all parties to the proceeding shall be served by ordinary mail and must include a certificate of service.

**18.10(3)** *Electronic service and distribution of electronic filings.*

*a.* When a document is electronically filed, it will be served through EDMS to all parties to the adjudicatory proceeding that are registered users. No other service is required unless ordered by the appeal board.

*b.* Notices of electronic filing will continue to be sent to registered users appearing or intervening in a proceeding until the registered users have filed a withdrawal of appearance.

**18.10(4)** *Documents filed by the appeal board.* All documents generated by the appeal board issued in adjudicatory proceedings governed by this chapter shall be electronically filed and served.

**486—18.11(20) Transcripts, briefs and exhibits.**

**18.11(1)** *Transcripts.* If a hearing or oral argument is transcribed, the transcript shall be made available to registered users electronically after final agency action and the costs of transcription have been paid by the nonprevailing party.

**18.11(2)** *Briefs.* Briefs and memoranda must be electronically filed. Page numbers should be located at the bottom center of each page and numbered consecutively using Arabic whole numbers. The cover page should be numbered one.

**486—18.12(20) Public access with exceptions for closed hearings.**

**18.12(1)** *General rule.* All filings with the appeal board are public unless system-restricted or filed with restricted access. Electronic filing does not affect public access to appeal board files.

**18.12(2)** *Closed hearings.* For proceedings in which a party has elected the right to a closed hearing, all initial pleadings must be filed without restriction. All briefs, exhibits, and transcripts must be filed as "confidential." The decision constituting final agency action will be filed with unrestricted access.

**486—18.13(20) Superb.**

**18.13(1)** *Registration.*

*a.* *Registration required.* An employer, certified employee organization, or bargaining unit must ensure the necessary individual(s) representing the employer's, certified employee organization's, or bargaining unit's interest before the appeal board are registered and the employer's, certified employee organization's, or bargaining unit's information is updated appropriately. Every individual filing documents or downloading filed documents must register as a registered user of Superb.

*b.* *How to register.* To register, a user must contact the appeal board and request an account.

*c.* *Registration complete.* When the registration process is completed, the registered user will be assigned a username and password, and the registered user may utilize Superb.

*d.* *Changing passwords.* Once registered, the registered user may change the registered user's password. If the registered user believes the security of an existing password has been compromised, the registered user must change the password immediately.

*e.* *Changes in registered user's contact information.* If a registered user's email address, mailing address, or telephone number changes, the registered user must promptly make the necessary changes to the registered user's information contained in Superb.

*f. Duties of registered user.* Each registered user shall ensure that the registered user's email account information is current, that the account is monitored regularly, and that email notices sent to the account are timely opened.

*g. Board-initiated registration.* The appeal board may complete the registration process on behalf of an individual in certain instances and email the username and password to the registered user. When the appeal board completes the registration process, the registered user is required to promptly log in and change the password. Following initial notification regarding account registration, the registered user is required to promptly update and maintain accurate contact information for a Superb account.

**18.13(2)** *Use of username and password.* A registered user is responsible for all documents filed with the registered user's username and password unless proven by clear and convincing evidence that the registered user did not make or authorize the filing.

**18.13(3)** *Username and password security.* If a username or password is lost, misappropriated, misused, or compromised, the registered user of that username or password shall notify the appeal board promptly.

**18.13(4)** *Denial of access.* The appeal board may refuse to allow an individual to electronically file or download information in Superb due to misuse, fraud or other good cause.

**18.13(5)** *Public access.* All documents publicly available and contained within Superb will not require a user account to access. The public-facing search portal provides access to public documents and is searchable free of charge.

These rules are intended to implement Iowa Code section 20.24.

**RA 26-237**

# HUMAN RIGHTS DEPARTMENT[421]

**Regulatory Analysis**

Notice of Intended Action to be published: 421—Chapters 30 and 31
"Chapter Rescissions"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 216A
State or federal law(s) implemented by the rulemaking: Executive Order 10 and 2023 Iowa Acts, Senate File 514

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>10 a.m. | Microsoft Teams<br>Meeting ID: 245 818 881 867 66<br>Passcode: ya9va9uv |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Victoria L. Daniels
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

*Purpose and Summary*

As part of the Executive Order 10 Red Tape Review process and pursuant to 2023 Iowa Acts, Senate File 514, regarding government realignment, the Department has moved relevant chapters from the legacy Department of Human Rights agency [421] to agency [441].

The Department consulted with the Department of Public Safety on Chapter 30 and it was determined that the information in this chapter is no longer needed. As such, the Department proposes to rescind this chapter and will not repromulgate it under agency [441].

Chapter 31 addresses the grant process for funds received through Title II of the federal Juvenile Justice and Delinquency Prevention Act. Because the information in the chapter can be covered in the grant contracts themselves, this chapter is proposed to be rescinded and will not be repromulgated under agency [441].

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**
- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs associated with this proposed rulemaking.
- **Classes of persons that will benefit from the proposed rulemaking:**

No one will benefit from this proposed rulemaking, but neither will anyone be harmed.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Two administrative chapters are proposed to be rescinded.

- **Qualitative description of impact:**

Two administrative chapters are proposed to be rescinded.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no costs associated with this proposed rulemaking.

- **Anticipated effect on State revenues:**

This rulemaking has no impact on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Chapter rescission is appropriate since the Department is moving all pertinent agency [421] chapters to agency [441]. The two chapters proposed to be rescinded are no longer pertinent.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

This proposed rulemaking has no impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Rescind and reserve **421—Chapter 30**.

ITEM 2. Rescind and reserve **421—Chapter 31**.

**RA 26-238**

# HUMAN SERVICES DEPARTMENT[441]

**Regulatory Analysis**

Notice of Intended Action to be published: subrule 78.24(4)
"Amount, Duration and Scope of Medical and Remedial Services"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 249A
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 249A

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>10 a.m. | Microsoft Teams<br>Meeting ID: 245 818 881 867 66<br>Passcode: ya9va9uv |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Victoria L. Daniels
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

*Purpose and Summary*

This proposed rulemaking allows rural health clinics (RHCs) to receive Medicaid reimbursement for the provision of dental services. The services would be provided by local dentists who contract with the RHCs.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**
- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs associated with this proposed rulemaking.
- **Classes of persons that will benefit from the proposed rulemaking:**

Medicaid recipients residing in rural areas may benefit from increased access to dental services.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**
- **Quantitative description of impact:**

Iowa has 282 RHCs. Another state's Medicaid program saw 2.94 percent of its RHCs opt in to providing dental services under a similar program.
- **Qualitative description of impact:**

Medicaid recipients residing in rural areas may benefit from increased access to dental services.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department incurs personnel and other administrative costs associated with administering the Medicaid program.

- **Anticipated effect on State revenues:**

Based upon a 2.94 percent RHC opt-in estimate, there would be a total cost increase of $3,934,581.43, with $2,736,894.84 being federal and $1,197,686.59 being State.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Revising the existing rules is the appropriate way to accomplish the desired outcome.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Revising the existing rules is the appropriate way to accomplish the desired outcome.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

This proposed rulemaking may positively impact small dental providers by enabling them to receive reimbursement for services provided at RHCs.

*Text of Proposed Rulemaking*

ITEM 1. Adopt the following **new** subrule 78.21(4):

**78.21(4)** *Dental services.* Payment will be made to rural health clinics for dental services payable under Iowa Medicaid's dental wellness plan as described in 441—Chapter 73.

**RA 26-239**

# HUMAN SERVICES DEPARTMENT[441]

## Regulatory Analysis

Notice of Intended Action to be published: 441—Chapters 123 and 124
"Certificate of Need"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 135.71

State or federal law(s) implemented by the rulemaking: 2026 Iowa Acts, House File 2635, and Iowa Code section 135.71

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>10 a.m. | Microsoft Teams<br>Meeting ID: 245 818 881 867 66<br>Passcode: ya9va9uv |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Victoria L. Daniels
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

*Purpose and Summary*

The purpose of this proposed rulemaking is to implement the provisions of 2026 Iowa Acts, House File 2635, which changes the requirements for obtaining a certificate of need by, among other things:

- Eliminating the requirement to submit a letter of intent;
- Eliminating the requirement for a public hearing; and
- Excluding the following from the certificate of need requirement:
  - Cardiac catheterization service;
  - Open heart surgical service;
  - Organ transplantation service; and
  - Some radiation therapy services for the treatment of malignant disease.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs associated with this proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

Health care entities wishing to apply for a certificate of need will benefit from the guidance in this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Since taking responsibility for the program in 2025, the Department has issued 51 certificates of need.

- **Qualitative description of impact:**

This proposed rulemaking removes certificate of need requirements for certain types of care enumerated in the legislation.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department incurs personnel and other administrative costs associated with administering the certificate of need program.

- **Anticipated effect on State revenues:**

This proposed rulemaking has no impact on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Rulemaking is appropriate because the existing rules conflict with the 2026 legislation.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Rulemaking is appropriate because the existing rules conflict with the 2026 legislation.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

This proposed rulemaking has no impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Amend rule 441—123.1(135) as follows:

**441—123.1(135) ~~Definitions~~ Definition.** For purposes of this chapter, the following ~~definitions apply~~ definition applies:

*"Long-term (acute) care hospital"* means a hospital that has been approved to participate in the Title XVIII (Medicare) program as a long-term care hospital-prospective payment system (LTCH-PPS) hospital in accordance with 42 CFR Part 412 as amended to August 1, 2025.

~~*"Radiation therapy service applying ionizing radiation for the treatment of malignant disease using megavoltage external beam equipment,"* as the term applies to new or changed institutional health service in Iowa Code section 135.61(17)*"m"*(4), means the initiation or expansion of this service.~~

ITEM 2. Rescind rule **441—123.2(135)**.

ITEM 3. Amend rule 441—123.3(135) as follows:

**441—123.3(135) Determination of reviewability.** A sponsor of a proposed project may electronically submit a written request for a determination of reviewability as to whether the project requires a certificate of need.

**123.3(1)** If it is determined that a certificate of need is required, the department will notify the sponsor ~~and the request for nonreviewability will be considered the letter of intent for purposes of subrule 123.2(2)~~ of the determination of renewability and the sponsor will be allowed to submit an electronic application immediately.

**123.3(2)** No change.

ITEM 4. Renumber rules **441—123.3(135)** to **441—123.12(135)** as **441—123.2(135)** to **441—123.11(135)**.

ITEM 5. Amend renumbered rule 441—123.3(135) as follows:

**441—123.3(135) Submission of application.**

**123.3(1)** Application form.

*a.* A sponsor of a proposed project for a new or changed institutional health service will submit to the department an electronic application for certificate of need using the appropriate application form found on the certificate of need website. All information requested in the application form is required in the absence of a waiver by the department.

*b.* and *c.* No change.

**123.3(2)** No change.

**123.3(3)** The notice of an accepted application issued pursuant to Iowa Code section 135.65(2) will inform the applicant and affected persons of the deadlines for the electronic submission to the department of written ~~statements~~ public comments or other materials.

ITEM 6. Amend renumbered subrule 123.4(2) as follows:

**123.4(2)** Public comments on an application.

*a.* The department will receive written public comments on an application during a time frame prescribed by the department for each application. ~~Oral comments will be received at a public hearing set by the department.~~

*b.* No change.

ITEM 7. Amend renumbered subrules 123.5(1) to 123.5(3) as follows:

**123.5(1)** An applicant will electronically submit a written request for summary review and a copy of the application and all attachments. ~~An applicant is not required to submit a letter of intent pursuant to Iowa Code section 135.64 prior to submitting a written request for a summary review.~~

**123.5(2)** The eligibility of an application for summary review pursuant to Iowa Code section 135.66 ~~does not mandate or require such review. The department will make the decision as to whether an application will be reviewed in the summary review process~~ will be at the department's discretion.

**123.5(3)** Upon receipt of a ~~written~~ request for summary review, an application, and the fee required by Iowa Code section 135.62(1), the department will notify the applicant ~~in writing~~ within 15 calendar days if the application is complete and if a summary review will be granted.

ITEM 8. Amend renumbered subrule 123.6(2) as follows:

**123.6(2)** An extension by the department made pursuant to subrule ~~123.7(1)~~ <u>123.6(1)</u> will in no case be more than ~~60~~ <u>30</u> calendar days beyond the time a decision is required under Iowa Code section 135.68 unless the applicant and the department agree.

ITEM 9. Amend renumbered subrule 123.7(1) as follows:

**123.7(1)** An applicant or any affected person who has participated or sought unsuccessfully to participate in the formal review procedure prescribed in Iowa Code section 135.65 may, for good cause shown, <u>electronically</u> file an application for rehearing ~~in writing~~ with the department stating the specific grounds therefor and the relief sought within 20 calendar days after the date of the issuance of the final decision on an application for certificate of need.

ITEM 10. Amend renumbered rule 441—123.8(135) as follows:

**441—123.8(135) Finality.** The certificate of need application process is continuous beginning with submission of ~~a letter of intent or request for waiver of a letter of intent~~ <u>an application</u> through issuance of a final decision by the department subject to judicial review under Iowa Code chapter 17A.

**123.8(1)** The following stages of the process are intermediate and subject to judicial review only to the extent the stages meet criteria for intermediate review under Iowa Code section 17A.19:

*a.* A decision by the department pursuant to rule ~~441—123.3(135)~~ <u>441—123.2(135)</u> that a proposed project does not require a certificate of need;

*b.* A decision by the department to ~~waive submission of the letter of intent and substitute~~ <u>conduct</u> summary review; and

*c.* No change.

**123.8(2)** No change.

ITEM 11. Amend renumbered subrule 123.10(1) as follows:

**123.10(1)** Once a project has been approved by the department, no changes that vary from or alter the number of approved beds, the approved services or the approved cost by an amount indicated in subrule ~~123.11(2)~~ <u>123.10(2)</u> may be made unless requested by the applicant and approved by the department. Requests should be ~~made in writing and~~ filed with the department electronically.

ITEM 12. Rescind rule **441—124.1(135)**.

ITEM 13. Rescind rule **441—124.2(135)**.

ITEM 14. Rescind the definitions of "Active oncology service" and "Chemotherapy service" in subrule **124.3(2)**.

ITEM 15. Amend subparagraph **124.3(3)"a"(2)** as follows:

(2) An applicant in an area with one or more scanners.

1. An applicant must meet the requirement of need described in subparagraph ~~124.4(3)~~ <u>124.2(3)</u> *"a"*(1), and

2. No change.

3. University of Iowa Health Care is specifically exempted from consideration under numbered paragraph ~~124.3(3)~~ <u>124.3(2)</u>*"a"*(2)"2" because it has a service area that encompasses the entire state and adjoining states. The utilization statistics for scanners at the University of Nebraska Medical Center and Creighton University Medical Center – Bergan Mercy (both in Omaha) will not affect the need for scanners at hospitals in Council Bluffs.

ITEM 16. Renumber rules **441—124.3(135)** to **441—124.6(135)** as **441—124.1(135)** to **441—124.4(135)**.

ITEM 17. Amend renumbered subparagraph **124.3(3)"b"(1)** as follows:

(1) An applicant must meet the requirement of need described in paragraph ~~124.5(3)~~ 124.3(3) *"a,"* and

ITEM 18. Amend renumbered subrule 124.4(3) as follows:

**124.4(3)** *Availability and need.* (Iowa Code section 135.63(1)*"c," "d," "e," "g,"* and *"h"*)

*a.* No change.

*b.* An applicant in an area with one or more PET units currently in operation or approved by the certificate of need program for operation.

Existing PET units within the area (whether basic or enhanced) should have been operating at a minimum of 1,000 PET procedures during the most recent annual period as reported to the certificate of need program according to paragraph ~~124.6(4)~~ 124.4(4)*"e."*

**RA 26-240**

# HUMAN SERVICES DEPARTMENT[441]

**Regulatory Analysis**

Notice of Intended Action to be published: 441—Chapter 130
"General Provisions"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 234.6
State or federal law(s) implemented by the rulemaking: Iowa Code section 234.6

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>10 a.m. | Microsoft Teams<br>Meeting ID: 245 818 881 867 66<br>Passcode: ya9va9uv |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Victoria L. Daniels
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

*Purpose and Summary*

This proposed chapter provides general information and guidance related to application and eligibility for, and provision of, services from the Department.

This proposed chapter underwent a Red Tape Review pursuant to Executive Order 10. As a result of the review, the Department replaced restrictive terms and deleted outdated and redundant information.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs associated with this proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

Individuals applying for or receiving services from the Department will benefit from the guidance in these proposed rules.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no quantitative data associated with this proposed chapter.

- **Qualitative description of impact:**

Individuals applying for or receiving services from the Department will benefit from the guidance in these proposed rules.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department incurs personnel and other administrative costs in association with the activities described in this proposed chapter.

- **Anticipated effect on State revenues:**

This proposed chapter has no impact on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The proposed rulemaking provides needed information for those applying for or receiving services from the Department.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

This proposed rulemaking is not expected to have an impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 441—Chapter 130 and adopt the following **new** chapter in lieu thereof:

TITLE XIII
*SERVICE ADMINISTRATION*

CHAPTER 130
GENERAL PROVISIONS

**441—130.1(234) Definitions.**

*"Family"* includes the following members:

1. Legal spouses (including common law) who reside in the same household.

2. Natural, adoptive, or stepmother or stepfather and children who reside in the same household.

3. An individual or a child who lives alone or who resides with a person, or persons, not legally responsible for the child's support.

*"Family-centered services"* means services provided by the department pursuant to 441—Chapter 172.

*"Temporary absence"* means:

*a.* A medical absence anticipated to be less than three months;

*b.* An absence for the purpose of education or employment; or

*c.* When a family member is absent and intends to return home within three months.

**441—130.2(234) Application.**

**130.2(1)** Application for social services shall be made at any department office on forms prescribed by the department. Application for services shall be made on an Application for All Social Services form.

**130.2(2)** The application may be filed by the applicant; the applicant's authorized representative; or, where the applicant is incompetent or incapacitated, someone acting responsibly for the applicant.

**130.2(3)** The date of application is the date a signed application form is received in the department office.

**130.2(4)** The application will be approved or denied within 30 days from the date of application and the applicant notified of the decision. The decision will be mailed or given to the applicant on the date the determination is made, except that for services ordered by the court, the court order provided by the court and the case permanency plan provided by the department shall serve as notification. When individual case management services are being provided under 441—Chapter 24 , the application will be approved or denied no later than the date that the department service manager, who is part of the interdisciplinary team, signs the individual program plan.

**130.2(5)** Eligibility will be redetermined in the same manner as an application at least every six months for family-centered services. For all other services, eligibility will be redetermined in the same manner as an application at least every 12 months.

**441—130.3(234) Eligibility.**

**130.3(1)** Eligibility factors for services available through the department are individual need for a service and family income except when services are provided without regard to income or when services are directed in a court order.

*a.* Individual need is established when the service to be provided is directed at and will facilitate an individual in reaching or maintaining one of the goals and objectives in 130.6(1). Except when the court establishes need, the department will establish individual need in accordance with each individual service's rules. The department will determine the number of units to be provided.

*b.* The block grant service to be provided will be contained in the pre-expenditure report and listed for the specific district and county. Service available through the department and funded by resources other than the social service block grant is identified in rules for that specific service.

*c.* Service will be provided only when funds are available for service delivery.

*d.* Persons are financially eligible for services when they are in one of the following categories:

(1) Income maintenance status. They are recipients of the family investment program (FIP), those whose income was taken into account in determining the needs of FIP recipients, recipients of supplemental security income or state supplementary assistance, or those in the 300 percent group as defined in 441—subrule 75.6(4).

(2) Income eligible status. The monthly gross income is based on family size. Family size income levels are found on the department's website.

*e.* Certain services are provided without regard to income, which means family income is not considered in determining eligibility. The services provided without regard to income are information and referral, child protective assessment, child abuse treatment, child abuse prevention services, including protective child care services, family-centered services, dependent adult abuse evaluation, dependent adult abuse treatment, dependent adult abuse prevention services, and purchased adoption services to individuals and families referred by the department.

*f.* In certain cases, the department will provide services directed in a court order.

**130.3(2)** To be eligible for services, the person must be living in the state of Iowa. Living in the state includes those persons living in Iowa for a temporary period, other than for the purpose of vacation.

**130.3(3)** In determining gross income, all income received by an individual from sources identified by the U.S. Census Bureau in computing median income is considered and includes money wages or salary, net income from nonfarm self-employment, net income from farm self-employment, social security, dividends, interest, income from estates or trusts, net rental income and royalties, public assistance or welfare payments, pensions and annuities, unemployment compensation, worker's compensation, alimony, child support, and veterans pensions. Excluded from the computation of monthly gross income are the following:

*a.* Per capita payments to or funds held in trust for any individual in satisfaction of a judgment of the Indian claims commission or the court of claims.

*b.* Payments made pursuant to the Alaska Claims Settlement Act as amended to August 1, 2026, to the extent such payments are exempt from taxation under Section 21(a) of the Act as amended to August 1, 2026.

*c.* Money received from the sale of property unless the person was engaged in the business of selling such property.

*d.* Withdrawals of bank deposits.

*e.* Money borrowed.

*f.* Tax refunds.

*g.* Gifts.

*h.* Lump sum inheritances or insurance payments or settlements.

*i.* Capital gains.

*j.* The value of USDA-donated foods.

*k.* The value of supplemental food assistance under the Child Nutrition Act of 1966 as amended to August 1, 2026, and the special food program for children under the National School Lunch Act as amended to August 1, 2026.

*l.* Earnings of a child 14 years of age or under.

*m.* Loans and grants obtained and used under conditions that preclude their use for current living expenses.

*n.* Any grant or loan to any undergraduate student for educational purposes made or insured under the Higher Education Act as amended to August 1, 2026.

*o.* Home produce utilized for household consumption.

*p.* Stipends received by persons for participating in the foster grandparent program.

*q.* The first $65 plus 50 percent of the remainder of income earned in a sheltered workshop or work activity setting.

*r.* Payments from the low-income home energy assistance program (LIHEAP).

*s.* In determining eligibility for purchase of local services, one-third of the income of a disabled survivor who is a recipient of child's insurance benefits under the federal old-age, survivors, and disability insurance program established under Title II of the federal Social Security Act as amended to August 1, 2026.

*t.* In determining eligibility for purchase of local services, one-third of the income of a person who receives social security permanent disability benefits.

*u.* Agent Orange settlement payments.

*v.* Rent reimbursement provided under Iowa Code chapter 425.

*w.* Moneys received under the federal Social Security Persons Achieving Self-Sufficiency (PASS) program or the Income-Related Work Expense (IRWE) program.

**130.3(4)** Temporary absence. The composition of the family group does not change when one, or more, of the group members is temporarily absent from the household.

**441—130.4(234) Adverse service actions.**

**130.4(1)** *Denial.* Services will be denied when it is determined by the department that:

*a.* The client is not in need of service;

*b.* The client is not financially eligible;

*c.* The service to be provided is not in the Social Services Block Grant Pre-Expenditure Report;

*d.* There is another community resource available to provide the service or a similar service free of charge to the client that will meet the client's needs;

*e.* In cases other than protective service investigation, the client, parent, or representative refuses to sign the application form;

*f.* The service for which the client is eligible is currently not available; or

*g.* Funding is not available to provide the service.

**130.4(2)** *Termination.* A particular service may be terminated when the department determines any one or combination of the following factors:

*a.* The specific need to attain the goals and objectives to which the service was directed has been achieved;

*b.* After repeated assessment, it is evident that the family or individual is unable to achieve or maintain the goals set forth in the individual client service plan;

*c.* After repeated efforts, it is evident that the family or individual is unwilling to accept further service;

*d.* The client's income or resources exceed the financial guidelines, or the client no longer meets other eligibility criteria established by the department for the service;

*e.* The service is no longer offered or available from the department;

*f.* Another community resource is available to provide the service or a similar service free of charge to the client that will meet the client's needs;

*g.* The client refuses to allow documentation of eligibility as to need, income, and resources; or

*h.* Funding is not available to provide the service.

**130.4(3)** *Reduction.* A particular service may be reduced when the department determines one of the following:

*a.* Continued provision of service at its current level is not necessary. The department will determine the level to which the service may be reduced without jeopardizing the client's continued progress toward achieving or maintaining the goal.

*b.* Another community resource is available to provide the same or similar service to the client at no financial cost to the client, that will meet the client's needs.

*c.* Funding is not available to continue the service at the current level. The client will be reassessed to determine the level of service to be provided.

**130.4(4)** *Pending changes.* The department will endeavor to make clients aware of pending changes in services to be provided by social services block grant from one program year to the next, particularly for those services that will no longer be available. This requirement also applies to time-limited services.

**130.4(5)** *Notice and appeal.* Notice of adverse service actions will be issued in accordance with 441—Chapter 16 and may be appealed pursuant to 441—Chapter 2506.

**441—130.5(234) Social casework.** For each active service case, when service is provided directly, purchased, or by a combination of methods, the department will:

**130.5(1)** Determine eligibility.

**130.5(2)** Ensure there is a department case plan for each individual or family based on assessment of strengths and needs. The department will furnish appropriate sections of the initial plan and of all updated department case plans to the provider agency when services are purchased for an individual. When individual case management services are being provided under 441—Chapter 24, the individual case management services provider shall distribute the case plans.

**130.5(3)** Refer the client to other agencies through proper channels and coordinate all people involved in the case. When individual case management services are being provided under 441—Chapter 24, the individual case management services provider shall be responsible for making referrals and coordinating workers as specified in the individual program plan.

**130.5(4)** Enter information to the service reporting system.

**130.5(5)** Monitor the case to ensure that eligibility continues, services are received, plans are adjusted as needed, services reporting system reporting is correct, and the case is canceled when appropriate, according to these rules.

**130.5(6)** Ensure that services are unavailable elsewhere without cost to the client.

**441—130.6(234) Case plan.** The department will develop a case plan with or on behalf of persons approved to receive services. However, a case plan is not required (1) for child or adult protective assessment, (2) for foster care cases in which the department does not have custody, guardianship or a voluntary placement agreement, or (3) when child care is the only service. A case plan will be developed with or on behalf of every other person approved to receive services unless the person has a case manager as specified in 441—Chapter 24. When department services are provided before an individual program plan in compliance with 441—Chapter 24 is approved, a department case plan will be developed according to the requirements of this rule. When individual case management services are being provided under 441—Chapter 24, the rules in 441—Chapter 24 on time limits, plan format and on who develops the plan will apply for adults and for children whose services are not under court jurisdiction. The department will determine eligibility for those services provided by the department; however, a separate department case plan need not be developed. If the individual program plan does not include sufficient information to meet department service requirements or the requirements in this chapter, the person providing department social casework will complete either a case plan or addendum and coordinate distribution to the persons who receive the individual program plan with the case manager.

The case plan will become part of the client's case record. The client shall participate in the development of this plan to the extent possible. The case plan will be consistent with other service or program plans. A copy of the case plan will be provided to the client or, when indicated, to the parent or representative of the client. For adult services, the case plan will be recorded using an individual service plan. For children's services, the case plan will be known as the case permanency plan and will be prepared using a family case plan.

**130.6(1)** Services will be directed toward the social services block grant goals of:

*a.* Achieving or maintaining self-support to prevent, reduce or eliminate dependency.

*b.* Achieving or maintaining self-sufficiency, including reduction or prevention of dependency.

*c.* Preventing or remedying neglect, abuse or exploitation of children or adults unable to protect their own interest or preserving, rehabilitating or reuniting families.

*d.* Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care.

*e.* Securing referral or admission for institutional care when other forms of care are not appropriate or providing services to individuals in institutions.

**130.6(2)** The recorded case plan will contain but not be limited to the following:

*a.* The goal and objective to which the plan is directed, stated in a clear manner indicating the specific services required to achieve or maintain the goals to meet the needs of the particular client.

*b.* Activities of clients and others involved in the plan related to specific services. These will be measurable and have time frames for completion.

*c.* A summary of all pertinent information relating to the client and the client's situation relative to need, containing but not limited to the following:

(1) Emotional behavior.

(2) Social aspects.

(3) Historical perspective.

(4) Reasons for success or lack of success.

(5) Safety-related information indicating whether a child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse. The safety-related information will be withheld only if ordered by the court or if the department or the agency developing the service plan determines that providing the information would be detrimental to the child or to the family with whom the child is living.

(6) An assessment of whether continued breastfeeding by a child's mother is in the best interest of the child and a plan to support the mother's breastfeeding efforts, if appropriate.

*d.* Information on case entries that will substantiate the client's eligibility for service.

*e.* A target date for reevaluation of the case plan based on assessment of need that shall not exceed six months.

*f.* A review of financial eligibility in accordance with 130.2(5).

*g.* The reason for termination or reduction of any or all services.

**130.6(3)** The case plan will be developed and filed in the case record as follows:

*a.* In child welfare cases, the case plan will be developed in partnership with the child, the family, and the caregiver.

(1) The recommendations from the child protective assessment and the safety plan developed with the family will be considered an initial case plan.

(2) A case permanency plan that meets the requirements of Iowa Code section 232.2 will be filed within 60 days from the date the child enters foster care or the date the department opens a child welfare service case, whichever occurs first.

*b.* For all other cases, the case plan shall be developed before services begin unless there is an unanticipated provision of service for the protection and well-being of a client. In that case, the case plan will be filed within 45 days from the date that services begin.

**130.6(4)** The reevaluation of the case plan will include all components listed under 130.6(2) and will be filed at least every six months or more often when there are significant changes, when required by the court, or when required according to the rules of the service.

**130.6(5)** The case plan may be amended between evaluation periods. Participants in the plan will receive a copy of the amendment.

**441—130.7(234) Entitlement.** There is no automatic right to ongoing service in any service category from one fiscal year to the next.

These rules are intended to implement Iowa Code section 234.6.

**RA 26-241**

# HUMAN SERVICES DEPARTMENT[441]

**Regulatory Analysis**

Notice of Intended Action to be published: 441—Chapter 167
"Juvenile Detention Reimbursement"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 232.142
State or federal law(s) implemented by the rulemaking: Iowa Code section 232.142

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>10 a.m. | Microsoft Teams<br>Meeting ID: 245 818 881 867 66<br>Passcode: ya9va9uv |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Victoria L. Daniels
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

*Purpose and Summary*

This proposed chapter was reviewed as a part of the Red Tape Review as set forth by Executive Order 10. As a part of this review, restrictive terms were eliminated and rules were updated to reflect modern practices. This proposed chapter sets forth rules for eligible juvenile detention homes to receive reimbursement from the Department for the cost of operating the detention homes.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

This proposed rulemaking does not have a cost to the public.

- **Classes of persons that will benefit from the proposed rulemaking:**

Eligible juvenile detention homes will benefit from these proposed rules by having clear requirements for reimbursement.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

This proposed rulemaking will help clarify which costs of juvenile detention homes are eligible for reimbursement, as well as the steps necessary to receive the approved reimbursement funds.

- **Qualitative description of impact:**

Juvenile detention home administrators will benefit from this proposed rulemaking by having clear steps necessary to be deemed eligible and receive reimbursement.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department incurs personnel and other administrative costs associated with enforcement of this proposed chapter.

- **Anticipated effect on State revenues:**

This proposed rulemaking has no impact on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Rulemaking is required by Iowa Code section 232.142.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

This proposed rulemaking is not expected to have any impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 441—Chapter 167 and adopt the following **new** chapter in lieu thereof:

CHAPTER 167
JUVENILE DETENTION REIMBURSEMENT

**441—167.1(232) Definitions.**

*"Allowable costs"* means those expenses of the county or multicounty related to the establishment, improvements, operation, and maintenance of county or multicounty juvenile detention homes.

*"County or multicounty"* means that the governing body is a county board of supervisors or a combination of members of participating county boards of supervisors.

*"Detained"* means the period of time a youth is physically occupying a bed in a juvenile detention home, that is, from the time of intake at the juvenile detention home (nothing prior to this) to the time a youth is discharged from the bed at the home (nothing after this).

*"Eligible costs"* are those allowable costs that are directly attributable to the function of detaining youth in the home, from the point of intake through discharge from the home.

*"In-home detention"* means a detention program that confines a child to the child's residence as an alternative to secure detention at juvenile detention home. In-home detention allows limited movement for approved activities like school, work or medical appointments and aims to provide supervision of children while enabling them to maintain some responsibilities and relationships outside of a secure juvenile detention home.

**441—167.2(232) Availability of funds.** Any year that the Iowa legislature makes funds available for this program, the department will accept requests for reimbursement from eligible facilities.

**441—167.3(232) Eligible detention homes.** County and multicounty juvenile detention homes shall be eligible for reimbursement under this program when:

**167.3(1)** The home:

*a.* Is approved by the department under the standards of Iowa Code chapter 232.

*b.* Submits the following completed forms and audits by March 15, or within ten days of completion if after March 15, of the year following the conclusion of the state fiscal year for which reimbursement will be made.

(1) A written statement identifying the eligible total net cost that will be claimed.

(2) A copy of the department-authorized financial and statistical report for juvenile detention homes.

(3) A copy of the home's certified audit containing financial information for the period for which reimbursement is being claimed.

*c.* Has an independent certified public accountant or an independent accounting firm complete the financial and statistical report and certify the fair presentation of the report. The preparer shall have the experience necessary to complete the report in accordance with generally accepted accounting principles (GAAP) and the instructions for completing the financial and statistical report.

**167.3(2)** The department has reviewed the information submitted and determined that the costs to be claimed meet eligibility requirements. Eligible costs are based on the portions of the allowable costs that are directly attributable to the function of detaining youth in the home.

*a.* Costs are not eligible for reimbursement if a supplemental funding, reimbursement, or refund source is available to the home. County payments to an eligible home for the function of detaining youth in the home are not considered to be supplemental funding, reimbursement, or refund sources for the purpose of this subrule. Ineligible costs include but are not limited to:

(1) Refundable deposits.

(2) Services funded by sources other than the juvenile detention reimbursement program.

(3) Operational activities.

*b.* Costs attributed to portions of the home not directly used for detaining children.

*c.* Costs of alternatives to detaining youth in the approved detention home. Alternative services ineligible for reimbursement include but are not limited to:

(1) Community tracking and monitoring activities.

(2) Transportation during the time a youth is detained that is not related to service or care and keep or that is the responsibility of or funded by another source.

(3) Outreach services.

(4) In-home detention.

*d.* Capital expenses are depreciated over the useful life of the item following GAAP. The annual depreciated amount for items that are eligible costs may be claimed for reimbursement.

(1) Capital expenses include items costing more than $5,000 that have a useful life of over two years.

(2) Depreciation schedules shall be filed with the department annually.

**441—167.4(232) Available reimbursement.** The reimbursement for the participating detention homes will be based on the distribution formula authorized by Iowa Code section 232.142.

**441—167.5(232) Reimbursement by the department.** Reimbursement will only be made to those participating juvenile detention homes that the department has determined to have complied with these rules.

These rules are intended to implement Iowa Code section 232.142.

**RA 26-242**

# HUMAN SERVICES DEPARTMENT[441]

**Regulatory Analysis**

Notice of Intended Action to be published: 441—Chapter 170
"Child Care Services"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 237A.13 and 237A.29
State or federal law(s) implemented by the rulemaking: Iowa Code sections 237A.13 and 237A.29

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>10 a.m. | Microsoft Teams<br>Meeting ID: 245 818 881 867 66<br>Passcode: ya9va9uv |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Victoria L. Daniels
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

*Purpose and Summary*

This proposed chapter was reviewed as part of the Red Tape Review process laid out by Executive Order 10. Through the Red Tape Review process, restrictive terms were removed, duplicative information was streamlined, and language was changed to be in line with modern procedures and practices. This proposed chapter establishes requirements for the payment of child care services. Child care services are for children of low-income parents who are in academic or vocational training, employed or looking for employment, unable to care for children due to physical or mental illness, or needing protective services to prevent or alleviate child abuse or neglect. Services may be provided in a licensed child care center, a registered child development home, the child's own home, or a nonregistered family child care home.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

This proposed rulemaking does not have a cost to the public.

- **Classes of persons that will benefit from the proposed rulemaking:**

Child care facilities, children, and parents in Iowa will benefit from having clear and concise rules for how to receive child care services in Iowa.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is not expected to be a quantitative impact from this rulemaking.

- **Qualitative description of impact:**

Child care facilities, children, and parents in Iowa will benefit from having clear and concise rules for how to receive child care services in Iowa.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department incurs personnel and other administrative costs associated with enforcement of this proposed chapter.

- **Anticipated effect on State revenues:**

This proposed rulemaking is not expected to have an impact on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The establishment of these rules is required by Iowa Code section 237A.12.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

This rulemaking is not expected to have an impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 441—Chapter 170 and adopt the following **new** chapter in lieu thereof:

CHAPTER 170
CHILD CARE SERVICES

**441—170.1(237A) Definitions.**

*"Child care"* means the same as defined in Iowa Code section 237A.1.

*"Child care facility"* means the same as defined in Iowa Code section 237A.1.

*"Child with protective needs"* means a child who is in foster care or has a case file that identifies child care as a safety or well-being need to prevent or alleviate the effects of child abuse or neglect. Child care is provided as part of a safety plan during a child abuse or child in need of assistance assessment or as part of the service plan established in the family's case plan. This designation means that the child has at least one of the following:

1. An open child abuse assessment;
2. An open child in need of assistance assessment;
3. An open child welfare case as a result of a child abuse assessment;
4. A petition on file for a child in need of assistance adjudication; or
5. Adjudication as a child in need of assistance.

*"Client"* means a current or former recipient of the child care assistance program.

*"Client error"* means and may result from:

1. False or misleading statements, oral or written, regarding the client's income, resources, or other circumstances that affect eligibility or the amount of assistance received;
2. Failure to timely report changes in income, resources, or other circumstances that affect eligibility or the amount of assistance received;
3. Failure to timely report the receipt of child care units in excess of the number approved by the department;
4. Failure to comply with the need for service requirements.

*"Department error"* means child care assistance incorrectly paid for the client because of action attributed to the department as the result of one or more of the following circumstances:

1. Loss or misfiling of forms or documents.
2. Errors in typing or copying.
3. Computer input errors.
4. Mathematical errors.
5. Failure to determine eligibility correctly or to certify assistance in the correct amount when all essential information was available to the department.
6. Failure to make timely changes in assistance following amendments of policies that require the changes by a specific date.

*"Food services"* means the preparation and serving of nutritionally balanced meals and snacks.

*"Intentional program violation"* means and may result from knowingly making or causing to be made a false statement or a misrepresentation of a material fact, failing to disclose a material fact, or committing a fraudulent practice to receive benefits in an amount greater than the amount the client or provider is entitled to receive.

*"In-home"* means care that is provided within the child's own home.

*"Net profit from self-employment"* means gross income less the costs of producing the income other than depreciation. A net loss in self-employment income cannot be offset from other earned or unearned income.

*"Overpayment"* means any benefit or payment received in an amount greater than the amount the client or provider is entitled to receive.

*"Parent"* means the parent or the person who serves in the capacity of the parent of the child receiving child care assistance services.

*"Program and activities"* means the daily schedule of experiences in a child care setting.

*"PROMISE JOBS"* means the department's work and training program, promoting independence and self-sufficiency through employment job opportunities and basic skills as described in 441—Chapter 93.

*"Provider"* means a licensed child care center, a registered child development home, a caretaker who provides care for a child in the child's home, or a nonregistered child care home.

*"Provider error"* means and may result from:

1. Presentation for payment of any false or fraudulent claim for services or merchandise;
2. Submitting false information for the purpose of obtaining greater compensation than that to which the provider is legally entitled;
3. Failure to report the receipt of a child care assistance payment in excess of that approved by the department;
4. Charging the department an amount for services rendered over and above what is charged private pay clients for the same services;
5. Failure to maintain a copy of attendance records signed by the parent and the provider.

*"Recoupment"* means the repayment of an overpayment by the client or provider or both.

*"Signature"* means a person's name written in a distinctive way as a form of identification and will include but not be limited to wet ink signatures and electronic verification options such as picture/face recognition, PIN entry, digital fingerprint, biometric verification, or electronic signature that is unique to the person signing.

*"Special needs child"* means the same as defined in Iowa Code section 237A.1.

*"Supervision"* means the care, protection, and guidance of a child.

*"Timely"* means within ten calendar days.

*"Unit(s) of service"* means a half day that will be up to 5 hours of service per 24-hour period.

*"Vocational training or education"* means a training plan that includes a specific goal; that is, high school completion, high school equivalency, improved English skills, or development of specific academic or vocational skills.

**441—170.2(237A,239B) Eligibility requirements.** A person deemed eligible for benefits under this chapter is subject to all other state child care assistance requirements including but not limited to provider requirements under Iowa Code chapter 237A and provider reimbursement methodology. The department will determine the number of units of service to be approved.

**170.2(1)** *Financial eligibility.* Financial eligibility for child care assistance will be based on federal poverty levels as determined by the Office of Management and Budget and on Iowa's median family income as determined by the U.S. Census Bureau. Poverty guidelines and median family income amounts are updated annually. Changes will go into effect for the child care assistance program on July 1 of each year.

*a. Income limits.*

(1) For initial eligibility, an applicant family's nonexempt gross monthly income cannot exceed the amounts as described in Iowa Code section 237A.13(2).

(2) For ongoing eligibility, at the time of a family's annual eligibility redetermination, if the family's nonexempt gross monthly income exceeds the amounts in subparagraph 170.2(1)*"a"*(1), the family may continue to be eligible as long as the family's nonexempt gross monthly income does not exceed the amounts in this subparagraph.

1. 225 percent of the federal poverty level applicable to the family size for children needing basic care or special-needs care; or
2. 85 percent of Iowa's median family income, if that figure is lower than the standard in numbered paragraph 170.2(1)*"a"*(2)"1."

(3) For ongoing eligibility, at the time of a family's annual eligibility redetermination, if the family's nonexempt gross monthly income exceeds the amounts in subparagraphs 170.2(1)*"a"*(1) and *"a"*(2), the family may continue to be eligible as long as the family's nonexempt gross monthly income does not exceed the amounts as described in Iowa Code section 237A.14(1).

*b. Exceptions to income limits.* Exception to income limits can be made under certain circumstances:

(1) A person who is participating in activities approved under the PROMISE JOBS program is eligible for child care assistance without regard to income if there is a need for child care services.

(2) A person who is part of the family investment program or whose earned income was taken into account in determining the needs of a family investment program recipient is eligible for child care assistance without regard to income if there is a need for child care services.

(3) A person who is employed by a child care facility or child care home that is accepting child care assistance and who is eligible under Iowa Code section 237A.13A as enacted by 2026 Iowa Acts, House File 2514, is eligible for child care assistance without regard to income if there is a need for child care services. The family will be assigned a copay as specified by the department based on the family's nonexempt gross monthly income.

(4) Protective child care services are provided without regard to income.

(5) Child care services for licensed foster parents who need child care for foster children are provided without regard to income.

(6) In certain cases, the department will provide child care services as directed in a court order.

*c. Determining gross income.* Eligibility will be determined using a projection of income based on the best estimate of future income. In determining a family's gross monthly income, the department will consider all income received by a family member from sources identified by the U.S. Census Bureau in computing median income unless excluded under paragraph 170.2(1)*"d."*

(1) Income considered will include wages or salary, net profit from self-employment, social security, dividends, interest, income from estates or trusts, net rental income and royalties, public assistance or welfare payments, pensions and annuities, unemployment compensation, workers' compensation, alimony, child support, veterans pensions, cash payments, casino profits, railroad retirement, permanent disability insurance, strike pay, and living allowance payments made to participants of the AmeriCorps program.

(2) Income will be projected using gross income received in the previous 30-day period or an average of the income from a longer period of time if indicative of future income.

(3) Anticipated changes to future income will be considered for new employment using an employer statement of earnings or other verification from the income source.

(4) For seasonal workers, the monthly gross income will be determined by calculating the total amount of income earned in a 12-month period preceding the date of application and dividing the total amount by 12.

*d. Income exclusions.* The following sources are excluded from the computation of monthly gross income:

(1) Money received from the sale of property unless the person was engaged in the business of selling property.

(2) Withdrawals of bank deposits.

(3) Money borrowed.

(4) Tax refunds.

(5) Federal or state earned income tax credit.

(6) Reimbursement from the employer for job-related expenses.

(7) Gifts.

(8) Lump-sum inheritances or insurance payments or settlements.

(9) Capital gains.

(10) The value of the Supplemental Nutrition Assistance Program (SNAP) allotment under the Food and Nutrition Act of 2008 as amended to August 1, 2026.

(11) The value of USDA-donated foods.

(12) The value of supplemental food assistance under the Child Nutrition Act of 1966 as amended to August 1, 2026, and the special food program for children under the National School Lunch Act as amended to August 1, 2026.

(13) Earnings of a minor unless the minor is the parent on the application.

(14) The income of the parents with whom a teen parent resides.

(15) Loans and grants obtained and used under conditions that preclude their use for current living expenses.

(16) Any grant or loan to any undergraduate student for educational purposes made or insured under the Higher Education Act as amended to August 1, 2026.

(17) Stipends received for participating in the foster grandparent program.

(18) Payments from the subsidized guardianship waiver program.

(19) Any adoption subsidy payments received from the department.

(20) Payments from the federal Low-Income Home Energy Assistance Program (LIHEAP).

(21) For children with special needs, income spent on any regular ongoing cost that is specific to that child's disability.

(22) Moneys received under the federal Social Security Persons Achieving Self-Sufficiency (PASS) program or the Income-Related Work Expense (IRWE) program.

(23) Payments from the transition to independence program (TIP).

(24) Stipends from the preparation for adult living (PAL) program.

(25) Income received by a Supplemental Security Income recipient if the recipient's earned income was considered in determining the needs of a family investment program recipient.

(26) Payments to volunteers participating in the Volunteers in Service to America (VISTA) program.

(27) Census earnings received by temporary workers from the Bureau of the Census.

(28) Payments from the Iowa individual assistance grant program (IIAGP).

(29) Per capita payments from or funds held in trust in satisfaction of a judgment of the Indian Claims Commission or the court of claims.

(30) Payments made pursuant to Real Estate Settlement Procedures Act (RESPA) as amended to August 1, 2026, to the extent the payments are exempt from taxation.

(31) Payments for major disaster and emergency assistance provided under the Disaster Relief Act of 1974 as amended to August 1, 2026 and, the Disaster Relief and Emergency Assistance Amendments of 1988 as amended to August 1, 2026.

*e.* *Family size.* The following people shall be included in the family size for the determination of eligibility:

(1) Legal spouses who reside in the same household.

(2) Natural mother or father, adoptive mother or father, or stepmother or stepfather, and children who reside in the same household.

(3) A child or children who live with a person or persons not legally responsible for the child's support.

*f.* *Effect of temporary absence.* The composition of the family does not change when a family member is temporarily absent from the household. A family member may be absent from the home temporarily for the following reasons:

(1) An absence for the purpose of education or employment.

(2) An absence due to medical reasons that is anticipated to last less than three months.

(3) Any absence when the person intends to return home within three months.

*g.* *Resource limits.* For initial and ongoing eligibility, family resources cannot exceed $1 million.

**170.2(2)** *General eligibility requirements.* In addition to meeting financial requirements, the child needing services must meet age, residency, and citizenship requirements. Each parent in the household must have at least one need for service and shall cooperate with the department's quality control review and with investigations conducted by the department of inspections, appeals, and licensing.

*a.* *Age.* Child care will be provided only to children up to age 13, unless the child is a special needs child, in which case child care will be provided up to age 19. When a child reaches the age of 13 or, as applicable, the age of 19, during the certification period, eligibility will continue until the end of the approved certification period.

*b.* *Residency.* To be eligible for child care services, the person must be living in the state of Iowa. Residency will include those persons living in Iowa for a temporary period, other than for the purpose of vacation.

*c.* *Citizenship.* As a condition of eligibility, the applicant shall attest to the child's citizenship or alien status by signing the Child Care Assistance Application form. Child care assistance payments may be made only for a child who:

(1) Is a citizen or national of the United States; or

(2) Is a qualified alien as defined at 8 U.S.C. Section 1641 as amended to August 1, 2026.

1. The applicant shall furnish documentation of the alien status of any child declared to be a qualified alien.

2. A child who is a qualified alien is not eligible for child care assistance for a period of five years beginning on the date of the child's entry into the United States with qualified alien status. The five-year prohibition from receiving assistance does not apply to qualified aliens described at 8 U.S.C. Section 1613 as amended to August 1, 2026.

*d.* *Need for service.* Assistance will be provided to a two-parent family only during the parents' coinciding hours of participation in training, employment, or job search. Each parent in the household shall meet one or more of the following requirements:

(1) The parent is in academic or vocational training in full-time status. Child care services may be provided for the parent's hours of participation in academic or vocational training and for actual travel time between the child care location and the training facility.

1. Child care provided while the parent participates in postsecondary education leading up to a baccalaureate degree program or vocational training will be limited to a 24-month lifetime limit. PROMISE JOBS child care allowances provided while the parent is a recipient of the family investment program and participating in PROMISE JOBS components in postsecondary education or training will count toward the 24-month lifetime limit.

2. Payment will not be approved for child-care during training in the following circumstances:

- The training is for jobs paying less than minimum wage.
- A parent who possesses a baccalaureate degree wants to take additional college coursework unless the coursework is to obtain a teaching certificate or complete continuing education units.
- The course or training is one that the parent has previously completed.
- The parent wants to participate in online or distance learning from the parent's own home, and the training facility does not require specified hours of attendance.

(2) The parent is employed an average of 32 or more hours per week (28 hours per week if the family includes a special needs child) during the month. Child care services may be provided for the hours of employment, or for sleep time during daytime hours, and for actual travel time between the child care location and the place of employment.

(3) The parent has a child with protective needs for child care. The department will determine the hours of need for a child with protective needs, regardless of the parent's hours of participation in training, employment, or job search. The child welfare case file will document the eligibility for service of the child with protective needs.

(4) The parent is absent from the home due to inpatient hospitalization or outpatient treatment because of physical or mental illness, or is present but due to medical incapacity is unable to care for the child or participate in work or training, as verified by a physician. Eligibility under this paragraph is limited to parents who become temporarily medically incapacitated, or to instances of one parent in a two-parent household being permanently disabled, while eligible for child care assistance based on the need criteria in subparagraph 170.2(2)*"d"*(1) or *"d"*(2).

1. Child care assistance will continue to be available through the authorized certification period after the parent becomes temporarily medically incapacitated.

2. The number of units of service authorized will be determined as follows:

- For a single-parent family, the number of units authorized for the period of incapacity will not exceed the number of units authorized for the family before the onset of incapacity.
- For a two-parent family where one parent is temporarily or permanently incapacitated, the units of service authorized will be based on the need of the parent who is not incapacitated.

(5) The parent is looking for employment. Child care for job search hours will be limited to only those hours the parent is actually looking for employment, including travel time. Job search will be limited to a maximum of 90 consecutive days.

1. For applicants, job searching will be approved for a maximum of 90 consecutive days. If the parent has not started employment within 90 days, assistance will be canceled.

2. For ongoing participants, job search will be limited to a maximum of 90 consecutive days.

(6) The parent needs child care services due to participation in activities approved under the PROMISE JOBS program.

(7) The family is part of the family investment program and there is a need for child care services due to employment or participation in vocational training or education. A family who meets this requirement due to employment is not required to work a minimum number of hours. If a parent in a family investment program household remains in the home, child care assistance can be paid if that parent receives supplemental security income.

(8) The parent is employed and participating in academic or vocational training for an average of 32 or more hours per week (28 hours per week if the family includes a special needs child) during the month.

(9) Family eligibility will continue during an approved certification period when a temporary lapse in need for service for a parent occurs. A temporary lapse in a parent's need for service is allowed when a time-limited absence from work, training or education program occurs due to:

1. Need to care for a family member.

2. An illness.

3. Maternity leave.

4. Family Medical Leave Act (FMLA) as amended to August 1, 2026, situations for household members.

5. Participation in a treatment/rehabilitation program.

6. Any reduction in employment or vocational training or education hours that fall below the minimum number set forth in subparagraph 170.2(2)*"d"*(1), *"d"*(2) or *"d"*(8) as long as the parent continues to work or attend training or education.

7. Any student holiday or break for a parent participating in training or education.

8. Any interruption in work for a seasonal worker who is not working between regular industry work seasons.

(10) Family eligibility will be canceled if the lapse in need is not temporary because the lapse will continue with no established end date.

*e.* *Cooperation.* Parents shall cooperate with the department when the department selects the family's case for quality control review to verify eligibility. Parents shall also cooperate with investigations conducted by the department of inspections, appeals, and licensing to determine whether information supplied by the parent regarding eligibility for child care assistance is complete and correct.

(1) Failure to cooperate will serve as a basis for cancellation or denial of the family's child care assistance.

(2) Once assistance is denied or canceled for failure to cooperate, the family may reapply but will not be considered for approval until cooperation occurs.

**170.2(3)** *Priority for assistance.* Child care services will be provided only when funds are available. Funds available for child care assistance will first be used to continue assistance to families currently receiving child care assistance and to families with protective child care needs or licensed foster parents who need child care for foster children. When funds are insufficient, families applying for services must meet the specific requirements in this subrule.

*a.* *Priority groups.* Priority groups will be determined according to Iowa Code section 237A.13(9).

*b.* *Exceptions to priority groups.* The following are eligible for child care assistance and will not be prevented from receiving benefits by waiting lists for child care services:

(1) Families with protective child care needs.

(2) Recipients of the family investment program or those whose earned income was taken into account in determining the needs of family investment program recipients.

(3) Families who receive a state adoption subsidy for a child.

(4) Families who are experiencing homelessness.

(5) Licensed foster parents who need child care for foster children.

*c. Effect on need for service.* Families approved under a priority group are not required to meet the requirements in paragraph 170.2(2)*"d,"* except at review or redetermination.

**170.2(4)** *Reporting changes.* The parent may report any changes in circumstances affecting these eligibility requirements and changes in the choice of provider to the department worker or the PROMISE JOBS worker within ten calendar days of the change.

*a. Timely reporting.* If the change is timely reported, the effective date of the change will be the date when the change occurred.

*b. Non-timely reporting.* If the change is not timely reported, the effective date of the change will be the date when the change is reported to the department office or the PROMISE JOBS office.

*c. Exceptions.* The following changes must be reported:

(1) Changes in income when the family's gross monthly income exceeds 85 percent of Iowa's median family income.

(2) A lapse in a parent's need for service that is not temporary.

(3) A change in residency outside of the state of Iowa.

(4) No eligible child remains in the home.

*d. Changes not required to report.* The department will disregard any reported changes that are not required to be reported unless the change would cause the authorized units to be increased or the family copay amount to be decreased.

**441—170.3(237A,239B) Application and determination of eligibility.**

**170.3(1)** *Application process.* Application for child care assistance may be made online using the electronic application available on the family portal, at any local office of the department, or by mailing an application to the department.

*a.* At the end of a certification period, ongoing eligibility is determined by completing the Child Care Assistance Review form.

*b.* The application may be filed by the applicant; by the applicant's authorized representative; or, when the applicant is incompetent or incapacitated, by a responsible person acting on behalf of the applicant.

*c.* The date of application is the date a signed application form containing a legible name and address is received by the department. An electronic or paper application delivered to a closed office is considered to be received on the first day following the day the office was last open that is not a weekend or state holiday.

*d.* Families who are determined eligible for child care assistance will be approved for a certification period of at least 12 months. Families who fail to complete the review and redetermination process will lose eligibility at the end of the certification period.

**170.3(2)** *Exceptions to application requirement.* An application is not required for:

*a.* A person who is participating in activities approved under the PROMISE JOBS program.

*b.* Recipients of the family investment program or those whose earned income was taken into account in determining the needs of family investment program recipients. The date of application is the date the family requests child care assistance from the department.

*c.* Children with protective needs.

*d.* Licensed foster parents who need child care for foster children.

*e.* Child care services provided under a court order.

**170.3(3)** *Application processing.* The department will promptly approve or deny an application based on priority groups and the date the application was received.

*a.* The department, or PROMISE JOBS program as applicable, will determine the number of units of service authorized for each eligible family and will:

(1) Inform the family through the notice of decision; and

(2) Inform the family's provider through the Certificate of Enrollment form.

*b.* Unless a provider or applicant indicates otherwise, delivery of notice shall be effectuated through electronic means.

*c.* The effective date of assistance will be the date of application or the date the need for service began, whichever is later. When an application is not required, the effective date will be as follows:

(1) For a person participating in activities under the PROMISE JOBS program, the effective date of child care assistance will be the date the person becomes a PROMISE JOBS participant or the date the person has a need for child care assistance to participate in an approved PROMISE JOBS activity as described in 441—Chapter 93, whichever is later.

(2) For a family receiving family investment program benefits, the effective date of child care assistance will be no earlier than the effective date of family investment program benefits, 30 days before the date of application for child care assistance, or the date the need for service began, whichever is the latest.

(3) For a family with protective service needs, the effective date of assistance will be the date the family signs the Application for All Social Services form.

(4) When child care services are provided under a court order, the effective date of assistance will be the date specified in the court order or the date of the court order if no date is specified.

(5) For a family whose application was denied for failure to provide requested information but who provides all information necessary to determine eligibility, including verification of all changes in circumstances, within 14 days of the denial, the effective date of assistance will be the date that all information required to establish eligibility is provided. If the fourteenth calendar day falls on a weekend or state holiday, the family will have until the next business day to provide the information.

**170.3(4)** *Waiting lists for child care services.*

*a.* When the department has determined that there may be insufficient funding, applications for child care assistance will be taken only for the priority groups for which funds have been determined available according to subrule 170.2(3).

*b.* When the department determines that there is adequate funding, the department will notify the public regarding the availability of funds.

**170.3(5)** *Review and redetermination.* The department will redetermine a family's financial and general eligibility for child care assistance no sooner than 12 months following the initial determination or most recent redetermination.

*a.* The department will use information gathered on the Child Care Assistance Review form to redetermine eligibility, except when the family is not required to complete a review form as provided in paragraph 170.3(5)*"b."*

(1) If the family does not return a complete review form to the department by the end of the certification period, the family must reapply for benefits, except as provided in paragraph 170.3(6)*"a."* A returned Child Care Assistance Review form is complete when all items are answered, the form is signed and dated by the applicant, and is accompanied by all verification needed to determine continued eligibility.

(2) The department will redetermine only general eligibility for recipients eligible under paragraph 170.2(1)*"b."*

(3) If eligibility under paragraph 170.2(1)*"b"* ends, the department will redetermine financial and general eligibility for child care assistance. The redetermination of eligibility will be completed within 30 days.

*b.* Families who have children with protective needs, licensed foster parents who need child care for foster children, and families who are receiving child care assistance because the parent is participating in activities under the PROMISE JOBS program are not required to complete the Child Care Assistance Review form. The department will gather information needed to redetermine general eligibility. If the department needs information from the family, the department will send a written request to the family. If the family does not return the requested information by the due date, the family must reapply for child care assistance, except as provided in paragraph 170.3(6)*"a."*

**170.3(6)** *Reinstatement.* Assistance will be reinstated without a new application when all necessary information is provided before the effective date of expiration or cancellation and eligibility can be reestablished. If there is a change in circumstances, the change must be verified before the case will be reinstated.

*a.* *Grace period.* Assistance will be reinstated without a new application when all information necessary to determine eligibility, including verification of all changes in circumstances, is provided within 14 calendar days of the effective date of expiration or cancellation and eligibility can be reestablished. If the fourteenth calendar day falls on a weekend or state holiday, the family will have until the next business day to provide the information. The effective date of child care assistance will be the date that all information required to establish eligibility is provided.

*b.* *Denial.* Child care assistance will be denied when the department determines that:

(1) The client is not in need of service;

(2) The client is not financially eligible;

(3) There is another resource available to provide the service or a similar service free of charge that allows parents to select from the full range of eligible providers;

(4) Funding is not available;

(5) An application is required and the client or representative refuses or fails to sign the application form;

(6) The client refuses or fails to supply information or verification requested or to request assistance and authorize the department to secure the required information or verification from other sources. Signing a general authorization for release of information to the department does not meet this responsibility; or

(7) The client fails to cooperate with a quality control review or with an investigation conducted by the department of inspections, appeals, and licensing.

*c.* *Termination.* Child care assistance may be terminated when the department determines that:

(1) The client no longer meets the eligibility criteria in subrule 170.2(2);

(2) The client's income exceeds the financial guidelines;

(3) Another resource is available to provide the service or a similar service free of charge that allows parents to select from the full range of eligible providers;

(4) Funding is not available;

(5) The client makes a false or misleading statement, misrepresents, conceals, or withholds facts;

(6) The client refuses or fails to supply information or verification requested or to request assistance and authorize the department to secure the required information or verification from other sources; or

(7) The client fails to cooperate with a quality control review or with an investigation conducted by the department of inspections, appeals, and licensing.

**441—170.4(237A) Elements of service provision.**

**170.4(1)** *Fees.* Fees for services received will be charged to clients according to the schedules in this subrule, except that fees will not be charged to clients receiving services without regard to income.

*a.* *Sliding fee schedule.*

(1) For families whose eligibility is established in subparagraphs 170.2(1)*"a"*(1) and *"a"*(2), the child care assistance and child care assistance plus programs fee schedule found on the department's website is effective for eligibility determinations made on or after July 1, 2025. The fee is a per-unit charge that is applied to the child in the family who receives the largest number of units of service. The fee will be charged for only one child in the family, regardless of how many children receive assistance.

(2) For families whose eligibility is established in subparagraph 170.2(1)*"a"*(3), the child care assistance exit program fee schedule found on the department's website is effective for eligibility determinations made on or after July 1, 2025. The fee is a percentage of the cost of child care for each child in the family who receives service.

*b.* *Collection.* The provider will collect fees from clients and maintain records of fees collected. These records will be available for audit by the department.

*c.* *Inability of client to pay fees.* Child care assistance may be continued without a fee, or with a reduced fee, when a client reports in writing the inability to pay the assessed fee due to the existence of one or more of the conditions set forth below. Before reducing the fee, the department will assess the case to verify that the condition exists and to determine whether a reduced fee can be charged. The reduced fee will then be charged for the remainder of the certification period. Reduced fees may be justified by:

(1) Extensive medical bills for which there is no payment through insurance coverage or other assistance.

(2) Shelter costs that exceed 30 percent of the household income.

(3) Utility costs not including the cost of a telephone that exceed 15 percent of the household income.

**170.4(2)** *Method of provision.* Parents shall be allowed to exercise their choice for in-home care, except when the parent meets the need for service under subparagraph 170.2(2)*"d"*(3), as long as the conditions in paragraph 170.4(7)*"d"* are met. When the child meets the need for service under subparagraph 170.2(2)*"d"*(3), parents shall be allowed to exercise their choice of licensed, registered, or non-registered child care provider, except when the department determines it is not in the best interest of the child. The provider must meet one of the applicable requirements set forth in this subrule.

*a.* *Licensed child care center.* A child care center shall be licensed by the department to meet the requirements set forth in 441—Chapter 109 and shall have a current Certificate of License form.

*b.* *Registered child development home.* A child development home shall meet the requirements for registration set forth in 441—Chapter 110 and shall have a current Certificate of Child Care Home Registration form.

*c.* *Non-registered child care home.* A non-registered child care home shall have an approved Payment Application form and a current Child Care Assistance Provider Agreement with the department. Non-registered child care homes are required to meet minimum health and safety standards as set forth in 441—Chapter 110.

*d.* *In-home care.* In-home providers who provide care for the child in the family home must sign the Payment Application for Non-registered Providers and Child Care Assistance Provider Agreement forms. In-home providers must meet the following components as set forth in:

(1) 441—paragraph 110.10(1)*"a,"* professional development for preservice training;

(2) 441—paragraph 110.10(1)*"b,"* professional development for mandatory reporting of child abuse;

(3) 441—paragraph 110.10(1)*"c,"* professional development for first-aid and cardiopulmonary resuscitation (CPR) training; and

(4) 441—subrule 110.11(3), record checks.

*e.* *Out-of-state provider.* A child care provider who is not located in Iowa may be selected by the parent so long as the out-of-state child care provider verifies that the provider meets the licensing requirements to be a provider in the state in which the provider operates.

**170.4(3)** *Components of service program.* Every child eligible for child care services will receive supervision, food services, and program and activities, and may receive transportation.

**170.4(4)** *Payment.* The department will make payment for child care provided to an eligible family when the family reports their choice of provider to the department and the provider has an approved Child Care Assistance Provider Agreement form on file.

*a. Rate of payment.* The rate of payment for child care services, except for in-home care, which will be paid in accordance with paragraph 170.4(4)*"d,"* will be the actual rate charged by the provider for a private individual, not to exceed the maximum rates applicable to the provider type and age group as shown below.

(1) Half-day rates are calculated by dividing the provider's weekly rate from the Child Care Assistance Provider Agreement form by five to get the daily rate and then dividing this daily amount by two to get the half-day rate.

(2) To be eligible for the special-needs rate, the parent must submit documentation to the department that the child needing services has been assessed by a qualified professional and meets the definition for a "special needs child," and the provider must submit documentation to the department of the support being provided based on the description of the child's special needs, including adaptive equipment, more careful supervision, or special staff training.

**Table 1**
**Half-Day Rate Ceilings for (Licensed Center)**

| | No Quality Rating | | Quality Rating 1 or 2 | | Quality Rating 3 or 4 | | Quality Rating 5 | |
|---|---|---|---|---|---|---|---|---|
| Age Group | Basic | Special Needs | Basic | Special Needs | Basic | Special Needs | Basic | Special Needs |
| Infant and Toddler | $25.66 | $51.94 | $25.66 | $51.94 | $25.66 | $51.94 | $27.00 | $51.94 |
| Preschool | $19.50 | $30.43 | $20.25 | $30.43 | $21.50 | $30.43 | $22.97 | $30.43 |
| School Age | $16.50 | $30.34 | $17.10 | $30.34 | $17.50 | $30.34 | $18.50 | $30.34 |

**Table 2**
**Half-Day Rate Ceilings for (Child Development Home A/B)**

| | No Quality Rating | | Quality Rating 1 or 2 | | Quality Rating 3 or 4 | | Quality Rating 5 | |
|---|---|---|---|---|---|---|---|---|
| Age Group | Basic | Special Needs | Basic | Special Needs | Basic | Special Needs | Basic | Special Needs |
| Infant and Toddler | $16.63 | $24.95 | $16.63 | $24.95 | $16.63 | $24.95 | $17.50 | $26.25 |
| Preschool | $15.00 | $22.50 | $15.50 | $23.25 | $16.00 | $24.00 | $17.00 | $25.50 |
| School Age | $15.00 | $22.50 | $15.25 | $22.88 | $15.50 | $23.25 | $15.75 | $23.63 |

**Table 3**
**Half-Day Rate Ceilings for (Child Development Home C)**

| | No Quality Rating | | Quality Rating 1 or 2 | | Quality Rating 3 or 4 | | Quality Rating 5 | |
|---|---|---|---|---|---|---|---|---|
| Age Group | Basic | Special Needs | Basic | Special Needs | Basic | Special Needs | Basic | Special Needs |
| Infant and Toddler | $18.00 | $27.00 | $18.00 | $27.00 | $18.00 | $27.00 | $18.50 | $27.75 |
| Preschool | $16.28 | $24.42 | $17.00 | $25.50 | $17.50 | $26.25 | $18.50 | $27.75 |
| School Age | $15.00 | $22.50 | $15.75 | $23.63 | $16.44 | $24.66 | $17.50 | $26.25 |

**Table 4**
**Half-Day Rate Ceilings for Child Care Home (Not Registered)**

| Age Group | Basic | Special Needs |
|---|---|---|
| Infant and Toddler | $16.63 | $24.95 |
| Preschool | $15.00 | $22.50 |
| School Age | $15.00 | $22.50 |

*b.* The following definitions apply in the use of the rate tables:

(1) "Licensed center" means those providers as detailed in 170.4(2)*"a."*

(2) "Child development home A/B" or "child development home C" means those providers as defined in paragraph 170.4(2)*"b."*

(3) Under age group, "infant and toddler" means age two weeks to three years.

(4) "Preschool" means three years to school age.

(5) "School age" means a child in attendance in full-day or half-day classes.

(6) A child care facility that is rated under the quality rating system will be paid according to the corresponding quality rating payment level in the tables above only during the period the rating is valid as defined in 441—Chapter 118. If the child care facility does not have a quality rating or its quality rating expires, the child care facility will be paid according to the "no quality rating" payment level. A child care facility whose quality rating has expired will not receive backdated payments once a new rating is awarded.

(7) For a child care facility rated "quality rating 5," if a renewal application is received before the current rating period expires, the child care facility will continue to be paid according to the "quality rating 5" payment level until a decision is made on the IQ4K application.

*c. Payment for days of absence.* Payment may be made to a child care provider for an individual child not in attendance at a child care facility or home not to exceed four days per calendar month providing that the child is regularly scheduled on those days and the provider also charges a private individual for days of absence.

*d. Payment for in-home care.* Payment may be made for in-home care when there are three or more children in a family who require child care services. The rate of payment for in-home care will be the state's minimum wage amount.

*e. Limitations on payment.* Payment will not be made for therapeutic services that are provided in the care setting and include but are not limited to services such as speech, hearing, physical and other therapies; individual or group counseling; therapeutic recreation; and crisis intervention. Payment will not be made for educational services that are provided in the care setting and include but are not limited to services such as private tutoring and homeschool instruction.

*f. Review of the calculation of the rate of payment.* Maximum rate ceilings cannot be appealed. A provider who is in disagreement with the calculation of the half-day rate as set forth in paragraph 170.4(4)*"a"* may request a review within 15 calendar days of notification of the rate in question. The department will provide a written response within 15 calendar days of receipt of the request for review.

*g. Submission of claims.* The department will issue payment when the provider submits correctly completed documentation of attendance and charges. The department will pay for no more than the number of units of service authorized in the notice of decision issued.

(1) Providers shall submit documentation of attendance and charges within six months of the care being provided. Submission of claims older than six months are subject to special review and may be rejected.

(2) The provider shall keep the attendance records for a period of five years after the billing date.

(3) Providers shall submit a claim in one of the following ways:

1. Using the Child Care Assistance Billing/Attendance form, or

2. Using an electronic request for payment submitted through the provider portal or other approved child care management system. Providers using an electronic method shall ensure attendance records include the child's name, the dates, the daily time in and time out entries for days the child was in care, and the signature of the parent or other designee certifying the attendance is accurate.

**441—170.5(237A) Adverse actions.**

**170.5(1)** *Provider agreement.* The department may refuse to enter into or may revoke a child care assistance provider agreement if any of the following occur:

*a.* The department finds the provider is not following the minimum health and safety regulatory requirements as set forth in 441—Chapters 109 and 110.

*b.* The provider has submitted claims for payment for which the provider is not entitled.

*c.* The provider fails to cooperate with an investigation conducted by the department of inspections, appeals, and licensing to determine whether information the provider supplied to the department regarding payment for child care services is complete and correct. Once the agreement is revoked for failure to cooperate, the department will not enter into a new agreement with the provider until cooperation occurs.

*d.* The provider does not meet one of the applicable requirements set forth in subrule 170.4(2).

*e.* The provider fails to comply with any of the terms and conditions of the department.

*f.* An overpayment of funds with a balance of $3,000 or more exists for a provider and that provider fails to enter into a repayment agreement with the department of inspections, appeals, and licensing or does not make payments according to the repayment agreement on file.

**170.5(2)** *Provider agreement sanction.* If the provider agreement is terminated for any of the reasons in subrule 170.5(1), the agreement will remain terminated for the time periods set forth below:

*a.* The first time the agreement is terminated, the provider may reapply for another agreement at any time.

*b.* The second time the agreement is terminated, the provider cannot reapply for another agreement for 12 months from the effective date of termination.

*c.* The third or subsequent time the agreement is terminated, the provider cannot reapply for another agreement for 36 months from the effective date of termination.

*d.* The department will not act on an application for a child care assistance provider agreement submitted by a provider during the sanction period.

*e.* The department is not required to approve an application submitted by a provider following the sanction period. When the provider has an overpayment on record, evidence of an active payment agreement and payments made will be taken into consideration.

**170.5(3)** *Client child care assistance benefits sanction.* If child care assistance is terminated for any of the reasons in subparagraphs 170.3(6)*"c"*(5) through *"c"*(7), the case will remain terminated for the time periods set forth below:

*a.* The first time the case is terminated, the client may submit a new application for assistance at any time.

*b.* The second time the case is terminated, the client cannot reapply for 12 months from the effective date of termination.

*c.* The third time the case is terminated, the client cannot reapply for 36 months from the effective date of termination.

*d.* The department will not act on an application for child care assistance submitted by a client during the sanction period.

*e.* The department is not required to approve an application submitted by a client following the sanction period. When the client has an overpayment on record, evidence of an active payment agreement and payments made will be taken into consideration.

**441—170.6(237A) Appeals.** Notice of adverse action will be given in accordance with 441—Chapter 16. The right to appeal will be given in accordance with 441—Chapter 2506.

**441—170.7(237A) Provider fraud.**

**170.7(1)** *Fraud.* The department will consider a child care provider to have committed fraud when an intentional program violation results in:

*a.* The department of inspections, appeals, and licensing finds in an administrative or judicial proceeding a provider to have obtained child care assistance payment(s) for which the provider was not eligible in an amount in excess of $1,000; or

*b.* The provider has agreed to entry of a civil judgment or judgment by confession that includes a conclusion of law that the provider has obtained child care assistance payment in an amount in excess of $1,000 for which the provider was not eligible.

**170.7(2)** *Potential provider sanctions.* Potential sanctions are set forth in Iowa Code section 237A.29.

**170.7(3)** *Factors considered in determining level of sanction.* The department will consider factors in determining the sanction(s) to be imposed according to Iowa Code section 237A.29(2)*"c."*

**170.7(4)** *Mitigating factors.* If the sanction determined according to subrule 170.7(2) is suspension from or ineligibility for receipt of child care assistance payment, the department will determine whether it is appropriate to reduce the level of a sanction for the particular case, considering:

*a.* Prior provision of provider education.

*b.* Provider willingness to obey program rules.

*c.* A lesser sanction will be sufficient to resolve the violation.

**441—170.8(237A) Client fraud.**

**170.8(1)** *Program violation.* An individual who is found by the department of inspections, appeals, and licensing in an administrative proceeding, or by a court in a judicial proceeding, to have committed an intentional program violation or has agreed to entry of a civil judgment or judgment by confession that includes a conclusion of law that the individual has committed an intentional program violation, that includes a conclusion of law that the individual has committed an intentional program violation, is disqualified from receiving the child care assistance benefits. If an individual is found to have committed an intentional program violation, a sanction must be imposed on the individual found to have committed the intentional program violation and the household as set forth in 45 CFR Section 98.68(b)(2) as amended to August 1, 2026. The sanction will be determined by the department after the administrative or judicial proceeding or without a hearing if the individual waives the right to a hearing by agreement to entry of a civil judgment or judgment by confession.

**170.8(2)** *Potential client sanctions resulting from fraud.* The period of disqualification is:

*a.* For a first violation, the individual is disqualified for one year;

*b.* For a second violation, the individual is disqualified for two years; and

*c.* For a third violation, the individual is permanently disqualified.

**441—170.9(237A) Child care assistance overpayments.** All child care assistance overpayments will be subject to recoupment.

**170.9(1)** *Notification and appeals.* All clients or providers will be notified when it is determined that an overpayment exists. Notification will include the amount of, date of, and reason for the overpayment. The department will provide additional information regarding the computation of the overpayment upon the client's or provider's request. The client or provider may appeal the computation of the overpayment and any action to recover the overpayment in accordance with 441—Chapter 2506.

**170.9(2)** *Determination of overpayments.* All overpayments due to client, provider, or department error or due to benefits or payments issued pending an appeal decision will be recouped. Recoupment of overpayments resulting from benefits or payments issued pending a decision on an appeal hearing will not occur until after a final appeal decision is issued and the department prevails. Overpayments will be computed as if the information had been acted upon timely.

**170.9(3)** *Failure to cooperate.* Failure by the client to cooperate in the investigation of alleged overpayments will result in ineligibility for the months in question and the overpayment will be the total amount of assistance received during those months. Failure by the provider to cooperate in the investigation of alleged overpayments will result in payments being recouped for the months in question.

**170.9(4)** *Payment agreement.* The client or provider may choose to make a lump-sum payment or make periodic installment payments as agreed to with the department. Failure to negotiate an approved payment agreement may result in further collection action.

**170.9(5)** *Procedures for recoupment.*

*a.* When the department determines that an overpayment exists, the department will submit the case to the department of inspections, appeals, and licensing for investigation, recoupment, or referral for possible prosecution.

*b.* The department of inspections, appeals, and licensing will initiate recoupment by notifying the debtor of the overpayment.

*c.* When financial circumstances change, the department of inspections, appeals, and licensing has the authority to revise the recoupment plan.

*d.* Recoupment for overpayments due to client error or due to department error that affected eligibility will be made from the parent who received child care assistance at the time the overpayment occurred. When two parents were in the home at the time the overpayment occurred, both parents are equally responsible for repayment of the overpayment.

*e.* Recoupment for overpayments due to provider error or due to department error that affected benefits will be made from the provider.

*f.* Recoupment for overpayments caused by both the provider and client will be collected from both the provider and client equally.

**170.9(6)** *Suspension and waiver.* Recoupment will be suspended on non-fraud overpayments when the amount of the overpayment is less than $35. Recoupment will be waived on non-fraud overpayments of less than $35 that have been held in suspense for three years.

These rules are intended to implement Iowa Code sections 237A.13, 237A.14, and 237A.29.

**RA 26-243**

# HUMAN SERVICES DEPARTMENT[441]

## Regulatory Analysis

Notice of Intended Action to be published: 441—Chapters 226 and 227
"State Unit on Aging; Area Agency on Aging"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 231
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 231

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>10 a.m. | Microsoft Teams<br>Meeting ID: 245 818 881 867 66<br>Passcode: ya9va9uv |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Victoria L. Daniels
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

*Purpose and Summary*

This proposed rulemaking makes clarifying updates to two chapters under the purview of the Department's Division of Aging and Disability Services.

Proposed amendments to Chapter 226 create two distinct pathways for approval of amendments to the State Plan on Aging. Current rules for amendments to the State Plan require a public hearing, review by the Council on Health and Human Services, the Governor's signature, and submission to the federal Administration on Aging 45 days before the desired effective date. 45 CFR 1321.31 sets forth that there are two types of State Plan Amendments—those requiring prior approval and those requiring notification to the Assistant Secretary for Aging only. The proposed amendments to Chapter 226 align with federal law by specifically enumerating the two distinct processes.

Similarly, proposed amendments to Chapter 227 remove the requirement that Area Agencies on Aging (AAAs) seek and receive approval from the Department on contracts that are operational in nature, for example, a contract for snow removal services. 45 CFR Part 1321 and guidance from the federal Administration for Community Living both indicate that such contracts do not require prior approval from the Department.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**
- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs associated with this proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

AAAs and the people they serve will benefit from the clarifications in this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There are currently six AAAs serving Iowans.

- **Qualitative description of impact:**

AAAs and the people they serve will benefit from the clarifications in this proposed rulemaking.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department incurs personnel and other administrative costs in association with the proposed rulemaking.

- **Anticipated effect on State revenues:**

This proposed rulemaking has no impact on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Rulemaking is appropriate to align with federal standards and requirements.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Rulemaking is appropriate to align with federal standards and requirements.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

This proposed rulemaking has no impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Amend rule 441—226.4(231) as follows:

**441—226.4(231) State plan on aging.**

**226.4(1)** *Authority.* As the state unit on aging, the department will develop and administer a state plan on aging ~~or state plan amendment pursuant to the federal Act.~~ and any state plan amendments made pursuant to the federal Act; 45 CFR Parts 1321 and 1324 as amended to October 1, 2025; and Iowa Code chapter 231.

**226.4(2)** *Multiyear state plan on aging.* The department will develop and submit for approval a two-, three-, or four-year state plan on aging in compliance with the federal Act; 45 CFR 1321 and 1324 as amended to October 1, 2025; Iowa Code chapter 231; and the procedures, ~~and associated~~ instructions, and guidance~~, and direction specified~~ issued by the federal Administration on Aging.

**226.4(3)** *State plan amendment.* The department may, in its discretion, develop and submit to the federal Administration on Aging ~~for consideration~~ an amendment to the state plan on aging at any time. Each amendment will be processed pursuant to 45 CFR 1321.31 as follows:

*a.* Amendments requiring approval by the Assistant Secretary for Aging must follow the process outlined in subrule 226.4(4).

*b.* Amendments requiring notice only are not subject to subrule 226.4(4) unless otherwise required by law.

**226.4(4)** *State plan on aging and state plan amendment requiring approval review process.* Once the department develops the state plan on aging or state plan amendment requiring prior approval, the department will comply with the following chronological review and comment process:

*a.* to *d.* No change.

**226.4(5)** and **226.4(6)** No change.

ITEM 2. Amend subrule 227.10(2) as follows:

**227.10(2)** *Contracts and commercial relationships.* A contract or agreement between an area agency on aging and an outside entity will not restrict the area agency on aging from contracting with other entities that provide similar services. All contracts and commercial relationships must avoid conflicts of interest as detailed in rule 441—225.3(231).

Notwithstanding the foregoing, 45 CFR Part 1321 as amended to October 1, 2025, and guidance from the federal Administration for Community Living govern operational and maintenance contracts. Such contracts do not require per-event state unit on aging approval beyond area plan budgeting. Each area agency on aging will maintain a file of all current contracts and contracts up to three years. These files will be made available for monitoring and assessment by the department. For the purposes of this subrule, "operational and maintenance contracts" are contracts with for-profit vendors for items including but not limited to building maintenance; heating, ventilation, and air conditioning (HVAC); information technology (IT) support; fleet repair; janitorial services; and utilities.

~~*a.* Each area agency on aging will maintain a file of all current contracts and contracts up to three years. These files will be made available for monitoring and assessment by the department.~~

~~*b.* Each area agency on aging must request prior approval from the department 30 days prior to signing the contract for any proposed service contracts with for-profit organizations.~~

**RA 26-244**

# INSPECTIONS AND APPEALS DEPARTMENT[481]

**Regulatory Analysis**

Notice of Intended Action to be published: 481—Chapters 300 and 325
"State Building Code—Administration; Manufactured Housing Installer Certification"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 103A.7 and 103A.23 and 2026 Iowa Acts, Senate File 2289

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 103A and 2026 Iowa Acts, Senate File 2289

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>10 a.m. | 6200 Park Avenue<br>Des Moines, Iowa |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Sheri Howard
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.779.3299
Email: sheri.howard@dia.iowa.gov

*Purpose and Summary*

Pursuant to Iowa Code section 103A.23, the State Building Code Commissioner shall establish by rule a schedule of fees based upon the costs of administration and for the purpose of obtaining revenue to defray the costs of administering the provisions of Iowa Code chapter 103A. Fees shall be collected from persons whose manufacture, installation, or construction is subject to the provisions of the State Building Code. For the performance of building plan reviews by the Department, the Commissioner shall establish by rule a fee, chargeable to the owner of the building; the fee shall be equal to a percentage of the estimated total valuation of the building and shall be in an amount reasonably related to the cost of conducting the review. 2026 Iowa Acts, Senate File 2289, authorizes the payment of these funds into the Licensing and Regulation Fund created in Iowa Code section 10A.507.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs associated with this proposed rulemaking; legislation changed the fund into which the fees collected by the Commission shall be deposited.

- **Classes of persons that will benefit from the proposed rulemaking:**

Iowans and non-Iowans who live in, work in, and utilize buildings that are subject to the State Building Code during construction benefit when building projects are safe and plan reviews and inspections are conducted in a timely manner.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no quantitative impact of this proposed rulemaking.

- **Qualitative description of impact:**

This proposed rulemaking implements legislation that directs fees collected by the Department pursuant to the State Building Code are deposited into a fund specifically geared toward licensing and regulation. The public and the industry appreciate fees that are directed toward the governmental entity governing the fees.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no costs to the Department specifically associated with this rulemaking.

- **Anticipated effect on State revenues:**

There is no anticipated impact on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

There are no costs to the proposed rulemaking to weigh against the benefits.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

There are no less costly or less intrusive methods for achieving the purpose of the proposed rulemaking.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

See response in section "5" above.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

See response in section "5" above.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

There is no substantial impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Amend paragraph **300.4(2)"b"** as follows:

*b.* The fees for plan reviews completed by the building code bureau are calculated as follows:

| **Estimated Construction Costs** | **Calculation of Plan Review Fee** |
|---|---|
| Up to and including $1 million | $.58 per thousand dollars or fraction thereof (minimum fee $200) |
| More than $1 million | $580 for the first $1 million plus $.32 for each additional thousand dollars or fraction thereof |
| The plan review fees for fire suppression systems and fire alarm systems are separate fees and are calculated as follows: | |
| **Fire Protection System Costs** | **Plan Review Fee** |
| Fire suppression systems whose construction cost for materials and installation is calculated to be up to and including $5,000 | $100 |
| Fire suppression systems whose construction cost for materials and installation is calculated to be more than $5,000 and up to and including $20,000 | $200 |
| Fire suppression systems whose construction cost for materials and installation is estimated to be more than $20,000 | $400 |
| Fire alarm systems whose construction cost for materials and installation is calculated to be up to and including $5,000 | $100 |
| Fire alarm systems whose construction cost for materials and installation is calculated to be more than $5,000 and up to and including $20,000 | $200 |
| Fire alarm systems whose construction cost for materials and installation is estimated to be more than $20,000 | $400 |

Payment of the assigned fee has to accompany each plan when submitted for review. ~~Payment may be made by money order, check, or draft made payable to the Treasurer, State of Iowa.~~ All remittances are to be:

1. In the form of checks or money orders;
2. Made payable to Iowa Department of Inspections, Appeals, and Licensing; and
3. Addressed to:

State Building Code Bureau
Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321

NOTE: Plan review fees for assisted living projects are contained in Iowa Code section 231C.18(2)*"c."* Elder group home plan review fees are contained in Iowa Code section 231B.17. Adult day services plan review fees are contained in Iowa Code section 231D.4.

ITEM 2. Amend subrule 300.5(3) as follows:

**300.5(3)** Buildings subject to inspection by the commissioner, except construction involving any building or facility owned by the board of regents or by any institution subject to the authority of the board of regents, shall pay an inspection fee based upon the construction cost of the project. The inspection fee is calculated as follows:

| **Construction Cost** | **Base Inspection Fee** |
|---|---|
| Up to $100,000 | $598 |
| $100,001 to $1,000,000 | $645 |
| $1,000,001 to $10,000,000 | $722 |
| $10,000,001 and above | $783 |

| | |
|---|---|
| Follow-up inspection | $214 |

The base inspection fee covers three inspections—a foundation, rough-in, and final. The base inspection fee is due and payable at the time completed construction documents are submitted for review. The plan review will not be conducted until the proper base inspection fee is paid. ~~Checks should be made payable to the Treasurer, State of Iowa, and delivered to the bureau office.~~ <u>All remittances are to be:</u>

<u>1. In the form of checks or money orders;</u>

<u>2. Made payable to Iowa Department of Inspections, Appeals, and Licensing; and</u>

<u>3. Addressed to:</u>

<u>State Building Code Bureau</u>
<u>Department of Inspections, Appeals, and Licensing</u>
<u>6200 Park Avenue</u>
<u>Des Moines, Iowa 50321</u>

This fee is separate and distinct from the plan review fee established in subrule 300.4(2).

Additional inspections may occur for any of the following reasons:

*a.* to *d.* No change.

The fee for each additional inspection is calculated as follows:

One hour on site = $206
One to two hours on site = $240
Two to three hours on site = $273
Three to four hours on site = $307
Four to five hours on site = $341
Five to six hours on site = $374

Additional inspection fees will be billed to the responsible architect or building contractor on a monthly basis. The building may receive only temporary approval for occupancy if unpaid inspection fees remain at the time of final inspection.

Inspection fees and standard operating procedures for construction involving any building or facility owned by the board of regents or by any institution subject to the authority of the board of regents will be established through a written agreement between the commissioner and the board of regents.

ITEM 3. Amend rule 481—325.4(103A) as follows:

**481—325.4(103A) Certification fee.** The certification fee shall be $300, payable at the time of application, and shall cover certification for three years. Fees shall be remitted in the form of a check or money order~~, payable to the Iowa Department of Public Safety – Building Code Bureau~~. <u>All remittances are to be:</u>

<u>1. In the form of checks or money orders;</u>

<u>2. Made payable to Iowa Department of Inspections, Appeals, and Licensing; and</u>

<u>3. Addressed to:</u>

<u>State Building Code Bureau</u>
<u>Department of Inspections, Appeals, and Licensing</u>
<u>6200 Park Avenue</u>
<u>Des Moines, Iowa 50321</u>

The following should be written in the memo portion of the check: "Manufactured Housing Installer Certification." Applications and fees received after July 1 of any year will cover the remainder of the fiscal year in which they are received and the following two state fiscal years. Applications and fees received prior to July 1 of any year shall cover the period through June 30 of the third year following.

Exception: If as of June 1, 2009, statutory language regarding fees collected for certification and recertification of manufactured housing installers does not clearly provide that any such fees collected are exempt from reversion to the state treasury pursuant to Iowa Code section 8.33, then all current certificate holders who paid the $300 fee shall have $200 of the fee refunded.

ITEM 4. Amend subrule 325.7(4) as follows:

**325.7(4)** The recertification fee shall be $300, payable at the time of application. Fees shall be remitted in the form of a check or money order~~, payable to the Iowa Department of Public Safety – Building Code Bureau~~. All remittances are to be:

1. In the form of checks or money orders;
2. Made payable to Iowa Department of Inspections, Appeals, and Licensing; and
3. Addressed to:

State Building Code Bureau
Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321

The following shall be written in the memo portion of the check: "Manufactured Housing Installer Certification." Applications and fees received after July 1 shall cover the remainder of the fiscal year in which they are received and the following two years.

ITEM 5. Amend subrule 325.11(4) as follows:

**325.11(4)** The application shall be accompanied by a check or money order for $50 to cover the certification fee. This fee is nonrefundable. ~~The check or money order shall be made out to "Iowa Department of Public Safety," and the memo portion of the check or money order shall say "Manufactured Housing Installer Certification."~~ All remittances are to be:

1. In the form of checks or money orders;
2. Made payable to Iowa Department of Inspections, Appeals, and Licensing; and
3. Addressed to:

State Building Code Bureau
Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321

**RA 26-245**

# INSPECTIONS AND APPEALS DEPARTMENT[481]

**Regulatory Analysis**

Notice of Intended Action to be published: 481—Chapter 760 and subrule 761.3(2)
"Licensure of Optometrists; Specific Criteria"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 154 and 272C
State or federal law(s) implemented by the rulemaking: Iowa Code chapters 147, 154 and 272C

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>2:30 p.m. | 6200 Park Avenue<br>Des Moines, Iowa |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Board of Optometry no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Emily DeRonde
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.249.7038
Email: emily.deronde@dia.iowa.gov

*Purpose and Summary*

This proposed rulemaking amends rules for continuing education and allows licensees to complete more distance learning continuing education credits that will go toward the 50 credit hours required. This proposed rulemaking also promulgates rules for foreign-trained optometrists and a pathway toward licensure for these applicants.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no anticipated costs related to this proposed rulemaking other than the costs already incurred by the Board to enforce the rules. Licensed optometrists will not incur any additional costs other than the cost of licensing. The continuing education rules may allow them to save money taking distance learning courses rather than in-person courses.

- **Classes of persons that will benefit from the proposed rulemaking:**

This proposed rulemaking provides requirements for foreign-trained graduates since there were previously no rules allowing licensure for these graduates. It will also benefit licensees, allowing them to take additional distance learning courses that do not require them to be in person.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Members of the public would incur no costs other than payment/copayment for optometry services provided. Optometrists would be responsible for ensuring they meet the continuing education and licensure requirements.

- **Qualitative description of impact:**

The Board believes that the benefits achieved justify the costs because the rules provide a pathway to licensure for foreign-trained graduates while still ensuring safe and competent care for patients. It also gives licensees additional flexibility with continuing education courses.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Costs to the agency are for the staff time needed to manage Board activities, which include oversight of practice standards and requirements. The Board does not anticipate any further costs than are already incurred. The time needed to manage this provision is generally in the form of responding to questions related to practice standards. Staff salaries to support the work of the Board are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557.

- **Anticipated effect on State revenues:**

This rulemaking has no anticipated impact on State revenues. Staff salaries to support the work of the Board are covered by the fund. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The Board believes the costs and benefits are worth developing these rules because the Board developed rules to provide a pathway to licensure for foreign-trained graduates. The Board also alleviated some barriers to obtaining continuing education credit.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Board does not believe there is a less costly or less intrusive method to achieve the purpose of this rulemaking.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Board has not identified any alternative methods to carry out this rulemaking.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The Board has not identified any alternative methods to carry out this rulemaking.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

The proposed rulemaking relates to public safety concerns that are present whether the business is a small business or a large corporation. While some optometrists may work in a smaller optometry office, some also work for large corporations, hospitals, and other optometry facilities. To exempt a small business from adhering to this chapter would jeopardize any member of the public who sought services from that small business. The risk to the public is greater than the potential harm or cost to the small business.

*Text of Proposed Rulemaking*

ITEM 1. Amend rule **481—760.1(154)**, definition of "Reactivate," as follows:

*"Reactivate"* or *"reactivation"* means the process as outlined in rule ~~481—760.5(17A,147,272C)~~ 481—760.6(17A,147,272C) by which an inactive license is restored to active status.

ITEM 2. Renumber rules **481—760.3(154)** to **481—760.6(17A,147,272C)** as **481—760.4(154)** to **481—760.7(17A,147,272C)**.

ITEM 3. Adopt the following **new** rule 481—760.3(154):

**481—760.3(154) Educational qualifications for foreign-trained optometrists.** Prospective applicants who completed their education outside of the United States may receive credit for their education, provided they comply with the following:

**760.3(1)** Provide an equivalency evaluation of the applicant's educational credentials by a board-approved agency, demonstrating the curriculum is equivalent to that stated in these rules. The applicant bears the expense of the curriculum evaluation.

**760.3(2)** Provide a notarized copy of the certificate or diploma awarded to the applicant from an optometry program in the country in which the applicant was educated.

**760.3(3)** Receive a final determination from the board that the applicant's education is acceptable.

ITEM 4. Amend renumbered subrule 760.5(3) as follows:

**760.5(3)** A licensee applying for renewal will:

*a.* Meet the continuing education requirements of rule 481—761.2(154) and the mandatory reporting requirements of ~~subrule 760.5(4)~~ subrule 760.6(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

*b.* No change.

ITEM 5. Amend subparagraph **761.3(2)"b"(1)** as follows:

(1) ~~Five~~ Twelve hours of credit for distance learning.

ITEM 6. Amend subparagraph **761.3(2)"c"(2)** as follows:

(2) Training on child abuse and dependent adult abuse identification and reporting through the department of health and human services for all licensees who examine, attend, counsel or treat children or dependent adults in the scope of the professional practice. Initial ~~two-hour~~ courses need to be taken with six months of employment. ~~One-hour recertification training~~ Training needs to be done every three years.

**RA 26-261**

# INSPECTIONS AND APPEALS DEPARTMENT[481]

## Regulatory Analysis

Notice of Intended Action to be published: 481—Chapter 821
"Licensure of Massage Therapists"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 147, 152C and 272C
State or federal law(s) implemented by the rulemaking: Iowa Code chapters 147, 152C and 272C

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>2 p.m. | 6200 Park Avenue<br>Des Moines, Iowa |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Board of Massage Therapy no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Emily DeRonde
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.249.7038
Email: emily.deronde@dia.iowa.gov

*Purpose and Summary*

This proposed rulemaking updates the Board's rules regarding reactivation and foreign-trained graduates. This rulemaking allows the Board to issue a massage therapy license to a foreign-trained graduate who has completed an equivalency evaluation at an approved agency, eliminates outdated agency information in the current rule, and clarifies and simplifies the rules for reactivation of a massage therapy license. New rules allow the applicant whose license has been inactive for over five years to verify active practice and 16 hours of continuing education, complete 32 hours of continuing education, or retake the examination. This provides additional pathways to reactivation rather than just the examination.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**
- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no anticipated costs to this rulemaking other than the costs already incurred by the Board to enforce the rules. Massage therapists will incur costs in licensing fees to obtain this license.
- **Classes of persons that will benefit from the proposed rulemaking:**

This rulemaking allows an additional pathway for massage therapists to reactivate their license without retaking an examination.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Members of the public would incur no costs other than payment for massage services provided. Massage therapists will be responsible for meeting licensure requirements.

- **Qualitative description of impact:**

The Board believes that the costs are justified by the benefits achieved because the rules allow additional pathways to reactivation of a massage therapy license.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Costs to the agency are for the staff time needed to manage Board activities, which include oversight of practice standards and requirements. The Board would still need to review and approve applications for massage therapists; however, the Board does not anticipate any further costs than are already incurred. The time needed to manage this provision is generally in the form of responding to questions related to practice standards and processing requests for review of training. Staff salaries to support the work of the Board are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557.

- **Anticipated effect on State revenues:**

This rulemaking has no anticipated impact on State revenues. Staff salaries to support the work of the Board are covered by the fund. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The Board believes all current requirements ensure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of Iowans in that scenario. In addition, the rulemaking provides consistency related to the licensure of massage therapists in other states, which makes obtaining licensure in multiple states simpler for applicants.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Board has not identified a more cost-effective alternative to the licensure of massage therapists. The Board believes all current requirements ensure public safety and ensure a minimum competency of care is provided to Iowans.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Board has not identified a more cost-effective alternative to the licensure of massage therapists. The Board believes all current requirements ensure public safety and ensure a minimum competency of care is provided to Iowans.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The Board has not identified a more cost-effective alternative to the licensure of massage therapists. The Board believes all current requirements ensure public safety and ensure a minimum competency of care is provided to Iowans.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

The proposed amendments relate to public safety concerns that are present whether the business is a small business or a large corporation. While some massage professionals may work in a smaller office, some work for larger establishments. To exempt a small business from adhering to this rulemaking would jeopardize any member of the public who sought services from that small business. The risk to the public is greater than the potential harm or cost to the small business.

*Text of Proposed Rulemaking*

ITEM 1. Amend subrule 821.3(1) as follows:

**821.3(1)** Provide an equivalency evaluation of their educational credentials by ~~one of the following entities~~ <u>a board-approved agency,</u> demonstrating the curriculum is equivalent to that stated in these rules. The applicant bears the expense of the curriculum evaluation.

~~*a.* International Education Research Foundation, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665; telephone 310.258.9451; website www.ierf.org.~~

~~*b.* International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777; telephone 727.549.8555.~~

~~*c.* Josef Silny & Associates, Inc., 7101 SW 102nd Avenue, Miami, FL 33173; telephone 305.273.1616; website jsilny.org.~~

ITEM 2. Rescind subrule 821.9(2) and adopt the following <u>**new**</u> subrule in lieu thereof:

**821.9(2)** The licensee shall submit all of the following:

*a.* A completed online application for licensure and the nonrefundable licensure fee specified in rule 481—507.8(147).

*b.* If licensed in another state, verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

(1) Licensee's name;

(2) Date of initial licensure;

(3) Current licensure status; and

(4) Any disciplinary action taken against the license.

*c.* If the license has been inactive for five years or less, proof of completion of 16 hours of continuing education within two years of application.

*d.* If the license has been on inactive status for more than five years:

(1) Proof of completion of 16 hours of continuing education within two years of application and proof of two years of active, licensed practice in another issuing jurisdiction immediately prior to submitting the application;

(2) Proof of completion of 32 hours of continuing education to include 16 hours of in-person, clinical training; or

(3) Proof of passing one of the following examinations within two years of submitting the application:

1. The National Certification Examination for Therapeutic Massage (NCETM);
2. The National Certification Examination for Therapeutic Massage and Bodywork (NCETMB);

3. The National Examination for States Licensing (NESL) option; or
4. The Massage and Bodywork Licensing Examination (MBLEx).

**RA 26-260**

# INSPECTIONS AND APPEALS DEPARTMENT[481]

**Regulatory Analysis**

Notice of Intended Action to be published: 481—Chapters 824, 826 and 507
"Massage Therapy—Discipline, Licensure; Professional Licensing Division Fees"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 147, 152C and 272C

State or federal law(s) implemented by the rulemaking: 2026 Iowa Acts, Senate File 2068, and Iowa Code chapters 147, 152C and 272C

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>2 p.m. | 6200 Park Avenue<br>Des Moines, Iowa |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Board of Massage Therapy no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Emily DeRonde
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.249.7038
Email: emily.deronde@dia.iowa.gov

*Purpose and Summary*

This proposed rulemaking updates the Board's rules to implement 2026 Iowa Acts, Senate File 2068. This rulemaking will allow the Board to issue a massage therapy establishment license. The Board may perform an inspection prior to issuing an establishment license. This rulemaking will allow the Board to deny an application if the applicant is a massage therapist who is not in good standing or holds a suspended license, or an applicant who is under criminal investigation or has a disqualifying criminal history, as described in Senate File 2068. The rulemaking will allow the Board to revoke a license based on public complaint, upon receiving evidence of misconduct including disqualifying criminal acts, or upon a finding that the application was fraudulent or to take emergency action to suspend a license upon discovery of pending criminal charges against an establishment owner or officer. This rulemaking also adds language regarding the model rules for discipline that was inadvertently removed from the discipline chapter for massage therapists.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no anticipated costs to this rulemaking other than the costs already incurred by the Board to enforce the rules. Massage therapy establishments will incur costs in licensing fees to obtain this license.

- **Classes of persons that will benefit from the proposed rulemaking:**

This rulemaking requires establishment owners to comply with a background check and apply for licensure, hopefully decreasing illicit activity and criminal acts in these establishments.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Members of the public would incur no costs other than payment for massage services provided. Establishment owners will be responsible for obtaining the background check and paying licensure fees for the establishment.

- **Qualitative description of impact:**

The Board believes that the costs are justified by the benefits achieved because the rules require owners to obtain establishment licenses, hopefully decreasing illicit activity and criminal acts in establishments.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Costs to the agency are for the staff time needed to manage Board activities, which include oversight of practice standards and requirements. The Board would still need to review and approve applications for massage therapy establishments, requiring additional staff time. The time needed to manage this provision is generally in the form of responding to questions related to establishment licensing requirements. Staff salaries to support the work of the Board are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557.

- **Anticipated effect on State revenues:**

This rulemaking has no anticipated impact on State revenues. Staff salaries to support the work of the Board are covered by the fund. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The Board is required by 2026 Iowa Acts, Senate File 2068, to implement these rules.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Board is required by Senate File 2068 to implement these rules. The Board has not identified any alternative methods to carry out this rulemaking.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Board is required by Senate File 2068 to implement these rules. The Board has not identified any alternative methods to carry out this rulemaking.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The Board is required by Senate File 2068 to implement these rules. The Board has not identified any alternative methods to carry out this rulemaking.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

Sole practitioners in smaller businesses who practice alone are exempt from this rule because it only applies to massage therapy establishments.

*Text of Proposed Rulemaking*

ITEM 1. Adopt the following **new** subrules 507.8(11) to 507.8(13):

**507.8(11)** Initial application fee for massage establishment license is $250.

**507.8(12)** Triennial establishment license renewal fee is $250.

**507.8(13)** Establishment reactivation fee is $250.

ITEM 2. Renumber subrules **824.1(3)** to **824.1(5)** as **824.1(4)** to **824.1(6)**.

ITEM 3. Adopt the following **new** subrule 824.1(3):

**824.1(3)** Civil penalties may be imposed upon a person who operates an establishment without a license. Failure to follow the above may result in:

*a.* A civil penalty not to exceed $1,000 on a person or business that violates this rule.

(1) Each violation is a separate offense.

(2) Each day a continued violation occurs after citation by the board is a separate offense, with the maximum penalty not to exceed $10,000;

*b.* The board's inspection of any facility that advertises or offers services purporting to be delivered by massage therapists;

*c.* A citation sent to the alleged violator by certified mail, return receipt requested; and

*d.* The board's consideration of the following in determining civil penalties:

(1) Whether the amount imposed will be a substantial economic deterrent to the violation.

(2) The circumstances leading to or resulting in the violation.

(3) The severity of the violation and the risk of harm to the public.

(4) The economic benefits gained by the violator as a result of noncompliance.

(5) The welfare or best interest of the public.

ITEM 4. Renumber rule **481—824.1(152C)** as **481—824.2(152C)**.

ITEM 5. Adopt the following **new** rule 481—824.1(152C):

**481—824.1(152C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in rule 481—504.3(272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 481—Chapter 504 or Iowa Code chapter 152C.

ITEM 6. Adopt the following **new** 481—Chapter 826:

## CHAPTER 826
## LICENSURE OF MASSAGE THERAPY ESTABLISHMENTS

**481—826.1(152C) Definitions.**

*"DCI"* means the division of criminal investigation.

*"Department"* means the department of inspections, appeals, and licensing.

*"Establishment"* means the same as defined in Iowa Code section 152C.1.

*"FBI"* means the Federal Bureau of Investigation.

*"Owner"* means any person, partner, member or corporate officer holding an equity or ownership interest of 10 percent or greater in a massage therapy establishment.

*"Sole practitioner"* means the same as defined in Iowa Code section 152C.1.

**481—826.2(152C) Massage establishment license.** Effective July 1, 2027, an establishment shall not operate unless the owner has obtained a license issued by the board.

**826.2(1)** Applicants shall submit the following:

*a.* A completed online application for licensure under the applicant's legal name. Aliases are prohibited.

*b.* Payment of the nonrefundable licensure fee specified in rule 481—507.8(147).

*c.* Required waivers and fingerprints pursuant to the board-approved process to facilitate a national criminal history background check by the DCI and the FBI. The cost of the criminal history background check by the DCI and the FBI shall be assessed to the applicant.

**826.2(2)** Multiple owners. If an establishment is owned by more than one person, all legal owners of the massage establishment must be listed on the application and each legal owner shall submit the fee and waiver for background check.

**826.2(3)** Massage establishment license transfer. The owner of an establishment will not transfer the establishment license with the purchase of the establishment. If an establishment changes ownership, the new owner will need to submit a new application for an establishment license as specified in this rule.

**481—826.3(152C) License display.** The license certificate and proof of active licensure will be displayed in a conspicuous public place.

**481—826.4(152C) Massage therapy establishment license renewal.**

**826.4(1)** The triennial license renewal period begins on the sixteenth day of the anniversary month and ends on the fifteenth day of the anniversary month three years later. The licensee is responsible for renewing the license prior to its expiration.

**826.4(2)** A licensee seeking renewal shall submit a completed renewal application and renewal fee specified in rule 481—507.8(147) before the license expiration date.

**481—826.5(152C) License reactivation.**

**826.5(1)** An establishment with an inactive license may apply to reactivate in accordance with this rule.

**826.5(2)** The licensee shall submit all of the following:

*a.* A completed online application for licensure and the nonrefundable licensure fee specified in rule 481—507.8(147).

*b.* If the establishment owner has not completed a background for two or more years, the required waivers and fingerprints pursuant to the board-approved process to facilitate a national criminal history background check. The cost for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the licensee. The board may withhold reactivation of a license pending receipt of a report from the DCI and FBI.

**481—826.6(152C) Establishment inspections.** The board may perform a sanitary inspection of an establishment prior to the issuance of a license and may perform a sanitary inspection of each establishment biennially. An inspection of an establishment may also be conducted upon receipt of a complaint by the board.

**826.6(1)** Personnel requirements.

*a.* Massage therapists must hold a current massage therapist license from the board unless exempted by regulation or statute.

*b.* Massage therapists conducting massage at an establishment shall be deemed the responsibility of the operator of the establishment.

*c.* A person licensed or who purports to be licensed in the establishment shall, upon the request of any peace officer investigating a complaint of illegal services, present a copy of the person's valid Iowa massage therapist license, a valid establishment license if applicable, and a government-issued identification to the peace officer. A person who violates this subrule commits a serious misdemeanor.

**826.6(2)** Facility requirements.

*a.* The establishment shall maintain a properly installed smoke detector and fire extinguisher.

*b.* Massage therapy may be conducted only in rooms that are adequately lighted and ventilated.

*c.* Floors, walls, ceilings and windows must be kept free of dust, soil, and other unclean substances.

*d.* Massage therapy rooms must have sufficient clearance for mobile carts and unobstructed practitioner movement during therapy.

*e.* Every establishment shall have accessible restroom facilities, including at least one toilet with toilet tissue provided, a hand sink with soap, disposable towels, single use linens, or air dryers provided.

*f.* Every establishment shall have handwashing facilities for therapist use. Said facilities shall provide an adequate supply of hot water.

*g.* Handwashing facilities for establishments shall be accessible for the practitioners.

*h.* Soap, disposable towels, single use linens or air dryers and adequate waste receptacles shall be provided at all times.

*i.* Toilet and handwashing facilities shall meet the requirements of the state plumbing code and shall be maintained in good repair, well-lighted and adequately ventilated, kept in a clean and sanitary condition and free of vermin.

*j.* Every establishment shall provide for safe and unobstructed passage in the public and private areas of the premises.

*k.* Facilities shall be provided for the storage and removal of garbage, waste and refuse.

*l.* Any flammable or hazardous materials in the establishment shall be stored in a safe manner in accordance with local and state regulations.

**826.6(3)** Equipment requirements.

*a.* All equipment and supplies used in the performance of massage shall be maintained in a safe and clean manner. All tables and other cleanable surfaces that come into contact with clients shall be cleaned by the regular application of a cleanser and sanitized with an EPA-registered sanitizer. Each client shall receive a separate, clean covering for use on the massage table, such as sheets or towels.

*b.* All reusable sheets, towels, and other cloth materials used in the conduct of a massage that come in contact with a client shall be laundered after each use.

*c.* Each establishment shall maintain a sufficient supply of clean linens, to include towels, gowns or sheets for the purpose of draping each client while the client is being massaged.

**481—826.7(152C) Recordkeeping.** An establishment shall keep records for a period of three years from the date the record is created that include all of the following:

**826.7(1)** The name and license number of each massage therapist who has worked at the establishment.

**826.7(2)** A calendar or schedule of appointments and receipts that shall include the name of each client and the name of each massage therapist who provided massage therapy to the client.

These rules are intended to implement Iowa Code chapter 152C.

**RA 26-246**

# PUBLIC EMPLOYMENT RELATIONS BOARD[621]

**Regulatory Analysis**

Notice of Intended Action to be published: 621—Chapters 1, 3 through 8, 11, and 13 through 17 “Agency Realignment”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 20.6(5)

State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, Senate File 2385, and Iowa Code chapter 20

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 24, 2026<br>9 a.m. | Via videoconference:<br>meet.google.com/hxy-euaj-uzq |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Employment Appeal Board (Board) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Christine Louis
Employment Appeal Board
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Email: eab.elections@eab.iowa.gov

*Purpose and Summary*

This proposed rulemaking rescinds chapters under agency number [621], Public Employment Relations Board, in accordance with 2024 Iowa Acts, Senate File 2385, which eliminated agency number [621]. The rescinded rules will be adopted herein under agency number [486] (**RA 26-228** through **RA 26-236**, IAB 8/19/26).

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There is no additional expected cost to the State or individuals.

- **Classes of persons that will benefit from the proposed rulemaking:**

Public sector employers, employees, and employee organizations and Board staff will benefit from this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no expected economic impact created by rescinding the chapters.

- **Qualitative description of impact:**

There is no expected economic impact created by rescinding the chapters.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There is no expected economic impact created by rescinding the chapters.

- **Anticipated effect on State revenues:**

There is no expected economic impact created by rescinding the chapters.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The changes are mandated by statute and executive order.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

There is no expected impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Rescind and reserve **621—Chapter 1**.

ITEM 2. Rescind and reserve **621—Chapter 3**.

ITEM 3. Rescind and reserve **621—Chapter 4**.

ITEM 4. Rescind and reserve **621—Chapter 5**.

ITEM 5. Rescind and reserve **621—Chapter 6**.

ITEM 6. Rescind and reserve **621—Chapter 7**.

ITEM 7. Rescind and reserve **621—Chapter 8**.

ITEM 8. Rescind and reserve **621—Chapter 11**.

ITEM 9. Rescind and reserve **621—Chapter 13**.

ITEM 10. Rescind and reserve **621—Chapter 14**.

ITEM 11. Rescind and reserve **621—Chapter 15**.

ITEM 12. Rescind and reserve **621—Chapter 16**.

ITEM 13. Rescind and reserve **621—Chapter 17**.

**RA 26-247**

# PUBLIC HEALTH DEPARTMENT[641]

## Regulatory Analysis

Notice of Intended Action to be published: 641—Chapter 142
"Out-of-Hospital Do-Not-Resuscitate Orders"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 144A.7A and 147A

State or federal law(s) implemented by the rulemaking: Iowa Code section 144A.7A and chapter 147A and 2026 Iowa Acts, House File 2305

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>10 a.m. | Microsoft Teams<br>Meeting ID: 245 818 881 867 66<br>Passcode: ya9va9uv |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Victoria L. Daniels
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

*Purpose and Summary*

This proposed rulemaking implements 2026 Iowa Acts, House File 2305, by updating the definition of who can serve as an attending provider for the purposes of an out-of-hospital do-not-resuscitate (OOH DNR) order.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**
- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs associated with this proposed rulemaking.
- **Classes of persons that will benefit from the proposed rulemaking:**

Individuals seeking to implement an OOH DNR order will benefit from the updated guidance in this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**
- **Quantitative description of impact:**

There is no quantitative data associated with this proposed rulemaking.
- **Qualitative description of impact:**

This proposed rulemaking specifies that an advanced registered nurse practitioner (ARNP) may serve as an attending provider for the purposes of an OOH DNR order in accordance with the provisions of 2026 Iowa Acts, House File 2305.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department incurs personnel and other administrative costs associated with the program outlined in this proposed rulemaking.

- **Anticipated effect on State revenues:**

This proposed rulemaking has no impact on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

This proposed rulemaking is appropriate to implement 2026 Iowa Acts, House File 2305.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

This proposed rulemaking has no impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Amend rule **641—142.1(144A)**, definitions of "Attending physician," "Health care provider," "Life-sustaining procedure," "Out-of-hospital do-not-resuscitate order," "Resuscitation" and "Terminal condition," as follows:

*"Attending ~~physician~~ provider"* means ~~a physician selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient~~ the same as defined in Iowa Code section 135J.1.

*"Health care provider"* means ~~a person, including an emergency medical care provider, who is licensed, certified, or otherwise authorized or permitted by the law of this state to administer health~~

~~care in the ordinary course of business or in the practice of a profession~~ the same as defined in Iowa Code section 144A.2.

*"Life-sustaining procedure"* means ~~any medical procedure, treatment, or intervention, including resuscitation, which utilizes mechanical or artificial means to sustain, restore or supplant a spontaneous vital function, and when applied to a patient in a terminal condition, would serve only to prolong the dying process. "Life-sustaining procedure" does not include the provision of nutrition or hydration except when required to be provided parenterally or through intubation or the administration of medication or performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain~~ the same as defined in Iowa Code section 144A.2.

*"Out-of-hospital do-not-resuscitate order"* or *"OOH DNR order"* means ~~a written order on a form approved by the department, signed by an attending physician, executed in accordance with the requirements of Iowa Code section 144A.7A and issued consistent with Iowa Code section 144A.2, that directs the withholding or withdrawal of resuscitation when an adult patient in a terminal condition is outside the hospital~~ the same as defined in Iowa Code section 144A.2.

*"Resuscitation"* means ~~any medical intervention that utilizes mechanical or artificial means to sustain, restore, or supplant a spontaneous vital function, including but not limited to chest compression, defibrillation, intubation, and emergency drugs intended to alter cardiac function or otherwise to sustain life~~ the same as defined in Iowa Code section 144A.2.

*"Terminal condition"* means ~~an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending physician, result in death within a relatively short period of time or a state of permanent unconsciousness from which, to a reasonable degree of medical certainty, there can be no recovery~~ the same as defined in Iowa Code section 144A.2.

ITEM 2. Rescind the definition of "Attending physician associate" in rule **641—142.1(144A)**.

ITEM 3. Amend subrule 142.2(1) as follows:

**142.2(1)** *~~OOH DNR physician or physician associate~~ Attending provider order.* The department designates the OOH DNR order form contained in Appendix A as the uniform OOH DNR order form to be used statewide. If an attending ~~physician or attending physician associate~~ provider issues an OOH DNR order for a qualified patient, the ~~physician or physician associate~~ attending provider must use the form contained in Appendix A.

ITEM 4. Amend subrule 142.4(1) as follows:

**142.4(1)** *Attending ~~physicians or attending physician associates~~ providers who issue OOH DNR orders.* The attending ~~physician or attending physician associate~~ provider should ensure that the following are accomplished:

*a.* and *b.* No change.

*c.* If the qualified patient or individual legally authorized to act on the patient's behalf decides that the patient should not be resuscitated, the attending ~~physician or attending physician associate~~ provider may issue the OOH DNR order on the prescribed uniform order form. The order will direct health care providers to withhold or withdraw resuscitation.

*d.* to *f.* No change.

ITEM 5. Amend rule 641—142.7(144A) as follows:

**641—142.7(144A) Transfer of patients.** Attending providers shall comply with the provisions of Iowa Code section 144A.8.

~~**142.7(1)** An attending physician or attending physician associate who is unwilling to comply with an OOH DNR order or who is unwilling to comply with the provisions of Iowa Code section 144A.7A shall take all reasonable steps to effect the transfer of the patient to another physician or physician associate.~~

~~**142.7(2)** If the policies of a hospital, nursing home, home health care agency, hospice or other health care organization preclude compliance with the OOH DNR order of a qualified patient, the~~

~~provider shall take all reasonable steps to effect the transfer of the patient to an organization in which the provisions of Iowa Code section 144A.7A can be carried out.~~

ITEM 6. Amend **641—Chapter 142**, Appendix A, as follows:

APPENDIX A

**Iowa Department of Health and Human Services**
**OUT-OF-HOSPITAL DO-NOT-RESUSCITATE ORDER**
**(Please type or print)**

Date of Order: _____/_____/_____
Patient Information:
Name:
(Last)____________________(First)____________________(Middle)__________________
Address: _____________________________(City)__________________(Zip)____________
Date of Birth: _____/_____/_____ Sex (Circle): M or F
Name of Hospice or Care Facility (if applicable): _______________________________________

**Attending ~~Physician or Physician Associate~~ Provider Order**

As the attending ~~physician or attending physician associate~~ provider for the above-named patient, I certify that this individual is over 18 years of age and has a terminal diagnosis. After consultation with this patient (or the patient's legal representative), I hereby direct any and all health care providers, including qualified emergency medical services (EMS) personnel, to withhold or withdraw the following life-sustaining procedures in accordance with Iowa law (Iowa Code chapter 142A):

- Cardiopulmonary Resuscitation/Cardiac Compression (Chest Compressions).
- Endotracheal Intubation/Artificial or Mechanical Ventilation (Advance Airway Management).
- Defibrillation and Related Procedures.
- Use of Resuscitation Drugs.

**This directive does NOT apply to other medical interventions for comfort care.**

| ______________________________________ | ______/______/______ |
|---|---|
| **Signature of Attending ~~Physician (MD, DO) or Attending Physician Associate~~ Provider** | **Date** |
| ______________________________________ | (______)_____-_______ |
| **Printed Name of Attending ~~Physician or Attending Physician Associate~~ Provider** | **~~Physician's or Physician Associate's~~ Provider's Telephone (Emergency)** |

**To the extent that it is possible, a person designated by the patient may revoke this order on the patient's behalf. If the patient wishes to authorize any other person(s) to revoke this order, the patient MUST list those persons' names below:**
Name: ________________________________________________________________________
Name: ________________________________________________________________________
Name: ________________________________________________________________________
Name: ________________________________________________________________________

**Patients, please note:** Directions for obtaining a uniform identifier are listed on the back of this form. The uniform identifier is the key way the health care provider and/or EMS personnel can quickly recognize that you have an Out-of-Hospital Do-Not-Resuscitate order. If you are not wearing an identifier, the health care provider and/or EMS personnel may not realize that you do not want to be resuscitated.

**~~Physicians or physician associates~~** **Attending providers, please note:** Information regarding the completion of an Out-of-Hospital Do-Not-Resuscitate order is on the back of this form.

APPENDIX A

**Directions for obtaining a uniform identifier:**

The uniform identifier may be obtained through MedicAlert®[1], which requires:

1. A completed MedicAlert® application, which is available in physician, ~~or~~ physician associate, or ARNP offices or through MedicAlert® by phoning (800)432-5378 or the website www.medicalert.org, and fee.

2. A copy of this completed OOH DNR order, which must accompany the MedicAlert® application or be sent to MedicAlert® prior to the identifier's being mailed.

[1]*MedicAlert® is a nonprofit 501C membership organization.*

**Suggested guidelines for ~~physicians or physician associates~~ attending providers:**

1. Please review the Iowa Out-of-Hospital Do-Not-Resuscitate order and related protocol with the patient/patient's legal representative(s). The following points may be helpful:

- Patient/patient's legal representative(s) listed on this order must understand the significance of this order, that in the event the patient's heart or breathing stops or malfunctions, the anticipated result of this order is death.
- Patient/patient's legal representative(s) listed on this order may revoke this directive at any time. However, the desire to revoke must be communicated to the EMS or other health care professionals at the scene.
- It is important to emphasize that this order does not apply to medical interventions to make the patient more comfortable.
- The importance of wearing the uniform identifier for those qualified patients who would benefit from the mobility this offers should be stressed. It is also helpful to walk patients through the process they must follow to acquire the identifier.

2. Provide a copy of this order to the patient/patient's legal representative(s) listed on this order and place the original in the patient's medical records.

**The OOH DNR Order form is available through the department's website.**

ITEM 7. Amend **641—Chapter 142**, Appendix B, as follows:

APPENDIX B

**EMS OUT-OF-HOSPITAL DO-NOT-RESUSCITATE PROTOCOL**

**Purpose:** This protocol is intended to avoid unwarranted resuscitation by emergency care providers in the out-of-hospital setting for a *qualified patient*.[1] There must be a valid Out-of-Hospital Do-Not-Resuscitate (OOH DNR) order signed by the qualified patient's attending ~~physician or physician associate~~ provider or the presence of the OOH DNR identifier indicating the existence of a valid OOH DNR order.

**No resuscitation:** Means withholding any medical intervention that utilizes mechanical or artificial means to sustain, restore, or supplant a spontaneous vital function, including but not limited to:

1. Chest compressions,
2. Defibrillation,
3. Esophageal/tracheal/double-lumen airway; endotracheal intubation, or
4. Emergency drugs to alter cardiac or respiratory function or otherwise sustain life.

**Patient criteria:** The following patients are recognized as qualified patients to receive no resuscitation:

1. The presence of the uniform OOH DNR order or uniform OOH DNR identifier, or
2. The presence of the attending ~~physician or attending physician associate~~ provider to provide direct verbal orders for care of the patient.

*The presence of a signed ~~physician or physician associate~~ attending provider order on a form other than the uniform OOH DNR order form approved by the department may be honored if approved by the service program EMS medical director. However, the immunities provided by law apply only in the presence of the uniform OOH DNR order or uniform OOH DNR identifier. When the uniform OOH DNR order or uniform OOH DNR identifier is not present, contact must be made with on-line medical control and on-line medical control must concur that no resuscitation is appropriate.*

**Revocation:** An OOH DNR order is deemed revoked at any time that a patient, or an individual authorized to act on the patient's behalf as listed on the OOH DNR order, is able to communicate in any manner the intent that the order be revoked. The personal wishes of family members or other individuals who are not authorized in the order to act on the patient's behalf shall not supersede a valid OOH DNR order.

**Comfort Care (♥):** When a patient has met the criteria for no resuscitation under the foregoing information, the emergency care provider should continue to provide that care which is intended to make the patient comfortable (a.k.a. **♥Comfort Care**). Whether other types of care are indicated will depend upon individual circumstances for which medical control may be contacted by or through the responding ambulance service personnel.

***♥Comfort Care** may include but is not limited to:*

1. *Pain medication.*
2. *Fluid therapy.*
3. *Respiratory assistance (oxygen and suctioning).*

[1]*Qualified patient* means an adult patient determined by an attending ~~physician or attending physician associate~~ provider to be in a terminal condition for which the attending ~~physician or~~

~~attending physician associate~~ provider has issued an Out-of-Hospital DNR order in accordance with the law. (Rule 641—142.1(144A), definitions)

**RA 26-248**

# PUBLIC HEALTH DEPARTMENT[641]

**Regulatory Analysis**

Notice of Intended Action to be published: 641—150.2(135) and 641—153.1(142D)
"Public Health Chapter Clean-Up"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 135.11(22) and 142D.8(1)

State or federal law(s) implemented by the rulemaking: Iowa Code section 135.11(22) and chapter 142D

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>10 a.m. | Microsoft Teams<br>Meeting ID: 245 818 881 867 66<br>Passcode: ya9va9uv |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Victoria L. Daniels
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

*Purpose and Summary*

This proposed rulemaking corrects inadvertent errors and omissions from earlier chapter repromulgations.

During the 2024 Red Tape Review of Chapter 150, the reverification cycle for hospital level of care designation within the regionalized system of perinatal health care was changed from every three years to every six years. While the term was changed in subrule 150.5(3), the Department inadvertently did not make the corresponding change to the definition of "reverification" in rule 641—150.2(135). This proposed rulemaking corrects that oversight.

During the 2023 Red Tape Review of Chapter 153, the Department deleted the definition of "retail tobacco store" because it was repeated verbatim from Iowa Code chapter 142D. With the definition of "retail tobacco store" deleted, the Department also deleted the definition of "incidental to the sale of tobacco products" because it contained the term "retail tobacco store." The Department's philosophy on Red Tape Reviews has evolved since 2023, and rather than delete a definition that is verbatim from the Iowa Code, the Department would now keep the definition and cite the corresponding Iowa Code section. This proposed rulemaking restores the definition of "retail tobacco store," citing Iowa Code chapter 142D, and restores the definition of "incidental to the sale of tobacco products." Both definitions are critical to the Department's enforcement of the Smokefree Air Act outlined in Iowa Code chapter 142D.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs associated with this proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

Individuals required to comply with Chapters 150 and 153 will benefit from the clarified guidance in this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no quantitative information pertaining to the corrections contained in this proposed rulemaking.

- **Qualitative description of impact:**

Individuals required to comply with Chapters 150 and 153 will benefit from the clarified guidance in this proposed rulemaking.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department incurs personnel and other administrative costs associated with the programs that are impacted by this proposed rulemaking.

- **Anticipated effect on State revenues:**

This proposed rulemaking has no impact on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Rulemaking is appropriate to help ensure that chapters are up to date and accurate.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

This proposed rulemaking has no impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Amend rule **641—150.2(135)**, definition of "Reverification," as follows:

*"Reverification"* means the process of periodic review, conducted at least every ~~three~~ six years, to certify that a hospital has maintained its designated level of care in accordance with criteria established under these rules for hospitals that are participating in the regionalized system of perinatal health care.

ITEM 2. Adopt the following **new** definitions of "Incidental to the sale of tobacco products" and "Retail tobacco store" in rule **641—153.1(142D)**:

*"Incidental to the sale of tobacco products"* means that the gross revenue of a retail tobacco store derived from the sale of products other than tobacco products is not more than 20 percent of the retail tobacco store's total gross revenue.

*"Retail tobacco store"* means the same as defined in Iowa Code chapter 142D.

**RA 26-249**

# PUBLIC HEALTH DEPARTMENT[641]

**Regulatory Analysis**

Notice of Intended Action to be published: 641—Chapter 154
"Medical Cannabidiol Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 124E
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 124E and 2026 Iowa Acts, House File 990

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>10 a.m. | Microsoft Teams<br>Meeting ID: 245 818 881 867 66<br>Passcode: ya9va9uv |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Victoria L. Daniels
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

*Purpose and Summary*

This proposed rulemaking implements in part 2026 Iowa Acts, House File 990, by removing the residency requirement for patients participating in Iowa's medical cannabidiol program. Previous law required patients served by the program to be permanent residents of the State of Iowa. As a result of eliminating the Iowa residency requirement for participation in the medical cannabidiol program, any otherwise qualified nonresident may apply for registration. The Department anticipates that the change will primarily impact qualified Nebraska residents since Nebraska is the only bordering state that does not currently have an operational medical or adult-use cannabis program. Although Nebraska has taken steps to establish a medical cannabidiol program, implementation has experienced significant delays and setbacks.

In addition, this proposed rulemaking restores language inadvertently removed during the 2023 Red Tape Review process. Prior to the 2023 Red Tape Review, proof of veteran status qualified an applicant for a reduced patient application fee, lowering the fee from $100 to $25. This provision was inadvertently removed during the Red Tape Review process and is proposed to be restored. It is important to note that authorization for a lesser fee for veterans does not explicitly appear in Iowa Code chapter 124E; however, this reduced fee provision was previously discussed at a meeting of the Administrative Rules Review Committee (ARRC), and at the time, the ARRC agreed that a reduced fee was important and appropriate for those with veteran status.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs associated with this proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

Qualified out-of-state residents and qualified veterans will benefit from the provisions of this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There are currently 17,741 patients and 524 caregivers participating in Iowa's medical cannabidiol program. It is unknown how many additional individuals may be eligible for a medical cannabidiol card because of the legislation underlying this proposed rulemaking, but the Department does not expect a major influx.

- **Qualitative description of impact:**

Qualified out-of-state residents and qualified veterans will benefit from the provisions of this proposed rulemaking.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department incurs personnel and other administrative costs related to the administration of the program represented by this proposed rulemaking.

- **Anticipated effect on State revenues:**

This proposed rulemaking has no impact on State revenues. The fees associated with the program go to support the Department's administration of the program and do not impact the State's General Fund.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

This proposed rulemaking is necessitated by 2026 Iowa Acts, House File 990.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

This proposed rulemaking may impact small dispensary businesses in Iowa by increasing access to those dispensaries near the Iowa border.

*Text of Proposed Rulemaking*

ITEM 1. Amend rule **641—154.1(124E)**, definitions of "Medical assistance program," "Patient" and "Valid photo identification," as follows:

*"Medical assistance program"* means ~~IA Health Link, Medicaid Fee-for-Service, or hawki,~~ <u>a medical assistance program</u> as administered by ~~the Iowa~~ <u>a state, territory, or district</u> Medicaid ~~enterprise of the department~~ <u>program</u>.

*"Patient"* means a person ~~who is a permanent resident of the state of Iowa~~ who suffers from a debilitating medical condition that qualifies for the use of medical cannabidiol pursuant to Iowa Code chapter 124E and these rules.

*"Valid photo identification"* means any of the following for a patient or primary caregiver: (1) a valid ~~Iowa~~ driver's license, (2) a valid ~~Iowa~~ nonoperator's identification card, or (3) an alternative form of valid photo identification. An individual who possesses or is eligible for a driver's license or a nonoperator's identification card shall present such document as valid photo identification. An individual who is ineligible to obtain a driver's license or a nonoperator's identification card may apply for an exemption and request submission of an alternative form of valid photo identification. An individual who applies for an exemption is subject to verification of the primary caregiver's identity through a process established by the department to ensure the genuineness, regularity, and legality of the alternative form of valid photo identification.

ITEM 2. Amend subrule 154.3(3) as follows:

**154.3(3)** A registration card issued to a patient shall contain all of the following:

*a.* The patient's full legal name, ~~Iowa~~ <u>current</u> residence address, date of birth, and sex, as shown on the patient's valid photo identification. If the patient's information has changed since the issuance of the patient's valid photo identification, the patient shall first update the patient's valid identification to reflect the patient's current information.

*b.* to *d.* No change.

ITEM 3. Amend rule 641—154.11(124E) as follows:

**641—154.11(124E) ~~Fees~~ <u>Registration card fees</u>.** All <u>registration card</u> fees are nonrefundable. ~~Application fees are established in Iowa Code section 124E.4.~~

<u>**154.11(1)** *Patient medical cannabidiol registration card fee.*</u>

<u>*a.* A registration card fee of $100 applies to all patients unless the patient qualifies for a reduced patient registration card fee under paragraph 154.11(1)*"b."*</u>

<u>*b.* If a patient attests to receiving social security disability benefits, supplemental security insurance payments, enrollment in a medical assistance program, or military veteran status, the patient registration card fee is reduced to $25.</u>

<u>**154.11(2)** *Primary caregiver medical cannabidiol registration card and renewal fees.*</u>

<u>*a.* A registration card fee of $25 applies to all primary caregivers.</u>

<u>*b.* A renewal fee of $25 applies to all primary caregivers.</u>

ITEM 4. Amend paragraph **154.39(2)"a"** as follows:

*a.* Verify the patient or primary caregiver's identity using acceptable photo identification and that the patient or primary caregiver is over 18 years of age. Acceptable photo identification includes:

(1) A valid ~~Iowa~~ driver's license;
(2) A valid ~~Iowa~~ nonoperator's identification card;
(3) to (5) No change.

**RA 26-250**

# PUBLIC SAFETY DEPARTMENT[661]

**Regulatory Analysis**

Notice of Intended Action to be published: 661—Chapter 53
"Fire Service Training Bureau"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 100B.4
State or federal law(s) implemented by the rulemaking: Iowa Code section 100B.6

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>2 to 2:30 p.m. | Public Conference Room 125<br>Oran Pape State Office Building<br>Des Moines, Iowa |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Public Safety no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Josie Wagler
215 East 7th Street
Des Moines, Iowa 50319
Email: wagler@dps.state.ia.us

*Purpose and Summary*

Pursuant to Executive Order 10, the Department proposes to rescind Chapter 53 and adopt a new chapter in lieu thereof. The chapter outlines the roles and responsibilities of the Fire Service Training Bureau (FSTB) within the State Fire Marshal division. This chapter also provides fees for various courses and programs.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Any person wishing to take current course offerings through the FSTB will bear the cost of associated fees.

- **Classes of persons that will benefit from the proposed rulemaking:**

Any person taking a course provided by the FSTB will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Individuals participating in current course offerings or programs provided by the FSTB are responsible for the corresponding fees.

- **Qualitative description of impact:**

Iowa's fire and emergency services personnel, as well as the general public, benefit from personnel being well-trained and well-equipped in regard to fire safety.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

No costs are borne by any agency.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Ensuring Iowa's fire and emergency services personnel receive quality education, training, and certification contributes to the reduction of injuries, fatalities, and property loss from fire and other hazards, further enhancing public safety in Iowa.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Department has determined this to be the least costly and least intrusive method for achieving the purpose of the proposed rulemaking.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

None were identified.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

There is no substantial impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 661—Chapter 53 and adopt the following **new** chapter in lieu thereof:

CHAPTER 53
FIRE SERVICE TRAINING BUREAU

**661—53.1(100B) Fire service training bureau.** There is established within the state fire marshal division a fire service training bureau with responsibility for instructing the general public and fire protection personnel throughout the state, providing service to public and private fire departments in the state, conducting research in the methods of maintaining and improving fire and other emergency services education consistent with the needs of Iowa communities, and performing any other functions assigned to the bureau by the state fire marshal in consultation with the state fire service and emergency response council.

**661—53.2(100B) Programs, services, and fees.**

**53.2(1)** *Courses, conferences, and registration fees.* Current course offerings, conferences, and associated registration and other fees of the fire service training bureau are available in electronic format via the fire service training bureau website. Current fees include the following:

*a.* The fee for a live fire/live fire instructor-in-charge course is $750.

*b.* The fee for annual fire school is $50 per day.

*c.* The fee for a fire investigation course is $750.

**53.2(2)** Reserved.

These rules are intended to implement Iowa Code section 100B.6.

**RA 26-251**

# PUBLIC SAFETY DEPARTMENT[661]

**Regulatory Analysis**

Notice of Intended Action to be published: 661—Chapter 82
"Criminal History and Fingerprint Records"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 692.2A and 692.10
State or federal law(s) implemented by the rulemaking: Iowa Code chapters 690, 692, and 692B

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>4 to 4:30 p.m. | Public Conference Room 125<br>Oran Pape State Office Building<br>Des Moines, Iowa |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Public Safety no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Josie Wagler
215 East 7th Street
Des Moines, Iowa 50319
Email: wagler@dps.state.ia.us

*Purpose and Summary*

Pursuant to Executive Order 10, the Department proposes to rescind Chapter 82 and adopt a new chapter in lieu thereof. Iowa Code chapters 690, 692, and 692B establish the responsibility and authority of the Division of Criminal Investigation (DCI) of the Department of Public Safety (DPS) to act as the central State repository for official criminal history records for the State of Iowa and provide that such records are to be made available to requesting bodies. These rules outline the requirements and procedures related to the collection and dissemination of criminal history records.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

All individuals and non-criminal justice agencies requesting criminal history information from the Department are assessed a fee of $15 for each name for which information is requested. Statutorily, if an employer requires receipt of criminal history as a condition of employment, the employer is responsible for paying the cost of the criminal history fee of a potential employee. There is no fee for criminal or juvenile justice agencies to request criminal history data from the Department.

- **Classes of persons that will benefit from the proposed rulemaking:**

Employers, individuals, and criminal or juvenile justice agencies requesting criminal history records will benefit from effective and efficient processes.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Employers, individuals, and non-criminal justice agencies requesting criminal history information are assessed a fee of $15 for each name for which information is requested.

- **Qualitative description of impact:**

In addition to the fee, any individual requesting criminal history information will be responsible for filling out the required forms.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Outside of typical operating costs, which the fees help to support, there are no additional costs to the Department or any other agency to implement or enforce this chapter.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Inaction could compromise existing efficiencies, thus delaying results to employers and other individuals. Providing accurate and timely criminal history background information on prospective hires in the health care, education, and child care industries helps to keep Iowa's most vulnerable communities safe.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Department has determined that this is the least costly and least intrusive method for achieving the purpose of the proposed rulemaking.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

None were identified.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

There is no substantial impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 661—Chapter 82 and adopt the following **new** chapter in lieu thereof:

CHAPTER 82
CRIMINAL HISTORY AND FINGERPRINT RECORDS

**661—82.1(690,692) Records and identification section.** The records and identification section of the division of criminal investigation of the department of public safety maintains information necessary to identify persons with criminal histories. The section collects, files and disseminates criminal history data to authorized criminal justice agencies and to the public upon request and updates criminal history data on a continuing basis.

**661—82.2(690,692) Definitions.** The following definitions apply to rules 661—82.1(690,692) through 661—82.301(232):

*"Authorized agency"* means a division or office of the state of Iowa designated to report, receive, or disseminate information under Iowa state law or administrative rule.

*"Criminal identification records"* means either of the following records, the forms for which are provided by the department to law enforcement agencies:

1. Department of public safety arrest fingerprint cards.
2. State of Iowa final disposition reports.

*"Department"* means the Iowa department of public safety.

*"Division"* means the division of criminal investigation of the department of public safety.

*"Employee"* means a person who provides services and is compensated for those services.

*"Fee"* means any cost associated with conducting a state or national criminal history record check.

*"Felony"* means the same as described in Iowa Code section 701.7.

*"Fitness determination"* means an analysis of criminal history information to determine whether the criminal history information disqualifies an individual from holding a particular position or license either as an employee or a volunteer.

*"Misdemeanor"* means the same as described in Iowa Code section 701.8.

*"National record check"* means a criminal history record check from the FBI that is fingerprint-based and is transmitted through the state central repository.

*"Non-criminal justice agency"* means an agency that is authorized by law to receive criminal history data from the department, that is not a criminal or juvenile justice agency as defined in Iowa Code section 692.1(7), and that is not an institution that trains law enforcement officers for certification under Iowa Code chapter 80B.

*"Qualified entity"* means a business or organization, whether public, private, for-profit, not-for-profit or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies persons or entities to provide care or care placement services, treatment, education, training, instruction, supervision or recreation to children, the elderly or individuals with disabilities.

*"Taking of fingerprints"* means obtaining a fully rolled set of inked fingerprint or electronically scanned fingerprint impressions of suitable quality for fingerprint classification and identification.

*"Volunteer"* means a person who provides services without compensation.

*"Working day"* means any day except any of the following:

1. Saturday.
2. Sunday.
3. State holiday.
4. Federal holiday during which the administrative office of the submitting agency is closed.
5. Any day during which the administrative office of the submitting agency is closed or relocated due to weather or road conditions or any condition related to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6.

**661—82.3(690,692) Tracking criminal history data.** For audit purposes only, the division shall establish an internal procedure for tracking criminal history data expunged from the files of the division.

**661—82.4** to **82.100** Reserved.

DIVISION I
CRIMINAL HISTORY DATA

**661—82.101(690,692) Release of information.** Criminal history data maintained by the records and identification section are public records and are released to criminal justice agencies and the public as authorized by statute. Only the department may release criminal history information maintained by the department to non-criminal justice agencies or persons.

**661—82.102(690,692) Right of review.** Pursuant to Iowa Code section 692.5(1), any person or the person's attorney has the right to examine and obtain a copy of criminal history data. Providing a copy of a criminal history record pursuant to this rule is subject to the fee provided in rule 661—82.108(692).

**661—82.103(690,692) Review of record.** An individual or an individual's attorney, acting with written authorization from the individual, may obtain a copy of the individual's criminal history record during normal business hours at the headquarters of the division or by submitting a request on a form provided by the department. A copy of this request form may be obtained by writing to Division of Criminal Investigation, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319; by telephoning the records and identification section at 515.725.6066; or by sending a request by email to dcirecordchecks@dps.state.ia.us. The request form may also be downloaded from the division's website at www.dps.state.ia.us/dci. The completed request form must include submission of the fee established in rule 661—82.108(692).

**661—82.104(17A,690,692) Inaccuracies in criminal history record.** If an individual believes inaccuracies exist in the individual's criminal history record, notice may be filed with the division outlining the alleged inaccuracies and should be accompanied by any available supporting data pursuant to Iowa Code section 692.5. Any necessary changes shall be made to the individual's criminal history record. A final report shall be made to the individual who filed a notice of correction within 20 days of said filing. If, after notice is filed and the division makes its final report, the individual is still of the opinion that inaccuracies exist within the record, an appeal may be filed pursuant to Iowa Code section 692.5.

**661—82.105(17A,690,692) Arresting agency portion of final disposition form.** The sheriff of each county and the chief of police of each city shall complete the arresting agency portion of the final disposition forms with the arrest information for all persons whose fingerprints are taken in accordance with these rules or Iowa Code section 690.2, and thereafter forward the form to the appropriate county attorney or, at the discretion of the county attorney, to the clerk of district court, or if the case remains in juvenile court, to the juvenile court officer who received the referral.

**661—82.106(690,692) Final disposition form.** When a preliminary information or citation is dismissed without new charges being filed or when a case is ignored by a grand jury, the county attorney or juvenile court officer who received the referral shall complete a final disposition form and submit it to the division within 30 days. When an indictment is returned or a county attorney's information is filed, the final disposition form shall be forwarded by the county attorney to the clerk of the court having jurisdiction. The clerk of court shall forward a copy to the agency making the arrest and the division within 30 days after judgment. If a juvenile is processed through juvenile court services, the juvenile court officer shall forward the disposition form to the division.

**661—82.107(692) Scope of record checks for non-criminal justice agencies and individuals.** Record checks made for non-criminal justice agencies and individuals pursuant to these rules are based upon name, including maiden name and aliases, if any, and birth date. This information may not be sufficient to effect a precise identification of a subject. The department, therefore, cannot warrant the completeness or accuracy of the information provided. Agencies and individuals that receive criminal history information are therefore advised to verify all information received from the department to the extent possible (e.g., by contacting the reported arresting agency or court).

**661—82.108(692) Fees.** All individuals, their attorneys, and other non-criminal justice agencies requesting criminal history information for non-criminal justice purposes shall be assessed a fee. The fee for receipt of criminal history information from the department shall be not more than $15 for each name for which information is requested. Each alias or maiden name submitted shall be considered a separate name for purposes of computing this fee.

**661—82.109(17A,22,692) Requests for criminal history data.**

**82.109(1)** *Requests for criminal history data.* Persons or agencies requesting criminal history data should direct requests in writing using forms or methods approved by the commissioner. Forms to use in requesting criminal history information may be requested by email to dcirecordchecks@dps.state.ia.us, by telephone at 515.725.6066, or from the division's website. The commissioner may authorize additional methods of requesting criminal history information.

**82.109(2)** *Required approvals.* Any agreement, arrangement or system for the transmission and exchange of criminal history data required to be approved by the commissioner shall be submitted in writing at least 30 days before its proposed effective date.

**661—82.110(690) Administrative sanctions.**

**82.110(1)** The commissioner may deny or restrict access to criminal history data maintained by the records and identification section of the division to any agency that fails to comply with the requirements of Iowa Code chapters 690 and 692 for submission of fingerprints and disposition reports to the department. The commissioner shall notify the affected agency in writing prior to denying or restricting access and provide details of the requirements and the nature of the failure to comply.

**82.110(2)** Any agency that has received notification from the commissioner that the agency's access to criminal history data is to be denied or restricted may protest this action. Protests must be filed with the administrative services division within 30 days of the date of the notification from the commissioner in accordance with 7—Chapter 2506.

**661—82.111(692) Criminal history record checks for qualified entities or authorized agencies.**

**82.111(1)** The department may process requests for national criminal history record checks for a qualified entity or authorized agency.

**82.111(2)** All qualified entities or authorized agencies requesting criminal history record checks shall be required to pay any applicable state and federal fees associated with noncriminal justice record checks. The qualified entity or authorized agency is responsible for such fees whether the qualified entity requests or receives the information directly or through an agency authorized to make fitness determinations as provided in subrule 82.111(3).

**82.111(3)** Any public entity that has been duly authorized by statute or administrative rule to conduct fitness determinations of volunteers or employees of a qualified entity may receive state and national criminal history record checks.

**82.111(4)** A school district considering an applicant for a teaching position is a qualified entity pursuant to Iowa Code section 279.13. A school district may submit a request for a national criminal history record check of an applicant for employment as a teacher. The request shall be submitted on a form designated by the division and be accompanied by completed fingerprint cards for the applicant and the applicable fee. Prior to submitting the request, the district may contact the division by telephone at 515.725.6066 or by email at dcirecordchecks@dps.state.ia.us to obtain instructions on the submission or may consult the website of the division for such information.

**661—82.112** to **82.300** Reserved.

DIVISION II
JUVENILE RECORDS

**661—82.301(232) Juvenile fingerprints and criminal histories.**

**82.301(1)** *Authority to fingerprint.* A law enforcement agency shall fingerprint and photograph any juvenile consistent with Iowa law and will submit those fingerprints to the division.

**82.301(2)** *Fingerprints entered into automated fingerprint identification system (AFIS).* Fingerprints of juveniles shall be entered into the AFIS maintained by the department.

**82.301(3)** *Juvenile criminal histories.*

*a.* A fingerprint card received for a juvenile suspect shall be used to establish a criminal history record for the suspect.

*b.* Criminal histories of juveniles over whom jurisdiction has been transferred from juvenile court to adult court shall be handled in the same manner as criminal histories of adults.

*c.* Criminal histories of juveniles who remain under the jurisdiction of the juvenile court shall be maintained only if the juvenile is adjudicated delinquent based upon an offense that would be a serious or aggravated misdemeanor or felony if committed by an adult. The criminal history record established in response to the division receiving a fingerprint card shall be expunged if the delinquency petition is dismissed. Juvenile court judges shall order that a juvenile be fingerprinted and the prints submitted to the division if the juvenile has been adjudicated delinquent for an offense that would be a serious or aggravated misdemeanor or felony if committed by an adult.

*d.* Criminal history data of juveniles over whom jurisdiction has not been transferred from juvenile court to adult court shall be expunged when the subject reaches the age of 21 unless the subject has been convicted of a serious or aggravated misdemeanor or a felony when the subject was between the ages of 18 and 21 or unless the retention of the records is necessary for the purpose of administering Iowa Code chapter 692A. If the subject has been convicted of a serious or aggravated misdemeanor or a felony when the subject was between the ages of 18 and 21, the criminal history record shall be maintained in the same manner as adult criminal history data.

These rules are intended to implement Iowa Code chapters 690, 692, and 692B.

**RA 26-252**

# PUBLIC SAFETY DEPARTMENT[661]

**Regulatory Analysis**

Notice of Intended Action to be published: 661—Chapter 83
"Iowa Sex Offender Registry"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 692A.130
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 692A

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>3 to 3:30 p.m. | Public Conference Room 125<br>Oran Pape State Office Building<br>Des Moines, Iowa |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Public Safety no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Josie Wagler
215 East 7th Street
Des Moines, Iowa 50319
Email: wagler@dps.state.ia.us

*Purpose and Summary*

Pursuant to Executive Order 10, the Department proposes to rescind Chapter 83 and adopt a new chapter in lieu thereof. The chapter outlines forms and registration and verification procedures prescribed for use with the Iowa Sex Offender Registry (SOR).

This rulemaking also makes conforming changes pursuant to 2026 Iowa Acts, Senate File 2379.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Any person who is required to register as a sex offender under Iowa Code chapter 692A will bear the costs.

- **Classes of persons that will benefit from the proposed rulemaking:**

The general public will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Pursuant to Iowa Code section 692A.110, a sex offender must pay an annual fee of $25 to the sheriff of the county of principal residence.

- **Qualitative description of impact:**

The offender is required to register, report changes in relevant information, and periodically verify relevant information to the sheriff of principal residence using appropriate forms outlined in this chapter.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

None.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The Department has consistently achieved no more than 2 percent of total registrants whose whereabouts are unknown. This is in part due to the robust registration and verification procedure implemented by this chapter.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Department has determined this to be the least costly and least intrusive method for achieving the purpose of the proposed rulemaking.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

None were identified.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

There is no substantial impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 661—Chapter 83 and adopt the following **new** chapter in lieu thereof:

CHAPTER 83
IOWA SEX OFFENDER REGISTRY

**661—83.1(692A) Sex offender registry established.** The Iowa sex offender registry, as authorized by Iowa Code chapter 692A, is hereby established in the division of criminal investigation.

**661—83.2(692A) Definitions.** The definitions in Iowa Code section 692A.101 are adopted and incorporated herein.

**661—83.3(692A) Forms and procedures.** The following forms and procedures are prescribed for use with the Iowa sex offender registry. Supplies of these forms may be obtained by contacting the Iowa sex offender registry at the division of criminal investigation.

**83.3(1)** *Notification.* Form DCI-144, Notification of Registration Requirement, which notifies offenders of their duty to register with the Iowa sex offender registry, shall be provided, in printed form or electronically, to persons identified as being required to register. Failure to provide offenders with Form DCI-144 does not relieve offenders of their duty to register with the Iowa sex offender registry.

**83.3(2)** *Registration.*

*a.* Form DCI-145 or Form DCI-144R, Sex Offender Registration, shall be completed, as required by Iowa Code section 692A.104, on behalf of each offender and submitted, in printed or electronic form, to the sheriff of each county in which the offender will be residing, employed, or attending classes and to the division of criminal investigation, in order to satisfy the registration requirements of the Iowa sex offender registry. This form shall also be completed on behalf of each offender and submitted to the sheriff of any county in which the offender will be a student, be employed, or be engaged in a vocation on a full-time or part-time basis, to satisfy the registration requirements.

*b.* Form DCI-145, or information stored by the division of criminal investigation, shall be used to report changes to relevant information. Form DCI-145 shall be completed and submitted by the registrant to the sheriff of any county of residence each time the registrant's relevant information changes. Form DCI-145 shall be completed and submitted by the registrant to the sheriff of the county in which the registrant is a student, an employee, or practicing a vocation on a full-time or part-time basis at an institution of higher education within three days of the registrant's becoming a student, an employee, or engaged in a vocation at the institution of higher education. The original of each completed Form DCI-145 shall be forwarded to the division of criminal investigation by the registering agency within five days of receiving the completed form.

When the department receives notification that a registrant has changed residence to a location outside of Iowa, the department shall notify the registering state agency in the registrant's new state of residence of the registrant's name, new address, and telephone number. Upon notification of the appropriate out-of-state agency, the department shall remove the registrant from the active registry, unless the registrant continues to maintain a residence or place of employment in Iowa or attends school in Iowa. The registrant shall not be required to submit periodic verifications of address while not on the active registry. The department shall maintain the registrant's file in the event the registrant establishes a residence in Iowa or becomes a student, becomes an employee, or practices a vocation at an institution of higher education in Iowa in the future. The department may also maintain the file for any other purpose.

*c.* Upon any submission of Form DCI-145, the form shall be accompanied by current photographs and fingerprints of the offender.

*d.* A list of all registrants within a county may be provided by the division of criminal investigation to the county sheriff.

**83.3(3)** *Periodic verification.* A registrant shall appear personally in the office of the sheriff of the county or counties of principal residence periodically as required by Iowa Code section 692A.108 to verify relevant information. A tier I offender shall appear annually, or more frequently if required by the sheriff; a tier II offender shall appear every six months, or more frequently if required by the sheriff; and a tier III offender shall appear every three months, or more frequently if required by the sheriff. Form DCI-146R, Periodic Verification Notification Form, shall be mailed by the division of criminal investigation to each registrant at the last address known to the registry at least 30 days prior to each required appearance. The registrant shall appear between the first and last day of the verification month. Form DCI-146R shall clearly state that it is to be returned to the division of criminal investigation if the addressee no longer resides at the address indicated and that Iowa law prohibits its being forwarded.

*a.* Each registrant shall report to the sheriff of the county of principal residence of the registrant. The sheriff shall take a current photograph of the registrant and shall submit the photograph to the registry.

*b.* The sheriff of any county of residence of a registrant may, at any time, instruct the registrant to report to the sheriff's office for the purpose of the taking of a current photograph. Such instructions shall be mailed to the registrant at the registrant's current address of registration. The registrant shall report to the sheriff's office within ten days of receiving such instructions. The sheriff shall submit the current photograph of the registrant to the registry.

**83.3(4)** *Updating relevant information not requiring personal appearance.* Any change in any item of relevant information other than changes of address, places of attendance as a student, places of employment, or vehicle information shall be communicated to the sheriff of the county of the registrant's principal residence in person, by telephone, or electronically, within three days of the change occurring. Any such change shall not be deemed to be completed until the registrant has received acknowledgment from the office receiving the change in printed or electronic form.

**83.3(5)** *Application for determination.* Form DCI-148, Application for Determination, shall be completed by a person to initiate a request that the department review whether one or more offenses of which the person has been convicted require registration with the Iowa sex offender registry, whether the time period during which the person is required to register has expired, whether the person is exempt from the placement of information on the sex offender registry website, and the tier placement of the offender. A person who submits a completed copy of Form DCI-148 for review shall provide with it copies of any sentencing or adjudicatory orders related to each offense for which a determination of whether registration is required is being requested. The completed application (Form DCI-148) shall specify the exact grounds for the application and include a statement of any additional facts or law that the person intends to present to the department in support of the application. Failure to submit any of the required information shall constitute grounds for denial of the application. If the application sets forth an issue of fact that cannot be evaluated based upon the record of convictions, sentencing and adjudicatory orders, relevant statutory provisions, and other records provided, and is material to the determination, the commissioner may refer the matter to an administrative law judge or presiding officer for a contested case hearing.

NOTE: Filing an application for determination does not excuse a person from having to comply with any of the applicable provisions of Iowa Code chapter 692A during the period prior to the issuance of the decision of determination.

**83.3(6)** *Decision of determination.*

*a.* Form DCI-149, Decision of Determination, shall be used by the division of criminal investigation to notify a person who has submitted an application for determination (Form DCI-148) of the results of that review. A completed Form DCI-149 shall be mailed to any person who has filed a completed Form DCI-148 within 90 days of the receipt by the division of criminal investigation of the completed Form DCI-148 and all required supporting documents. A decision of determination shall be signed by the commissioner and shall constitute final agency action for the purposes of Iowa Code chapter 17A.

*b.* If an administrative law judge or presiding officer has been assigned to hold a hearing regarding an application for determination, the administrative law judge or presiding officer shall prepare a proposed decision of determination. The proposed decision of determination shall be reviewed by the commissioner, who may uphold or modify the proposed decision of determination and shall then sign a final decision of determination. The final decision of determination shall constitute final agency action for the purposes of Iowa Code chapter 17A.

**83.3(7)** *Request for information.* Requests for information about whether a specific individual is registered shall be made to a county sheriff or local police department and may be made in person, by telephone, or in writing.

**83.3(8)** *Confidential records.* Completed forms filled out pursuant to rules 661—83.1(692A) through 661—83.5(692A) are confidential records that shall not be released to the public.

**661—83.4(692A) Availability of records.**

**83.4(1)** *Sex offender registry website.* The department shall place information regarding each registrant on the registry website (www.iowasexoffender.gov), except that information regarding any registrant for whom the sole basis of registration is a conviction or convictions for a violation or violations of Iowa Code section 709.4(1)*"b"*(2)(d), and whose offense was committed when the offender was under 20 years of age, shall not be placed on the website. Information regarding a registrant placed on the sex offender registry website may include any relevant information allowed under Iowa Code section 692A.121.

**83.4(2)** *List of registrants in county.* Any county sheriff shall provide access to the list of all registrants within the county in which the sheriff has jurisdiction to any person who requests such a list; however, records of persons protected under 18 U.S.C. Section 3521 shall not be disclosed.

**83.4(3)** *Release of information in response to individual request.* A sheriff or police department that receives a request for information about whether a specific individual is registered or not shall inquire of the division of criminal investigation via the Iowa on-line warrants and articles (IOWA) system or the sex offender registry application (SORA) as to whether the person about whom information was requested is registered with the Iowa sex offender registry. If the division of criminal investigation notifies the sheriff or police department that the person about whom the inquiry is made is not on the registry, the sheriff or police department shall so notify the person who submitted the request. If the division of criminal investigation notifies the sheriff or police department that the person about whom the inquiry was made is a registrant with the Iowa sex offender registry, the sheriff or police department shall notify the person making the inquiry that the person about whom the inquiry was made is a registrant and may provide the requester with the relevant information allowed under Iowa Code section 692A.121 regarding the registrant.

**83.4(4)** *Submission of information to the National Sex Offender Registry.* The division shall submit sex offender registry data as required to the National Sex Offender Registry of the Federal Bureau of Investigation.

**83.4(5)** *Single contact repository.* The division shall perform a search of the sex offender registry for information about an individual, based on a request submitted through the single contact repository established pursuant to Iowa Code section 135C.33. The information provided from the registry shall be limited to whether the identified person is registered.

**83.4(6)** *No identification of victims.* Any release of information regarding any registrant, other than to criminal or juvenile justice agencies, shall not identify any victim of the registrant.

**661—83.5(692A) Expungement of records.**

**83.5(1)** *Expungement upon reversal of conviction.* Upon receipt of a certified copy of a court order reversing a conviction that forms the basis for a registrant's being required to register, the division of criminal investigation shall expunge the registration, provided that the registrant has been convicted of no other offense requiring registration.

**83.5(2)** *Expungement upon expiration of registration period.* The division of criminal investigation shall expunge a registrant's registration upon expiration of the period during which the registrant is required to register, provided that the registrant has not subsequently been convicted of an offense that would require registration.

These rules are intended to implement Iowa Code chapter 692A.

**RA 26-253**

# PUBLIC SAFETY DEPARTMENT[661]

**Regulatory Analysis**

Notice of Intended Action to be published: 661—Chapter 157
"Devices and Methods to Test Body Fluids for Alcohol or Drugs"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 321J.2
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 321J and section 123.46

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>3:30 to 4 p.m. | Public Conference Room 125<br>Oran Pape State Office Building<br>Des Moines, Iowa |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Public Safety no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Josie Wagler
215 East 7th Street
Des Moines, Iowa 50319
Email: wagler@dps.state.ia.us

*Purpose and Summary*

Pursuant to Executive Order 10, the Department proposes rescinding Chapter 157 and adopting a new chapter in lieu thereof. The purpose of proposed Chapter 157 is to outline the approved devices and methods to take a specimen of a person's breath or urine for the purpose of determining the alcohol or drug concentration.

Additionally, one change was made in subrule 157.7(1) to clarify that the levels used in the table are for drugs detected within the urine only, not blood.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Peace officers collecting breath or urine samples for the purpose of determining alcohol or drug concentration are responsible for following collection procedures on an approved device pursuant to these rules.

- **Classes of persons that will benefit from the proposed rulemaking:**

Peace officers collecting breath or urine samples for the purpose of determining alcohol or drug concentration will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Peace officers and law enforcement agencies must utilize devices approved by the commissioner.

- **Qualitative description of impact:**

Devices must be of a type that may be calibrated on a monthly basis by officers in the field. The officer or officer's department is responsible for maintaining a record of each calibration.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

None.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

There are no costs associated with compliance, and law enforcement and the public benefit from clearly defined collection procedures and device approval methods.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Department has determined this to be the least costly and least intrusive method for achieving the purpose of the proposed rulemaking.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

None.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

This rulemaking is not anticipated to have a substantial impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 661—Chapter 157 and adopt the following **new** chapter in lieu thereof:

CHAPTER 157
DEVICES AND METHODS TO TEST BODY FLUIDS FOR ALCOHOL OR DRUGS

**661—157.1(321J) Approval of devices and methods to test for alcohol or drug concentration.** The commissioner, by these rules, approves the following devices and methods to take a specimen of a person's breath or urine for the purpose of determining the alcohol or drug concentration.

**661—157.2(321J) Evidentiary breath testing.**

**157.2(1)** A breath testing device is a device designed and constructed to measure a subject's breath alcohol concentration by utilizing a sample of the subject's breath.

**157.2(2)** A peace officer desiring to perform testing of a subject's breath for the purpose of determining the alcohol concentration shall employ, or cause to be used, a breath testing device of a type meeting the minimum performance requirements established in Highway Safety Programs; Model Specifications for Devices to Measure Breath Alcohol, Federal Register, Volume 58, No. 179 (September 17, 1993), pp. 48705-48708. All devices so used must be certified to be in proper working order at least once per calendar year according to procedures specified for that device. The interval between certifications shall not be more than 450 days.

**157.2(3)** The division of criminal investigation criminalistics laboratory shall maintain a list of devices approved by the commissioner of public safety for collection of breath samples for evidentiary purposes. The current list shall be available upon request to the Division of Criminal Investigation Criminalistics Laboratory at 2240 South Ankeny Boulevard, Ankeny, Iowa 50023, or on the website of the department of public safety.

**157.2(4)** The operator of an evidentiary breath testing device shall have been certified as competent in the operation of the breath testing device and shall proceed in accordance with the instructions included in an operating manual furnished by the division of criminal investigation criminalistics laboratory. An operating manual, with number and date, specific to a particular approved device and prepared by the division of criminal investigation criminalistics laboratory shall be available to operators using the device. The current version of the operating manual for each device currently approved for use in Iowa may be obtained by contacting the Division of Criminal Investigation Criminalistics Laboratory at 2240 South Ankeny Boulevard, Ankeny, Iowa 50023, or from the department's website.

**157.2(5)** All certifications of evidentiary breath testing devices shall be made by the division of criminal investigation criminalistics laboratory. All certifications of operators shall be made by the division of criminal investigation criminalistics laboratory or a designee. A designee shall be a person trained and certified by the division of criminal investigation criminalistics laboratory.

**661—157.3(321J) Urine collection.** A peace officer who collects a sample of a subject's urine for the purpose of determining alcohol or drug concentration shall proceed as follows.

**157.3(1)** The collection shall be made in the presence of a peace officer or other reliable person under the supervision of a peace officer. The peace officer or other person in the presence of the subject shall be of the same gender as the subject.

**157.3(2)** As soon as practicable, the subject shall urinate into a urine alcohol kit-supplied bottle, cup or other suitable container that is clean, dry, and free from any visible contamination. Anticoagulant and antimicrobial substances in a blood or urine kit do not constitute visible contamination.

**157.3(3)** The peace officer shall collect a second urine void for alcohol testing in a suitable container that is clean, dry, and free from visible contamination. If a second void cannot be collected, the peace officer shall submit a sample from the first void and shall inform the Iowa division of criminal investigation criminalistics laboratory on the laboratory receipt form that the sample is from a first void. It is not necessary that the subject's bladder be completely emptied.

**157.3(4)** When collection of the sample for alcohol testing has been completed, the peace officer shall cause a portion of the collected sample to be transferred to a test tube containing 100 milligrams of sodium fluoride and anticoagulant.

**157.3(5)** A listing of test kits known to meet the requirements of subrules 157.3(2), 157.3(3) and 157.3(4) may be found on the division of criminal investigation criminalistics laboratory website. Any peace officer wishing to use a test kit that is not listed should inquire of the division of criminal investigation criminalistics laboratory as to whether the other test kit meets the requirements. Any provider of test kits may request the addition of a kit to the list by sending a sample kit to the administrator of the division of criminal investigation criminalistics laboratory with a cover letter requesting that the kit be added to the list of kits known to meet the requirements of this subrule.

NOTE: The current location of information about test kits on the laboratory website is: dps.iowa.gov/divisions-iowa-department-public-safety/iowa-division-criminal-investigation/iowa-dci-criminalistics-laboratory/toxicology-section.

**157.3(6)** If the peace officer requests additional toxicological testing, the remainder of the sample may be retained in a container and sent for analysis to the division of criminal investigation criminalistics laboratory.

**157.3(7)** The peace officer shall label the container showing the date and time the sample was collected and identifying the peace officer, the subject, and the person present during the collection of the sample if other than the peace officer.

**661—157.4(321J) Submission of samples for alcohol and drug testing to the criminalistics laboratory.** Any sample of urine or blood may be submitted to the division of criminal investigation criminalistics laboratory or other appropriate laboratory via ordinary mail, private courier, or personal delivery.

**661—157.5(321J) Preliminary breath screening test.**

**157.5(1)** A peace officer desiring to perform a preliminary screening test of a person's breath shall use a device approved by the division of criminal investigation criminalistics laboratory. Such devices are approved for accuracy and precision using a dry gas standard or breath simulating device. The division of criminal investigation criminalistics laboratory shall employ scientifically established tests or methods appropriate to a particular device in determining whether the device meets an acceptable standard for operation including accuracy, or the laboratory may, at its discretion, accept test results from another laboratory. The standards shall include the requirement that in all cases the device shall indicate the alcohol concentration on a numerical display. Devices shall be of a type that may be calibrated on a monthly basis by officers in the field.

The division of criminal investigation criminalistics laboratory shall maintain a list of devices approved by the commissioner for use as preliminary breath screening devices. The list of currently approved devices is available on the website of the department.

**157.5(2)** Any peace officer using an approved device shall follow the instructions furnished by the manufacturer for use of such a device. The calibration of each unit shall be checked at least once per month, and the device shall be calibrated, if necessary, using a dry gas standard. The officer or officer's department shall maintain a record of each calibration. This record shall include:

*a.* The identity of the person performing the calibration.

*b.* The date.

*c.* The value of standard used.

*d.* The unit type and identification number.

*e.* The expiration date of the standard used.

**661—157.6(123) Chemical test—alcohol concentration—public intoxication.** All devices and methods approved in this chapter for the purpose of determining a person's alcohol concentration for evidential purposes under Iowa Code chapter 321J, and the devices otherwise approved in this chapter only for use in performing preliminary breath screening tests, are equally approved for testing to determine alcohol concentration in connection with arrests for public intoxication under Iowa Code section 123.46. The chemical test results shall be expressed in terms of alcohol concentration as defined in Iowa Code section 321J.1.

**661—157.7(321J) Detection of drugs other than alcohol.**

**157.7(1)** *Adoption of federal standards.* Initial test requirements based upon standards adopted by the federal Substance Abuse and Health Services Administration in "Mandatory Guidelines for Federal Workplace Drug Testing Programs," 88 FR 70768, Section 3.4, and displayed in the following table are hereby adopted as standards for determining detectable levels of controlled substances in a person's urine in the division of criminal investigation criminalistics laboratory initial testing or analysis for controlled substances detected by the presence of the following: marijuana metabolites, cocaine metabolites, codeine/morphine, hydrocodone/hydromorphone, oxycodone/oxymorphone, 6-acetylmorphine, phencyclidine, amphetamine/methamphetamine, and MDMA/MDA. The following table shows the minimum levels of these substances that will result in a finding that a controlled substance is present at a detectable level:

| Initial test analyte | Initial test cutoff[1] |
|---|---|
| Marijuana metabolites (THCA)[2] | 50 ng/mL[3] |
| Cocaine metabolites (Benzoylecgonine) | 150 ng/mL[3] |
| Codeine/Morphine | 2000 ng/mL |
| Hydrocodone/Hydromorphone | 300 ng/mL |
| Oxycodone/Oxymorphone | 100 ng/mL |
| 6-Acetylmorphine | 10 ng/mL |
| Phencyclidine | 25 ng/mL |
| Amphetamine/Methamphetamine | 500 ng/mL |
| MDMA[4]/MDA[5] | 500 ng/mL |

1 For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):
*Immunoassay*: The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.
*Alternate technology*: Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.
2 An immunoassay must be calibrated with the target analyte, D-9-tetrahydrocannabinol-9-carboxylic acid (THCA).
3 *Alternate technology* (THCA and benzoylecgonine): The confirmatory test cutoff must be used for an alternate technology initial test that is specific for the target analyte (i.e., 15 ng/mL for THCA, 100 ng/mL for benzoylecgonine).
4 Methylenedioxymethamphetamine (MDMA).
5 Methylenedioxyamphetamine (MDA).

**157.7(2)** Reserved.

These rules are intended to implement Iowa Code section 123.46 and chapter 321J.

**RA 26-254**

# PUBLIC SAFETY DEPARTMENT[661]

**Regulatory Analysis**

Notice of Intended Action to be published: 661—Chapter 259
"Fire Fighter Training and Equipment Funds"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 100B.10
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 100B

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>2:30 to 3 p.m. | Public Conference Room 125<br>Oran Pape State Office Building<br>Des Moines, Iowa |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Public Safety no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Josie Wagler
215 East 7th Street
Des Moines, Iowa 50319
Email: wagler@dps.state.ia.us

*Purpose and Summary*

Pursuant to Executive Order 10, the Department proposes to rescind Chapter 259 and adopt a new chapter in lieu thereof. The chapter outlines application procedures and eligibility requirements for certain funds available to fire services in Iowa.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**
- **Classes of persons that will bear the costs of the proposed rulemaking:**

Any department or loan applicant will bear the costs.
- **Classes of persons that will benefit from the proposed rulemaking:**

Fire services across Iowa will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**
- **Quantitative description of impact:**

To be eligible to receive funds from the Fire Fighting Equipment Revolving Fund, loan applicants are required to provide a 10 percent match. Each approved loan carries a 1 percent origination fee of the loan amount, which is withheld by the Fire Service Training Bureau from the original payout of the loan. During any period when a loan is in default, a penalty of 1.5 percent of the remaining unpaid principal of the loan per month will be added to the amount of the loan.
- **Qualitative description of impact:**

Loan applicants are responsible for complying with application procedures and eligibility requirements as outlined in this chapter.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

No costs are borne by the agency or any other agency.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

In an environment where the cost of equipment and apparatus continues to rise, having additional funding streams available from which fire departments can draw helps support their mission of serving their communities by providing public safety services. Ensuring there are checks and balances in place for repayment procedures keeps the funds healthy and available to eligible fire services across the State.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Department has determined this to be the least costly and least intrusive method for achieving the purpose of the proposed rulemaking.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

None were identified.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

There is no substantial impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 661—Chapter 259 and adopt the following **new** chapter in lieu thereof:

CHAPTER 259
FIRE FIGHTER TRAINING AND EQUIPMENT FUNDS

**661—259.1** to **259.100** Reserved.

DIVISION I
VOLUNTEER FIRE FIGHTER TRAINING AND EQUIPMENT FUND

**661—259.101(17A,77GA,ch1222) Establishment of fund.**

**259.101(1)** There is established in the state fire marshal division the volunteer fire fighter training and equipment fund. The fund, to the extent of appropriations made available in each state fiscal year, shall provide support for the training and equipment needs of volunteer fire fighters. Funding is available to individual fire departments for equipment and to organizations or individuals delivering training to support courses available at no cost to volunteer fire fighters receiving the training or to their respective departments.

**259.101(2)** Advisory committee. The state fire marshal may establish a volunteer fire fighter training and equipment fund advisory committee of persons knowledgeable about the training and equipment needs of volunteer fire fighters and volunteer fire departments to advise on allocation of moneys from the volunteer fire fighter training and equipment fund, including the selection of recipients in competitive situations.

**661—259.102(17A,77GA,ch1222) Allocations.**

**259.102(1)** *Administrative allocation.* Each year, the state fire marshal shall allocate a portion of the funds appropriated to the volunteer fire fighter training and equipment fund for administration of the fund, including personnel expenses. A portion of the administrative allocation shall be made available to the fire service training bureau to defray the cost of maintaining records of course attendance and completion by volunteer fire fighters and for related expenses.

**259.102(2)** *Allocation to fire service training bureau.* The state fire marshal may allocate a portion of the moneys appropriated to the volunteer fire fighter training and equipment fund in any year to the fire service training bureau for the purpose of delivering training courses offered by the fire service training bureau to volunteer fire fighters at no cost to the volunteer fire fighters or their respective fire departments.

**259.102(3)** *Allocation for equipment purchases.* The state fire marshal may allocate a portion of the moneys appropriated to the volunteer fire fighter training and equipment fund in any year to equipment purchases for volunteer fire departments. Awards of funding to volunteer fire departments for equipment purchases shall be on a competitive basis within guidelines published in an announcement of the availability of these funds.

**259.102(4)** *Allocation to community college consortium.* The state fire marshal may allocate a portion of the moneys appropriated to the volunteer fire fighter training and equipment fund in any year to a consortium of community colleges to deliver training to volunteer fire fighters at no cost to the fire fighters receiving this training or to their respective fire departments. These funds shall be administered in accordance with an agreement entered into between the department of public safety and community colleges pursuant to Iowa Code chapter 28E.

**661—259.103(17A,77GA,ch1222) Awards to private providers of training.** Funds appropriated each year to the volunteer fire fighter training and equipment fund that remain after the allocations set forth in rule 661—259.102(17A,77GA,ch1222) have been implemented shall be awarded on a competitive basis to private providers of training to provide training to volunteer fire fighters at no cost to the fire fighters receiving the training or to their respective fire departments.

**259.103(1)** *Funding requests.* Requests for funding of training courses instructed by private persons shall be submitted to the fire service training bureau. Requests for funding in any state fiscal year must be received on or before July 15 following the beginning of the fiscal year on July 1.

EXCEPTION: If moneys that have been previously unexpended become available for additional training courses during the course of a fiscal year, notice shall be given to certified fire and emergency services instructors of the availability of these moneys. In this event, the deadline for receiving applications shall be as stated in the notice of availability.

**259.103(2)** *Instructor qualifications.* Any person instructing a training course paid for by the volunteer fire fighter training and equipment fund shall be certified as a fire and emergency services instructor by the fire service training bureau or another organization recognized by the National Board on Fire Service Professional Qualifications System or the International Fire Service Accreditation Congress.

EXCEPTION: A person who has applied to the fire service training bureau for certification as a fire and emergency services instructor I and who is actively pursuing such certification may instruct a training course paid for by the volunteer fire fighter training and equipment fund, provided that the instruction is delivered under the direct supervision of a person who is currently certified as a fire and emergency services instructor I by the fire service training bureau or by another organization recognized by the National Board on Fire Service Professional Qualifications System or the International Fire Service Accreditation Congress.

**259.103(3)** *Course approval.* Each course paid for by the volunteer fire fighter training and equipment fund must have previously been approved by the fire service training bureau. Any person who is certified as a fire and emergency services instructor I or who is actively pursuing certification as a fire and emergency services instructor I should contact the fire service training bureau for information about the course approval process.

**259.103(4)** *Course availability.* Any course that is approved and funded from the volunteer fire fighter training and equipment fund must be available to any volunteer fire department in the state of Iowa.

**259.103(5)** *Notification.* Each person applying for moneys from the volunteer fire fighter training and equipment fund for delivery of training to volunteer fire fighters shall receive notification indicating whether the request has been approved or denied. Any approval of a request for funding is contingent upon the execution of a contract between the department of public safety and the provider of the proposed training course or courses setting out specific terms and conditions for the delivery of the proposed course or courses. Any person whose request for funding is denied may appeal that decision to the commissioner of public safety by filing a written notice of appeal within 14 calendar days of the date on which the notice indicating denial of the request is dated. Appeals of denials of funding shall be treated as contested cases and processed according to the procedures set out in 7—Chapter 2506.

Rules 661—259.101(17A,77GA,ch1222) through 661—259.103(17A,77GA,ch1222) are intended to implement 1998 Iowa Acts, chapter 1222, section 19(8).

**661—259.104(100B) Paul Ryan memorial fire fighter safety training fund.** Funds collected from the sale of special fire fighter license plates and deposited to the Paul Ryan memorial fire fighter safety training fund shall be utilized by the fire service training bureau to defray the cost of training provided to any fire fighter currently employed by or serving as a volunteer with any fire department in Iowa. Application of these funds shall be limited to defraying the cost of training courses approved for reimbursement from the volunteer fire fighter training and equipment fund established in rule 661—259.101(17A,77GA,ch1222).

This rule is intended to implement Iowa Code section 100B.12.

**661—259.105(100B) Volunteer fire fighter preparedness fund.** Funds appropriated to the volunteer fire fighter preparedness fund pursuant to Iowa Code section 100B.13 shall be utilized by the fire service training bureau to defray the cost of training provided to fire fighters currently serving as volunteers with any fire department in Iowa. Application of these funds shall be limited to defraying the cost of training courses approved for reimbursement from the volunteer fire fighter training and equipment fund established in rule 661—259.101(17A,77GA,ch1222).

This rule is intended to implement Iowa Code section 100B.13.

**661—259.106** to **259.200** Reserved.

DIVISION II
FIRE FIGHTING EQUIPMENT REVOLVING LOAN FUND

**661—259.201(80GA,ch177) Fire fighting equipment revolving loan fund.** There is established in the fire service training bureau in the state fire marshal division the fire fighting equipment revolving loan fund.

**661—259.202(80GA,ch177) Purpose and scope.** The fire fighting equipment revolving loan fund is established to assist local fire departments to complete purchase or repairs of equipment used in the performance of the departments' fire fighting duties, when the acquisition or repair of such equipment would be impractical in the absence of assistance from the fund. Each payment of funds from the fund to a local fire department shall be a loan awarded in compliance with rules 661—259.201(80GA,ch177) through 661—259.207(80GA,ch177), and shall be for the specific purpose established in a contract entered into between the department of public safety and either the local fire department receiving the funds; the city, county, or township of which the fire department is a part; or another legal entity authorized to enter into legally binding commitments on behalf of the fire department.

**661—259.203(80GA,ch177) Definitions.** For purposes of rules 661—259.201(80GA,ch177) through 661—259.207(80GA,ch177), the following definitions apply:

*"Default"* or *"in default"* means that more than one payment on a loan is currently due.

*"Local fire department"* means a paid, volunteer, or combination fire protection service provided by a benefited fire district under Iowa Code chapter 357B or by a county, municipality or township, or a private corporate organization that has a valid contract to provide fire protection service for a benefited fire district, county, municipality, township or governmental agency. "Local fire department" does not include a military or private industrial fire department or service.

*"NFPA"* means the National Fire Protection Association.

*"PASS"* means personal alert safety system.

*"SCBA"* means self-contained breathing apparatus.

**661—259.204(80GA,ch177) Application process.**

**259.204(1)** *Notice of availability of funds.* Whenever funds are available for loans through the fire fighting equipment revolving loan fund, the fire service training bureau shall publish notice of the availability of those funds in the Iowa Administrative Bulletin and notify fire service organizations, including but not limited to the Iowa Firemen's Association, the Iowa Fire Chiefs Association, and the Iowa Association of Professional Fire Chiefs, of the availability of those funds, the procedure for applying for loans through the program, the deadline for applying for funds, and the provisions of rules 661—259.201(80GA,ch177) through 661—259.207(80GA,ch177). All local fire departments in Iowa known to the fire service training bureau shall receive notice by mail or, when available, email. In addition, notice of availability of funds and the application procedure shall be published on the department's website.

**259.204(2)** *Application.* Application for a loan from the fire fighting equipment revolving loan fund shall be made on an application form provided by the fire service training bureau. A completed application shall be submitted to the fire service training bureau by the deadline specified in the notice of availability of public funds and include any attached materials required in the instructions provided with the application form.

*a.* An application form shall be completed by the local fire department. The application shall include contact information, the loan amount requested, the purpose of the loan, a statement of need, current financial information, and any additional information specified on the application form or accompanying instructions and be signed by an official authorized to enter into contracts on behalf of the local fire department.

*b.* In addition to the application, the following information will be required prior to loan approval:

(1) Documentation that the department requesting the loan meets the definition of a local fire department.

(2) Financial statements showing income, expenses, assets, liabilities, and sources of income for the department requesting the loan for a three-year period prior to the loan request date.

(3) Verification that the match requirement will be met. A letter from the executive or chief financial officer of the agency funding the match requirement will normally be sufficient.

(4) A copy of the contract, bid specifications, or proposal for purchase of the equipment/ apparatus to be purchased with the loan proceeds, or repair work order, if applicable.

**259.204(3)** *Loan application review.*

*a.* The state fire marshal and the chief of the fire service training bureau shall review each application for completeness and compliance with rules 661—259.201(80GA,ch177) through 661—259.207(80GA,ch177).

*b.* The state fire service and emergency response council, or a subcommittee of the council established for this purpose, shall serve as an advisory committee to the state fire marshal in the loan application review process and shall recommend to the state fire marshal funding, partial funding, or denial of each application. Recommendations regarding loan applications shall be based upon availability of funds in relation to the total funds requested by eligible applicants, documentation of need for the proposed purchase or repair, and documentation of likely ability of the local fire department applying for a loan to repay the loan.

*c.* Decisions to award or not to award loans shall be made by the state fire marshal.

**259.204(4)** *Appeals.* If a local fire department's application is denied or partially funded by the state fire marshal, the department may appeal the decision of the state fire marshal to the commissioner of public safety using procedures for appeals set out in 7—Chapter 2506.

**661—259.205(80GA,ch177) Allowable acquisitions.** Loans from the fire fighting equipment revolving loan fund may be used to acquire the following equipment or repair services with the limitations indicated:

**259.205(1)** Fire fighting apparatus, including pumpers, tankers, ladder trucks, hazardous materials emergency response vehicles, or rescue vehicles. Any apparatus obtained with loan funds must comply with applicable NFPA standards, as identified by the state fire marshal.

**259.205(2)** Personal protective equipment and communications equipment, including personal protective clothing (structural and wild land) that includes helmets, coats, boots, pants, eye protection, gloves, and protective hoods; SCBA with integrated PASS devices; and radio communications devices. Radio communications devices obtained with loan funds must be interoperable with equipment utilized by agencies with which the agency obtaining the equipment has mutual aid agreements, if such interoperable equipment is available. Equipment obtained must comply with applicable NFPA standards, as identified by the state fire marshal.

**259.205(3)** Repairs made to apparatuses identified in subrule 259.205(1).

**259.205(4)** Purchase of accessory equipment, including fire suppression equipment such as hoses, ladders, small fireground tools, ventilation equipment, or vehicle extrication and rescue equipment. Equipment obtained with loan funds must comply with applicable NFPA standards, as identified by the state fire marshal.

**259.205(5)** The state fire marshal, acting on the advice of the fire service and emergency response council, may establish priorities for funding through the revolving loan fund. If such priorities are established, they will be included in the notice of availability of funds and shall be utilized only if the total amount of funding requested exceeds the total of funds available to loan.

**661—259.206(80GA,ch177) Eligibility requirements and restrictions.**

**259.206(1)** Any local fire department in the state of Iowa is eligible to apply for a loan.

**259.206(2)** Loan applicants shall be required to provide a 10 percent match.

**259.206(3)** All successful loan applicants shall comply fully with the fire incident reporting requirements of the state fire marshal division.

**259.206(4)** No loan shall be made to a local fire department serving a population in excess of 30,000 people that will result in excess of 50 percent of the total funds loaned at any given time being loaned to local fire departments serving populations in excess of 30,000 people, unless the state fire marshal finds that there are no eligible applications pending from local fire departments serving populations of 30,000 people or less.

**259.206(5)** Following approval, loan funds will be provided only after the local fire department receiving the loan submits documentation showing that the department has either acquired, contracted for, or issued a purchase order for the equipment. Disbursement of the loan shall be in the form of a warrant payable either to the local fire department and the vendor or vendors supplying the equipment or repair services, or solely to the vendor or vendors, or, with the approval of the state fire marshal, solely to the local fire department receiving the loan.

**259.206(6)** A local fire department is eligible for only one loan during any five-year period or for the duration of an existing loan from this program, whichever is longer.

**259.206(7)** A local fire department that has been in default on a loan is not eligible for additional loans through this program for a period of two years beyond the time specified in subrule 259.206(6). Any prior history of defaulting on a loan from the revolving loan fund will be taken into account in evaluating a department's ability to repay a loan, pursuant to paragraph 259.204(3)*"b."*

**259.206(8)** A local fire department receiving a loan is subject to a financial audit and any operational or program audits necessary to verify compliance with any requirements or conditions of the loan.

**661—259.207(80GA,ch177) Loan origination fee and repayment schedule.**

**259.207(1)** Each approved loan shall carry an origination fee of 1 percent of the loan amount, which shall be withheld by the fire service training bureau from the original payout of the loan.

**259.207(2)** A repayment schedule for each loan shall be established at the time the loan is awarded, with a minimum of two payments per year for the duration of the loan. Generally, loans of $50,000 or less shall be repaid within a five-year period, and loans of more than $50,000 shall be repaid within a ten-year period, although the state fire marshal may allow variations for good cause. There will be no penalty for early payment. Each payment shall be by warrant, check, or money order made payable to Fire Service Training Bureau, Iowa Department of Public Safety, and shall be clearly marked "Repayment of Loan from Fire Fighting Equipment Revolving Loan Fund."

**259.207(3)** During any period when a loan is in default, there shall be a penalty of 1.5 percent of the remaining unpaid principal of the loan per month added to the amount of the loan.

These rules are intended to implement 2003 Iowa Acts, chapter 177, section 11.

**RA 26-255**

# TRANSPORTATION DEPARTMENT[761]

**Regulatory Analysis**

Notice of Intended Action to be published: 761—Chapter 511
"Special Permits for Operation and Movement of Vehicles and Loads of Excess Size and Weight"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 321E.29B
State or federal law(s) implemented by the rulemaking: Iowa Code section 321E.29B

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>3:30 to 4 p.m. | Microsoft Teams<br>Or dial: 515.817.6093<br>Conference ID: 911 174 41# |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Transportation no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Sara Siedsma
6310 SE Convenience Boulevard
Ankeny, Iowa 50021
Email: sara.siedsma@iowadot.us

*Purpose and Summary*

The purpose of the proposed amendments is to align the rules with 2026 Iowa Acts, Senate File 2429, which authorizes permit-issuing authorities to issue annual overweight permits for vehicles transporting fluid milk products with a gross vehicle weight of up to 136,000 pounds. The legislation directs the Department to establish, through administrative rulemaking, the required minimum distances of axle configurations for vehicles operating under these permits. The amendments also update the chapter's citations to federal regulations.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs or fees associated with this proposed rulemaking beyond those of the underlying statute. The legislation did not change the existing permit fees.

- **Classes of persons that will benefit from the proposed rulemaking:**

Persons applying for annual fluid milk permits will benefit from having the required minimum distances of axle configurations set forth in administrative rules.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There are no quantitative impacts beyond those of the underlying statute.

- **Qualitative description of impact:**

There are no qualitative impacts beyond those of the underlying statute.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no implementation or enforcement costs beyond that of the underlying statute.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues beyond those of the underlying statute.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

There is no benefit of inaction. Adopting rules to set forth minimum distances for axle configurations of vehicles operating under the fluid milk permit is required by the underlying statute.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

There are no less costly or less intrusive methods to achieve the purpose of the proposed amendments, which is to conform with underlying statute.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Department did not consider alternatives for the proposed rules.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

There is no impact on small business beyond those of the underlying statute.

*Text of Proposed Rulemaking*

ITEM 1. Amend rule 761—511.16(321,321E) as follows:

**761—511.16(321,321E) Annual fluid milk products permits.** Annual fluid milk products permits are issued for indivisible loads of fluid milk products for travel when the weight of the vehicle or load exceeds statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The owner or operator shall select a route using the vertical clearance map and road construction and travel restrictions map provided by the ~~department~~ permit-issuing authority. Route, detour and road embargo for fluid milk products information may be found online at www.511ia.org or the department's website for the embargo bridge maps at www.iowadot.gov/mvd/motorcarriers/

bridgemap.pdf. For travel on secondary roads, the owner or operator shall contact the local authority to verify any additional restrictions. Annual fluid milk products permits are issued for the following:

**511.16(1)** Vehicles with indivisible loads of fluid milk products provided the following are not exceeded.

*a.* to *d.* No change.

*e.* *Distance.* Movement is allowed for unlimited distance on the primary road system, including the interstate, provided the vehicle is transporting fluid milk products to or from a milk plant, receiving station, or transfer station; routing through the ~~motor vehicle division~~ permit-issuing authority is not required.

**511.16(2)** Reserved.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, 321E.10, 321E.15 and 321E.29A and section 321E.29B as amended by 2026 Iowa Acts, Senate File 2429, section 1.

ITEM 2. Rescind subrule 511.17(6) and adopt the following **new** subrule in lieu thereof:

**511.17(6)** *Annual fluid milk products permits.*

*a.* For movement under an annual fluid milk products permit, the gross weight on any axle cannot exceed 20,000 pounds with a maximum of 136,000 pounds total gross weight.

*b.* Vehicles operating under annual fluid milk products permits with a total gross weight of between 0 and 96,000 pounds shall have a minimum axle distance of at least 26 feet from the center of the front axle to the center of the rear axle.

*c.* Vehicles operating under annual fluid milk products permits with a total gross weight of between 96,001 and 116,000 pounds shall have a minimum axle distance of at least 46 feet from the center of the front axle to the center of the rear axle. If the weight of any axle groups exceeds 96,000 pounds, the minimum distance within those axle groups must be at least 26 feet.

*d.* Vehicles operating under annual fluid milk products permits with a total gross weight of between 116,001 and 136,000 pounds shall have a minimum axle distance of at least 56 feet from the center of the front axle to the center of the rear axle. If the weight of any axle groups exceeds 96,000 pounds, the minimum distance of those axle groups must be at least 26 feet. If the weight of any axle groups exceeds 116,000 pounds, the minimum distance of those axle groups must be at least 46 feet.

**RA 26-256**

# TREASURER OF STATE[781]

**Regulatory Analysis**

Notice of Intended Action to be published: 781—Chapter 9
"Unclaimed Property"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 556
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 556

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>9 to 10 a.m. | Room 113<br>Office of the Treasurer of State<br>Iowa Capitol |

*Public Comment*

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Treasurer of State no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Molly Widen, Chief of Staff
1007 East Grand Avenue, First Floor
Des Moines, Iowa 50319
Email: molly.widen@tos.iowa.gov

*Purpose and Summary*

This proposed rulemaking is necessary to remove restrictions related to asset purchase agreements and to make updates related to the reporting of individual retirement accounts.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**
- **Classes of persons that will bear the costs of the proposed rulemaking:**

No class of person will bear the costs of this rulemaking.
- **Classes of persons that will benefit from the proposed rulemaking:**

Asset purchasers, "large business associations" as defined in the proposed rules, certificate of deposit and other timed deposit owners, and owners of uncashed distribution checks issued from tax-advantaged accounts will benefit from this rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**
- **Quantitative description of impact:**

No quantitative impact is expected as a result of this rulemaking.
- **Qualitative description of impact:**

No qualitative impact is expected as a result of this rulemaking.

3. **Costs to the State:**
- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no costs borne by the agency as a result of this rulemaking.

- **Anticipated effect on State revenues:**

There is no expected effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

This rulemaking will clarify language related to the reporting of certificates of deposit and other time deposits. Additionally, it will allow asset purchase agreements to become fully effective in the State of Iowa.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

No less costly or less intrusive methods exist.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

Not applicable.

*Text of Proposed Rulemaking*

ITEM 1. Rescind rule 781—9.9(556) and adopt the following **new** rule in lieu thereof:

**781—9.9(556) Reporting of certificates of deposit and other time deposits.** Where the term of a certificate of deposit or other time deposit is greater than the abandonment period of three years under Iowa Code section 556.2(1), the time for the reporting of delivery of the certificate of deposit or other time deposit to the division shall be extended to the date of maturity or three years from the date on which the abandonment period commences, whichever is later.

This rule is intended to implement Iowa Code chapter 556.

ITEM 2. Amend subrule 9.12(2) as follows:

**9.12(2)** Uncashed distribution checks issued from tax-advantaged accounts are reportable three years from the date the ~~property became reportable~~ check was issued pursuant to Iowa Code section 556.7. Uncashed distribution checks issued for a plan account described in Sections 529 and 529A of the Internal Revenue Code shall be reported in accordance with the IRS 1099-Q form issued at the time the distribution check was issued.

ITEM 3. Amend rule 781—9.33(556) as follows:

**781—9.33(556) Claimant interest in unclaimed property.**

**9.33(1)** The division shall have the exclusive authority to determine a claimant's interest in unclaimed property.

**9.33(2)** Absent an order of a court of competent jurisdiction or by operation of the Iowa probate code or other applicable law, an owner's interest in unclaimed property held by the division may not be transferred to a third party except in the following circumstances:

*a.* As a remnant asset in bankruptcy~~;~~.

*b.* Under an asset purchase agreement where the sellers comprise a large business association.

(1) For the purposes of this subrule, a "large business association" means a business association or group of business associations that:

1. Generates $100 million or more in annual gross receipts or sales,

2. Employs 100 or more full-time employees in the United States, or

3. Has equity securities publicly traded on an exchange regulated by the federal Securities and Exchange Commission.

(2) Claims filed by asset purchasers under this paragraph must include:

1. An executed copy of the asset purchase agreement or similar contract between the asset purchaser and the seller, only commercially sensitive pricing terms for which may be redacted, and

2. An attestation by the seller either in the asset purchase agreement or in a separate written affirmation from the owner that the owner:

- Meets one or more of the above characteristics that qualify it as a large business association, and
- Is aware that it is selling unclaimed property that may be recovered from the administrator without paying a fee.

(3) If the seller is a publicly traded entity, the asset purchaser may provide a copy, or a link to an online copy, of the most recent Form 10-K filed with the Securities and Exchange Commission in lieu of the affirmation that the seller meets one or more of the characteristics that qualify it as a large business association.

~~*b.*~~ *c.* Under an agreement that assigns the apparent owner's interest in the unclaimed property where the agreement is otherwise valid and meets the following criteria:

(1) The agreement is made at least 24 months after the date payment or delivery is made under Iowa Code section 556.13;

(2) The agreement is in writing and signed by the apparent owner; and

(3) The agreement discloses the nature and value of the property and the name and address of the person in possession of the property.

**9.33(3)** For the purposes of the Act, a money or similar judgment against an apparent owner does not create an interest in the specific property held by the division on behalf of the apparent owner.

This rule is intended to implement Iowa Code section 556.19.

**RA 26-257**

# WORKFORCE DEVELOPMENT DEPARTMENT[871]

**Regulatory Analysis**

Notice of Intended Action to be published: 871—Chapter 24
"Claims and Benefits"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A and 96
State or federal law(s) implemented by the rulemaking: Iowa Code chapters 17A and 96

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>11 a.m. | Microsoft Teams meeting<br>Meeting ID: 287 811 013 411 033<br>Passcode: YH3kc6Kc<br>By phone: +1 469.998.6043<br>Phone conference ID: 660 727 319# |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Iowa Workforce Development Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Jeffrey Koncsol
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.725.5400
Email: jeffrey.koncsol@iwd.iowa.gov

*Purpose and Summary*

Chapter 24 provides rules implementing Iowa Code chapter 96 regarding claims and benefits falling under unemployment insurance.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**
- **Classes of persons that will bear the costs of the proposed rulemaking:**

The general public will bear the costs.
- **Classes of persons that will benefit from the proposed rulemaking:**

The general public will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**
- **Quantitative description of impact:**

The Department expends considerable funds for unemployment support. However, there is no expected change in financial expenditures due to this rulemaking.
- **Qualitative description of impact:**

Not applicable.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department expends considerable funds for unemployment support. However, there is no expected change in financial expenditures due to this rulemaking.

- **Anticipated effect on State revenues:**

No change in State revenues is anticipated.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

There is no cost to the proposed rulemaking. Instead, the general public should see a benefit with clearer, up-to-date unemployment claims and benefits rules.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

None were considered.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

Not applicable.

*Text of Proposed Rulemaking*

ITEM 1. Rescind rule 871—24.2(96) and adopt the following **new** rule in lieu thereof:

**871—24.2(96) Procedures for workers desiring to file a claim for benefits for unemployment insurance.**

**24.2(1)** Filing a benefit claim.

*a.* In order to establish a benefit year during which an individual may receive unemployment benefits, the individual, once separated from employment, must file an initial claim, verify their identity, and register for work. The claim may be filed electronically or by other means prescribed by the department. A claim filed in accordance with this rule is considered filed as of Sunday of the week in which the claim is filed.

*b.* When filing an initial claim for benefits, an individual must provide the following information to the department:

(1) The name and complete mailing address of the individual's last employing unit or employer.

(2) Work history for all employers within the individual's base period.

(3) The location of the last job.

(4) The last day of work.

(5) The reason for separation from work.

(6) Certification that the individual is unemployed.

(7) Certification that the individual registers for work.

(8) The individual's last occupation.

(9) Number, full name, social security number, date of birth, and relationship of any dependents claimed.

1. "Spouse" is defined as an individual who does not earn more than $120 in gross wages in one week. The reference week for this monetary determination is the gross wages earned by the spouse in the calendar week immediately preceding the claim's effective date.

2. "Dependent" means an individual who has been claimed for the preceding tax year on the claimant's income tax return. The same dependent may not be claimed on two separate monetarily eligible concurrent established benefit years. An individual may not claim a spouse as a dependent if the spouse has listed the claimant as a dependent on a current claim.

(10) The individual's social security number and alien registration number, if applicable.

(11) Such other information as requested by the department.

*c.* All claimants on an initial claim must state that the claimant is registered for work and list the claimant's principal occupation. A deferral code will be assigned to the claimant to control the type of registration that is made. Code assignments are based on all facts obtained at the time of the claim filing. A deferral code change can be made at any time during the benefit year if additional information is obtained by the agency. The deferral codes are:

(1) Deferral code "temporary layoff" is assigned to claimants who are "temporarily unemployed" as defined in Iowa Code section 96.1A(37)*"c."* Claimants assigned this deferral code are reviewed and changed to "no deferral" as applicable.

(2) Deferral code "refused to bump" is assigned to claimants who have left employment in lieu of exercising their right to bump or oust a fellow employee with less seniority or priority from the fellow employee's job. Refused to bump claimants have only the search for work provision of Iowa Code section 96.4(3) and the disqualification provision for failure to apply for or to accept suitable work of Iowa Code section 96.5(3) waived. The refused to bump code does not apply to weeks claimed under the extended benefit or federal supplemental compensation programs.

(3) Deferral code "union member" is assigned to claimants who are members of unions or trades or who are professionals having their own placement facilities. Claimants assigned to this deferral code will be registered for work. A paid-up membership must be maintained, and weekly contact to check for available work is required. Loss of membership will result in a change to "no deferral."

(4) Deferral code "attached to STC employer" is assigned to workers who are employed on a reduced workweek with an employer that is under a department-approved short-time compensation contract. This code pertains to an individual who worked full or part time and will again work full or part time if the individual's employment, although temporarily suspended, has not been terminated. Once the contract expires, claimants assigned to this code are reviewed for placement in the appropriate deferral code.

(5) Deferral code "DUA" is assigned to claimants who are part of a federally declared emergency. Once the emergency period expires, claimants assigned this code are reviewed for placement in the appropriate deferral code.

(6) "No deferral" is assigned to individuals who do not otherwise meet the qualifications for a different deferral code. Claimants in this category must complete and document reemployment activities as established by the department.

(7) Nothing in this rule shall be construed as prohibiting an authorized representative of the department from requiring claimants for unemployment insurance benefits to avail themselves of workforce development center referral and counseling services if deemed beneficial and necessary to obtain prompt reemployment, nor shall anything in this rule be construed to deny referral or counseling service to claimants for unemployment insurance benefits.

*d.* In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual must report as directed by the department. If the individual has moved to another locality, the individual may register and report in person at a workforce development center at the time previously specified for the reporting.

(1) An individual who files a weekly continued claim will have the benefit payment automatically deposited weekly on a debit card specified by the department or to an account specified by the claimant.

(2) The department retains the ultimate authority to choose the method of reporting and payment.

*e.* After the initial claim has been filed, the claimant will receive a notice of monetary eligibility. If the claimant is eligible for benefits, this notice will state the date on which the benefit year will begin, the amount per week, and the maximum amount for which the claimant is eligible.

*f.* No benefit payment is allowed until the individual claiming benefits has completed a continued claim online or as otherwise directed by the department.

(1) The claim must be submitted between 8 a.m. on the Sunday following the Saturday of the weekly reporting period and not later than close of business on the Friday following the weekly reporting period.

(2) An individual using the weekly continued claim system is to personally file the claim on the system unless the individual is disabled and has received prior approval from the department.

(3) The claim must include the following:

1. That the individual continues the claim for benefits;

2. That except as otherwise indicated, during the period covered by the claim, the individual was fully or partially unemployed, earned no gross wages and received no benefits, and was able and available for work;

3. That the individual is participating in and compliant with the department's reemployment case management program established under Iowa Code section 96.11(17);

4. That the individual understands there are penalties for false statements in connection with the claim;

5. That the individual has reported any job offer received during the period covered by the claim;

6. That the individual understands the individual's responsibility to review the claim records to ensure there is no delay in filing the weekly claim to remain in continuous reporting status. Failure to file claims each week will require a claimant to submit a claim application to reactivate the claim;

7. Other information required by the department.

*g.* Effective starting date for the benefit year.

(1) Filing for benefits is effective as of Sunday of the current calendar week in which, subsequent to the individual's separation from work, an individual files a claim for benefits.

(2) The claim may only be backdated prior to the first day of the calendar week in which the claimant does report and file a claim if the claimant filed an interstate claim against another state that has been determined as ineligible.

(3) When the benefit year expires on any day but Saturday, the effective date of the new claim is the Sunday of the current week in which the claim is filed even though it may overlap into the old benefit year up to six days. However, backdating is not allowed at the change of a calendar quarter if the backdating would cause an overlap of the same quarter in two base periods. When the overlap situation occurs, the effective date of the new claim may be postdated up to six days. If the claimant has benefits remaining on the old claim, the claimant may be eligible for benefits for that period by extending the old benefit year up to six days.

*h.* An individual is entitled to partial benefits for partial unemployment as per Iowa Code section 96.1A(37)*"b."* If the individual has been placed on reduced employment, the individual may be entitled to partial benefits and should file a claim in accordance with the instructions pertaining to the partial claims procedure.

*i.* Any individual who is disqualified for benefits because of the individual's failure to report may appeal to the department for the right to establish good cause for failure to report because of extraordinary circumstances. A representative of the department may deny the request, and the decision may be appealed to an administrative law judge for a hearing and decision on the merits. If the petition is allowed, the petitioner will be allowed to file a claim for and receive full benefits for each week for which such claim is filed, if otherwise eligible.

**24.2(2)** Filing a claim for unemployment insurance benefits (not applicable to interstate claims).

*a.* A notice of claim filing, which includes the name and social security number of the individual claiming benefits, will be sent to each base period employer on record and the last employer if different than the base period employer unless the separation issue has previously been adjudicated.

*b.* Even though the claims taker may believe that the claimant cannot meet the eligibility conditions established by statute, the claims taker will in no instance refuse to accept a claim from any unemployed individual. If the claimant elects to file a claim, even though the claimant's eligibility may be questionable, the claim will be accepted without hesitance. The claimant may be required to provide adequate proof of identification such as a driver's license, proof of citizenship, car registration or union membership card or supply personally identifying information.

*c.* If a claim filed in a previous quarter was ineligible because of no wage records or lack of qualifying earnings, a benefit year has not been established and a new claim will be taken. A new claim should not be taken if the claimant previously filed an ineligible claim in the same quarter unless the claimant insists on filing after being advised of ineligibility. The claims taker will notify the claimant that another claim filed in the same quarter would also be ineligible because additional wage credits (if any) would not be available until a subsequent quarter. The claimant should be advised to file a new claim during the first full week of the next calendar quarter.

*d.* If the check of the files does not disclose a previous claim and the claimant states that a claim has not been filed during the past year, a new claim will be taken.

*e.* Partially unemployed claims.

(1) A partially unemployed individual will:

1. File a claim for benefits in the same manner as an initial claim for unemployment insurance.

2. Report all wages that are earned for each week benefits are claimed.

(2) A claimant in a continuous reporting status, employed with the same employer, may exceed the claimant's weekly benefit amount plus $15 for four consecutive weeks before the individual is required to file an additional claim for benefits.

*f.* If the check of the files does not disclose a monetarily valid claim in another state, a new claim will be taken.

**24.2(3)** Filing a claim for unemployment insurance benefits (interstate only).

*a.* All interstate claimants must file an Iowa claim.

*b.* When the department is acting as an agent for another state unemployment insurance agency with respect to the filing of an initial claim for benefits, the interstate claimant must complete and file an Initial Interstate Claim unless otherwise directed by the interstate handbook for interstate claims-taking provided by the Employment and Training Administration of the United States Department of Labor.

**24.2(4)** Cancellation of unemployment insurance claim.

*a.* An individual may direct a request for cancellation of an unemployment insurance claim to the benefits bureau of the unemployment insurance services division. The statement must include the specific reason for the request and contain as much pertinent information as possible so that a decision can be made. A notice with the result of the request will be sent.

*b.* A cancellation request that is the result of employer coercion or intimidation will be denied and the employer may be subjected to serious misdemeanor charges.

*c.* If a cancellation request is received within the ten-day protest period and before payment is made, the benefits bureau may upon review cancel the claim for the following reasons:

(1) The individual found employment or returned to regular employment within the protest period.

(2) Cancellation would allow the individual to refile at the change of a calendar quarter to obtain an increase in the weekly or maximum benefit amount or the individual would receive more entitlement from another state.

(3) The individual filed a claim in good faith under the assumption of being separated and no actual separation occurred.

(4) The individual did not want to establish a benefit year because of eligibility for a low weekly or maximum benefit amount.

*d.* Other valid reasons for cancellation whether or not the ten-day protest period has expired.

(1) The individual has an unexpired unemployment insurance claim in another state and is eligible for a remaining balance of benefits.

(2) The individual received erroneous information regarding entitlement or eligibility to unemployment insurance benefits from an employee of the department.

(3) The individual has an unexpired railroad unemployment insurance claim with a remaining benefit balance that was filed prior to the unemployment insurance claim.

(4) The individual exercises the option to cancel a combined wage claim within the ten days allowed by federal regulation.

(5) The individual has previously filed a military claim in another state or territory. Wages erroneously assigned to Iowa must be deleted and an interstate claim filed.

(6) Federal wages have previously been assigned to another state or territory or are assignable to another state or territory under federal regulation. Federal wages erroneously assigned to Iowa must be deleted and the appropriate type of claim filed.

(7) If the Iowa wages are erroneous and deleted, and the wages from one other state were used, the claim shall be canceled and the wages returned to the transferring state.

*e.* If a claim is canceled and becomes final with no appeal being filed, a valid claim with Iowa as the paying state may not be reestablished with the same effective date.

*f.* If it is determined a claim has been filed under an incorrect social security number, the claim will be voided rather than canceled.

*g.* All unemployment insurance claims canceled will be clearly identified as such and the administrative record of the individual's file shall be destroyed three years after final action.

This rule is intended to implement Iowa Code sections 96.3(3), 96.3(4), 96.4(1), 96.4(3), 96.5(1)*"h,"*96.5(3), 96.6(1), 96.6(2), 96.15, 96.16, 96.1A and 96.20.

ITEM 2. Rescind rule 871—24.15(96) and adopt the following **new** rule in lieu thereof:

**871—24.15(96) Benefit eligibility conditions.** To be eligible to receive benefits, the individual bears the burden of establishing, and the department must find, that the individual is able to work, available for work, and earnestly and actively seeking work.

**24.15(1)** *Able to work.* An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation.

*a.* *Illness, injury or pregnancy.* Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

*b.* *Interpretation of ability to work.* The law provides that an individual must be able to work to be eligible for benefits. This means that the individual must be physically able to work, not necessarily in the individual's customary occupation, but able to work in some reasonably suitable, comparable, gainful, full-time endeavor, other than self-employment, which is generally available in the labor market in which the individual resides.

**24.15(2)** *Available for work.* The availability requirement is satisfied when an individual is genuinely attached to the labor market (e.g. the individual is willing, able, and ready to accept suitable work that the individual does not have good cause to refuse). Under unemployment insurance laws, it is the availability of an individual who is tested, and the labor market is therefore described in terms of the individual. A labor market for an individual means a market for the type of service the individual offers in the geographical area in which the individual offers the service. It does not mean that job vacancies must exist. It means only that the type of services that an individual is offering is generally performed in the geographical area in which the individual is offering the services.

*a. Shift restriction.* The individual does not have to be available for a particular shift. If an individual is available for work on the same basis on which the individual's wage credits were earned and if after considering the restrictions as to hours of work, etc., imposed by the individual there exists a reasonable expectation of securing employment, then the individual meets the requirement of being available for work.

*b. Intermittent employment.* An individual cannot limit employability to only temporary or intermittent work until recalled by a regular employer.

*c. Jury duty.* The individual is considered available for work while serving on jury duty because time spent in jury service is not a personal service performed under a contract of hire in an employment situation but rather a public duty required by law. Jury duty does not render the individual as employed and ineligible for benefits even though it may involve the individual full-time.

*d. Work release program while incarcerated.* For those individuals incarcerated in jail, the work release program usually does not meet the availability requirements of Iowa Code section 96.4(3), but the department will review any situation concerning an incarcerated individual who can meet the requirements of Iowa Code section 96.4(3).

*e. Available for part of week.* Each case is decided on its own merits. Generally, if the individual is available for the major portion of the workweek, the individual is considered to be available for work.

*f. On-call workers.*

(1) Substitute workers (e.g., post office clerks, railroad extra board workers) who hold themselves available for one employer and who do not accept other work, are not available for work within the meaning of the law and are not eligible for benefits.

(2) Substitute teachers. The question of eligibility of substitute teachers is subjective in nature and is determined on an individual case basis. The substitute teacher is considered an instructional employee and is subject to the same limitations as other instructional employees. As far as payment of benefits between contracts or terms and during customary and established periods of holiday recesses is concerned, benefits are denied if the substitute teacher has a contract or reasonable assurance that the substitute teacher will perform service in the period immediately following the vacation or holiday recess. A substitute teacher is not disqualified if the individual is able and available for work, making an earnest and active search for work each week, placing no restrictions on employment and is genuinely attached to the labor market.

(3) An individual whose wage credits earned in the base period of the claim consist exclusively of wage credits from on-call work, such as a banquet worker, railway worker, or substitute school teacher, is not considered an unemployed individual within the meaning of Iowa Code section 96.1A(37)*"a"* and *"b."* An individual who is willing to accept only on-call work is not considered to be available for work.

*g. Leave of absence.* A leave of absence negotiated with the consent of both employer and employee is deemed a period of voluntary unemployment for the employee who is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee, the individual is considered laid off and eligible for benefits.

(2) If the employee fails to return at the end of the leave of absence and subsequently becomes unemployed, the individual is considered as having voluntarily quit and is ineligible for benefits.

(3) The period or term of a leave of absence may be extended, but only if there is evidence that both parties have voluntarily agreed.

*h.* *Effect of religious convictions on Sabbath day work.* An individual is considered as available for work if the precepts of the individual's religion prohibit work on the Sabbath. An individual who refuses to work on the Sabbath designated by the individual's religion because of conscientious observance of the Sabbath as a matter of religious conviction is also deemed to have good cause for refusing the work.

*i.* *Available for work.* To be considered available for work, an individual must at all times be in a position to accept suitable employment during periods when the work is normally performed. As an individual's length of unemployment increases and the individual has been unable to find work in the individual's customary occupation, the individual may be required to seek work in some other occupation in which job openings exist. If that does not seem likely to result in employment, the individual may be required to accept counseling for possible retraining or a change in occupation.

*j.* *Reasonable expectation of securing employment.* An individual may not be eligible for benefits if the individual has imposed limitations that leave the individual no reasonable expectation of securing employment. Restrictions may relate to type of work, hours, wages, location of work, etc., or may be physical restrictions.

*k.* *Corporate officers.* To be considered available, the corporate officer must meet the same tests of availability as are met by other individuals.

*l.* *Lawfully authorized work.* An individual who is not lawfully authorized to work within the United States is considered unavailable for work.

**24.15(3)** *Earnestly and actively seeking work.* It is essential that the individual personally and diligently search for work. Mere registration at a workforce development center does not establish that the individual is earnestly and actively seeking work. Iowa Code section 96.4(3) requires that an individual participate in and comply with the department's reemployment case management (RCM) program. Participation in RCM may include participation in reemployment activities, RCM appointments, career planning appointments, or live activities. Individuals who are required to participate in reemployment activities are identified in the first week after their claim to participate in RCM.

*a.* Basic requirements.

(1) At the start of a benefit claim, individuals are required to participate in a virtual workshop related to continued unemployment insurance eligibility. This workshop may include information regarding proper certification of weekly claims, reemployment requirements, and the requirements to be considered able and available for work.

(2) Claimants will be provided notice of the requirement to participate in the RCM program and will receive notice of a scheduled first appointment. Topics of the initial RCM appointment will include but not be limited to enrollment into Title III of the federal Workforce Innovation and Opportunity Act (WIOA), Public Law 113-128; review of benefit claim status; assessment of continued benefit eligibility; and referrals to appropriate partner services.

(3) Topics of subsequent RCM appointments may include but not be limited to review of benefit claim status, assessment of continued benefit eligibility, and referrals to appropriate partner services.

(4) During RCM appointments, an individual reemployment plan will be developed detailing when the customer is scheduled to attend additional appointments or other reemployment activities, including career planning appointments or live workshops.

(5) Reemployment activities must be recorded as directed by the department.

*b.* To meet the requirement that an individual is earnestly and actively seeking work for the claim week, the department may deem an individual to be participating and compliant with RCM when the individual has truthfully certified on the individual's weekly claim that the individual has performed a minimum of four reemployment activities and documented and reported each activity to the department.

(1) At least three of the four reemployment activities for the purpose of this paragraph shall consist of applying for a potential job opening by submitting a resume or application through any of the following means:

1. Online.
2. In person.
3. Electronic mail.
4. Facsimile.
5. Mail.

(2) Additional reemployment activities for the purpose of this paragraph consist of any of the following:

1. Registering with a placement facility of a school or college.
2. Interviewing for a job virtually, in person, or at a job fair.
3. Attending an employment workshop organized or approved by the department, which may include completing an online or in-person job search workshop, job club, or job search networking meeting.
4. Attending a job fair sponsored or approved by the department.
5. Attending a scheduled career networking meeting with the department.
6. With the assistance and guidance of the department, completing a reemployment plan, which may include completing career direction research or work such as a job search plan or a targeted employer list.
7. Participating in job search counseling with a department career planner.
8. Attending an appointment with a core program partner authorized by the WIOA.
9. Participating in online or in-person mock interviews organized or approved by the department.
10. Completing a career-related assessment approved by the department and reviewed with a department career planner.
11. Completing a civil service examination.

(3) Unreasonable limitations by an individual as to salary, hours or conditions of work can indicate that the individual is not earnestly seeking work. The department expects each individual claiming benefits to conduct themselves as would any normal, prudent individual who is out of work. An individual is considered to have failed to make an effort to secure work if the department finds that the individual has followed a course of action designed to discourage prospective employers from hiring the individual in suitable work.

*c.* Noncompliance. An individual will be ineligible for benefits for any period for which the department finds that the individual has failed to make an earnest and active search for work.

(1) Individuals are expected to follow all benefit and RCM requirements for the duration of their claim and the department may review their reemployment activities at any time for compliance.

(2) Refusal to participate in RCM appointments or failure to complete the agreed upon reemployment activities may lead to an interruption in benefits until the activity is rescheduled or completed.

(3) The claimant's most recent weekly certification will be reviewed to determine if they are applying for suitable positions. A suitable position is one for which the applicant is qualified or one that the applicant would be willing to accept based upon information provided.

*d.* Exceptions.

(1) Members of unions or professional organizations who normally obtain their employment through union or professional organizations are considered as earnestly and actively seeking work if they maintain active contact with the union's business agent or with the placement officer in the professional organization. A paid-up membership must be maintained if this is a requirement

for placement service. The trade, profession, or union to which the individual belongs must have an active hiring hall or placement facility, and the trade, profession, or union must be the source customarily used by employers in filling their job openings. Registering with the individual's union hiring or placement facility is sufficient, except when all benefit rights to regular benefits are exhausted and Iowa is in an extended benefit period or similar program such as the federal supplemental compensation program. Mere registration at a union or reporting to a union hiring hall or registration with a placement facility of the individual's professional organization does not satisfy the extended benefit systematic and sustained effort to find work, and individuals complete reemployment activities.

(2) The requirement for seeking work is waived if all of the following conditions apply:

1. The individual is attached to a regular job or industry.

2. The individual is a high-skilled worker. For purposes of this numbered paragraph, "high-skilled worker" means a worker whose job or position requires more than a basic competency, license, or qualification. The worker must have an advanced competency, license, or qualification that demonstrates specialization and expertise in a field.

3. The individual is on a short-term temporary layoff. For purposes of this numbered paragraph, "short-term temporary layoff" means a layoff period of 16 weeks or less due to seasonal weather conditions that impact the ability to perform work limited to the following trades with a specific return-to-work date verified by the employer:

- Highway construction, repair, or maintenance; or
- Skilled trades including cement masons and concrete finishers, electricians, painters, plumbers, pipefitters, steamfitters, boilermakers, carpenters, and sheet metal workers.

4. Eligibility for a work search waiver will be determined by the director or a designee assigned by the director.

5. The individual otherwise qualifies for unemployment insurance benefits.

*e.* Week-to-week disqualification. Disqualification due to failure to conduct reemployment activities is made on a week-to-week basis and is not permanent.

*f.* Seniority rights. An individual who fails to exercise seniority rights to replace another employee with less seniority has the work search requirement waived during a period of regular benefits. This waiver does not apply to individuals receiving extended benefits or similar federal program benefits.

*g.* Search for work.

(1) The deferral code is used to determine which individuals are required to make personal applications for work. Other factors, such as the condition of the local labor market, the duration of benefit payments, and a change in claimant characteristics, are also taken into consideration on a weekly basis.

(2) Individuals receiving partial benefits are exempt from making personal applications for work in any week they have worked and received wages from their regular employer. Individuals involved in hiring hall practices must keep in weekly touch with the business agent of that union in which they maintain membership. All other individuals must make contacts with such frequency as the department considers advisable, after considering job prospects in the community, the condition of the labor market and any other factors that may have a bearing on the individual's reemployment. A sincere effort must be made to find a job. A contact made merely for the sake of complying with the law is insufficient.

This rule is intended to implement Iowa Code section 96.4(3).

**RA 26-258**

# WORKFORCE DEVELOPMENT DEPARTMENT[871]

**Regulatory Analysis**

Notice of Intended Action to be published: 871—Chapter 70
"Career Training Physical Expansion Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A and 84J as enacted by 2026 Iowa Acts, Senate File 2168

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 17A and chapter 84J as enacted by 2026 Iowa Acts, Senate File 2168

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>10 a.m. | Microsoft Teams meeting<br>Meeting ID: 284 533 348 638 91<br>Passcode: 2RB3UK7m<br>Dial in by phone: +1 469.998.6043<br>Phone conference ID: 315 044 839 |

*Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Iowa Workforce Development Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Brooke Axiotis
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.802.9245
Email: brooke.axiotis@iwd.iowa.gov

*Purpose and Summary*

The purpose of this proposed rulemaking is to establish rules to administer the Career Training and Physical Expansion Program Fund created in Iowa Code section 84J.3 as enacted by 2026 Iowa Acts, Senate File 2168.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**
- **Classes of persons that will bear the costs of the proposed rulemaking:**

The general public and stakeholders will bear the costs.
- **Classes of persons that will benefit from the proposed rulemaking:**

The general public and stakeholders will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**
- **Quantitative description of impact:**

There are none because funding for this program is provided via previously appropriated funds that have been repurposed.

- **Qualitative description of impact:**

There are none.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department is asking for 2.0 percent of available funds for administration of the grant. The total SFY 2027 appropriation is $3.5 million; administration funds of 2.0 percent equals $70,000.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

This rulemaking does not have a substantial impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Adopt the following **new** 871—Chapter 70:

CHAPTER 70
CAREER TRAINING PHYSICAL EXPANSION PROGRAM

**871—70.1(84J) Purpose.** The purpose of the career training physical expansion program is to provide financial assistance for construction of new facilities and procurement of equipment that will expand the capacity of community colleges and unionized and nonunionized private sector apprenticeship programs to provide education and training for workers in high-demand fields in this state.

**871—70.2(84J) Definitions.**

*"Applicant"* means an Iowa community college or unionized or nonunionized private sector apprenticeship program applying for assistance under the program.

*"Apprenticeship"* means a structured training program that combines supervised paid on-the-job training with classroom instruction.

*"Community college"* means the same as defined in Iowa Code section 260C.2.

*"Construction of new facilities"* means the process of assembling, erecting, or modifying a physical structure for the purpose of expanding capacity to provide education and training for workers in high-demand fields in this state. Major maintenance of an existing facility does not qualify.

*"Department"* means the department of workforce development.

*"Department's website"* means the information and related content found at www.workforce.iowa.gov and may include integrated content at affiliate sites.

*"Eligible entity"* means a community college or unionized or nonunionized private sector apprenticeship program meeting the requirements of rule 871—70.3(84J).

*"Equipment"* means specialized hardware, software, or other tangible, nonexpendable property that has a per unit acquisition cost of $5,000 or more and an anticipated useful life of more than one year and is intended to increase training capacity.

*"Expand capacity"* means to increase the maximum number of slots available in a training or education program for workers in high-demand fields in this state.

*"Fund"* means the career training and physical expansion program fund created in Iowa Code section 84J.3 as enacted by 2026 Iowa Acts, Senate File 2168.

*"High-demand field"* means the same as the definitions of "high-demand occupation," "high-skill occupation," and "high-wage occupation" created in Iowa Code section 256.125 as amended by 2026 Iowa Acts, House File 2610.

*"Internet-based education or training"* means the same as the definition of "delivered primarily over the internet" in rule 281—15.1(256).

*"Nonduplicative training"* means that a project funded via this program will avoid recreating current training programs but will modernize the structure and delivery of a training program, education program, or both that will directly result in an increase in the number of workers in high-demand fields in this state.

*"Private sector apprenticeship program"* means a paid apprenticeship program offered by, or in partnership with, a private company in Iowa.

*"Procurement"* means the same as defined in rule 11—117.2(8A).

*"Program"* means the career training physical expansion program established in this chapter.

**871—70.3(84J) Program eligibility.** To be eligible for financial assistance under the program, an applicant must propose the construction of a new training facility, construction to expand an existing training facility in accordance with the definition of "construction of new facilities" in rule 871—70.2(84J), or the procurement of equipment that will expand the capacity to educate and train workers in high-demand fields in Iowa.

**70.3(1)** *Employer demand.* Applicants must provide evidence of employer demand for the skills and abilities to be taught via the training and education or apprenticeship program for which an applicant applies.

**70.3(2)** *Expand capacity.* The project must directly result in an increase in the number of workers in high-demand fields in this state.

**70.3(3)** *Internet-based education or training.* Projects to increase internet-based education or training are ineligible for financial assistance under this program.

**70.3(4)** *Priority given for nonduplicative training.* Priority will be given to projects that meet the definition of "nonduplicative training" in rule 871—70.2(84J).

**871—70.4(84J) Application submission and review process.**

**70.4(1)** The department will develop a standardized application process and make information on applying available on the department's website. To apply for assistance under the program, an applicant shall submit an application to the department in the manner prescribed by the department. The department will identify specific types of investments for which it intends to provide financial assistance on the application form or forms.

**70.4(2)** Applications will be accepted and processed by department staff on a continuing basis, or the department may establish application periods as announced on the department's website. If received on a continuing basis, applications will be reviewed in the order received by the department.

**70.4(3)** The department may refuse to accept incomplete applications or may refuse to accept applications because of insufficient funds.

**70.4(4)** The department will determine the financial assistance award if it determines that financial assistance should be awarded. The department has final decision-making authority on requests for financial assistance for the program. The department will take final action on all applications for financial assistance except those rejected pursuant to subrule 70.4(3). The department may approve an award, decline to award, or choose to reopen the application window.

**70.4(5)** An applicant may submit one application per funding cycle for the duration of the program.

**70.4(6)** Applicants will be notified in writing of an award of financial assistance, including any conditions and terms of the award, or of a denial of an award of financial assistance.

**871—70.5(84J) Application scoring criteria.** When applications for financial assistance under the program are reviewed by department staff, the following criteria will be considered and the application scored as described.

**70.5(1)** The extent to which the applicant's investment demonstrates employer demand in this state for the training and education to be provided.

**70.5(2)** The extent to which the investment expands the physical capacity of the community college or apprenticeship program.

**70.5(3)** The extent to which the investment increases the number of workers in high-demand fields in this state. Priority points will be awarded for greater increased capacity.

**70.5(4)** The extent to which the applicant demonstrates regional need for increased capacity of trained individuals in the high-demand jobs.

**70.5(5)** Whether and the extent to which the applicant has previously received financial assistance from the program.

**70.5(6)** For awards under subsequent funding rounds, whether and the extent to which the applicant demonstrates increased training and education completions under previous projects.

**70.5(7)** The sufficiency of the proposed investment's financing structure, the feasibility of the sources of funds, and the appropriateness of the proposed uses of the funds.

**871—70.6(84J) Contract administration.**

**70.6(1)** The department will prepare a contract for each award approved by the department. The contract will reflect the terms of the award and may include other terms and conditions reasonably necessary for implementation of the program pursuant to this chapter.

**70.6(2)** Any substantive change to a proposed investment shall require an amendment to the contract. Amendments shall be requested in writing. No amendment shall be valid until approved by the department.

**871—70.7(84J) Disbursement of funds.**

**70.7(1)** The department will disburse funds for an investment only after a complete application has been received, an award has been approved by the department, a contract has been executed between the applicant and the department, and all applicable conditions for disbursement have been met, including the submission of documentation pertaining to the eligible expenditures. Disbursement of funds under the contract will be on a reimbursement basis for expenses incurred by the applicant after the date of application and as provided under the contract. Expenditures for labor performed by an applicant's employees are not eligible for reimbursement.

**70.7(2)** Administrative cost. The department will retain 2.0 percent of each appropriation for administration of this program.

**871—70.8(84J) Reporting.** An applicant receiving assistance under the program shall submit any information reasonably requested by the department in sufficient detail to permit the department to prepare any reports required by the department, the general assembly, or the governor's office.

These rules are intended to implement Iowa Code chapter 17A and chapter 84J as enacted by 2026 Iowa Acts, Senate File 2168.

**RA 26-259**

# WORKFORCE DEVELOPMENT DEPARTMENT[871]

**Regulatory Analysis**

Notice of Intended Action to be published: 871—Chapter 62
"Iowa Industrial New Jobs Training Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A and 84A

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202; Iowa Code section 84A.1; Executive Order 11; and 2026 Iowa Acts, House File 2799

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>1 p.m. | Microsoft Teams meeting<br>Meeting ID: 291 185 895 438 99<br>Passcode: mq9Jm9ro<br>By phone: +1 469.998.6043<br>Phone conference ID: 832 286 59# |

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed Regulatory Analysis, which must be received by the Iowa Workforce Development Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Brooke Axiotis
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.802.9245
Email: brooke.axiotis@iwd.iowa.gov

*Purpose and Summary*

The purpose of this proposed rulemaking is to update the administrative rules governing the development of training projects under the Iowa Industrial New Jobs Training Act to align with changes made to Iowa Code chapter 260E in 2026 Iowa Acts, House File 2799.

*Analysis of Impact*

1. **Persons affected by the proposed rulemaking:**
- **Classes of persons that will bear the costs of the proposed rulemaking:**

The general public and stakeholders will bear the costs.
- **Classes of persons that will benefit from the proposed rulemaking:**

The general public and stakeholders will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**
- **Quantitative description of impact:**

There are none.

- **Qualitative description of impact:**

There are none.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are none.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

This rulemaking does not have a substantial impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 871—Chapter 62 and adopt the following **new** chapter in lieu thereof:

CHAPTER 62
IOWA INDUSTRIAL NEW JOBS TRAINING PROGRAM

**871—62.1(15,260E) Authority.** The authority for rules governing the development of training projects under the Iowa industrial new jobs training Act and the operation of the program is provided in Iowa Code section 260E.7.

**871—62.2(15,260E) Purpose.** The purpose of the Act is to provide training for employees in new jobs with industries locating or expanding operations in Iowa. The goal of the training should be the development of transferable skills that lead to certifications necessary to perform work in the workplace. Iowa workforce development is required to coordinate the training programs described in the Act.

**871—62.3(15,260E) Definitions.**

*"Act"* means Iowa Code chapter 260E.

*"Agreement"* means an agreement between an employer and a community college concerning a project and includes any written agreement, or amendment thereto, whether deemed by the parties to be preliminary or final.

*"Base year"* means, for the purpose of determining incremental property tax available to fund in part the jobs training agreement, the assessment rolls as of January 1 of the year preceding the first written agreement filed with the county assessor where the property is located or such other valuation as may be determined by the appropriate assessor as provided in Iowa Code section 403.19(1)*"c."*

*"Department"* means Iowa workforce development.

*"Eligible training"* means a structured process of instruction designed to develop technical and specialized skills required to perform job-specific tasks effectively. This includes activities such as courses, labs, simulations, and hands-on exercises either on the job or in a classroom or field environment; training of measurable skills that are often certifiable such as painting, welding, mechanics, computer coding and heavy machinery operation; mastery of skills leading to certifications or credentials necessary to perform work in a workplace context but excludes those leading directly to professional degrees in medicine, law, accounting, or other professional areas. Training may also include skills related to diagnostic techniques and operational proficiency. The training must be specific to the new jobs being added according to the contract.

*"Expanding industry"* means an industry that will require the addition of new jobs that did not exist in that industry in Iowa prior to the signing of an agreement for training and that exceeds the level of employment in that industry six months prior to the date of the agreement.

*"Formerly existing jobs"* means jobs that were part of the payroll of the industry within the state any of the time during the six months prior to the signing of an agreement for training. Jobs that formerly existed do not qualify for training under the provisions of Iowa Code section 260E.2(15).

*"Industry"* means a business engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products; conducting research and development; or providing services in interstate commerce but excludes retail, health, or professional services. An industry is a business engaged in activities described as eligible in the Act rather than the generic definition encompassing all businesses in the state doing the same activities. An industry is considered to be a single corporate entity or operating subdivision. An industry that closes or substantially reduces its operation in one area of the state of Iowa and relocates substantially the same operation in another area of the state is not eligible for a project. This definition does not prohibit a business from expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced.

*"New industry"* means an industry that has not done business in Iowa or an existing industry implementing a new process and product used or produced for the first time in Iowa that results in the creation of new jobs not previously available in that industry in the state.

*"New job"* means a new, permanent, full-time equivalent position added to an employer's payroll, at the location of the employer's project, in excess of the employer's base employment level as determined by the average number of employees report in the previous two quarters. A new job does not include jobs of recalled workers, replacement jobs or other jobs that formerly existed in the business in the state of Iowa. It does not include the upskilling of current employees. A new job does not include reclassified jobs or new ownership of existing operations that use the existing employees to perform primarily the same functions or producing the same product line they performed prior to the sale of the business. Employers must provide proof of the change in role or production upon sale of the business in order for employees to be classified as "new jobs" after the sale of the business.

The change in responsibilities and functions must be immediate and occur no later than jobs that are performing primarily the same functions or producing the same product line.

*"New jobs training program"* or *"program"* means the project or projects established by a community college for the creation of jobs by providing education and training of workers for new jobs for new or expanding industry in the merged area served by the community college. The proceeds of the certificates, as authorized by the Act, will be used only to fund program services related to training programs made necessary by the creation of new jobs.

*"Program costs"* are defined as the total cost of the training project outlined in the final agreement. The business is required to pay for 30 percent of the total program costs before receiving reimbursements or on-the-job training funds from the program fund established by the community college for the project. Businesses must submit receipts or appropriate documentation to establish the expenditures to the community college, which will bundle receipts and certify the 30 percent expenditure to the department for approval. After the department has reviewed and approved the 30 percent expenditure threshold has been met, the program funds may be released. The business cannot submit receipts for reimbursement for any expenses incurred before the date of certification to the community college for additional reimbursement. The costs must be incurred over the period of time specified in the agreement under Iowa Code section 260E.3. Funds can only be used in support of training and cannot be used to reimburse consultants, travel, conferences, or legal fees or any administrative expenses not related to training.

*"Training"* does not include upskilling of current employees; business onboarding, basic computer skills; succession planning; behavioral skills, such as but not limited to communications, leadership development, interpersonal skills development, teamwork building or related programs, conflict management, or training employees to assist individuals with substance use disorder as defined in Iowa Code section 125.2(13); or scholarships for higher education. Training does not include upskilling that leads directly to a professional degree in medicine, law, accounting or other professional areas. Wholesale updates or purchase of businesswide training materials and systems are not eligible. Funds can only be used in support of training and cannot be used to reimburse consultants, travel, conferences or legal fees or any administrative expenses not directly related to training.

**871—62.4(15,260E) Agreements.**

**62.4(1)** *Notification.* The community college will notify the department of all agreements deemed to be final and ready for project funding by sending a copy of the final agreement and project training plan to the department upon execution by all parties and no later than 30 days prior to publishing certificates for public comment. The department will evaluate these documents for compliance with program requirements and, if program requirements are not met, will send a detailed list of corrections to the community college. Program requirements must be met to the department's satisfaction prior to the inclusion of the project in a bond issuance. Once a bond has been issued, the community college will notify the department of the sale by entering data and uploading required documentation identified by the department into the 260E Data System within 30 days of execution by all parties. Except where otherwise prescribed in these rules, the department, in conjunction with the community colleges, will develop a format and timetable for reporting relevant information to the department. Such reporting will include but will not be limited to information and official statements with respect to all final agreements and related certificate sales, information regarding college procedures for training agreement review and training project monitoring, and documentation of identified events of default, remedies and repayment policies.

**62.4(2)** *Additional agreement items.* In addition to the provisions of an agreement described in Iowa Code section 260E.3(1) through 260E.3(5), the agreement will include the following items:

*a.* The length of time each new job category will be provided on-the-job training.

*b.* The completion date of all other training.

*c.* If the supplemental new jobs credit is to be utilized as authorized in Iowa Code section 256.7(14), the agreement signed by the business(es), the community college, and the department of revenue for the use of an additional 1.5 percent withholding to educate and train new employees.

*d.* New jobs pledged by the business, which must be created within three years of execution of the final agreement submitted for the bond issue. If a new facility is being built, the jobs must be created within two years of the completion of the building.

**62.4(3)** *Additional notification.* Upon receipt of a notice that the community college and an employer have entered into an agreement, the department of revenue shall provide a copy of the agreement to the department for review. The department of workforce development may provide feedback regarding the agreement to the department of revenue within seven calendar days after the date of receipt of the copy of the agreement. If the final agreements do not adhere to program requirements, the department of revenue can deny the credit from withholding for the employer participating in the program. The department of revenue must share any such feedback from the department with the community college.

**62.4(4)** *Compliance with department of revenue requirements.*

*a.* When an agreement for training is deemed final and ready for project funding, the community college will notify the department of revenue within 30 days of the date of execution of the agreement. Notification will be in writing on forms and in the manner determined by the department and is considered complete when entries have been saved in the data system.

*b.* If, at any time after notification, the estimates are revised, or if changes are made in the agreement that would affect the above reporting requirements, the department of revenue and the department will be notified within 30 days.

**62.4(5)** *Allowable cost.* A community college may be reimbursed from certificate proceeds up to a 7 percent administrative fee related to direct expenditures associated with the 260E program. Allowable costs do not include reimbursement for consultants, economic development and business services departments, travel conferences, legal fees, or any expenditure not directly related to the administration of the agreement. The community college will provide a detailed quarterly report to the department identifying how the administrative fee is being allocated for each agreement. Training costs incurred prior to the date of the preliminary agreement are not reimbursable.

**62.4(6)** *Cost standards.* The standard vocational preparation guide, as provided in the Dictionary of Occupational Titles for determining classification of jobs and the length of allowable training periods, may be used by a community college in estimating the cost of on-the-job training. Where these standards are not appropriate, reasonable time periods for on-the-job training will be based on the standard vocational preparation guide for similar classifications. Reimbursement of a new employee's wages for on-the-job training will not exceed 50 percent of the new employee's annual gross payroll costs. The maximum project total for on-the-job training will not exceed 50 percent of the total available training proceeds.

**62.4(7)** *Administrative fee.* The community colleges may be reimbursed a 7 percent administrative fee. This fee shall only be used to fund administrative expenses directly related to the administration of the program. The community colleges will annually submit a detailed report identifying how the administrative fee was spent.

**62.4(8)** *Equipment.* Equipment required for training will be an allowable provision in a training project as described in Iowa Code chapter 260E. The cost of equipment used in training will be prorated to the project in that proportion chargeable to the training program, and the remainder of the cost of such equipment will be the responsibility of the employer. Proceeds of the certificates will not be used directly or indirectly to finance land, facilities or depreciable property to be owned by the employer or other private person.

**62.4(9)** *Repayment duration.* For an agreement entered into on or before June 30, 2026, payment of program costs shall not be deferred for a period longer than ten years from the date of commencement of the project and the agreed-upon period shall not be extended. For an agreement entered into on or after July 1, 2026, payment of program costs shall not be deferred for a period longer than seven years from the date of commencement of the project.

**871—62.5(15,260E) Resolution on incremental property tax.**

**62.5(1)** A copy of the resolution by the board of directors of the community college, as described in Iowa Code section 260E.4, will be forwarded to the county auditor(s) affected by it within the merged area.

**62.5(2)** A community college board of directors anticipating the use of the incremental property tax as a source of funding for an eligible training program is referred to in Iowa Code sections 403.19 and 403.21 and will follow procedures as described therein as provided in Iowa Code section 260E.4.

**871—62.6(15,260E) New jobs withholding credit.**

**62.6(1)** *Notification of payments and claims for credit.* Withholding credit for payments to community colleges will be claimed by an employer on the semimonthly, monthly, or quarterly deposit forms during the calendar quarter in which payment is made to a community college. No credit may be claimed until the payment has been made to a community college. The community college will notify the department of revenue by making applicable entries in the 260E Data System within 30 days following the end of a calendar quarter of payments covering withholding credits that have been received for the quarter. If a credit is claimed by an employer and payment is not made to the community college, the amount of credit will be considered to be a delinquent withholding liability and will be subject to assessment of tax, penalty, and interest according to the provisions of Iowa Code section 422.16(10).

**62.6(2)** *Notification of termination of credit.* Community colleges will notify in writing the department of revenue and the department within 30 days when it is determined that payments for job training withholding credits will no longer be applied against the costs of a project. At project completion, any excess payments for job training withholding credits received by the community college will be forwarded to the department of revenue.

**871—62.7(15,260E) Notice of intent to issue certificates.** The notice of intent to issue certificates as provided in Iowa Code section 260E.6(5) will be published by the community college in a legal newspaper in the merged area. The application for an allocation of Iowa industrial new jobs training certificates should be submitted to the department, in the format determined by the department and by an official of the community college or by an attorney or agent of the community college, prior to the issuance of certificates for that portion of the issuance that is tax-exempt. Notice of issuance of certificates should be filed with the department within ten days of the issuance and delivery of certificates.

**871—62.8(15,260E) Standby property tax levy.** A standby property tax levy may be collected at any time other funds are insufficient as provided in Iowa Code section 260E.6(4). The county auditor will be notified by the community college board of directors on an annual basis to adjust the annual standby tax.

**871—62.9(15,260E) Reporting.** An annual report will be completed by the community college on or before September 15. The format and content will be determined by the department. The report will include training dollar expenditures and names of the providers of the training conducted, the number of pledged new job employees filled, provided program services under the project, the median wage of employees in the new jobs in the project, and the administrative costs directly attributable to the project.

**871—62.10(15,260E) Monitoring.**

**62.10(1)** *Monitoring system.* Each community college will establish a monitoring system that includes at a minimum a review of the business's compliance with the Act, these rules and the training agreement.

**62.10(2)** *Annual review.* Monitoring will be conducted by the community colleges at least annually.

**62.10(3)** *Documentation.* Each community college will document its monitoring efforts and promptly notify the department, on the forms provided, whenever it identifies an event of default.

**871—62.11(15,260E) State administration.** The community colleges will submit 1 percent of the gross sale of certificates within 30 days of receipt of proceeds from a sale of certificates to the department to defray administrative costs.

**871—62.12(15,260E) Coordination with communities.** The community colleges will follow the provisions of Iowa Code section 403.21.

**871—62.13(15,76GA,SF2351) Supplemental 1.5 percent withholding.** For the purposes of determining new jobs training programs established under Iowa Code section 260J.1 eligible to receive a supplemental new jobs credit of 1.5 percent of gross wages from withholding, the following criteria will be met:

**62.13(1)** Only those new jobs training programs established by a 260E final agreement, approved by the community college board of directors after June 30, 1996, and including a provision for a supplemental new jobs credit from withholding from jobs created under the agreement are eligible for the supplemental credit.

**62.13(2)** The department will make available to the community colleges the applicable laborshed wages at the beginning of each state fiscal year for use in determining supplemental withholding credit eligibility for that fiscal year.

**62.13(3)** For the purposes of determining eligibility for the supplemental credit, starting wages for a new job will be determined on a one-time basis by the community college as follows:

*a.* The employer will agree, as a part of the final agreement, to pay starting wages that are equal to or greater than the laborshed wages.

*b.* Only those individual jobs for which the starting wage is equal to or greater than the laborshed wages are eligible for the supplemental new jobs credit from withholding.

*c.* For purposes of comparing starting wages to the laborshed wages, the community college will reduce the annual gross wages to be paid for the job to an hourly wage based upon a 40-hour workweek.

*d.* Such determination by the community college will be conclusive and the individual job will thereafter be eligible and may be used for the supplemental credit from withholding to fund the supplemental project under the agreement.

*e.* Future annual changes in laborshed wages will not affect the eligibility of those jobs that have been determined by the community college to be eligible at the time of final agreement for a project.

**62.13(4)** The community college may require the employer to supply appropriate payroll records and projections to verify eligibility of the supplemental credit.

This rule is intended to implement the provisions of 1996 Iowa Acts, Senate File 2351, section 8, effective July 1, 1996, and does not affect agreements that do not contain a provision for a supplemental new jobs credit from withholding.

**871—62.14(15,260E) Bond issue.** A bond issued to a community college for a project shall not exceed 70 percent of total program costs related to training expenses, and the total program costs must be established prior to the issuance of the bond to ensure an accurate 30/70 split. Any subsequent adjustments to the total program costs must include a corresponding reduction or expansion of the ratio of 30 to 70 percent.

**871—62.15(15,260E) Bond interest.** A community college that receives a new jobs credit from withholding under Iowa Code section 260E.5 shall annually report a detailed accounting of the community college's bond interest to the department of workforce development, the department of education, and the department of revenue. This includes interest earned on unexpended bond proceeds. Interest accrued by unused bonds may only be used consistent with and directly related to the 260E program and for no other purpose.

**871—62.16(15,260E) Revenue diversion.** Gross wages that are diverted from the general fund and paid to the community college can only be used to retire bond debt and cannot be diverted to pay for any other program or purpose including, for example, held funds at the community college or business as a training fund for the business.

**871—62.17(15,260E) Limits on use of other funds.** Businesses that receive training funds through the major economic growth attraction program in Iowa Code chapter 15, subchapter 2, part 32, and the business incentive for growth program outlined in Iowa Code chapter 15, subchapter 2, part 33, are not eligible to receive assistance from the Iowa industrial new jobs training program.

These rules are intended to implement Iowa Code chapter 260E and chapter 403 as it relates to chapter 260E.

# ARC 0477D

## ENVIRONMENTAL PROTECTION COMMISSION[567]

**Notice of Intended Action**

**Proposing rulemaking related to air emissions and providing an opportunity for public comment**

The Environmental Protection Commission (Commission) hereby proposes to amend Chapter 21, “Compliance, Excess Emissions, and Measurement of Emissions,” Chapter 22, “Controlling Air Pollution,” Chapter 23, “Air Emission Standards,” Chapter 24, “Operating Permits,” Chapter 27, “Certificate of Acceptance,” and Chapter 33, “Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD),” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 455B.133, 455B.134 and 455B.145.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 455B.133, 455B.134 and 455B.145 and 42 U.S.C. §7401 et seq.

*Purpose and Summary*

The Commission proposes to amend Chapters 21 through 24, 27, and 33 as follows:

Item 1 amends rule 567—21.1(455B) to add a definition of “variance” that is currently present in Chapter 22. The definition is proposed to be moved from Chapter 22 to Chapter 21 because the variance requirements are set forth in Chapter 21.

Item 2 amends subrule 21.10(9) to adopt by reference a voluntary alternative option to the Method 9 test method, which is the federal test method for measuring visible emissions (also known as opacity). The amendment also adopts by reference other voluntary alternative test methods and modifications published in 40 Code of Federal Regulations (CFR) Parts 60 and 63 on January 25, 2024.

Item 3 amends rule 567—21.13(455B) to adopt by reference the alternative testing provisions for Method 9 as proposed in Item 2.

Item 4 amends rule 567—22.1(455B) to update the definition of “standard metropolitan statistical area” (SMSA) to adopt by reference the changes in 40 CFR Section 58.1, which include changing the defined term to “metropolitan statistical area” (MSA).

Item 5 rescinds the definition of “variance” in rule 567—22.1(455B). As proposed in Item 1, this definition will be moved to rule 567—21.1(455B).

Item 6 amends paragraph 22.1(2)“s” to include a definition of “educational institution” regarding the construction permitting exemption for equipment used for academic purposes located at educational institutions. The amendment does not change the definition but instead proposes to remove a reference to a repealed Iowa Code section that previously defined the term.

Item 7 amends subparagraph 22.10(3)“d”(5) to correct an outdated cross-reference.

Item 8 amends paragraph 22.10(4)“c” to correct an outdated cross-reference.

Item 9 amends the introductory paragraph of subrule 23.1(2), New Source Performance Standards (NSPS), to adopt by reference the alternative test methods in 40 CFR Part 60 as proposed in Items 2 and 3.

Item 10 removes the word “Federal” from the title of the NSPS table in subrule 23.1(2).

Item 11 amends paragraph “hh” of the NSPS table to propose adoption by reference of changes that the Environmental Protection Agency (EPA) made to the NSPS (Subpart KK) for lead acid battery manufacturing plants, as published in the CFR on February 23, 2023.

Item 12 amends paragraph "rrr" of the NSPS table to adopt by reference changes that EPA made to the NSPS (Subpart WWW) for municipal solid waste landfills (MSW landfills). The changes include amendments published after April 10, 2000, and through March 26, 2020. Those amendments were not adopted previously due to litigation. The litigation has since been resolved, and the Commission is now proposing to adopt those amendments by reference.

Item 13 proposes new paragraph "xxx" in the NSPS table to adopt by reference NSPS (Subpart XXX) for MSW landfills, which applies to MSW landfills constructed or expanded after July 17, 2014. The adoption includes the original Subpart XXX, which was published in the CFR on August 29, 2016, and subsequent amendments published through February 14, 2022. As with the amendments to Subpart WWW, Subpart XXX was not adopted previously due to litigation. The litigation has since been resolved, and the Commission is now proposing to adopt Subpart XXX by reference.

Item 14 proposes new paragraph "dddd" in the NSPS table to adopt by reference the NSPS (Subpart KKa) for new, modified, or reconstructed lead acid battery manufacturing plants. Subpart KKa applies to affected facilities for which construction, modification, or reconstruction occurred after February 23, 2022.

Item 15 amends subrule 23.1(3) to propose several changes. The amendment includes reformatting the adoption of the federal Asbestos National Emissions Standards for Hazardous Air Pollutants (NESHAP), as adopted by reference from 40 CFR Part 61, Subpart M, so that it is removed from and precedes the Federal Emissions Standards for Hazardous Air Pollutants table. The proposed amendment also restores explanatory text for the Asbestos NESHAP that was inadvertently removed in a previous rulemaking.

Projects subject to the Asbestos NESHAP commonly include commercial, industrial, and institutional buildings or bridges undergoing renovation or demolition. The requirements in the Asbestos NESHAP have not changed. However, the Commission is proposing to require electronic submittal of the NESHAP notification of building renovation and demolition, to become effective on January 1, 2027.

The Department's online Asbestos Notification System has been available since 2017. Since the online system's inception, it has included tutorials and other resources to assist facilities with submitting their notifications. Additionally, the Department has contracted with the Iowa Waste Reduction Center's (IWRC's) Iowa Air Emissions Assistance Program administered by the University of Northern Iowa to provide small businesses free, confidential, and non-regulatory assistance with submitting electronic notifications. Applicants can continue to contact the Department for assistance, as well. The Department and the IWRC plan to provide additional outreach to notify and assist affected parties with using the online notification system.

Currently, slightly more than half of the roughly 2,000 renovation and demolition notifications submitted annually are submitted through the online system. Transitioning to complete electronic submittal will provide a resource savings to the Department once staff are no longer entering information into the online system from the approximately 1,000 paper notifications submitted annually.

Item 15 also amends the title of the NESHAP table in subrule 23.1(3) to replace the word "Federal" with "National."

Item 16 amends the introductory paragraph of subrule 23.1(4) to adopt by reference the alternative test methods in 40 CFR Part 63 as proposed in Items 2 and 3. Adopting the January 25, 2024, amendment date includes adoption of amendments to NESHAP Subpart QQQQ for surface coating of wood building products, as amended through March 8, 2023. No changes to paragraph 23.1(4)"cq" are necessary to adopt these amendments.

Item 17 amends the title of the table in subrule 23.1(4) to replace the word "Federal" with "National."

Item 18 amends paragraph "ca" of the NESHAP table to adopt by reference amendments to Subpart AAAA for MSW landfills that were published through February 14, 2022. Due to the affiliation of Subpart AAAA with the requirements in NSPS Subparts WWW and XXX and the aforementioned litigation, the Commission did not previously adopt the amendments but is now proposing to do so.

Item 19 amends paragraph "ep" of the NESHAP table to adopt federal amendments to Subpart PPPPPP for lead acid battery manufacturing. The proposed adoption includes federal amendments published after November 19, 2020, and through February 23, 2023. The Commission did not adopt previous amendments due to litigation. The litigation has been resolved, and the Commission is now proposing to adopt those amendments by reference.

Item 20 amends paragraph "ev" of the NESHAP table to correct the name of the affected source category because part of its name is currently not included.

Item 21 adopts new paragraph "fa" in the NESHAP table to adopt by reference the NESHAP (Subpart AAAAAAA) for asphalt processing and asphalt roof manufacturing as originally promulgated on December 2, 2009, and as amended through March 20, 2023. The Commission did not previously adopt Subpart AAAAAAA because there were no affected facilities in Iowa. However, a new affected facility was recently identified when the facility applied for an air construction permit.

Item 22 amends the introductory paragraph of subrule 23.1(5) to update adoption of federal emission guidelines for existing sources.

Item 23 updates adoption of the federal emission guidelines for existing MSW landfills by proposing to rescind and replace paragraph 23.1(5)"a." New paragraph 23.1(5)"a" adopts by reference 40 CFR Part 62, Subpart OOO, the federal standards for MSW landfills that commenced construction on or before July 17, 2014, and have not been modified or reconstructed since that date.

Item 24 amends subrule 23.2(3) to propose updates to the exemptions for open burning. The proposed amendment corrects outdated cross-references. The amendment also updates the asbestos notification requirements for training fires and controlled burning of a demolished building to propose that the required Asbestos NESHAP notifications be submitted electronically effective January 1, 2027, and as described in Item 15.

Item 25 amends paragraph 23.3(2)"b" to update references to "standard metropolitan statistical area" to reflect the current terminology, "metropolitan statistical area," as proposed in Item 4. The amendment also corrects an outdated cross-reference.

Item 26 amends paragraph 23.5(2)"d" to correct an outdated cross-reference.

Item 27 amends paragraph 27.3(4)"b" to remove outdated and unnecessary provisions related to penalties for noncompliance.

Item 28 amends subrule 33.3(1) to update the definition of "subject to regulation" for purposes of the Prevention of Significant Deterioration (PSD) rules. The proposed amendment adopts by reference updates that EPA made to federal regulations in 40 CFR Part 98 related to greenhouse gas emissions.

Item 29 amends subrule 33.3(2) to adopt by reference updates that EPA made to the Guideline on Air Quality Models, as published on November 29, 2024, in 40 CFR Part 51, Appendix W.

Item 30 amends paragraph 33.3(18)"g" to correct an outdated cross-reference.

*Regulatory Analysis*

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on March 18, 2026. A public hearing was held on the following date(s):

- April 8, 2026

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 7—Chapter 2504.

*Public Comment*

Any interested person may submit written comments concerning this Notice of Intended Action, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Jessica Reese McIntyre
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: jessica.reesemcintyre@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at jessica.reesemcintyre@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al jessica.reesemcintyre@dnr.iowa.gov.

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 21, 2026<br>1 to 2 p.m. | Via Zoom<br>Register to attend the public hearing at:<br>us02web.zoom.us/j/84241760397 |

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing impairments, should contact the Commission and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at kelli.book@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.326.0430 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al kelli.book@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.326.0430 al menos siete días antes del evento.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** definition of "Variance" in rule **567—21.1(455B)**:

*"Variance"* means a temporary waiver from rules or standards governing the quality, nature, duration, or extent of emissions granted by the commission for a specified period of time.

ITEM 2. Amend subrule 21.10(9) as follows:

**21.10(9)** *Methods and procedures.* Stack sampling and associated analytical methods used to evaluate compliance with emission limitations of 567—Chapter 23 or a permit condition are as follows:

*a. Performance test (stack test).* A stack test shall be conducted according to the U.S. Environmental Protection Agency (EPA) reference methods as specified in 40 CFR 51, Appendix M (as amended or corrected through March 29, 2023); 40 CFR 60, Appendix A (as amended or corrected through ~~March 29, 2023~~ January 25, 2024); 40 CFR 61, Appendix B (as amended or corrected through October 7, 2020); and 40 CFR 63, Appendix A (as amended or corrected through ~~March 29, 2023~~ January 25, 2024). Each test shall consist of at least three separate one-hour test runs. Unless otherwise specified by the department, EPA method, or regulation, compliance shall be assessed on the basis of the arithmetic mean of the emissions measured in the three test runs. The owner of the equipment or the owner's authorized agent may use an alternative methodology if the methodology is approved by the department in writing before testing.

*b.* and *c.* No change.

ITEM 3. Amend rule 567—21.13(455B) as follows:

**567—21.13(455B) Methodology and qualified observer.** The federal method for visual determination of opacity of emissions and requirements for qualified observers as defined in 40 CFR Part 60, Appendix A, Method 9, as amended through ~~November 14, 1990~~ January 25, 2024, is adopted by reference.

To qualify as an observer, a candidate must, after meeting the requirements established in 40 CFR Part 60, Appendix A, Method 9, have on record with the department a minimum of 250 readings of black plumes and 250 readings of white plumes, taken at approved smoke reading courses.

ITEM 4. Amend rule **567—22.1(455B)**, definition of "Standard metropolitan statistical area," as follows:

*"~~Standard metropolitan~~ Metropolitan statistical area"* or *"~~SMSA~~ MSA"* means ~~an area that has at least one city with a population of at least 50,000 and such surrounding areas as geographically defined by the U.S. Office of Management and Budget (Department of Commerce)~~ any area included in the definition of "metropolitan statistical area" in 40 CFR Section 58.1 as amended through March 6, 2024.

ITEM 5. Rescind the definition of "Variance" in rule **567—22.1(455B)**.

ITEM 6. Amend paragraph **22.1(2)"s"** as follows:

*s.* Equipment that is not related to the production of goods or services and used exclusively for academic purposes, located at educational institutions ~~(as defined in Iowa Code section 455B.161)~~. For purposes of this exemption, "educational institution" shall mean a building in which an organized course of study or training is offered to students enrolled in kindergarten through grade 12 and served by local school districts, accredited or approved nonpublic schools, area education agencies, community colleges, institutions of higher education under the control of the state board of regents, and accredited independent colleges and universities. The equipment covered under this exemption is limited to lab hoods, art class equipment, wood shop equipment in classrooms, wood fired pottery kilns, and fuel-burning units with a capacity of less than 1 million Btu per hour fuel capacity. This exemption does not apply to incinerators.

ITEM 7. Amend subparagraph **22.10(3)"d"(5)** as follows:

(5) Operating permits. The owner or operator of a Group 4 facility shall apply for an operating permit for the facility if the facility's annual PTE for $PM_{10}$ is equal to or greater than 100 tons per year as specified in 567—24.100(455B) through 567—24.300(455B). The owner or operator of a Group 4 facility that is a grain terminal elevator shall include fugitive emissions in the calculations to determine if the PTE for $PM_{10}$ is greater than or equal to 100 tons per year. The owner or operator also shall submit annual emissions inventories and fees, as specified in ~~567—22.106(455B)~~ 567—24.106(455B).

ITEM 8. Amend paragraph **22.10(4)"c"** as follows:

*c.* *Operating permits.* The owner or operator shall sum the PTE of the feed mill equipment with the PTE of the equipment at the country grain elevator, country grain terminal elevator or grain terminal elevator, as PTE is specified in 22.10(2), to determine if operating permit requirements specified in 567—24.100(455B) through 567—24.300(455B) apply to the stationary source. If the operating permit requirements apply, then the owner or operator shall apply for an operating permit as specified in 567—24.100(455B) through 567—24.300(455B). The owner or operator also shall begin submitting annual emissions inventories and fees, as specified under ~~567—22.106(455B)~~ 567—24.106(455B).

ITEM 9. Amend subrule 23.1(2), introductory paragraph, as follows:

**23.1(2)** *New source performance standards.* The federal standards of performance for new stationary sources, as defined in 40 Code of Federal Regulations Part 60 as amended or corrected through ~~June 28, 2023~~ January 25, 2024, are adopted by reference, except §60.530 through §60.539b (Part 60, Subpart AAA), and shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is provided in the table below. A different date for adoption by reference may be included with the subpart designation in the table. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

ITEM 10. Amend subrule **23.1(2)**, title of Federal New Source Performance Standards table (NSPS table), as follows:

**~~Federal~~ New Source Performance Standards (NSPS) Adopted by Reference in 23.1(2)**

ITEM 11. Amend subrule **23.1(2)**, NSPS table paragraph "hh," as follows:

| | | | |
|---|---|---|---|
| hh | Lead-acid battery manufacturing plants | KK | ~~February 27, 2014~~ N/A |

ITEM 12. Amend subrule **23.1(2)**, NSPS table paragraph "rrr," as follows:

| | | | |
|---|---|---|---|
| rrr | Municipal solid waste landfills, as defined by 40 CFR 60.751 | WWW | ~~April 10, 2000~~ N/A |

ITEM 13. Adopt the following **new** paragraph "xxx" in subrule **23.1(2)**, NSPS table:

| | | | |
|---|---|---|---|
| xxx | Municipal solid waste landfills, as defined by 40 CFR 60.761 | XXX | N/A |

ITEM 14. Adopt the following **new** paragraph "dddd" in subrule **23.1(2)**, NSPS table:

| | | | |
|---|---|---|---|
| dddd | Lead acid battery manufacturing plants for which construction, modification or reconstruction commenced after February 23, 2022 | KKa | N/A |

ITEM 15. Amend subrule 23.1(3) as follows:

**23.1(3)** *Emission standards for hazardous air pollutants.* The federal standards for emissions of hazardous air pollutants, 40 Code of Federal Regulations Part 61 as amended or corrected through October 7, 2020, and 40 CFR Part 503 as adopted on August 4, 1999, are adopted by reference, except 40 CFR §61.20 to §61.26, §61.90 to §61.97, §61.100 to §61.108, §61.120 to §61.127, §61.190 to §61.193, §61.200 to §61.205, §61.220 to §61.225, and §61.250 to §61.256, and shall apply to the following affected pollutants and facilities and activities listed below. The corresponding 40 CFR Part 61 subpart designation is provided in the table below~~.~~, with the exception of 23.1(3)*"a."* A different date for adoption by reference may be included with the subpart designation in the table. Reference test methods (Appendix B), compliance status information requirements (Appendix A), quality assurance procedures (Appendix C) and the general provisions (Subpart A) of Part 61 also apply to the affected activities or facilities.

*a. Asbestos.* Any of the following involves asbestos emissions: asbestos mills, surfacing of roadways, manufacturing operations, fabricating, insulating, waste disposal, spraying applications and demolition and renovation operations (Subpart M). Any person subject to notification requirements under this rule shall submit a complete and timely notification. Until December 31, 2026, paper notification shall be postmarked or delivered to the department on the form provided by the department or may instead be provided through the electronic submittal method specified by the department. On or after January 1, 2027, notification shall be made through the electronic submittal method specified by the department. Any person subject to notification requirements under this rule shall submit fees as required in 567—Chapter 30.

**~~Federal~~ National Emission Standards for Hazardous Air Pollutants (NESHAP) Adopted by Reference in 23.1(3)**

| 23.1(3) paragraph | Affected source category | 40 CFR Part 61 Subpart Adopted | Date of adoption (if different than 23.1(3) introductory paragraph) or note if standard is not adopted |
|---|---|---|---|
| ~~a~~ | ~~Asbestos~~ | ~~M~~ | ~~N/A~~ |
| b | Beryllium | C | Not adopted. No facilities in Iowa. Paragraph reserved. |
| c | Beryllium rocket motor firing | D | Not adopted. No facilities in Iowa. Paragraph reserved. |
| d | Mercury | E | N/A |
| e | Vinyl chloride | F | N/A |
| f | Equipment leaks of benzene (fugitive emission sources) | J | N/A |
| g | Equipment leaks of volatile hazardous air pollutants (fugitive emission sources) | V | N/A |
| h | Inorganic arsenic emissions from arsenic trioxide and metallic arsenic production facilities | P | Not adopted. No facilities in Iowa. Paragraph reserved. |
| i | Inorganic arsenic emissions from glass manufacturing plants | N | N/A |
| j | Inorganic arsenic emissions from primary copper smelters | O | Not adopted. No facilities in Iowa. Paragraph reserved. |
| k | Benzene emissions from coke by-product recovery plants | L | N/A |
| l | Benzene emissions from benzene storage vessels | Y | N/A |
| m | Benzene emissions from benzene transfer operations | BB | N/A |
| n | Benzene waste operations | FF | N/A |

*b.* Reserved.

ITEM 16. Amend subrule 23.1(4), introductory paragraph, as follows:

**23.1(4)** *Emission standards for hazardous air pollutants for source categories.* The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended or corrected through ~~March 29, 2023~~ January 25, 2024, are adopted by reference, except those provisions that cannot be delegated to the states. The corresponding 40 CFR Part 63 subpart designation is provided in the table below. A different date for adoption by reference may be included with the subpart designation in the table. 40 CFR Part 63, Subpart B, incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility. Test methods (Appendix A), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded (Fbio) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities.

ITEM 17. Amend subrule **23.1(4)**, title of the Federal Emission Standards for Hazardous Air Pollutants for Source Categories table (NESHAP table), as follows:

**~~Federal~~ National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories Adopted by Reference in 23.1(4)**

ITEM 18. Amend subrule **23.1(4)**, NESHAP table paragraph "ca," as follows:

| | | | |
|---|---|---|---|
| ca | Emission standards for hazardous air pollutants: municipal solid waste landfills | AAAA | ~~April 20, 2006~~ N/A |

ITEM 19. Amend subrule **23.1(4)**, NESHAP table paragraph "ep," as follows:

| | | | |
|---|---|---|---|
| ep | Emission standards for hazardous air pollutants for area sources: lead acid battery manufacturing ~~area sources~~ | PPPPPP | ~~November 19, 2020~~ N/A |

ITEM 20. Amend subrule **23.1(4)**, NESHAP table paragraph "ev," as follows:

| | | | |
|---|---|---|---|
| ev | Emission standards for hazardous air pollutants for area sources: chemical manufacturing | VVVVVV | N/A |

ITEM 21. Adopt the following **new** paragraph "fa" in subrule **23.1(4)**, NESHAP table:

| | | | |
|---|---|---|---|
| fa | Emission standards for hazardous air pollutants for area sources: asphalt processing and asphalt roofing manufacturing | AAAAAAA | N/A |

ITEM 22. Amend subrule 23.1(5), introductory paragraph, as follows:

**23.1(5)** *Emission guidelines.* The emission guidelines and compliance times for existing sources, as defined in 40 Code of Federal Regulations Part 60 as amended through ~~March 21, 2011~~ the dates noted in the paragraphs below, shall apply to the following affected facilities. ~~The corresponding 40 CFR Part 60 subpart designation is in parentheses. A different CFR reference and date for adoption by reference may be included with the subpart designation indicated in the paragraphs of this subrule.~~ The control of the designated pollutants will be in accordance with federal standards established in Sections 111 and 129 of the Act and 40 CFR Part 60, Subpart B (Adoption and Submittal of State Plans for Designated Facilities), and the applicable subpart(s) for the existing source. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60, as adopted by reference in 23.1(2), also apply to the affected facilities.

ITEM 23. Rescind paragraph **23.1(5)"a"** and adopt the following **new** paragraph in lieu thereof:

*a. Emission guidelines and compliance times for the control of designated pollutants from certain designated municipal solid waste (MSW) landfills (40 CFR Part 62, Subpart OOO).* Emission guidelines and compliance times for municipal solid waste landfills that commenced construction on or before July 17, 2014, and have not been modified or reconstructed since July 17, 2014, shall be in accordance with federal standards established in Subpart OOO of 40 CFR Part 62 as amended through February 14, 2022.

ITEM 24. Amend subrule 23.2(3) as follows:

**23.2(3)** *Exemptions.* The open burning exemptions specified in this subrule do not provide exemptions from any other applicable environmental regulations. In particular, the exemptions contained in this subrule do not absolve any person from compliance with the rules for solid waste disposal, including ash disposal, and solid waste permitting contained in 567—Chapters 100 through ~~130~~ 109 or the rules for storm water runoff and storm water permitting contained in ~~567—Chapters 60 and 64~~ 567—Chapter 60. The following exemptions apply unless prohibited by local ordinances or regulations, except that the exemptions for open burning of trees and tree trimming (23.2(3)*"b"*), landscape waste (23.2(3)*"d"*), residential waste (23.2(3)*"f"*), agricultural structures (23.2(3)*"i"*), and demolished buildings (23.2(3)*"j"*) are unavailable within the cities of Cedar Rapids, Marion, Hiawatha, Council Bluffs, Carter Lake, Des Moines, West Des Moines, Clive, Windsor Heights, Urbandale, and Pleasant Hill.

*a.* *Disaster rubbish.* The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists. Burning of any structures or demolished structures shall be conducted in accordance with 40 CFR Section 61.145 as amended through January 16, 1991, which is the "Standard for Demolition and Renovation" of the asbestos National Emission Standard for Hazardous Air Pollutants (asbestos NESHAP).

*b.* to *f.* No change.

*g.* *Training fires.* For purposes of 23.2(3), a "training fire" is a fire set for the purposes of conducting bona fide training of public or industrial employees in firefighting methods. For purposes of this paragraph, "bona fide training" means training that is conducted according to the National Fire Protection Association 1403 Standard on Live Fire Training Evolutions (2002 Edition) or a comparable training fire standard. A training fire may be conducted, provided that all of the following conditions are met:

(1) A training fire on a building is conducted with the building structurally intact.

(2) The training fire does not include the controlled burn of a demolished building.

(3) If the training fire is to be conducted on a building, ~~written~~ notification is provided to the department ~~on DNR Form 542-8010, Notification of an Iowa Training Fire-Demolition or a Controlled Burn of a Demolished Building, and is postmarked or delivered to the director~~ as specified in 23.2(3)*"g"*(4) at least ten working days before such action commences.

(4) ~~Notification~~ Timely and complete notification shall be made in accordance with ~~40 CFR Section 61.145, "Standard for Demolition and Renovation" of the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP) as amended through January 16, 1991.~~ the asbestos NESHAP. Until December 31, 2026, paper notification shall be postmarked or delivered to the department on the form provided by the department or may instead be provided through the electronic submittal method specified by the department. On or after January 1, 2027, notification shall be made through the electronic submittal method specified by the department.

(5) All asbestos-containing materials shall be removed prior to the training fire.

(6) Asphalt roofing may be burned in the training fire only if notification to the director contains testing results indicating that none of the layers of asphalt roofing contain asbestos. During each calendar year, each fire department may conduct no more than two training fires on buildings where asphalt roofing has not been removed, provided that for each of those training fires, the asphalt roofing material present has been tested to ensure that it does not contain asbestos. Each fire department's limit on the burning of asphalt roofing shall include both training fires and the controlled burning of a demolished building, as specified in 23.2(3)*"j."*

(7) Rubber tires shall not be burned during a training fire.

*h.* and *i.* No change.

*j.* *Controlled burning of a demolished building.* A city, as "city" is defined in Iowa Code section 362.2(4), with approval of its council, as "council" is defined in Iowa Code section 362.2(8), may conduct a controlled burn of a demolished building. A city is the only party that may conduct such a burn and is responsible for ensuring that all of the following conditions are met:

(1) Prohibition. The controlled burning of a demolished building is prohibited within the city limits of Cedar Rapids, Marion, Hiawatha, Council Bluffs, Carter Lake, Des Moines, West Des Moines, Clive, Windsor Heights, Urbandale, Pleasant Hill, Buffalo, Davenport, Mason City, or any other area where area-specific state implementation plans require the control of particulate matter.

(2) Notification requirements. For each building proposed to be burned, the city fire department or a city official, on behalf of the city, shall submit to the department a completed notification postmarked at least 10 working days prior to commencing demolition and at least 30 days before the proposed controlled burn commences. Timely and complete notification shall be made in accordance with the asbestos NESHAP. Until December 31, 2026, paper notification shall be postmarked or delivered to the department on the form provided by the department or may instead be provided through the electronic submittal method specified by the department. On or after January 1, 2027, notification shall be made through the electronic submittal method specified by the department. Documentation of city council approval shall be submitted with the notification. Information required to be provided shall include the exact location of the burn site; the approximate distance to the nearest neighboring residence or business; the method used by the city to notify nearby residents of the proposed burn; an explanation of why alternative methods of demolition debris management are not being used; and information required by ~~40 CFR Section 61.145, "Standard for Demolition and Renovation" of the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP), as amended through January 16, 1991. Notification shall be provided on DNR Form 542-8010, Notification of an Iowa Training Fire-Demolition or a Controlled Burn of a Demolished Building~~ the asbestos NESHAP. For burns conducted outside the city limits, the city shall send to the chairperson of the applicable county board a copy of the completed ~~DNR~~ notification ~~Form 542-8010~~ and documentation of city council approval. Notification to the county board shall be postmarked, faxed or sent by email at least 30 days before the proposed controlled burn commences.

(3) to (11) No change.

(12) Compliance with other applicable environmental regulations. Compliance with the exemption requirements in this paragraph shall not absolve a city of the responsibility to comply with any other applicable environmental regulations. In particular, a city conducting a controlled burn of a demolished building shall comply with all applicable solid waste disposal, including ash disposal, and solid waste permitting rules contained in 567—Chapters 100 through ~~130~~ 109, as well as all applicable storm water discharge and storm water permitting rules contained in ~~567—Chapters 60 and 64~~ 567—Chapter 60.

ITEM 25. Amend paragraph **23.3(2)"b"** as follows:

*b. Combustion for indirect heating.* Emissions of particulate matter from the combustion of fuel for indirect heating or for power generation shall be limited by the ASME Standard APS-1, Second Edition, November 1968, "Recommended Guide for the Control of Dust Emission—Combustion for Indirect Heat Exchangers." For the purpose of this paragraph, the allowable emissions shall be calculated from equation (15) in that standard, with Comax2=50 micrograms per cubic meter. The maximum ground level dust concentrations designated are above the background level. For plants with 4,000 million Btu/hour input or more, the "a" factor shall be 1.0. In plants with less than 4,000 million Btu/hour input, appropriate "a" factors, less than 1.0, shall be applied. Pertinent correction factors, as specified in the standard, shall be applied for installations with multiple stacks. However, for fuel-burning units in operation on January 13, 1976, the maximum allowable emissions calculated under APS-1 for the facility's equipment configuration on January 13, 1976, shall not be increased even if the changes in the equipment or stack configuration would otherwise allow a recalculation and a higher maximum allowable emission under APS-1.

(1) Outside any ~~standard~~ metropolitan statistical area, the maximum allowable emissions from each stack, irrespective of stack height, shall be 0.8 pounds of particulates per million Btu input.

(2) Inside any ~~standard~~ metropolitan statistical area, the maximum allowable emission from each stack, irrespective of stack height, shall be 0.6 pounds of particulates per million Btu input.

(3) No change.

(4) Measurements of emissions from a particulate source will be made in accordance with the provisions of ~~567—Chapter 25~~ 567—Chapter 21.

(5) No change.

ITEM 26. Amend paragraph **23.5(2)"d"** as follows:

*d.* Compliance with the requirements of 23.5(2) shall not constitute an exemption from compliance with any other applicable environmental regulations. In particular, compliance with these requirements shall not absolve any person from compliance with the requirements set forth in ~~567—Chapter 64~~ 567—Chapter 60 that are applicable to industrial anaerobic lagoons.

ITEM 27. Amend paragraph **27.3(4)"b"** as follows:

*b. Penalties.* The penalties specified in such ordinance or regulations shall include fines~~,~~ and injunctive relief ~~and sealing of equipment found to be not in compliance with applicable provisions of the ordinance or regulations~~.

ITEM 28. Amend subrule **33.3(1)**, definition of "Subject to regulation," as follows:

*"Subject to regulation"* means, for any air pollutant, that the pollutant is subject to either a provision in the Act, or a nationally applicable regulation codified by the Administrator and published in 40 CFR Subchapter C (Air Programs) that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity, except that:

1. Greenhouse gases (GHGs), the air pollutant defined in 40 CFR 86.1818-12(a) (as amended through September 15, 2011) as the aggregate group of six greenhouse gases that includes carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in paragraph "4," and shall not be subject to regulation if the stationary source maintains its total sourcewide emissions below the GHG PAL level, meets the requirements in 567—33.9(455B), and complies with the PAL permit containing the GHG PAL.

2. For purposes of paragraphs "3" and "4," the term "tpy $CO_2$ equivalent emissions ($CO_2e$)" shall represent an amount of GHGs emitted and shall be computed as follows:

(a) Multiply the mass amount of emissions (tpy) for each of the six greenhouse gases in the pollutant GHGs by the associated global warming potential of the gas published at 40 CFR Part 98, Subpart A, Table A-1, "Global Warming Potentials," (as amended through ~~December 24, 2014~~ April 25, 2024). For purposes of this definition, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or microorganisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

(b) No change.

3. and 4. No change.

ITEM 29. Amend subrule 33.3(2) as follows:

**33.3(2)** *Applicability.* The requirements of this rule (PSD program requirements) apply to the construction of any new "major stationary source" as defined in 33.3(1) or any project at an existing major stationary source in an area designated as attainment or unclassifiable under Section 107(d)(1)(A)(ii) or (iii) of the Act.

In addition to the provisions set forth in 567—33.3(455B) through 567—33.9(455B), the provisions of 40 CFR Part 51, Appendix W (Guideline on Air Quality Models) as amended through ~~January 17, 2017~~ November 29, 2024, are adopted by reference. Provisions set forth in 567—33.3(455B) through 567—33.9(455B) that are adopted by reference from 40 CFR 51.166 or 40 CFR 52.21 are as amended through July 19, 2021, unless otherwise noted. The following phrases contained in 40 CFR 51.166 are not adopted by reference: "it shall also provide that," "mechanism whereby," "the plan may provide that," "the plan provides that," "the plan shall provide," and "the plan shall provide that." Additionally, the term "the plan" shall mean "State Implementation Plan" or "SIP."

*a.* to *i.* No change.

ITEM 30. Amend paragraph **33.3(18)"g"** as follows:

*g.* The owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph 33.3(18)*"f"* available for review upon request for inspection by the department or the general public pursuant to the requirements for Title V operating permits contained in ~~567—subrule 22.107(6)~~ 567—subrule 24.107(6).

# ARC 0479D

# HUMAN SERVICES DEPARTMENT[441]

**Notice of Intended Action**

**Proposing rulemaking related to certification of adoption investigators and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 107, "Certification of Adoption Investigators," Iowa Administrative Code, and to adopt a new Chapter 107 with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 600 and section 234.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 600.

*Purpose and Summary*

This proposed chapter was reviewed as a part of Executive Order 10. As a result, duplicative terms were removed, restrictive terms were reduced, and the rules were streamlined and updated to reflect current practices. This proposed chapter outlines the standards and qualifications necessary to become a certified adoption investigator.

*Regulatory Analysis*

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 8, 2026. A public hearing was held on the following date(s):

- July 28, 2026

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 2504.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on September 8, 2026. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building

321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>10 to 10:30 a.m. | Microsoft Teams<br>Meeting ID: 245 818 881 867 66<br>Passcode: ya9va9uv |
| September 8, 2026<br>2 to 2:30 p.m. | Microsoft Teams<br>Meeting ID: 220 165 244 079 215<br>Passcode: kH7Py6Xi |

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 107 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 107
## CERTIFICATION OF ADOPTION INVESTIGATORS

**441—107.1(600,234) Definitions.**

*"Adoption work experience"* means supervised employment in adoption services, which includes direct provision of adoption services, developing adoption policies, conducting training related to adoption services, oversight and review of adoption documents and activities, and direct supervision of adoption workers. Only the percentage of time related to provision of adoption services shall be considered as adoption work experience when job duties involve activities other than adoption services.

*"Certified adoption investigator"* means a person authorized by the department to provide background reports on birth parents, adoption preplacement investigations, postplacement supervision, and reports to the court within the state of Iowa.

**441—107.2(600,234) Application.**

**107.2(1)** *Application form.* Application for certification as an adoption investigator shall be made on a form obtained from the department.

**107.2(2)** *Employees of licensed child-placing agencies and the department.* Persons employed as social workers in licensed child-placing agencies who meet the requirements for certification in rule 441—107.3(600,234) are eligible to apply for certification as adoption investigators unless the agency employing them objects in writing.

*a.* The applicant shall furnish a letter of approval from the agency as part of the certification process.

*b.* Persons employed as social workers for the department who meet the requirements for certification in rule 441—107.3(600,234) are eligible to apply for certification as adoption investigators for services provided outside of their current job duties unless their current job duties include any of the following:

(1) Any of the activities described in rule 441—107.7(600,234).

(2) Immediate supervision of employees engaged in activities described in rule 441—107.7(600,234).

(3) Certification of adoption investigators.

(4) Placement of children for adoption.

(5) Development of adoption policies used in administration of the adoption program.

**441—107.3(600,234) Requirements for certification.** Persons with academic qualifications and adoption work experience may be certified by the department to provide adoption preplacement investigations, postplacement supervision, and reports to the court.

**107.3(1)** *Office location.* The applicant shall retain an office in Iowa where all Iowa adoption reports and records of fees are maintained and are available for inspection.

**107.3(2)** *Education and experience.*

*a.* If the applicant was initially certified as an adoption investigator before October 1, 1991, the applicant shall have one of the following combinations of education and experience:

(1) Graduation from an accredited four-year college or university and adoption work experience equivalent to a total of three years of full-time experience.

(2) A bachelor's degree in social work from an accredited four-year college or university in a program accredited by the council on social work education and adoption work experience equivalent to a total of two years of full-time experience.

(3) A master's degree in social work from an accredited college or university in a program accredited by the council on social work education and adoption work experience equivalent to a total of one year of full-time experience.

*b.* If the applicant is initially certified as an adoption investigator on or after October 1, 1991, the applicant shall have one of the following combinations of education and experience:

(1) Graduation from an accredited four-year college or university with a bachelor's degree in social work, psychology, counseling, family therapy, family living, or other family-oriented degree and postgraduation adoption work experience equivalent to a total of three years of full-time experience.

(2) Graduate education in a master's program in social work, psychology, counseling, family therapy, family living, or other family-oriented program from an accredited four-year college or university may be substituted for required adoption work experience on the basis of 30 semester hours for one year of full-time experience, for up to two full years of the required three years of adoption work experience.

(3) A master's degree in social work, psychology, counseling, family therapy, family living, or other family-oriented degree from an accredited college or university and postgraduation adoption work experience equivalent to a total of one year of full-time experience.

**107.3(3)** *Verification of qualifications.*

*a.* The applicant shall provide a certified transcript of college credits; and

*b.* The applicant shall provide a record of all adoption work experience, including dates and location; and

*c.* The applicant shall provide the name(s) of employer(s) and supervisor(s) to enable the department to verify the applicant's adoption work experience; and

*d.* The applicant shall give names of at least two additional persons as character references who will be contacted by the certifier.

**107.3(4)** *Statement of activities and duties.* Prior to certification, the applicant shall prepare a written statement identifying the proposed activities, duties and fees of the applicant as a certified adoption investigator.

*a.* The statement shall indicate that the services described in rule 441—107.7(600,234) are being provided by the individual investigator, not a child-placing agency, and are not provided in the course of the individual investigator's employment with a child-placing agency or the department.

*b.* The activities and duties identified in the statement cannot exceed the scope of an investigator's services as defined in rule 441—107.7(600,234).

*c.* The statement shall include the fee schedule to be used in the determination of a charge for investigative services.

*d.* A copy of the statement shall be provided to the department to be maintained as a public record.

*e.* Upon request, this statement shall be provided by the investigator to persons requesting services from the investigator.

**107.3(5)** *Record checks.* The department of inspections, appeals, and licensing shall submit record checks for each new applicant and those applying for recertification to determine whether they have any founded child abuse reports, dependent adult abuse reports or convictions or have been placed on the sex offender registry.

*a.* The department of inspections, appeals, and licensing shall use the Request for Child Abuse and Dependent Adult Abuse Information form, and the Iowa Division of Criminal Investigation Criminal History Record Check Request form, for this purpose. The department will not certify the applicant with a record of founded child abuse, dependent adult abuse, a criminal conviction, or placement on the sex offender registry as an adoption investigator unless evaluation of the founded abuse or crime indicates approval for certification.

*b.* The applicant shall complete and return a Record Check Evaluation form, within ten calendar days of the date on the form, to be used by the department to assist in the evaluation. Failure of the applicant to complete and return the Record Check Evaluation form within the specified time frame will result in denial of certification.

*c.* The department will evaluate the nature and seriousness of the founded abuse or crimes, the time elapsed since the commission of the founded abuse or crimes, the circumstances under which the founded abuse or crime was committed, the degree of rehabilitation, the likelihood that the person will commit the abuse or crime again, and the number of founded abuses or crimes committed by the applicant. The department will issue a notice of decision to the applicant of the results of the evaluation. The department will issue the notice of decision even in cases when the applicant fails to complete the evaluation form.

*d.* Investigators applying for recertification are subject to the same record checks as new applicants. The department will evaluate only abuses, convictions of crimes, and placement on the sex offender registry since the last record check using the same process.

**107.3(6)** *Certification actions for nonpayment of child support.* The department will revoke or deny the issuance or renewal of a certification of an adoption investigator upon the receipt of a certificate of noncompliance from child support services. In addition to the procedures set forth in Iowa Code chapter 252J, the rules in this chapter apply.

*a.* The notice required by Iowa Code section 252J.8 will be provided to the applicant in writing.

*b.* The effective date of the revocation or denial of the certification as specified in the notice required by Iowa Code section 252J.8 will be 60 days following service of the notice upon the applicant or certified investigator.

*c.* The department is authorized to prepare and serve the notice as required by Iowa Code section 252J.8 upon the applicant or certified investigator.

*d.* Applicants and certified investigators shall keep the department informed of all court actions, and all child support services actions taken under or in connection with Iowa Code chapter 252J, and shall provide the department copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in these actions, and withdrawals of certificates of noncompliance by child support services.

*e.* An applicant or certified investigator may file an application with the district court within 30 days of service of a department notice pursuant to Iowa Code sections 252J.8 and 252J.9.

(1) The filing of the application shall stay the department action until the department receives a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed.

(2) For purposes of determining the effective date of the revocation, or denial of the issuance or renewal of a certification, the department will count the number of days before the action was filed and the number of days after the action was disposed of by the court.

*f.* The department will notify the applicant or certified investigator in writing within ten days of the effective date of the revocation of certification or the denial of the issuance or renewal of a certificate of adoption investigator and will similarly notify the applicant or certified investigator when the certificate is issued, renewed, or reinstated following the department's receipt of a withdrawal of the certificate of noncompliance.

*g.* Notwithstanding Iowa Code section 17A.18, the registrant does not have the right to a hearing regarding this issue, but may request a court hearing pursuant to Iowa Code section 252J.9.

**441—107.4(600,234) Granting, denial, or revocation of certification.**

**107.4(1)** *Granting of certification.* When all of the requirements of this chapter are met, certification will be granted.

**107.4(2)** *Denial or revocation of certification.*

*a.* Certification or recertification will be denied or revoked when one or more of the following conditions exist:

(1) The applicant does not comply with the requirements listed in subrules 107.3(1), 107.3(2), and 107.3(4) and rules 441—107.9(600,234) and 441—107.10(600,234).

(2) The applicant does not provide information required in subrule 107.3(3).

(3) The applicant has willfully or knowingly misrepresented information regarding qualifications for certification.

(4) When information about the certified investigator is received and verified by the department of inspections, appeals, and licensing, such as but not limited to failure to carry out the activities and duties as stated in this chapter, charging fees in excess of those specified in subrule 107.7(5) and breaches of confidentiality, and the effect of the investigator's actions would be detrimental to any of the parties to the adoption. Complaints involving the reasonable exercise of professional judgment in the denial or approval of a preplacement investigation are not grounds for decertification.

(5) The investigator, after being warned in writing by the licensor, provided incomplete or inadequate information or inaccurate information in required reports as described in rule 441—107.7(600,234).

(6) The applicant has a founded child abuse, dependent adult abuse or criminal record conviction unless an evaluation of the founded abuse or criminal conviction is conducted by the department of inspections, appeals, and licensing that concludes that the abuse or crime does not merit prohibition of certification.

(7) The investigator aids or participates in an illegal placement or violates the statutes of Iowa Code chapter 600.

*b.* If an applicant is denied certification or recertification based on an inability to meet the requirements, the applicant may reapply when the requirements for certification have been met.

**441—107.5(600,234) Certificate.**

**107.5(1)** *Contents.* The State of Iowa Certificate of Adoption Investigator form will contain the name of the investigator and the expiration date of the certificate and be signed by a person designated by the director of the department.

**107.5(2)** *Time limit.* The investigator will be certified for two years. Certification will expire at the end of two years unless the investigator has made timely application for recertification. No provisional certificates will be issued.

**107.5(3)** *Records of certifications.*

*a.* The department will keep records of certifications, including the application and verifications.

*b.* The department will keep a list of certified adoption investigators by districts and will update the list at least semiannually. Lists of certified adoption investigators will be made available on the department's website.

**441—107.6(600,234) Renewal of certification.**

**107.6(1)** *Request for renewal.* To be recertified, the person shall submit a new Application for Certification of Adoption Investigator form at least 30 days before the expiration of the certificate. If no application is submitted, the certification will expire.

**107.6(2)** *Evaluation of investigator.* Upon receipt of the request for recertification, the department investigators' records shall be reviewed and evaluated by the licensor to determine whether the requirements of these rules have been met.

*a.* This evaluation shall include the review of 20 percent or no fewer than four of the adoption records opened since the last review for certification and the fees assessed to clients. Reports of investigations will be available to the licensor during the review for recertification, or at any other time upon request by the licensor.

*b.* When deficiencies are noted at the time of review, the investigator shall be given up to 30 days to meet the standards set forth in 441—Chapter 107.

*c.* The deficiencies shall be noted in writing and the investigator shall sign a statement that includes agreement to the following:

(1) The deficiencies noted by the licensor, including the areas of 441—Chapter 107 that are not met.

(2) A plan for correcting the deficiencies.

(3) The date by which the deficiencies will be corrected.

*d.* When the deficiencies are corrected within the time frame granted, the certificate will be renewed. Deficiencies not corrected within the allowed time frame are grounds for revocation of the investigator's certificate.

**107.6(3)** *Notification.* The department will notify the investigator of the decision regarding the initial application, and any applications for recertification, within 60 days of receipt of the application. When the request for recertification is not received prior to the date of expiration, the department will notify the investigator that the certification has expired.

**441—107.7(600,234) Investigative services.**

**107.7(1)** *Preplacement investigations.* When a certified adoption investigator provides a preplacement investigation of a prospective adoptive family, the investigation shall meet the requirements of Iowa Code section 600.8(1)*"a."*

*a.* The preplacement investigation shall include at a minimum two contacts, one face-to-face interview with the applicants and each member of the household and at least one home visit.

*b.* The certified adoption investigator shall have on file a written assessment of the family that shall be used to approve or deny a prospective adoptive family. The written home study assessment shall include the date the home study was completed, shall be signed by the investigator and the signature notarized. The assessment shall include the following:

(1) Motivation for adoption and whether the family has biological, adopted, or foster children;

(2) Family and extended family's attitude toward accepting an adopted child, and plans for discussing adoption with the child;

(3) The attitude toward adoption of other people involved with the family in a significant way;

(4) Emotional maturity; marital history, including verification of marriages and divorces; assessment of marital relationship; and compatibility of the adoptive parents;

(5) Ability to cope with problems, stress, frustrations, crises, separation, and loss;

(6) Medical, mental, or emotional conditions that would affect the applicant's ability to parent a child;

(7) Ability to provide for the child's physical and emotional needs and to respect the child's cultural and religious identity;

(8) Description of biological children and previously adopted children, if any, including their attitudes toward adoption, relationships with others, and school performance;

(9) Capacity to give and receive affection;

(10) Statements from at least three references provided by the family and other unsolicited references that the investigator may wish to contact;

(11) Attitudes of the adoptive applicants toward the birth parent(s) and the reason(s) the child is available for adoption;

(12) Income information, including the family's ability to financially provide for a child;

(13) Disciplinary practices that will be used;

(14) History of abuse involving family members, including how the abuse was addressed and how that history impacts the applicant's ability to be an adoptive parent;

(15) Assessment of, commitment to, and capacity to maintain other significant relationships;

(16) Substance use or abuse by members of the household, treatment history and current status of treatment;

(17) Recommendations for the number, age, sex, characteristics, and unique needs of children best served by this family; and

(18) The family's ability to anticipate and understand the unique needs of an adopted child as the child becomes older and how the family will manage those needs.

*c.* Record checks. The certified adoption investigator shall perform record checks for each applicant and for the other persons living in the home of the applicant as follows:

(1) The records of the applicants shall be checked:

1. On the Iowa central abuse registry using the Request for Child Abuse and Dependent Adult Abuse Information form;

2. By the Iowa division of criminal investigation, using the Criminal History Record Check form;

3. On the Iowa sex offender registry;

4. On the child abuse and dependent adult abuse registry of any state where the applicant has lived during the five years prior to the issuance of the investigative report; and

5. For a national criminal history through fingerprinting or another biometric identification-based process accepted by the federal government.

(2) The records of persons aged 14 or older living in the home of the applicant shall be checked:

1. On the Iowa central abuse registry using the Request for Child Abuse and Dependent Adult Abuse Information form;

2. By the Iowa division of criminal investigation, using the Criminal History Record Check form; and

3. On the Iowa sex offender registry.

(3) Out-of-state child abuse checks, dependent adult abuse checks and national criminal history checks may be completed on any adult in the home of the applicant if the certified adoption investigator has reason to do so.

(4) The person making the investigation shall not approve a prospective applicant and cannot perform an evaluation if the applicant or any other adult living in the home of the applicant has been convicted of a felony offense as set forth in Iowa Code section 600.8(2)*"b."*

(5) The person making the investigation shall not approve a prospective applicant and cannot perform an evaluation if the applicant or any other adult living in the home of the applicant has committed a crime in a state other than Iowa that would be a forcible felony if the crime would have been committed in Iowa as set forth in Iowa Code section 600.8(2)*"b."*

*d.* Evaluation of record. If there is a record of founded child abuse, dependent adult abuse or a criminal conviction for the applicant or any other adult living in the home of the applicant, the applicant shall not be approved to adopt, unless an evaluation determines that the abuse or criminal conviction does not warrant prohibition of approval.

(1) The evaluation shall consider the nature and seriousness of the founded child abuse, dependent adult abuse or crime in relation to adoption, the time elapsed since the commission of the founded abuse or crime, the circumstances under which the abuse or crime was committed, the degree of rehabilitation,

the likelihood that the person will commit the abuse or crime again, and the number of abuses or crimes committed by the person.

(2) The person with the founded child abuse, dependent adult abuse or criminal conviction report shall complete and return the Record Check Evaluation form within ten calendar days of the date on the form to be used to assist in the evaluation. Failure of the person to complete and return the form within the specified time frame may result in a written denial of approval for adoption.

(3) If the applicant, or any other adult living in the home of the applicant, has been convicted of a simple misdemeanor or a serious misdemeanor that occurred five or more years prior to application, the evaluation and decision may be made by a certified adoption investigator. The certified adoption investigator shall notify the applicant of the results of the evaluation in writing. The notice shall contain information on appeal rights.

(4) If the applicant, or any other person living in the home of the applicant, has a founded child or dependent adult abuse report, has been convicted of an aggravated misdemeanor or felony at any time, or has been convicted of a simple or serious misdemeanor that occurred within five years prior to application, a certified adoption investigator shall initially conduct the evaluation.

1. If the certified adoption investigator determines that the abuse or crime does warrant prohibition of approval, the certified adoption investigator shall notify the applicant of the results of the evaluation in writing.

2. If the certified adoption investigator determines that the applicant should be approved despite the abuse or criminal conviction, the certified adoption investigator shall provide copies of the child abuse report, dependent adult abuse report or criminal history record and the Record Check Evaluation form to the department. Within 30 days, the department will determine whether the abuse or crime merits prohibition of approval and will notify the certified adoption investigator in writing of that decision. The certified adoption investigator will notify the applicant of the department's written decision regarding the evaluation of an abuse or crime.

*e.* Decision. The certified adoption investigator shall notify the applicant in writing no later than 30 days after completion of the home study of the investigator's decision regarding approval for placement of a child.

(1) If the applicant is denied, the certified adoption investigator shall state the reasons for denial in the written decision.

(2) The certified adoption investigator shall date, sign and notarize the adoptive home study.

(3) The certified adoption investigator shall provide a copy of the home study to the family at the time the written decision is sent.

(4) A home study shall be valid for up to two years from the date signed by the certified adoption investigator.

*f.* Denial. The certified adoption investigator shall deny approval of an adoption application when:

(1) The applicant or any other person living in the home of the applicant has been convicted of a felony offense as set forth in Iowa Code section 600.8(2)*"b."*

(2) The standards set forth in these rules are not met and cannot be corrected.

(3) The applicant or any person residing in the home has been convicted of a crime unless an evaluation of the crime has been made by the department that concludes that the crime does not merit prohibition of approval of an adoption application.

(4) The applicant or any person residing in the home has a record of founded child abuse or dependent adult abuse unless an evaluation of the founded child abuse or dependent adult abuse has been made by the department that concluded that the founded child abuse or dependent adult abuse does not merit prohibition of approval of an adoption application.

(5) The applicant has knowingly made false statements or has knowingly concealed information that is material to the investigation.

*g.* Updates. An update to the home study shall be completed no later than 24 months from the previous home study or previous home study update in order for the home study to remain valid. The home study update shall consist of completion of the following:

(1) The child abuse, dependent adult abuse and criminal history record checks, except for national criminal history checks, shall be repeated. If there are new founded abuses or convictions of crimes that were not evaluated in the previous home study, they shall be evaluated using the process set forth in paragraph 107.7(1)*"d."*

(2) One face-to-face visit shall be conducted with the approved family annually.

(3) The information in the approved home study shall be reviewed.

(4) An updated report of the adoptive home study shall be written, dated, signed and notarized and a copy provided to the applicant.

*h.* Annual visits to the adoptive home. The certified adoption investigator shall complete a minimum of one visit each year in the homes of families approved to adopt by the investigator.

(1) The visit shall include, at a minimum, an assessment of the following areas:

1. Home environment.

2. Persons present at the time of the visit.

3. Changes in the home or household members, or other areas addressed in the home study.

(2) When a person aged 14 or older moves into the home, the investigator shall perform checks on the Iowa central child and dependent adult abuse registry, by the division of criminal investigation, and on the sex offender registry. The record check evaluation process shall be completed if the person has a criminal conviction, founded child abuse report, founded dependent adult abuse report or is on the sex offender registry.

(3) The findings from the visit shall be documented and maintained in the file.

**107.7(2)** *Background information investigation.* When a certified adoption investigator is requested to complete a background information investigation on the child to be adopted, the investigation shall include a complete medical, mental health and criminal history of the family and developmental history of the child to be adopted.

*a.* A personal interview with each parent of the child is mandatory unless a parent's identity or whereabouts is unknown.

*b.* If a parent's identity or whereabouts is unknown, as much information as possible shall be obtained from the other parent or other sources if available.

*c.* A copy of the background information shall be provided to prospective adoptive families before placement of the child.

**107.7(3)** *Postplacement supervision.* Postplacement reports shall be written after each postplacement visit, and copies shall be kept in the permanent family file retained by the investigator.

*a.* Postplacement supervision shall address the unique needs of the child, including but not limited to the following areas:

(1) Integration and interaction of the child with the family.

(2) Changes in the family functioning that may be due to the child's placement.

(3) Social and emotional adjustment of the child.

(4) Child's growth and development since placement with the adoptive family.

(5) Changes and adjustments that have been made in the family since the child's placement.

(6) Family's method of dealing with testing behaviors and discipline.

(7) Behavioral evidence of the degree of bonding that is taking place and the degree to which the child is becoming a permanent member of the adoptive family.

(8) School adjustment of a child who is attending a school.

(9) The behavioral needs of the child.

(10) The psychological and mental health needs of the child.

(11) Services and supports that will assist the family in the future.

*b.* Postplacement visits shall be completed at a minimum as follows:

(1) One no later than 30 days after placement.

(2) One no later than 90 days after placement.

(3) A final visit prior to requesting a consent to adopt, no later than 180 days after placement.

(4) Postplacement visits shall be completed as often as necessary if the adoptive family is experiencing problems, and the visits may extend to finalization or beyond 180 days if the department or certified adoption investigator believes additional time is needed.

*c.* The certified adoption investigator shall prepare a written report based on observations made during each home visit. Each report shall address the specific needs of the child and the family's ability to meet those needs. The reports shall be used by the certified adoption investigator in making a written recommendation to the court regarding finalization of the adoption.

**107.7(4)** *Reports of investigations.* The certified adoption investigator is authorized to provide reports to the courts concerning the above investigations and reports to the guardian or custodian of the child and the attorney for the adoptive family.

**107.7(5)** *Fees for services.* Certified adoption investigators may charge a fee for the services described in subrules 107.7(1), 107.7(2), and 107.7(3). The department will review the amount of fees for services charged to families at the time that the investigator's records are reviewed for recertification. Information shall also be retained regarding fees charged to a family by another party and collected by the investigator.

**441—107.8(600,234) International adoptions postplacement report.**

**107.8(1)** For an adoption based on a decree issued by another state's jurisdiction within the United States, the certified adoption investigator shall conduct a postplacement investigation and issue a postplacement report as required in 441—subrule 108.9(5).

**107.8(2)** For an adoption based on a decree issued by a jurisdiction outside the United States, a certified adoption investigator shall conduct a postplacement investigation that consists of a minimum of three face-to-face visits with the minor person and the adoptive parents during the first year after placement, with the first such visit to be conducted within 60 days of the placement of the minor person in the adoptive home. Additional visits may be conducted if required by the jurisdiction that issued the decree.

**107.8(3)** The postplacement investigation and report under this rule shall include documentation that any unique needs of the minor person are being met appropriately through the placement.

**441—107.9(600,234) Retention of adoption records.** The adoption investigator shall maintain a record of each family or child when one or more of the required reports have been completed. The record shall contain copies of all completed reports and a statement of fees charged by the investigator.

**107.9(1)** *Access to records.* The provisions regarding sealing of and access to adoption records in Iowa Code section 600.16 shall be followed, except that access under subrule 107.9(3) for recertification is permitted.

**107.9(2)** *Disposition of records.* Upon revocation, denial of renewal, or expiration of certification, all sealed records held by investigators shall be forwarded to the department.

**107.9(3)** *Access for recertification.* Authorized representatives of the department shall have access to all records of reports completed within a two-year period prior to recertification for purposes of recertification.

**441—107.10(600,234) Reporting of violations.** All violations or suspected violations under Iowa Code chapter 600 or 600A that come to the attention of the investigator shall be reported in writing to the district court having jurisdiction of the matter and to the department. The investigator shall provide copies of these written reports to the district court having jurisdiction of the matter and to the department.

**441—107.11(600,234) Appeals.** Certified investigators or applicants may appeal decisions of the department according to rules in 441—Chapter 2506.

These rules are intended to implement Iowa Code chapters 600 and 234.

# ARC 0480D

## HUMAN SERVICES DEPARTMENT[441]

**Notice of Intended Action**

**Proposing rulemaking related to foster care contracting and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 152, "Foster Care Contracting," Iowa Administrative Code, and to adopt a new Chapter 152 with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 234.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 234.6.

*Purpose and Summary*

This proposed chapter was reviewed as a part of the Red Tape Review set forth by Executive Order 10. As a part of this review, restrictive terms were eliminated and rules were updated to reflect modern practices while also reducing regulatory burdens. The proposed chapter sets forth the contracting process used for providers of foster group care, child welfare emergency services shelter, and supervised apartment living. This proposed chapter also establishes provider qualifications, service authorization procedures, documentation requirements, and service termination and appeal procedures associated with these foster care services.

*Regulatory Analysis*

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 8, 2026. A public hearing was held on the following date(s):

- July 28, 2026

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 2504.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on September 8, 2026. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street

Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>10 to 10:30 a.m. | Microsoft Teams<br>Meeting ID: 245 818 881 867 66<br>Passcode: ya9va9uv |
| September 8, 2026<br>2 to 2:30 p.m. | Microsoft Teams<br>Meeting ID: 220 165 244 079 215<br>Passcode: kH7Py6Xi |

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 152 and adopt the following **new** chapter in lieu thereof:

CHAPTER 152
FOSTER CARE CONTRACTING

**441—152.1(234) Definitions.**

*"Affiliates"* means persons having a relationship such that any one of them directly or indirectly controls or has the power to control another.

*"Authorized representative"* means that person appointed to carry out audit procedures, including an assigned auditor, fiscal consultant, or agent contracted for a specific audit or audit procedure.

*"Child"* means the same as defined in Iowa Code section 234.1.

*"Claim"* means each record the department receives that tells the amount of requested payment and the service rendered by a provider to a child and family.

*"Client"* means a child who has been found to be eligible for foster care services through the department.

*"Confidence level"* means the probability that an overpayment or underpayment rate determined from a random sample of charges is less than or equal to the rate that exists in the sample from which the sample was drawn.

*"Contract"* means a formal written agreement between the department and a provider of foster care services.

*"Extrapolation"* means using sample data meeting the confidence level requirement to estimate the total dollars of overpayment or underpayment.

*"Family,"* for purposes of child welfare service delivery, includes the following:

1. The natural or adoptive parents, stepparents, domestic partner of the natural or adoptive parent, and children who reside in the same household.

2. A child who lives with an adult related to the child within the fourth degree of consanguinity and the adult relatives within the fourth degree of consanguinity in the child's household who are responsible for the child's supervision. Relatives within the fourth degree of consanguinity include full or half-siblings, aunts, uncles, great-aunts, great-uncles, nieces, great-nieces, nephews, great-nephews, grandparents, great-grandparents, great-great-grandparents, and first cousins.

3. A child who lives alone or who resides with a person or persons not legally responsible for the child's support.

*"Fiscal record"* means a tangible and legible history that documents financial and statistical records.

*"Juvenile court officer"* means a person appointed as a juvenile court officer or chief juvenile court officer under Iowa Code chapter 602.

*"Overpayment"* means any payment or portion of a payment made to a provider that is incorrect according to the laws and rules applicable to foster care services and results in a payment greater than that to which the provider is entitled.

*"Probation"* means a specified period of conditional participation in the provision of foster care services.

*"Provider"* means the entity that has executed a contract with the department to provide services.

*"Random sample"* means a systematic (or every "nth" unit) sample for which each item in the sample has an equal probability of being selected.

*"Referral worker"* means the department worker or juvenile court officer who refers the case to a provider and who is responsible for carrying out the follow-up activities of determining client eligibility and ensuring that the service authorization is completed.

*"Service authorization"* means the process of determining service necessity and the level of care and number of units of service to be provided to a child.

*"Service record"* means an individual, tangible, and legible file that records service-related activities set forth in subrule 152.2(4).

*"Site"* means each licensed location of the foster care provider.

*"Underpayment"* means any payment or portion of a payment not made to a provider for services delivered to eligible recipients according to the laws and rules applicable to the foster care services program and to which the provider is entitled.

*"Unit of service"* means one day for group care and child welfare emergency services shelter.

*"Withholding of payments"* means a reduction or adjustment of the amounts paid to a provider on pending and subsequently submitted claims for purposes of offsetting overpayments previously made to the provider.

**441—152.2(234) Conditions of participation.**

**152.2(1)** *Provider licensure.* A provider facility shall obtain licensure prior to accepting placements from the department.

**152.2(2)** *Provider staffing.* At a minimum, all providers shall meet all licensure requirements for staff qualifications, training, and number of staff pursuant to 441—Chapter 105, 108, or 114.

**152.2(3)** *Provider charges.* A provider cannot charge department clients more than it receives for the same foster care services provided to nondepartment clients. The provider shall agree not to require any fee from department clients unless a fee is required by the department and is consistent with federal regulation and state policy.

**152.2(4)** *Maintenance of service records.* A provider shall maintain complete and legible records as required in this subrule.

*a.* For foster group care and shelter care, the provider shall establish and maintain confidential, individual service records for each client receiving foster care services. The service records must adequately support the provision of child welfare services and group care maintenance. The service record shall include, at a minimum, those items identified in rule 441—114.11(237) and 441—Chapter 105 and shall also include all of the following:

(1) Additional reports, if requested by the referral worker.

(2) Referral and Authorization Form.

(3) Daily documentation of billed per diem services. The documentation shall include:

1. The child's first and last name;
2. The month, day, and year service was provided;
3. The first and last names of the persons who or organizations that provided the service;
4. A clear description of the specific service rendered, including interventions, actions, and activities performed that support the provision of child welfare services.

(4) Notes, which shall be entered no less than every seven calendar days, indicating the child's general progress in regard to the child's care plan.

(5) Any problem areas or unusual behavior for the child.

*b.* For supervised apartment living, the provider shall establish and maintain confidential, individual service records for each client receiving supervised apartment living services.

*c.* Failure to maintain records or failure to make records available to the department or to its authorized representatives upon request may result in a notice of violation and recoupment of payments.

**152.2(5)** *Maintenance of financial and statistical records.* The provider shall maintain sufficient financial and statistical records, including program and census data, to document the validity of the reports submitted to the department. The records shall be available for review at any time during normal business hours by department personnel, the department's fiscal consultant, and state or federal audit personnel.

*a.* At a minimum, financial and statistical records shall include all revenue and expenses supported by a provider's general ledger and documentation on file in the provider's office. These records include, at a minimum:

(1) Payroll information.

(2) Capital asset schedules.

(3) All canceled checks, deposit slips, and invoices (paid and unpaid).

(4) Audit reports (if any).

(5) The board of directors' minutes (if applicable).

(6) Loan agreements and other contracts.

(7) Reviewable, legible census reports and documentation of units of service provided to department clients that identify the individual client and are kept on a daily basis and summarized in a monthly report.

(8) For nondepartment clients, sufficient documentation of utilization to establish a complete unit of service count.

*b.* The provider shall maintain a list of all staff and supervisors providing foster care services and their qualifications for each program.

*c.* When a provider has an independent audit conducted, a firm not related to the provider shall conduct the audit. The provider shall submit a copy of the independent audit report to the department within 30 days of receipt of the report.

**152.2(6)** *Cost report.* Providers shall complete the Combined Cost Report Form as required by contract.

*a.* *Due date.* The cost report shall be submitted to the department no later than three months after the close of the provider's established fiscal year. The provider may request a one-month extension.

*b.* *Opinion of accountant.* The department may require that an opinion of a certified public accountant or public accountant accompany the report when adjustments made to prior reports indicate noncompliance with reporting instructions.

*c.* *County reimbursement for child welfare services shelter costs.* If a shelter care provider's actual and allowable costs as set forth in 441—Chapter 156 for a child's shelter care placement exceed the amount the department is authorized to pay and the provider is reimbursed by the child's county of legal settlement for the difference between actual and allowable costs and the amount reimbursed by the department, the amount paid by the county cannot be included by the department in its reimbursement rate determination, as long as the amount paid is not greater than the provider's actual and allowable costs or the statewide average of actual and allowable costs as identified in annual appropriations, whichever is less.

**441—152.3(234) Provider reviews.** The department may, at its discretion, review any provider at any time. Records generated and maintained by the department or its fiscal agent may be used by reviewers and in all proceedings of the department.

**152.3(1)** *Review of provider records.* The department has the authority to conduct a scheduled or unannounced visit to evaluate the adequacy of service records in compliance with the policies and procedures for foster care services.

**152.3(2)** *Purpose.* Upon proper identification, authorized representatives of the department have the right to review the service and fiscal records of the provider to determine whether:

*a.* The department has accurately paid claims for services.

*b.* The provider has furnished the services.

*c.* The provider has retained service records and fiscal records that substantiate claims submitted for payment during the review period.

*d.* Expenses reported to the department have been handled as required under subrule 152.2(6).

**152.3(3)** *Method.* The department will select the appropriate method of conducting a review and will protect the confidential nature of the records being reviewed. The provider may be required to furnish records to the department. The provider may select the method of delivering any requested records to the department. Review procedures may include but are not limited to the following:

*a.* Comparing service and fiscal records with each claim.

*b.* Interviewing clients and employees of providers.

**152.3(4)** *Sampling.* The department's procedures for reviewing a provider's service records may include the use of random sampling and extrapolation. When these procedures are used, all sampling will be performed within acceptable statistical methods, yielding not less than a 95 percent confidence level.

*a.* *Findings.* The review findings generated through the review procedure constitute prima facie evidence in all department proceedings of the number and amount of requests for payment as submitted by the provider.

*b.* *Extrapolation.* Findings of the sample will be extrapolated for the review period. The total of the payments determined to be in error in the review sample will be divided by the total payments in the reviewed sample to calculate the percentage of dollars paid in error. This percentage will then be multiplied by the total payments in the review sample to determine the extrapolated overpayment.

*c.* *Disagreement with findings.* When the provider disagrees with the department's review findings and the findings have been generated through sampling and extrapolation, the provider may present evidence to show that the sample was invalid. The burden of proof of compliance rests with the provider. The evidence may include a 100 percent review of the provider records used by the department in the drawing of the department's sample. This review shall:

(1) Be arranged and paid for by the provider.

(2) Be conducted by a certified public accountant.

(3) Demonstrate that bills and records not reviewed in the department's sample complied with program regulations and requirements.

(4) Be submitted to the department with all supporting documentation.

**152.3(5)** *Actions based on review findings.*

*a.* The department will report the results of a review of provider records to concerned parties consistent with the provisions of 441—Chapter 2505.

*b.* When an overpayment is found, the department may do one or more of the following:

(1) Request repayment in writing.

(2) Impose sanctions provided for in rule 441—152.4(234).

(3) Investigate and refer the matter to an agency empowered to prosecute.

**441—152.4(234) Sanctions against providers.** Failure to meet the requirements relevant to provider contracting, financial recordkeeping, billing and payment, and client recordkeeping may subject providers to sanctions.

**152.4(1)** *Grounds for sanction.* The department may impose sanctions against a provider for committing one or more of the following actions:

*a.* Failing to provide and maintain the quality of the services to children and families within established standards, including:

(1) Failing to meet standards required by state or federal law for licensure.

(2) Failing to correct deficiencies in provider operations after receiving notice of these deficiencies from the department.

(3) Engaging in a course of conduct or performing an act that is in violation of state or federal regulations or continuing that conduct following notification that it should cease.

(4) Violating any laws, regulations, or code of ethics governing the conduct of occupations or professions subject to this chapter.

(5) Receiving a formal reprimand or censure by an association of the provider's peers for unethical practices.

(6) Being suspended or terminated from participation in another governmental program.

(7) Committing a negligent practice resulting in client death or injury.

*b.* Failing to disclose or make available to the department or its authorized agent records of services provided to a child and family and records of payments made for those services.

*c.* Failing to provide accurate and auditable cost report information or engaging in deceptive billing practices, such as:

(1) Presenting or causing to be presented for payment any false or deceptive claim for services.

(2) Submitting or causing to be submitted false information for the purpose of obtaining greater compensation than that to which the provider is legally entitled.

*d.* Submitting or causing to be submitted false information to meet service authorization requirements.

*e.* Inducing, furnishing or otherwise causing the child or family to receive foster care services that are not authorized (overutilization of services).

*f.* Rebating or accepting a fee or portion of a fee or a charge for referrals of a child or family.

*g.* Failing to repay or arrange for the repayment of identified overpayments or other erroneous payments.

*h.* Failing to submit the cost report on time or failing to submit complete responses to follow-up questions from the department or its fiscal consultant within 14 days of request without written approval from the department.

**152.4(2)** *Notice of violation.*

*a.* Should the department have information that indicates a provider may have done the following, the department will notify the provider of the discrepancies noted.

(1) Submitted bills or been practicing in a manner inconsistent with the program requirements, or

(2) Received payment for which the provider may not be properly entitled.

*b.* Notification to the provider will set forth:

(1) The nature of the discrepancies or violations.

(2) The known dollar value of the discrepancies or violations.

(3) The method of computing the dollar value.

(4) Further actions to be taken or sanctions to be imposed by the department.

(5) Any actions required of the provider.

**152.4(3)** *Sanctions.* The following sanctions may be imposed on providers based on the grounds specified in subrule 152.4(1):

*a.* A term of probation for provision of foster care services.

*b.* Termination from participation in the provision of foster care services.

*c.* Suspension from provision of foster care services.

*d.* Suspension or withholding of payments to the provider.

*e.* Review of 100 percent of the provider's claims before payment.

*f.* Referral to the appropriate state licensing board for investigation.

*g.* Referral of the matter to appropriate federal or state legal authorities for investigation and prosecution under applicable federal or state laws.

*h.* Suspension of foster care services licensure.

*i.* Termination of foster care services licensure.

*j.* Reduction of payment to 75 percent of the current rate for failure to submit the cost report or cost report clarifications timely.

*k.* Termination of the provider's contract for failure to submit the report within six months of the end of the fiscal year.

**152.4(4)** *Imposition and extent of sanction.* The department will determine the sanction to impose. The following factors will be considered in determining the sanction or sanctions to be imposed:

*a.* Seriousness of the offense.

*b.* Extent of violations.

*c.* History of prior violations.

*d.* Prior imposition of sanctions.

*e.* Prior provision of technical assistance.

*f.* Pattern of failure to follow program rules.

*g.* Whether a lesser sanction will be sufficient to remedy the problem.

*h.* Actions taken or recommended by peer review groups or licensing bodies.

**152.4(5)** *Scope of sanction.*

*a.* The sanction may be applied to all known affiliates of a provider. Each decision to include an affiliate will be made on a case-by-case basis after giving due regard to all relevant factors and circumstances. The violation, failure, or inadequacy of performance may be imputed to a person with whom the violator is affiliated when the conduct was committed in the course of official duty or was effectuated with the knowledge or approval of that person.

*b.* When there are grounds for sanction pursuant to subrule 152.4(1) against a provider facility, campus, or site, the department may suspend or terminate the provision of foster care services by:

(1) The provider; or

(2) The specific facility, campus, or site; or

(3) Any individual within the provider's organization who is responsible for the violation.

*c.* No provider shall submit claims for payments to the department for any services provided by any facility, campus, site, or person within the organization that has been suspended or terminated from provision of foster care services, except for those services provided before the suspension or termination.

*d.* Suspension or termination from provision of foster care services shall preclude the submission of claims to the department for payment for any services provided after suspension or termination, whether submitted personally or through the provider.

**152.4(6)** *Suspension or withholding of payments pending a final determination.* When the department has notified a provider of a violation and has demanded repayment of an identified overpayment, the department may withhold payments on pending and subsequently received claims in an amount reasonably calculated to approximate the amounts in question or may suspend payments pending a final determination. When the department intends to withhold or suspend payments, it will notify the provider in writing.

**152.4(7)** *Notice of sanction.* When a provider has been sanctioned, the department will notify, as appropriate, the applicable professional society, board of registration or licensure, and federal or state agencies of the findings made and the sanctions imposed.

**441—152.5(234) Adverse actions.** Notice of adverse actions shall be given in accordance with 441—Chapter 16. The right to appeal the licensing decision shall be given in accordance with 441—Chapter 2506.

These rules are intended to implement Iowa Code section 234.6.

**ARC 0478D**

# HUMAN SERVICES DEPARTMENT[441]

**Notice of Intended Action**

**Proposing rulemaking related to the foster home insurance fund and providing an opportunity for public comment**

The Department of Health and Human Services hereby proposes to rescind Chapter 158, "Foster Home Insurance Fund," Iowa Administrative Code, and to adopt a new Chapter 158 with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 237.13.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 237.13.

*Purpose and Summary*

This proposed chapter specifically relates to the Foster Home Insurance Fund established by Iowa Code section 237.13. The fund is established to provide reimbursement for any property damages caused by the acts of a foster child residing in a foster home. As a part of the Red Tape Review process laid out by Executive Order 10, the Department removed restrictive terms, streamlined duplicative information, and revised language to conform to modern procedures and practices.

*Regulatory Analysis*

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 8, 2026. A public hearing was held on the following date(s):

- July 28, 2026

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 2504.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on September 8, 2026. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319

Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

| | |
|---|---|
| September 8, 2026<br>10 to 10:30 a.m. | Microsoft Teams<br>Meeting ID: 245 818 881 867 66<br>Passcode: ya9va9uv |
| September 8, 2026<br>10 to 10:30 a.m. | Microsoft Teams<br>Meeting ID: 220 165 244 079 215<br>Passcode: kH7Py6Xi |

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 158 and adopt the following **new** chapter in lieu thereof:

CHAPTER 158
FOSTER HOME INSURANCE FUND

**441—158.1(237) Definitions.**

*"Foster family home"* means the same as defined in Iowa Code section 237.1.

*"Personal property"* means any movable thing of value that is owned, rented, or leased by a person and not recognized as real property.

*"Real property"* means anything owned, leased, or rented that is permanently affixed to, or built upon, a piece of land. Real property is best characterized as property that does not move or that is attached to the land.

*"Third-party property"* means property belonging to any person or entity other than the foster family or foster child.

**441—158.2(237) Payments from the foster home insurance fund.**

**158.2(1)** Eligible foster family claims. The foster home insurance fund shall pay the following within the limits defined in Iowa Code section 237.13(1):

*a.* Valid and approved claims of a licensed foster family home.

*b.* Compensation to licensed foster families for personal or real property damage and auto physical damage as a result of the activities of the family foster care child. Coverage also extends to third-party property damages caused by actions of the family foster care child.

**158.2(2)** Non-property-based liability, bodily injury, sexual abuse or molestation, auto liability, and professional liability are not covered.

**441—158.3(237) Payment limits.** The fund is not liable for the first $150 per claim deductible per family. Each claim is limited to one incident/occurrence. The fund is not liable for damages in excess of

$5,000 for all claims arising out of one or more occurrences during a fiscal year related to a single home. Claims for losses related to bedbugs or other insect infestations will have an annual sublimit set by the department.

**441—158.4(237) Claim procedures.** Claims against the fund are filed with the department's approved contractor. Claims shall be filed on the Foster Home Property Fund Notice of Loss form. The decision to approve or deny the claim will be made by the department. The claimant will be notified of the decision within 180 days of the date the claim is received.

**158.4(1)** *Time frame for filing claims.* Claims shall be submitted within six months of the date of the occurrence.

**158.4(2)** *Appeals.* Claimants dissatisfied with the decision may request a fair hearing under the provisions of 441—Chapter 2506.

These rules are intended to implement Iowa Code section 237.13.

# TRANSPORTATION DEPARTMENT

### Advisory Notice

Adjusted Competitive Bid and Quotation Thresholds for
Public Improvement for Vertical Infrastructure

Pursuant to the authority of Iowa Code section 314.1B, the Director of Transportation gives an advisory notice of adjusted competitive bid and quotation thresholds for public improvement for vertical infrastructure. The adjusted competitive bid and quotation threshold values will become effective January 1, 2027.

The vertical infrastructure bid threshold advisory group, composed of industry and subject matter experts, contractors, representatives of public entities and the Director's designee, consulted with industry experts July of 2026 to review competitive bid and quotation thresholds.

After review of the construction price index, building cost index and material cost index from the preceding adjustment, and the vertical infrastructure advisory group recommendations, the Director makes the following adjustments to the vertical infrastructure competitive bid and quotation thresholds listed in Iowa Code sections 26.3 and 26.14:

1. The competitive bid threshold will be adjusted to $220,000 effective January 1, 2027.
2. The competitive quotation threshold for counties, including county hospitals, will be adjusted to $163,000 effective January 1, 2027.
3. The competitive quotation threshold for governmental entities, cities and school districts having a population of 50,000 or more will be adjusted to $121,000 effective January 1, 2027.
4. The competitive quotation threshold for governmental entities, cities and school districts having a population of less than 50,000 will be adjusted to $87,000 effective January 1, 2027.

# TREASURER OF STATE

### Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the following interest rates of interest for public obligations and special assessments have been established. The usury rate for August is 6.50%.

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 Financial Institutions 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 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 August 11, 2026, 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 1.55% |
| 180-364 days | Minimum 1.50% |
| One year to 397 days | Minimum 1.75% |
| More than 397 days | Minimum 1.95% |

These are minimum rates only. All time deposits 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 Roby Smith, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

# USURY

In accordance with the provisions of Iowa Code section 535.2(3)“a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

| | |
|---|---|
| September 1, 2025 — September 30, 2025 | 6.50% |
| October 1, 2025 — October 31, 2025 | 6.25% |
| November 1, 2025 — November 30, 2025 | 6.00% |
| December 1, 2025 — December 31, 2025 | 6.00% |
| January 1, 2026 — January 31, 2026 | 6.00% |
| February 1, 2026 — February 28, 2026 | 6.25% |
| March 1, 2026 — March 31, 2026 | 6.25% |
| April 1, 2026 — April 30, 2026 | 6.25% |
| May 1, 2026 — May 31, 2026 | 6.25% |
| June 1, 2026 — June 30, 2026 | 6.25% |
| July 1, 2026 — July 31, 2026 | 6.50% |
| August 1, 2026 — August 31, 2026 | 6.50% |

| | |
|---|---|
| September 1, 2026 — September 30, 2026 | 6.50% |

**ARC 0481D**

# ENVIRONMENTAL PROTECTION COMMISSION[567]

**Adopted and Filed**

**Rulemaking related to general solid waste permitting requirements for sanitary disposal projects and solid waste management facilities**

The Environmental Protection Commission (Commission) hereby rescinds Chapter 100, "Scope of Title—Definitions—Rules of Practice," Iowa Administrative Code, and adopts a new Chapter 100 with the same title.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code sections 455B.304, 455B.305, 455D.6 and 455D.7.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 455D and sections 455B.304 and 455B.305.

*Purpose and Summary*

New Chapter 100 combines two prior chapters (567—Chapters 100 and 102) that govern general solid waste permitting requirements for sanitary disposal projects and solid waste management facilities. New Chapter 100 will establish a single location for the definitions and permitting requirements applicable to solid waste management and disposal.

The two prior chapters were reviewed and edited consistent with Executive Order 10. This rulemaking combines them in order to (1) consolidate and clarify redundant and obsolete requirements, (2) remove unused or unneeded definitions, (3) update or remove redundant permit application requirements, and (4) consolidate general administrative permitting requirements applicable to sanitary disposal projects and solid waste management facilities.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 7, 2026, as **ARC 9911C**. A public hearing was held on the following date(s):

- January 27, 2026
- January 29, 2026

There was one attendee. No public comments were received.

Upon internal review, minor changes from the Notice have been made to address typographical errors, clarify when signs are necessary at nonpublic sites, and clarify when a site closure certification by a professional engineer is required.

*Adoption of Rulemaking*

This rulemaking was adopted by the Commission on July 21, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to Iowa Code section 17A.9A and 7—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on September 23, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind 567—Chapter 100 and adopt the following **new** chapter in lieu thereof:

TITLE VIII
*SOLID WASTE MANAGEMENT AND DISPOSAL*

CHAPTER 100
SCOPE OF TITLE—DEFINITIONS—RULES OF PRACTICE

**567—100.1(455B,455D) Scope of title.** The department has jurisdiction over the management, dumping, depositing, and disposal of solid waste by establishing standards and regulating solid waste through a system of general rules and specific permits. The construction and operation of any sanitary disposal project or solid waste management activity requires a specific permit from the department.

This chapter provides general definitions applicable to Title VIII (solid waste management and disposal) of the commission's rules and general conditions of solid waste disposal. All rules, standards, technical guidance, and other similar legal or technical documents referenced in this chapter shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—100.2(455B,455D) Definitions.** For the purposes of this title, the following terms shall have the meaning indicated in this chapter. The definitions found in Iowa Code section 455B.301 and chapter 455D shall apply.

*"Active life"* means the period of operation beginning with the initial receipt of solid waste and ending at the completion of closure activities.

*"Active portion"* means that part of a facility or unit that has received or is receiving wastes and that has not been closed.

*"Airport"* means a public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

*"Alternative cover material"* means a substitute material or mix of materials that can be utilized in lieu of soil as cover material at a sanitary landfill.

*"Annular space"* means the open space formed between the borehole and the well casing.

*"Appliances"* means household and commercial devices such as refrigerators, freezers, kitchen ranges, air-conditioning units, dehumidifiers, gas water heaters, furnaces, clothes washers, clothes dryers, dishwashers, microwave ovens and commercial coolers with components containing mercury, refrigerants, or PCB-containing capacitors.

*"Aquifer"* means a saturated geologic formation or combination of formations that has appreciably greater ability to transmit water than do adjacent formations. Typically, an aquifer is capable of yielding usable quantities of water to a well.

*"Areas susceptible to mass movement"* means those areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at, beneath, or adjacent to the sanitary landfill site, because of natural or human-induced events, results in the down slope transport of soil and rock material by means of gravitational influence. Areas of mass movement include but are not limited to landslides, avalanches, debris slides and flows, soil function, block sliding, and rockfall.

*"Attendant"* means an employee of a sanitary disposal project who is not employed or assigned to operate the equipment used on the site.

*"Ballast"* means an electrical device containing capacitors for the purpose of triggering high-level electrical components. A ballast provides electrical balance within the high-level electrical component circuitry.

*"Beneficial use"* means a specific utilization of a solid by-product that constitutes reuse rather than disposal and does not adversely affect human health or the environment.

*"Beneficial use determination"* means a written formal decision or rule issued by the department that affirms that the utilization of a solid by-product constitutes a beneficial use rather than the disposal of solid waste.

*"Bird hazard"* means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.

*"Bulking agent"* means a material that contributes structure and porosity, usually a dry, rigid material such as shredded wood.

*"Capacitor"* means a device for accumulating and holding a charge of electricity that consists of conducting surfaces separated by a dielectric fluid.

*"Cash plus marketable securities"* means all the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

*"Cathode ray tube"* or *"CRT"* means a vacuum tube composed primarily of leaded glass that is the visual or video display component of an electronic device. An intact CRT means a CRT whose vacuum has not been released. A broken CRT means glass removed from its housing or casing whose vacuum has been released.

*"Certified compostable products"* means any product specifically manufactured to break down in a compost system at the end of its useful life. Examples include containers; films; or foodservice ware such as bowls, plates, cups, cutlery, and bioplastic liner bags. Products are composed of materials such as vegetable matter, paper, cardboard, and plastics and are certified as conforming to ASTM International Standard ASTM D6400 or ASTM D6868.

*"CFC"* or *"CFCs"* means chlorofluorocarbons, including any of several compounds used as refrigerants.

*"CFR"* or *"Code of Federal Regulations"* means the federal administrative rules adopted by the United States as amended through August 1, 2025.

*"Clean wood waste"* means wood that is free of coatings and preservatives.

*"Coal combustion residuals"* means any solid waste produced by burning coal, either by itself or in conjunction with natural gas or other carbon-based fuels. "Coal combustion residuals" includes but is not limited to bottom ash, fly ash, slag, and flue gas desulfurization system material generated by coal combustion and associated air pollution control equipment.

*"Commercial solid waste"* means the same as defined in 40 CFR Section 258.2.

*"Commission"* means the environmental protection commission.

*"Compost"* means the product manufactured through the controlled aerobic, biological decomposition of biodegradable materials. The product has undergone mesophilic and thermophilic temperatures, which significantly reduces the viability of pathogens and weed seeds and stabilizes the carbon such that it is beneficial to plant growth.

*"Compostable"* means an organic material that undergoes degradation by biological processes during composting to yield carbon dioxide, water, inorganic compounds, and biomass.

*"Composting"* means the controlled process and management of aerobic, biological decomposition resulting in an innocuous final product. This process significantly reduces the viability of pathogens and weed seeds and stabilizes the carbon such that it is beneficial to plant growth.

*"Composting facility"* means all related receiving, processing, production, curing, and storage areas and necessary roads, buildings, equipment, litter control devices, pollution control devices, fire control devices, landscaping, gates, personnel and maintenance facilities, sewer and water lines, and process water.

*"Comprehensive plan"* means a course of action developed and established cooperatively between cities, counties, and municipal solid waste sanitary disposal projects regarding their chosen integrated solid waste management system, its participants, waste reduction strategies, and disposal methods.

*"Comprehensive plan amendment"* means a notification, filed between comprehensive plan updates, that the planning agency seeks to change the participation or change the designated disposal project(s) as set out in the most recent approved comprehensive plan submittal.

*"Comprehensive plan update"* means a planning document that provides status reports on the integrated solid waste management system and that describes revision to the information and evaluation of the integrated solid waste management system and the proposed course of action for the next planning cycle.

*"Confined aquifer"* means an aquifer with a confining bed above and below. Water in a confined aquifer is under pressure such that water rises above the top of the aquifer in a well that penetrates the aquifer.

*"Confining bed"* means a geologic formation exhibiting relatively low ability to transmit water compared to adjacent formations. Confining beds are typically not capable of yielding usable quantities of water to a well.

*"Construction and demolition waste"* means waste building materials including wood, metals and rubble that result from construction or demolition of structures.

*"Construction and demolition waste disposal site"* means a sanitary landfill that accepts only construction and demolition wastes.

*"Consumer price index"* means the measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services.

*"Contact water"* means liquid that has run off, or emerged from, raw feedstock and materials that are being processed, or a liquid that has come into contact with equipment dedicated to the handling of raw feedstocks or unstabilized compost, and that contains extracted, dissolved, or suspended materials. "Contact water" includes condensate from gasses resulting from the composting process but does not include water from curing materials, finished compost, or product storage piles.

*"Contaminated animal carcasses"* means waste, including carcasses, body parts, and bedding of animals, that was exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals.

*"Contaminated sharps"* means any contaminated object that can penetrate the skin, including but not limited to needles, scalpels, broken glass, broken capillary tubes, and exposed ends of dental wires.

*"Contaminated soil"* means soil that contains any harmful constituent in a concentration that may harm human health.

*"Cover material"* means soil placed as daily, intermediate, or final cover at a sanitary landfill.

*"CRT collection"* means any activity by a CRT recycling facility or CRT collection facility involving the collection of discarded CRTs that is not a short-term CRT collection event.

*"CRT collection facility"* means a property where ongoing CRT collection is the only CRT recycling activity performed.

*"CRT recycling"* means any process by which discarded CRTs that would otherwise become waste are collected, processed, and returned to use in the form of raw materials or products. CRT recycling includes but is not limited to receiving broken or intact CRTs, intentionally breaking intact CRTs or

further breaking or separating broken CRTs, and sorting or otherwise managing glass removed from CRT monitors.

*"CRT recycling facility"* means a property where CRT recycling takes place. A CRT recycling facility may also collect CRTs.

*"Crumb rubber"* means a material derived by reducing waste tires or other rubber into uniform granules of 3/8 inch or less, with the inherent reinforcing materials such as steel and fiber removed along with other contaminants.

*"Cultures and stocks of infectious agents"* means specimen cultures collected from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biological agents, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, or mix cultures.

*"Cured compost"* means compost that is both stable and mature according to the definitions found in this title.

*"Curing"* means a continuation of the composting process after the high heat stage during which maturity continues to increase.

*"Cut tire"* means a waste tire from which the tire face, tread, or sidewall has been cut or removed for beneficial use or final disposal. A cut tire shall consist of pieces greater than 18 inches on any one side.

*"Debt service"* means the amount of principal and interest due on a loan in a given time period, typically the current year.

*"Deficit"* means total annual revenues minus total annual expenditures.

*"Demanufacturing"* means the removal of components, including but not limited to PCB-containing capacitors, ballasts, mercury-containing components, fluorescent tubes, and refrigerants, from discarded appliances.

*"Discarded"* means no longer to be used for the original intended purpose and means the letting go or throwing away of materials that have become useless or superfluous though often not intrinsically valueless.

*"Displacement"* means the relative movement of any two sides of a fault measured in any direction.

*"DOT-approved container"* means those containers approved by the U.S. Department of Transportation, the agency responsible for shipping regulations for hazardous materials in the United States.

*"Downgradient"* means direction of decreasing hydraulic head.

*"Downgradient well"* means a well that has been installed downgradient of the site and is capable of detecting the migration of contaminants from the site.

*"Electric generating facility"* means electric utilities and independent power producers that fall within the North American Industry Classification System (NAICS) Code 221112.

*"Existing MSWLF unit"* means the same as defined in 40 CFR Section 258.2.

*"FAA certified airport"* means an airport serving air carriers certified by the Civil Aeronautics Board that has been issued an airport operating certificate from the Administrator of the Federal Aviation Administration pursuant to Section 612 of the Federal Aviation Act, 49 U.S.C. §1432, and 49 CFR Part 139.

*"Facility"* means all contiguous land and structures, other appurtenances, and improvements on the land used for the disposal of solid waste. Any specific facility is formally defined in the permit issued by the department. Buffer lands around a facility are not required to be included in the permitted boundary of a facility.

*"Fault"* means a fracture or a zone of fractures in any material along which strata on one side have been displaced with respect to that on the other side.

*"Fill material"* means material that is used to raise the elevation of, take up space in, or build up the level of the land. For the purposes of beneficial use, fill material is not considered subbase for hard-surface pavement construction or structural fill.

*"Finished compost"* means compost that has been cured and, if necessary, screened or refined.

*"Fiscal year"* means the state fiscal year running from July 1 through the following June 30.

*"Fixed facility"* means a permitted appliance demanufacturer operating at a permanent location.

*"Floodplain"* means the area adjoining a river or stream that has been or may be hereafter covered by flood water.

*"Fluff"* means the residual waste from the shredding operation after metals recovery.

*"Food processing residuals"* means organic materials generated as a by-product of the industrial food processing sector that are nontoxic, are nonhazardous, and contain no sanitary wastewater. The term does not include fats, oil, grease, or Dissolved Air Flotation (DAF) skimmings.

*"Foundry sand"* means a solid by-product from the foundry industry that is derived from molding, core-making, and casting cleaning processes that primarily contain sand, olivine, or clay and that is suitable for disposal as solid waste in a sanitary landfill.

*"Free liquid"* means the liquid produced when a 100-milliliter or 100-gram representative sample is placed on a standard mesh number 60 (fine mesh size) conical paint filter for five minutes (Method 9095B EPA SW-846, 2004).

*"Friable ACM waste"* has the same meaning as in 40 CFR Section 61.141.

*"Garbage"* means all solid and semisolid putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving, and consuming of food or of material intended for use as food and all offal, excluding useful industrial by-products, and shall include all such substances from all public and private establishments and from all residences.

*"General special waste"* means special wastes that are commonly accepted by landfills and have specific handling requirements for disposal that are explicitly listed in 567—102.508(455B,455D). General special waste is required to be included in the landfill's special waste acceptance criteria (SWAC) but does not require a special waste authorization (SWA).

*"Geologic cross section"* means a drawing of a subsurface profile showing the various strata encountered.

*"Groundwater flow path"* means the route of water and contaminant travel, if any, within a groundwater system.

*"HCFC"* or *"HCFCs"* means hydrochlorofluorocarbons, including any of several compounds used as refrigerants.

*"High water table"* means the position of the water table that occurs in times of above normal precipitation.

*"Holocene"* means the most recent epoch of the Quaternary Period, extending from the end of the Pleistocene Epoch to the present.

*"Household waste"* has the same meaning as in 40 CFR Section 258.2.

*"Human blood and blood products"* means human serum, plasma, other blood components, bulk blood, or containerized blood in quantities greater than 20 milliliters.

*"Hydraulic head"* means the energy contained at a point in the groundwater system. Hydraulic head is measured as the elevation to which water rises in a piezometer.

*"Incidental solid waste transfer"* means the truck-to-truck transfer of solid waste from a satellite solid waste collection vehicle to a solid waste collection vehicle if that solid waste could be collected only by a satellite solid waste collection vehicle due to vehicle access restrictions.

*"Incineration"* means the processing and burning of solid waste for the purpose of volume and weight reduction in facilities designed for such use.

*"Incorporation"* means to mix into the soil by tilling, disking, or other suitable means.

*"Industrial process waste"* means a nonhazardous solid waste that is generated as a result of manufacturing activities, product processing, or commercial activities and is managed separately from municipal solid waste, commercial solid waste, and construction and demolition waste. It may include water treatment residuals or waste but does not include office waste, cafeteria waste, or other types that are not the direct result of production processes.

*"Industrial sludge"* means any sludge produced by industrial activity.

*"Industrial solid waste"* means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle C of the Resource Conservation and Recovery Act (RCRA). Such waste may include but is not limited to waste resulting from the following manufacturing processes: electric power generation, fertilizer and agricultural chemicals, food and related products

and by-products, inorganic chemicals, iron and steel manufacturing, leather and leather products, nonferrous metals manufacturing and foundries, organic chemicals, plastics and resins manufacturing, pulp and paper industry, rubber and miscellaneous plastic products, textile manufacturing; transportation equipment, and water treatment. "Industrial solid waste" does not include mining waste or oil and gas waste.

*"Infectious"* means containing pathogens with sufficient virulence and quantity so that exposure to an infectious agent by a susceptible host could result in an infectious disease when the infectious agent is improperly treated, stored, transplanted, or disposed of.

*"Infectious waste"* means waste that is infectious, including but not limited to contaminated sharps, cultures and stocks of infectious agents; blood and blood products; pathological waste; and contaminated animal carcasses from hospitals or research laboratories.

*"Initial comprehensive plan"* means a first or new comprehensive plan filed with the department pursuant to Iowa Code section 455B.306.

*"Integrated solid waste management"* means any solid waste management system that is focused on planned development of programs and facilities that reduce waste volume and toxicity, recycle marketable materials, and provide for safe disposal of any residuals.

*"In-vessel"* means the use of a drum, silo, bin, tunnel, or other container for the purpose of producing compost.

*"Karst terranes"* means areas where karst topography, with its characteristic surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terranes include but are not limited to sinkholes, sinking streams, caves, large springs, and blind valleys.

*"Land application"* means a method through which sludge or solid waste is applied to the surface of the ground. Land application may include subsurface injection.

*"Landfarm"* means the area of land used for landfarming a single application of a particular source and type of PCS.

*"Landfarm applicator"* means an entity permitted by the department to apply PCS to the land to create one or more landfarms.

*"Landfarming"* means a surface-level soil remediation technology for petroleum contaminated soils that reduces concentrations of petroleum constituents through biodegradation to a level safe for human health and the environment. This technology usually involves spreading excavated contaminated soils in a thin layer on the ground surface and stimulating aerobic microbial activity within the soils through aeration. The enhanced microbial activity results in degradation of adsorbed petroleum product constituents through microbial respiration. Some petroleum product constituents volatize during the landfarming process.

*"Landfarm plot"* means the specific operating area of a landfarm upon which a particular source and type of PCS is applied.

*"Landfarm season"* means the period of the year when the ground is not frozen or snow-covered and runoff from these situations is not expected to transport PCS beyond the landfarm area.

*"Landfill property"* means the entire area of the landfill including the disposal site and any other contiguous property proposed for actual landfill use.

*"Landfill site"* means any location; place; or tract of land used for collection, storage, conversion, utilization, incineration or landfilling of solid waste, to include the landfill area, nonfill work areas, borrow areas plus a 100-foot wide perimeter surrounding the working areas or the property line if it is closer than 100 feet to the working areas.

*"Land pollution"* means the presence in or on the land of any solid waste in such quantity, of such nature, for such duration, and under such condition as would affect injuriously any waters of the state, cause air pollution, or create a nuisance.

*"Lateral expansion"* means a horizontal expansion of the waste boundaries of an existing sanitary landfill.

*"License"* means the same as defined in Iowa Code section 17A.2.

*"Lithified earth material"* means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include human-made materials, such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth surface.

*"Lower explosive limit"* means the lowest percent by volume of a mixture of explosive gases in air that will propagate a flame at 25°C and atmospheric pressure.

*"Maturity"* means the degree or level of completeness of composting. Mature compost is free of phytotoxic components.

*"Maximum horizontal acceleration in lithified earth material"* means the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90 percent or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment.

*"Mercury-containing components"* means devices containing mercury. Examples include but are not limited to thermostats, thermocouples, mercury switches, and fluorescent tubes.

*"Mobile operation"* means a permitted appliance demanufacturer that has equipment capable of operating in an area away from a fixed, permitted location.

*"Monitoring well"* means any well installed solely for the sampling of groundwater quality at a given location and depth and constructed in a manner approved by the department.

*"Municipal solid waste landfill"* or *"MSWLF"* means a discrete area of land or an excavation that receives household waste and that is not a land application site, surface impoundment, injection well, or waste pile as those terms are defined under 40 CFR Section 257.2. An MSWLF may also receive other types of RCRA Subtitle D wastes, such as commercial solid waste, nonhazardous dry sludge, and industrial solid waste. An MSWLF may be publicly or privately owned. An MSWLF may be a new MSWLF site, an existing MSWLF site, or a lateral expansion.

*"Municipal solid waste landfill (MSWLF) unit"* means a discrete area of land or an excavation that receives household waste and that is not a land application site, surface impoundment, injection well, or waste pile as those terms are defined under 40 CFR Section 257.2. An MSWLF unit may also receive other types of RCRA Subtitle D wastes, such as commercial solid waste, nonhazardous sludge, construction and demolition debris, and industrial solid waste. An MSWLF unit may be publicly or privately owned.

*"Municipal solid waste sanitary disposal project"* means all facilities and appurtenances, including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of household waste without creating a significant hazard to the public health or safety. A municipal solid waste sanitary disposal project may also receive other types of RCRA Subtitle D wastes, such as construction and demolition debris and commercial and industrial solid waste.

*"Net worth"* means total assets minus total liabilities and is equivalent to an owner's equity.

*"Nonfriable ACM waste"* means the same as defined in 40 CFR Section 61.141.

*"Nonstandard PCS"* means soil contaminated with a petroleum product other than gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

*"Open burning"* means any burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack.

*"Open dump"* means any exposed accumulation of solid waste at a site other than a sanitary disposal project operating under a permit from the department.

*"Open dumping"* means the illegal depositing of solid wastes on the surface of the ground or into a body or stream of water.

*"Operating area"* means the immediate portion of a sanitary disposal project used for unloading and handling of solid waste to prepare it for processing or final disposal.

*"Operator"* means an individual who is employed and assigned to operate the equipment used on the site.

*"Organic materials"* means any material of animal or plant origin.

*"Parent corporation"* means a corporation that directly owns at least 50 percent of the voting stock of the corporation that is the facility owner or operator; the latter corporation is deemed a subsidiary of the parent corporation.

*"Passenger tire equivalent"* means a conversion measurement that is used to estimate waste tire weights and volume amounts and in which one passenger car tire with a rim diameter of 19 inches or less is equal to 25 pounds. One cubic yard of volume shall contain ten passenger tire equivalents. Tires larger than a passenger car tire shall be evaluated for volume using this conversion measurement.

*"Pathological waste"* means human tissues and body parts that are removed during surgery or autopsy.

*"PCB"* or *"PCBs"* means polychlorinated biphenyl, which is a chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances that contain polychlorinated biphenyl.

*"Perched saturated zone"* means a localized saturated zone occurring above the regional zone of saturation. The perched saturated zone's presence is caused by a lens of relatively impermeable material within the unsaturated zone that impedes the downward movement of water toward the zone of saturation.

*"Petroleum contaminated soil"* or *"PCS"* means soil contaminated with petroleum products including but not limited to gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

*"Piezometer"* means a device used to measure hydraulic head at a specific point in the groundwater system. Piezometers are generally small diameter wells sealed along the entire length and open to water only at the bottom through a short section of well screen, which is the point where hydraulic head is measured. A piezometer may be constructed similar to a monitoring well or may be a driven well point.

*"Planning agency"* means the designated contact agency on file with the department.

*"Planning area"* means the combined jurisdiction of the local governments and the designated municipal solid waste sanitary disposal project(s) involved in a comprehensive plan. A planning area may include one or more municipal solid waste sanitary disposal projects.

*"Planning cycle"* means the length of time between the due date for each comprehensive plan update submittal as approved by the department, which shall be every five years on a schedule prescribed by the department.

*"Point of compliance"* or *"POC"* means the point at which the sanitary landfill owner or operator demonstrates compliance with the liner performance standard, if applicable, and with the groundwater protection standard. The point of compliance is a vertical surface located hydraulically downgradient of the waste management area that extends down into the uppermost aquifer underlying the regulated sanitary landfill unit(s) and where groundwater monitoring shall be conducted.

*"Point of demanufacturing"* means the actual location of demanufacturing for fixed facilities and mobile operations.

*"Pollution control waste"* means any solid waste residue extracted by, or resulting from, the operation of pollution control equipment.

*"Poor foundation conditions"* means those areas where features exist that indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of an MSWLF site.

*"Potentiometric surface"* means the imaginary surface that represents the level to which water from an aquifer (confined or unconfined) will rise in wells.

*"Premises"* means a geographically contiguous property owned by a generator or noncontiguous property owned by a generator that is connected by a controlled right-of-way to which the public does not have access. Two or more pieces of property that are geographically contiguous and divided by public or private right-of-way are a single premises.

*"Processed tire"* means a tire that has been processed through grinding, shredding, or other means, thereby producing a material that is readily suitable for marketing into product manufacturing, energy recovery, or other beneficial reuse markets. Waste tires that have been compacted, baled, cut, or shredded without a suitable market shall not be considered processed tires and shall be regulated as solid waste.

Waste tires that have been cut into pieces that are not more than 18 inches on any side shall be accepted at a permitted sanitary landfill for final disposal as solid waste.

*"Public agency"* means the same as defined in Iowa Code section 28E.2.

*"Qualified groundwater scientist"* means a scientist or engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering and has sufficient training and experience in groundwater hydrology and related fields demonstrated by state registration, professional certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding groundwater monitoring, contaminant fate and transport, and corrective action.

*"Raw rendering material"* means any body, part of a body, or product of a body of any dead animal that is unwholesome, condemned, inedible, or otherwise unfit for human consumption.

*"RCRA"* means the Resource Conservation and Recovery Act as amended in 1996 and as implemented through 40 CFR Parts 239 through 282.

*"Refuse"* means putrescible and nonputrescible solid wastes including but not limited to garbage, rubbish, ashes, incinerator ash, incinerator residues, street cleanings, industrial solid wastes, and sewage treatment wastes in dry or semisolid form.

*"Refuse collection service"* means a publicly or privately operated agency, business, or service engaged in the collecting and transporting of solid waste for disposal purposes.

*"Residential lead-based paint waste"* means the same as defined in 40 CFR Section 258.2.

*"Rubbish"* means nonputrescible solid waste consisting of combustible and noncombustible wastes, such as ashes, paper, cardboard, tin cans, glass, bedding, crockery, or litter of any kind.

*"Runoff"* means the same as defined in 40 CFR Section 258.2.

*"Run-on"* means the same as defined in 40 CFR Section 258.2.

*"Salvageable material"* means discarded material that is no longer of value for its original purpose but has value if reclaimed.

*"Salvaging"* means the systematic removal of salvageable material in a formal and orderly manner as a part of the normal operating procedure of a sanitary disposal project.

*"Sanitary disposal"* means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

*"Sanitary landfill"* means a discrete area of land or an excavation used for solid waste disposal. Types of sanitary landfills include MSWLFs, construction and demolition debris landfills, industrial landfills, and coal combustion residuals landfills.

*"Sanitary landfill operator"* means an individual having active, daily on-site responsibility for day-to-day operation of a department-permitted sanitary landfill. This individual must also have the authority to turn waste away at the gate when the waste is considered unacceptable.

*"Sanitary landfill unit"* means a designated portion of a sanitary landfill's footprint to distinguish the area from other areas.

*"Satellite solid waste collection vehicle"* means a small, specialized solid waste collection vehicle that has been specifically designed to service locations that have vehicle access restrictions that would otherwise render solid waste collection technically prohibitive.

*"Saturated zone"* means the same as defined in 40 CFR Section 258.2.

*"Scavenging"* means the uncontrolled removal of materials from the unloading or working area of a sanitary disposal project.

*"Seismic impact zone"* means an area with a 10 percent or greater probability that the maximum horizontal acceleration in the lithified earth material, expressed as a percentage of the earth's gravitational pull, will exceed 0.10g in 250 years.

*"Service area"* means an area served by a specific municipal solid waste sanitary disposal project defined in terms of the jurisdictions of the local governments using the facility. A planning area may include more than one service area.

*"Sewage sludge"* means the same as defined in Iowa Code section 455B.171(34).

*"Shelby tube"* means a thin-walled, seamless steel tube with a sharp cutting edge that is used to obtain undisturbed samples of cohesive or moderately cohesive soils (silts and clays).

*"Shoreland"* means land within 300 feet of the high water mark of any natural or artificial publicly or privately owned lake or any impoundment of water used as a source of public water supply.

*"Short-term CRT collection event"* means any temporary activity involving the collection of discarded CRTs for recycling that is not on the premises of a CRT recycling facility or CRT collection facility.

*"Sludge"* means any solid, semisolid, or liquid waste generated from a commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility.

*"Small capacitor"* means a capacitor that contains less than 1.36 kg (3 lbs) of dielectric fluid. The following assumptions may be used if the actual weight of the dielectric fluid is unknown. A capacitor whose total volume is less than 1,639 cubic centimeters (100 cubic inches) may be considered to contain less than 1.36 kg (3 lbs) of dielectric fluid, and a capacitor whose volume is more than 3,278 cubic centimeters (200 cubic inches) must be considered to contain more than 1.36 kg (3 lbs) of dielectric fluid. A capacitor whose volume is between 1,639 and 3,278 cubic centimeters may be considered to contain less than 1.36 kg (3 lbs) of dielectric fluid if the total weight of the capacitor is less than 4.08 kg (9 lbs).

*"Soil boring"* means a hole drilled or driven into the subsurface for the purpose of determining subsurface characteristics.

*"Soil stabilization"* means the treatment or coating of soil to increase or maintain the stability of a mass of soil, to protect soil areas at risk of erosion, or to improve the engineering properties of the soil.

*"Solid by-product"* means a solid secondary material or residual, produced or created by an industrial, commercial or institutional process or activity. Solid by-products are composed of materials that are suitable for disposal as solid waste in a sanitary landfill.

*"Solid waste"* means the same as defined in Iowa Code section 455B.301. Pursuant to Iowa Code section 455B.301(29)*"b,"* the commission has determined that solid waste includes those wastes exempted from federal hazardous waste regulation pursuant to 40 CFR 261.4(b), except to the extent that any such exempted substances are liquid wastes or wastewater. This determination shall apply to all chapters within Title VIII.

*"Solid waste collection"* means the gathering of solid waste from public and private places.

*"Solid waste collection vehicle"* means a vehicle that has the primary purpose of collecting solid waste from a variety of locations, including at curbside and from dumpsters, compactors, and roll-off boxes.

*"Solid waste incinerator operator"* means an individual with active, daily on-site responsibility for day-to-day operation of a permitted solid waste incinerator. This individual must also have the authority to turn waste away when it has been determined to be unacceptable.

*"Solid waste storage"* means the holding of solid waste pending intermediate or final disposal.

*"Solid waste transfer station"* means any site, location, tract of land, installation or building that has the primary purpose of receiving solid waste generated off the premises from multiple generators and consolidating the waste prior to transporting it to a final disposal facility. A solid waste transfer station is a sanitary disposal project and may hold or store solid waste before transport for a short period. A solid waste transfer station is not a final disposal facility.

*"Solid waste transportation"* means the conveying of solid waste from one place to another by means of vehicle, rail car, water vessel, conveyor, or other means.

*"Solid waste transport vehicle"* means a vehicle that has the primary purpose of transporting solid waste received by a solid waste transfer station (e.g., walking floor semi-trailer).

*"Source of PCS"* means the contaminated area from which the PCS originated. Examples of a source include but are not limited to a specific gas station or spill location.

*"Special wastes"* means the same as defined in Iowa Code section 455B.304(17).

*"Specific yield"* means the ratio of the volume of water that a given mass of saturated rock or soil will yield by gravity to the volume of that mass. This ratio is stated as a percentage.

*"Split spoon sampler"* means a device used in conjunction with a drilling rig to obtain core samples from unconsolidated strata.

*"Stability"* when used in reference to composting means a stage in the composting process when microbial activity is diminished with the corresponding decrease of available organic carbon and other energy sources. Stable compost consumes little nitrogen and oxygen and generates little carbon dioxide or heat.

*"Stabilized sludge"* means sludge that has been processed to a point where it has the ability to resist further change, produces minimal odor, and has achieved a substantial reduction in the pathogenic organism content. The department recognizes principles of stabilization other than the conventional biological processes. Whether these processes produce a stabilized sludge will be evaluated on an individual basis.

*"Standard PCS"* means soil contaminated with gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

*"Statistically significant increase"* or *"SSI"* means a statistical difference large enough to account for data variability and not thought to be due to chance alone.

*"Storage coefficient"* means the volume of water an aquifer releases from or takes into storage per unit surface area of aquifer per unit change in head.

*"Structural components"* means liners, leachate collection systems, final covers, run-on/runoff systems, and any other component used in the construction and operation of the MSWLF that is necessary for protection of human health and the environment.

*"Structural fill"* means the discrete, controlled use of a solid by-product as a substitute for a conventional aggregate, raw material, or soil under or immediately adjacent to a building or structure to provide strength, stability, and improved drainage characteristics (e.g., embankments, trench or foundation backfill, and pipe bedding). Structural fill does not include uses that involve general filling or grading operations that bring a naturally low area up to grade.

*"Subbase for hard-surface pavement construction"* means material that is used in subsurface applications for the construction of roads, including their shoulders, and parking lots that have hard surfaces such as concrete or asphalt. For the purposes of beneficial use, subbase for hard-surface pavement construction is not considered fill material.

*"Substantial business relationship"* means the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to that relationship valid and enforceable. A "substantial business relationship" must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that a currently existing business relationship between the guarantor and the owner or operator is demonstrated to the satisfaction of the department.

*"Suitable for disposal as solid waste in a sanitary landfill"* means that the material is in compliance with all state and federal rules and regulations pertaining to what may be disposed of in an Iowa sanitary landfill. Such materials are at a minimum nonhazardous and nonradioactive, are solid or semisolid, and do not contain free liquids as defined by Method 9095B (Paint Filter Liquids Test) (2004), included in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (EPA Publication SW-846) that is incorporated by reference.

*"Surge pit"* means a pit inside a solid waste transfer station building that receives solid waste from the tipping floor or directly from solid waste collection vehicles. Surge pits provide more space for temporary storage during peak operating hours and allow for additional compaction of the solid waste before it is loaded into solid waste transport vehicles.

*"Tangible net worth"* means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

*"Tar ball"* means a ball or conglomeration of tarlike petroleum constituents.

*"Tire casing"* means a used and worn tire that is suitable for the process of recapping. A tire casing stored for more than one year without being recapped shall be considered a waste tire.

*"Total expenditures"* means all expenditures, excluding capital outlays and debt repayment.

*"Total revenues"* means revenues from all taxes and fees, excluding revenue from funds managed by a local government on behalf of a specific third party, and does not include the proceeds from borrowing or asset sales.

*"Toxic wastes"* means materials containing poisons, biocides, acids, caustics, pathological wastes, and similar harmful wastes that may require special handling and disposal procedures to protect the environment and the persons involved in the storage, transport, and disposal of the wastes.

*"Transmissivity"* means the rate at which water is transmitted through a unit width of an aquifer under a unit hydraulic gradient.

*"Trees"* means trunks, limbs, stumps, or branches from trees or shrubs and untreated, uncoated, chemically unchanged wood wastes. This shall not include wood products that are part of an otherwise defined waste or have been contaminated by coatings, treatments, or metals.

*"Tremie tube"* means a pipe used to carry materials (e.g. gravel pack, grout) to the bottom of a boring and allow placement from the bottom up without segregation of materials or introduction of appreciable air pockets.

*"Truck-to-truck transfer"* means the direct transfer of solid waste from one vehicle to a second vehicle with no intermediary handling.

*"Type of PCS"* means the specific petroleum product or combination thereof that contaminated the soil. Examples include but are not limited to gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

*"Unconfined aquifer"* means an aquifer that does not have a confining bed above it. The level of water in a well in an unconfined aquifer is below the top of the aquifer formation.

*"Unsaturated zone"* means the subsurface zone above the water table in which the interstitial spaces are only partially filled with water or not filled at all.

*"Unstable area"* means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and karst terranes.

*"Upgradient"* means direction of increasing hydraulic head.

*"Upgradient well"* means a well that is capable of yielding groundwater samples that are representative of regional conditions and are not affected by the landfill site.

*"Uppermost aquifer"* means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

*"Used tire"* means a tire that previously has been on a vehicle but that retains suitable tread depth and is free of damage or defects so that it may be safely returned to its original purpose.

*"Vector"* means a carrier organism that is capable of transmitting a pathogen from one organism to another. Vectors include but are not limited to birds, rats and other rodents, and insects.

*"Vertical expansion"* means additional waste placement on top of or against the side slopes of a previously filled sanitary landfill unit, whether active, closed, or inactive.

*"Washwater"* means a water-based liquid that has either originated from solid waste unloaded inside the enclosed portion of a solid waste transfer station or that has come into contact with enclosed solid waste transfer station areas that have come into contact with solid waste.

*"Waste management unit boundary"* means the same as defined in 40 CFR Section 258.2.

*"Waste tire stockpile"* means a permitted site that is used for the storage, collection, or deposit of waste tires, including indoor, outdoor, and underground storage.

*"Water table"* means the water surface below the ground at which the unsaturated zone ends and the saturated zone begins.

*"Water well"* means the same as defined in Iowa Code section 455B.171(44).

*"Wearing surface"* means a layer or top surface that is in direct contact with traffic or other moving objects and is subject to wear.

*"Yard waste"* means debris such as grass clippings, leaves, garden waste, brush, and trees. "Yard waste" does not include tree stumps.

*"Zone of saturation"* means the subsurface zone below the water table in which the interstitial spaces are completely filled with water.

**567—100.3(455B,455D) Permit required.** No public or private agency shall construct or operate a sanitary disposal project or solid waste management activity without first obtaining a permit from the department. In order to be issued a municipal solid waste sanitary disposal project permit, the permit applicant must also satisfy the comprehensive planning requirements set forth in 567—Chapter 104. The issuance of a permit by the department in no way relieves the applicant of the responsibility of complying with all other local; state; or federal statutes, ordinances, and rules or other requirements applicable to the solid waste management activity.

**567—100.4(455B,455D) Types of permits.** There are five types of permits issued by the director; all are described in this rule.

**100.4(1)** *Sanitary disposal project permit.* A sanitary disposal project permit is issued by the director under the authority of Iowa Code section 455B.305 to facilitate the final disposition of solid waste. Such permits are issued for a term of up to ten years and are renewable for similar terms.

*a.* To be timely filed, an application for renewal must be received at the department's office prior to the expiration date of the existing permit on a form prescribed by the department.

*b.* The department may conduct an inspection of the sanitary disposal project following receipt of the application for renewal. Following the inspection, the permit holder shall be notified of all measures needed to bring the sanitary disposal project into conformance with Iowa Code chapter 455B and the applicable rules.

*c.* A permit shall be renewed when a properly completed application has been received and all corrective measures required under 100.4(1)*"b"* have been completed.

**100.4(2)** *Solid waste management permit.* A solid waste management permit is issued by the director under the authority of Iowa Code chapters 455B and 455D for the management of solid waste. Such permits are issued for a term of up to five years and are renewable for similar terms.

*a.* To be timely filed, an application for renewal must be received at the department's office prior to the expiration date of the existing permit on a form prescribed by the department.

*b.* The department may conduct an inspection of the solid waste management activity following receipt of the application for renewal. Following the inspection, the permit holder shall be notified of all measures needed to bring the solid waste management activity into conformance with Iowa Code chapter 455B, Iowa Code chapter 455D, and the applicable rules.

*c.* A permit shall be renewed when a properly completed application has been received and all corrective measures required under 100.4(2)*"b"* have been completed.

**100.4(3)** *Developmental permit.* The director may issue a developmental permit for construction and operation of a sanitary disposal project or solid waste management activity that is not specifically described in these rules if the permit applicant demonstrates at a public hearing that the proposed project can provide satisfactory management or disposal of solid waste without adverse health-related or environmental effects.

*a.* No such permit shall be issued until the director, after public hearing, considers and approves the proposed project.

*b.* Developmental permits shall be issued for a term no less than one year and no more than three years.

*c.* Developmental permits may be renewed if the director finds, following public hearing, that the project provided satisfactory management or disposal of solid waste without adverse health-related or environmental effects over the term of the prior permit.

**100.4(4)** *Temporary permit.* A temporary permit is issued by the director under the authority of Iowa Code section 455B.307(1) for sanitary disposal projects that do not comply with the requirements of Iowa Code chapter 455B and these rules. Such permits are issued for a term of one year and are renewable. Temporary permits may be renewed if the director finds that the public interest will be best served by granting a renewal and the conditions of the previous temporary permit have been complied with.

*a.* Temporary permits shall incorporate as a condition a compliance schedule specifying how and when the applicant will meet the requirements of Iowa Code chapter 455B and these rules.

*b.* The decision of the director whether to issue a temporary permit, being discretionary, shall be a final decision. Once a temporary permit has been issued, it may be suspended or revoked only as provided in Iowa Code section 455B.305 and 7—Chapter 2506 and 561—Chapter 2506.

**100.4(5)** *Closure permit.* A closure permit is issued by the director under the authority of Iowa Code section 455B.305 for sanitary disposal projects that no longer accept solid waste. Such permits are issued for a term of up to 30 years. The term of subsequent renewal of the permit, if the post-closure period is extended, will be determined on a site-specific basis. A sanitary disposal project shall require a closure permit until the department determines that post-closure maintenance, monitoring, and operation of a leachate control system, if applicable, are no longer necessary.

*a.* Application shall be filed at the time of departmental notification of intended closure.

*b.* The application for issuance of this permit to a municipal solid waste sanitary disposal project shall be based on a previously approved comprehensive plan and the rules adopted pursuant to the authority of Iowa Code section 455B.306.

*c.* This permit shall require submission of an annual audit report, pursuant to Iowa Code section 455B.306(9)*"e,"* detailing the status of the financial instrument and other funds as required to guarantee completion of post-closure and monitoring requirements.

*d.* Requests for permit modification may be initiated by the department or by the permit holder.

*e.* At the end of the applicable post-closure period, and upon satisfactory completion of all required post-closure activities as established by Iowa Code chapter 455B, written notification shall be issued by the director stating that a permit is no longer required for the facility.

**567—100.5(455B,455D) Permit applications.**

**100.5(1)** *Application contents.* Each application for a permit to construct and operate a sanitary disposal project or solid waste management activity shall include the following unless project conditions render the specific item as not applicable. The rationale for exclusion of any item that is determined not to be applicable must be provided in either the body of the application or as a supplement to facilitate department review. Each application shall be on a form prescribed by the department and include specific information as required by 567—Chapter 101 or 102, as applicable.

*a.* The name, address, email, and telephone number of:

(1) Owner of site where the project will be located.

(2) Permit applicant.

(3) Official responsible for operation of the project.

(4) Professional engineer (P.E.) licensed in the state of Iowa and retained for financial assurance or the design of the facility, if any.

*b.* A legal description and physical address of the site.

*c.* A map or aerial photograph locating the boundaries of the site and identifying:

(1) North or other principal compass points.

(2) Zoning and land use within one-half mile.

(3) Haul routes to and from the site with load limits or other restrictions.

(4) Homes and buildings within one-half mile.

(5) Section lines or other legal boundaries.

*d.* Type, source, and expected volume or weight of solid waste to be handled per day, week, and year.

*e.* For municipal solid waste sanitary disposal projects, the solid waste comprehensive planning area of the facility and political jurisdictions included within that area.

*f.* A detailed description of the management or disposal process to be used and the sanitary disposal project designated for final disposal, if applicable.

*g.* A listing of equipment available on site for operations, including types as well as size, capacity, and production rates.

*h.* Proof of the applicant's ownership of the site or legal entitlement to use the site for the management of solid waste.

*i.* A closure plan that:

(1) Details how and when the facility will be closed in accordance with applicable requirements.

(2) Describes the proposed groundwater monitoring plan, leachate control system, and site inspection and maintenance activities, if applicable.

(3) States the name, address, email, and telephone number of the person or office to serve as contact with regard to the facility during the post-closure period, if applicable.

*j.* For sanitary disposal projects, an emergency response and remedial action plan (ERRAP) pursuant to 567—100.14(455B).

*k.* Proof of financial assurance pursuant to 567—Chapter 101, Division VIII, for all sanitary disposal projects.

*l.* Such other information as may be required by the director.

**100.5(2)** *Incomplete application.* If an application for a permit is found to be incomplete by the department, the applicant will be notified of that fact and of the specific deficiencies. Thirty days following such notification, the application may be returned by the department as incomplete without prejudice to the applicant's right to reapply. The applicant may be granted, upon request, an additional 30 days to complete the application. If an application for renewal or modification is found to be incomplete by the department, the applicant will be notified of that fact and of the specific deficiencies. Thirty days following such notification, the application for renewal or modification may be denied by the department.

**100.5(3)** *Factors in permit issuance decision.* The department may request that additional information be submitted for review to make a permit issuance decision. The department shall issue a permit if, after a review and inspection of the facility and its compliance history, the department finds that the facility is in substantial compliance with Iowa Code chapters 455B and 455D, these rules, and the conditions of the permit. If the facility is found not to be in substantial compliance with Iowa Code chapters 455B and 455D, these rules, and the conditions of the permit, or if a good-faith effort to maintain compliance is not being made, the project shall be placed on a compliance schedule approved by the department before the permit is issued. The permit may be issued with new conditions pursuant to 567—100.8(455B,455D).

**100.5(4)** *Request for permit modification.* A request for permit modification shall be submitted in writing to the department with supporting documentation and materials. The department may also request that information pursuant to 100.5(1) be resubmitted, in part or in whole, in order to make a permit modification decision. The modified permit may be approved with new conditions pursuant to 567—100.8(455B,455D).

**567—100.6(455B,455D) Construction and operation.** All sanitary disposal projects and solid waste management activities shall be constructed and operated according to the plans and specifications as approved by the department and the conditions of the permit. The approved plans and specifications shall constitute a condition of the permit.

**567—100.7(455B,455D) Inspection prior to start-up.** The department shall be notified when the construction of a sanitary disposal project or solid waste management activity has been completed, in order that an inspection may be made to determine if the project has been constructed as designed and approved by the department. No solid waste shall be accepted by a sanitary disposal project or solid waste management activity until it has been inspected and approved by the department.

**567—100.8(455B,455D) Permit conditions.** Any permit may be issued subject to conditions specified in writing by the department that are necessary to ensure that the project is constructed and operated in compliance with Iowa Code chapters 455B and 455D and these rules.

**567—100.9(455B,455D) General operating requirements for sanitary disposal projects and solid waste management activities.** Every application for a permit issued by the department shall detail the means of compliance with the following operating requirements. All projects shall be operated in conformance with these requirements and any specific requirements imposed by applicable rules or permit conditions.

**100.9(1)** Open burning shall be prohibited, except when permitted by 567—Chapter 23. Any burning to be conducted at the site shall be at a location separate and distinct from the operating area.

**100.9(2)** Unless the project is regulated by 567—101.5(455B), litter shall be confined to the property on which the project is located. At the conclusion of each day of operation, any litter strewn beyond the confines of the operating area shall be collected and stored in covered leakproof containers or properly disposed.

**100.9(3)** Scavenging shall be prohibited. Any salvaging to be conducted must be described in the application, and all salvaged materials must be stored and removed from the project site in conformance with the permit conditions. Each area where salvaged materials are stored shall be segregated and clearly marked.

**100.9(4)** Effective means shall be taken to prevent the attraction or harborage of vectors and to prevent a nuisance or public health hazard.

**100.9(5)** Equipment designated in the plans and specifications or equivalent equipment shall be used to operate the site at all times.

**100.9(6)** The major internal roads shall be of all-weather construction and maintained in good condition. Dust shall be controlled on internal roads.

**100.9(7)** Sites open to the public or otherwise required by a permit issued by the department for that site shall have a permanent sign posted at the site entrance specifying:

*a.* Name of the operation.

*b.* Site permit number.

*c.* Hours and days the site is open.

*d.* Telephone number.

**567—100.10(455B,455D) General closure requirements for sanitary disposal projects and solid waste management activities.** Every application for a permit issued by the department shall detail the means of compliance with the following closure requirements. All projects shall be closed in conformance with these requirements and any specific requirements imposed by applicable rules or permit conditions.

**100.10(1)** The owner or operator shall submit to the local political jurisdictions, the department, and the department field office with jurisdiction over the facility at least 90 days written notice of intent to permanently close or suspend operations.

**100.10(2)** Notice shall be posted at least 90 days prior to closure at the facility indicating the date of closure and alternative solid waste management facilities. If the facility is open to the public, notice of closure shall be published at least 90 days prior to closure in a newspaper of local circulation. This notice shall include the date of closure and, where applicable, identification of alternative solid waste management facilities.

**100.10(3)** Unless otherwise authorized by the department, implementation of the closure plan shall be completed within 90 days of the closure of the facility. For sanitary landfills, the owner and an Iowa-licensed professional engineer shall certify that the closure plan has been implemented in compliance with this rule, the closure plan, and the permit. Closure shall not be official until the department has inspected the site and given written certification of the completion of proper disposal of all solid waste.

**100.10(4)** Upon completion of closure activities, as-built plans shall be submitted showing changes from the original design plans, if any; test results indicating compliance with final cover, where applicable; waste removal; equipment decontamination; and other forms of closure documentation requested by the department.

**567—100.11(455B,455D) Compliance with rule changes.**

**100.11(1)** *Design and construction.* Sanitary disposal projects and solid waste management activities designed and constructed in accordance with rules in effect at the time of construction shall not be required to be redesigned or reconstructed due to subsequent rule changes unless the department finds that such facilities pose a threat to human health or the environment. Such facilities shall be brought into compliance with rules in effect at the time of reconstruction, expansion, or otherwise modifying the project or at the time of permit renewal.

**100.11(2)** *Operation.* If any new rule conflicts with an operating procedure prescribed in the engineering plans or the permit of a sanitary disposal project or solid waste management activity, the operation shall conform with the new rule.

**567—100.12(455B,455D) Transfer of title.** If title to a sanitary disposal project or solid waste management activity is transferred and the transferee desires to continue operation of the project, the transferee shall apply in writing to the department within 30 days of the title transfer for a transfer of the permit.

**100.12(1)** The department shall transfer the permit when it determines that the site is in compliance with Iowa Code chapters 455B and 455D, these rules, and the conditions of the permit and that the transferee possesses the equipment and personnel to operate the project in conformance with applicable rules and the conditions of the permit.

**100.12(2)** No permit is valid after 60 days following transfer of title unless the permit has been transferred by the department to the new titleholder pursuant to this rule. If the permit has not been transferred within 60 days, the new titleholder shall submit a complete permit application to operate the sanitary disposal project or solid waste management activity pursuant to 567—100.5(455B,455D).

**567—100.13(455B,455D) Effect of revocation.** The director may revoke and reissue, or terminate, in whole or in part, any license or permit for cause. If a license or permit held by any public or private agency for a sanitary disposal project or solid waste management activity is revoked by the director, no new license or permit shall be issued to that agency for that project for a period of one year from the date of revocation. Such revocation shall not prohibit the issuance of a license or permit for the project to another public or private agency.

**567—100.14(455B) Emergency response and remedial action plans.**

**100.14(1)** *Purpose.* The purpose of this rule is to implement Iowa Code section 455B.306(7)*"d"* by providing the criteria for developing a detailed ERRAP for permitted sanitary disposal projects. Each ERRAP shall include established provisions to minimize the possibility of fire; explosion; or any release to air, land, or water of pollutants that could threaten human health and the environment and to identify possible occurrences that may endanger human health and the environment.

**100.14(2)** *Applicability.* This rule applies to the owners or operators of all sanitary disposal projects that are permitted pursuant to 567—Chapter 101 and any activity deemed necessary by the department to maintain an ERRAP as part of their permit. The ERRAP does not replace or supersede other regulatory requirements related to public health, safety, or welfare.

**100.14(3)** *Submittal requirements.*

*a.* The owner or operator of a facility that is subject to this rule shall, at the time of application, incorporate a complete, detailed ERRAP that meets the requirements set forth in this rule.

*b.* An updated ERRAP shall be submitted at the time of each permit renewal or permit reissuance application and with any request for permit modification or significant change in facility operation that requires revision of the currently approved ERRAP.

**100.14(4)** *Content.* The content of ERRAP documents shall be concise and readily usable as a reference manual by facility managers and operators during emergency conditions. The ERRAP document content shall address at least the following primary issues in detail unless project conditions render the specific issue as not applicable. The rationale for exclusion of any issue areas that are determined not to be applicable must be provided in either the body of the plan or as a supplement to facilitate department review. Additional ERRAP requirements unique to the facility shall be addressed, as applicable.

*a.* Facility information.

(1) Permitted agency.

(2) Department permit number.

(3) Facility description.

(4) Responsible official and contact information.
(5) Project location.
(6) Site and environs map.
*b.* Regulatory requirements.
(1) Iowa Code section 455B.306(7)*"d"* criteria citation.
(2) Reference to provisions of the permit.
*c.* Emergency conditions—response activities—remedial action for short-term (48 hours or less) and long-term (over 48 hours) for the following:
(1) Failure of utilities that impede or prohibit operation of the facility, including but not limited to power/electricity and communications.
(2) Weather-related events that impede or prohibit operations of the facility, including but not limited to flooding and storms.
(3) Fire and explosions related to solid waste.
1. Solid waste fires, including landfill working face.
2. Hot loads.
3. Landfill gas.
(4) Solid waste spills and releases, including but not limited to waste materials, leachate, and landfill gas.
(5) Mass movement of land and waste, including but not limited to earthquakes, slope failures, waste shifts, or subsidence.
(6) Emergency notifications and reporting.
1. Federal agencies.
2. State agencies.
3. Local agencies.
4. News media.
5. Public and private facilities with special populations within five miles.
6. Emergency response agencies and contact information.
7. Reporting requirements and forms.
(7) Emergency waste management procedures.
1. Communications and public relations.
2. Temporary discontinuation of services—short- and long-term.
3. Facilities access and rerouting.
4. Waste acceptance.
5. Wastes in process.
6. Equipment.
(8) Emergency aid.
1. Responder contacts.
2. Medical services.
3. Contracts and agreements.
(9) ERRAP training requirements.
1. Training providers.
2. Employee orientation.
3. Annual training updates.
4. Training completion and recordkeeping.

**100.14(5)** *ERRAP review.* The ERRAP shall be developed with the review and input of the local fire department and local emergency management coordinator. Documentation shall be maintained that such review and input has been requested.

**567—100.15(455B) Laboratory analyses.** Analyses for a contaminant regulated under Title VIII must be performed by a laboratory certified for the analyte(s) and applicable method pursuant to 567—Chapter 83.

These rules are intended to implement Iowa Code sections 455B.304 and 455B.305 and chapter 455D.

[Filed 7/24/26, effective 9/23/26]
[Published 8/19/26]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

# ARC 0482D

# ENVIRONMENTAL PROTECTION COMMISSION[567]

**Adopted and Filed**

**Rulemaking related to sanitary disposal projects**

The Environmental Protection Commission (Commission) hereby rescinds Chapter 101, "Solid Waste Comprehensive Planning Requirements"; adopts a new Chapter 101, "Sanitary Disposal Projects"; and rescinds Chapter 106, "Citizen Convenience Centers and Transfer Stations," Chapter 113, "Sanitary Landfills for Municipal Solid Waste: Groundwater Protection Systems for the Disposal of Nonhazardous Wastes," Chapter 114, "Sanitary Landfills: Construction and Demolition Wastes," and Chapter 115, "Sanitary Landfills: Industrial Monofills," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code sections 455B.304, 455B.304(12), 455B.304(8) and 455B.306(9).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 455B, Executive Order 10, and 40 CFR Part 258.

*Purpose and Summary*

Chapters 103, 106, 113, 114, and 115 were reviewed consistent with Executive Order 10 (2023). Chapter 101 is a consolidation of these six chapters related to sanitary disposal projects. No new programs are being adopted. The chapter contains the following eight divisions, including one reserved division, with summaries and purposes as follows:

**Division I—Landfill-Specific Requirements:** Provides general landfill-specific requirements for sanitary disposal projects regulated in Divisions II, III, and IV of Chapter 101.

**Division II—Municipal Solid Waste Landfills:** Implements Iowa Code chapter 455B, subchapter IV (Solid Waste Disposal) and protects human health and the environment through the implementation of minimum national standards pursuant to the Resource Conservation and Recovery Act for municipal solid waste landfills. Notably, these rules have been promulgated in the Federal Register as part of Environmental Protection Agency's approval of Iowa's program.

**Division III—Industrial Landfills:** Establishes rules for the siting, designing, and operating of sanitary landfills accepting only industrial solid waste or only construction and demolition debris. As part of this rulemaking, the permit period for industrial landfills was extended to five years, up from three years.

**Division IV—Coal Combustion Residuals Landfills:** Establishes rules for the siting, designing, and operating of a sanitary landfill accepting only coal combustion residuals.

**Division V—Solid Waste Transfer Stations:** Establishes rules for the collection, temporary storage, and transfer of solid waste prior to final disposition. This includes the siting, designing, and operating of transfer stations. As part of this rulemaking, the permit period for solid waste transfer stations was extended to five years, up from three years.

**Division VI—Solid Waste Incinerator Operator Certification:** Provides the criteria for establishing the certification of operators of solid waste incinerators to help ensure the safe and proper management for disposal of waste.

**Division VII—Infectious Waste Treatment and Disposal:** Reserved.

**Division VIII—Financial Assurance:** Provides criteria for establishing financial assurance for closure, post-closure care, and corrective action at sanitary disposal projects.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 7, 2026, as **ARC 9931C**. An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on June 10, 2026, as **ARC 0355D**. A public hearing was held on the following date(s):

- June 30, 2026
- July 1, 2026

Comments were provided by two people representing four organizations. The comments focused on the definitions contained in statute versus in rule.

Upon review of the comments, a change from the Notice has been made to replace the term "private agency" with "person" to align with definitions in applicable law.

*Adoption of Rulemaking*

This rulemaking was adopted by the Commission on July 21, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to Iowa Code section 17A.9A and 7—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on September 23, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind 567—Chapter 101 and adopt the following **new** chapter in lieu thereof:

CHAPTER 101
SANITARY DISPOSAL PROJECTS

DIVISION I
LANDFILL-SPECIFIC REQUIREMENTS

**567—101.1(455B) Purpose, applicability, and compliance.** The purpose of this division is to provide sanitary landfill-specific requirements for sanitary disposal projects regulated in Divisions II, III, and IV of this chapter. All sanitary landfills regulated in Divisions II, III, and IV of this chapter must comply with the provisions of this division and with 567—Chapter 100, except as noted below and in those respective divisions.

**101.1(1)** Municipal solid waste landfills that did not receive waste after October 9, 1994, shall be governed by the closure permit issued or the rules in place at the time for post-closure activities.

**101.1(2)** All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—101.2(455B) Farm exceptions.** This chapter does not apply to farm waste and farm buildings that are disposed of in compliance with the following requirements.

**101.2(1)** *Definitions.* For the purpose of this rule:

*"Farm buildings"* means barns, machine sheds, storage cribs, animal confinement buildings, and homes located on the premises and used in conjunction with crop production or with livestock or poultry raising and feeding operations.

*"Farm waste"* means machinery, vehicles and equipment used in conjunction with crop production or with livestock or poultry raising and feeding operations, trees, brush and grubbed stumps generated on the same property or ashes from the burning thereof. "Farm waste" does not include agricultural chemicals, fertilizers or manures, or domestic household wastes.

**101.2(2)** A person may dispose of farm waste and farm buildings without first having obtained a sanitary disposal project permit, provided that the disposal is in accordance with 101.2(3), the rules of the department of agriculture and land stewardship, and the following:

*a.* The farm waste was owned by a person and was used on the premises where disposal occurs.

*b.* Prior to disposal of vehicles, machinery, and equipment, all fluids are drained, including motor oils, motor fuels, lubricating fluids, coolants and solvents, and agricultural chemicals; and all batteries and rubber tires are removed.

*c.* Prior to disposal of storage or feeding equipment, the equipment is emptied of all contents not otherwise authorized for burial pursuant to these rules.

*d.* Farm buildings have been emptied of contents not otherwise authorized for burial pursuant to these rules and have been buried on the premises where they were located.

*e.* All materials drained or removed from farm waste or farm buildings prior to disposal are recycled, reused, or disposed of in accordance with Iowa Code chapters 455B and 459 and the rules implementing that chapter.

*f.* The farm waste and farm buildings are buried in soils listed in tables contained in the county soil surveys and soil interpretation records (published by the U.S. Soil Conservation Service) as being moderately well drained, well drained, somewhat excessively drained, or excessively drained soils. Other soils may be used if artificial drainage is installed to obtain water-level depth more than two feet below the burial depth of the waste.

*g.* The lowest elevation of the burial pit is six feet or less below the surface.

*h.* The farm waste and farm buildings are immediately covered with a minimum of 6 inches of soil and finally covered with a total minimum of 24 inches of soil.

**101.2(3)** Farm waste and farm buildings must be disposed of in accordance with the following separation distances:

*a.* At least 100 feet from any private well and 200 feet from any public well that is being used or would be used without major renovation for domestic purposes.

*b.* At least 50 feet from any adjacent property line.

*c.* At least 500 feet from an existing neighboring residence.

*d.* More than 100 feet from any body of surface water such as a stream, lake, pond, or intermittent stream, except as provided in 101.2(3)*"f."*

*e.* Outside the boundaries of a floodplain, wetland, or shoreline area, except as provided in 101.2(3)*"f."*

*f.* Trees, brush and grubbed stumps generated as a result of clearing, snagging, or maintenance or repair of drainage ditches or outlets may be buried within 100 feet of a surface water and within a floodplain or shoreline area.

**567—101.3(455B) Definitions.** For the purposes of this division, the definitions in Iowa Code section 455B.301 and 567—Chapter 100 shall be incorporated by reference.

**567—101.4(455B) Permits.** In addition to the permit requirements in 567—Chapter 100 and as otherwise required by law, the following permit requirements shall apply to all sanitary landfills.

**101.4(1)** *Operating permits.* An MSWLF, construction and demolition debris, or industrial landfill operating permit shall be issued and may be renewed for a period no longer than five years. A coal combustion residuals landfill operating permit shall be issued and may be renewed for a period no longer than ten years. If an MSWLF adopts research, development, and demonstration (RD&D) provisions pursuant to 101.104(2), an MSWLF operating permit with RD&D provisions shall be issued and may be renewed for a period no longer than three years.

**101.4(2)** *Closure permits.* An MSWLF or industrial landfill closure permit shall be issued for a period of 30 years. A coal combustion residuals landfill closure permit shall be issued for a period of ten years. A sanitary landfill requires a closure permit until the department determines that post-closure operations are no longer necessary. A request for a closure permit renewal or termination shall be filed at least 180 days before the expiration of the current permit. If the department finds that a sanitary landfill has completed all required post-closure activities and no longer presents a significant risk to human health or the environment, then the department shall issue written notification that a closure permit is no longer required for the facility. If the department extends the post-closure period, then the duration of the subsequent closure permit will be determined on a site-specific basis.

**567—101.5(455B) Applications and construction requirements.** Unless otherwise authorized by the department, a permit applicant shall submit on a form prescribed by the department, and shall provide evidence demonstrating how the landfill will comply with the requirements in 567—Chapter 100, the following general requirements, and any requirements specified in the applicable division of this chapter.

**101.5(1)** *Local siting approval.* Documentation that local siting approval pursuant to Iowa Code section 455B.305A, if applicable, has been obtained.

**101.5(2)** *Separation from groundwater.* The base of a sanitary landfill unit shall be situated so that the base of the waste within the proposed unit is at least five feet above the high water table unless a greater separation is required to ensure that there will be no significant adverse effect on groundwater or surface waters or a lesser separation is unlikely to have a significant adverse effect on groundwater or surface waters. Artificial means of lowering the high water table are acceptable. The separation of the base of a sanitary landfill unit from the high water table shall be measured and maintained in a manner acceptable to the department.

**101.5(3)** *Wells.* A sanitary landfill unit shall not be within 1,000 feet of any water well in existence at the time of receipt of the original permit application or application to laterally expand the permitted sanitary landfill unit for the facility. Groundwater monitoring wells are exempt from this requirement. The department may also exempt extraction wells utilized as part of a remediation system from this requirement.

**101.5(4)** *Floodplains.* New sanitary landfill units or lateral expansions shall not be located in a 100-year floodplain. Existing sanitary landfills located in 100-year floodplains must demonstrate to the department that the unit will not restrict the flow of a 100-year flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste so as to pose a hazard to human health and the environment. The owner or operator must place the demonstration in the operating record and submit a copy of the demonstration to the department. For purposes of this subrule, the definitions for floodplain, 100-year flood, and washout are the same as defined in 40 CFR 258.11.

**567—101.6(455B) General operating requirements.** In addition to the general operating requirements in 567—Chapter 100, the following shall apply to all sanitary landfills unless otherwise noted.

**101.6(1)** *Controlled access.* Sanitary landfills will control public access and prevent unauthorized vehicular traffic and illegal dumping of wastes by using artificial barriers, natural barriers, or both, as appropriate to protect human health and the environment.

**101.6(2)** *Scales and weights.* A scale certified by the Iowa department of agriculture and land stewardship shall weigh all solid waste collection vehicles and solid waste transport vehicles. The owner or operator shall maintain a record of the weight of waste disposed.

**101.6(3)** *All-weather access to disposal.* A disposal area shall be accessible during all weather conditions when the landfill is open.

**101.6(4)** *Salvaged and processed materials.* Salvaged and processed materials (e.g., scrap metal, compost, mulch, aggregate, tire chips) from a sanitary landfill shall be managed and stored in an orderly manner that does not create a nuisance or encourage the attraction or harborage of vectors.

**101.6(5)** *Vector control.* Sanitary landfills shall prevent or control the on-site populations of vectors using techniques appropriate for the protection of human health and the environment.

**101.6(6)** *Litter control.* Sanitary landfills shall take steps to minimize the production of litter and the release of windblown litter off site of the facility. All windblown litter off site of the facility shall be collected daily unless prevented by unsafe working conditions. On-site litter shall be collected daily unless prevented by working conditions. A dated record of unsafe conditions that prevented litter collection activities shall be maintained by the facility.

**101.6(7)** *Dust control.* Sanitary landfills shall take steps to minimize the production of dust so that unsafe or nuisance conditions are prevented.

**101.6(8)** *Mud control.* Sanitary landfills shall take steps to minimize the tracking of mud by vehicles exiting the facility so that slick or unsafe conditions are prevented.

**101.6(9)** *Leachate and wastewater treatment.* The leachate management system shall be managed and maintained pursuant to the requirements of Divisions II, III, and IV of this chapter. Leachate collection pipes shall be cleaned and inspected as necessary but not less than once every three years. Leachate and wastewater shall be treated as necessary to meet the pretreatment limits, if any, imposed by a publicly owned wastewater treatment works (POTW) or by the effluent discharge limits established by a National Pollutant Discharge Elimination System (NPDES) permit. Documentation of the pretreatment permit or pretreatment agreement with the POTW or NPDES permit must be submitted to the department. All leachate and wastewater treatment systems shall conform to the department's wastewater design standards.

**101.6(10)** *Signage.* Facilities open to the public shall have signs or pavement markings indicating on-site traffic patterns.

**101.6(11)** *Traffic control.* Adequate queuing distance shall be provided for vehicles entering and exiting the property.

**567—101.7(455B) Sanitary landfill operator certification.** Sanitary landfill operators shall be trained, tested, and certified by a department-approved certification program.

**101.7(1)** A sanitary landfill operator shall be on duty during all hours of operation of all sanitary landfills, except coal combustion residuals sanitary landfills, consistent with the respective certification.

**101.7(2)** To become a certified operator, an individual shall complete a basic operator training course that has been approved by the department or an alternative, equivalent training approved by the department and shall pass a departmental examination as specified by this subrule. An operator certified by another state may have reciprocity subject to prior approval by the department.

**101.7(3)** A sanitary landfill operator certification is valid until June 30 of the following even-numbered year.

**101.7(4)** The required basic operator training course for a certified sanitary landfill operator shall have at least 20 contact hours and shall address the following areas at a minimum:

*a.* Description of types of wastes.

*b.* Interpreting and using engineering plans.

*c.* Construction surveying techniques.

*d.* Waste decomposition processes.

*e.* Geology and hydrology.

*f.* Landfill design.

*g.* Landfill operation.

*h.* Environmental monitoring.

*i.* Applicable laws and regulations.

*j.* Permitting processes.

*k.* Leachate control and treatment.

**101.7(5)** Alternate basic operator training must be approved by the department. The applicant shall be responsible for submitting any documentation the department may require to evaluate the equivalency of alternate training.

**101.7(6)** Fees.

*a.* The fee for each examination is $20.

*b.* The initial certification fee is $8 for each one-half year of a two-year period from the date of issuance to June 30 of the next even-numbered year.

*c.* The certification renewal is $24.

*d.* The penalty fee is $12.

**101.7(7)** Examinations.

*a.* The operator certification examinations shall be based on the basic operator training course curriculum.

*b.* All individuals wishing to take the examination required to become a certified operator of a sanitary incinerator shall complete an operator certification examination application on a form prescribed by the department. A listing of dates and locations of examinations is available from the department upon request. The application form requires the applicant to indicate the basic operator training course taken. Evidence of training course completion must be submitted with the application for certification. The completed application and the application fee shall be sent to the Iowa Department of Natural Resources, 6200 Park Avenue, Des Moines, Iowa 50321. Application for examination must be received by the department prior to the date of examination.

*c.* A properly completed application for examination shall be valid for one year from the date the application is approved by the department.

*d.* Upon failure of the first examination, the applicant may be reexamined at the next scheduled examination. Upon failure of the second examination, the applicant shall be required to wait a period of 180 days between each subsequent examination.

*e.* Upon each reexamination when a valid application is on file, the applicant shall submit to the department the examination fee at least ten days prior to the date of examination.

*f.* Failure to successfully complete the examination within one year from the date of approval of the application shall invalidate the application.

*g.* Completed examinations will be retained by the department for a period of one year, after which they will be destroyed.

*h.* Oral examinations may be given at the discretion of the department.

**101.7(8)** Certification.

*a.* All operators who passed the operator certification examination by July 1, 1991, are exempt from taking the required operator training course. Beginning July 1, 1991, all operators are required to take the basic operator training course and pass the examination in order to become certified.

*b.* Application for certification must be received by the department within 30 days of the date the applicant receives notification of successful completion of the examination. All applications for certification shall be made on a form prescribed by the department and shall be accompanied by the certification fee.

*c.* Applications for certification by examination that are received more than 30 days but less than 60 days after notification of successful completion of the examination shall be accompanied by the certification fee and the penalty fee. Applicants who do not apply for certification within 60 days of notice of successful completion of the examination will not be certified on the basis of that examination.

*d.* For applicants who have been certified under other state mandatory certification programs, the equivalency of which has been previously reviewed and accepted by the department, certification without examination will be approved.

*e.* For applicants who have been certified under voluntary certification programs in other states, the department shall consider certification by reciprocity if the applicant has successfully completed a basic operator training course and an examination generally equivalent to the Iowa examination. The department may require the applicant to successfully complete the Iowa examination.

*f.* Applicants who seek Iowa certification pursuant to 101.7(8)*"d"* and *"e"* shall submit an application for examination accompanied by a letter requesting certification pursuant to this subrule. Application for certification pursuant to this subrule shall be received by the department in accordance with 101.7(8)*"b"* and *"c."*

**101.7(9)** Duration and renewal of certification. All certificates shall expire every two years, on even-numbered years, and must be renewed every two years to maintain certification. Application and fee are due prior to expiration of certification.

*a.* Late application for renewal of a certificate may be made, provided that such late application shall be received by the department within 30 days of the expiration of the certificate. Such late application shall be on forms prescribed by the department and accompanied by the penalty fee and the certification renewal fee.

*b.* If a certificate holder fails to apply for renewal within 30 days following expiration of the certificate, the right to renew the certificate automatically terminates. Certification may be allowed at any time following such termination, provided that the applicant successfully completes an examination. The applicant must then apply for certification in accordance with 101.7(8).

*c.* An operator shall not continue to operate a sanitary landfill after expiration of a certificate without renewal thereof.

*d.* Continuing education must be earned during the two-year certification period. All certified operators must earn eight contact hours per certificate during each two-year period. The two-year period will begin upon issuance of certification.

*e.* Only those operators fulfilling the continuing education requirements before the end of each two-year period will be allowed to renew their certificates. The certificates of operators not fulfilling the continuing education requirements shall be void upon expiration unless an extension is granted by the department.

*f.* All activities for which continuing education credit will be granted must be related to the subject matter of the particular certificate to which the credit is being applied.

*g.* The department may, in individual cases involving hardship or extenuating circumstances, grant an extension of time of up to three months within which the applicant may fulfill the minimum continuing education requirements. Hardship or extenuating circumstances include documented health-related confinement or other circumstances beyond the control of the certified operator that prevent attendance at the required activities. All requests for extensions must be made 60 days prior to expiration of certification.

*h.* The certified operator is responsible for notifying the department of the continuing education credits earned during the period. The continuing education credits earned during the period shall be shown on the application for renewal.

*i.* A certified operator shall be deemed to have complied with the continuing education requirements of this subrule during periods that the operator serves honorably on active duty in the military service, for periods that the operator is a resident of another state or district having a continuing education requirement for operators and meets all the requirements of that state or district for practice there, for periods that the person is a government employee working as an operator and is assigned to duty outside the United States, or for other periods of active practice and absence from the state approved by the department.

**101.7(10)** Discipline of certified operators.

*a.* Disciplinary action may be taken on any of the following grounds:

(1) Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified operator. Duties of certified operators include compliance with rules and permit conditions applicable to sanitary landfill operation.

(2) Failure to submit required records of operation or other reports required under applicable permits or rules of the department, including failure to submit complete records or reports.

(3) Knowingly making any false statement, representation, or certification on any application, record, report or document required to be maintained or submitted under any applicable permit or rule of the department.

*b.* Disciplinary sanctions allowable are:

(1) Revocation of a certificate.

(2) Probation under specified conditions relevant to the specific grounds for disciplinary action. Additional education or training or reexamination may be required as a condition of probation.

*c.* The procedure for discipline is as follows:

(1) The department shall initiate disciplinary action. The commission may direct that the department investigate any alleged factual situation that may be grounds for disciplinary action under 101.7(10)*"a"* and report the results of the investigation to the commission.

(2) A disciplinary action may be prosecuted by the department.

(3) Written notice shall be given to an operator against whom disciplinary action is being considered. The notice shall state the informal and formal procedures available for determining the matter. The operator shall be given 20 days to present any relevant facts and indicate the operator's position in the matter and to indicate whether informal resolution of the matter may be reached.

(4) An operator who receives notice shall communicate verbally, in writing, or in person with the department, and efforts shall be made to clarify the respective positions of the operator and department.

(5) The applicant's failure to communicate facts and positions relevant to the matter by the required date may be considered when determining appropriate disciplinary action.

(6) If agreement as to appropriate disciplinary sanction, if any, can be reached with the operator and the commission concurs, a written stipulation and settlement between the department and the operator shall be entered into. The stipulation and settlement shall recite the basic facts and violations alleged, any facts brought forth by the operator, and the reasons for the particular sanctions imposed.

(7) If an agreement as to appropriate disciplinary action, if any, cannot be reached, the department may initiate formal hearing procedures. Notice and formal hearing shall be in accordance with 7—Chapter 2506 and 561—Chapter 2506 related to contested and certain other cases pertaining to license discipline.

**101.7(11)** Upon revocation of a certificate, application for certification may be allowed after two years from the date of revocation. Any such applicant must successfully complete an examination and be certified in the same manner as a new applicant.

**101.7(12)** Temporary certification. A temporary operator of a sanitary landfill may be designated for a period of six months when an existing certified operator is no longer available to the facility. The facility must make application to the department, explain why a temporary certification is needed, identify the temporary operator, and identify the efforts that will be made to obtain a certified operator. A temporary operator designation shall not be approved for greater than a six-month period, except for extenuating circumstances. In any event, not more than one six-month extension to the temporary operator designation may be granted. Approval of a temporary operator designation may be rescinded for cause as set forth in 101.7(10). All sanitary landfills, with the exception of coal combustion residuals landfills, shall have at least one sanitary landfill operator trained, tested, and certified by a department-approved program.

**567—101.8(455B) Groundwater monitoring and reporting.**

**101.8(1)** The planning, monitoring, and reporting for groundwater monitoring at a sanitary landfill shall be performed by a qualified groundwater scientist.

**101.8(2)** Monitoring wells must be constructed and cased by a well contractor certified pursuant to 567—Chapter 82 in a manner that maintains the integrity of the monitoring well borehole. This casing must be screened or perforated and packed with gravel or sand, where necessary, to enable collection of groundwater samples. The annular space (i.e., the space between the borehole and well casing) above the sampling depth must be sealed to prevent contamination of samples and the groundwater. Monitoring wells constructed in accordance with the rules in effect at the time of construction shall not be required to be abandoned and reconstructed as a result of subsequent amendments to these rules unless the department finds that the well is no longer providing representative groundwater samples. Figure 1 contains a general diagram of a properly constructed monitoring well.

*a.* The owner or operator must notify the department that the design, installation, development, and decommission of any monitoring wells; piezometers; and other measurement, sampling, and analytical devices documentation has been placed in the operating record.

*b.* The monitoring wells; piezometers; and other measurement, sampling, and analytical devices must be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

*c.* Each groundwater monitoring point must have a unique and permanent number, and that number must never change or be used again at the sanitary landfill. The types of groundwater monitoring points shall be identified as follows:

(1) Monitoring wells by "MW# (insert unique and permanent number)".

(2) Piezometers by "PZ# (insert unique and permanent number)".

(3) Groundwater underdrain systems by "GU# (insert unique and permanent number)".

*d.* Monitoring well construction shall comply with the following requirements:

(1) In all phases of drilling, well installation, and completion, the methods and materials used shall not introduce substances or contaminants that may alter the results of water quality analyses.

(2) Drilling equipment that comes into contact with contaminants in the borehole or aboveground shall be thoroughly cleaned to avoid spreading contamination to other depths or locations. Contaminated materials or leachate from wells must not be discharged onto the ground surface or into waters of the state so as to cause harm in the process of drilling or well development.

(3) The owner or operator must ensure that, at a minimum, the well design and construction log information is maintained in the facility's permanent record on a form prescribed by the department and that a copy is sent to the department.

*e.* Monitoring well casings shall comply with the following requirements:

(1) The diameter of the inner well casing (e.g., Figure 1) of a monitoring well shall be at least two inches.

(2) Plastic-cased wells shall be constructed of materials with threaded and non-glued joints that do not allow water infiltration under the local subsurface pressure conditions and when the well is evacuated for sampling.

(3) Well casing shall provide sufficient structural stability so that a borehole or well collapse does not occur. Flush joint casing is required for small diameter wells installed through hollow stem augers.

*f.* Monitoring well screens shall comply with the following requirements:

(1) Slot size shall be based on sieve analysis of the sand and gravel stratum or filter pack. The slot size must keep out at least 90 percent of the filter pack.

(2) Slot configuration and open area must permit effective development of the well.

(3) The screen shall be no longer than ten feet in length, except for water table wells, in which case the screen shall be of sufficient length to accommodate normal seasonal fluctuations of the water table. The screen shall be placed five feet above and below the observed water table unless local conditions are known to produce greater fluctuations. Screen length for piezometers shall be two feet or less. Multiple-screened, single-cased wells are prohibited.

*g.* Monitoring well filter packs shall comply with the following requirements:

(1) The filter pack shall extend at least 18 inches above and 12 inches below the well screen.

(2) The size of the filter pack material shall be based on sieve analysis when sand and gravel are screened. The filter pack material must be 2.5 to 3 times larger than the 50 percent grain size of the zone being monitored.

(3) In stratum that is neither sand nor gravel, the size of the filter pack material shall be selected based on the particle size of the zone being monitored.

*h.* Monitoring well annular space shall comply with the following requirements:

(1) Grouting materials must be installed from the top of the filter pack up in one continuous operation with a tremie tube.

(2) The annular space between the filter pack and the frostline must be backfilled with bentonite grout.

(3) The remaining annular space between the protective casing and the monitoring well casing must be sealed with bentonite grout from the frostline to the ground surface.

*i.* Monitoring well heads shall be protected as follows:

(1) Monitoring wells shall have a protective metal casing installed around the upper portion of the monitoring well casing as follows:

1. The inside diameter of the protective metal casing shall be at least two inches larger than the outer diameter of the monitoring well casing.

2. The protective metal casing shall extend from a minimum of one foot below the frostline to slightly above the well casing top; however, the protective casing shall be shortened if such a depth would cover a portion of the well screen.

3. The protective casing shall be sealed and immobilized with a concrete plug around the outside. The bottom of the concrete plug must extend at least one foot below the frostline; however, the concrete plug shall be shortened if such a depth would cover a portion of the well screen. The top of the concrete plug shall extend at least three inches above the ground surface and slope away from the well. Soil may be placed above the plug and shall be at least six inches below the cap to improve runoff.

4. The inside of the protective casing shall be sealed with bentonite grout from the frostline to the ground surface.

5. A vented cap shall be placed on the monitoring well casing.

6. A vented, locking cap shall be placed on the protective metal casing. The cap must be kept locked when the well is not being sampled.

(2) All monitoring wells shall have a ring of brightly colored protective posts or other protective barriers to help prevent accidental damage.

(3) All monitoring wells shall have a sign or permanent marking clearly identifying the permanent monitoring well number (MW#).

(4) Run-on shall be directed away from all monitoring wells.

*j.* Well development is required prior to the use of the monitoring well for water quality monitoring purposes. Well development must loosen and remove fines from the well screen and gravel pack. Any water utilized to stimulate well development must be of sufficient quality that future samples are not contaminated. Any gases utilized in well development must be inert gases that will not contaminate future samples. Following development, the well shall be pumped until the water does not contain significant amounts of suspended solids.

**101.8(3)** Groundwater monitoring points that are no longer functional must be sealed. Groundwater monitoring points that are to be sealed and are in a future waste disposal area shall be reviewed to determine if the method utilized to seal the monitoring point needs to be more protective than the following requirements. All abandoned groundwater-monitoring points (e.g., boreholes, monitoring wells, and piezometers) shall be sealed by a well contractor certified pursuant to 567—Chapter 82 and in accordance with the following requirements.

*a.* The following information shall be placed in the operating record on a form prescribed by the department and a copy sent to the department:

(1) The unique, permanent monitoring point number.

(2) The reasons for abandoning the monitoring point.

(3) The date and time the monitoring point was sealed.

(4) The method utilized to remove monitoring point materials.

(5) The method utilized to seal the monitoring point.

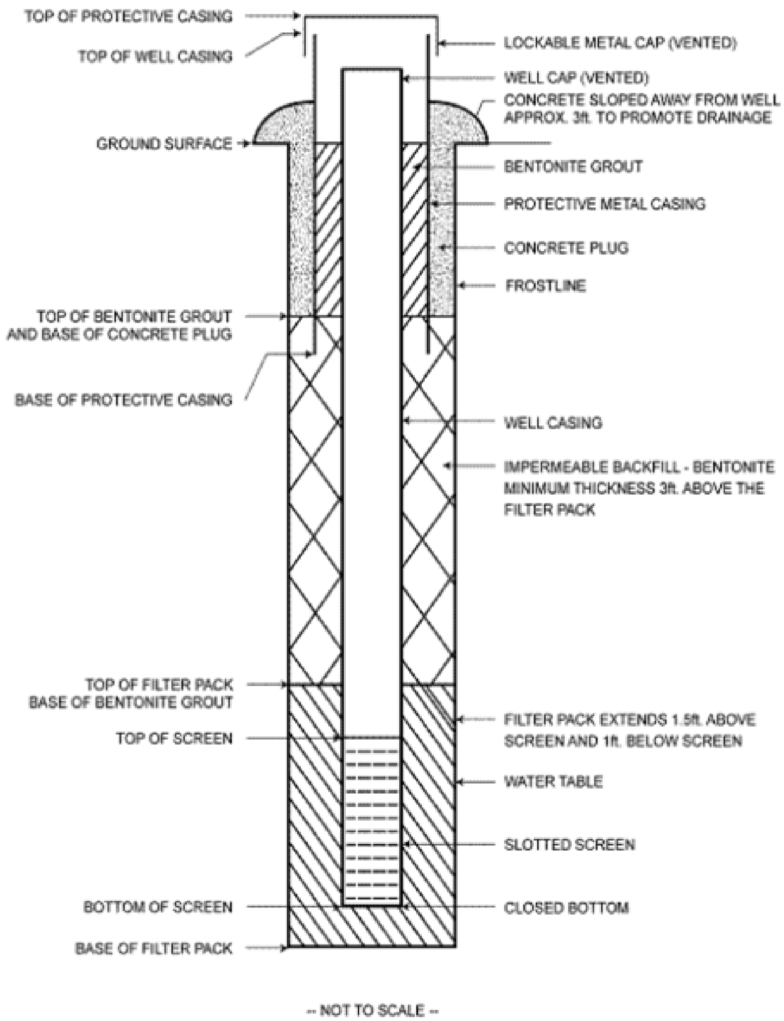
*b.* The monitoring point materials (e.g., protective casing, casing, screen) shall be removed. If drilling is utilized to remove the materials, then the drilling shall be to the maximum depth of the previously drilled monitoring point. All drilling debris shall be cleaned from the interior of the borehole.

*c.* The cleared borehole shall be sealed with impermeable bentonite grout via a tremie tube. The end of the tremie tube shall be submerged in the grout while filling from the bottom of the borehole to the top of the ground surface. Uncontaminated water shall be added from the surface as needed to aid grout expansion.

*d.* After 24 hours, the bentonite grout shall be retopped if it has settled below the ground surface.

**101.8(4)** Groundwater samples shall not be field-filtered prior to laboratory analysis.

Figure 1 – Typical Monitoring Well Cross-Section




**567—101.9(455B) Contingency planning.** In addition to the emergency response and remedial action plan (ERRAP) requirements in 567—Chapter 100, all sanitary landfills shall include a contingency plan in their ERRAP detailing specific procedures to be followed in case of equipment breakdown, maintenance downtime, or fire in equipment or vehicles, including methods to be used to remove or dispose of accumulated waste.

**567—101.10(455B) Disruption and excavation of sanitary landfills or closed dumps.** No person shall excavate, disrupt, or remove any deposited material from any active or discontinued sanitary landfill or closed dump without first having notified the department in writing.

**101.10(1)** Notification shall include an operational plan stating the area involved, lines and grades defining limits of excavation, estimated number of cubic yards of material to be excavated, sanitary disposal project where material is to be disposed, and estimated time required for excavation procedures.

**101.10(2)** An excavation shall be confined to an area consistent with the number of pieces of digging equipment and trucks used for haulage.

**101.10(3)** The disposal of all solid waste resulting from excavation shall be in conformity with Iowa Code chapter 455B and applicable solid or hazardous waste regulations.

**567—101.11(455B) Transfer of title.** If title of a closed sanitary disposal project is transferred, any future waste exhumation activities, excluding repairs or maintenance activities, are considered to be operation of the landfill due to the similar environmental effects possible from the two activities due to waste exposure.

These rules are intended to implement Iowa Code section 455B.304 and chapter 455D.

**567—101.12** to **101.100** Reserved.

DIVISION II
MUNICIPAL SOLID WASTE LANDFILLS

**567—101.101(455B) Purpose.** The purpose of this division is to implement Iowa Code chapter 455B, subchapter IV (solid waste disposal), and to protect human health and the environment through the implementation of minimum national standards pursuant to the Resource Conservation and Recovery Act ("RCRA" or "the Act") for all municipal solid waste landfill (MSWLF) units and under the Clean Water Act for MSWLFs that are used to dispose of sewage sludge.

This division details the permitting, siting, design, operating, monitoring, corrective action, reporting, recordkeeping, closure, and post-closure requirements for sanitary landfills accepting municipal solid waste.

**567—101.102(455B) Applicability and compliance.**

**101.102(1)** This division shall apply to sanitary landfills that are constructed and operated exclusively for the final deposition of municipal solid waste.

**101.102(2)** Pursuant to Iowa Code section 455B.305(1), an MSWLF shall not be constructed or operated without first obtaining a permit from the department pursuant to this division, the requirements set forth in 567—Chapter 100, and Division I of this chapter.

**101.102(3)** The issuance of a permit to an MSWLF pursuant to this division in no way relieves the applicant of the responsibility of complying with all other local, state, or federal statutes; ordinances; and rules or other requirements applicable to the construction and operation of an MSWLF.

**101.102(4)** Sanitary landfills accepting municipal solid waste must comply with the provisions of this division.

**101.102(5)** These rules do not pertain to the management and disposal of special wastes. Division VI of this chapter contains rules pertaining to the management and disposal of special wastes.

**101.102(6)** These rules do not apply to MSWLF units that did not receive waste after October 9, 1994. The closure permit issued or the rules in effect at the time of closure shall govern post-closure activities for such MSWLF units.

**101.102(7)** This division does not apply to MSWLF units that ceased receiving waste before October 1, 2007, and are not contiguous with MSWLF units that continued to accept waste after October 1, 2007. For the purpose of this subrule, contiguous MSWLF units are those that adjoin, abut, or have a common boundary or edge with one another or that utilize the same groundwater monitoring network system. The permit issued and the rules in effect at the time waste acceptance ceased shall govern post-permit activities for such MSWLF units, except as follows:

*a.* Financial assurance in accordance with 567—101.114(455B) shall be required.

*b.* Surface water sampling in accordance with 101.110(3) shall be required.

*c.* MSWLF units shall perform groundwater sampling for the following parameters:

(1) Routine semiannual water sampling parameters:

1. Chloride.
2. Specific conductance (field measurement).
3. pH (field measurement).
4. Ammonia nitrogen.
5. Iron, dissolved.
6. Chemical oxygen demand.
7. Any additional parameters deemed necessary by the department.

(2) Routine annual water sampling parameters:

1. Total organic halogen.
2. Phenols.
3. Any additional parameters deemed necessary by the department.

*d.* If the analytical results for a downgradient groundwater monitoring point do not fall within the control limits of two standard deviations above (or below, for pH) the mean parameters, listed in 101.102(7)*"d"*(1) and *"d"*(2), in a corresponding upgradient groundwater monitoring point and it cannot be demonstrated that a source other than an MSWLF unit caused the control limit exceedance, then the owner or operator shall comply with the groundwater assessment monitoring program requirements in 101.110(6) and corrective action requirements in 101.110(7), 101.110(8), and 101.110(9), if necessary.

**101.102(8)** Compliance with amendments to these rules.

*a.* Owners or operators of existing MSWLF units that have an approved leachate collection system and a composite liner, or a leachate collection system and an alternative liner modeled at an approved point of compliance, shall not be required to redesign or reconstruct the MSWLF units due to amendments to these rules subsequent to such approval unless the department finds that such units are causing pollution or that continued use of such units will result in a vertical expansion on top of or against the side slopes of a previously filled noncompliant MSWLF unit. Prior to waste placement in the vertical expansion area, revised design plans shall be submitted to include construction of a separatory liner and leachate collection system that comply with all the requirements of 101.107(5) to be placed between the area of vertical expansion and the underlying noncompliant MSWLF unit.

*b.* Except as authorized by 101.102(8)*"a,"* if any new regulation conflicts with a provision of or an operating procedure prescribed in the engineering plans or the MSWLF permit, the facility shall conform to the new regulation.

**101.102(9)** Equivalency review procedure.

*a.* In approving a permit application under this division, the department may authorize, in writing, alternatives to the design requirements in this division only if, and only to the extent that, specific rules in this division expressly state that alternatives may be authorized under this division.

*b.* An owner or operator requesting an alternative design under this division shall submit a request to the department prepared by an Iowa-licensed professional engineer. The request shall:

(1) Identify the specific rule for which an equivalency alternative is being sought.

(2) Demonstrate through supporting technical documentation, justification and quality control procedures that the requested alternative to the design requirements in the rules of this division will, for the life of operations at the facility, achieve the performance standards in that rule.

*c.* No equivalency alternative will be approved unless the application affirmatively demonstrates that the following conditions are met:

(1) The request is complete and accurate and the requirements of this subrule have been met.

(2) The proposed alternative will provide protection equivalent to the design requirements in this division for the air, water, or other natural resources of the state of Iowa and will not harm or endanger the public health, safety, or welfare.

**101.102(10)** All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—101.103(455B) Definitions.** The definitions in Iowa Code section 455B.301 and 567—Chapter 100 shall apply to this division.

**567—101.104(455B) Permits.**

**101.104(1)** *Applicability.* For purposes of this division, the permit requirements in 567—Chapter 100; Division I of this chapter, and this rule apply.

**101.104(2)** *Research, development, and demonstration (RD&D) permits.* The director or the director's designee may issue an RD&D permit that overrides the applicable portions of this division pursuant to 40 CFR 258.4 without issuing a waiver pursuant to 7—Chapter 2504. A permit amendment from the department for leachate recirculation only does not require an RD&D permit.

**101.104(3)** *Notice and public participation in the MSWLF permit issuance and post-permit actions.*

*a.* For the purposes of this subrule, "post-permit actions" includes permit renewals and requests for the following facility modifications:

(1) Change in an MSWLF facility boundary or an MSWLF unit.

(2) Application for an RD&D permit pursuant to 101.104(2).

(3) Installation of a landfill gas collection system.

(4) Application for a closure permit for an MSWLF unit.

(5) Transfer of an MSWLF permit to a new owner.

(6) Waiver from this division under 567—101.115(455B).

(7) Change in the post-permit land use of the property.

(8) Other significant permit actions that are determined by the department to require public notice and participation. Such actions may include requests to change any of the requirements set forth as special provisions in the permit.

*b.* Prior to the issuance of approval or denial for an MSWLF permit or post-permit action, public notice shall be circulated in a manner designed to inform interested and potentially interested persons of the permit or post-permit action request. Procedures for the circulation of public notice shall include at least the following:

(1) Upon receipt of the permit application or post-permit action request, the department shall determine whether public notice is required in accordance with this subrule. If public notice is required, then the department shall prepare the public notice that shall be circulated by the owner or operator within the service area of the MSWLF by posting the public notice near the entrance to the MSWLF; and by publishing the public notice in periodicals or, if appropriate, in a newspaper(s) of general circulation.

(2) The public notice shall be posted on the department's webpage.

*c.* The department shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views with respect to the MWSLF permit application or post-permit action request. All written comments submitted during the 30-day comment period shall be retained by the department and considered by the department in the formulation of the department's final determinations. The period for comment may be extended at the sole discretion of the department.

*d.* The contents of the public notice shall include at least the following:

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

(2) The name and address of each applicant.

(3) A brief description of each applicant's activities or operations that result in the submittal of the permit application or post-permit action request.

(4) A statement that any person may submit written and signed comments or may request a public hearing, or both, on the proposed permit or post-permit action request. A statement of procedures to request a public hearing pursuant to 101.104(3)*"e"* shall be included.

(5) Locations where copies of the permit application or post-permit action request may be reviewed and the times at which the copies shall be available for public inspection.

*e.* The applicant or any interested agency, person, or group of persons may request or petition for a public hearing with respect to an MSWLF permit application or post-permit action request. Any such request shall clearly state issues and topics to be addressed at the hearing. Any such request or petition for public hearing must be filed with the department within the 30-day period prescribed in 101.104(3)*"c"* and shall indicate the interest of the party filing such request and the reasons why a hearing is warranted. The department shall hold an informal and noncontested case hearing if there is a significant public interest (including the filing of requests or petitions for such hearing) in holding such a hearing. Frivolous or insubstantial requests for hearing may be denied by the department. Instances of doubt should be resolved in favor of holding the hearing. Any hearing requested pursuant to this subrule shall be held in the service area of the MSWLF or other appropriate area at the sole discretion of the department.

*f.* If the department determines that a public hearing is warranted, then the department shall prepare the public notice of the hearing. Public notice of any hearing held shall be circulated at least as widely as was the notice of the permit application or post-permit action request.

*g.* The contents of public notice of any hearing held pursuant to 101.104(3)*"e"* shall include at least the following:

(1) The name, address, and telephone number of the department;

(2) The name and address of each applicant whose application will be considered at the hearing;

(3) A brief reference to the public notice issued for each permit application and post-permit action request;

(4) Information regarding the time and location for the hearing;

(5) The purpose of the hearing;

(6) A concise statement of the issues raised by the person requesting the hearing;

(7) Locations where copies of the permit application or post-permit action may be reviewed, including the closest department field office, and the times at which the copies shall be available for public inspection; and

(8) A brief description of the nature of the hearing, including the rules and procedures to be followed.

*h.* The department shall keep a record of the commenters and of the issues raised during the public participation process and shall prepare written responses to all comments received. At the time a final decision is made, the record and copies of the department's responses shall be made available to the public.

**567—101.105(455B) Permit applications.** Unless otherwise authorized by the department, a permit applicant shall submit on a form prescribed by the department compliance with the requirements in 567—Chapter 100 and Division I of this chapter and the following information:

1. A site exploration and characterization report for the facility that complies with the requirements of 101.106(3).

2. Plans and specifications for the facility, and quality control and assurance (QC&A) plans, that comply with the requirements of 101.107(4).

3. A development and operations (DOPs) plan for the facility.

4. An environmental monitoring plan that complies with the requirements of 567—101.109(455B) and 567—101.110(455B).

5. The project goals and timelines and other documentation as necessary to comply with 101.104(2) and other requirements of the department if an RD&D permit is being requested or renewed.

6. A closure and post-closure plan that complies with the requirements of 567—101.112(455B) and 567—101.113(455B).

**567—101.106(455B) Siting and location requirements.** This rule applies to new MSWLF units and horizontal expansions of existing MSWLF units. Except for 101.106(2), this rule does not apply to permitted MSWLF units that have been approved prior to October 1, 2007. Information required to document compliance with 567—101.106(455B) shall be consolidated and maintained in a site exploration and characterization report pursuant to 101.106(3).

**101.106(1)** *Location restrictions.* MSWLFs shall comply with the following location restrictions.

*a. Airports.*

(1) No new MSWLF shall be constructed or established within six miles of a smaller public airport unless approved or authorized by the Federal Aviation Administration (FAA).

(2) Owners or operators of new MSWLF units, existing MSWLF units, and lateral expansions that are located within 10,000 feet (3,048 meters) of any airport runway end used by turbojet aircraft or within 5,000 feet (1,524 meters) of any airport runway end used by piston-type aircraft only must demonstrate to the FAA and obtain its approval that the units are designed and operated so that the MSWLF unit does not pose a bird hazard to aircraft. The owner or operator must place the demonstration of this requirement in the operating record and submit to the department a copy of the demonstration approved by the FAA.

(3) Owners or operators proposing to site new MSWLF units or lateral expansions within a five-mile radius of any airport runway end used by turbojet or piston-type aircraft must notify the affected airport and the FAA. A copy of these notifications shall be submitted to the department.

*b. Wetlands.* New MSWLF units and lateral expansions shall not be located in wetlands unless the owner or operator can make the demonstrations in 40 CFR 258.12 to the department.

*c. Fault areas.* New MSWLF units or lateral expansions shall not be located within 200 feet (60 meters) of a fault that has had displacement in Holocene time unless the owner or operator demonstrates to the department that an alternative setback distance of less than 200 feet (60 meters) will prevent damage to the structural integrity of the MSWLF unit and will be protective of human health and the environment.

*d. Seismic impact zones.* New MSWLF units and lateral expansions shall not be located in seismic impact zones unless the owner or operator demonstrates to the department that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site. The owner or operator must place the demonstration in the operating record and submit a copy of the demonstration to the department.

*e. Unstable areas.* Owners or operators of new MSWLF units, existing MSWLF units, or lateral expansions located in an unstable area must demonstrate to the department that engineering measures have been incorporated into the MSWLF unit's design to ensure that the integrity of the structural components of the MSWLF unit will not be disrupted. The owner or operator must place the demonstration in the operating record and submit a copy of the demonstration to the department. The owner or operator must consider the following factors, at a minimum, when determining whether an area is unstable:

(1) On-site or local soil conditions that may result in significant differential settling;

(2) On-site or local geologic or geomorphologic features; and

(3) On-site or local human-made features or human-induced events (both surface and subsurface).

*f. Property line setback.* An MSWLF unit shall be at least 50 feet from an adjacent property line.

*g. Housing and sensitive populations.* An MSWLF unit shall not be within 500 feet of an occupied residence, recreational area, child care facility, educational facility, or health care facility in existence at the time of receipt of the original permit application or application to laterally expand the permitted MSWLF unit unless there is a written agreement between the MSWLF owner and such facility. The written agreement shall be filed with the county recorder for abstract of title purposes and a copy submitted to the department.

**101.106(2)** *Soil and hydrogeologic investigations.* An MSWLF shall have a qualified groundwater scientist, as defined in 567—101.3(455B), conduct a soil and hydrogeologic investigation in accordance with this subrule. The purpose of this investigation is to obtain data to determine potential routes of contaminant migration via groundwater. Such information is vital for completion of the site exploration and characterization report and the hydrologic monitoring system plan and design. This subrule sets forth the minimum requirements for soil and hydrogeologic investigations. An MSWLF shall comply with this subrule unless the department issues written approval due to specific site conditions.

*a. Number of borings.* A sufficient number of borings shall be made to accurately identify the stratigraphic and hydrogeologic conditions at the site.

*b. Depth of borings.* Unless otherwise approved by the department in writing, the following requirements shall apply to the depth of borings:

(1) All borings shall be a minimum of 25 feet deep and at least 10 feet below the water table.

(2) At a minimum, half of all borings shall extend 20 feet into the uppermost aquifer, 50 feet below the water table, or 10 feet into bedrock.

(3) At a minimum, one boring shall extend 10 feet into bedrock or 100 feet below the lowest ground surface elevation.

(4) All borings shall be of sufficient depth to correlate strata between borings.

*c. Boring method and soil samples.*

(1) Continuous samples shall be collected for all borings unless otherwise approved by the department in writing.

(2) Boring logs shall be as detailed as possible in describing each stratum.

(3) Samples shall be clearly marked, preserved, and transported in accordance with laboratory procedures.

(4) The permit applicant shall keep and preserve samples until at least 30 days after the permit is issued.

(5) Soil samples from each stratum shall be tested for falling-head hydraulic conductivity and grain size distribution.

*d. Conversion of or plugging borings.*

(1) Borings may be converted to piezometers or monitoring wells. However, the conversion of such borings does not guarantee that more piezometers or monitoring wells will not be required in the department-approved hydrologic monitoring system plan and design.

(2) Borings not converted to piezometers or monitoring wells shall be plugged and properly sealed so as not to create pathways for subsurface or surface pollution migration. Borings converted to piezometers or monitoring wells may still need to be partially plugged depending on the depth of the boring. Plugging shall be performed pursuant to 101.110(2).

*e. Soil and hydrogeologic investigation description and analysis.* A soil and hydrogeologic investigation description and analysis shall be completed and maintained and, at a minimum, shall contain the following:

(1) The boring logs pursuant to 101.106(3)*"c"*(2).

(2) A description of the properties of each soil and bedrock stratum as appropriate, including:

1. Soil texture and classification.

2. Particle size distribution.

3. Mineral composition, cementation, and soil structure.

4. Permeability, including horizontal and vertical permeability, and porosity.

5. Geologic structure, including strike, dip, folding, faulting, and jointing.

6. Previous activities and infrastructure at the site that could affect geology and hydrogeology, such as but not limited to mining, quarry operations, borrow pits, waste disposal, storage tanks, pipelines, utilities, and tile lines.

7. Lenses and other discontinuous units, voids, solution openings, layering, fractures, other heterogeneity, and the scale or frequency of the heterogeneity.

8. Correlation and continuity of strata between borings.

(3) Descriptions of the hydrogeologic units within the saturated zone, including:

1. Thickness.

2. Hydraulic properties, including as appropriate conductivity, transmissivity, storativity, and effective porosity.

3. Concentrations of chemical constituents listed in 40 CFR Part 258, Appendix I, present in the groundwater of hydrogeologic units and the source of those constituents, if known.

4. Role and effect of each hydrogeologic unit as an aquifer, aquitard, or perched saturated zone.
5. The actual or potential use of the aquifers as water supplies.

(4) Plan view maps, and a series of cross sections with two oriented perpendicular and two oriented parallel to the predominant directions of groundwater flow through the MSWLF unit, showing:

1. The extent of soil and bedrock strata.
2. The position of the water table.
3. The position of the uppermost aquifer.
4. Measured values of hydraulic head.
5. Equipotential lines and inferred groundwater streamlines of the water table, and the uppermost aquifer if different from the water table.
6. Location of soil and bedrock borings.
7. Location of piezometers and monitoring points, if any.

(5) A description and evaluation of horizontal and vertical groundwater flow that specifically addresses the following and their significance to the movement of pollutants carried by groundwater:

1. Local, intermediate, and regional groundwater systems.
2. Groundwater recharge and discharge areas within and immediately surrounding the facility, including interactions with perennial and intermittent surface waters and how the facility affects recharge rates.
3. Existing and proposed groundwater and surface water withdrawals.
4. The effects of heterogeneity, fractures, or directional differences in permeability on groundwater movement.
5. Directions of groundwater movement, including vertical components of flow, specific discharge rates, and average linear velocities within the hydrologic strata.
6. Seasonal or other temporal fluctuations in hydraulic head.
7. The effect of existing and proposed MSWLF units.

(6) An analysis of potential impacts on groundwater and surface water quality, and water users, in the event of a theoretical release at the most downgradient portion of each MSWLF unit. The analysis shall at a minimum utilize contaminants and indicator parameters with high mobility in groundwater. This analysis shall include:

1. Assumptions and approximations utilized and why they were utilized.
2. If a model is utilized, a thorough description of models used and each model's capabilities and limitations, including the reliability and accuracy of the models in actual field tests.
3. Projected paths and rates of movement of contaminants found in leachate.

(7) Recommendations for the location of the proposed MSWLF unit and conceptual design based on hydrogeologic information.

**101.106(3)** *Site exploration and characterization report.* An MSWLF shall develop and submit to the department for review a site exploration and characterization report. At a minimum, the site exploration and characterization report shall detail compliance with the requirements of this rule and contain the following components:

*a.* A title page and index.

*b.* A legal description of the site.

*c.* Proof of the applicant's ownership of the site and legal entitlement to use the site as an MSWLF. If the applicant does not own the site, then proof of legal entitlement to the site must be submitted. Such legal entitlement must include the following:

(1) Provisions that allow continued disposal operations until closure of the facility.

(2) Provisions for the performance of facility closure operations.

(3) Provisions for post-closure care for at least a 30-year period after facility closure.

*d.* Proof of the applicant's local siting approval pursuant to Iowa Code section 455B.305A, if applicable.

*e.* Scaled maps or aerial photographs locating the boundaries of the facility and identifying:

(1) North and other principal compass points.

(2) Section lines and other legal boundaries.

(3) Zoning and land use within one-half mile.
(4) Haul routes to and from the facility, including load limits or other restrictions on those routes.
(5) Topography within one-half mile.
(6) Applicable setback distances and location requirements pursuant to this rule, including:
1. Airports within six miles of existing, new, and planned MSWLF units.
2. Floodplains within or adjacent to the facility.
3. Wetlands within or adjacent to the facility.
4. Fault areas within 200 feet of existing, new, and planned MSWLF units.
5. Seismic impact zones within or adjacent to the facility.
6. Unstable areas within or adjacent to the facility.
7. Water wells within 1,000 feet of upgradient existing, new, and planned MSWLF units.
8. Public water wells within one mile of upgradient existing, new, and planned MSWLF units.
9. Boundaries of the existing, new, and planned MSWLF units and the facility property line.
10. Housing and sensitive populations within 500 feet of existing, new, and planned MSWLF units.

*f.* The bird-aircraft hazard demonstration pursuant to 101.106(2)*"a,"* if applicable.
*g.* The floodplain demonstration pursuant to 101.106(2)*"b,"* if applicable.
*h.* The wetlands demonstration pursuant to 101.106(2)*"c,"* if applicable.
*i.* The fault area demonstration pursuant to 101.106(2)*"d,"* if applicable.
*j.* The seismic impact zone demonstration pursuant to 101.106(2)*"e,"* if applicable.
*k.* The unstable area demonstration pursuant to 101.106(2)*"f,"* if applicable.
*l.* Copies of written agreements with surrounding property owners pursuant to 101.106(2)*"l,"* if applicable.
*m.* The soil and hydrogeologic investigation description and analysis pursuant to 101.106(3)*"e."*

**567—101.107(455B) MSWLF unit design and construction standards.** MSWLF units shall be designed and constructed in accordance with this rule.

**101.107(1)** *Plans and specifications.*

*a.* Unless otherwise requested by the department, one copy of plans, specifications, and supporting documents shall be provided to the department for review.

*b.* New MSWLF units shall be constructed in compliance with the rules and regulations in effect at the time of construction. Previous department approval of plans and specifications for MSWLF units not yet constructed shall be superseded by the promulgation of new rules and regulations, after which plans and specifications shall be resubmitted to the department for approval prior to construction and operation.

**101.107(2)** *MSWLF unit subgrade.* The subgrade for a new MSWLF unit shall be constructed as follows:

*a.* All trees, stumps, roots, boulders, debris, and other material capable of deteriorating in situ material strength or of creating a preferential pathway for contaminants shall be completely removed or sealed off prior to construction of the MSWLF unit.

*b.* The material beneath the MSWLF unit shall have sufficient strength to support the weight of the unit during all phases of construction and operation. The loads and loading rate shall not cause or contribute to failure of the liner and leachate collection system.

*c.* The total settlement or swell of the MSWLF unit's subgrade shall not cause or contribute to failure of the liner and leachate collection system.

*d.* If the in situ material of the MSWLF unit's subgrade cannot meet the requirements of 101.107(4)*"b"* and *"c,"* then such material shall be removed and replaced with material capable of compliance.

*e.* The subgrade of an MSWLF unit shall be constructed and graded to provide a smooth working surface on which to construct the liner.

*f.* The subgrade of an MSWLF unit shall not be constructed in or with frozen soil.

**101.107(3)** *MSWLF unit liners and leachate collection systems.* The liner and leachate collection system for a new MSWLF unit shall be constructed in accordance with the requirements of this subrule.

All active portions must have a composite liner or an alternative liner approved by the department. An MSWLF unit must have a functioning leachate collection system during its active life.

*a. Liner systems.* An MSWLF unit shall have a liner system that complies with either the composite liner requirements of 101.107(5)*"a"*(1) or an alternative liner system that complies with the requirements of 101.107(5)*"a"*(2). Liners utilizing compacted soil must place the compacted soil in lifts no thicker than eight inches after compaction.

(1) Composite liner systems.

1. A composite liner consists of two components, an upper flexible membrane liner and a lower compacted soil liner.

2. The upper component must consist of a minimum 30 mil flexible membrane liner. Flexible membrane liner components consisting of high-density polyethylene (HDPE) shall be at least 60 mil thick. The flexible membrane liner component must be installed in direct and uniform contact with the lower compacted soil component.

3. The lower component must consist of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than $1\times10^{-7}$ centimeters per second (cm/sec). The compacted soil must be placed in lifts no thicker than eight inches after compaction.

4. The composite liner must be adequately sloped toward the leachate collection pipes to provide drainage of leachate. Unless alternative design requirements to this performance standard are approved as part of the permit under 101.102(11) (relating to equivalency review procedure), the leachate collection system shall have a slope greater than or equal to 2 percent and not exceeding 33 percent.

(2) Alternative liner systems.

1. The design must ensure that the concentration values listed in Table I of 567—101.107(455B) will not be exceeded in the uppermost aquifer at the relevant point of compliance, as specified pursuant to 101.107(5)*"a"*(2)"2." Alternative liners utilizing compacted soil must place the compacted soil in lifts no thicker than eight inches.

2. The relevant point of compliance specified by the department must be within 50 feet of the planned liner or waste boundary, unless site conditions dictate otherwise, downgradient of the facility with respect to the hydrologic unit being monitored in accordance with 101.110(2)*"a"*(2), and located on land owned by the owner of the MSWLF unit. The relevant point of compliance specified by the department shall be at least 50 feet from the property line of the facility.

3. When approving an alternative liner design, the department shall consider at least the following factors:

- The hydrogeologic characteristics of the facility and surrounding land.
- The climatic factors of the area.
- The volume and physical and chemical characteristics of the leachate.
- The sensitivities and limitations of the modeling demonstrating the applicable point of compliance.
- Practicable capability of the owner or operator.

4. The alternative liner must be adequately sloped toward the leachate collection pipes to provide drainage of leachate. Unless alternative design requirements to this performance standard are approved as part of the permit under 101.102(11) (relating to equivalency review procedure), the leachate collection system shall have a slope greater than or equal to 2 percent and not exceeding 33 percent.

Table I

| Chemical | MCL (mg/l) |
|---|---|
| Arsenic | 0.01 |
| Barium | 1.0 |
| Benzene | 0.005 |
| Cadmium | 0.01 |
| Carbon tetrachloride | 0.005 |
| Chromium (hexavalent) | 0.05 |
| 2,4-Dichlorophenoxy acetic acid | 0.1 |
| 1,4-Dichlorobenzene | 0.075 |

| Chemical | MCL (mg/l) |
|---|---|
| 1,2-Dichloroethane | 0.005 |
| 1,1-Dichloroethylene | 0.007 |
| Endrin | 0.0002 |
| Fluoride | 4.0 |
| Lindane | 0.004 |
| Lead | 0.05 |
| Mercury | 0.002 |
| Methoxychlor | 0.1 |
| Nitrate | 10.0 |
| Selenium | 0.01 |
| Silver | 0.05 |
| Toxaphene | 0.005 |
| 1,1,1-Trichloroethane | 0.2 |
| Trichloroethylene | 0.005 |
| 2,4,5-Trichlorophenoxy acetic acid | 0.01 |
| Vinyl chloride | 0.002 |

*b. Leachate collection system.* MSWLF units shall have a leachate collection system that complies with the following requirements:

(1) The leachate collection system shall be designed and constructed to function for the entire active life of the facility and the post-closure period.

(2) The leachate collection system shall be of a structural strength capable of supporting waste and equipment loads throughout the active life of the facility and the post-closure period.

(3) The leachate collection system shall be designed and constructed to minimize leachate head over the liner at all times. An MSWLF unit shall have a leachate collection system that maintains less than a 30-centimeter (12-inch) depth of leachate over the liner. The leachate collection system shall have a method for accurately measuring the leachate head on the liner at the system's lowest point(s) within the MSWLF unit (e.g., sumps). Furthermore, an additional measuring device shall be installed to measure leachate directly on the liner in the least conductive drainage material outside of the sump and collection trench. Leachate head measurements from cleanout lines or manholes are not acceptable for the second measurement. All such measurement devices shall be in place before waste is placed in the MSWLF unit.

(4) If the leachate collection system is not designed and constructed factoring in leachate recirculation or bioreactor operations, the department may prohibit such activities within the MSWLF unit.

(5) The collection pipes shall be of a length and cross-sectional area that allow for cleaning and inspection through the entire length of all collection pipes at least once every three years. The collection pipes shall not be designed or constructed with sharp bends that prevent cleaning or inspection along any section of the collection pipe or that may cause the collection pipe to be damaged during cleaning or inspection.

(6) Leachate collection system designs shall attempt to minimize the potential for clogging due to mass loading.

(7) Unless alternative design requirements are approved as part of the permit under 101.102(11) (relating to equivalency review procedure), the following design requirements shall apply:

1. A geotextile cushion over the flexible membrane liner if the system utilizes such a liner and granular drainage media. A geotextile cushion is not required if the granular drainage media is well rounded and less than 3/8 inch in diameter. The geotextile's mass shall be determined based on the allowable pressure on the geomembrane.

2. Collection pipe(s) at least four inches in diameter at the base of the liner slope(s), surrounded by the high hydraulic-conductivity material listed in 101.107(5)*"b"*(7)"3" below. The collection pipe shall have slots or holes large enough to minimize the potential for clogging from fines conveyed by incoming leachate.

3. One of the following high hydraulic-conductivity materials:

• High hydraulic-conductivity material (e.g., gravel) of uniform size and a fines content of no more than 5 percent by weight passing a #200 sieve. The high hydraulic-conductivity material shall be at least 12 inches in depth and have a hydraulic conductivity of at least $1 \times 10^{-2}$ cm/sec; or

• A geosynthetic drainage media (e.g., geonet). The transmissivity of geonets shall be tested to demonstrate that the design transmissivity will be maintained for the design period of the facility. The testing for the geonet in the liner system shall be conducted using actual boundary material intended for the geonet at the maximum design normal load for the MSWLF unit and at the design load expected from one lift of waste. At the maximum design normal load, testing shall be conducted for a minimum period of 100 hours unless data equivalent of the 100-hour period is provided, in which case the test shall be conducted for a minimum period of one hour. In the case of the design load from one lift of waste, the minimum period shall be one hour. For geonets used in final covers, only one test shall be conducted for a minimum period of one hour using the expected maximum design normal load from the cover soils and the actual boundary materials intended for the geonet. A granular layer at least 12 inches thick with a hydraulic conductivity of at least $1 \times 10^{-3}$ cm/sec shall be placed above the geosynthetic drainage material that readily transmits leachate and provides separation between the waste and liner.

(8) Manholes within the MSWLF unit shall be designed to minimize the potential for stressing or penetrating the liner due to friction on the manhole exterior from waste settlement.

(9) The leachate drainage and collection system within the MSWLF unit shall not be used for the purpose of storing leachate. If leachate is to be stored, it shall be stored in designated storage structures outside of the MSWLF unit.

(10) All of the facility's leachate storage and management structures outside of the MSWLF unit and operations shall have containment structures or countermeasures adequate to prevent seepage to groundwater or surface water. The containment structures and countermeasures for leachate storage shall be at least as protective of groundwater at the liner of the MSWLF unit on a performance basis.

(11) Unless alternative design requirements are approved as part of the permit under 101.102(11) (relating to equivalency review procedure), the leachate storage structures shall be able to store at least seven days of accumulated leachate at the maximum generation rate used in designing the leachate collection system. Such minimum storage capacity may be constructed in phases over time so long as the seven-day accumulation capacity is maintained. The storage facility shall also have the ability to load tanker trucks in case sanitary sewer service is unavailable for longer than seven days.

(12) The leachate collection system shall be equipped with valves or devices similar in effectiveness so that leachate can be controlled during maintenance.

(13) The leachate collection system shall be accessible for maintenance at all times and under all weather conditions.

(14) The permit holder shall annually submit a Leachate Control System Performance Evaluation (LCSPE) Report as a supplement to the facility Annual Water Quality Report, as defined in 101.110(10). The report shall include an evaluation of the effectiveness of the system in controlling the leachate, leachate head levels and elevations, the volume of leachate collected and transported to the treatment works or discharged under any National Pollutant Discharge Elimination System (NPDES) permits, records of leachate contaminants testing required by the treatment works, proposed additional leachate control measures, and an implementation schedule in the event that the constructed system is not performing effectively.

**101.107(4)** *Quality control and assurance program (QC&A).* MSWLF units shall be constructed under the supervision of a QC&A program to ensure that MSWLF units are constructed in accordance with the requirements of 567—101.107(455B) and the approved plans and specifications. At a minimum, such QC&A program shall consist of the following.

*a.* The owner or operator shall designate a QC&A officer. The QC&A officer shall be an Iowa-licensed professional engineer. The QC&A officer shall not be an employee of the facility, the construction company or construction contractor. The owner or operator shall notify the department of the designated QC&A officer and provide the department with that person's contact information. The QC&A officer may delegate another person or persons who are not employees of the facility to supervise or implement aspects of the QC&A program.

*b.* The QC&A officer shall document compliance with 567—101.107(455B), and the approved plans and specifications, for the following aspects of construction:

(1) The MSWLF unit's subgrade.

(2) The liner system, as follows:

1. For a flexible membrane liner, destructive testing of the flexible membrane liner shall be kept to side slopes when continuous seams are utilized. Patches over destructive testing areas shall be checked with nondestructive methods.

2. For the compacted clay component of the liner system, a minimum of five field moisture density tests per eight-inch lift per acre shall be performed to verify that the correct density, as correlated to permeability by a laboratory analysis, has been achieved. Laboratory hydraulic conductivity testing of Shelby tube samples from the constructed soil liner or test pad, field hydraulic conductivity testing of the constructed soil liner or test pad, or other methods approved by the department shall be utilized as a QC&A test.

(3) The leachate collection, conveyance, and storage systems.

(4) Any other aspect of construction as required by the department.

*c.* A sampling and testing program shall be implemented by the QC&A officer as part of the QC&A program. The sampling and testing program shall:

(1) Verify full compliance with the requirements of 567—101.107(455B) and the approved plans and specifications.

(2) Be approved by the department prior to construction of the MSWLF unit.

(3) Detail how each stage of construction will be verified for full compliance with the requirements of 567—101.107(455B) and the approved plans and specifications.

(4) Be based on statistically significant sampling techniques and establish criteria for the acceptance or rejection of materials and constructed components of the MSWLF unit.

(5) Detail what actions will take place to remedy and verify any material or constructed component that is not in compliance with the requirements of 567—101.107(455B) and the approved plans and specifications.

*d.* The QC&A officer shall document the QC&A program. Upon completion of the MSWLF unit construction, the QC&A officer shall submit a final report to the department that verifies compliance with the requirements of 567—101.107(455B) and the department-approved plans and specifications. A copy of the final report shall also be maintained by the facility in the operating record. At a minimum, the final report shall include the following.

(1) A title page and index.

(2) The name and permit number of the facility.

(3) Contact information for the QC&A officer and persons delegated by the QC&A officer to supervise or implement an aspect of the QC&A program.

(4) Contact information for all construction contractors.

(5) Copies of daily reports containing the following information:

1. The date.
2. Summary of weather conditions.
3. Summary of locations on the facility where construction was occurring.
4. Summary of equipment, materials, and personnel utilized in construction.
5. Summary of meetings held regarding the construction of the MSWLF unit.
6. Summary of construction progress.
7. Photographs of the construction progress, with descriptions of the time, subject matter, and location of each photograph.
8. Details of sampling and testing program for that day. At a minimum, this report shall include details of where sampling and testing occurred, the methods utilized, personnel involved, and test results.
9. Details of how any material or constructed component that was found not to be in compliance via the sampling and testing program was remedied.

(6) A copy of detailed as-built drawings with supporting documentation and photographic evidence. This copy shall also include a narrative explanation of changes from the original department-approved plans and specifications.

(7) A signed and sealed statement by the QC&A officer that the MSWLF unit was constructed in accordance with the requirements of 567—101.107(455B) and the approved plans and specifications.

**101.107(5)** *Vertical and horizontal expansions of MSWLF units.* All vertical and horizontal expansions of disposal airspace over existing and new MSWLF units shall comply with the following:

*a.* Horizontal expansions shall, at a minimum, comply with the following requirements:

(1) Horizontal expansions are new MSWLF units and, at a minimum, shall be designed and constructed in accordance with 101.107(4), 101.107(5) and 101.107(6).

(2) The slope stability of the horizontal expansion between the existing unit and new MSWLF unit shall be analyzed. The interface between two MSWLF units shall not cause a slope failure of either of the MSWLF units.

(3) A horizontal expansion may include a vertical elevation increase of an existing MSWLF unit, pursuant to 101.107(7)*"b,"* if approved by the department.

*b.* Vertical expansions shall, at a minimum, comply with the following:

(1) A vertical expansion of an MSWLF unit shall not be allowed if the MSWLF unit does not have an approved leachate collection system and a composite liner or a leachate collection system and an alternative liner modeled at an approved point of compliance.

(2) An analysis of the structural impacts of the proposed vertical expansion on the liner and leachate collection system shall be completed. The vertical expansion shall not contribute to the structural failure of the liner and leachate collection system.

(3) An analysis of the impact of the proposed vertical expansion on leachate generation shall be completed. The vertical expansion shall not overload the leachate collection system or contribute to excess head on the liner.

(4) An analysis of the effect of the proposed vertical expansion on run-on, runoff, and discharges into waters of the state shall be completed. The vertical expansion shall not cause a violation of 101.107(8).

(5) The proposed vertical expansion shall be in compliance with the final slopes required at closure pursuant to 101.112(1)*"e."*

**101.107(6)** *Run-on and runoff control systems.*

*a.* Owners or operators of MSWLF units must design, construct, and maintain the following:

(1) A run-on control system to prevent flow onto the active portion of the landfill during the peak discharge from a 25-year storm;

(2) A runoff control system from the active portion of the landfill to collect and control at least the water volume resulting from a 25-year, 24-hour storm.

*b.* Runoff from the active portion of the MSWLF unit must be handled in accordance with 101.110(1)*"a."*

**567—101.108(455B) Operating requirements.** The requirements of this rule shall be consolidated in a DOPs pursuant to 101.108(4).

**101.108(1)** *Prohibited operations and activities.* For the purposes of this subrule, "regulated hazardous waste" means a solid waste that is a hazardous waste as defined in Iowa Code section 455B.411.

*a.* *Waste screening for prohibited materials.* Owners or operators of MSWLF units must implement a program at the facility for detecting and preventing the disposal of regulated hazardous wastes, polychlorinated biphenyls (PCB) wastes, and other prohibited wastes listed in 101.108(1)*"b."* This program must include, at a minimum:

(1) Random inspections of incoming loads unless the owner or operator takes other steps to ensure that incoming loads do not contain regulated hazardous wastes, PCB wastes or other prohibited wastes listed in 101.108(1)*"b"*;

(2) Records of any inspections;

(3) Training of facility personnel to recognize regulated hazardous wastes, PCB wastes and other prohibited wastes listed in 101.108(1)*"b"*; and

(4) Notification of the EPA regional administrator if regulated hazardous wastes or PCB wastes are discovered at the facility.

*b. Materials prohibited from disposal.* The following wastes shall not be accepted for disposal by an MSWLF.

(1) Waste that is a chemical compound specifically listed by U.S. Environmental Protection Agency (EPA) as a regulated hazardous waste or that is a characteristic hazardous waste pursuant to the following characteristics:

1. Ignitable in that the waste has a flash point of less than 140°F.

2. Corrosive in that the waste has a pH less than 2 or greater than 12.5.

3. Reactive in that the waste is normally unstable, reacts violently with water, forms an explosive mixture with water, contains quantities of cyanide or sulfur that could be released into the air in sufficient quantity to be a danger to human health, or can easily be detonated or exploded.

4. Toxicity characteristic leaching procedure (TCLP) (EPA Method 1311) toxic, in that a TCLP listed chemical constituent exceeds the EPA-assigned concentration standard in 40 CFR Part 261 or the department-assigned concentration standard in Table I of 567—101.107(455B). Waste from a residential building that is contaminated by lead-based paint (i.e., the waste fails the TCLP test for lead only) may be disposed of in an MSWLF unit. The purpose of this exclusion is to help prevent the exposure of children to lead-based paint. Therefore, the meaning of "residential building" in regard to this TCLP exclusion shall be interpreted broadly and include any building that children or parents may utilize as a residence (temporarily or permanently). Such residential buildings include but are not limited to single-family homes, apartment buildings, townhomes, condominiums, public housing, military barracks, nursing homes, hotels, motels, bunkhouses, and campground cabins.

(2) Polychlorinated biphenyl (PCB) wastes with a concentration equal to or greater than 50 parts per million (ppm).

(3) Free liquids, liquid waste and containerized liquids. However, free liquids and containerized liquids may be placed in MSWLF units if:

1. The containerized liquid is household waste other than septic waste. The container must be a small container similar in size to that normally found in household waste;

2. The waste is leachate or gas condensate derived from the MSWLF unit, whether it is a new or existing MSWLF unit or lateral expansion, and is designed with a composite liner and leachate collection system as described in 101.107(5)*"a."* The owner or operator must demonstrate compliance with this subparagraph and place the demonstration in the operating record; or

3. The MSWLF unit is a RD&D project in which the department has authorized the addition of liquids and meets the applicable requirements of 101.104(2).

(4) Septage, which is the raw material, liquids, and pumpings from a septic system, unless treated pursuant to 567—Chapter 68.

(5) Appliances as defined pursuant to 567—Chapter 102, Division VII, unless there is documentation that the appliance has been demanufactured pursuant to 567—Chapter 102, Division VII.

(6) Radioactive waste, excluding luminous timepieces and other items using very small amounts of tritium.

(7) Infectious waste unless managed and disposed of pursuant to 567—Chapter 102, Division VI.

(8) Hot loads, meaning solid waste that is smoking, smoldering, emitting flames or hot gases, or otherwise indicating that the solid waste is in the process of combustion or close to igniting. Ash that has not been fully quenched or cooled is considered a hot load. Such wastes may be accepted at the gate but shall be segregated and completely extinguished and cooled in a manner as safe and responsible as practical before disposal.

(9) Asbestos-containing material (ACM) waste with greater than 1 percent asbestos unless managed and disposed of pursuant to 567—Chapter 102, Division VI.

(10) Grit and bar screenings, grease skimmings, and sewage sludge unless managed and disposed of pursuant to 567—Chapter 102, Division VI.

(11) Waste tires unless each tire is processed into pieces no longer than 18 inches on any side.

(12) Yard waste, except in the circumstances given in Iowa Code section 455D.9(1).

(13) Lead-acid batteries.

(14) Waste oil and materials containing free-flowing waste oil. Materials contaminated with waste oil may be disposed of if no free-flowing oil is retained in the material and the material is not a hazardous waste.

(15) Baled solid waste unless the waste is baled on site after the waste has been visually inspected for prohibited materials.

*c. Open burning and fire hazards.* No open burning of any type shall be allowed within the permitted boundary of an MSWLF facility. The fueling of vehicles and equipment, and any other activity that may produce sparks or flame, shall be conducted at least 50 feet away from the working face.

*d. Scavenging and salvaging.* Scavenging shall not be allowed at the MSWLF facility. However, salvaging by MSWLF operators may be allowed by the permitted or other authorized entity.

*e. Animal feeding and grazing.* Feeding animals municipal solid waste shall not be allowed at an MSWLF facility. The grazing of domestic animals on fully vegetated areas of the MSWLF facility not used for disposal, including closed MSWLF units, may be allowed by the department so long as the animals do not cause damage or interfere with operations, inspections, environmental monitoring, and other required activities. Hoofed animals shall not be allowed on closed MSWLF units.

**101.108(2)** *Disposal operations and activities.* MSWLFs shall comply with the following requirements.

*a. Survey controls and monuments.* Survey controls and monuments shall be maintained as follows.

(1) The property boundary, the permitted boundary, and the boundaries of MSWLF units shall be surveyed and marked by a professional land surveyor at least once prior to closure.

(2) Prior to waste placement, all new MSWLF unit boundaries shall be surveyed and staked by an Iowa-licensed professional engineer or land surveyor.

(3) Survey monuments shall be established and maintained by an Iowa-licensed professional land surveyor to provide vertical and horizontal control.

(4) An Iowa-licensed professional engineer or land surveyor shall check vertical elevations and the progression of fill sequencing.

(5) All survey stakes and monuments shall be clearly marked.

(6) An Iowa-licensed professional engineer or land surveyor shall biennially inspect all survey monuments. Any missing or damaged survey monuments shall be replaced by a professional land surveyor.

*b. First lift.* The first lift and initial placement of MSW over a new MSWLF unit liner and leachate collection system shall comply with the following requirements.

(1) Waste shall not be placed in the new MSWLF unit until the QC&A officer has submitted a signed and sealed final report to the department pursuant to 101.107(4)*"d"* and that report has been approved by the department.

(2) Construction and earth-moving equipment shall not operate directly on the liner and leachate management system. Waste disposal operations shall begin at the edge of the new MSWLF unit by pushing MSW out over the liner and leachate collection system. Compactors and other similarly heavy equipment shall not operate directly on the leachate collection system until a minimum of four feet of waste has been mounded over the top of the leachate collection system.

(3) Construction and demolitions (C&D) debris waste and materials clearly capable of spearing through the leachate collection system and liner shall not be placed in the first four feet of waste over the top of the leachate collection system. The first four feet of waste shall consist of select waste that is unlikely to damage the liner and performance of the leachate collection system.

(4) The owner or operator must place documentation in the operating record and submit a copy to the department that adequate cover material was placed over the top of the leachate collection system in

the MSWLF unit or that freeze/thaw effects had no adverse impact on the compacted clay component of the liner.

*c. Fill sequencing.* The rate and phasing of disposal operations shall comply with the following requirements.

(1) The fill sequencing shall be planned and conducted in a manner and at a rate that does not cause a slope failure, lead to extreme differential settlement, or damage the liner and leachate collection system.

(2) The fill sequencing shall be planned and conducted in a manner compliant with the run-on and runoff requirements of 101.107(8) and surface water requirements of 567—101.110(455B).

*d. Working face.* The working face shall comply with the following requirements.

(1) The working face shall be no larger than necessary to accommodate the rate of disposal in a safe and efficient manner.

(2) The working face shall not be so steep as to cause heavy equipment and solid waste collection vehicles to roll over or otherwise lose control.

(3) Litter control devices of sufficient size to help prevent blowing litter shall be utilized at the working face. The operation of the working face shall attempt to minimize blowing litter.

(4) The operation of the working face shall prevent the harborage of vectors and attempt to minimize the attraction of vectors.

(5) Employees at the working face shall be trained to visually recognize universal symbols, markings and indications of prohibited wastes pursuant to 101.108(1)*"b."*

*e. Special wastes.* Special wastes shall be managed and disposed of pursuant to 567—Chapter 102, Division VI.

*f. Cover material and alternative cover material.* Alternative cover material of an alternative thickness (e.g., tarps, spray covers) may be authorized if the owner or operator demonstrates to the department that the alternative material and thickness control vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment. Cover material or alternative cover material shall be available for use during all seasons in all types of weather. Cover material and alternative cover material shall be utilized as follows.

(1) Daily cover. Six inches of cover material or an approved depth or application of alternative cover material shall be placed and maintained over waste at the end of each operating day, or at more frequent intervals if necessary, to control vectors, fires, odors, blowing litter, and scavenging.

(2) Intermediate cover. At least one foot of compacted cover material or an approved depth or application of alternative cover material shall be placed and maintained over waste in the active portion that has not or will not receive more waste for at least 30 days. At least two feet of compacted cover material or alternative cover material shall be placed and maintained over waste that has not or will not receive waste for at least 180 days. Such active portions shall be seeded if they will not receive waste for a full growing season.

(3) Scarification of cover. To help prevent leachate seeps by aiding the downward flow of leachate, cover material or alternative cover material that prevents the downward flow of leachate and is at least five feet from the outer edge of the MSWLF unit shall be scarified prior to use of that area as a working face. Cover material or alternative cover material that does not impede the downward flow of leachate, as approved by the department, does not require scarification. Scarification may be as simple as the spearing or breaking up of a small area of the cover. Areas of intermediate cover may require removal of some of the cover material or alternative cover material to aid the downward flow of leachate.

(4) Final cover. Final cover over an MSWLF unit that is to be closed shall be constructed and maintained according to the closure and post-closure requirements of 567—101.112(455B) and 567—101.113(455B).

*g. Leachate seeps.* Leachate seeps shall be contained and plugged upon being identified. Leachate seeps shall not be allowed to reach waters of the state. Soils outside of the MSWLF unit that are contaminated by a leachate seep shall be excavated and then disposed of within the MSWLF unit. Such soils may be used for daily cover material.

*h. Leachate recirculation.* The department must approve an MSWLF unit for leachate recirculation. The primary goal of the leachate recirculation system is to help stabilize the waste in a more rapid, but controlled, manner. The leachate recirculation system shall not contaminate waters of the state, contribute to erosion, damage cover material, harm vegetation, or spray persons at the MSWLF facility. Leachate recirculation shall be limited to MSWLF units constructed with a composite liner.

*i. Differential settlement.* Areas of differential settlement sufficient to interfere with runoff and run-on shall be brought back up to the contours of the surrounding active portion. Differential settlement shall not be allowed to cause ponding of water on the active portion.

**101.108(3)** *Universally approved beneficial use determinations for alternative cover material.* The following alternative cover materials may be beneficially used as daily cover material at MSWLF in the manner and volume specified below. However, MSWLFs shall amend their sanitary landfill permits by notifying the department, and the department field office with jurisdiction over the facility, of their intent to utilize solid by-products pursuant to this rule at least 30 days prior to actual utilization of the by-products as alternative cover material.

*a. Asphalt shingles.* Asphalt shingles that are certified, consistent with federal regulations (Reference: Appendix E, Subpart E, 40 CFR Part 763, Section 1, Polarized Light Microscopy), as not containing more than 1 percent asbestos and are ground to an average size of three inches or less in any dimension may be mixed with soil in a 50/50 volume.

*b. Compost.* One hundred percent cured or finished compost, including compost overs, may be used.

*c. Diatomaceous earth.* Diatomaceous earth may be mixed with soil in a 50/50 volume.

*d. Foundry sand.* Foundry sand may be mixed with soil in a 50/50 volume.

*e. Glass.* Glass that has been ground to an average size of one-half inch or less in any dimension may be mixed with soil in a 10 percent glass and 90 percent soil by volume mixture.

*f. Gypsum and gypsum wallboard.* Gypsum and gypsum wallboard that have been ground to an average size of three inches or less in any dimension may be mixed with soil in a 50/50 volume.

*g. Paper mill sludge.* Uncontaminated, dewatered paper mill sludge may be mixed with soil in a 50/50 volume.

*h. Sandblasting abrasive.* Sandblasting abrasive and residuals may be mixed with soil in a 50/50 volume.

*i. Tire chips.* Tire chips that are an average size of three inches or less in any dimension may be mixed with soil in a 50/50 volume.

**101.108(4)** *Beneficial use determination application requirements for alternative cover material.* Unless the alternative cover material beneficial use is approved pursuant to 101.108(3), the applicant shall submit the following application information to the department to amend the MSWLF permit. The department may request that additional information be submitted in order to make a beneficial use determination. The department may also require specific beneficial use determination conditions and issue a temporary beneficial use determination on a trial basis.

If the department finds the application information to be incomplete, then it shall notify the applicant in writing of that fact and of the specific deficiencies and return the application materials to the applicant within 30 days of such notification. The applicant may reapply without prejudice.

*a.* The name, address, and telephone number of:

(1) Owner of the site where the project will be located.

(2) Applicant for the beneficial use determination.

(3) Official responsible for the operation of the project.

(4) Professional engineer licensed by the state of Iowa and retained for the project, if any. The department may, at its sole discretion, require the applicant to retain a professional engineer for the project or specific parts thereof.

(5) Agency to be served by the project, if any.

(6) Responsible official of agency to be served.

*b.* A description of the proposed alternative cover material and whether it is to be used as daily, intermediate, or final cover.

*c.* The chemical and physical characteristics of the alternative cover material.

*d.* The proposed volume ratio of the alternative cover material(s) to soil or other alternative cover material(s).

*e.* A demonstration that there is a known or reasonably probable suitability of the alternative cover material as cover material by provision of previous case studies of the alternative cover material being utilized as cover material or information on the ability of the alternative cover material to do the following:

(1) Reduce or maintain current odor levels.

(2) Reduce or deter vectors.

(3) Reduce or maintain the current risk of fire.

(4) Control litter and dust.

(5) Impede the infiltration of liquids and precipitation.

(6) Control landfill gas migration.

(7) Provide a safe and effective working surface.

(8) Provide effective growing media.

(9) Other documentation that the alternative cover material is suitable for cover material.

(10) A demonstration that the proposed use of the alternative cover material will not adversely affect human health or the environment. The demonstration may include but is not limited to a toxicity characteristics leaching procedure (TCLP, EPA Method 1311) analysis of a representative sample of the alternative cover material.

**101.108(5)** *Beneficial use of alternative cover material and state goal progress.* Alternative cover material placed at no more than the thickness required by MSWLF rules shall be exempt from landfill tonnage measurements used for state goal progress and waste diversion calculations.

**101.108(6)** *Development and operations plan (DOPs).* An MSWLF unit shall maintain a DOPs. At a minimum, the DOPs shall detail how the facility will operate and how compliance with the requirements of this rule will be maintained. The DOPs shall contain at least the following components:

*a.* A title page and table of contents.

*b.* Telephone number and email address of the official responsible for the operation of the facility and an emergency contact person if different.

*c.* Service area of the facility and political jurisdictions included in that area.

*d.* Days and hours of operation of the facility.

*e.* Details of how the site will comply with the prohibited operations and activity requirements of 101.108(1) and any related permit conditions.

*f.* Details of how the site will comply with the disposal operation and activity requirements of 101.108(2) and any related permit conditions.

*g.* Details of how the site will comply with the facility operations and activity requirements of 101.108(3), any related permit conditions, and any leachate and wastewater treatment requirements.

**567—101.109(455B) Environmental monitoring and corrective action requirements for air quality and landfill gas.** MSWLFs shall comply with the following environmental monitoring and corrective action requirements for air quality and landfill gas.

**101.109(1)** *Air criteria.* Owners or operators of MSWLFs must ensure that the units do not violate any applicable requirements developed under a state implementation plan (SIP) approved or promulgated by the department pursuant to Section 110 of the Clean Air Act.

**101.109(2)** *Landfill gas.* MSWLFs shall comply with the following requirements for landfill gas. For purposes of this subrule, "lower explosive limit" means the lowest percent by volume of a mixture of explosive gases in air that will propagate a flame at 25°C and atmospheric pressure.

*a.* Owners or operators of MSWLF units must ensure that:

(1) The concentration of methane gas generated by the facility does not exceed 25 percent of the lower explosive limit for methane in facility structures (excluding gas pipeline, control or recovery system components), and

(2) The concentration of methane gas does not exceed the lower explosive limit for methane at the facility property boundary.

*b.* Owners or operators of MSWLF units must implement a routine methane-monitoring program to ensure that the standards of 101.109(2)*"a"* are met. Such a program shall include routine subsurface methane monitoring (e.g., at select groundwater wells, at gas monitoring wells).

(1) The type and frequency of monitoring must be determined based on the following factors:

1. Soil conditions;
2. The hydrogeologic conditions surrounding the facility;
3. The hydraulic conditions surrounding the facility;
4. The location of facility structures (including potential subsurface preferential pathways such as but not limited to pipes, utility conduits, drain tiles, and sewers) and property boundaries; and
5. The locations of structures near the outside of the facility to which or along which subsurface migration of methane gas may occur. Examples of such structures include but are not limited to houses, buildings, basements, crawl spaces, pipes, utility conduits, drain tiles, and sewers.

(2) The minimum frequency of monitoring shall be quarterly.

*c.* If methane gas levels exceeding the limits specified in 101.109(2)*"a"* are detected, the owner or operator must:

(1) Immediately take all necessary steps to ensure protection of human health and notify the department and department field office with jurisdiction over the MSWLF;

(2) Within seven days of detection, place in the operating record and notify the department and department field office with jurisdiction over the MSWLF of the methane gas levels detected and a description of the steps taken to protect human health; and

(3) Within 60 days of detection, implement a remediation plan for the methane gas releases, place a copy of the plan in the operating record, and notify the department and department field office with jurisdiction over the MSWLF that the plan has been implemented. The plan shall describe the nature and extent of the problem and the proposed remedy.

*d.* The owner or operator shall submit an annual report to the department detailing the gas monitoring sampling locations and results, any action taken, and the results of steps taken to address gas levels exceeding the limits of 101.109(2)*"a"* during the previous year. This report shall include a site map that delineates all structures, perimeter boundary locations, and other monitoring points where gas readings were taken. The site map shall also delineate areas of landfill gas migration outside the MSWLF units, if any. The report shall contain a narrative explaining and interpreting all of the data collected during the previous year. The report shall be due each year at a date specified by the department in the facility's permit.

**567—101.110(455B) Environmental monitoring and corrective action requirements for groundwater and surface water.** MSWLFs shall comply with the following environmental monitoring and corrective action requirements for groundwater and surface water.

**101.110(1)** *General requirements for environmental monitoring and corrective action for groundwater and surface water.*

*a.* MSWLF units shall not:

(1) Cause a discharge of pollutants into waters of the United States, including wetlands, that violates any requirements of the Clean Water Act, including but not limited to NPDES requirements, pursuant to Section 402 of the Clean Water Act.

(2) Cause the discharge of a nonpoint source of pollution into waters of the United States, including wetlands, that violates any requirement of an areawide or statewide water quality management plan that has been approved under Section 208 or 319 of the Clean Water Act.

*b.* A new MSWLF unit must be in compliance with the groundwater monitoring requirements specified in 101.110(2), 101.110(4), 101.110(5) and 101.110(6) before waste can be placed in the unit unless the department establishes an alternative schedule for demonstrating compliance with:

(1) Subparagraph 101.110(2)*"c"*(3), pertaining to notification of placement of certification in operating record;

(2) Subparagraph 101.110(5)*"c"*(1), pertaining to notification that statistically significant increase (SSI) notice is in operating record;

(3) Subparagraphs 101.110(5)*"c"*(2) and *"c"*(3), pertaining to an assessment monitoring program;

(4) Paragraph 101.110(6)*"b,"* pertaining to sampling and analyzing 40 CFR Part 258, Appendix II, constituents;

(5) Subparagraph 101.110(6)*"d"*(1), pertaining to placement of notice (40 CFR Part 258, Appendix II, constituents detected) in record and notification of placement of notice in record;

(6) Subparagraph 101.110(6)*"d"*(2), pertaining to sampling for 40 CFR Part 258;

(7) Paragraph 101.110(6)*"g,"* pertaining to notification (and placement of notice in record) of SSI above groundwater protection standard;

(8) Numbered paragraph 101.110(6)*"g"*(1)"4" and paragraph 101.110(7)*"a,"* pertaining to assessment of corrective measures;

(9) Paragraph 101.110(8)*"a,"* pertaining to selection of remedy and notification of placement in record;

(10) Paragraph 101.110(9)*"f,"* pertaining to notification of placement in record (certification of remedy completed).

*c.* Once established at an MSWLF unit, groundwater monitoring shall be conducted throughout the active life and post-closure care period of that MSWLF unit.

**101.110(2)** *Groundwater monitoring systems.* MSWLFs shall have a groundwater monitoring system that complies with the following requirements:

*a. Objectives.* A groundwater monitoring system must be installed that meets the following objectives:

(1) Yields groundwater samples from the uppermost aquifer that represent the quality of background groundwater that has not been affected by leakage from a unit. A determination of background quality may include sampling of wells that are not hydraulically upgradient of the waste management area where either:

1. Hydrogeologic conditions do not allow the owner or operator to determine which wells are hydraulically upgradient; or

2. Sampling at other wells will provide an indication of background groundwater quality that is as representative as or more representative than that provided by the upgradient wells.

(2) Yields groundwater samples from the uppermost aquifer that represent the quality of groundwater passing the relevant point of compliance specified by the department under 101.107(5)*"a"*(2)"2." A downgradient monitoring system must be installed at the relevant point of compliance specified by the department under 101.107(5)*"a"*(2)"2" that ensures detection of groundwater contamination in the uppermost aquifer. When physical obstacles preclude installation of groundwater monitoring wells at the relevant point of compliance at existing units, the downgradient monitoring system may be installed at the closest practicable distance, hydraulically downgradient from the relevant point of compliance specified by the department under 101.107(5)*"a"*(2)"2," that ensures detection of groundwater contamination in the uppermost aquifer.

(3) Provides a high level of certainty that releases of contaminants from the site can be promptly detected. Downgradient monitoring wells shall be placed along the site perimeter, within 50 feet of the planned liner or waste boundary unless site conditions dictate otherwise, downgradient of the facility with respect to the hydrologic unit being monitored. Each groundwater underdrain system shall be included in the groundwater detection monitoring program under 101.110(5). The maximum drainage area routed through each outfall shall not exceed ten acres unless it can be demonstrated that site-specific factors such as drain flow capacity or site development sequencing require an alternative drainage area. If contamination is identified in the groundwater underdrain system pursuant to 101.110(5), the owner or operator shall manage the underdrain discharge as leachate in lieu of assessment monitoring and corrective action.

(4) Be designed and constructed with the theoretical release evaluation pursuant to 101.106(3)*"e"*(6) taken into consideration.

*b. Long-term, multiphase operations.* For those facilities that are long-term, multiphase operations, the department may establish temporary waste boundaries in order to define locations for monitoring wells. The convergence of groundwater paths to minimize the overall length of the downgradient dimension may be taken into consideration in the placement of downgradient monitoring wells provided that the multiphase unit groundwater monitoring system meets the requirements of 101.8(2), 101.8(3), and 101.110(2)*"a"* and *"c"* and will be as protective of human health and the environment as the individual monitoring systems for each MSWLF unit, based on the following factors:

(1) Number, spacing, and orientation of the MSWLF units;

(2) Hydrogeologic setting;

(3) Site history;

(4) Engineering design of the MSWLF units; and

(5) Type of waste accepted at the MSWLF units.

*c. Hydrologic monitoring system plan (HMSP).* Unless otherwise approved by the department in writing, the number, spacing, and depth of groundwater monitoring points shall be:

(1) Determined based upon site-specific technical information, including but not limited to the soil and hydrogeologic investigation pursuant to 101.106(3) and the site exploration and characterization report pursuant to 101.106(3), that must include thorough characterization of:

1. Aquifer thickness, groundwater flow rate, and groundwater flow direction including seasonal and temporal fluctuations in groundwater flow;

2. Saturated and unsaturated geologic units and fill materials overlying the uppermost aquifer, materials comprising the uppermost aquifer, and materials comprising the confining unit defining the lower boundary of the uppermost aquifer, including but not limited to thicknesses, stratigraphy, lithology, hydraulic conductivities, porosities and effective porosities; and

3. Projected paths and rates of movement of contaminants found in leachate pursuant to 101.106(3)*"e"*(6).

(2) Designed and constructed with a maximum of 300 feet between downgradient groundwater monitoring wells unless it is demonstrated by site-specific analysis or modeling that an alternative well spacing is justified. The convergence of groundwater paths to minimize the overall length of the downgradient dimension may be taken into consideration in the placement of downgradient monitoring wells provided that the groundwater monitoring system meets the requirements of 101.8(2), 101.8(3), and 101.110(2)*"a"* and *"c."*

(3) Certified by a qualified groundwater scientist and approved by the department. Within 14 days of this certification and approval by the department, the owner or operator must notify the department that the certification has been placed in the operating record.

*d. Monitoring well maintenance and performance reevaluation plan.* A monitoring well maintenance and performance reevaluation plan shall be included as part of the HMSP. The plan shall ensure that all monitoring points remain reliable. The plan shall provide for the following:

(1) A biennial examination of high and low water levels accompanied by a discussion of the acceptability of well location (vertically and horizontally) and exposure of the screened interval to the atmosphere.

(2) A biennial evaluation of water level conditions in the monitoring wells to ensure that the effects of waste disposal or well operation have not resulted in changes in the hydrologic setting and resultant flow paths.

(3) Measurements of well depths to ensure that wells are physically intact and not filling with sediment. Measurements shall be taken annually in wells that do not contain dedicated sampling pumps and every five years in wells containing dedicated sampling pumps.

(4) A biennial evaluation of well recharge rates and chemistry to determine if well deterioration is occurring.

**101.110(3)** *Surface water monitoring systems.* The department may require an MSWLF facility to implement a surface water monitoring program if there is reason to believe that a surface water of the state has been impacted as a result of facility operations (i.e., leachate seeps, sediment pond discharge) or a groundwater SSI over background has occurred.

*a.* A surface water monitoring program must be developed that consists of a sufficient number of monitoring points, designated at appropriate locations, to yield surface water samples that provide a representative sample of:

(1) The upstream quality of a surface water of the state if the surface water being monitored is a flowing body of water.

(2) The downstream quality of a surface water of the state if the surface water being monitored is a flowing body of water.

*b.* Surface water levels must be measured at a frequency specified in the facility's permit, within 1/10 of a foot at each surface water monitoring point immediately prior to sampling, each time surface water is sampled. The owner or operator must determine the rate and direction of surface water flow, if any, each time surface water is sampled. Surface water level and flow measurements for the same surface water of the state must be measured on the same day to avoid temporal variations that could preclude accurate determination of surface water flow and direction.

*c.* The owner or operator must notify and receive approval from the department for the designation or decommission of any surface water monitoring point and must place that approval in the operating record.

*d.* A surface water monitoring point shall be designated to maintain sampling at that monitoring point throughout the life of the surface water monitoring program.

*e.* Each surface water monitoring point must have a unique and permanent number, and that number must never change or be used again at the MSWLF. Surface water monitoring points shall be identified by "SW# (insert unique and permanent number)".

*f.* The number, spacing, and location of the surface water monitoring points shall be determined based upon site-specific technical information, including:

(1) Water level, including seasonal and temporal fluctuations in water level; and

(2) Flow rate and flow direction, including seasonal and temporal fluctuations in flow.

*g.* The MSWLF may discontinue the surface water monitoring program if monitoring data indicates that facility operations are not impacting surface water.

**101.110(4)** *Groundwater sampling and analysis requirements.*

*a.* The groundwater monitoring program must include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide an accurate representation of groundwater quality at the background and downgradient wells installed in compliance with 101.110(2). Analyses for a contaminant regulated under this division must be performed by a laboratory certified for the analyte(s) and applicable method pursuant to 567—Chapter 83. The owner or operator must notify the department that the sampling and analysis program documentation has been placed in the operating record, and the program must include procedures and techniques for:

(1) Sample collection;

(2) Sample preservation and shipment;

(3) Analytical procedures;

(4) Chain of custody control; and

(5) Quality assurance and quality control.

*b.* The groundwater monitoring programs must include sampling and analytical methods that are appropriate for groundwater sampling and that accurately measure hazardous constituents and other monitoring parameters in groundwater samples. Groundwater samples shall not be field-filtered prior to laboratory analysis.

*c.* The sampling procedures and frequency must be protective of human health and the environment and consistent with 101.110(5).

*d.* Groundwater elevations must be measured at a frequency specified in the facility's permit, within 1/100 of a foot in each well immediately prior to purging, each time groundwater is sampled. The owner or operator must determine the rate and direction of groundwater flow each time groundwater is sampled. Groundwater elevations in wells that monitor the same waste management area must be measured within a period of time short enough to avoid temporal variations in groundwater flow that could preclude accurate determination of groundwater flow rate and direction.

*e.* The owner or operator must establish background groundwater quality in a hydraulically upgradient or background well(s) for each of the monitoring parameters or constituents required in the particular groundwater monitoring program that applies to the MSWLF unit, as determined under 101.110(5)*"a"* or 101.110(6)*"a."* Background groundwater quality may be established at wells that are not located hydraulically upgradient from the MSWLF unit if the wells meet the requirements of 101.110(2)*"a"*(1).

*f.* The number of samples collected to establish groundwater quality data must be consistent with the appropriate statistical procedures determined pursuant to 101.110(4)*"g."* The sampling procedures shall be those specified under 101.110(5)*"b"* for detection monitoring, 101.110(6)*"b"* and 101.110(6)*"d"* for assessment monitoring, and 101.110(7)*"b"* for corrective action.

*g.* The owner or operator must specify in the operating record which of the following statistical methods will be used in evaluating groundwater monitoring data for each hazardous constituent. The statistical test chosen shall be conducted separately for each hazardous constituent in each well.

(1) A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.

(2) An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.

(3) A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit.

(4) A control chart approach that gives control limits for each constituent.

(5) Another statistical test method that meets the performance standards of 101.110(4)*"h."* The owner or operator must place a justification for this alternative in the operating record and notify the department of the use of this alternative test. The justification must demonstrate that the alternative method meets the performance standards of 101.110(4)*"h."*

*h.* The statistical method required pursuant to 101.110(4)*"g"* shall comply with the following performance standards.

(1) The statistical method used to evaluate groundwater monitoring data shall be appropriate for the distribution of chemical parameters or hazardous constituents. If the distribution of the chemical parameters or hazardous constituents is shown by the owner or operator to be inappropriate for a normal theory test, then the data shall be transformed or a distribution-free theory test shall be used. If the distributions for the constituents differ, more than one statistical method may be needed.

(2) If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a groundwater protection standard, the test shall be done at a Type I error level not less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experiment-wise error rate for each testing period shall be not less than 0.05; however, the Type I error level of not less than 0.01 for individual well comparisons must be maintained.

(3) If a control chart approach is used to evaluate groundwater monitoring data, the specific type of control chart and its associated parameter values shall be protective of human health and the environment. The parameters shall be determined after the number of samples in the background database, the data distribution, and the range of the concentration values for each constituent of concern have been considered.

(4) If a tolerance interval or a prediction interval is used to evaluate groundwater monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, shall be protective of human health and the environment. These parameters shall be determined after the number of samples in the background database, the data distribution, and the range of the concentration values for each constituent of concern have been considered.

(5) The statistical method shall account for data below the limit of detection (LD) by recording such data at one-half the limit of detection (i.e., LD/2) or as prescribed by the statistical method. Any practical quantitation limit that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

(6) If necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

*i.* The owner or operator must determine whether or not there is an SSI over background values for each parameter or constituent required in the particular groundwater monitoring program that applies to the MSWLF unit, as determined under 101.110(5)*"a"* or 101.110(6)*"a."*

(1) In determining whether an SSI has occurred, the owner or operator must compare the groundwater quality of each parameter or constituent at each monitoring well designated pursuant to 101.110(2) to the background value of that constituent, according to the statistical procedures and performance standards specified under 101.110(4)*"g"* and *"h."*

(2) Within 45 days after completing sampling and analysis, the owner or operator must determine whether there has been an SSI over background at each monitoring well.

**101.110(5)** *Detection monitoring program.*

*a.* Detection monitoring is required at MSWLF units at all groundwater monitoring wells defined under 101.110(2). At a minimum, a detection monitoring program must include the monitoring for the constituents listed in 40 CFR Part 258, Appendix I, and any additional parameters required by the department on a site-specific basis. An alternative list of constituents may be used if it can be demonstrated that the constituents removed are not reasonably expected to be in or derived from the waste contained in the unit and if the alternative list of constituents is expected to provide a reliable indication of leachate leakage or gas impact from the MSWLF unit.

The department may establish an alternative list of inorganic indicator parameters for an MSWLF unit within 40 CFR Part 258, Appendix I, in lieu of some or all of the heavy metals (constituents 1 through 15 in 40 CFR Part 258, Appendix I) if the alternative parameters provide a reliable indication of inorganic releases from the MSWLF unit to the groundwater. In determining alternative parameters, the department shall consider the following factors.

(1) The types, quantities, and concentrations of constituents in wastes managed at the MSWLF unit;

(2) The mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the MSWLF unit;

(3) The detectability of indicator parameters, waste constituents, and reaction products in the groundwater; and

(4) The concentration or values and coefficients of variation of monitoring parameters or constituents in the groundwater background.

*b.* The monitoring frequency for all constituents listed in 40 CFR Part 258, Appendix I, or in the alternative list approved in accordance with 101.110(5)*"a"*(1) shall be at least semiannual (i.e., every six months) during the active life of the facility (including closure) and the post-closure period. Where insufficient background data exist, a minimum of five independent samples from each well, collected at intervals to account for seasonal and temporal variation, must be analyzed for the constituents in 40 CFR Part 258, Appendix I, or in the alternative list approved in accordance with 101.110(5)*"a"*(1) during the first year. At least one sample from each well must be collected and analyzed during subsequent semiannual sampling events. The department may specify an appropriate alternative frequency for repeated sampling and analysis for constituents in 40 CFR Part 258, Appendix I, or in the alternative list approved in accordance with 101.110(5)*"a"*(1) during the active life (including closure) and the post-closure care period. The alternative frequency during the active life (including closure) shall be not less than annually. The alternative frequency shall be based on consideration of the following factors.

(1) Lithology of the aquifer and unsaturated zone;

(2) Hydraulic conductivity of the aquifer and unsaturated zone;

(3) Groundwater flow rates;

(4) Minimum distance between upgradient edge of the MSWLF unit and downgradient monitoring well screen (minimum distance of travel); and

(5) Resource value of the aquifer.

*c.* If the owner or operator determines, pursuant to 101.110(4)*"i,"* that there is an SSI over background for one or more of the constituents listed in 40 CFR Part 258, Appendix I, or in the alternative list approved in accordance with 101.110(5)*"a"*(1) at any monitoring well specified under 101.110(2), then the owner or operator:

(1) Must, within 14 days of this finding, place a notice in the operating record indicating which constituents have shown statistically significant changes from background levels and notify the department that this notice was placed in the operating record.

(2) Must establish within 90 days an assessment monitoring program meeting the requirements of 101.110(6), except as provided in 101.110(5)*"c"*(3).

(3) May demonstrate that a source other than an MSWLF unit caused the contamination or that the SSI resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. A report documenting this demonstration must be certified by a qualified groundwater scientist, approved by the department, and placed in the operating record. If resampling is a part of the demonstration, resampling procedures shall be specified prior to initial sampling. If a successful demonstration to the department is made and documented, the owner or operator may continue detection monitoring as specified in 101.110(5). If, after 90 days, a successful demonstration is not made, the owner or operator must initiate an assessment monitoring program as required in 101.110(6).

**101.110(6)** *Assessment monitoring program.*

*a.* Assessment monitoring is required whenever an SSI over background has been confirmed pursuant to 101.110(5)*"c"* to be the result of a release from the facility.

*b.* Within 90 days of triggering an assessment monitoring program, and annually thereafter, the owner or operator must sample and analyze the groundwater for all constituents identified in 40 CFR Part 258, Appendix II. A minimum of one sample from each downgradient well shall be collected and analyzed during each sampling event. For any constituent detected in the downgradient wells as a result of the complete 40 CFR Part 258, Appendix II, analysis, a minimum of four independent samples from each well must be collected and analyzed to establish background for the constituents. The department may specify an appropriate subset of wells to be sampled and analyzed for 40 CFR Part 258, Appendix II, constituents during assessment monitoring. The department may delete any of the 40 CFR Part 258, Appendix II, monitoring parameters for an MSWLF unit if it can be shown that the removed constituents are not reasonably expected to be in or derived from the waste contained in the unit.

*c.* The department may specify an appropriate alternate frequency for repeated sampling and analysis for the full set of 40 CFR Part 258, Appendix II, constituents required by 101.110(6)*"b"* during the active life (including closure) and post-closure care period of the unit. The following factors shall be considered:

(1) Lithology of the aquifer and unsaturated zone;

(2) Hydraulic conductivity of the aquifer and unsaturated zone;

(3) Groundwater flow rates;

(4) Minimum distance between upgradient edge of the MSWLF unit and downgradient monitoring well screen (minimum distance of travel);

(5) Resource value of the aquifer; and

(6) Nature (fate and transport) of any constituents detected in response to this paragraph.

*d.* After obtaining the results from the initial or subsequent sampling events required in 101.110(6)*"b,"* the owner or operator must:

(1) Within 14 days, place a notice in the operating record identifying the 40 CFR Part 258, Appendix II, constituents that have been detected and notify the department that this notice has been placed in the operating record;

(2) Within 90 days, and on at least a semiannual basis thereafter, resample all wells specified by 101.110(2) and conduct analyses for all constituents in 40 CFR Part 258, Appendix I, or in the alternative list approved in accordance with 101.110(5)*"a"*(1), and for those constituents in 40 CFR Part

258, Appendix II, that are detected in response to the requirements of 101.110(6)*"b."* Concentrations shall be recorded in the facility operating record. At least one sample from each well must be collected and analyzed during these sampling events. The department may specify an alternative monitoring frequency during the active life and the post-closure period for the constituents referred to in this subparagraph. The alternative frequency for constituents in 40 CFR Part 258, Appendix I, or in the alternative list approved in accordance with 101.110(5)*"a"*(1) during the active life shall be no less than annual. The alternative frequency shall be based on consideration of the factors specified in 101.110(6)*"c"*;

(3) Establish background concentrations for any constituents detected pursuant to 101.110(6)*"b"* or 101.110(6)*"d"*(2); and

(4) Establish groundwater protection standards for all constituents detected pursuant to 101.110(6)*"b"* or *"d."* The groundwater protection standards shall be established in accordance with 101.110(6)*"h"* or *"i."*

*e.* If the concentrations of all 40 CFR Part 258, Appendix II, constituents are shown to be at or below background values, using the statistical procedures in 101.110(4)*"g"* for two consecutive sampling events, the owner or operator must notify the department of this finding and may return to detection monitoring.

*f.* If the concentrations of any 40 CFR Part 258, Appendix II, constituents are above background values, but all concentrations are below the groundwater protection standard established under 101.110(6)*"h"* or *"i,"* using the statistical procedures in 101.110(4)*"g,"* the owner or operator must continue assessment monitoring in accordance with this subrule.

*g.* If one or more 40 CFR Part 258, Appendix II, constituents are detected at statistically significant levels above the groundwater protection standard established under 101.110(6)*"h"* or *"i"* in any sampling event, the owner or operator must, within 14 days of this finding, place a notice in the operating record identifying the 40 CFR Part 258, Appendix II, constituents that have exceeded the groundwater protection standard and notify the department and all other appropriate local government officials that the notice has been placed in the operating record. The owner or operator also:

(1) Must, within 90 days of this finding, comply with the requirements in 101.110(6)*"g"*(2) or the following requirements.

1. Characterize the nature and extent of the release by installing additional monitoring wells as necessary until the horizontal and vertical dimensions of the plume have been defined to background concentrations;

2. Install at least one additional monitoring well at the facility boundary in the direction of contaminant migration and sample this well in accordance with 101.110(6)*"g"*(2);

3. Notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off site when indicated by sampling of wells in accordance with 101.110(6)*"g"*(1); and

4. Initiate an assessment of corrective measures as required by 101.110(7).

(2) May demonstrate that a source other than an MSWLF unit caused the contamination or that the SSI resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. A report documenting this demonstration must be certified by a qualified groundwater scientist, approved by the department, and placed in the operating record. If a successful demonstration is made, the owner or operator must continue monitoring in accordance with the assessment monitoring program pursuant to 101.110(6) and may return to detection monitoring if the 40 CFR Part 258, Appendix II, constituents are at or below background as specified in 101.110(6)*"e."* Until a successful demonstration is made, the owner or operator must comply with 101.110(6)*"g,"* including initiating an assessment of corrective measures.

*h.* The owner or operator must establish a groundwater protection standard for each 40 CFR Part 258, Appendix II, constituent detected in the groundwater. The groundwater protection standard shall be:

(1) For constituents for which a maximum contaminant level (MCL) has been promulgated under Section 1412 of the Safe Drinking Water Act (codified) under 40 CFR Part 141, the MCL for that constituent;

(2) For constituents for which MCLs have not been promulgated, the background concentration for the constituent established from wells in accordance with 101.110(2); or

(3) For constituents for which the background concentration is higher than the MCL identified under 101.110(6)*"h"*(1) or health-based concentrations identified under 101.110(6)*"i,"* the background concentration.

*i.* The department may establish an alternative groundwater protection standard for constituents for which MCLs have not been established. These groundwater protection standards shall be appropriate health-based concentrations that comply with the statewide standards for groundwater established pursuant to 567—Chapter 137.

*j.* In establishing alternative groundwater protection standards under 101.110(6)*"i,"* the department may consider the following:

(1) The policies set forth by the Groundwater Protection Act;

(2) Multiple contaminants in the groundwater with the assumption that the effects are additive regarding detrimental effects to human health and the environment;

(3) Exposure threats to sensitive environmental receptors; and

(4) Other site-specific exposure or potential exposure to groundwater.

**101.110(7)** *Assessment of corrective measures.*

*a.* Within 90 days of finding that any of the constituents listed in 40 CFR Part 258, Appendix II, have been detected at a statistically significant level exceeding the groundwater protection standards defined under 101.110(6)*"h"* or *"i,"* the owner or operator must initiate an assessment of corrective measures. Such an assessment must be completed and submitted to the department for review and approval within 180 days of the initial finding unless otherwise authorized or required by the department.

*b.* The owner or operator must continue to monitor in accordance with the assessment monitoring program as specified in 101.110(6).

*c.* The assessment shall include an analysis of the effectiveness of potential corrective measures in meeting all of the requirements and objectives of the remedy as described under 101.110(8), addressing at least the following:

(1) The performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies, including safety impacts, cross-media impacts, and control of exposure to any residual contamination;

(2) The time required to begin and complete the remedy;

(3) The costs of remedy implementation; and

(4) The institutional requirements such as state or local permit requirements or other environmental or public health requirements that may substantially affect implementation of the remedy(ies).

*d.* Within 60 days of approval from the department of the assessment of corrective measures, the owner or operator must discuss the results of the corrective measures assessment, prior to the selection of a remedy, in a public meeting with interested and affected parties. The department may establish an alternative schedule for completing the public meeting requirement. Notice of public meeting shall be sent to all owners and occupiers of property adjacent to the permitted boundary of the facility, the department, and the department field office with jurisdiction over the facility. A copy of the minutes of this public meeting and the list of community concerns must be placed in the operating record and submitted to the department.

**101.110(8)** *Selection of remedy.*

*a.* Based on the results of the corrective measures assessment conducted under 101.110(7), the owner or operator must select a remedy within 60 days of holding the public meeting that, at a minimum, meets the standards listed in 101.110(8)*"b."* The department may establish an alternative schedule for selecting a remedy after holding the public meeting. The owner or operator must submit a report to the department within 14 days of selecting a remedy describing the selected remedy, stating that the report has been placed in the operating record, and explaining how the selected remedy meets the standards in 101.110(8)*"b."*

*b.* Remedies must:

(1) Be protective of human health and the environment;

(2) Attain the groundwater protection standards specified pursuant to 101.110(6)*"h"* or *"i"*;

(3) Control the source(s) of releases so as to reduce or eliminate, to the maximum extent practicable, further releases of 40 CFR Part 258, Appendix II, constituents into the environment that may pose a threat to human health or the environment; and

(4) Comply with standards for management of wastes as specified in 101.110(9)*"d."*

*c.* In selecting a remedy that meets the standards of 101.110(8)*"b,"* the owner or operator shall consider the following evaluation factors.

(1) The long-term and short-term effectiveness and protectiveness of the potential remedy(ies), along with the degree of certainty that the remedy will prove successful based on consideration of the following:

1. Magnitude of reduction of existing risks;

2. Magnitude of residual risks in terms of likelihood of further releases due to waste remaining following implementation of a remedy;

3. The type and degree of long-term management required, including monitoring, operation, and maintenance;

4. Short-term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, redisposal, or containment;

5. Time period until full protection is achieved;

6. Potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the environment associated with excavation, transportation, redisposal, or containment;

7. Long-term reliability of the engineering and institutional controls; and

8. Potential need for replacement of the remedy.

(2) The effectiveness of the remedy in controlling the source to reduce further releases based on consideration of the following factors:

1. The extent to which containment practices will reduce further releases; and

2. The extent to which treatment technologies may be used.

(3) The ease or difficulty of implementing a potential remedy(ies) based on consideration of the following factors:

1. Degree of difficulty associated with constructing the technology;

2. Expected operational reliability of the technology;

3. Necessity of coordination with and obtaining necessary approvals and permits from other agencies;

4. Availability of necessary equipment and specialists; and

5. Available capacity and location of needed treatment, storage, and disposal services.

(4) Practicable capability of the owner or operator, including a consideration of technical and economic capabilities.

(5) The degree to which community concerns, including but not limited to the concerns identified at the public meeting required pursuant to 101.110(7)*"d,"* are addressed by a potential remedy(ies).

*d.* The owner or operator shall specify as part of the selected remedy a schedule(s) for initiating and completing remedial activities. Such a schedule must require the initiation of remedial activities within a reasonable period of time taking into consideration the factors set forth in 101.110(8)*"d"*(1) through *"d"*(8). The owner or operator must consider the following factors in determining the schedule of remedial activities:

(1) Extent and nature of contamination;

(2) Practical capabilities of remedial technologies in achieving compliance with groundwater protection standards established under 101.110(6)*"h"* or *"i"* and other objectives of the remedy;

(3) Availability of treatment or disposal capacity for wastes managed during implementation of the remedy;

(4) Desirability of utilizing alternative or experimental technologies that are not widely available but that may offer significant advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives;

(5) Potential risks to human health and the environment from exposure to contamination prior to completion of the remedy;

(6) Resource value of the aquifer, including:

1. Current and future uses;

2. Proximity and withdrawal rate of users;

3. Groundwater quantity and quality;

4. The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

5. The hydrogeologic characteristics of the facility and surrounding land;

6. Groundwater removal and treatment costs; and

7. The cost and availability of alternative water supplies;

(7) Practicable capability of the owner or operator; and

(8) Other relevant factors.

**101.110(9)** *Implementation of the corrective action plan.*

*a.* Based on the schedule established under 101.110(8)*"d"* for initiation and completion of remedial activities, the owner or operator must:

(1) Establish and implement a corrective action groundwater monitoring program that:

1. At a minimum, meets the requirements of an assessment monitoring program under 101.110(6);

2. Indicates the effectiveness of the corrective action remedy; and

3. Demonstrates compliance with groundwater protection standards pursuant to 101.110(9)*"e"*;

(2) Implement the corrective action remedy selected under 101.110(8); and

(3) Take any interim measures necessary to ensure the protection of human health and the environment. Interim measures should, to the greatest extent practicable, be consistent with the objectives of and contribute to the performance of any remedy that may be required pursuant to 101.110(8). The following factors must be considered by an owner or operator in determining whether interim measures are necessary.

1. Time period required to develop and implement a final remedy;

2. Actual or potential exposure of nearby populations or environmental receptors to hazardous constituents;

3. Actual or potential contamination of drinking water supplies or sensitive ecosystems;

4. Further degradation of the groundwater that may occur if remedial action is not initiated expeditiously;

5. Weather conditions that may cause hazardous constituents to migrate or be released;

6. Risk of fire or explosion or potential for exposure to hazardous constituents as a result of an accident or the failure of a container or handling system; and

7. Other factors that may pose threats to human health and the environment.

*b.* An owner or operator may determine, based on information developed after implementation of the remedy has begun or other information, that compliance with the requirements of 101.110(8)*"b"* is not being achieved through the remedy selected. In such cases, the owner or operator must notify the department and implement other methods or techniques that could practicably achieve compliance with the requirements unless the owner or operator makes the determination under 101.110(9)*"c."* The notification shall explain how the proposed alternative methods or techniques will meet the standards in 101.110(8)*"b,"* or the notification shall indicate that the determination was made pursuant to 101.110(9)*"c."* The notification shall also specify a schedule(s) for implementing and completing the remedial activities to comply with 101.110(8)*"b"* or the alternative measures to comply with 101.110(9)*"c."* Within 90 days of approval by the department for the proposed alternative methods or techniques or the determination of impracticability, the owner or operator shall implement the proposed alternative methods or techniques meeting the standards of 101.110(8)*"b"* or implement alternative measures meeting the requirements of 101.110(9)*"c"*(2) and *"c"*(3).

*c.* If the owner or operator determines that compliance with requirements under 101.110(8)*"b"* cannot be practicably achieved with any currently available methods, the owner or operator must:

(1) Obtain certification of a qualified groundwater scientist and approval by the department that compliance with requirements under 101.110(8)*"b"* cannot be practicably achieved with any currently available methods.

(2) Implement alternate measures to control exposure of humans or the environment to residual contamination, as necessary to protect human health and the environment.

(3) Implement alternate measures for control of the sources of contamination or for removal or decontamination of equipment, units, devices, or structures that are:

1. Technically practicable; and

2. Consistent with the overall objective of the remedy.

(4) Notify the department within 14 days that a report justifying the alternate measures prior to implementation has been placed in the operating record.

*d.* All solid wastes that are managed pursuant to a remedy required under 101.110(8), or an interim measure required under 101.110(9)*"a"*(3), shall be managed in a manner that:

(1) Is protective of human health and the environment; and

(2) Complies with applicable RCRA, state, and local requirements.

*e.* Remedies selected pursuant to 101.110(8) shall be considered complete when:

(1) The owner or operator complies with the groundwater protection standards established under 101.110(6)*"h"* or *"i"* at all points within the plume of contamination that lie beyond the groundwater monitoring well system established under 101.110(2).

(2) Compliance with the groundwater protection standards established under 101.110(6)*"h"* or *"i"* has been achieved by demonstrating that concentrations of 40 CFR Part 258, Appendix II, constituents have not exceeded the groundwater protection standard(s) for a period of three consecutive years using the statistical procedures and performance standards 101.110(4)*"g"* and *"h."* The department may specify an alternative length of time during which the owner or operator must demonstrate that concentrations of 40 CFR Part 258, Appendix II, constituents have not exceeded the groundwater protection standard(s), taking into consideration:

1. The extent and concentration of the release(s);

2. The behavior characteristics of the hazardous constituents in the groundwater;

3. The accuracy of monitoring or modeling techniques, including any seasonal, meteorological, or other environmental variables that may affect accuracy; and

4. The characteristics of the groundwater.

(3) All actions required by the department to complete the remedy have been satisfied.

*f.* Upon completion of the remedy, the owner or operator must notify the department within 14 days that a certification has been placed in the operating record verifying that the remedy has been completed in compliance with the requirements of 101.110(9)*"e."* The certification must be signed by the owner or operator and by a qualified groundwater scientist and approved by the department.

*g.* When, upon completion of the certification, the owner or operator determines that the corrective action remedy has been completed in accordance with the requirements under 101.110(9)*"e,"* the owner or operator shall be released from the requirements for financial assurance for corrective action pursuant to 101.114(5).

**101.110(10)** *Annual water quality reports (AWQR).* The owner or operator shall submit an annual report to the department detailing the water quality monitoring sampling locations and results, assessments, selection of remedies, implementation of corrective action, and results of corrective action remedies to address SSIs, if any, during the previous year. This report shall include a site map that delineates all monitoring points where water quality samples were taken and plumes of contamination, if any. The report shall contain a narrative explaining and interpreting all of the data collected during the previous year. The report shall be due each year on a date set by the department in the facility's permit.

**567—101.111(455B,455D) Recordkeeping and reporting requirements.** The purpose of the recordkeeping and reporting activities is to verify compliance with this division and to document the construction and operations of the facility. The department can set alternative schedules for recordkeeping and notification requirements as specified in 101.111(1) and 101.111(2), except for the notification requirements in 101.106(2)*"a"* and 101.110(6)*"g"*(1)"3." MSWLFs shall comply with the following recordkeeping and reporting requirements.

**101.111(1)** *Recordkeeping.* The owner or operator of an MSWLF unit must record and retain near the facility in an operating record or in an alternative location approved by the department the following information as it becomes available.

*a.* Permit application, permit renewal, and permit modification application materials pursuant to 567—101.105(455B);

*b.* Site exploration and characterization reports pursuant to 101.106(3);

*c.* Design and construction plans and specifications, and related analyses and documents, pursuant to 567—101.107(455B). The QC&A final reports, and related analyses and documents, pursuant to 101.107(4)*"d"*;

*d.* Inspection records, training procedures, and notification procedures required in 567—101.108(455B);

*e.* Any MSWLF unit design documentation for placement of leachate or gas condensate in an MSWLF unit as required under 101.108(1)*"b"*(3)"2" and "3";

*f.* Gas monitoring results from monitoring and any remediation plans required by 567—101.109(455B);

*g.* Any demonstration, certification, finding, monitoring, testing, or analytical data required by 567—101.110(455B);

*h.* Closure and post-closure care plans and any monitoring, testing, or analytical data as required by 567—101.112(455B) and 567—101.113(455B); and

*i.* Any cost estimates and financial assurance documentation required by this chapter.

**101.111(2)** *Reporting.* The owner or operator must notify the department when the documents required in 101.111(1) have been placed in the operating record. All information contained in the operating record must be furnished upon request to the department for inspection.

**567—101.112(455B) Closure criteria.** MSWLFs shall comply with the following closure requirements.

**101.112(1)** Owners or operators of MSWLF units must install a final cover system that is designed to minimize infiltration and erosion. The final cover system must be designed and constructed to:

*a.* Have a permeability less than or equal to the permeability of any bottom liner system (for MSWLFs with some type of liner) or have a permeability no greater than $1 \times 10^{-7}$ cm/sec, whichever is less;

*b.* Minimize infiltration through the closed MSWLF by the use of an infiltration layer that contains a minimum of 18 inches of compacted earthen material;

*c.* Minimize erosion of the final cover by the use of an erosion layer that contains a minimum of 24 inches of earthen material that is capable of sustaining native plant growth;

*d.* Have an infiltration layer and erosion layer that are a combined minimum of 42 inches of earthen material at all locations over the closed MSWLF unit; and

*e.* Have a slope between 5 percent and 25 percent. Steeper slopes may be used if it is demonstrated that a steeper slope is unlikely to adversely affect final cover system integrity.

**101.112(2)** The department may approve an alternative final cover design that includes:

*a.* An infiltration layer that achieves reduction in infiltration equivalent to the infiltration layer specified in 101.112(1)*"a"* and *"b"*; and

*b.* An erosion layer that provides protection from wind and water erosion equivalent to the erosion layer specified in 101.112(1)*"c"* and *"d."*

**101.112(3)** The owner or operator must prepare a written closure plan that describes the steps necessary to close all MSWLF units at any point during the active life in accordance with the cover design requirements in 101.112(1) or 101.112(2), as applicable. The closure plan, at a minimum, must include the following information.

*a.* A description of the final cover including source, volume, and characteristics of cover material designed in accordance with 101.112(1) or 101.112(2) and the methods and procedures to be used to install the cover;

*b.* An estimate of the largest area of the MSWLF unit requiring a final cover, as required under 101.112(1) or 101.112(2), at any time during the active life;

*c.* An estimate of the maximum inventory of wastes on site over the active life of the landfill facility; and

*d.* A schedule for completing all activities necessary to satisfy the closure criteria in 567—101.112(455B).

**101.112(4)** The owner or operator must notify the department that the closure plan has been placed in the operating record no later than the initial receipt of waste in a new MSWLF unit.

**101.112(5)** At least 180 days prior to beginning closure of each MSWLF unit as specified in 101.112(6), an owner or operator must notify the department of the intent to close the MSWLF unit and that a notice of the intent to close the unit has been placed in the operating record. If the MSWLF facility will no longer be accepting MSW for disposal, then the owner or operator must also notify all local governments utilizing the facility and post a public notice of the intent to close and no longer to accept MSW.

**101.112(6)** The owner or operator must begin closure activities of each MSWLF unit:

*a.* No later than 30 days after the date on which the MSWLF unit receives the known final receipt of wastes; or

*b.* If the MSWLF unit has remaining capacity and there is a reasonable likelihood that the MSWLF unit will receive additional wastes, no later than one year after the most recent receipt of wastes. Extensions beyond the one-year deadline for beginning closure may be granted by the department if the owner or operator demonstrates that the MSWLF unit has the capacity to receive additional wastes and the owner or operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unclosed MSWLF unit.

**101.112(7)** The owner or operator must complete closure activities of each MSWLF unit in accordance with the closure plan within 180 days following the beginning of closure as specified in 101.112(6). Extensions of the closure period may be granted by the department if the owner or operator demonstrates that closure will, of necessity, take longer than 180 days and that the owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed MSWLF unit.

**101.112(8)** Following closure of each MSWLF unit, the owner or operator must submit to the department certification, signed by an independent professional engineer registered in Iowa, verifying that closure has been completed in accordance with the closure plan. Upon approval by the department, the certification shall be placed in the operating record.

**101.112(9)** Following closure of all MSWLF units, the owner or operator must record a notation on the deed to the landfill facility property, or some other instrument that is normally examined during title search in lieu of a deed notification, and notify the department that the notation has been recorded and a copy has been placed in the operating record. The notation on the deed must in perpetuity notify any potential purchaser of the property that:

*a.* The land has been used as a landfill facility, and

*b.* Its use is restricted under 101.113(3)*"c."*

**101.112(10)** The owner or operator may request permission from the department to remove the notation from the deed if all wastes are removed from the facility.

**567—101.113(455B) Post-closure care requirements.** MSWLFs shall comply with the following post-closure care requirements.

**101.113(1)** Following closure of each MSWLF unit, the owner or operator must conduct post-closure care. Post-closure care must be conducted for 30 years, except as provided under 101.113(2), and consist of at least the following.

*a.* Maintaining the integrity and effectiveness of any final cover, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, and preventing run-on and runoff from eroding or otherwise damaging the final cover;

*b.* Maintaining and operating the leachate collection system in accordance with the requirements in 101.107(5)*"b"* and 101.105(9), if applicable. The department may allow the owner or operator to stop managing leachate if the owner or operator demonstrates that leachate no longer poses a threat to human health and the environment;

*c.* Monitoring the groundwater in accordance with the requirements of 567—101.110(455B) and maintaining the groundwater monitoring system; and

*d.* Maintaining and operating the gas monitoring system in accordance with the requirements of 567—101.109(455B).

**101.113(2)** The length of the post-closure care period may be:

*a.* Decreased by the department if the owner or operator demonstrates that the reduced period is sufficient to protect human health and the environment and this demonstration is approved by the department; or

*b.* Increased if the department determines that the lengthened period is necessary to protect human health and the environment.

**101.113(3)** The owner or operator of all MSWLF units must prepare a written post-closure plan that includes, at a minimum, the following information:

*a.* A description of the monitoring and maintenance activities required in 101.113(1) for each MSWLF unit and the frequency at which these activities will be performed;

*b.* Name, address, email, and telephone number of the person or office to contact about the facility during the post-closure period; and

*c.* A description of the planned uses of the property during the post-closure period. Post-closure use of the property shall not disturb the integrity of the final cover, liner(s), or any other components of the containment system or the function of the monitoring systems unless necessary to comply with the requirements in this division. The department may approve any other disturbance if the owner or operator demonstrates that disturbance of the final cover, liner, or other component of the containment system, including any removal of waste, will not increase the potential threat to human health or the environment.

**101.113(4)** The owner or operator must notify the department that a post-closure plan has been prepared and placed in the operating record by the date of initial receipt of waste.

**101.113(5)** Following completion of the post-closure care period for each MSWLF unit, the owner or operator must submit to the department a certification, signed by an independent Iowa-licensed professional engineer, verifying that post-closure care has been completed in accordance with the post-closure plan. Upon department approval, the certification shall be placed in the operating record.

**567—101.114(455B) Financial assurance requirements.** The owner or operator of an MSWLF must establish financial assurance for closure, post-closure care and corrective action, if applicable, in accordance with Division VIII of this chapter.

**567—101.115(455B) Waiver limitations.** Some provisions of this division are minimum standards required by federal law (including but not limited to 40 CFR 258), and waivers to such provisions shall not be granted unless they are as protective as the applicable minimum federal standards.

These rules are intended to implement Iowa Code section 455B.304.

**567—101.116** to **101.199** Reserved.

DIVISION III
INDUSTRIAL LANDFILLS

**567—101.200(455B) Purpose.** The purpose of this division is to implement Iowa Code chapter 455B, subchapter IV (solid waste disposal), for the siting, designing, and operating of a sanitary landfill accepting only industrial solid waste or a sanitary landfill accepting only C&D.

**567—101.201(455B) Applicability.**

**101.201(1)** This division shall apply to sanitary landfills that are constructed and operated exclusively for the final deposition of industrial solid waste or C&D, known for purposes of this chapter as industrial landfills.

**101.201(2)** Pursuant to Iowa Code section 455B.305(1), an industrial landfill shall not be constructed or operated without first obtaining a permit from the department pursuant to this division, the requirements set forth in 567—Chapter 100, and Division I of this chapter.

**101.201(3)** The issuance of a permit to an industrial landfill pursuant to this division in no way relieves the applicant of the responsibility of complying with all other local; state; or federal statutes, ordinances, and rules or other requirements applicable to the construction and operation of an industrial landfill.

**101.201(4)** All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—101.202(455B) Definitions.** For the purposes of this division, the definitions in 567—Chapter 100 and Iowa Code section 455B.301 shall apply.

**567—101.203(455B) Permits.** For purposes of this division, the permit requirements in 567—Chapter 100 shall apply.

**567—101.204(455B) Permit applications.** Unless otherwise authorized by the department, a permit applicant shall submit on a form prescribed by the department the requirements in 567—Chapter 100 and Division I of this chapter, as well as the following information.

**101.204(1)** A detailed description of the disposal process to be used. The department may request additional details to ensure compliance with all operation requirements.

**101.204(2)** A table listing the equipment to be used, its design capacities, and expected loads.

**101.204(3)** A closure/post-closure plan that:

*a.* Details how and when the facility will be closed in accordance with applicable requirements of this division.

*b.* Describes the proposed groundwater monitoring plan, leachate control system, and site inspection and maintenance activities necessary to comply with this division.

*c.* States the name, address, and telephone number of the person or office to serve as a contact with regard to the facility during the post-closure period.

**101.204(4)** Such other information as may be required by the director.

**567—101.205(455B) Soil and hydrogeologic investigations.** An industrial landfill shall have a qualified groundwater scientist conduct a soil investigation, hydrogeologic investigation, and evaluation of hydrogeologic conditions. The purpose of these investigations is to obtain data to determine potential routes of contaminant migration via groundwater. Such information is vital for development of the hydrologic monitoring system plan and design. This division sets forth the minimum requirements for this work, including reporting. An industrial landfill shall comply with this division unless the department issues written approval due to specific site conditions.

**567—101.206(455B) Soil investigation.**

**101.206(1)** *Soil borings.*

*a. Number of borings.* A sufficient number of soil borings shall be made to accurately identify the hydrogeologic variations of the landfill site. For new landfill sites, the minimum number of borings required is 10 for landfill sites of less than 10 acres, 20 for landfill sites of 10 to 50 acres, and 20 plus an additional boring for every 10 acres above 50 acres for landfill sites larger than 50 acres. Fewer borings may be needed for existing landfill sites, depending on previous work done at the landfill site. Also, no borings will be required in existing fill areas. The department may require additional borings based on the geological complexity of the landfill site.

*b. Depth of borings.* All borings must extend a minimum of 25 feet deep and at least 10 feet deep below the water table; however, borings in proposed fill areas shall be terminated 10 feet above the uppermost aquifer or be grouted to provide such separation. At least half the borings located outside the existing or proposed fill area shall extend either 10 feet into the uppermost aquifer, 50 feet below the water table, or 10 feet into bedrock. At least one boring shall extend 10 feet into bedrock or 100 feet below the lowest ground surface elevation.

*c. Boring method.* Borings shall comply with the applicable portions of this chapter. The preferred boring method is hollow stem auger, although it may be necessary to use other methods at greater depths and in bedrock. When wet drilling methods are used for boring in which monitoring wells or piezometers are installed, the drilling fluid and methods and development procedures shall be approved by and documented with the department.

*d. Assurance that soil boring samples have been taken at the landfill site.* The soil boring samples must be kept by the permit applicant until the permit is issued and must be made available to the department if the department requests them.

**101.206(2)** *Soil samples.* Samples shall be collected at five-foot intervals and at every change in stratum. These samples shall be obtained using a split spoon sampler and the procedures of the standard penetration test. A minimum of one undisturbed Shelby tube sample shall be obtained in the uppermost cohesive stratum at or below the lowest depth at which solid waste will be disposed of. Samples shall be clearly marked, preserved, and maintained for future inspection. Samples selected for laboratory analysis shall be properly preserved.

**101.206(3)** *Laboratory test of discrete soil samples.* Laboratory tests of discrete soil samples shall be conducted to correlate strata between soil borings, obtain permeability data on each stratum, and design monitoring wells.

*a. Hydraulic conductivity tests.* Tests using a constant-head or falling-head permeameter shall be run on a minimum of one sample from each Shelby tube sample. Each sample shall be from a different soil boring representing a different area of the landfill site.

*b. Grain size distribution.* Grain size distribution tests shall be conducted on a minimum of one sample from each distinct stratum.

**567—101.207(455B) Hydrogeologic investigation.**

**101.207(1)** *Groundwater level measurements.* The elevation of the water table shall be determined at or near the location of each soil boring that penetrates the water table. The water table may be determined using a completed water table monitoring well, or piezometer. The bottom of a piezometer used to measure water table elevation shall be no more than five feet below the water table. The apparent horizontal groundwater flow direction shall be determined based on water table measurements. Vertical groundwater flow shall then be assessed in at least two profiles approximately parallel to the apparent horizontal flow direction. Vertical groundwater flow shall be assessed using at least two well clusters per profile. Each well cluster shall contain a water table monitoring well or piezometer and additional water level monitoring points based on landfill site conditions as follows.

*a.* If the water table is in the uppermost aquifer, one additional water level monitoring point shall be located near the base of the aquifer or at least 20 feet below the base of the water table monitoring point. This additional monitoring point may not be required if the aquifer is less than 20 feet thick.

*b.* If the uppermost aquifer is less than 50 feet below the water table, an additional water level monitoring point shall be located at the top of the aquifer.

*c.* If the uppermost aquifer is more than 50 feet below the water table, additional water level monitoring points shall be placed at depths of 30 feet and 50 feet below the water table.

*d.* If required, the one deeper soil boring into bedrock shall be used as a landfill site for one well cluster. Water table monitoring points in this cluster shall correspond to the other well cluster used for a profile. In addition, water level monitoring points shall be placed at the bottom of the boring and, if possible, at the top and bottom of the uppermost aquifer. Groundwater level measurements shall be made after the water levels have stabilized in the monitoring point and at least 24 hours after completion and bailing of the monitoring well or installation of the piezometer. The water level in existing wells shall be observed and recorded prior to bailing. Each set of water level measurements shall be made in as short a time frame as possible not to exceed eight hours.

**101.207(2)** *In situ permeability tests.* In situ permeability tests shall be conducted on each monitoring well and piezometer in each well cluster.

*a. Pumping test.*

(1) If more than one monitoring point is located in the uppermost aquifer, a pumping test shall be conducted at one or more upper aquifer monitoring points. A pumping test involves pumping at a constant rate from one well while observing water levels in other wells. The pumping rate shall be as high as possible without dewatering the well. Water level measurements in other uppermost aquifer wells shall be measured at frequent intervals near the start of the test and then at progressively longer intervals. Continuous water level recording is preferable.

(2) Water levels in wells not located in the uppermost aquifer shall be recorded throughout the test at regular intervals. Water levels in all wells shall be measured 24 hours prior to the test and just before the test. The test duration shall be at least four hours and continue until a stabilized drawdown condition is observed. Longer tests may be necessary if other uppermost aquifer monitoring points are slow to respond. Water level readings shall be recorded through the recovery phase of the water table.

*b. Bail and slug tests.* Monitoring wells and piezometers located in materials with low hydraulic conductivities shall be tested using a bail or slug test. These tests involve rapidly removing or adding a known volume of water to a well and then recording water levels in the well as the well recovers to its original level. Typically, the necessary frequency of measurements will be similar to that required of a pumping test. In materials of very low hydraulic conductivities, less frequent measurements are necessary. In materials of higher hydraulic conductivities, more frequent measurements may be necessary.

**101.207(3)** *Existing well research.* A reasonable effort to inventory all active, unused, and abandoned water wells within one mile of the facility and the identification of all water wells within three miles of the permitted waste boundary shall be conducted. Well logs, other available information on well construction, static water levels, and usage shall be obtained. The well inventory shall be based on thorough reviews of state and local collections of well logs and, when possible, interviews or surveys of well owners. Also to be included are maps showing the location of soil borings, other field tests and measurements, and existing wells.

**567—101.208(455B) Evaluation of hydrogeologic conditions.**

**101.208(1)** Based on soil boring and other available information, a description of the landfill site geology shall be made. This description shall include preparation of geologic cross sections of sufficient number and spacing (no fewer than four at every landfill site) to adequately define all areas of the landfill site and of sufficient detail to adequately depict major stratigraphic and structural trends and reflect geologic structural features in relation to groundwater flow. Each pair of cross sections must be as near to perpendicular as possible to adequately portray the landfill site geology.

**101.208(2)** A description of the hydrogeologic unit(s) within the saturated zone shall be made, including thickness; depth; hydraulic properties, such as transmissivity and storage coefficient or specific yield; description of the role of each as confining bed, aquifer, or perched saturated zone; and its actual or potential use as a water supply aquifer.

**101.208(3)** All groundwater flow paths from the landfill site shall be identified, including both horizontal and vertical components of flow. A contour map of the water table shall be presented showing horizontal flow paths. A potentiometric surface map of the uppermost aquifer showing horizontal flow paths shall also be presented, if different from the water table. Vertical flow paths shall be shown in at least two profiles approximately parallel to the direction of horizontal flow. Vertical flow paths shall be determined by water level measurements from clustered wells at different depths if possible. An evaluation of vertical groundwater flow based on the hydrologic properties of the various strata encountered at the landfill site, estimated groundwater flow and recharge rates, and known information on hydraulic head shall also be made.

**101.208(4)** The seasonal, temporal, and artificially induced variations in groundwater flow shall be evaluated. Temporal variations occur due to natural events, such as rainfall. The addition of tile lines, removal of overburden, or deposition of wastes would constitute artificially induced variations.

**101.208(5)** Surface water flow paths from the landfill site shall be identified on topographic contour maps.

**567—101.209(455B) Monitoring system plan.** A hydrologic monitoring system shall be designed to intercept the groundwater and surface water flow paths from the landfill site, including proposed locations and depths for monitoring wells in accordance with monitoring well siting criteria in 567—101.212(455B). The surface water monitoring plan shall include monitoring points on all standing and flowing bodies of water that will receive surface runoff or groundwater discharge from the landfill site. For streams, sampling points upstream and downstream of areas of potential impact from the landfill site shall be selected. The monitoring system plan shall also include sampling protocols and monitoring well maintenance and performance reevaluation procedures.

**567—101.210(455B) Sampling protocol.** At a minimum, the sampling protocol must include the following.

**101.210(1)** Order in which monitoring points are to be sampled, all tests and procedures needed at each monitoring point and the order in which these procedures will be carried out, equipment and containers to be used, procedures and precautions for their use, precautions to avoid introducing contaminants from outside sources into monitoring wells or samples, and how equipment must be cleaned between uses;

**101.210(2)** Procedures for evacuating, if applicable, each monitoring well prior to each water quality sampling;

**101.210(3)** Procedures for handling field blanks and other quality assurance samples at the facility and in transit to and from the laboratory;

**101.210(4)** Procedures for sample preservation;

**101.210(5)** Procedures for sample collection, labeling and handling at the facility and during transport to the laboratory;

**101.210(6)** Procedures for recording field observations and measurements;

**101.210(7)** Procedures for records maintenance and data analysis; and

**101.210(8)** Procedures for sampling surface water monitoring points, including exact sampling locations and depths.

**567—101.211(455B) Monitoring well maintenance and performance reevaluation plan.**

**101.211(1)** A monitoring well maintenance and performance reevaluation plan shall be included as part of the hydrologic monitoring system plan. The plan shall ensure that all monitoring points remain reliable.

**101.211(2)** The plan shall provide for the following.

*a.* A biennial examination of high and low water levels accompanied by a discussion of the acceptability of well location (vertically and horizontally) and exposure of the screened interval to the atmosphere.

*b.* A biennial evaluation of water level conditions in the monitoring wells to ensure that the effects of waste disposal or well operation have not resulted in changes in the hydrologic setting and resultant flow paths.

*c.* Annual measurement of well depths to ensure that wells are physically intact and not filling with sediment.

*d.* An in situ permeability test to be conducted every five years on monitoring wells to compare test data with those collected originally to determine if well deterioration is occurring or other methods approved by the department.

**567—101.212(455B) Monitoring well siting requirements.**

**101.212(1)** *Downgradient monitoring wells.* Downgradient monitoring wells must be located to provide a high level of certainty that releases of contaminants from the landfill site can be promptly detected. Downgradient monitoring wells shall be placed along the landfill site perimeter, within 50 feet of the planned liner or waste boundary unless landfill site conditions dictate otherwise, downgradient of the facility with respect to the hydrologic unit being monitored. For those facilities that are long-term, multiphase operations, the department may establish temporary waste boundaries in order to define locations for monitoring wells. The convergence of groundwater paths to minimize the overall length of the downgradient dimension may be taken into consideration in the placement of downgradient monitoring wells.

**101.212(2)** *Water table wells.* At least three downgradient water table monitoring wells shall be installed at each facility. The maximum spacing between wells shall be 600 feet.

**101.212(3)** *Uppermost aquifer monitoring wells.* If different from water table monitoring wells, at least three uppermost aquifer monitoring wells shall be installed at each facility. Uppermost aquifer monitoring wells shall be spaced no more than 600 feet apart. If the uppermost aquifer is located more than 50 feet below the water table, the requirement for three wells may be relaxed, although at least one downgradient uppermost aquifer monitoring well will be required.

**101.212(4)** *Other downgradient monitoring wells.* Additional downgradient monitoring wells will be required if the water table and uppermost aquifer monitoring wells do not intercept most vertical flow paths from the landfill site. In such situations, monitoring wells shall be placed at the appropriate depths to intercept the remaining flow paths and shall be spaced at no more than 600 feet apart.

**101.212(5)** *Upgradient monitoring wells.* Upgradient monitoring wells shall not be affected by the landfill site. At least one upgradient monitoring well shall be installed into each stratum being monitored by downgradient monitoring wells. If it is not possible to actually locate a monitoring well upgradient of the landfill site, the well shall be placed as near the landfill site as feasible without being affected by the landfill site.

**567—101.213(455B) General requirements.**

**101.213(1)** *Plan requirements.* The plans for industrial landfills shall include the following.

*a.* The map and aerial photograph of sufficient scale to show all homes, buildings, lakes, ponds, watercourses, wetlands, dry runs, rock outcroppings, roads, and other applicable details including topography and drainage patterns. All wells shall be identified on the map or aerial photograph, and a benchmark shall be indicated.

*b.* A plot drawing in appropriate scale of the landfill site and the immediately adjacent area showing dimensions, topography with appropriate contour intervals, drainage patterns, known existing drainage tiles, locations where any geologic samples were taken, all water wells with their uses, and present and planned pertinent features including but not limited to roads, fencing, and borrow areas.

*c.* Detailed engineering drawing of the landfill site showing all initial and permanent roads, buildings, and equipment to be installed; unloading and holding areas; fences and gates; landscaping and screening devices; personnel and maintenance facilities; and sewer and water lines.

*d.* CCR landfills shall have a soil liner consisting of at least four feet of recompacted soil. The description, source and volume of the material to be used for the landfill liner, including the method of installation, must be provided. The hydraulic conductivity must be $1 \times 10E^{-7}$ cm/sec (0.00028 ft/day) or less as determined by appropriate laboratory analysis. The percent of standard or modified proctor density at moisture contents consistent with expected field conditions and corresponding to a measured hydraulic conductivity equal to or less than $1 \times 10E^{-7}$ cm/sec shall be determined in the laboratory. The soil shall be placed in lifts not to exceed eight inches in thickness. A minimum of one field moisture and density test shall be performed per lift per acre to verify that the moisture and density determined by the laboratory analysis as correlated to permeability has been achieved. Results of field moisture and density tests shall be submitted to the department prior to the placement of solid waste.

*e.* Alternative liner systems. An alternative liner system may be approved by the director if the design of the liner system is equivalent to the soil liner required in 101.213(1)*"d"* in performance, longevity, and protection of the groundwater, or, based on the specific type of waste to be disposed of, the design of the liner system offers equivalent protection of the groundwater. Undisturbed soil shall not be used as a liner.

*f.* Diversion and drainage structures designed to prevent ponding, infiltration, inundation, erosion, slope failure, and washout from surface runoff due to a 25-year 24-hour rainfall event.

*g.* A leachate collection, storage and treatment and disposal system designed to protect the soils, surface water, and groundwater from leachate contamination. This system shall also be designed to operate during the active life of the landfill site and during the post-closure period.

(1) The design and construction of the system must be in accordance with 101.213(10) and be coordinated with the planned phase development of the landfill site and the timing of leachate generation.

(2) The potential for leachate generation shall be evaluated in determining the design for the facility.

(3) The plan must include proposed quality assurance and quality control testing to be performed during installation and operation of the system. This plan shall include procedures that will be followed during installation of the leachate collection system and during normal landfill operations to ensure the system's integrity and design standards.

*h.* A drawing of the scheme of development shown progressively with time. The methods to be used to ensure compliance with the scheme and to provide vertical and horizontal controls shall be described.

*i.* Cross-sectional drawings showing progressively with time the original and proposed elevation of excavating, trenching, and fill.

*j.* An ultimate land use proposal, including intermediate stages, with time schedules indicating the total and complete land use. Final elevations, grades, permanent drainage structures, monitoring or treatment facilities, and permanent improvements of the completed landfill shall be included. Any supporting drawings to the ultimate land use proposal shall be in appropriate scale.

*k.* Information describing:

(1) Source, volume, and characteristics of cover material;

(2) Area of landfill site in acres.

*l.* A report consisting of information verifying that the portion of the landfill site to be filled is:

(1) Situated to obviate any predictable lateral movement of significant quantities of leachate from the landfill site to standing or flowing surface water or to shallow aquifers that are in actual use or are deemed to be of potential use as a water resource.

(2) At least 50 feet from the adjacent property line unless there is a written agreement with the owner of the abutting property. The report shall verify that the portion to be filled is at least 50 feet from the adjacent property line. The written agreement shall be filed with the county recorder and shall become a permanent record of the property.

(3) Beyond 500 feet from any existing habitable residence unless there is written agreement with the owner of the residence and the landfill site is screened by natural objects, plantings, or fences or by other appropriate means. The residence must be in existence on the date of application for the original permit from the department. The written agreement shall be filed with the county recorder and recorded for abstract of title purposes and a copy submitted to the department.

*m.* Such additional data and information as may be deemed necessary by the director to evaluate a proposed industrial landfill.

*n.* When a new landfill or lateral expansion is located within 200 feet of a fault that has had displacement in Holocene time, the plan must contain a notice that the facility's official files will include demonstration that an alternative setback distance of less than 200 feet will prevent damage to the structural integrity of the landfill site and will be protective of human health and the environment.

*o.* When a new landfill or a lateral expansion is located in seismic impact zones, the plan must contain a notice that the facility's official files will include the following demonstration: that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in the lithified earth material for the landfill site.

*p.* When a new landfill or lateral expansion is located in an unstable area, the plan must contain a notice that the facility's official files will include the following demonstration: that engineering measures have been incorporated into the landfill site design to ensure that the integrity of the structural components of the landfill site will not be disrupted. The demonstration must consider the on-site or local soil conditions that may result in significant differential settling, on-site or local geologic or geomorphologic features, and on-site or local human-made features or events (both surface and subsurface). For existing facilities located in an unstable area, the owner or operator must prepare the above demonstration required in this paragraph and notify the director that it has been placed in the facility's official files.

**101.213(2)** *Operating requirements.* The plan submitted shall detail how the industrial landfill will comply with these requirements.

*a.* Solid waste shall be unloaded at the working face only when an operator is on duty at that area. Solid waste may be deposited in storage containers inside the facility under the supervision of an attendant or operator.

*b.* A copy of the permit, engineering plans, and reports shall be kept at the facility at all times.

*c.* Each landfill site shall be graded and provided with drainage facilities to minimize flow of surface water onto and into the portion of the landfill site being filled and to prevent soil erosion and ponding of water.

*d.* The finished surface of the landfill site shall be repaired as required, covered with soil, and seeded with native grasses or other suitable vegetation immediately upon completion or promptly in the spring on areas terminated during winter conditions. If necessary, seeded slopes shall be covered with straw or similar material to prevent erosion.

*e.* Each industrial landfill shall be staked as necessary and inspected annually, or as otherwise specified in the permit, by an Iowa-licensed professional engineer. A brief report by the engineer indicating areas of conformance or nonconformance with the approved plans and specifications shall be submitted to the department by the permit holder within 30 days of the inspections. In specifying alternate inspection frequencies or schedules, the department shall consider the types and quantities of waste disposed of, the rate of development of the landfill site, the degree of control over landfill site development inherent in the design and topography of the landfill site, and the quality of prior operation.

*f.* If any pockets, seams or layers of sand or other highly permeable material are encountered at the industrial landfill, the permit holder shall promptly notify the department and shall ensure that a professional engineer registered in Iowa has certified that all sands encountered were totally excavated or sealed off properly or otherwise handled as explicitly provided for in the permit before solid waste is disposed of in that area of the landfill site.

*g.* The total volume of leachate collected for each month shall be recorded, and the elevation and thickness of leachate in the landfill shall be provided to the department in accordance with the schedule specified in the permit.

**101.213(3)** *Hydrologic monitoring system.* The owner or operator of a solid waste disposal facility shall operate and maintain a hydrologic monitoring system that includes a sufficient number of groundwater monitoring wells and surface water monitoring points to determine the impact, if any, that the sanitary disposal project is having on the groundwater and surface water.

The hydrologic monitoring systems shall enable early detection of the escape of pollutants from an industrial landfill. The hydrologic monitoring system shall be planned, designed, and constructed in accordance with the provisions of 101.213(3) through 101.213(9), and implemented in accordance with the following schedule.

*a.* A hydrologic monitoring system plan shall be submitted to the department for review and approval with any application for a new permit. Installation of the approved system shall be completed prior to the deposition of solid waste into the landfill.

*b.* A hydrologic monitoring system plan shall be submitted with applications for permit renewal.

*c.* Upon notice by the department, a hydrologic monitoring system plan may be required to be submitted within six months of such notification.

*d.* Completion of installation and operation of the approved plan shall be completed within one year of the date of department approval.

**101.213(4)** *Hydrologic monitoring system operating requirements.*

*a.* *Operational sampling requirements.* All sampling shall be conducted in accordance with an approved sampling protocol, components of which are described in 567—101.210(455B).

*b.* *Groundwater levels.* The elevation of water in each monitoring well shall be measured during sampling events and recorded to the nearest 0.01 foot. Level measurements must be made before a well is evacuated for sample collection.

*c.* *Surface water levels.* The water level or flow rate of each surface water body sampled shall be measured and recorded at the time of sample collection.

*d.* *First-year water sampling.* During the first year of operation of the hydrologic monitoring system, a sample shall be collected quarterly from each groundwater monitoring well and surface water monitoring point. The purpose of this sample is to determine baseline water quality information and enable initial estimation of water quality variability. Each sample shall be analyzed for the following parameters in addition to the parameters listed in 101.213(4)*"e"* and any additional parameter deemed necessary by the department.

(1) Arsenic.
(2) Barium.
(3) Cadmium.
(4) Chromium, total.
(5) Lead.
(6) Mercury.
(7) Magnesium.
(8) Zinc.
(9) Copper.
(10) Benzene.
(11) Carbon tetrachloride.
(12) 1,2-Dichloroethane.
(13) Trichloroethylene.
(14) 1,1,1-Trichloroethane.
(15) 1,1-Dichloroethylene.
(16) Paradichlorobenzene.

*e.* *Routine semiannual water sampling.* After the first year, each monitoring point must be sampled semiannually as specified in the facility's operation permit and analyzed for the following parameters.

(1) Chloride.
(2) Specific conductance (field measurement).
(3) pH (field measurement).
(4) Ammonia nitrogen.
(5) Iron, dissolved.
(6) Chemical oxygen demand.
(7) Temperature (field measurement).
(8) Any additional parameters deemed necessary by the department.

*f.* *Routine annual water sampling.* One sample per year from each monitoring point collected in a quarter specified in the facility's operation permit must be analyzed for the following parameters.

(1) Total organic halogen.

(2) Phenols.

(3) Any additional parameters deemed necessary by the department.

**101.213(5)** *Laboratory procedures.* Analyses for a contaminant regulated under this division must be performed by a laboratory certified for the analyte(s) and applicable method pursuant to 567—Chapter 83.

*a.* All analyses of parameters not covered in the Safe Drinking Water Act (SDWA) must be performed according to methods specified in SW-846 or approved by the United States Environmental Protection Agency. Any analytical method used on non-SDWA parameters deviating from those specified in SW-846 or approved by EPA must be approved by the department.

*b.* All analyses must be recorded on forms that, in addition to the analytical results, show the precision of the data set, bias, and limit of detection.

**101.213(6)** *Analysis of sampling data.* For each parameter analyzed during the first year of operation of the hydrologic monitoring system, as listed in 101.213(4)*"d,"* the mean and standard deviation for each upgradient monitoring well shall be determined using the first year of data. For routine semiannual monitoring parameters, as listed in 101.213(4)*"e,"* mean and standard deviation shall be recalculated annually using all available analytical data. If the analytical results for a downgradient monitoring point do not fall within the control limits of two standard deviations above the mean parameter(s) level in a corresponding upgradient monitoring point, the owner or operator shall submit this information to the department within 30 days of receipt of the analytical results. If the analytical results from an upgradient monitoring point do not fall within two standard deviations of the mean parameter(s) level for that monitoring point, the department shall also be notified within 30 days.

**101.213(7)** *Additional sampling.* The department will determine if additional sampling is warranted after receipt of information indicating a possible release as required in 101.213(6). The department may require any additional samples to be split and analyzed to determine whether the values obtained outside the control limits were the result of laboratory or sampling error. Any additional analytical results shall be submitted to the department by the owner or operator within seven days of receipt. The department will review the information and determine if additional monitoring or preparation of a groundwater quality assessment plan, in accordance with 101.213(9), is necessary.

**101.213(8)** *Recordkeeping and recording.*

*a.* The persons conducting the sampling must record the procedures, measurements, and observations at the time of sampling. The field records must be sufficient to document whether the procedures and requirements specified in the sampling protocol have been followed. The records must also contain the names of the persons conducting the sampling, the time and date each monitoring point was sampled, and the required field measurement or test result. The owner or operator must submit copies of these field records to the department upon request.

*b.* The owner or operator shall keep records of analyses and the associated groundwater surface elevations for the active life and post-closure period of the facility. These records shall be kept at the landfill site or in the administrative files of the owner or operator and shall be available for review by the department.

*c.* The owner or operator shall provide the department with copies of the quarterly monitoring analytical results by the dates specified in the facility's operation permit.

*d.* An annual report summarizing the effect of the facility on groundwater and surface water quality shall be submitted to the department by November 30 each year. The summary is to be prepared by qualified groundwater scientist and incorporated in the November annual engineer inspection report. The contents of this summary are to include the following items.

(1) A narrative describing the effects of the facility on surrounding surface water and groundwater quality and any changes made or maintenance needed in the monitoring network.

(2) Graphs showing concentrations versus time for all monitoring parameters for each well for as long as records exist for that parameter. Control limits (two standard deviations from the initial background value) must be shown in each graph.

(3) Results of activities and tests required by the well maintenance and performance reevaluation plan described in 567—101.211(455B).

**101.213(9)** *Groundwater quality assessment plan.*

*a.* If leachate migration occurs, the owner or operator shall develop and submit for approval a specific plan to conduct a groundwater quality assessment study at the facility to determine the rate of migration and the extent and constituent composition of the leachate release. At a minimum, the assessment monitoring plan must contain the following elements.

(1) Discussion of the hydrogeologic conditions at the landfill site with an identification of potential contaminant pathways.

(2) Description of the present detection monitoring system.

(3) A description of the approach the owner or operator will take to substantiate any contention that the contamination may have been falsely indicated.

(4) Description of the investigatory approach used to characterize the rate and extent of leachate migration.

(5) Discussion of the number, location, and depth of wells that will be initially installed, as well as a strategy for installing more wells in subsequent investigatory phases.

(6) Information on well design and construction.

(7) Description of the sampling and analytical program used to obtain and analyze groundwater monitoring data.

(8) Description of data collection and analysis procedures.

(9) Schedule for the implementation of each phase of the assessment study.

*b.* After the plan has been approved by the department, the owner or operator shall implement the plan according to the schedule in the plan.

*c.* Within 90 days after the activities prescribed in the groundwater assessment plan have been completed, the owner or operator shall submit a written groundwater quality assessment report to the department.

*d.* If the department determines that no waste or waste constituents from the facility have entered the groundwater, the owner or operator shall reinstate the routine monitoring program.

*e.* If the department determines that waste or waste constituents have been released from the facility and have entered the groundwater, the owner or operator shall continue to make the determinations described by the assessment plan and develop a remedial action/mitigation plan to alleviate or reduce contamination to the fullest extent possible.

**101.213(10)** *Leachate control system and liner design.* New industrial landfills or expansions of existing industrial landfills must have a leachate collection, storage, and treatment and discharge system in place prior to accepting waste. This system shall be operated in conformance with the approved design during the active life of the landfill site and during the post-closure period.

*a.* *Leachate collection system.*

(1) The leachate collection system shall be designed to allow not more than one foot of head above the top of the landfill liner. The collection system must include a method for measuring the leachate head in the landfill at the lowest area(s) of the collection system.

(2) The landfill liner must be graded toward the leachate collection pipe at a minimum slope of two percent and not to exceed 10 percent. The side slopes of the landfill liner must be less than 25 percent.

(3) A drainage layer must be placed immediately above the landfill liner. This drainage layer shall consist of a minimum of 1 foot of soil with a coefficient of permeability of $1 \times 10E^{-3}$ cm/sec (2.8 ft/day) or greater.

(4) Leachate collection pipe shall be surrounded by a gravel protection and drainage layer.

(5) The collection pipe must be perforated of a sufficient internal diameter to handle the expected flow but not less than four inches in diameter; capable of being cleaned throughout the active life of the landfill site and during the post-closure period; chemically resistant to the wastes and the expected

leachate; and of sufficient strength to support maximum static and dynamic loads imposed by the overlying wastes, cover materials, and equipment used during the construction and operation of the landfill site. Documentation shall be submitted that includes methods and specifications for cleaning of the pipes, chemical compatibility of the pipes, and calculations and specifications for pipe strength.

(6) The leachate collection system shall be equipped with valves to enable the flow of leachate from the facility to be shut off during periods of maintenance.

(7) The leachate collection system shall be cleaned out once every three years or more frequently if conditions warrant. A report of the methods and results of the cleanout shall be submitted at the time of permit renewal.

*b.* *Leachate storage system.* The leachate storage system must be:

(1) Capable of storing at least seven days' accumulation of leachate;

(2) Constructed of materials that are compatible with the expected leachate; and

(3) Accessible at all times of the year and under all weather conditions.

*c.* *Leachate recirculation.* The primary goal of the leachate recirculation system is to help stabilize the waste. The leachate recirculation system shall not contaminate waters of the state, contribute to erosion, damage cover material, harm vegetation, or spray persons. Leachate recirculation shall be limited to areas satisfying the requirements of 101.213(10). The department shall approve areas for leachate recirculation.

*d.* *Construction certification report.* Prior to inspection and startup, a construction certification report must be submitted discussing quality assurance and quality control testing done to ensure that all materials and equipment for the leachate control system have been placed in accordance with the approved engineering plans, reports, and specifications. The results of all testing must be included, along with documentation of any failed tests, a description of the procedures used to correct the failures, and results of any retesting performed.

**101.213(11)** *Closure requirements.* The owner or operator of the industrial landfill must close the landfill site in a manner that minimizes the potential for post-closure release of pollutants to the air, groundwater, and surface waters.

*a.* A minimum of two permanent surveying monuments must be installed by a registered land surveyor from which the location and elevation of wastes, containment structures, and monitoring facilities can be determined throughout the post-closure period.

*b.* Contents of final cover.

(1) The final cover of an industrial landfill shall consist of:

1. Not less than two feet of compacted soil. The hydraulic conductivity must be $1 \times 10E^{-7}$ cm/sec or less as determined by appropriate laboratory analysis. The percent of standard or modified proctor density at moisture content consistent with expected field conditions and corresponding to a measured hydraulic conductivity equal to or less than $1 \times 10E^{-7}$ cm/sec shall be determined in the laboratory. The soil shall be placed in lifts not to exceed eight inches in thickness. A minimum of one field moisture and density test shall be performed per lift per acre to verify that the density determined by the laboratory analysis as correlated to the hydraulic conductivity has been achieved. Results of field moisture and density tests shall be submitted to the department. The compacted soil shall be keyed into the bottom liner at the waste cell boundary.

2. Not less than two feet of uncompacted soil, containing sufficient organic matter to support vegetation. The thickness of this soil layer must be at least the root depth of the planned vegetative cover to prevent root penetration into the underlying soil layers. This layer shall be placed as soon as possible to prevent desiccation, cracking, and freezing of the compacted soil layer described in 101.213(11)*"b"*(1)"1."

(2) A layer of compacted soil, incinerator ash, or similar material permitted by the department may be used to prepare the landfill site for placement of the compacted soil layer described in 101.213(11)*"b"*(1)"1." The use of such material will not serve as a replacement for the compacted soil layer described in 101.213(11)*"b"*(1)"1."

(3) Alternate methods and materials may be permitted if shown to provide equivalent or superior performance.

*c.* The final cover shall be designed and graded to meet the drainage requirements of 101.213(11)*"c."* The final cover must have a minimum slope of 5 percent and shall not exceed a slope of 25 percent. Those portions of existing landfills demonstrating placement of final cover in conformance with previously approved plans and specifications shall not be required to reconstruct the cover to meet either the minimum or maximum slope established by this subrule.

*d.* The final cover shall be seeded with native grasses or other suitable vegetation as soon as practical upon completion to prevent soil erosion. If seeding must be delayed due to summer or winter conditions, silt fences or other structures shall be used to minimize erosion of the final cover until the next season suitable for planting. The placement of cover in conformance with 101.213(13)*"b"* shall not be delayed due to season and shall be placed as soon as the solid waste has reached its maximum design elevation within the cell. Vegetation type shall be based on density and root depth, nutrient availability, soil thickness, and soil type. Alternatives to vegetative cover may be considered to control erosion and promote runoff.

**101.213(12)** *Post-closure care.* Industrial landfills shall comply with the following post-closure care requirements for 30 years.

*a.* The diversion and drainage system must be maintained to approved specifications to prevent run-on and runoff from eroding or otherwise damaging the final cover.

*b.* The integrity and effectiveness of the final cover must be maintained by making repairs as necessary to correct the effects of settling, subsidence, erosion, or other events. If damage to the compacted soil layer described in 101.213(11)*"b"*(1)"1" occurs, repairs shall be made to correct the damage and return it to its original specifications.

*c.* The vegetative cover shall be reseeded as necessary to maintain good vegetative growth. Any invading vegetation whose root system could damage the compacted soil layer shall be removed or destroyed immediately.

*d.* The groundwater monitoring system shall be operated and maintained.

*e.* The leachate collection, removal and treatment systems shall be operated and maintained.

*f.* The landfill gas monitoring and collection systems shall be operated and maintained.

*g.* Semiannual reports shall be submitted to the department. These reports shall contain information concerning the general conditions at the landfill site, groundwater monitoring results, amount of leachate collected and treated, information concerning the landfill gas monitoring and collection system, and other information as may be required by the closure permit. In addition, locations and elevations of all permanent monuments, required in 101.213(11)*"a,"* shall be determined at least once every three years or more frequently in the event of obvious disturbance of the monument. The reports are due by April 30 and October 31 for the preceding six-month period.

*h.* The permanent surveying monuments required in 101.213(11)*"a"* shall be maintained.

**101.213(13)** *Landfill gas.* This subrule shall not apply to industrial landfills that do not pose a risk to generating explosive gases.

*a.* Owners or operators of industrial landfills must ensure that:

(1) The concentration of explosive gases generated by the facility does not exceed 25 percent of the lower explosive limit for methane gas in facility structures (excluding gas control or recovery system components); and

(2) The concentration of methane gas does not exceed the lower explosive limit for methane gas at the facility property boundary.

*b.* Owners or operators of industrial landfills must monitor quarterly for compliance with 101.213(13)*"a."* An annual report shall be submitted by November 30 summarizing the methane gas monitoring results and any action taken resulting from gas levels exceeding the limits during the previous year.

*c.* If methane gas levels exceeding the limits specified in 101.213(13)*"a"* are detected, the owner or operator must:

(1) Immediately take all necessary steps to ensure protection of human health and notify the director;

(2) Within seven days after detection, submit to the director a report stating the methane gas levels detected and a description of the steps taken to protect human health;

(3) Within 60 days of detection, implement a plan for remediation of the methane gas releases and send a copy of the remediation plan to the director. The plan shall describe the nature and extent of the problem and the proposed remedy.

**567—101.214(455B) Operating requirements.**

**101.214(1)** Open burning shall be prohibited within the permitted boundary.

**101.214(2)** No free liquids or waste containing free liquids shall be disposed of in an industrial landfill.

**101.214(3)** Each permit issued by the department will contain facility-specific operating requirements consistent with the type of solid waste and the disposal process.

**101.214(4)** Closure requirements.

*a.* The owner or operator shall notify the department in writing at least 180 days prior to closure of the facility or suspension of operations.

*b.* Notice of closure shall be posted at the facility at least 180 days prior to closure indicating the date of closure and alternative solid waste management facilities. Notice of closure shall also be published at least 180 days prior to closure in a newspaper of local circulation. This notice shall include the date of closure and alternative solid waste management facilities if the facility is open to the public.

*c.* Implementation of the closure/post-closure plan shall be completed within 90 days of the closure of the facility. The owner and an Iowa-licensed professional engineer shall certify that the closure/post-closure plan has been implemented in compliance with the rules, the closure/post-closure plan, and the permit.

*d.* Upon completion of closure activities, a construction certification report must be submitted discussing quality assurance and quality control testing done to ensure that all materials for the cap have been placed in accordance with the approved engineering plans, reports, and specifications. The results of all testing must be included, along with documentation of any failed tests, a description of the procedures used to correct the failures, and results of any retesting performed. In addition, the following documentation shall be submitted: as-built plans showing changes from the original design plans, a copy of the notation filed with the county recorder, and other forms of documentation as required.

**567—101.215(455B) Financial assurance requirements.** The owner or operator of an industrial landfill pursuant to this division must establish financial assurance for closure, post-closure, and corrective action, if applicable, in accordance with Division VIII of this chapter.

These rules are intended to implement Iowa Code section 455B.304.

**567—101.216** to **101.299** Reserved.

DIVISION IV
COAL COMBUSTION RESIDUAL LANDFILLS

**567—101.300(455B) Purpose.** The purpose of this division is to implement Iowa Code chapter 455B, subchapter IV (solid waste disposal), for the siting, designing, and operating of a solid waste sanitary landfill accepting only coal combustion residuals.

**567—101.301(455B) Applicability.**

**101.301(1)** This division shall apply to sanitary landfills that are constructed and operated exclusively for the final deposition of coal combustion residuals, known for purposes of this chapter as CCR landfills.

**101.301(2)** Pursuant to Iowa Code section 455B.305(1), a CCR landfill shall not be constructed or operated without first obtaining a permit from the department pursuant to this division, the requirements set forth in 567—Chapter 100, and Division I of this chapter.

**101.301(3)** The issuance of a permit to a CCR landfill pursuant to this division in no way relieves the applicant of the responsibility of complying with all other local, state, or federal statutes, ordinances, and rules or other requirements applicable to the construction and operation of a CCR landfill.

**101.301(4)** All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—101.302(455B) Definitions.** For the purposes of this division, the definitions in 567—Chapter 100 and Iowa Code section 455B.301 shall apply.

**567—101.303(455B) Permits.** For purposes of this division, the permit requirements in 567—Chapter 100 shall apply.

**567—101.304(455B) Permit applications.** Unless otherwise authorized by the department, a permit applicant shall submit on a form prescribed by the department the requirements in 567—Chapter 100, Division I of this chapter, and the following information.

**101.304(1)** A copy of the written agreement under 567—101.306(455B), if any, and documentation that it has been filed with the county recorder.

**101.304(2)** A topographic map of the site extending a minimum of 300 feet beyond the permitted property, with contour intervals not exceeding 10 feet, that shows the location of existing conditions, including but not limited to structures, wells, lakes, roads, drain tiles, or similar items.

**101.304(3)** A minimum of three soil borings for sites of ten acres or less with one additional boring for each additional three acres to determine the hydrogeologic conditions and establish the direction of groundwater flow, the depth to groundwater, and potential contaminant pathways throughout the site.

**101.304(4)** An adequate number of representative groundwater sample results to fully characterize the groundwater quality both temporally and spatially at the site and establish baseline levels for the following analytical parameters: arsenic, barium, beryllium, cobalt, copper, iron, lead, magnesium, manganese, selenium, zinc, chlorides, and sulfate.

**101.304(5)** A groundwater monitoring network that includes sufficient upgradient and downgradient monitoring wells that adequately monitor the potential contaminant pathways throughout the life of the site and the post-closure period.

**101.304(6)** Plans and specifications detailing how the CCR landfill will be constructed, operated, and closed.

**101.304(7)** An operations plan and a post-closure plan in accordance with the rules and the permit.

**567—101.305(455B) Design requirements.** In addition to the provisions in 567—100.5(455B,455D) and Division I of this chapter, the design shall include a liner and leachate collection system to protect groundwater and surface water.

**567—101.306(455B) Operating requirements.** Unless otherwise specified within a permit, a CCR landfill shall be operated in accordance with the provisions of 567—100.9(455B,455D). No wastes shall be deposited within 300 feet of an inhabitable residence or a commercial enterprise unless there is a written agreement with the property owner(s) allowing a lesser distance that has been filed with the local county recorder under the adjoining property or within 50 feet of the property boundary under any circumstances. An operations plan shall be prepared and submitted to the department that includes the following.

**101.306(1)** An identification of the area(s) to be filled during the period for which a permit is being requested.

**101.306(2)** The method(s) that will be utilized to prevent illicit municipal or putrescible solid wastes from being deposited as a result of mixing with authorized waste brought to the site.

**101.306(3)** The frequency, extent, and method of spreading and compacting the waste; the optimum layer thickness; and the size and slope of the operating face.

**101.306(4)** A description of the operating procedures from the arrival of waste to the site through unloading, placing, and closure to control fugitive dust, erosion, and contact water. If the methods used do not adequately control dust, contact water, and erosion, the department may require site-specific controls including a soil cover.

**101.306(5)** Detailed procedures for the removal of waste from the CCR landfill for beneficial reuse, if applicable.

**101.306(6)** Operating procedures for stormwater, contact water, and leachate management systems.

**567—101.307(455B) Groundwater monitoring and reporting.** Unless otherwise specified within a permit, the groundwater at a CCR landfill shall be monitored and reported in accordance with this rule.

**101.307(1)** For all new solid waste units, the groundwater monitoring network shall be installed before waste placement.

**101.307(2)** Quarterly sampling of all monitoring wells and analysis for the parameters specified in 101.304(4) shall commence within one year of initiating waste placement for the purpose of establishing the average baseline concentrations for each well.

**101.307(3)** Annual sampling of all monitoring wells for the parameters specified in 101.304(4) shall commence within one year of completing the quarterly baseline monitoring.

**101.307(4)** Additional sampling or a site assessment may be required by the department when there is an exceedance of any primary or secondary Maximum Contaminant Level (MCL), the Health Advisory Level (HAL), or the Drinking Water Standards and Health Advisories of the federal Environmental Protection Agency.

**101.307(5)** When an MCL or HAL does not exist for a parameter, then the statewide standard for a protected drinking water source shall be used. If no statewide standard exists, then an analysis of available groundwater data for the parameter of concern must be prepared and submitted to the department to determine whether additional sampling or site assessment is required. The analysis shall include a comparison of the most recent sample result to the average of the most recent two years of data or utilize an alternative method approved by the department.

**101.307(6)** A report of the groundwater monitoring results, including a site inspection, shall be submitted to the department by the end of the first year's operation and annually thereafter.

**101.307(7)** A minimum of one sample from each monitoring well shall be collected annually during the post-closure period and analyzed for the parameters specified in the permit. The results shall be included in the annual report.

**567—101.308(455B) Closure and post-closure requirements.** Unless otherwise specified within a permit, a CCR landfill shall close in accordance with the following.

**101.308(1)** A closure and post-closure plan shall be prepared and submitted to the department and include the actions that will be taken to close the site, final site contours and final cover design, stormwater controls and management, groundwater monitoring and reporting, permanent survey control, annual inspections, and contact information for post-closure monitoring and maintenance.

**101.308(2)** The final cover shall consist of not less than two feet of compacted soil and one foot of uncompacted soil capable of sustaining the growth of native vegetation. The slope of the final cover after closure shall be not less than 3 percent nor more than 25 percent.

**567—101.309(455B) Financial assurance requirements.** The owner or operator of a CCR landfill must establish financial assurance for closure, post-closure, and remedial action/mitigation plan, if applicable, in accordance with Division VIII of this chapter.

These rules are intended to implement Iowa Code section 455B.304.

**567—101.310** to **101.399** Reserved.

DIVISION V
SOLID WASTE TRANSFER STATIONS

**567—101.400(455B) Purpose.** The purpose of this division is to implement Iowa Code chapter 455B, subchapter IV (solid waste disposal), for the collection, temporary storage, and transfer of solid waste prior to final disposition.

**567—101.401(455B) Applicability.** This division applies to all solid waste transfer stations and solid waste collection and transport vehicles. The registration of a solid waste transfer station or issuance of a solid waste transfer station permit by the department in no way relieves the registrant or applicant of the responsibility of complying with all other local, state, or federal statutes, ordinances, and rules or other requirements applicable to the construction and operation of a solid waste transfer station. All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—101.402(455B) Definitions.** For the purposes of this division, the definitions in 567—Chapter 100 and Iowa Code section 455B.301 shall apply.

**567—101.403(455B) Location restrictions.**

**101.403(1)** *Floodplains.* A solid waste transfer station shall not be located within a 100-year floodplain unless the design includes structures to prevent floodwater inundation from a 100-year flood of any area that comes into contact with solid waste or washwater.

**101.403(2)** *Inhabitable structure and sensitive populations.* A solid waste transfer station shall not be located within 500 feet of the property line of an educational or health care facility or permanent residence unless screening is utilized to minimize noise and visibility of operations. Such screening shall utilize natural components to the maximum extent possible. This requirement shall not apply if construction of the educational or health care facility or permanent residence began after the department received the solid waste transfer station permit application.

**101.403(3)** *Property line setback.* A solid waste transfer station building or solid waste receptacle (e.g., dumpster, roll-off box) shall be at least 50 feet from an adjacent property line unless otherwise approved by the department in writing.

**567—101.404(455B) Registration in lieu of permit.**

**101.404(1)** *Exemption requirements.* A person may construct and operate a solid waste transfer station without a permit issued pursuant to this division if all of the following criteria apply.

*a.* The person registers the facility pursuant to this rule;

*b.* The facility only receives solid waste from citizens and small businesses that do not utilize solid waste collection vehicles or satellite solid waste collection vehicles;

*c.* Solid waste will not be processed at the facility;

*d.* The facility will not be used by anyone who has been contracted to do any hauling or disposal of solid waste;

*e.* Solid waste will not be placed on the ground or tipping floor of a building as part of the facility's operation; and

*f.* The department has not notified the registrant that a permit pursuant to this division is required to protect human health and the environment.

**101.404(2)** *Notification requirements.* A person registering a solid waste transfer station pursuant to this rule shall provide the following, on a form prescribed by the department, prior to accepting waste and shall notify the department in writing at least 30 days prior to any operational change.

*a.* The physical location of the solid waste transfer station.

*b.* The name, address, email address, and phone number of the site owner.

*c.* The name, address, email address, and phone number of the responsible official.

*d.* The solid waste comprehensive planning area of the facility and political jurisdictions included within the facility's service area.

*e.* The sanitary disposal project(s) designated for final disposal of the collected waste.

*f.* An emergency response and remedial action plan pursuant to 567—100.14(455B).

*g.* Proof of the applicant's ownership of the site or legal entitlement to use the site as a solid waste transfer station.

*h.* Proof that the site complies with local zoning.

*i.* A closure cost estimate pursuant to 101.413(2) and the documents establishing financial assurance pursuant to Division VIII of this chapter or documentation of a surety bond in the amount of $15,000 pursuant to 101.413(3).

**101.404(3)** *Inspection prior to startup.* Registrants shall adhere to the inspection requirements of 567—100.7(455B,455D).

**101.404(4)** *Registration renewal.* A solid waste transfer station registration shall be issued and may be renewed for a period of no longer than five years. Renewal registrations shall be subject to the provisions of all rules of the department in effect at the time of the renewal.

**101.404(5)** *Operating requirements.* In addition to the provisions of 567—100.9(455B,455D), registered solid waste transfer stations shall comply with the following.

*a.* Solid waste shall not be accepted from solid waste collection vehicles or loaded into solid waste transport vehicles to facilitate final disposition.

*b.* All solid waste received shall be loaded into dumpsters, compactors, or roll-off boxes and removed by solid waste collection vehicles to facilitate final disposition.

*c.* Solid waste receptacles shall not be allowed to overflow, and the waste shall be removed as often as necessary to prevent a nuisance or public health hazard.

**101.404(6)** *Recordkeeping and reporting requirements.* Registered solid waste transfer stations that directly dispose of solid waste outside of Iowa shall, on a form prescribed by the department, report the information required in 101.404(6)*"a"* through *"c"* to the department quarterly. For registered solid waste transfer stations that directly dispose of solid waste within Iowa, the following records shall be maintained by the owner or operator for a period of three calendar years and be made available at all reasonable times for inspection by the department.

*a.* Tons of solid waste disposed of.

*b.* The solid waste comprehensive planning area(s) from which the solid waste originated.

*c.* Destination of all outgoing solid waste.

**101.404(7)** *Closure requirements.* In addition to the provisions of 567—100.10(455B,455D), registered solid waste transfer stations shall adhere to the closure requirements in 567—101.411(455B).

**567—101.405(455B) Permits.** Pursuant to Iowa Code section 455B.305(1), and except as provided 567—101.404(455B), no person shall construct or operate a solid waste transfer station without first obtaining a permit from the department pursuant to this division and 567—Chapter 100.

**101.405(1)** *Plans.* In addition to the provisions of 567—100.5(455B,455D), a solid waste transfer station permit applicant shall address the following on a form prescribed by the department.

*a.* *Design plan.* An engineering design, including applicable approvals from responsible government agencies and public entities, and engineering plans and specifications completed by the professional engineer listed in 567—subparagraph 100.5(1)*"a"*(4) detailing how the site will comply with 567—101.403(455B), 567—101.406(455B), and 567—101.408(455B).

*b.* *Operations plan.* A plan of operations detailing how the site will comply with 567—100.9(455B,455D), 567—101.407(455B), and 567—101.410(455B).

**101.405(2)** *Duration.* A solid waste transfer station permit shall be issued and may be renewed for a period of no longer than five years. Renewal applications shall be subject to the provisions of all rules of the department in effect at the time of the renewal.

**567—101.406(455B) Design requirements.** Unless registered pursuant to 567—101.404(455B) or otherwise specified within a permit, a solid waste transfer station shall be designed and constructed in accordance with this rule.

**101.406(1)** *Solid waste transfer station building.* A solid waste transfer station shall include a building inside which all solid waste is unloaded from solid waste collection vehicles and loaded into solid waste transport vehicles.

*a.* All surfaces that come into contact with solid waste shall be enclosed by walls and a roof satisfactory to:

(1) Minimize dust.

(2) Prevent litter from exiting the building.

(3) Keep precipitation out of the building.

(4) Prevent the attraction or harboring of vectors.

*b.* All surfaces that come in contact with solid waste or washwater shall be impervious to liquids.

*c.* The solid waste transfer station building shall have a drainage system that maintains a separation between stormwater and washwater.

*d.* The solid waste transfer station building shall have a washwater collection system that directs washwater to a storage tank for subsequent disposal, a sanitary sewer system, or equivalent as approved by the department. Unless otherwise approved by the department, storage tanks shall have high-level indicators or gauges.

*e.* Each area where unloaded solid waste is stored during nonoperating hours shall be clearly marked and include a fire detection system that notifies local emergency responders in case of a fire.

*f.* If solid waste is to be managed or stored in a surge pit, then effective odor control mechanisms are required and a sprinkler system shall be installed over the area.

*g.* The solid waste transfer station building shall have adequate indoor and outdoor lighting that minimizes the difference in lighting when entering or exiting the building.

*h.* The solid waste transfer station building shall have doors at each entrance and exit.

**101.406(2)** *Other site design requirements.* A solid waste transfer station shall:

*a.* Provide a secure perimeter fence with lockable gate(s).

*b.* Use a scale certified by the Iowa department of agriculture and land stewardship. A solid waste transfer station may use a certified scale located off the premises and owned by a separate entity.

*c.* Provide adequate queuing distance for vehicles entering and exiting the property such that lines of vehicles will not extend onto public streets during peak hours unless approved by the appropriate local or state government authority.

*d.* Provide signs or pavement markings indicating safe and proper on-site traffic patterns.

**567—101.407(455B) Operating requirements.** Unless otherwise specified within a permit, a solid waste transfer station shall be operated in accordance with the provisions of 567—100.9(455B,455D) and this rule.

**101.407(1)** Unless registered pursuant to 567—101.404(455B), all handling, processing, screening, open storage, loading, and similar activities or processes involving solid waste shall be performed inside the solid waste transfer station building.

**101.407(2)** Truck-to-truck transfer of solid waste that is not incidental solid waste transfer is not allowed outside a solid waste transfer station building. A rear-loading solid waste transport vehicle that does not have any other open access and securely abuts the solid waste transfer station building so that minimal amounts of solid waste escape during loading shall qualify as being inside the building.

**101.407(3)** Solid waste transfer station operators shall segregate and manage unacceptable wastes and hot loads in accordance with applicable laws and in a manner as safe and responsible as practical.

**101.407(4)** Solid waste receptacles shall not be allowed to overflow, and the waste shall be removed as often as necessary to prevent a nuisance or public health hazard.

**101.407(5)** Solid waste transfer stations shall not accept special wastes pursuant to 567—Chapter 102, Division VI.

**101.407(6)** Washwater management systems, if applicable, shall not be allowed to overflow and shall be inspected monthly and maintained in proper operating condition.

**101.407(7)** Any breach of a surface that prevents washwater from entering the ground and groundwater shall be repaired within 24 hours to make that surface impervious to liquids. If such repairs cannot be made within 24 hours, the facility shall not allow solid waste or washwater to come into contact with the breached area until repairs are complete. If the facility cannot prevent solid waste or washwater from coming into contact with the breached area, the department may require the facility to shut down until repairs are completed.

**101.407(8)** Unless registered pursuant to 567—101.404(455B), site access shall be controlled and limited to a time when a solid waste transfer station operator is on site and:

*a.* Has read, understands, and is able to implement the operational requirements of 567—101.407(455B).

*b.* Has read, understands, and is able to implement the emergency response and remedial action plan pursuant to 567—100.14(455B).

*c.* Is able to visually recognize universal symbols and markings and indications of unacceptable materials pursuant to 101.407(9).

**101.407(9)** All solid waste accepted by a solid waste transfer station shall, at a minimum, be visually inspected by personnel capable of identifying hot loads and hazardous, infectious, radioactive, and other wastes not acceptable for disposal in a sanitary landfill.

**567—101.408(455B) Temporary solid waste storage requirements.** Unless otherwise specified within a permit, a solid waste transfer station shall comply with the following storage requirements.

**101.408(1)** *Areas permitted for storage.* Solid waste shall be stored in the following manner.

*a.* Inside a solid waste transfer station building in a clearly marked designated area;

*b.* Inside a solid waste transfer station building in a surge pit;

*c.* Inside a secure solid waste transport vehicle, including intermodal container systems, protected from precipitation and vectors; or

*d.* Inside dumpsters, compactors, roll-off boxes, and other solid waste receptacles adequate to prevent the accidental discharge of its contents and the attraction or harborage of vectors.

**101.408(2)** *Storage time requirements.* Solid waste shall be stored no longer than the following periods of time unless shorter storage times are required by the local government authority to prevent a nuisance or public health hazard.

*a.* Inside a solid waste transfer station building without a surge pit or similar operational structure for not more than four days, excluding Sundays and national holidays.

*b.* Inside a solid waste transfer station building in a surge pit for not more than seven days, including Sundays and national holidays.

*c.* Inside a solid waste transport vehicle designated to travel only via roadway for not more than four days, excluding Sundays and national holidays.

*d.* Inside a solid waste transport vehicle designated to travel via rail or navigable waterway, including intermodal container systems, for not more than seven days, including Sundays and national holidays.

*e.* Inside dumpsters, roll-off boxes, and other solid waste receptacles at registered solid waste transfer stations for not more than four days, excluding Sundays and national holidays.

**567—101.409(455B) Recordkeeping and reporting requirements.**

**101.409(1)** Unless registered pursuant to 567—101.404(455B) or otherwise specified within a permit, a solid waste transfer station shall comply with the following recordkeeping requirements.

*a.* A solid waste transfer station shall maintain a copy of the following documents on site:

(1) Current operating permit.

(2) Design plan pursuant to 101.405(1)*"a."*

(3) Operations plan pursuant to 101.405(1)*"b."*

(4) Emergency response and remedial action plan pursuant to 567—100.14(455B).

(5) Proof of financial assurance pursuant to 567—101.413(455B).

*b.* A solid waste transfer station shall maintain records of the following information for a period of three calendar years:

(1) Tons of all solid waste disposed of quarterly.

(2) Destination of all outgoing solid waste.

(3) Washwater management system inspection log, if applicable.

(4) Hot loads and hazardous, infectious, radioactive, or other unacceptable wastes found.

**101.409(2)** Unless registered pursuant to 567—101.404(455B) and directly disposing of solid waste within Iowa, or otherwise specified within a permit, a solid waste transfer station shall report the following information, on a form prescribed by the department, to the department on a quarterly basis:

*a.* Tons of solid waste disposed of.

*b.* The solid waste comprehensive planning area(s) from which the solid waste originated.

*c.* Destinations of all outgoing solid waste.

**567—101.410(455B) Solid waste collection and transport vehicle construction and operation requirements.** Unless otherwise specified within a permit, solid waste collection vehicles and solid waste transport vehicles shall comply with the following requirements.

**101.410(1)** The portion of a solid waste collection or transport vehicle that contains solid waste shall be designed to prevent the accidental discharge of its contents, the attraction or harborage of vectors, and the infiltration of precipitation. This design shall include a suitable cover, where applicable, that is not easily torn, shredded, broken, or otherwise breached under normal use.

**101.410(2)** Any solid waste collection or transport vehicle that fails to comply the requirements of this rule shall be repaired before it is utilized in the transport or storage of solid waste.

**101.410(3)** A solid waste collection or transport vehicle's openings shall be securely closed before transport and during solid waste storage so as to prevent the loss of solid waste.

**101.410(4)** A solid waste transport vehicle shall be loaded with solid waste inside a solid waste transfer station building and in a manner that minimizes the spilling of materials. Solid waste spilled from a solid waste transport vehicle during loading shall be collected as often as necessary to minimize litter, dust, or other fugitive debris.

**101.410(5)** All solid waste collection and transport vehicles shall be cleaned at intervals frequent enough to prevent the attraction or harborage of vectors, so as not to create a nuisance or public health hazard.

**101.410(6)** Liquids generated from the cleaning of the areas of solid waste collection or transport vehicles that hold solid waste shall be considered washwater and managed accordingly.

**101.410(7)** If solid waste is spilled from a solid waste collection or transport vehicle during transport to a solid waste disposal facility, the spilled solid waste shall be collected as soon as possible. The solid waste transfer station shall immediately report the spill to the department and the department field office with jurisdiction over the facility and spill location.

**567—101.411(455B) Closure requirements.** Unless otherwise specified within a permit, a solid waste transfer station shall be closed in accordance with the provisions of 567—100.10(455B,455D) and this rule. Closure shall not be official until the department has given written certification of the completion of the following activities.

**101.411(1)** Proper disposal of all solid waste and litter at the site.

**101.411(2)** Cleaning of all dumpsters, compactors, roll-off boxes, and other solid waste receptacles that will remain on site, including the rinsing of all surfaces that have come in contact with solid waste.

**101.411(3)** Cleaning the solid waste transfer station building, if applicable, including the rinsing of all surfaces that have come in contact with solid waste or washwater.

**101.411(4)** Cleaning of all solid waste collection and transport vehicles that will remain on site, including the rinsing of all surfaces that have come in contact with solid waste.

**101.411(5)** Removal and proper management of all washwater in the washwater management system.

**101.411(6)** Locking all doors, gates, entrances and exits.

**101.411(7)** Reporting of the completion of these activities to the local political jurisdictions, the department, and the department field office with jurisdiction over the solid waste transfer station.

**567—101.412(455B) Emergency solid waste transfer permit.** If a primary sanitary disposal project in a solid waste comprehensive planning area becomes inoperable, the department may issue an emergency solid waste transfer permit for a period of time no longer than necessary for a sanitary disposal project that provides replacement capacity to be constructed and become operational. The department may also issue an emergency solid waste transfer permit for a period of time no longer than necessary for a sanitary disposal project to return to operation or if more solid waste is produced by an extraordinary event (e.g., unforeseen disasters such as storms, fires, floods, tornadoes) than can be managed by a sanitary disposal project. The conditions of an emergency solid waste transfer permit shall be determined by the department and may be used as an alternative to the requirements of this division. The department shall issue an emergency solid waste transfer permit only if the department has determined that solid waste must be transferred from the impacted area(s) in order to protect human health and the environment.

**567—101.413(455B) Financial assurance requirements.** The owner or operator of a solid waste transfer station must establish financial assurance for the costs of site closure in accordance with the criteria pursuant to this rule and Division VIII of this chapter.

**101.413(1)** Except as provided in 101.413(3), the owner or operator shall submit a detailed written estimate, in current dollars, certified by an Iowa-licensed professional engineer, of the cost of hiring a third party to properly close the solid waste transfer station in accordance with the closure criteria in 567—101.411(455B).

**101.413(2)** The detailed written estimate shall account for at least the following factors determined by the department to be minimal necessary costs for site closure.

*a.* Third-party labor and transportation costs and total tip fees to properly dispose of all solid waste and litter at the facility equal to twice the maximum storage capacity of the facility. If materials are temporarily stored on site in solid waste collection or transport vehicles or waste receptacles, then this estimate shall include disposal costs for the maximum number of solid waste collection or transport vehicles and waste receptacles that can be on site at any one time.

*b.* The cost of hiring a third party to properly clean and decontaminate all equipment, storage facilities, holding areas and drainage collection systems. This estimate shall include the cost of properly disposing of a one-week volume of washwater from the facility. If the facility utilizes a washwater storage tank, then this estimate shall assume that the storage tank is full and add that volume to the one-week volume.

*c.* The cost associated in maintaining financial assurance pursuant to this rule and Division VIII of this chapter.

**101.413(3)** The owner or operator of a solid waste transfer station that is permitted for or manages no more than 5,000 tons of solid waste annually shall have the option to comply with the financial assurance requirements of this rule and Division VIII of this chapter by executing a surety bond in the sum of $15,000 pursuant to 567—subrule 101.707(2). In electing this option, the owner or operator shall not be required to submit a detailed written cost estimate for site closure pursuant to 101.413(1). This surety bond shall be unique to the solid waste transfer station and shall not be combined or used to meet the financial assurance obligations of any other permitted facility or activity.

These rules are intended to implement Iowa Code section 455B.304.

**567—101.414** to **101.499** Reserved.

DIVISION VI
SOLID WASTE INCINERATOR OPERATOR CERTIFICATION

**567—101.500(455B) Purpose.** The purpose of this division is to implement Iowa Code section 455B.304(12) by providing the criteria for establishing the certification of operators of solid waste incinerators.

**567—101.501(455B) Applicability.** The requirements of this division apply to all operators of solid waste incinerators. All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—101.502(455B) Solid waste incinerator operator certification.** Solid waste incinerator operators shall be trained, tested, and certified by a department-approved certification program.

**101.502(1)** *Operator on duty.* A solid waste incinerator operator shall be on duty during all hours of operation of a solid waste incinerator, consistent with the respective certification.

**101.502(2)** *Training course; reciprocity.* To become a certified operator, an individual shall complete a basic operator training course that has been approved by the department or alternative, equivalent training approved by the department and shall pass a departmental examination as specified by this division. An operator certified by another state may have reciprocity subject to approval by the department.

**101.502(3)** *Biennial certification.* A solid waste incinerator operator certification is valid from the date of issuance until June 30 of the following even-numbered year.

**101.502(4)** *Basic operator training course.* The required basic operator training course for a certified solid waste incinerator operator shall have at least eight contact hours and shall address the following areas at a minimum.

*a.* Description of types of wastes;
*b.* Incinerator design;
*c.* Interpreting and using engineering plans;
*d.* Incinerator operations and safety;
*e.* Combustion controls and monitoring;
*f.* Applicable laws and regulations;
*g.* Permitting processes;
*h.* Incinerator maintenance; and
*i.* Ash and residue disposal.

**101.502(5)** *Alternative basic operator training.* Alternative basic operator training must be approved by the department. It shall be the applicant's responsibility to submit any documentation the department may require to evaluate the equivalency of alternative training.

**101.502(6)** *Fees.*

*a.* The examination fee for each examination is $20.

*b.* The initial certification fee is $8 for each one-half year of a two-year period from the date of issuance to June 30 of the next even-numbered year.

*c.* The certification renewal fee is $24.

*d.* The penalty fee is $12.

**101.502(7)** *Examinations.*

*a.* The operator certification examinations will be based on the basic operator training course curriculum in 101.502(4).

*b.* All persons wishing to take the examination required to become a certified operator of a solid waste incinerator shall complete an operator certification examination application on a form prescribed by the department. A listing of dates and locations of examinations is available from the department upon request. The application form requires the applicant to indicate the basic operator training course taken. Evidence of training course completion must be submitted with the application for certification. The completed application and the application fee shall be sent to the Iowa Department of Natural Resources, 6200 Park Avenue, Des Moines, Iowa 50321. Application for examination must be received by the department prior to the date of examination.

*c.* A properly completed application for examination shall be valid for one year from the date the application is approved by the department.

*d.* Upon failure of the first examination, the applicant may be reexamined at the next scheduled examination. Upon failure of the second examination, the applicant shall be required to wait a period of 180 days before taking a third examination. If the third examination occurs beyond the one-year time frame in 101.502(7)*"c,"* a new operator certification examination application is required.

*e.* Upon each reexamination when a valid application is on file, the applicant shall submit to the department the examination fee prior to the date of examination.

*f.* Failure to successfully complete the examination within one year from the date of approval of the application shall invalidate the application.

*g.* Oral examinations may be given at the discretion of the department.

**101.502(8)** *Certification.*

*a.* All operators will be required to take the basic operator training course and pass the examination in order to become certified.

*b.* Application for certification must be received by the department within 30 days of the date the applicant receives written notification of successful completion of the examination. All applications for certification shall be made on a form prescribed by the department and be accompanied by the certification fee.

*c.* Applications for certification by examination that are received more than 30 days but less than 60 days after notification of successful completion of the examination shall be accompanied by the certification fee and the penalty fee. Applicants who do not apply for certification within 60 days of notice of successful completion of the examination will not be certified on the basis of that examination.

*d.* For applicants who have been certified under a mandatory certification program in another state, the equivalency of which has been previously reviewed and accepted by the department, certification without examination will be recommended.

*e.* For applicants who have been certified under voluntary certification programs in another state, certification will be considered. The applicant must have successfully completed a basic operator training course and an examination generally equivalent to the Iowa examination. The department may require the applicant to successfully complete the Iowa examination.

*f.* Applicants who seek Iowa certification pursuant to 101.502(8)*"d"* or *"e"* shall submit an application for examination accompanied by a letter requesting certification pursuant to this subrule. Application for certification pursuant to this subrule shall be received by the department in accordance with 101.502(8)*"b"* and *"c."*

**101.502(9)** *Duration and renewal of certification.* All certificates shall expire every two years, on even-numbered years, and must be renewed every two years to maintain certification. The renewal application and fee are due prior to expiration of certification.

*a.* Late application for renewal of a certification may be made, provided that such late application shall be received by the department or postmarked within 30 days of the expiration of the certification. Such late application shall be on a form prescribed by the department and accompanied by the penalty fee and the certification renewal fee.

*b.* If a certificate holder fails to apply for renewal within 30 days following expiration of the certification, the right to renew the certification automatically terminates. Certification may be allowed at any time following such termination, provided that the applicant successfully completes the examination. The applicant must then apply for certification in accordance with 101.502(8).

*c.* An operator shall not continue to operate a solid waste incinerator after expiration of a certification without renewal thereof.

*d.* Continuing education credits must be earned during the two-year certification period. All certified operators must earn six contact hours per certification during each two-year period. The two-year period will begin upon issuance of certification.

*e.* Only those operators fulfilling the continuing education requirements before the end of each two-year period will be allowed to renew their certifications. The certifications of operators not fulfilling the continuing education requirements shall be void upon expiration unless an extension is granted.

*f.* All activities for which continuing education credit will be granted must be related to the subject matter of the particular certification to which the credit is being applied.

*g.* The department may, in individual cases involving hardship or extenuating circumstances, grant an extension of time of up to three months within which the applicant may fulfill the minimum continuing education requirements. Hardship or extenuating circumstances include documented health-related confinement or other circumstances beyond the control of the certified operator that prevent attendance at the required activities. All requests for extensions must be made prior to expiration of certification.

*h.* The certified operator is responsible for notifying the department of the continuing education credits earned during the period. The continuing education credits earned during the period shall be shown on the application for renewal.

*i.* A certified operator shall be deemed to have complied with the continuing education requirements of this division during periods that the operator serves honorably on active duty in military service, during periods that the operator is a resident of another state or district having a continuing education requirement for operators and meets all the requirements of that state or district for practice there, during periods that the person is a government employee working as an operator and is assigned to duty outside of the United States, or during other periods of active practice and absence from the state approved by the department.

**567—101.503(455B) Discipline of certified operators.**

**101.503(1)** Disciplinary action may be taken on any of the following grounds.

*a.* Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified operator. Duties of certified operators include compliance with rules and permit conditions applicable to solid waste incinerator operation.

*b.* Failure to submit required records of operation or other reports required under applicable permits or rules of the department, including failure to submit complete records or reports.

*c.* Knowingly making any false statement, representation, or certification on any application, record, report, or document required to be maintained or submitted under any applicable permit or rule of the department.

**101.503(2)** The following disciplinary sanctions are allowable.

*a.* Revocation of a certification.

*b.* Probation under specified conditions relevant to the specific grounds for disciplinary action. Additional education or training or reexamination may be required as a condition of probation.

**101.503(3)** The procedure for discipline is as follows.

*a.* The department shall initiate disciplinary action. The commission may direct that the department investigate any alleged factual situation that may be grounds for disciplinary action under 101.503(1) and report the results of the investigation to the commission.

*b.* A disciplinary action may be prosecuted by the department.

*c.* Written notice shall be given to an operator against whom disciplinary action is being considered and, as appropriate, to the responsible official of the permitted solid waste incinerator. The notice shall state the informal and formal procedures available for determining the matter. The operator shall be given 20 days to present any relevant facts and indicate the operator's position in the matter and to indicate whether informal resolution of the matter may be reached.

*d.* An operator who receives notice shall communicate in writing or in person with the department, and efforts shall be made to clarify the respective positions of the operator and department.

*e.* The applicant's failure to communicate facts and positions relevant to the matter by the required date may be considered when appropriate disciplinary action is determined.

*f.* If agreement as to appropriate disciplinary sanction, if any, can be reached with the operator and the commission concurs, a written stipulation and settlement between the department and the operator shall be entered into. The stipulation and settlement shall recite the basic facts and violations alleged, any facts brought forth by the operator, and the reasons for the particular sanctions imposed.

*g.* If an agreement as to appropriate disciplinary action, if any, cannot be reached, the department may initiate formal hearing procedures. Notice and formal hearing shall be in accordance with 7—Chapter 2506 and 561—Chapter 2506 related to contested and certain other cases pertaining to licensee discipline.

**101.503(4)** Upon revocation of a certificate, application for certification may be allowed after two years from the date of revocation. Any such applicant must successfully complete the examination and be certified in the same manner as a new applicant.

**567—101.504(455B) Temporary operator designation.** A temporary operator of a solid waste incinerator may be designated for a period of six months when an existing certified operator is no longer available to the facility. The facility must make application to the department, explain why a temporary certification is needed, identify the temporary operator, and identify the efforts that will be made to obtain a certified operator. A temporary operator designation shall not be approved for greater than a six-month period except for extenuating circumstances. In any event, not more than one six-month extension to the temporary operator designation may be granted. Approval of a temporary operator designation may be rescinded for cause as set forth in 567—101.503(455B).

These rules are intended to implement Iowa Code section 455B.304(12).

**567—101.505** to **101.699** Reserved.

DIVISION VII
RESERVED

DIVISION VIII
FINANCIAL ASSURANCE

**567—101.700(455B) Purpose.** The purpose of this division is to implement Iowa Code sections 455B.304(8) and 455B.306(9) by providing the criteria for establishing financial assurance for closure, post-closure care, and corrective action at sanitary disposal projects, whichever is applicable.

**567—101.701(455B) Applicability.**

**101.701(1)** The requirements of this division apply to all owners and operators of sanitary disposal projects, except owners or operators who are state or federal government entities, whose debts and liabilities are the debts and liabilities of a state or the United States.

**101.701(2)** This division does not apply to municipal solid waste sanitary landfills regulated pursuant to Division II of this chapter that ceased accepting solid waste by August 24, 1994, nor to industrial sanitary landfills and coal combustion residual sanitary landfills regulated pursuant to Divisions III and IV of this chapter, respectively, that ceased accepting waste by October 31, 2007.

**101.701(3)** This division does not apply to sanitary disposal projects that are not sanitary landfills and that have completed proper site closure nor to sanitary landfills that have completed post-closure care obligations prior to September 23, 2026.

**101.701(4)** All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—101.702(455B) Definitions.** For the purposes of this division, the definitions in 567—Chapter 100 and Iowa Code section 455B.301 shall apply.

**567—101.703(455B) Financial assurance for closure of sanitary disposal projects that are not sanitary landfills.** The owner or operator of a sanitary disposal project must establish financial assurance for the costs of site closure in accordance with the criteria in this division. The owner or operator must provide continuous coverage for site closure until released from this requirement by demonstrating compliance with the closure criteria expressed within each sanitary disposal project's applicable division. Proof of compliance pursuant to 101.703(1) through 101.703(3) shall be submitted to the department by the owner or operator at the time of application for a permit, and with each renewal thereafter, until the owner or operator is released from this requirement by the department.

**101.703(1)** The owner or operator shall submit, on a form prescribed by the department, the amount of the financial assurance required and the current value of the financial assurance instrument(s) at the time of submittal as required by Iowa Code section 455B.306(9).

**101.703(2)** The owner or operator shall submit a copy of the documents establishing the financial assurance instrument(s) in an amount equal to or greater than the amount specified in 567—101.710(455B). Documentation for the instrument(s) used to demonstrate financial assurance shall contain, at a minimum, the items required to be submitted as specified in 567—101.707(455B).

**101.703(3)** The owner or operator shall submit a detailed written estimate, in current dollars, certified by an Iowa-licensed professional engineer, of the cost of hiring a third party to properly close the sanitary disposal project in accordance with the closure criteria expressed within each sanitary disposal project's applicable division.

*a.* The cost estimate must equal the cost of closing the sanitary disposal project at any time during its permitted life when the extent and manner of its operation would make closure the most expensive.

*b.* The costs contained in the estimate for site closure must be accurate and reasonable when compared to the cost estimates used by other similarly situated sanitary disposal projects in Iowa.

*c.* The owner or operator must, at the time of permit renewal or at the time of application for a permit modification that increases closure costs, whichever occurs first, have an Iowa-licensed professional engineer update the closure cost estimate, and update the amount of financial assurance provided if changes to the closure plan or sanitary disposal project conditions increase the maximum cost of closure at any time during the remaining active life of the site.

*d.* The owner or operator may reduce the amount of financial assurance for proper closure of the site if the most recent estimate of the maximum cost of closure at any time during the active life of the site is less than the amount of financial assurance currently provided. Prior to the reduction, the owner or operator must submit to the department the justification for the reduction of the closure cost estimate and the updated documentation required by 101.703(1) through 101.703(3) and receive department approval for the reduction.

**567—101.704(455B) Financial assurance for closure of sanitary landfills.** The owner or operator of a sanitary landfill must establish financial assurance for the costs of site closure in accordance with the criteria in this division. The owner or operator must provide continuous coverage for site closure until released from this requirement by demonstrating compliance with the approved closure plan and the closure permit. Proof of compliance pursuant to 101.704(1) through 101.704(5) shall be submitted to the department by the owner or operator yearly by April 1 and approved by the department.

**101.704(1)** The owner or operator shall submit, on a form prescribed by the department, the amount of the financial assurance required, the annual financial statement required by Iowa Code section 455B.306(9)*"e,"* and the current value of the financial assurance instrument(s) as required by Iowa Code section 455B.306(9).

**101.704(2)** The owner or operator shall submit a copy of the documents establishing the financial assurance instrument(s) in an amount equal to or greater than the amount specified in 567—101.710(455B). Documentation for the instruments(s) used to demonstrate financial assurance shall contain, at a minimum, the items required to be submitted as specified in 567—101.707(455B).

**101.704(3)** The owner or operator shall, except for the allowance granted in 101.704(3)*"c,"* submit a detailed written estimate, in current dollars, certified by an Iowa-licensed professional engineer, of the cost of hiring a third party to close the sanitary landfill in accordance with the approved closure plan and the closure permit.

*a.* The cost estimate must equal the cost of closing the sanitary landfill at the time the cost estimate is prepared.

*b.* The costs contained in the estimate for closure must be accurate and reasonable when compared to the cost estimates used by other similarly situated sanitary landfills in Iowa.

*c.* During the active life of the sanitary landfill, the owner or operator may, for the duration of the permit cycle or five years, whichever is less, have an Iowa-licensed professional engineer adjust the certified closure cost estimate for inflation by using an inflation factor derived from the most recent annual Implicit Price Deflator for Gross Domestic Product published by the United States Department of Commerce. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year. After applying the inflation factor for the duration of the permit cycle, or five years, whichever is less, the owner or operator shall again submit a detailed written estimate, in current dollars, certified by an Iowa-licensed professional engineer pursuant to 101.704(3).

*d.* The owner or operator must annually or at the time of permit renewal, at the time of application for a permit modification, or due to other requirements that increase closure costs have an Iowa-licensed professional engineer update the detailed written closure cost estimate and update the amount of financial assurance provided if changes to the closure plan or sanitary landfill conditions increase the cost of closure.

*e.* The owner or operator may reduce the amount of financial assurance for proper closure of the site if the most recent estimate is less than the amount of financial assurance currently provided. Prior to the reduction, the owner or operator must submit to the department the justification for the reduction of the closure cost estimate and the updated documentation required by 101.704(1) through 101.704(5) and receive department approval for the reduction.

*f.* The estimate submitted to the department must include the site area subject to closure (in acres) and account for at least the following factors determined by the department to be the minimal necessary costs for closure.

(1) Closure and post-closure plan document revisions;
(2) Site preparation, earthwork, and final grading;
(3) Drainage control culverts, piping, and structures;
(4) Erosion control structures, sediment ponds, and terraces;
(5) Final cap construction;
(6) Cap vegetation soil placement;
(7) Cap seeding, mulching, and fertilizing;
(8) Monitoring well, piezometer, and gas control modifications;
(9) Leachate system cleanout and extraction well modifications;
(10) Monitoring well installations and abandonments;
(11) Facility modifications to effect closed status;
(12) Engineering and technical services;
(13) Legal, financial, and administrative services; and
(14) Closure compliance certifications and documentation.

**101.704(4)** For publicly owned sanitary landfills, the owner or operator shall submit to the department a copy of the owner's or operator's most recent annual audit report in the form prescribed by the office of the auditor of the state of Iowa. In addition to the annual audit report, the owner or operator of a publicly owned sanitary landfill may submit financial institution statements to document the current balance of a trust fund or local government dedicated fund established pursuant to 101.707(1) and 101.707(9) or the closure and post-closure care account(s) pursuant to 567—101.709(455B).

**101.704(5)** Privately owned sanitary landfills shall submit an affidavit from the owner or operator indicating that a yearly review has been performed by an Iowa-licensed certified public accountant to determine whether the privately owned sanitary landfill is in compliance with this division. The affidavit shall state the name of the Iowa-licensed certified public accountant, the dates and conclusions of the review, and the steps taken to rectify any deficiencies identified by the accountant.

**567—101.705(455B) Financial assurance for post-closure care of sanitary landfills.** The owner or operator of a sanitary landfill must establish financial assurance for the costs of post-closure care in accordance with the criteria in this division. The owner or operator must provide continuous coverage for post-closure care until released from this requirement by demonstrating compliance with the approved post-closure plan and the closure permit. Proof of compliance pursuant to 101.705(1) through 101.705(5) shall be submitted to the department by the owner or operator yearly by April 1 and approved by the department.

**101.705(1)** The owner or operator shall submit, on a form prescribed by the department, the amount of the financial assurance required, the annual financial statement required by Iowa Code section 455B.306(9)*"e,"* and the current value of the financial assurance instrument(s) as required by Iowa Code section 455B.306(9).

**101.705(2)** The owner or operator shall submit a copy of the documents establishing the financial assurance instrument(s) in an amount equal to or greater than the amount specified in 567—101.710(455B). Documentation for the instrument(s) used to demonstrate financial assurance shall contain, at a minimum, the items required to be submitted as specified in 567—101.707(455B).

**101.705(3)** The owner or operator shall, except for the allowance granted in 101.705(3)*"c,"* submit a detailed written estimate, in current dollars, certified by an Iowa-licensed professional engineer, of the cost of hiring a third party to conduct post-closure care for the sanitary landfill in accordance with the approved post-closure plan and the closure permit.

*a.* The cost estimate must account for the total cost of conducting post-closure care, as described in the plan, for the entire post-closure care period.

*b.* The costs contained in the estimate for post-closure care must be accurate and reasonable when compared to the cost estimates used by other similarly situated sanitary landfills in Iowa.

*c.* During the active life of the sanitary landfill and during the post-closure care period, the owner or operator may, for the duration of the permit cycle or five years, whichever is less, have an Iowa-licensed professional engineer adjust the certified post-closure cost estimate for inflation by using an inflation factor derived from the most recent annual Implicit Price Deflator for Gross Domestic Product published by the United States Department of Commerce. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year. After applying the inflation factor for the duration of the permit cycle, or five years, whichever is less, the owner or operator shall again submit a detailed written estimate, in current dollars, certified by an Iowa-licensed professional engineer pursuant to 101.705(3).

*d.* The owner or operator must, annually or at the time of application for a permit modification, or due to other requirements that increase post-closure care costs, have an Iowa-licensed professional engineer increase the detailed written post-closure cost estimate and update the amount of financial assurance provided if changes in the post-closure plan or sanitary landfill conditions increase the cost of post-closure care.

*e.* The owner or operator may reduce the amount of financial assurance for post-closure care if the most recent estimate of post-closure care is less than the amount of financial assurance currently provided. Prior to the reduction, the owner or operator must submit to the department the justification for the reduction of the post-closure cost estimate and the updated documentation required by 101.705(1) through 101.705(5) and receive department approval for the reduction.

*f.* The estimate submitted to the department must include the site area subject to post-closure care and account for at least the following factors determined by the department to be the minimal necessary costs for post-closure care.

(1) General site facilities, access roads, and fencing maintenance;

(2) Cap and vegetative cover maintenance;

(3) Drainage and erosion control systems maintenance;

(4) Groundwater to waste separation systems maintenance;

(5) Gas control systems maintenance, if applicable;
(6) Gas control systems monitoring and reports, if applicable;
(7) Groundwater and surface water monitoring systems maintenance;
(8) Groundwater and surface water quality monitoring and reports;
(9) Groundwater monitoring systems performance evaluations and reports;
(10) Leachate control systems maintenance;
(11) Leachate management, transportation, and disposal;
(12) Leachate control systems performance evaluations and reports;
(13) Facility inspections and technical reports;
(14) Engineering and technical services;
(15) Legal, financial, and administrative services; and
(16) Financial assurance, accounting, audits, and reports.

**101.705(4)** For publicly owned sanitary landfills, the owner or operator shall submit to the department a copy of the owner's or operator's most recent annual audit report in the form prescribed by the office of the auditor of the state of Iowa. In addition to the annual audit report, the owner or operator of a publicly owned sanitary landfill may submit financial institution statements to document the current balance of a trust fund or local government dedicated fund established pursuant to 101.707(1) and 101.707(9), or the closure and post-closure care account(s) pursuant to 567—101.709(455B).

**101.705(5)** Privately owned sanitary landfills shall submit an affidavit from the owner or operator indicating that a yearly review has been performed by an Iowa-licensed certified public accountant to determine whether the privately owned sanitary landfill is in compliance with this division. The affidavit shall state the name of the Iowa-licensed certified public accountant, the dates and conclusions of the review, and the steps taken to rectify any deficiencies identified by the accountant.

**567—101.706(455B) Financial assurance for corrective action at sanitary landfills.**

**101.706(1)** An owner or operator required to undertake corrective action must have a detailed written estimate, in current dollars, certified by an Iowa-licensed professional engineer, of the cost of hiring a third party to perform the required corrective action. The cost estimate must account for the total cost of conducting the activities described in the corrective action plan for the entire corrective action period. The owner or operator must submit to the department for approval the cost estimate and financial assurance documentation prior to implementation of the corrective action remedy. Proof of continued compliance pursuant to 101.706(1) and 101.706(2) shall be submitted to the department by the owner or operator yearly by April 1 and approved by the department.

*a.* The owner or operator shall submit, on a form prescribed by the department, the amount of the financial assurance required to complete the corrective action remedy and the current value of the financial assurance instrument(s).

*b.* The owner or operator may, for up to three consecutive years, have an Iowa-licensed professional engineer adjust the certified corrective action cost estimate for inflation by using an inflation factor derived from the most recent annual Implicit Price Deflator for Gross Domestic Product published by the United States Department of Commerce. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year. After three consecutive years of applying the inflation factor, the owner or operator shall again submit a detailed written estimate, in current dollars, certified by an Iowa-licensed professional engineer pursuant to this subrule.

*c.* The owner or operator must increase the detailed written corrective action cost estimate and update the amount of financial assurance provided if changes in the corrective action remedy or sanitary landfill conditions increase the maximum cost of corrective action.

*d.* The owner or operator may reduce the amount of the cost estimate and the amount of financial assurance provided if the cost estimate exceeds the maximum remaining costs of the remaining corrective action. Prior to the reduction, the owner or operator must submit to the department the justification for the reduction of the corrective action cost estimate and the updated documentation required by 101.706(1) through 101.706(2) and receive department approval for the reduction.

**101.706(2)** The owner or operator of a sanitary landfill required to undertake corrective action must establish financial assurance for the corrective action remedy by one of the instruments prescribed in 567—101.707(455B). The owner or operator must provide continuous coverage for corrective action until released from financial assurance requirements by demonstrating compliance with the following.

*a.* Upon completion of the corrective action remedy, the owner or operator must submit to the department a certification of compliance with the corrective action plan. The certification must be signed by the owner or operator and by a qualified groundwater scientist.

*b.* Upon department approval of completion of the corrective action remedy, the owner or operator shall be released from the requirement for financial assurance for corrective action pursuant to 567—101.706(455B).

**567—101.707(455B) Allowable financial assurance instruments.** The instruments used to demonstrate financial assurance, as required by Iowa Code sections 455B.304(8) and 455B.306(9), must ensure that the funds necessary to meet the costs of closure, post-closure care, and corrective action for known releases will be available whenever the funds are needed. The instruments used shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department. Owners or operators must choose from options in 101.707(1) through 101.707(9), as provided for in Iowa Code section 455B.301(9)*"c."*

**101.707(1)** *Trust fund.*

*a.* An owner or operator may demonstrate financial assurance for closure, post-closure care and corrective action, whichever is applicable, by establishing a trust fund that conforms to the requirements of this subrule. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. The owner or operator must submit to the department a copy of the executed trust agreement.

*b.* For a trust fund used to demonstrate financial assurance for proper closure at a sanitary disposal project that is not sanitary landfill, there is no pay-in period as defined in 101.707(1)*"c."* Instead, the trust fund shall be in an amount equal to or greater than the amount specified in 101.703(3).

*c.* Payments into the trust fund must be made annually by the owner or operator over ten years or over the remaining permitted life of the sanitary landfill, whichever is shorter, in the case of a trust fund for closure and post-closure care, or over one-half of the estimated length of the corrective action remedy in the case of response to a known release. This period is referred to as the pay-in period.

*d.* For a trust fund used to demonstrate financial assurance for closure and post-closure care at a sanitary landfill, the first payment into the fund must be at least equal to the amount specified in 567—101.710(455B) for closure and post-closure care, divided by the number of years in the pay-in period, as defined in 101.707(1)*"c."* The amount of subsequent payments must be determined by the following formula.

$$\text{Next Payment} = \frac{\text{CE} - \text{B}}{\text{Y}}$$

Where:

"CE" is the amount specified in 567—101.710(455B) for closure and post-closure care (updated for inflation or other changes).

"B" is the balance of the trust fund at the close of the previous fiscal year.

"Y" is the number of years remaining in the pay-in period.

*e.* Unless otherwise authorized by the department, for a trust fund used to demonstrate financial assurance for corrective action at a sanitary landfill, the first payment into the trust fund must be at least equal to one-half of the amount specified in 101.706(1) for corrective action, divided by the number of years in the corrective action pay-in period, as defined in 101.707(1)*"c."* The amount of subsequent payments must be determined by the following formula.

$$\text{Next Payment} = \frac{\text{RB} - \text{V}}{\text{Y}}$$

Where:

"RB" is the most recent estimate of the required trust fund balance for corrective action.

"V" is the current value of the trust fund at the close of the previous fiscal year.

"Y" is the number of years remaining in the pay-in period.

*f.* The initial payment into the trust fund must be made prior to the initial receipt of solid waste at the sanitary landfill or before the cancellation of an alternative financial assurance instrument, in the case of closure and post-closure care; or no later than 120 days after the selection of the corrective action remedy.

*g.* The owner or operator, or other person authorized to conduct closure, post-closure care, and corrective action activities, may request reimbursement from the trustee for these expenditures, including partial closure, as they are incurred. The owner or operator must submit to the department documentation of the justification for reimbursement and verification that reimbursement has been received.

*h.* After the pay-in period has been completed for a sanitary landfill, the trust fund shall be adjusted annually to correct any deficiency of the fund with respect to the updated cost estimates and may be adjusted annually should the balance in the fund exceed the updated cost estimates.

*i.* The trust fund may be terminated by the owner or operator only if the owner or operator substitutes alternative financial assurance as specified in this rule or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

**101.707(2)** *Surety bond guaranteeing payment or performance.*

*a.* An owner or operator may demonstrate financial assurance for closure and post-closure care by obtaining a payment or performance surety bond, which conforms to the requirements of this subrule. An owner or operator may demonstrate financial assurance for corrective action by obtaining a performance bond, which conforms to the requirements of this subrule. The bond must be effective and all required submissions made to the department prior to the initial receipt of solid waste or before the cancellation of an alternative financial assurance instrument, in the case of closure and post-closure care, or, in the case of corrective action, no later than 120 days after the selection of the corrective action remedy. The owner or operator must submit to the department a copy of the executed surety bond and subsequent proof of continuance in accordance with 567—101.703(455B) through 567—101.706(455B). The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

*b.* The penal sum of the bond must be in an amount at least equal to the amount specified in 567—101.710(455B) for closure, post-closure care, and corrective action, whichever is applicable.

*c.* Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond and also upon notice from the department pursuant to 101.707(2)*"f."*

*d.* The owner or operator must also establish a standby trust fund. The standby trust fund must meet the requirements of 101.707(1), except the requirements for initial payment and subsequent annual payments specified in 101.707(1)*"c"* through *"f."*

*e.* Payments made under the terms of the bond will be deposited by the surety directly into the standby trust fund. Payments from the trust fund must be authorized by the trustee pursuant to 101.707(1)*"g."*

*f.* Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the department 120 days in advance of cancellation. When such notice is provided, the owner or operator shall, within 90 days, provide to the department adequate proof of alternative financial assurance, notice from the surety of withdrawal of the cancellation, or proof of a deposit into the standby trust fund of a sum equal to the amount of the bond. If the owner or operator has not complied with this paragraph within the 90-day time period, this shall constitute a failure to perform and the department shall notify the surety, prior to the expiration of the 120-day notice period, that such a failure has occurred. The provision of funds by the issuer of the surety bond shall be considered an issuance of a loan to the owner or operator, and the terms of that loan shall be governed by the surety bond or subsequent agreement between those parties.

*g.* The owner or operator may cancel the bond only if alternative financial assurance is substituted prior to cancellation or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

**101.707(3)** *Letter of credit.*

*a.* An owner or operator may demonstrate financial assurance for closure, post-closure care, and corrective action, whichever is applicable, by obtaining an irrevocable standby letter of credit, which conforms to the requirements of this subrule. The letter of credit must be effective and all required submissions made to the department prior to the initial receipt of solid waste or before the cancellation of an alternative financial assurance instrument, in the case of closure and post-closure care, or, in the case of corrective action, no later than 120 days after the selection of the corrective action remedy. The owner or operator must submit to the department a copy of the executed letter of credit, and subsequent proof of continuance in accordance with 567—101.703(455B) through 567—101.706(455B). The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

*b.* A letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the name and address of the facility and the amount of funds assured, must be included with the letter of credit submitted to the department.

*c.* The owner or operator must also establish a standby trust fund. The standby trust fund must meet the requirements of 101.707(1), except the requirements for initial payment and subsequent annual payments specified in 101.707(1)*"c"* through *"f."*

*d.* Payments made under the terms of the letter of credit will be deposited by the issuing institution directly into the standby trust fund. Payments from the trust fund must be authorized by the trustee pursuant to 101.707(1)*"g."*

*e.* The letter of credit must be irrevocable and issued for a period of at least one year in an amount at least equal to the amount specified in 567—101.710(455B) for closure, post-closure care, and corrective action, whichever is applicable. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless the issuing institution has canceled the letter of credit by sending notice of cancellation by certified mail to the owner or operator and to the department 120 days in advance of cancellation. When such notice is provided, the owner or operator shall, within 90 days, provide to the department adequate proof of alternative financial assurance, notice from the issuing institution of withdrawal of the cancellation, or proof of a deposit into the standby trust fund of a sum equal to the amount of the letter of credit. If the owner or operator has not complied with this paragraph within the 90-day time period, this shall constitute a failure to perform and the department shall notify the issuer of the letter of credit, prior to the expiration of the 120-day notice period, that such a failure has occurred. The provision of funds by the issuer of the letter of credit shall be considered an issuance of a loan to the owner or operator, and the terms of that loan shall be governed by the letter of credit or subsequent agreement between those parties.

*f.* The owner or operator may cancel the letter of credit only if alternative financial assurance is substituted prior to cancellation or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

**101.707(4)** *Insurance.*

*a.* An owner or operator may demonstrate financial assurance for closure and post-closure care, whichever is applicable, by obtaining insurance that conforms to the requirements of this subrule. The insurance must be effective and all required submissions made to the department prior to the initial receipt of solid waste or before the cancellation of an alternative financial assurance instrument, in the case of closure and post-closure care. At a minimum, the insurer must be licensed to transact the business of insurance or be eligible to provide insurance as an excess or surplus lines insurer in Iowa. The owner or operator must submit to the department a copy of the executed insurance policy and subsequent proof of continuance in accordance with 567—101.703(455B) through 567—101.706(455B).

*b.* The closure or post-closure care insurance policy must guarantee that funds will be available to close the sanitary disposal project whenever final closure occurs or to provide post-closure care for a sanitary landfill whenever the post-closure care period begins, whichever is applicable. The policy must also guarantee that once closure or post-closure care begins, the insurer will be responsible for the paying out of funds to the owner or operator or other person authorized to conduct closure or post-closure care, up to an amount equal to the face amount of the policy.

*c.* The insurance policy must be issued for a face amount at least equal to the amount specified in 567—101.710(455B) for closure and post-closure care, whichever is applicable. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

*d.* An owner or operator, or any other person authorized to conduct closure or post-closure care, may receive reimbursements for closure or post-closure care expenditures, including partial closure, whichever is applicable. Requests for reimbursement will be granted by the insurer only if the remaining value of the policy is sufficient to cover the remaining costs of closure or post-closure care. The owner or operator must submit to the department documentation of the justification for reimbursement and verification that the reimbursement has been received.

*e.* Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided that such consent is not unreasonably refused.

*f.* The insurance policy must provide that the insurer may not cancel, terminate, or fail to renew the policy, except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the owner or operator and to the department 120 days in advance of cancellation. When such notice is provided, the owner or operator shall, within 90 days, provide to the department adequate proof of alternative financial assurance, notice from the insurer of withdrawal of the cancellation, or proof of a deposit of a sum equal to the amount of the insurance coverage into either the closure and post-closure care account(s) established pursuant to Iowa Code section 455B.306(9)*"b"* or a standby trust fund that meets the requirements of 101.707(1), except the requirements for initial payment and subsequent annual payments specified in 101.707(1)*"c"* through *"f."* If the owner or operator has not complied with this paragraph within the 90-day time period, this shall constitute a failure to perform and shall be a covered event pursuant to the terms of the insurance policy. A failure by the owner or operator to comply with this paragraph within the 90-day time period shall make the insurer liable for the closure and post-closure care of the covered facility up to the amount of the policy limits, which shall be equal to the most recently submitted cost estimates.

*g.* For insurance policies providing coverage for post-closure care, commencing on the date that liability to make payments pursuant to the policy accrues, the insurer will thereafter annually increase the face amount of the policy. Such increase must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to 85 percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities.

*h.* The owner or operator may cancel the insurance policy only if alternative financial assurance is substituted prior to cancellation or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

**101.707(5)** *Corporate financial test.* An owner or operator that satisfies the requirements of this subrule may demonstrate financial assurance for closure, post-closure care, and corrective action, whichever is applicable, up to the amount specified below.

*a.* *Financial component.* The owner or operator must satisfy the requirements of 101.707(5)*"a"*(1) through *"a"*(3) to meet the financial component of the corporate financial test.

(1) The owner or operator must satisfy one of the following three conditions.

1. A current rating for its senior unsubordinated debt of AAA, AA, A, or BBB as issued by Standard & Poor's or Aaa, Aa, A or Baa as issued by Moody's;

2. A ratio of less than 1.5 comparing total liabilities to net worth (net worth calculations may not include future permitted capacity of a subject landfill as an asset); or

3. A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion, and amortization, minus $10 million, to total liabilities.

(2) The tangible net worth (excluding future permitted capacity of a subject sanitary landfill) of the owner or operator must be greater than:

1. The sum of the current closure, post-closure care, and corrective action cost estimates, whichever is applicable, and any other environmental obligations, including guarantees covered by a financial test, except as provided in 101.707(5)*"a"*(2)"2." For sanitary landfill owners or operators, this sum shall include an additional $10 million.

2. For sanitary landfill owners or operators, a net worth of $10 million plus the amount of any guarantees that have not been recognized as liabilities on the financial statements, provided that all of the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements and subject to the approval of the department.

(3) The owner or operator must have located in the United States assets (excluding future permitted capacity of a subject sanitary landfill) amounting to at least the sum of current closure, post-closure care, and corrective action cost estimates, whichever is applicable, and any other environmental obligations covered by a financial test as described in 101.707(5)*"f."*

*b.* *Recordkeeping and reporting requirements.* The owner or operator must submit the following records to the department prior to the initial receipt of solid waste or before cancellation of an alternative financial assurance instrument, in the case of closure and post-closure care, or no later than 120 days after the selection of the corrective action remedy.

(1) A letter signed by the owner's or operator's chief financial officer that:

1. Lists all the current cost estimates covered by a financial test, including but not limited to cost estimates required by 567—101.703(455B) through 567—101.706(455B); cost estimates required for municipal solid waste landfills pursuant to 40 CFR Part 258, if applicable; cost estimates required for UIC facilities under 40 CFR Part 144, if applicable; cost estimates required for petroleum underground storage tank facilities under 40 CFR Part 280, if applicable; cost estimates required for PCB storage facilities under 40 CFR Part 761, if applicable; and cost estimates required for hazardous waste treatment, storage, and disposal facilities under 40 CFR Parts 264 and 265, if applicable; and

2. Provides evidence demonstrating that the firm meets the conditions of 101.707(5)*"a."*

(2) A copy of the Iowa-licensed certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the Iowa-licensed certified public accountant. An adverse opinion or disclaimer of opinion shall be cause for disallowance of this instrument. A qualified opinion related to the demonstration of financial assurance may, at the discretion of the department, be cause for disallowance. If the department does not allow use of the corporate financial test, the owner or operator must provide alternative financial assurance that meets the requirements of 567—101.707(455B).

(3) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies 101.707(5)*"a"*(1)"2" or "3" that differs from data in the audited financial statements referred to in 101.707(5)*"b"*(2) or any other audited financial statement or data filed with the U.S. Securities and Exchange Commission, a special report from the owner's or operator's Iowa-licensed certified public accountant to the owner or operator. The special report shall be based on an agreed-upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.

(4) If the chief financial officer's letter provides a demonstration that the owner or operator has assured for environmental obligations as provided in 101.707(5)*"a"*(2)"2," a report from the Iowa-licensed certified public accountant that verifies that all of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements, that documents how these obligations have been measured and reported, and that verifies that the tangible net worth of

the owner or operator is at least the amount of any guarantees provided. For sanitary landfill owners or operators, this sum shall include an additional $10 million.

*c.* *Cease submission of information.* The owner or operator may cease the submission of the information required by 101.707(5) only if alternative financial assurance is substituted prior to cancellation or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

*d.* *Financial test.* The owner or operator must satisfy the requirements of the financial test at the close of each fiscal year. If the owner or operator no longer meets the requirements of the corporate financial test, the owner or operator must immediately notify the department in writing and, within 90 days following the close of the owner's or operator's fiscal year, obtain alternative financial assurance that meets the requirements of 567—101.707(455B) and submit the financial assurance documentation to the department for approval.

*e.* *Financial condition.* The department may, based on a reasonable belief that the owner or operator may no longer meet the requirements of 101.707(5)*"a,"* require at any time the owner or operator to provide reports of its financial condition in addition to, or including, current financial test documentation as specified in 101.707(5)*"b."* If the department finds that the owner or operator no longer meets the requirements of 101.707(5)*"a,"* the owner or operator must provide alternative financial assurance that meets the requirements of 567—101.707(455B) within 90 days of written notification by the department.

*f.* *Calculation of costs to be assured.* When calculating the current cost estimates for closure, post-closure care, corrective action, or the sum of the combination of such costs to be covered, and any other environmental obligations assured by a financial test referred to in 101.707(5), the owner or operator must include cost estimates required for 567—101.703(455B) through 567—101.706(455B) and cost estimates required for the following environmental obligations, if the owner or operator assures them through a financial test: municipal solid waste landfills pursuant to 40 CFR Part 258; UIC facilities under 40 CFR Part 144; petroleum underground storage tank facilities under 40 CFR Part 280; PCB storage facilities under 40 CFR Part 761; and hazardous waste treatment, storage, and disposal facilities under 40 CFR Parts 264 and 265.

**101.707(6)** *Local government financial test.* An owner or operator that satisfies the requirements of this subrule may demonstrate financial assurance for closure, post-closure care, and corrective action, whichever is applicable, up to the amount specified below.

*a.* *Financial component.*

(1) The local government owner or operator must satisfy one of the following conditions.

1. If the owner or operator has outstanding, rated general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, the owner or operator must have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard & Poor's, on all such general obligation bonds; or

2. The owner or operator must satisfy both of the following financial ratios based on the owner's or operator's most recent audited annual financial statement: a ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05 and a ratio of annual debt service to total expenditures less than or equal to 0.20.

(2) The owner or operator must prepare its financial statements in conformity with Generally Accepted Accounting Principles or Other Comprehensive Bases of Accounting for governments and have its financial statements audited by an Iowa-licensed certified public accountant or the office of the auditor of the state of Iowa. The financial statement shall be in the form prescribed by the office of the auditor of the state of Iowa.

(3) A local government is not eligible to assure its obligations under 101.707(6) if it:

1. Is currently in default on any outstanding general obligation bonds;

2. Has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard & Poor's;

3. Operated at a deficit equal to 5 percent or more of total annual revenue in each of the past two fiscal years; or

4. Receives an adverse opinion or disclaimer of opinion from the Iowa-licensed certified public accountant or office of the auditor of the state of Iowa auditing its financial statement as required under 101.707(6)*"a"*(2). A qualified opinion related to the demonstration of financial assurance may, at the discretion of the department, be cause for disallowance. If the department does not allow use of the local government financial test, the owner or operator must provide alternative financial assurance that meets the requirements of 567—101.707(455B).

*b. Public notice component.* The local government owner or operator must include disclosure of the closure and post-closure care costs assured through the financial test in its next comprehensive annual financial report, prior to the initial receipt of solid waste or prior to cancellation of an alternative financial assurance instrument, whichever is later. Disclosure must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years, if applicable. A reference to corrective action costs must be placed in the next comprehensive annual financial report after the selection of the corrective action remedy. For the first year the financial test is used to assure costs at a particular facility, the reference may instead be placed in the facility's operating record until issuance of the next available comprehensive annual financial report if timing does not permit the reference to be incorporated into the most recently issued comprehensive annual financial report or budget. For closure and post-closure care costs at municipal solid waste sanitary landfills, conformance with Governmental Accounting Standards Board Statement 18 assures compliance with this public notice component.

*c. Recordkeeping and reporting requirements.*

(1) The local government owner or operator must submit to the department the following items.

1. A letter signed by the local government's chief financial officer that lists all the current cost estimates covered by a financial test, as described in 111.707(6)*"d,"* that provides evidence and certifies that the local government meets the conditions of 101.707(6)*"a"*(1) through *"a"*(3) and certifies that the local government meets the conditions of 101.707(6)*"b"* and *"d"*; and

2. The local government's independently audited year-end financial statements for the latest fiscal year, including the unqualified opinion of the auditor who must be an Iowa-licensed certified public accountant or the office of the auditor of the state of Iowa. The comprehensive annual financial report shall indicate compliance with the financial ratios required by 101.707(6)*"a"*(1)"2," if applicable, and the requirements of 101.707(6)*"a"*(2) and 101.707(6)*"a"*(3)"3" and "4."

(2) The items required in 101.707(6)*"c"*(1) must be submitted to the department prior to the initial receipt of solid waste or prior to the cancellation of an alternative financial assurance instrument, in the case of closure and post-closure care, or, in the case of corrective action, not later than 120 days after the selection of the corrective action remedy.

(3) The local government owner or operator may cease the submission of the information required by 101.707(6) only if alternative financial assurance is substituted prior to cancellation or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

(4) The local government owner or operator must satisfy the requirements of the financial test at the close of each fiscal year. If the owner or operator no longer meets the requirements of the local government financial test, the owner or operator must immediately notify the department in writing and, within 90 days following the close of the owner's or operator's fiscal year, obtain alternative financial assurance that meets the requirements of 567—101.707(455B) and submit the financial assurance documentation to the department for approval.

(5) The department may, based on a reasonable belief that the local government owner or operator may no longer meet the requirements of 101.707(6)*"a,"* require at any time the owner or operator to provide reports of its financial condition in addition to, or including, current financial test documentation as specified in 101.707(6)*"c."* If the department finds that the owner or operator no longer meets the requirements of 101.707(6)*"a,"* the owner or operator must provide alternative financial assurance that meets the requirements of 567—101.707(455B) within 90 days of written notification by the department.

*d. Calculation of costs to be assured.* The portion of the closure, post-closure care, and corrective action costs for which an owner or operator may assure under this subrule is determined as follows.

(1) If the local government owner or operator does not assure other environmental obligations through a financial test, the owner or operator may assure closure, post-closure care, and corrective action costs that equal up to 43 percent of the local government's total annual revenue.

(2) If the local government owner or operator assures other environmental obligations through a financial test, including those associated with municipal solid waste landfills pursuant to 40 CFR Part 258; UIC facilities under 40 CFR Part 144.62; petroleum underground storage tank facilities under 40 CFR Part 280; PCB storage facilities under 40 CFR Part 761; and hazardous waste treatment, storage, and disposal facilities under 40 CFR Parts 264 and 265, the owner or operator must add those costs to the closure, post-closure care, and corrective action costs it seeks to assure under this subrule. The total that may be assured must not exceed 43 percent of the local government's total annual revenue.

(3) The owner or operator must obtain an alternative financial assurance instrument for those costs that exceed the limits set in 101.707(6)*"d"*(1) and *"d"*(2).

**101.707(7)** *Corporate guarantee.* An owner or operator that satisfies the requirements of this subrule may demonstrate financial assurance for closure, post-closure care, and corrective action, whichever is applicable, by obtaining a written guarantee.

*a. Affiliation.* The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a substantial business relationship with the owner or operator. The guarantor must meet the requirements of the corporate financial test in 101.707(5) and must comply with the terms of the written guarantee. A certified copy of the executed guarantee must be placed in the facility's operating record along with copies of the letter from the guarantor's chief financial officer and the independent certified public accountant's opinion(s). If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter from the guarantor's chief financial officer must describe the value received in consideration of the guarantee. If the guarantor is a firm with a substantial business relationship with the owner or operator, this letter must describe this substantial business relationship and the value received in consideration of the guarantee.

*b. Terms of the written guarantee.* The guarantee must be effective and all required submissions made to the department prior to the initial receipt of solid waste or before the cancellation of an alternative financial assurance instrument, in the case of closure and post-closure care, or, in the case of corrective action, no later than 120 days after the selection of the corrective action remedy. The guarantee must provide that:

(1) If the owner or operator fails to perform closure, post-closure care, and corrective action of a facility covered by the guarantee, or fails to obtain alternative financial assurance within 90 days of notice of intent to cancel pursuant to 101.707(7)*"b"*(2) and *"b"*(3), the guarantor will:

1. Perform, or pay a third party to perform, closure, post-closure care, and corrective action as required (performance guarantee); or

2. Establish a fully funded trust fund as specified in 101.707(1) in the name of the owner or operator (payment guarantee).

(2) The guarantee will remain in force for as long as the owner or operator must comply with the applicable financial assurance requirements of this division unless the guarantor sends prior notice of cancellation by certified mail to the owner or operator and to the department. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the department, as evidenced by the return receipts.

(3) If notice of cancellation is given, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the department, provide to the department adequate proof of alternative financial assurance, notice from the guarantor of withdrawal of the cancellation, or proof of a deposit into a trust fund pursuant to 101.707(1) of a sum equal to the amount of the corporate guarantee. If the owner or operator fails to comply with the requirements of this subparagraph within the 90-day period, the guarantor must provide that alternative financial assurance prior to cancellation of the corporate guarantee.

*c. Recordkeeping and reporting requirements.*

(1) The owner or operator must submit to the department a certified copy of the executed guarantee along with the items required under 101.707(5)*"b."*

(2) The owner or operator shall no longer be required to submit the items specified in 101.707(7)*"c"*(1) when proof of alternative financial assurance has been submitted to the department or the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

(3) If a corporate guarantor no longer meets the requirements of 101.707(5), the owner or operator must immediately notify the department in writing and, within 90 days of notification, submit to the department proof of alternative financial assurance. If the owner or operator fails to obtain alternative financial assurance within the 90-day time period, the guarantor must provide that alternative financial assurance within the next 30 days.

**101.707(8)** *Local government guarantee.* An owner or operator that satisfies the requirements of this subrule may demonstrate financial assurance for closure, post-closure care, and corrective action, whichever is applicable, by obtaining a written guarantee provided by a local government or jointly provided by the members of an agency established pursuant to Iowa Code chapter 28E.

*a.* *Financial component.* The guarantor must meet the requirements of the local government financial test in 101.707(6) and must comply with the terms of the written guarantee.

*b.* *Terms of the written guarantee.* The guarantee must be effective and all required submissions made to the department prior to the initial receipt of solid waste or before the cancellation of an alternative financial assurance instrument, in the case of closure and post-closure care, or, in the case of corrective action, no later than 120 days after the selection of the corrective action remedy. The guarantee must provide that:

(1) If the owner or operator fails to perform closure, post-closure care, and corrective action of a facility covered by the guarantee, or fails to obtain alternative financial assurance within 90 days of notice of intent to cancel pursuant to 101.707(8)*"b"*(2) and *"b"*(3), the guarantor will:

1. Perform, or pay a third party to perform, closure, post-closure care, and corrective action as required (performance guarantee); or

2. Establish a fully funded trust fund as specified in 101.707(1) in the name of the owner or operator (payment guarantee).

(2) The guarantee will remain in force for as long as the owner or operator must comply with the applicable financial assurance requirements of this division unless the guarantor sends prior notice of cancellation by certified mail to the owner or operator and to the department. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the department, as evidenced by the return receipts.

(3) If notice of cancellation is given, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the department, provide to the department adequate proof of alternative financial assurance, notice from the guarantor of withdrawal of the cancellation, or proof of a deposit into a trust fund pursuant to 101.707(1) of a sum equal to the amount of the local government guarantee. If the owner or operator fails to comply with the requirements of this subparagraph within the 90-day period, the guarantor must provide that alternative financial assurance prior to cancellation of the local government guarantee.

*c.* *Recordkeeping and reporting requirements.*

(1) The owner or operator must submit to the department a certified copy of the executed guarantee along with the items required under 101.707(6)*"c."*

(2) The owner or operator shall no longer be required to submit the items specified in 101.707(8)*"c"*(1) when proof of alternative financial assurance has been submitted to the department or the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

(3) If a local government guarantor no longer meets the requirements of 101.707(6), the owner or operator must immediately notify the department in writing and, within 90 days of notification, submit to the department proof of alternative financial assurance. If the owner or operator fails to obtain

alternative financial assurance within the 90-day period, the guarantor must provide that alternative financial assurance within the next 30 days.

**101.707(9)** *Local government dedicated fund.*

*a.* The owner or operator of a publicly owned sanitary disposal project, or local government serving as a guarantor, may demonstrate financial assurance for closure, post-closure care, and corrective action, whichever is applicable, by establishing a dedicated fund that conforms to the requirements of this subrule. The owner or operator must submit to the department a copy of the executed local government dedicated fund agreement.

*b.* The fund shall be dedicated by state constitutional provision or local government statute, charter, ordinance, resolution, or order to pay for closure, post-closure care and corrective action, whichever is applicable, arising from the operation of the sanitary disposal project, and shall be funded for the full amount of coverage or funded for part of the required amount of coverage and used in combination with another instrument(s) that provides the remaining coverage.

*c.* For a local government dedicated fund used to demonstrate financial assurance for proper closure at a sanitary disposal project that is not sanitary landfill, there is no pay-in period as defined in 101.707(9)*"d."* Instead, the local government dedicated fund shall be in an amount equal to or greater than the amount specified in 101.703(3).

*d.* Payments into the local government dedicated fund must be made annually by the owner or operator over ten years or over the remaining permitted life of the sanitary landfill, whichever is shorter, in the case of a dedicated fund for closure and post-closure care or over one-half of the estimated length of the corrective action remedy in the case of a response to a known release. This period is referred to as the "pay-in period."

*e.* For a local government dedicated fund used to demonstrate financial assurance for closure and post-closure care at a sanitary landfill, the first payment into the dedicated fund must be at least equal to the amount specified in 567—101.710(455B) for closure and post-closure care, divided by the number of years in the pay-in period, as defined in 101.707(9)*"d."* The amount of subsequent payments must be determined by the following formula:

$$\text{Next Payment} = \frac{CE - B}{Y}$$

Where:

"CE" is the amount specified in 567—101.710(455B) for closure and post-closure care (updated for inflation or other changes).

"B" is the balance of the dedicated fund at the close of the previous fiscal year.

"Y" is the number of years remaining in the pay-in period.

*f.* Unless otherwise authorized by the department, for a local government dedicated fund used to demonstrate financial assurance for corrective action at a sanitary landfill, the first payment into the dedicated fund must be at least equal to one-half of the amount specified in 101.706(1) for corrective action, divided by the number of years in the corrective action pay-in period, as defined in 101.707(9)*"d."* The amount of subsequent payments must be determined by the following formula:

$$\text{Next Payment} = \frac{RB - V}{Y}$$

Where:

"RB" is the most recent estimate of the required dedicated fund balance for corrective action.

"V" is the value of the dedicated fund at the close of the previous fiscal year.

"Y" is the number of years remaining in the pay-in period.

*g.* The initial payment into the local government dedicated fund must be made prior to the initial receipt of solid waste at a sanitary landfill or before the cancellation of an alternative financial assurance instrument, in the case of closure and post-closure care, or no later than 120 days after the selection of the corrective action remedy.

*h.* After the pay-in period has been completed for a sanitary landfill, the dedicated fund shall be adjusted annually to correct any deficiency of the dedicated fund with respect to the updated cost estimates and may be adjusted annually should the balance in the dedicated fund exceed the updated cost estimates.

*i.* The local government dedicated fund may be terminated by the owner or operator only if the owner or operator substitutes alternative financial assurance as specified in this rule or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

**567—101.708(455B) General requirements.**

**101.708(1)** *Use of multiple financial assurance instruments.* An owner or operator may satisfy the requirements of this division by establishing more than one financial assurance instrument per facility, except that instruments guaranteeing performance rather than payment may not be combined with other instruments. The instruments must be a combination of those instruments outlined in 567—101.707(455B) and 101.709(455B) and must provide financial assurance for an amount at least equal to the current cost estimate for closure, post-closure care, and corrective action, whichever is applicable. The financial test and a guarantee provided by a corporate parent, sibling, or grandparent may not be combined if the financial statements if the two entities are consolidated.

**101.708(2)** *Use of one financial assurance instrument for multiple facilities.* An owner or operator may satisfy the requirements of this division for multiple sanitary disposal projects by the use of one instrument if the owner or operator ensures that the instrument provides financial assurance for an amount at least equal to the current cost estimates for closure, post-closure care, and corrective action, whichever is applicable, for all sanitary disposal projects covered. Evidence of financial assurance submitted to the department shall include, for each sanitary disposal project, the name, address, and permit number and the amount of funds for closure, post-closure care, and corrective action assured by the instrument.

**101.708(3)** *Criteria.* The language of the financial assurance instruments listed in 567—101.707(455B) must ensure that the instruments satisfy the following criteria.

*a.* The financial assurance instrument must ensure that the amount of funds assured is sufficient to cover the costs of closure, post-closure care, and corrective action for known releases, whichever is applicable;

*b.* The financial assurance instrument must ensure that funds will be available in a timely fashion, not to exceed three months from department notification, when needed;

*c.* The financial assurance instrument must be obtained by the owner or operator prior to the initial receipt of solid waste, in the case of closure and post-closure care, or, in the case of corrective action, no later than 120 days after the selection of the corrective action remedy, until the owner or operator is released from the financial assurance requirements; and

*d.* The financial assurance instrument must be legally valid, binding, and enforceable under Iowa law.

**101.708(4)** *No permit without financial assurance.* The department shall not issue or renew a permit to an owner or operator of a sanitary disposal project pursuant to Iowa Code section 455B.305 until a financial assurance instrument(s) has been submitted to and approved by the department. The department may request that additional information be submitted for review to make a financial assurance compliance decision.

**101.708(5)** *Request for payment.* The department may request payment from any financial assurance provider for the purpose of completing site closure, post-closure care, and corrective action, whichever is applicable, when the owner or operator declares an economic inability to comply with this division either by sending written notification to the department or through an action such as but not limited to filing for bankruptcy.

**101.708(6)** *Financial assurance cancellation and permit suspension.*

*a.* A financial assurance instrument may be terminated by the owner or operator only if the owner or operator substitutes alternative financial assurance, as specified in 567—101.707(455B), prior to cancellation or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

*b.* A financial assurance instrument shall be continuous in nature until canceled by the financial assurance provider or until the department gives written notification to the owner or operator and the financial assurance provider that the covered site has demonstrated compliance with the sanitary disposal project's applicable closure, post-closure care, and corrective action requirements. The financial assurance provider shall give at least 120 days' notice in writing to the owner or operator and to the department in the event of any intent to cancel a financial assurance instrument.

*c.* Within 90 days of receipt of a written notice of cancellation of a financial assurance instrument, the owner or operator must provide the department with proof of alternative financial assurance or a notice from the issuing institution of withdrawal of the cancellation. If a means of continued financial assurance is not provided within the 90-day time frame, the department shall suspend the permit and call upon the financial assurance instrument(s) prior to the expiration of the 120-day notice period.

**567—101.709(455B) Closure and post-closure care account(s).** Except as provided in 101.709(10), the holder of a permit for a sanitary landfill shall maintain the closure and post-closure care account(s) as part of financial assurance pursuant to Iowa Code section 455B.306(9)*"b."* The accounts shall be specific to a particular facility.

**101.709(1)** Money in the accounts shall not be assigned for the benefit of creditors, except the state of Iowa.

**101.709(2)** Money in the accounts shall not be used to pay any final judgment against a permit holder arising out of the ownership or operation of the site during its active life or after closure.

**101.709(3)** Withdrawal of funds. Except as provided in 101.709(4), money in the accounts may be withdrawn without departmental approval only for the purpose of funding closure, including partial closure, or post-closure care activities that are in conformance with the sanitary landfill's approved closure and post-closure plans. Withdrawals for activities not in conformance with the approved closure and post-closure plans must receive prior written approval from the department. Permit holders using a trust fund established pursuant to 101.707(1) to satisfy the requirements of this rule must comply with the requirements of 101.707(1)*"g"* prior to withdrawal.

**101.709(4)** Excess funds. If the balance of the closure and post-closure care account(s) exceeds the current cost estimate for closure or post-closure care at any time, the permit holder may withdraw the excess funds so long as the withdrawal does not cause the balance to be reduced below the amount of the current cost estimate.

**101.709(5)** Proof of establishment of account. A permit holder shall, on a form prescribed by the department, at the time of permit application and renewal, submit a statement of account signed by the permit holder, which indicates that accounts have been established pursuant to 567—101.709(455B).

**101.709(6)** An account established pursuant to 101.707(1) for a trust fund or 101.707(9) for a local government dedicated fund satisfies the requirements of 567—101.709(455B), and the account must comply with Iowa Code section 455B.306(9)*"b."*

**101.709(7)** Yearly deposits. Unless otherwise authorized by the department or provided for within this division (i.e., trust fund or local government dedicated fund deposit calculation), deposits into the closure and post-closure care account(s) shall be made yearly in the amount specified in this subrule by the close of the permitted facility's fiscal year. The closure and post-closure care account(s) shall be fully funded at the time of site closure. For active sanitary landfills not using a trust fund or local government dedicated fund as the sole financial assurance instrument, the minimum yearly deposit to the closure and post-closure care account(s) shall be determined using the following formula:

$$\frac{\text{CE} - \text{AB}}{\text{RPC}} \times \text{TR} = \text{Yearly Deposit}$$

Where:

"CE" is the current cost estimate of closure and post-closure care costs.

"AB" is the balance of the closure and post-closure care account(s) at the close of the previous fiscal year.

"RPC" is the remaining permitted capacity, in tons, of the sanitary landfill as of the start of the permit holder's fiscal year. RPC may include those areas that have yet to be constructed but have received written design approval from the department. Justification for RPC calculations shall be submitted annually pursuant to 567—101.704(455B) and 567—101.705(455B).

"TR" is the number of tons of solid waste disposed of at the site in the permit holder's prior fiscal year.

For closed landfills, the closure and post-closure care account(s) shall remain fully funded throughout the post-closure period. Any account balance deficiency shall be rectified by the end of the permitted facility's fiscal year in which the account balance deficiency was identified.

**101.709(8)** The closure and post-closure care account(s) may be commingled with other accounts so long as the amounts credited to each account balance are reported separately, pursuant to 101.704(1) and 101.705(1).

**101.709(9)** The department shall have full rights of access to all funds existing in a permitted facility's closure and post-closure care account(s), at the sole discretion of the department, if the permit holder fails to undertake closure and post-closure care activities after being directed to do so by a final agency action of the department. These funds shall be used only for the purposes of funding closure and post-closure care activities at the site.

**101.709(10)** Pursuant to Iowa Code section 455B.306(12), a sanitary landfill owned by an electric generating facility and used exclusively for the disposal of coal combustion residual shall not be required to maintain a closure and post-closure care account(s) but may demonstrate financial assurance in accordance with this division by any of the instruments described in 567—101.707(455B) or by an alternative method acceptable to the department.

**101.709(11)** Pursuant to Iowa Code section 455B.306(9)*"b,"* industrial sanitary landfills permitted pursuant to Division III of this chapter and non-utility coal combustion residual sanitary landfills permitted pursuant to Division IV of this chapter prior to September 23, 2026, and for which closure and post-closure accounts have not been established pursuant to 101.709(5), shall submit proof of establishment within six months of September 23, 2026.

**567—101.710(455B) Amount of required financial assurance.** A financial assurance instrument established pursuant to and in compliance with 567—101.707(455B) or 567—101.709(455B), if applicable, shall be in the amount of the third-party cost estimates required by 567—101.703(455B) through 567—101.706(455B). With regard to sanitary landfills, the amount of financial assurance may be reduced by the sum of the cash balance in a trust fund or local government dedicated fund established to comply with 567—101.709(455B), plus the current value of investments held by said trust fund or local government dedicated fund, if invested in one or more of the investments listed in Iowa Code section 12B.10(5).

**567—101.711(17A,455A) Waivers.** A request for a waiver to this division shall be submitted to the department in writing pursuant to 7—Chapter 2504. Some provisions of this division are minimum standards required by federal law (40 CFR Part 258, Subpart G), and waivers to such provisions shall not be granted unless they are as protective as the applicable minimum federal standard.

These rules are intended to implement Iowa Code sections 455B.304(8) and 455B.306(9).

ITEM 2. Rescind and reserve **567—Chapter 106**.

ITEM 3. Rescind and reserve **567—Chapter 113**.

ITEM 4. Rescind and reserve **567—Chapter 114**.

ITEM 5. Rescind and reserve **567—Chapter 115**.

[Filed 7/24/26, effective 9/23/26]
[Published 8/19/26]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

# ARC 0483D

# ENVIRONMENTAL PROTECTION COMMISSION[567]

**Adopted and Filed**

**Rulemaking related to management of solid waste through means other than sanitary disposal projects**

The Environmental Protection Commission (Commission) hereby rescinds Chapter 102, "Permits and Rules of Practice"; adopts a new Chapter 102, "Solid Waste Management"; and rescinds Chapter 108, "Beneficial Use Determinations: Solid By-Products as Resources and Alternative Cover Material," Chapter 116, "Registration of Waste Tire Haulers," Chapter 117, "Waste Tire Management," Chapter 118, "Discarded Appliance Demanufacturing," Chapter 120, "Landfarming of Petroleum Contaminated Soil," Chapter 121, "Land Application of Wastes," and Chapter 122, "Cathode Ray Tube Recycling," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code sections 455B.173, 455B.304, 455B.383, 455D.6, 455D.9, 455D.11 and 455D.11I.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 9 and 455D and sections 455B.173, 455B.301A, 455B.304, 455B.383, 455D.6, 455D.11 to 455D.11B and 455D.11I.

*Purpose and Summary*

Prior Chapters 105, 108, 109, 116, 117, 118, 120, 121, and 122 were reviewed consistent with Executive Order 10 (2023). New Chapter 102 consolidates these nine chapters related to the management of solid waste through means other than sanitary disposal projects. No new programs are being adopted. All content from the original chapters was reviewed consistent with Executive Order 10 and has been revised for clarity. Obsolete, redundant, or unneeded language was removed. The new chapter will contain eight divisions, with summaries and purposes as follows:

**Division I—Organic Materials Compost Facilities**: This repromulgation of current 567—Chapter 105 ensures that composting is done in a way that produces a usable final product, does not cause a nuisance for neighbors, and prevents contamination to surface and ground water. This new division provides a tiered approach to composting, based on both volume and type of material being composted. This allows some smaller compost facilities that currently have an individual permit to instead operate under a permit-by-rule. It also allows some compost facilities to accept limited amounts of food waste that they are currently unable to accept. The provisions related to the composting of dead animals have been removed, except to the extent necessary to ensure the Department of Natural Resources retains regulatory oversight over the composting of other organic matter.

**Division II—Land Application of Waste**: This repromulgation of current 567—Chapter 121 allows for industrial sludge and certain solid wastes to be applied to farmland as a means of disposal. The revised division provides clarity and omits unneeded language.

**Division III—Landfarming of Petroleum Contaminated Soil**: This repromulgation of current 567—Chapter 120 establishes rules for the safe and effective remediation and disposal of petroleum contaminated soil (PCS) through landfarming.

**Division IV—Beneficial Use**: This repromulgation of current 567—Chapter 108 encourages the use of solid by-products when such utilization improves, or at a minimum does not adversely affect, human health and the environment. Regulations for solid by-products utilized in the manufacture of a commercial product have not been repromulgated since they are considered a raw commodity used in a manufacturing process for which the Commission has no regulatory oversight.

**Division V—Waste Tire Management**: This repromulgation of current 567—Chapters 116 and 117 establishes guidelines for the proper management of waste tires, including collection, hauling, storage, processing, disposal, and beneficial reuse of waste tires and processed waste tire materials.

**Division VI—Special Waste Authorizations**: This repromulgation of current 567—Chapter 109 provides safe and proper management for disposal of wastes that present a threat to human health or the environment or waste with inherent properties that make the disposal of the waste in a municipal solid waste landfill difficult to manage.

**Division VII—Discarded Appliance Demanufacturing**: This repromulgation of current 567—Chapter 118 ensures that hazardous materials found in appliances are managed in a way that protects human health and the environment when the appliances are recycled or discarded.

**Division VIII—Cathode Ray Tube Recycling**: This repromulgation of current 567—Chapter 122 implements rules for the recycling of discarded cathode ray tubes (CRTs) and the disassembly and removal of toxic parts from discarded CRTs in a manner that is safe for human health and the environment.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 7, 2026, as **ARC 9926C**. An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on June 10, 2026, as **ARC 0356D**. A public hearing was held on the following date(s):

- June 30, 2026
- July 1, 2026

Comments were provided by two people representing four organizations. The comments received related to improving clarity of the rules regarding the composting of dead animals and manure, specifically to avoid statutory and regulatory conflicts and overlapping authorities with other regulatory programs and State agencies. No other public comments were received.

Minor wording changes were made to provide clarity in these areas.

*Adoption of Rulemaking*

This rulemaking was adopted by the Commission on July 21, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to Iowa Code section 17A.9A and 7—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting.

The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on September 23, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind 567—Chapter 102 and adopt the following **new** chapter in lieu thereof:

# CHAPTER 102
# SOLID WASTE MANAGEMENT

## DIVISION I
## ORGANIC MATERIALS COMPOSTING FACILITIES

**567—102.1(455D) Applicability; compliance.** This division shall apply to the composting of organic material, including yard wastes. Composting facilities may include turned windrows, aerated static piles, aerated in-vessel systems, or other methods approved by the department. This division does not apply to manure composted under 567—Chapter 65 or other provisions of Iowa law, dead animals and raw rendering material disposed under the authority of the department of agriculture and land stewardship (IDALS), materials managed under Iowa Code chapter 200A (bulk dry animal nutrient products), or to the sale or distribution of finished compost covered in Iowa Code chapter 200.

**102.1(1)** Compliance with this division in no way relieves the compost facility of the responsibility of complying with all other local, state, or federal statutes, ordinances, and rules and other applicable requirements.

**102.1(2)** For purposes of this division, tonnages may be calculated by multiplying cubic yardage by bulk density.

**102.1(3)** All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—102.2(455D) Definitions incorporated by reference.** The definitions in Iowa Code sections 455B.301 and 455D.9 and in 567—Chapter 100 shall apply to Division I of this chapter.

**567—102.3(455D) Feedstock categories.** Compost feedstock are categorized as follows.

**102.3(1)** *Type A feedstocks.* Type A feedstocks include yard waste, clean wood waste, crop residues, and other vegetative materials determined to pose a low level of risk to human health and the environment, including from physical contaminants and human pathogens.

**102.3(2)** *Type B feedstocks.* Type B feedstocks include source-separated pre- and postconsumer food residuals; food processing residuals; dead animals; raw rendering material; certified compostable products; and animal excreta, manure, animal bedding and litter not regulated under 567—Chapter 65 or other provisions of Iowa law. Type B feedstocks are materials that the department determines pose a moderate level of risk to human health and the environment or have a higher level of risk from physical contaminants and human pathogens compared to Type A feedstocks.

**102.3(3)** *Type C feedstocks.* Type C feedstocks include industrial process waste, sludges, biosolids, diapers, solid or semi-solid material from composting toilets, and industrial by-products not covered in Type B feedstocks. Type C feedstocks consist of materials the department determines pose a higher level of risk to human health and the environment from physical and chemical contaminants and human pathogens compared to Type A and B feedstocks.

**102.3(4)** *Materials prohibited from use as a feedstock.* Materials prohibited from use as a feedstock include asbestos-containing material, biomedical wastes, infectious waste, human remains, petroleum-containing wastes, seed treated with pesticide and industrial waste derived from seed treated with pesticides, toxic wastes as defined in 567—109.3(455B,455D), radiological wastes, hazardous wastes as defined in Iowa Code section 455B.411, materials containing metals that exceed the concentrations listed in 102.9(5)*"b,"* and materials that have direct process stream contact with or originate from a process that may release petroleum products, organic solvents, pesticides, or polychlorinated biphenyls (PCBs).

**567—102.4(455D) Exemptions.** The following activities are exempt from this division. These exemptions are not a defense to a nuisance action brought pursuant to Iowa Code chapter 657.

**102.4(1)** Type A or Type B, or both, feedstocks from a single household composted on site by the owner or tenant for use at the owner's or tenant's residence.

**102.4(2)** Composting of up to two tons per year of Type A feedstock or Type B feedstock, or both, excluding dead animals, singly or in combination, used on the same premises where it was composted. The feedstock may be generated off premises.

**102.4(3)** Composting of manure that is subject to 567—Chapter 65 and other provisions of Iowa law, unless mixed with wastes regulated pursuant to this chapter other than necessary bulking agents (such as wood chips, straw, cornstalks, bedding, and dry poultry litter).

**102.4(4)** Composting of dead animals, unless mixed with wastes regulated pursuant to this chapter other than necessary bulking agents (such as wood chips, straw, cornstalks, bedding, and dry poultry litter).

**567—102.5(455D) General requirements for all composting activities not exempt.** Any composting facility that is not exempt under 567—102.4(455D) must comply with the following provisions.

**102.5(1)** *Siting requirements.*

*a.* The composting facility shall be located:

(1) At least 500 feet from any existing inhabited residence, not including the residence of a person owning or operating the compost facility, at the time the permit application was received by the department.

(2) At least 200 feet from public wells.

(3) At least 100 feet from private wells.

(4) At least 50 feet from property lines.

(5) At least 100 feet from flowing or intermittent streams, lakes, or ponds.

(6) Outside of wetlands.

*b.* Composting done within a 100-year floodplain shall be in accordance with all local and department regulations, including 567—71.5(455B). Sediment ponds, engineered wetlands, or other constructed waterways for the purpose of pollution control are excluded from this subrule.

**102.5(2)** *Design requirements.*

*a.* Water shall be prevented from running onto the composting facility from adjacent land.

*b.* Management or disposal of contact water and stormwater shall be in accordance with 567—Chapter 60 if applicable.

*c.* Composting facilities shall be designed, constructed, and maintained so as to minimize ponding of water or liquids. Any ponding that does occur shall be corrected through routine facility maintenance within 48 hours after the termination of the event causing the ponding.

*d.* Composting not done in-vessel shall be done on a surface that will permit accessibility during periods of inclement weather. The receiving, processing, production, and curing shall take place on a surface of asphalt, concrete, compacted granular aggregate, clay, or similar relatively impermeable material. Composting facilities that only compost Type A feedstocks may have a surface of compacted soil. The surface must be maintained in a condition that prevents infiltration to the groundwater.

*e.* In-vessel composting shall be done in a container that does not leak, prevents access by vectors, and provides adequate aeration.

*f.* With the exception of in-vessel composting, the high-water table shall be at least 12 inches below the ground surface.

**102.5(3)** *Operational requirements.* Composting facilities shall be operated as follows.

*a.* Aerobic conditions shall be maintained.

*b.* Composting facilities shall be free of unsecured trash at the end of each operating day.

*c.* Non-compostable waste shall be removed or stored in a container or containment area and recycled or disposed of at a permitted sanitary disposal project.

*d.* Organic materials shall be managed to minimize odors, dust, noise, litter, contact water, fire and scavenging by vectors.

*e.* Composting shall be performed in a manner that minimizes the formation of contact water.

*f.* Storage of cured compost shall be limited to 18 months unless prior written approval from the department is granted for an extension.

*g.* Compost shall not be applied to land, sold, or given away unless all of the following conditions are met:

(1) Concentration of human-made inert materials such as glass, metal, and plastic is less than 1.5 percent by dry weight,

(2) The size of any human-made inert materials is less than 13 mm (0.512 inches).

*h.* Finished compost that contains bones that have not fully decomposed may be applied to cropland.

**567—102.6(455D) Tier 1 composting facility.** A Tier 1 facility is a compost facility that composts an unlimited amount of Type A, Type B, or both feedstocks generated on the premises and up to a total of 250 tons per year of Type A, Type B, or both feedstocks generated off site.

**567—102.7(455D) Tier 2 composting facility.** A Tier 2 facility is a compost facility that composts an unlimited amount of Type A feedstock generated on premises, off premises, or both; an unlimited amount of Type B feedstocks generated on the premises; and up to 250 tons per year of Type B feedstocks generated off the premises. Tier 2 facilities are subject to the following provisions.

**102.7(1)** Before the composting facility commences operation, the facility's operator must notify the department in writing of the following:

*a.* The location of the composting facility.

*b.* The legal description of the property that contains the facility.

*c.* The landowner's name, telephone number, email and mailing address.

*d.* The name, telephone number, and email and mailing addresses of the facility's operator and responsible official.

*e.* The maximum throughput and capacity of the facility.

*f.* The method of composting to be employed at the facility.

*g.* The source of the feedstock.

*h.* Aerial photography identifying wells, streams, creeks, rivers, ponds, sinkholes, and drainage wells within one-half mile of the closest portion of the facility.

**102.7(2)** The facility's feedstock receiving, processing, and storage areas must be clearly defined.

**102.7(3)** An annual report for the previous fiscal year beginning July 1 and ending June 30 shall be submitted to the department by July 31 of each year. The annual report shall be submitted using a form prescribed by the department. The report shall include:

*a.* Confirm that the amount and type of feedstock accepted was within the criteria for a Tier 2 facility.

*b.* Method of composting used.

*c.* Tons of finished compost sold, given away, or used by the permit holder.

*d.* Name of certified operator.

**102.7(4)** Beginning September 23, 2027, the person responsible for daily operations shall be a certified compost operator as described in 567—102.11(455D).

**567—102.8(455D) Tier 3 composting facilities.** A Tier 3 composting facility is a compost facility that composts an unlimited amount of Type A feedstock generated on or off the premises, an unlimited amount of type B feedstock generated on the premises, and up to 1,000 tons per year type B feedstock generated off premises. Tier 3 facilities shall comply with the following provisions.

**102.8(1)** *Notification.* Before the composting facility commences operation, the department shall be notified in writing of the following.

*a.* The location of the composting facility.

*b.* Legal description of the facility.

*c.* Landowner's name, telephone number, email, and mailing address.

*d.* Responsible party's name, telephone number, email, and mailing address.

*e.* Maximum throughput and capacity.

*f.* Method of composting to be employed.

*g.* Source of the feedstock.

*h.* Aerial photograph identifying wells, streams, creeks, rivers, ponds, sinkholes, and drainage wells within one-half mile of the closest portion of the facility.

**102.8(2)** *Operational requirements.* In addition to the operational requirements in 102.5(4), Tier 3 composting facilities shall meet the following operational standards:

*a.* Tier 3 composting facilities must develop and follow an operations plan that describes operational procedures. This includes the method of composting; measures to control nuisance odors, vectors, fires, contact water, and stormwater; and plans for using or marketing finished compost. The operations plan must be reviewed annually and updated when there is a change to procedures, equipment, or feedstocks being processed. The operations plan shall be available to the department upon request.

*b.* The person responsible for daily operation of the facility shall be certified by a department-approved training program.

*c.* Feedstocks with free liquid shall be mixed with drier feedstocks, bulking material, or compost so that the liquid is promptly absorbed and not allowed to flow as free liquid from the compost piles or windrows. Free liquid that is not absorbed shall be managed as contact water.

*d.* Contact water shall be directed to a containment, recycling, treatment system, or any combination of the three.

*e.* By the end of each operating day, all incoming Type B feedstocks must be processed into the active composting pile, transferred to leak-proof containment, or mixed with bulking material and covered in a manner that minimizes nuisance odors and scavenging by vectors.

*f.* Beginning September 23, 2027, the person responsible for daily operations shall be a certified compost operator as described in 567—102.11(455D).

**102.8(3)** *Reporting.* An annual report for the previous fiscal year beginning July 1 and ending June 30 shall be submitted to the department by July 31 of each year. The report shall be submitted using a form prescribed by the department. The report shall include:

*a.* Confirmation that the amount and type of feedstock accepted was within the criteria for a Tier 3 facility.

*b.* Method of composting used.

*c.* Tons of finished compost sold, given away or used by the permit holder.

*d.* Name of certified operator.

**567—102.9(455D) Tier 4 composting facility.** A Tier 4 composting facility is a compost facility that composts any amount of Type A, B, and C feedstock. Tier 4 facilities shall comply with the provisions of this rule.

**102.9(1)** *Permit required.* Tier 4 composting facilities shall not be operated without a permit from the department as described in 567—subrule 100.4(2). A permit application shall be on a form prescribed by the department and include the following in addition to the requirements in 567—subrule 100.5(1):

*a.* Aerial photography identifying wells, streams, creeks, rivers, ponds, sinkholes, and drainage wells within one-half mile of the closest portion of the facility.

*b.* Design documents prepared by an Iowa-licensed professional engineer that include the following:

(1) Dimensions, details, and capacities of the proposed receiving, processing, production, curing, and storage areas, as well as the contact water containment, recycling, or treatment system.

(2) Design calculations justifying the size of the composting area for the volume of material to be composted.

(3) Design plans showing compliance with design requirements in 102.9(3).

*c.* A stormwater management plan that prevents run-on to the operating base, as well as controls outside of the operating base for a 25-year 24-hour storm event.

*d.* A flow diagram of all steps in the operational procedure.

*e.* An operations plan addressing the following:

(1) The method of composting, including description of the aeration method and the aeration frequency to be used to maintain aerobic conditions.

(2) The duration of composting with a time frame for receiving, processing, production, curing, and storage.

(3) A description of storage of feedstock, including quantity and types.

(4) A description of the methods to minimize and manage odors, dust, vectors, noise, and litter.

(5) A description of the specific procedures to be followed in case of equipment breakdown, maintenance downtime, and fire in equipment, composting material, or buildings, including methods to be used to remove or dispose of accumulated waste and burned or damaged material.

(6) Plans for using or marketing the finished compost.

(7) The method(s) of managing collected contact water.

(8) The method(s) of maintaining contact water management systems to maintain design volume.

(9) The description of the monitoring, sampling, and analysis procedures and schedule for testing the composting, including sampling frequency, sample size and number, and sample locations.

*f.* A closure plan containing a description of the steps necessary to close the facility in compliance with 567—100.10(455B, 455D).

*g.* Documentation that the person responsible for daily operation of the facility is certified by a department-approved program.

**102.9(2)** *Design requirements.* In addition to the requirements of 102.5(2), Tier 4 composting facilities shall comply with the following.

*a.* All operations shall take place on a foundation that will permit accessibility during periods of inclement weather. The foundation shall be maintained and repaired, as needed.

*b.* A base/foundation used for receiving, processing, and production of feedstock must meet the following minimum design standards.

(1) The base must support the load of the equipment, vehicles, materials, and all operations for the duration of the permit period.

(2) The base must have sufficient slope to prevent surface ponding and to transmit contact water to a containment structure to prevent liquids from entering surface water or groundwater.

(3) The base must be protected with a wearing surface consisting of asphalt, concrete, compacted granular aggregate, or similar relatively impermeable material and underlain by a liner consisting of a minimum of 12 inches of recompacted clay or other approved material with a hydraulic conductivity of $1 \times 10^{-5}$ cm/sec or less. The bottom of the liner shall be at least 12 inches above the high-water table.

*c.* The containment structure for contact water shall include a liner system consisting of a minimum of 12 inches of recompacted clay or other approved material with a hydraulic conductivity of $1 \times 10^{-7}$ cm/sec or less. The bottom of the liner shall be at least five feet above the high-water table.

*d.* The design of the facility shall include specifications for documentation of quality control and assurance that the construction meets the minimum design standards.

*e.* Composting facilities permitted by the department prior to September 23, 2026, shall submit a compliance plan on or before September 23, 2027, that includes a schedule to verify compliance or obtain compliance with this subrule no later than September 23, 2031.

*f.* The department may approve alternatives to these design requirements that provides the same level of environmental protection.

**102.9(3)** *Operating requirements.* In addition, the requirements of 567—102.4(455D), Tier 4 composting facilities shall comply with the following.

*a.* Access to the facility shall be limited as follows.

(1) Access to the facility shall be restricted with a lockable gate at the entrance to the facility and perimeter access controlled by a fence or natural barrier approved by the department.

(2) Access to the facility shall be allowed only when an employee, agent, or representative of the facility is on duty.

(3) Emergency access to the facility shall be provided. Fire lanes shall be maintained to provide access for firefighting equipment.

*b.* All putrescible materials received must be incorporated into the composting process within 24 hours of receipt, unless storage of these materials is specified in the operations plan and authorized in the permit.

*c.* Compost processing time and temperatures shall meet Process to Further Reduce Pathogens (PFRP) requirements in B.1 of 40 CFR Part 503, Appendix B, and produce compost that meets the stability necessary for the intended use. Unless otherwise proposed in the operating plan and authorized in the permit, the permit holder shall test, at a minimum:

(1) Twice weekly temperature readings of compost piles, batches, and windrows.

(2) Weekly moisture levels of compost piles, batches, and windrows.

*d.* Contact water shall be directed to a containment, recycling, or treatment system that prevents prohibited discharges to the stormwater system or a surface water. A containment system shall have a minimum of one foot of freeboard at all times.

*e.* The person responsible for daily operations shall be a certified compost operator as described in 567—102.11(455D). The department may require as a condition in the permit that a facility retain a certified compost operator during all regular operational hours.

*f.* A visual inspection of the facility shall be conducted and documented on a quarterly basis at a minimum. If deficiencies are discovered during the visual inspection, actions taken to correct the deficiency shall be documented. The inspection shall at a minimum include the following.

(1) The condition of the pad. Portions of the pad that are under windrows or piles of curing or finished compost are not required to be inspected.

(2) Verification that ponding is not occurring on the pad.

(3) Verification that contact water is being directed to a containment, recycling, or treatment system and not discharging to the stormwater system or to surface water.

(4) The remaining capacity, amount of freeboard, and general condition of the contact water basin.

(5) The condition of containers and aeration equipment used for in-vessel composting if applicable.

**102.9(4)** *Product testing.* Prior to the use or sale, finished compost must be sampled and measurements taken for the purpose of product testing in a manner that is representative of the composting activity and consistent with Test Methods for Examination of Composting and Compost (TMECC) (2026) or other applicable standards approved by the department in the permit. Contaminants within finished compost must comply with the following:

*a.* The density of fecal coliform bacteria shall be less than 1,000 most probable number (MPN) per gram of total solids (dry weight basis) or the density of Salmonella sp. bacteria in compost shall be less than three MPN per four grams of total solids (dry weight basis).

*b.* The concentrations of all metals shall be less than the following:

| Metal | Concentration mg/kg dry weight |
|---|---|
| Arsenic (As) | 41 |
| Cadmium (Cd) | 39 |

| Metal | Concentration mg/kg dry weight |
|---|---|
| Copper (Cu) | 1500 |
| Lead (Pb) | 300 |
| Mercury (Hg) | 17 |
| Nickel (Ni) | 420 |
| Selenium (Se) | 100 |
| Zinc (Zn) | 2800 |

*c.* Compost shall be tested for stability using one of the methods listed in TMECC 5.08 (2026), Respirometry, or another method approved by the department in the permit.

**102.9(5)** *Recordkeeping requirements.* The following records shall be maintained by the facility for a period of three years, kept at the facility at all times, and submitted to the department upon request:

*a.* Analytical results described in 102.9(5).

*b.* Types and weight of compostable materials and bulking agent, in tons, accepted at the facility annually.

*c.* Weight of compost, in tons, removed from the facility annually.

*d.* A copy of the operations plan, the permit and annual reports.

*e.* Documentation of the volumes and dates of treatment, recycling, or disposal of unused contact water.

*f.* Documentation of visual inspections conducted pursuant to 102.9(4)*"f."*

**102.9(6)** *Reporting requirements.* An annual report for the previous fiscal year beginning July 1 and ending June 30 shall be submitted to the department by July 31 of each year. The report shall be submitted using a form prescribed by the department and include the following:

*a.* Tons of type A feedstock received.

*b.* Tons of type B feedstock received.

*c.* Tons of type C feedstock received.

*d.* Tons of finished compost sold, given away or used by permit holder.

*e.* Method of composting.

*f.* Name of certified operator.

*g.* Copy of the most recent results of the testing required in 102.9(4).

**102.9(7)** *Closure requirements.*

*a.* A schedule to implement the closure plan in 102.9(2)*"f"* shall be submitted to the department at least 30 days prior to the proposed termination date for the facility. If needed, a request to modify the closure plan may be submitted at the same time.

*b.* Unless an alternative schedule is approved by the department, within six months of the facility's ceasing operation, the facility shall properly dispose of all organic material, solid waste, and litter and remove all finished compost from the premises.

**567—102.10(455D) Financial assurance.** Tier 4 composting facilities must obtain and submit a financial assurance instrument to the department. The financial assurance instrument shall provide monetary funds to properly dispose of any preprocessed and postprocessed materials that remain at a facility due to the owner's or operator's failure to properly close the site according to the schedule approved be the department in 102.9(9)*"a"* or within six months of permit suspension, termination, revocation, or expiration if no alternative schedule is approved.

**102.10(1)** *No permit without financial assurance.* The department shall not issue or renew a permit to an owner or operator until a financial assurance instrument has been submitted to and approved by the department.

**102.10(2)** *Proof of compliance.* Proof of the establishment of the financial assurance instrument and compliance with this rule, including a current closure cost estimate, shall be submitted to the department at the time of application for a permit for a new composting facility. The owner or operator must provide continuous coverage for closure and submit proof of compliance, including an updated closure cost estimate, with each permit renewal until released from this requirement by the department.

**102.10(3)** *Use of one financial assurance instrument for multiple permitted activities.* Composting facilities required to maintain financial assurance pursuant to any other provisions of 567—Chapters 100 through 102 may satisfy the requirements of this rule by the use of one financial assurance instrument listed in 102.10(5).

**102.10(4)** *Financial assurance amounts required.* The estimate submitted to the department must be certified by an Iowa-licensed professional engineer and must account for at least the following factors determined by the department to be minimal necessary costs for closure:

*a.* Transportation costs, which include the cost to load the material, and total tip fees to properly dispose of the maximum tonnage of received materials that could be managed and stockpiled by the compost facility. Also included shall be the costs of properly removing any wastewater held at the facility.

*b.* The costs for maintaining financial assurance pursuant to any other provisions of 567—Chapters 100 through 123, if any, in accordance with 102.10(3).

**102.10(5)** *Acceptable financial assurance instruments.* The financial assurance instrument shall be established in an amount equal to the cost estimate prepared in accordance with 102.10(4) and shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department. The language of the financial assurance instrument shall meet the criteria in 567—subrule 101.708(3). Financial assurance shall be provided by one of the following options:

*a.* Trust fund pursuant to 567—subrule 101.707(1).

*b.* Surety bond, pursuant to 567—subrule 101.707(2).

*c.* Letter of credit, pursuant to 567—subrule 101.707(3).

*d.* Corporate guarantee pursuant to 567—subrule 101.707(7).

*e.* Local government guarantee pursuant to 567—subrule 101.707(8).

*f.* Local government dedicated fund pursuant to 567—subrule 101.707(9).

**567—102.11(455D) Compost operator certification.**

**102.11(1)** *General requirements.* To become a certified compost facility operator, an individual shall complete a compost operator training course that has been approved by the department, then apply for certification by the department. An operator certified by another state may have reciprocity subject to approval by the department.

**102.11(2)** *Course approval.* To be approved by the department, an operator training course for a certified compost facility operator must have at least 24 contact hours and must address the following areas at a minimum:

*a.* Basic principles of composting and decomposition.

*b.* Composting methods.

*c.* Site design and equipment.

*d.* Characteristics of various types of feedstocks and recipe development.

*e.* Construction of windrows or piles.

*f.* Monitoring and troubleshooting.

*g.* Uses and markets for compost.

*h.* Applicable laws and regulations.

**102.11(3)** *Form.* Applications for certification shall be made on a form prescribed by the department.

**102.11(4)** *Duration and renewal of certification.* The department shall issue all compost operator certifications on a three-year cycle. This rule shall take effect relative solely to certifications on July 1, 2026, and a new cycle shall start at that time. The department may issue a certification at any time during a three-year cycle. Certificates are valid through the expiration date listed on the certification, which shall be the end of the most current cycle.

*a.* An application for renewal is due prior to expiration of certification. If a certificate holder fails to apply for renewal within 30 days following expiration of the certificate, the applicant must then apply for a new certification in accordance with 102.11(1).

*b.* To renew a certification, a certified operator must earn eight contact hours during each three-year period, except that a first-time certified operator is not required to earn contact hours prior to the first renewal of the certification. The certificates of operators not fulfilling the continuing education requirements will be void 30 days after the expiration date.

*c.* All activities for which contact hours will be granted must be related to compost and pre-approved by the department.

*d.* The certified operator is responsible for submitting an application for renewal that includes documentation of the contact hours completed during the renewal period.

*e.* The department may, in individual cases involving hardship or extenuating circumstances, grant an extension of time of up to three months within which the applicant may fulfill the contact hour requirements. Hardship or extenuating circumstances include documented health-related confinement or other circumstances beyond the control of the certified operator that prevent attendance at the required activities. All requests for extensions must be made prior to expiration of certification.

*f.* The deadline to apply for renewal and to fulfill continuing education requirements under this rule shall automatically be extended a length of time equal to any period in which the operator served honorably on active duty in military service within the three-year renewal cycle.

**567—102.12(455D) Temporary operation without a certified operator.** Notwithstanding any other provision of these rules, the department in its sole discretion may authorize, in writing, a facility to temporarily operate without a certified operator for a period of six months when a certified operator is no longer available to the facility. The facility must make a request in writing to the department, explaining why a temporary authorization is needed and identify the efforts that will be made to obtain a certified operator.

**567—102.13** to **102.99** Reserved.

These rules are intended to implement Iowa Code section 455D.9.

DIVISION II
LAND APPLICATION OF WASTE

**567—102.100(455B,17A) Purpose; applicability; compliance.** This division shall apply to the land application of solid waste and industrial sludge, except as follows. It does not apply to sewage or other wastewater regulated by 567—Chapters 60 through 63, domestic septage, sewage sludge, animal manure, animal bedding, crop residue, waste registered as a fertilizer or soil conditioner with IDALS, waste registered as a liming agent with IDALS, or finished compost.

**567—102.101(455B) Definitions.** The definitions in Iowa Code section 455B.301 and 567—Chapter 100 shall apply to this division.

**567—102.102(455B) Land application of water supply sludge.**

**102.102(1)** Sludges generated from water supply treatment may be applied to lawns, gardens, flower beds, or similar areas associated with residential use and crops that may be consumed by humans without prior heating or processing that are commonly available to the public in raw form (e.g., sweet corn, lettuce, carrots, asparagus, squash).

**102.102(2)** Land application of sludges generated from water supply treatment are exempt from the remainder of this division.

**567—102.103(455B) Waste eligible for land application.** Material must conform with the following to land applied pursuant to this division.

**102.103(1)** The material must either meet the definition of solid waste or be a sludge resulting from commercial or industrial wastewater treatment, water supply treatment, or air pollution control facility.

**102.103(2)** The waste shall not contain constituents in excess of the levels specified below measured on a dry weight basis.

| Constituents | Levels | Cumulative Loading Rate | |
|---|---|---|---|
| Arsenic | 41 mg/kg | 41 kg/ha | 36 lb/ac |
| Cadmium | 39 mg/kg | 39 kg/ha | 34 lb/ac |
| Chromium | 1200 mg/kg | 3000 kg/ha | 2670 lb/ac |
| Copper | 1500 mg/kg | 1500 kg/ha | 1335 lb/ac |
| Lead | 300 mg/kg | 300 kg/ha | 267 lb/ac |
| Mercury | 17 mg/kg | 17 kg/ha | 15 lb/ac |
| Molybdenum | 75 mg/kg | 75 kg/ha | 66 lb/ac |
| Nickel | 420 mg/kg | 420 kg/ha | 373 lb/ac |
| Selenium | 36 mg/kg | 100 kg/ha | 89 lb/ac |
| Zinc | 2800 mg/kg | 2800 kg/ha | 2490 lb/ac |

**102.103(3)** If the waste has other toxic constituents, the toxic constituents shall not be in excess of levels where there is a threat to human, animal, or plant life as determined by the department.

**102.103(4)** The waste does not have a sodium absorption ratio in excess of levels where there is a threat to plant life. If high sodium absorption ratios are suspected, analytical testing may be required.

**102.103(5)** If the waste contains pathogens, the waste must be treated to reduce pathogen content by methods specified in 567—Chapter 67 prior to land application.

**102.103(6)** The waste shall not have direct process stream contact with or originate from a process that may release the following organic compounds.

*a.* Petroleum products,

*b.* Organic solvents,

*c.* Pesticides,

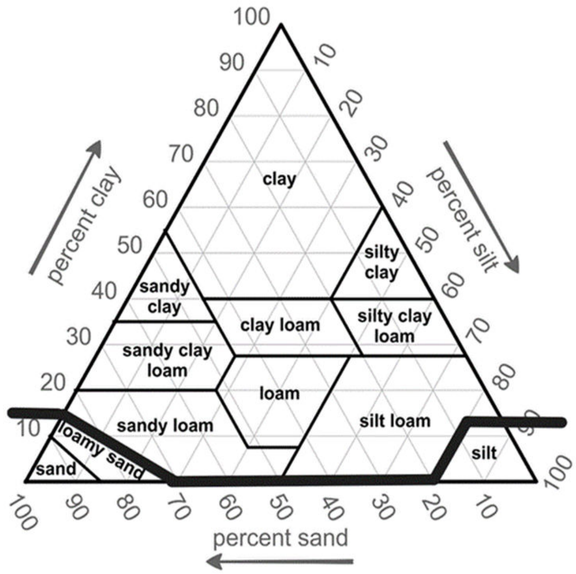
*d.* Pharmaceuticals,

*e.* Polychlorinated biphenyls (PCBs).

**102.103(7)** The waste assimilates and would not be readily present in a visual analysis of a random sample collected two years following application.

**567—102.104(455B) Application site restrictions.**

**102.104(1)** The waste shall not be applied to soils classified as sand, loamy sand, or silt on the United States Department of Agriculture (USDA) textural classification chart, 1951 Soil Survey Manual, USDA Handbook No. 18.




USDA textural classification chart. Sand size particles, 2-0.05 mm;
silt-sized particles, 0.05-.002 mm; and clay sized particles, less than .002 mm.

**102.104(2)** Land application sites shall have soil pH maintained above 6.0 unless otherwise specified in a permit. If the soil pH is below these levels, it is acceptable to use agricultural lime to increase the pH to an acceptable level prior to land application of sludge.

**102.104(3)** The waste shall not be applied to ground having greater than 9 percent slope unless specific permit conditions specify otherwise.

**102.104(4)** If the waste is applied to land subject to flooding more frequently than once in ten years, the waste shall be injected or shall be applied to the surface and mechanically incorporated into the soil within 48 hours.

**102.104(5)** Application on frozen or snow-covered ground shall be limited to areas of less than 5 percent slope unless specific permit conditions specify otherwise.

**102.104(6)** Waste shall not be applied within 200 feet of an occupied residence nor within 500 feet of a well that is part of a public water supply, as defined in 567—subrule 40.2(1), or 200 feet of all other wells.

**102.104(7)** Waste shall not be applied to land used for growing crops that may be consumed by humans without prior heating or processing or those that are commonly available to the public in raw form unless crops grown on the land are not harvested for at least 14 months following land application.

**102.104(8)** A site shall not be used for land application of waste from more than one generator in the same growing season or for a spring land application after land application the previous fall.

**567—102.105(455B) Operating requirements.** All land application projects shall be operated as follows.

**102.105(1)** If solid waste is applied within 200 feet of a stream, lake, sinkhole, or tile line surface intake located downgradient of the land application site, it shall be injected or applied to the surface and mechanically incorporated into the soil within 48 hours of application.

**102.105(2)** If waste is applied to land where crops being grown will be grazed by or fed to livestock within two months of waste application, or where cereal grains will be harvested within two months of waste application, the waste shall be injected or shall be applied to the surface and mechanically incorporated into the soil unless specific permit conditions specify otherwise. The general public shall not be given access to the disposal site during waste disposal and for a minimum of two months after waste disposal operations have ceased.

**102.105(3)** If the waste is putrescible, it shall be injected or mechanically incorporated within 24 hours or otherwise managed to prevent runoff and odor problems.

**102.105(4)** Land application shall not take place during or immediately preceding expected rains or other occasions when runoff may result unless subsurface injection methods are utilized. Additionally, land application shall not take place during periods of high groundwater conditions or during flooding.

**102.105(5)** The application of nitrogen available from the waste and any other sources shall not exceed the acceptable agronomic application rates for the vegetation to be grown on the site over the next year. The total application of phosphorus and potassium shall not exceed the acceptable agronomic application rates for the site and crops involved.

**102.105(6)** Waste may be staged prior to application at the application site pursuant to the following.

*a.* Putrescible waste shall not be staged for more than 48 hours.

*b.* Non-putrescible waste shall not be staged for longer than two weeks.

*c.* Waste shall not be staged within 200 feet of an occupied residence nor within 500 feet of a well that is part of a public water supply, as defined in 567—subrule 40.2(1), or 200 feet of all other wells.

*d.* The waste shall not be staged on soils classified as sand, loamy sand, or silt on the USDA textural classification chart shown in 102.104(6).

*e.* Runoff from the waste must be controlled at all times.

*f.* If weather or extenuating circumstances prevent application from taking place, the generator must notify the department.

**102.105(7)** When waste is supplied to other persons for land application, the generating facility shall do the following:

*a.* Inform the recipient of the applicable requirements of the waste disposal program.

*b.* If the generating facility determines that the recipient is not complying with applicable requirements of the waste disposal program or the land application criteria, the generating facility shall work with the recipient to obtain compliance with the requirements. If subsequent compliance cannot be achieved, the generating facility shall not supply additional waste to the person.

*c.* Inform all persons involved in waste disposal operations of the potential health hazards associated with waste disposal, including informing them of the cautions and recommended practices that should be followed to minimize these hazards.

**102.105(8)** The generator shall maintain records of the following:

*a.* Analysis of waste to document compliance with 102.103(2).

*b.* Records of land application for each site, which shall be maintained for five years; be made available to the department upon request; and include dates of application, application rate, and quantity of waste applied.

**567—102.106(455B) General permit.** Land application of waste at a rate that does not exceed two dry tons per acre per year and that meets the requirements of 567—102.103(455B), 567—102.104(455B), and 567—102.105(455B) may be land applied in accordance with this rule.

**102.106(1)** The maximum application rate shall be reduced if analysis of the waste indicates that a two ton per acre per year rate would provide nutrient levels in excess of crop nutrient requirements or would provide heavy metals concentrations in the soil at levels that may be detrimental to crop production or hazardous to human health.

**102.106(2)** All material must be staged on ground eligible for land application.

**102.106(3)** Before the initial land application, the applicator must notify the department in writing. This notice shall contain the following:

*a.* The name and address of the generator of the waste.

*b.* Contact information for the responsible official.

*c.* A description of the waste including the process to generate it, chemical analyses showing compliance with 102.103(2), and any additional analysis that the department may require to adequately define the waste. Chemical analysis shall be done by a laboratory certified pursuant to 567—Chapter 83.

*d.* Quantities of waste to be land applied.

*e.* Application rate.

*f.* Legal description of the site.

*g.* An aerial photo with the site outlined and any areas ineligible for application marked off.

*h.* Number of acres eligible for land application at the site.

*i.* The landowner's name and contact information.

**567—102.107(455B) Permit.** Prior to any land application of solid waste not exempted in 567—102.102(455B) or 567—102.106(455B), a solid waste management permit pursuant to 567—subrule 100.4(2) must be obtained by the waste generator.

**102.107(1)** *Permit application.* In lieu of the permit application requirements in 567—subrule 100.5(1), all permit applications for land application shall include:

*a.* The name, address, email, and telephone number of:

(1) The permit applicant (generator of the waste).

(2) Official responsible for operation of the project.

(3) Agronomist affiliated with the project.

*b.* Type, source, and expected volume or weight of waste to be handled per day, week, and year.

*c.* Information on the source, quantity, and method of treatment of the waste prior to disposal.

*d.* Chemical analyses showing compliance with 102.103(2) and any additional analysis that the department may require to adequately define the waste. Chemical analysis shall be done by a laboratory certified pursuant to 567—Chapter 83.

*e.* A detailed description of the land application process to be used, including the method and rate of application, and information indicating how the operational requirements of 567—102.105(455B) will be met.

*f.* A table of all application sites that includes the name of the site, legal description, county, acres eligible for land application, and the name of the landowner.

*g.* For each land application site, the following:

(1) An aerial photograph of sufficient scale to show all homes, buildings, lakes, ponds, watercourses, wetlands, dry runs, roads, and other applicable details.

(2) A map or aerial photo showing all wells located within 500 feet of the site.

(3) A soil map.

(4) Water table levels of the site, including the frequency and duration of any expected high-water table or flooding.

(5) Proof of the applicant's ownership of the site or legal entitlement to use the site for the disposal of waste.

*h.* Other information as required by the department.

**102.107(2)** *Reporting requirements.*

*a.* A permit holder shall have a certified professional agronomist perform an annual inspection of all sites utilized in the previous year to ensure soil properties and constituents being applied are suitable and will not exceed agronomic rates for the crop that will be produced the following summer. The agronomist will review soil test results to ensure that the application of the waste will not cause buildup of nutrients in the soil. The results of this inspection shall be submitted to the department's main office by April 1 each year.

*b.* A permit holder shall submit an annual report summarizing the records required in 102.105(8)*"b"* to the department's main office on a form provided by the department. The report will be for July through June and is due by October 1 of each year.

*c.* Sampling and analyses of the permitted waste shall be performed and submitted to the department according to a schedule stipulated in the permit. At a minimum, an analysis shall be submitted with each permit renewal.

**102.107(3)** *Temporary storage.*

*a.* The permit may allow for storage of stabilized sludge and solid waste at application sites subject to the following conditions:

(1) Waste shall not be stored within 200 feet of an occupied residence nor within 500 feet of a well that is part of a public water supply, as defined in 567—subrule 40.2(1), or 200 feet of all other wells.

(2) The waste shall not be stored on soils classified as sand, loamy sand, or silt on the USDA textural classification chart shown in 102.104(6).

(3) Amount stored may not exceed the amount needed for the next application window for that site.

(4) All material stored must be land applied the next application season.

(5) If weather or extenuating circumstances prevent application from taking place, the applicant must notify the department.

(6) Runoff shall be controlled at all times.

(7) Financial assurance in accordance with 567—102.108(455B) has been obtained.

*b.* The permit may allow for storage of stabilized sludge and solid waste at a consolidation point subject to the following conditions:

(1) Waste shall not be stored within 200 feet of an occupied residence nor within 500 feet of a well that is part of a public water supply, as defined in 567—subrule 40.2(1), or 200 feet of all other wells.

(2) The storage surface shall be made of asphalt, concrete, compacted granular aggregate, clay, or similar relatively impermeable material.

(3) All material stored must be land applied the next application season.

(4) If weather or extenuating circumstances prevent application from taking place, the applicant must notify the department.

(5) Runoff from the waste shall be controlled at all times.

(6) Financial assurance in accordance with 567—102.108(455B) has been obtained.

**567—102.108(455B) Financial assurance.** The holder of a solid waste management permit for the land application of wastes that has received authorization to temporarily store waste at the application site(s) or a consolidation point must obtain and submit a financial assurance instrument to the department. The financial assurance instrument shall provide monetary funds for the purpose of properly disposing of or having a third-party land apply any stored wastes due to the permit holder's failure to properly land apply wastes in accordance with this division and the applicable permit provisions.

**102.108(1)** *Proof of compliance.* Proof of the establishment of the financial assurance instrument and compliance with this rule, including a current closure cost estimate, shall be submitted by at the time of application for a permit to land apply solid wastes. The owner or operator must provide continuous coverage for closure and submit proof of compliance, including an updated closure cost estimate, with each permit renewal thereafter until released from this requirement by the department.

**102.108(2)** *Financial assurance amounts required.* The estimate submitted to the department must be certified by a professional engineer and account for at least the following factors determined by the department to be minimal necessary costs for closure.

*a.* Third-party labor and transportation costs and total tip fees to properly dispose of all solid wastes equal to the maximum storage capacity of all approved storage areas, or

*b.* Third-party labor costs to land apply all solid wastes equal to the maximum storage capacity of all approved storage areas.

**102.108(3)** *Acceptable financial assurance instruments.* The financial assurance instrument shall be established in an amount equal to the cost estimate prepared in accordance with 102.10(4) and shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department. The language of the financial assurance instrument shall meet the criteria in 567—subrule 101.708(3). Financial assurance shall be provided by one of the following options.

*a.* Trust fund pursuant to 567—subrule 101.707(1).

*b.* Surety bond pursuant to 567—subrule 101.707(2).

*c.* Letter of credit pursuant to 567—subrule 101.707(3).

*d.* Corporate guarantee pursuant to 567—subrule 101.707(7).

**567—102.109** to **102.199** Reserved.

These rules are intended to implement Iowa Code sections 455B.173 and 455B.304.

DIVISION III
LANDFARMING OF PETROLEUM-CONTAMINATED SOIL

**567—102.200(455B) Purpose.** The purpose of this division is to establish rules for the safe and effective remediation and disposal of petroleum-contaminated soil (PCS) through landfarming.

**567—102.201(455B) Applicability; compliance.**

**102.201(1)** These rules apply to the landfarming of soils contaminated with biodegradable petroleum products including but not limited to gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof. All PCS landfarming activities in which three or more cubic yards of PCS are excavated shall comply with this division. Uncontaminated soil that is excavated during the removal of the PCS shall not be counted toward the three-cubic-yard applicability threshold.

**102.201(2)** These rules do not apply to PCS that is being disposed of at a sanitary landfill.

**102.201(3)** The issuance of a landfarm permit by the department in no way relieves the generator or permit holder of the responsibility of complying with all other local, state, or federal statutes, ordinances, and rules and other applicable requirements.

**102.201(4)** These rules do not apply to hazardous waste.

**102.201(5)** All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—102.202(455B) Definitions.** The definitions set out in Iowa Code section 455B.301 shall be considered to be incorporated by reference in these rules. For the purposes of this division, the definitions found in 567—Chapter 100 shall apply.

**567—102.203(455B) Landfarming application permits.**

**102.203(1)** *Permit required.* PCS shall not be landfarmed without a solid waste management permit for landfarm application from the department pursuant to 567—subrule 100.4(2).

**102.203(2)** *Landfarm application permit.* Upon issuance of a landfarm application permit, the permit holder is authorized to apply PCS to the land to create one or more landfarms. This permit requires that landfarms be used for only one application of a particular source and type of PCS. This permit requires that no other PCS be applied within 15 feet of the area of land used as a landfarm until the landfarm is closed pursuant to 567—102.211(455B).

**102.203(3)** *Construction and operation.* Landfarms shall be constructed and operated according to these rules, any plans and specifications approved by the department, and the conditions of the permit. Any approved plans and specifications shall constitute a condition of the permit.

**102.203(4)** *Duration of permits.* Landfarm application permits shall be issued and may be renewed for a three-year term.

**567—102.204(455B) Application information.** To apply for a landfarm application permit, the applicant shall submit the following information to the department in addition to the requirements of 567—subrule 100.5(1):

**102.204(1)** The name, address, and telephone number of:

*a.* Owner(s) of the agency.

*b.* Individual responsible for recordkeeping and reporting.

*c.* An emergency contact person.

**102.204(2)** A plan of operations that complies with the requirements of 567—102.208(455B) and 567—102.210(455B).

**102.204(3)** An emergency response and remedial action plan (ERRAP) pursuant to 567—102.209(455B).

**567—102.205(455B) PCS analysis and characterization.**

**102.205(1)** *Source identification.* The name and address of the contaminated site from which the PCS originated and the spill or underground storage tank (UST) registration number shall be recorded.

**102.205(2)** *Type classification.* The PCS shall be classified by type according to the petroleum product's trade name (e.g., gasoline, diesel fuel) or according to the trade names if there is a mixture of petroleum products.

**102.205(3)** *Chemical testing.* The following analyses shall be performed.

*a.* Benzene, toluene, ethylbenzene, and xylene (BTEX) testing. The PCS shall be tested for BTEX.

*b.* Total extractable hydrocarbons as diesel (TEH-diesel) testing. The PCS shall be tested for TEH-diesel.

*c.* Total metals testing. If the history of the petroleum-contaminated site is known to have included solvents, batteries, leaded fuel, waste oil, or a gas station in operation prior to 1985, then the PCS shall be tested for total Resource Conservation and Recovery Act (RCRA) metals.

**102.205(4)** *Department-supervised emergency cleanups.* PCS originating from the cleanup of a spill or expedited over-excavation at a tank closure or upgrade under department jurisdiction shall be characterized and tested as follows before being landfarmed. Such PCS may be landfarmed prior to chemical testing, pursuant to the application rate in 102.208(7) and reporting requirements of 567—102.210(455B), if permission is obtained from department emergency response personnel or the department field office with jurisdiction over the landfarm site.

**102.205(5)** *Other cleanups.* PCS not originating from a department-supervised emergency cleanup pursuant to 102.205(4) shall be characterized and tested as follows before being landfarmed. PCS originating from a cleanup pursuant to 567—Chapter 135 may utilize those test results as applicable.

**102.205(6)** *Tar balls.* PCS that has the potential to produce tar balls shall not be landfarmed. Such PCS may be disposed of in a sanitary landfill.

**102.205(7)** *Other tests.* The department may require testing of the PCS for other chemicals of concern.

**567—102.206(455B) Site exploration and suitability requirements for landfarms.** All landfarms shall meet the following site exploration and suitability requirements.

**102.206(1)** *Previous use.* The landfarm applicator shall obtain written confirmation from the site owner of one of the following requirements:

*a.* That any other landfarm created in the past three years within 15 feet of the proposed landfarm plot has been closed pursuant to 567—102.211(455B).

*b.* That no area within 15 feet of the proposed landfarm plot has been used as a landfarm in the past three years.

**102.206(2)** *Wells.* PCS shall not be landfarmed or stored within 500 feet of a well that is being used or could be used for human or livestock consumption. The department may also exempt from this requirement extraction wells utilized as part of a remediation system. PCS shall not be landfarmed or stored within 500 feet of an agricultural drainage well.

**102.206(3)** *Sinkholes.* PCS shall not be landfarmed or stored within 500 feet of a sinkhole.

**102.206(4)** *Surface waters of the state.* PCS shall not be landfarmed or stored within 200 feet of a stream, lake, pond, wetland, or other surface water of the state. The department may waive the setback requirement for surface waters that have been constructed for pollution control purposes.

**102.206(5)** *Tile lines.* PCS shall not be landfarmed or stored within 200 feet of a tile line surface intake.

**102.206(6)** *Housing and sensitive populations.* PCS shall not be landfarmed or stored within 200 feet of an occupied residence, recreational area, child care facility, educational facility, or health care facility.

**102.206(7)** *Floodplains.* PCS shall not be landfarmed or stored within a 100-year floodplain.

**102.206(8)** *Slope.* PCS shall not be landfarmed or stored on slopes greater than 5 percent. This requirement may be satisfied by utilizing USDA soil maps.

**102.206(9)** *Soil properties for landfarm plot.* All soils in the landfarm plot of the landfarm shall comply with the following requirements.

*a.* *USDA textural soil classification.* Soils in the landfarm plot of landfarms shall be clay, sandy clay, sandy clay loam, sandy loam, silty clay, silty clay loam, clay loam, loam, or silt loam as classified by the USDA Textural Classification Chart for soils.

*b.* *Stones and debris.* Soils in the landfarm plot shall be free of stones and debris larger than four inches in diameter.

*c.* *Soil pH.* Soils in the landfarm plot shall have a pH greater than or equal to 6 and less than or equal to 9.

*d.* *Bedrock separation.* The landfarm plot shall have a minimum of six feet of soil over bedrock.

**567—102.207(455B) PCS storage areas.** PCS shall be stored on an impervious surface, under a roof of tarp to minimize the infiltration of precipitation, or in an area with minimal potential for stormwater run-on.

**567—102.208(455B) Landfarm operating requirements.** All landfarms shall comply with the following operating requirements.

**102.208(1)** *Standard PCS.* Only standard PCS may be land applied or stored at a landfarm without a permit amendment from the department.

**102.208(2)** *Nonstandard PCS.* A permit amendment from the department, pursuant to 567—subrule 100.5(4) shall be obtained for each particular source and type of nonstandard PCS before that PCS may be land applied or stored at a landfarm. The permit amendment application shall include a justification of how the PCS can be safely and effectively remediated by landfarming.

**102.208(3)** *Saturated or slurry PCS.* PCS in a saturated or slurry condition shall not be applied to the land or stored at a landfarm. PCS in such a condition shall be bulked with other biodegradable materials (e.g., compost, mulch) until it is no longer saturated or in a slurry before it is applied to the land or stored at a landfarm.

**102.208(4)** *Storage.* PCS shall be stored during the non-landfarm season, except as allowed by 102.208(4). PCS may be stored for up to seven days during landfarm season.

**102.208(5)** *Non-landfarm season.*

*a.* PCS shall only be applied to the land during non-landfarm season if the PCS must be applied to the land as part of an emergency cleanup supervised by the department pursuant to 102.205(4) or all of the following conditions exist:

(1) The landfarm plot is free of snow.

(2) The slope of the landfarm plot is less than 3 percent.

(3) The PCS is incorporated into the soil as soon as site conditions allow.

*b.* There is no precipitation.

**102.208(6)** *PCS plot requirements.* One application of a particular source and type of PCS may be applied to a landfarm plot. A landfarm may only apply a subsequent application of PCS to a previously utilized landfarm plot if such application is in compliance with the following:

*a.* The plot has been tested pursuant to 102.205(2)*"c"*(1), *"c"*(2), and *"c"*(3), and the results demonstrate that petroleum constituent concentrations are less than 0.54 mg/kg for benzene, 42 mg/kg for toluene, 15 mg/kg for ethylbenzene, 3800 mg/kg for TEH-diesel, and 0.02 mg/kg for MTBE.

*b.* A subsequent application of a particular source and type of PCS may not be applied within 15 feet of an area used as a single-use landfarm until the single-use landfarm is closed pursuant to 102.211(2).

**102.208(7)** *PCS application rates.* PCS shall be land applied at a rate that is as uniform as practical over an area sufficient to satisfy the greater of the following area requirements. However, PCS from an emergency cleanup supervised by the department pursuant to 102.205(4) may instead be land applied at a rate of 162 $ft^2$ of landfarm area per cubic yard ($yd^3$) of PCS, that is as uniform as practical, and in which no layer of unincorporated PCS is thicker than two inches.

*a.* *Petroleum constituents.* PCS shall be land applied over the largest area required by the following:

(1) PCS contaminated with benzene shall be land applied in accordance with Table 1. The average concentration of benzene in the PCS shall be used to determine the landfarm area ($ft^2$) required per cubic yard ($yd^3$) of PCS to be land applied. The average concentration of benzene shall be calculated from all soil boring test results that are within the PCS excavation area. The application shall be as uniform as practical over the area required.

| Table 1 | | | |
|---|---|---|---|
| 0< mg/kg ≤10 | 81 $ft^2$ | 4 inches | 537 $yd^3$ |
| 10< mg/kg ≤20 | 162 $ft^2$ | 2 inches | 268 $yd^3$ |
| 20< mg/kg | 324 $ft^2$ | 1 inch | 134 $yd^3$ |

(2) PCS that is not contaminated with benzene or MTBE, but is contaminated with toluene, ethylbenzene, xylene, TEH-diesel, or some combination thereof, shall be land applied at a rate of 81 $ft^2$ of landfarm area per cubic yard ($yd^3$) of PCS. The application shall be as uniform as practical, and no layer of unincorporated PCS shall be thicker than four inches.

*b.* *Total RCRA metals.* PCS that has been tested for heavy metals pursuant to 102.205(1)*"c"*(3) shall be applied at a rate that is as uniform as practical, that results in no layer of PCS thicker than four inches, and that upon incorporation produces a landfarm soil that satisfies the following requirements. This analysis requires prior testing of background levels of RCRA metals at the proposed landfarm site.

(1) Total RCRA metals are less than 2,500 milligrams per kilogram (mg/kg).

(2) Any particular concentration of a RCRA metal is less than the appropriate statewide standard for soil developed pursuant to 567—Chapter 105, Division III.

**102.208(8)** *Flagging.* The landfarm plot(s) upon which PCS is land applied shall be delineated with flags for one year after land application or until the landfarm is closed pursuant to 567—102.211(455B), whichever is shorter.

**102.208(9)** *Removal of solid waste and rubble.* All solid waste that is not PCS shall be removed and properly disposed of prior to the landfarming of PCS. All rubble, stones, and debris larger than four inches in diameter, or that interfere with incorporating and turning the PCS, shall also be removed and properly disposed of.

**102.208(10)** *PCS incorporation.* PCS shall be incorporated into the soil by tilling, disking, or other suitable means within 48 hours of being land applied or before the next precipitation event, whichever is sooner. PCS shall not be incorporated deeper than 12 inches.

**102.208(11)** *Turning the PCS.* After incorporation, the PCS shall be turned by tilling, disking, or other suitable means at least once per month for the first three months during landfarm season.

**102.208(12)** *No crops for consumption.* Landfarms shall not grow crops within 15 feet of a landfarm plot that is flagged pursuant to 102.208(7). Crops for human and livestock consumption may be grown at a single-use landfarm after the landfarm plot is no longer required to be flagged pursuant to 102.208(7).

**102.208(13)** *Removal of PCS from a landfarm.* PCS shall not be removed from a landfarm until the landfarm is closed pursuant to 567—102.211(455B) or the following conditions are met:

*a.* One sample from each 2,500 $ft^2$ (e.g., 50-foot × 50-foot area) of landfarm plot is analyzed pursuant to 102.205(2)*"c"*(1), *"c"*(2), and *"c"*(3). A minimum of one sample per landfarm plot shall be obtained. All samples shall be obtained from between the top two to six inches of soil.

*b.* The results of the tests in 102.211(2)*"a"* demonstrate that petroleum constituent concentrations for benzene, toluene, ethylbenzene, TEH-diesel, and MTBE are below the detection limits required by 567—Chapter 135.

*c.* Records of the lab results, amount of PCS removed, and the exact final location of the PCS shall be maintained by the landfarm.

**567—102.209(455B) Emergency response and remedial action plans.**

**102.209(1)** *ERRAP.* An ERRAP as described in 567—100.14(455B) shall be maintained as part of the landfarming application permit.

**102.209(2)** *Access.* ERRAP documents shall be readily available. Landfarm applicators shall ensure that employees have either physical or digital access to the ERRAP document when conducting landfarm operations.

**102.209(3)** *Employee training.* At a minimum, all employees shall receive annual training sufficient to understand and utilize ERRAP documents.

**567—102.210(455B) Reporting and recordkeeping requirements.**

**102.210(1)** *Reporting.* The following information shall be submitted to the department on a form provided by the department. All reporting submissions shall include the name, address, and telephone number of the landfarm and permit holder, as well as the permit number.

*a.* *Storage notification.* Landfarms shall submit the following information to the department and department field office with jurisdiction over the landfarm before receipt of the PCS for storage; however, at least 30 days' notification is encouraged. PCS storage information from an emergency cleanup supervised by the department pursuant to 102.205(4), however, shall be reported within seven days of the emergency cleanup.

(1) The date the PCS is expected to be delivered for storage at the landfarm.

(2) Where the PCS will be stored at the landfarm.

(3) The spill number, UST registration number, and leaking UST (LUST) number, as applicable.

*b.* *Land application notification.* Landfarms shall submit the following information to the department and department field office with jurisdiction over the landfarm before land application; however, at least 30 days' notification is encouraged. PCS information from an emergency cleanup supervised by the department pursuant to 102.205(4), however, shall be reported within seven days of the emergency cleanup.

(1) The date the PCS is expected to be applied to the land. If the PCS is not applied on this date, the department shall be informed of the actual application date.

(2) A physical address or parcel identification number for the landfarm location, a legible topographic map or aerial photo, a USDA soil map with key, and a map of the 100-year floodplain illustrating and labeling where the PCS is to be applied.

(3) Application rate calculations pursuant to 102.208(6).

(4) The spill number, UST registration number, and LUST number, as applicable.

*c.* *PCS analysis and characterization.* Information on the analysis and characterization of the PCS pursuant to 567—102.205(455B) shall be submitted to the department before receipt of the PCS for storage or land application; however, at least 30 days' notification is encouraged. PCS analysis and characterization information from an emergency cleanup supervised by the department pursuant to 102.205(4), however, shall be reported within 60 days of the emergency cleanup.

**102.210(2)** *Recordkeeping.* All landfarm applicators shall maintain records of all information related to compliance with this division and the permit throughout the life of the landfarm and for three years after landfarm closure pursuant to 567—102.211(455B). This information shall be available to the department upon request. Applicable information includes but is not limited to the following material.

*a.* Permit application information pursuant to 567—102.204(455B).

*b.* PCS analysis and characterization pursuant to 567—102.205(455B).

*c.* Site suitability information pursuant to 567—102.206(455B).

*d.* Specific design requirements pursuant to 567—102.207(455B).

*e.* Operations information pursuant to 567—102.208(455B), in particular, application rate calculations pursuant to 102.208(6).

*f.* ERRAP documents pursuant to 567—102.209(455B).

*g.* Reports submitted pursuant to 102.210(1).

*h.* Closure information pursuant to 567—102.211(455B).

**567—102.211(455B) Landfarm closure.**

**102.211(1)** A landfarm shall be closed three years after the application of PCS unless otherwise authorized or required by this rule.

**102.211(2)** A landfarm may be closed if, at least six months after the application of PCS, documentation has been submitted and acknowledged in writing by the department that each landfarm plot has been tested as follows.

*a.* One sample from each 10,000 $ft^2$ (e.g., 100-foot × 100-foot area) of landfarm plot is analyzed pursuant to 102.205(2)*"c"*(1), *"c"*(2), and *"c"*(3). A minimum of one sample per landfarm plot shall be obtained. All samples shall be obtained from between the top two to six inches of soil.

*b.* The results of the tests in 102.211(2)*"a"* demonstrate that petroleum constituent concentrations are less than 0.54 mg/kg for benzene, 42 mg/kg for toluene, 15 mg/kg for ethylbenzene, 3800 mg/kg for TEH-diesel and 0.02 mg/kg for MTBE.

**567—102.212(455B) Financial assurance requirements for landfarms.** The holder of a sanitary disposal project permit for a landfarm must obtain and submit a financial assurance instrument to the department in accordance with this rule. The financial assurance instrument shall provide monetary funds for the purpose of conducting closure activities at the landfarm plot(s) due to the permit holder's failure to properly close the site as required in accordance with 567—102.211(455B) within 30 days of permit suspension, termination, revocation, or expiration.

**102.212(1)** *No permit without financial assurance.* The department shall not issue or renew a permit to an owner or operator of a landfarm until a financial assurance instrument has been submitted to and approved by the department.

**102.212(2)** *Proof of compliance.* Proof of the establishment of the financial assurance instrument and compliance with this rule, including a current closure cost estimate, shall be submitted at the time of application for a permit for a landfarm application permit. The owner or operator must provide continuous coverage for closure and submit proof of compliance, including an updated closure cost estimate, with each permit renewal thereafter until released from this requirement by the department.

**102.212(3)** *Financial assurance amounts required.* The estimate submitted to the department must be certified by a professional engineer and account for at least the following factors determined by the department to be minimal necessary costs for closure pursuant to 567—102.211(455B):

*a.* Third-party costs to conduct soil sampling and properly clean all equipment and storage areas at the landfarm plot(s).

*b.* If PCS is temporarily stored on site prior to incorporation, then this estimate shall include third-party labor and transportation costs and total tip fees to properly dispose of all PCS equal to the maximum storage capacity on site.

**102.212(4)** *Acceptable financial assurance instruments.* The financial assurance instrument shall be established in an amount equal to the cost estimate prepared in accordance with 102.212(3) and shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department. Financial assurance may be provided by one of the following options:

*a.* Trust fund pursuant to 567—subrule 101.707(1).

*b.* Surety bond pursuant to 567—subrule 101.707(2).

*c.* Letter of credit pursuant to 567—subrule 101.707(3).

*d.* Corporate guarantee pursuant to 567—subrule 101.707(7).

*e.* Local government guarantee pursuant to 567—subrule 101.707(8).

*f.* Local government dedicated fund pursuant to 567—subrule 101.707(9).

**567—102.213** to **102.299** Reserved.

These rules are intended to implement Iowa Code sections 455B.301A, 455B.304, and 455B.383.

DIVISION IV
BENEFICIAL USE

**567—102.300(455B) Purpose.** The purpose of this division is to establish rules for determining when the utilization of a solid by-product constitutes beneficial use rather than the disposal of solid waste. Solid by-products determined by the department not to be a solid waste through a beneficial use determination will not be subject to regulation as disposal of solid waste. This division encourages the utilization of solid by-products, consistent with accepted engineering practices, when such utilization improves, or at a minimum does not adversely affect, human health and the environment.

**567—102.301(455B) Applicability and compliance.**

**102.301(1)** These rules establish a method for predetermination by the department that a proposed utilization of a solid by-product will not be regulated as solid waste disposal when utilized in the manner approved by the department. These rules apply to industrial, commercial, and institutional generators and users or proposed users of solid by-products that before receiving a beneficial use determination by the department were disposing of solid by-products as solid waste. These rules encourage environmentally sound materials management practices to maximize the use of recoverable materials and to foster resource recovery. The department reserves the authority to modify or revoke any beneficial use determination authorized under these regulations.

**102.301(2)** These rules do not pertain to organic materials composting. Division I of this chapter contains rules pertaining to organic materials composting.

**102.301(3)** These rules do not pertain to the land application of solid waste. Division II of this chapter contains rules pertaining to the land application of solid waste.

**102.301(4)** These rules do not pertain to the beneficial use of waste tires. Division V of this chapter contains rules pertaining to the beneficial use of waste tires.

**102.301(5)** These rules do not pertain to alternative cover material. 567—Chapter 101, Division II, contains rules pertaining to sanitary landfills utilizing or desiring to utilize solid by-products as alternative cover material.

**102.301(6)** These rules do not apply to solid by-products that are directly incorporated into a manufacturing process to make a commercial product unless the use of a solid by-product as an ingredient in an industrial process or as a substitute for a commercial product may present a threat of harm to human health and the environment that is similar to the harm that would occur from the improper disposal of the solid by-product.

**102.301(7)** Beneficial use determinations granted by the department before September 23, 2026, shall remain in effect unless specifically addressed by these rules or by written notification pursuant to 567—102.307(455B).

**102.301(8)** The issuance of a beneficial use determination by the department affirms that the proposed use is not subject to regulation as solid waste disposal to the extent the use and solid by-product conforms to the beneficial use application and determination. The issuance of a beneficial use determination by the department in no way relieves the generator or user of the responsibility of complying with all other local, state, and federal statutes, ordinances, and rules or other applicable requirements.

**102.301(9)** Respondents in actions to enforce these regulations who raise a claim that a certain solid by-product is not a solid waste or is conditionally exempt from regulation shall demonstrate that there is a known market or disposition for the solid by-product and that they meet the terms of the exemption. Documentation (such as contracts showing that a second person or entity utilizes the solid by-product as an ingredient in a production process) is needed to demonstrate that the solid by-product is not a solid waste or is exempt from regulation.

**102.301(10)** To ensure that all solid by-product applications do not pose a threat to human health and the environment, the department has the authority to determine if a proposed use is beneficial and to approve or deny applications if such a benefit is not evident. Proposed beneficial uses in which the primary purpose is as a land disposal mechanism, and any beneficial use would be incidental in nature, will be denied in accordance with 567—102.308(455B).

**102.301(11)** All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—102.302(455B) Definitions.** For the purposes of this division, the definitions in 567—Chapter 100 and Iowa Code section 455B.301 shall apply.

**567—102.303(455B) Universally approved beneficial use determinations.** The following solid by-products are hereby approved as the beneficial use of a solid by-product when utilized in the specific manners listed provided that such utilization is in compliance with 567—102.305(455B) and 567—102.306(455B). Unless an entity is otherwise notified by the department pursuant to 567—102.307(455B), such utilization does not require further approval from the department.

**102.303(1)** *Asphalt shingles.* Asphalt shingles that are certified, consistent with federal regulations (Reference: Appendix E, Subpart E, 40 CFR Part 763, Section 1, Polarized Light Microscopy), as not containing more than 1 percent asbestos may be used as follows:

*a.* Subbase for hard-surface pavement construction.

*b.* Road surfacing granular material.

*c.* Asphalt pavement material.

**102.303(2)** *Cement kiln dust.* Cement kiln dust may be used as follows:

*a.* Subbase for hard-surface pavement construction.

*b.* A soil amendment pursuant to 21—Chapter 44 and other IDALS rules.

*c.* A stabilizer for manure and waste sludge.

*d.* For soil stabilization purposes.

*e.* Structural fill or fill material.

**102.303(3)** *Coal combustion residual.*

*a.* Coal combustion fly ash, bottom ash, or boiler slag may be used as follows:

(1) Subbase for hard-surface pavement construction.

(2) For soil stabilization purposes.

(3) Structural fill or fill material.

*b.* Coal combustion bottom ash or boiler slag may also be used as follows:

(1) Sandblasting or other abrasive.

(2) Granules for roofing shingles.

*c.* Coal combustion flue gas desulfurization, flue gas pollution control by-products, including but not limited to lime, activated carbon and synthetic gypsum, may be used as follows:

(1) For soil stabilization purposes.

(2) Soil amendment pursuant to 21—Chapter 44 or an agricultural liming material pursuant to 21—Chapter 43 and other IDALS rules.

**102.303(4)** *Foundry sand.* Foundry sand from steel and ferrous casting may be used as follows:

*a.* Leachate control drainage material at a sanitary landfill.

*b.* Subbase for hard-surface pavement construction.

*c.* Structural fill or fill material.

*d.* Emergency flood control use for sandbags.

*e.* Sandblasting or other abrasive.

**102.303(5)** *Glass.* Uncontaminated, unleaded glass may be used as follows:

*a.* Leachate control drainage material at a sanitary landfill.

*b.* Subbase for hard-surface pavement construction.

*c.* Structural fill or fill material.

*d.* Sandblasting or other abrasive.

*e.* Filter media.

**102.303(6)** *Gypsum and gypsum wallboard.* Gypsum and gypsum wallboard that have not been treated to be water-resistant or flame-retardant may be used as a soil amendment pursuant to 21—Chapter 44 and other IDALS rules.

**102.303(7)** *Lime.* Lime produced as a by-product of public water supplies may be used as a soil amendment pursuant to 21—Chapter 44 or an agricultural liming material pursuant to 21—Chapter 43 and other IDALS rules.

**102.303(8)** *Lime kiln dust.* Lime kiln dust may be used as follows:

*a.* Subbase for hard-surface pavement construction.

*b.* A soil amendment pursuant to 21—Chapter 44 or an agricultural liming material pursuant to 21—Chapter 43 and other IDALS rules.

*c.* A stabilizer for manure and waste sludge.

*d.* For soil stabilization purposes.

*e.* Structural fill or fill material.

**102.303(9)** *Paper mill sludge.* Uncontaminated, dewatered paper mill sludge may be used as follows:

*a.* A fuel or energy source.

*b.* Bulking agent or carbon source for composting.

*c.* Animal bedding.

**102.303(10)** *Rubble.* Uncontaminated rubble such as dirt, stone, brick, or similar inorganic materials may be used for beneficial fill, landscaping, excavation, or grading or as a substitute for conventional aggregate at places other than a sanitary disposal project. Asphalt, however, shall not be approved for any of these uses if such use will cause the asphalt to be placed in a waterway or wetland, in any waters of the state, or within a floodplain.

**102.303(11)** *Sandblasting abrasives.* Sandblasting abrasives that do not contain heavy metal-based paint may be used as follows:

*a.* Subbase for hard-surface pavement construction.

*b.* Structural fill or fill material.

**102.303(12)** *Wastewater filter sand.* Wastewater filter sand free of pathogens may be used as follows:

*a.* Subbase for hard-surface pavement construction.

*b.* Leachate control drainage material at a sanitary landfill.

*c.* Structural fill or fill material.

**567—102.304(455B) Application requirements for beneficial use determinations.** Unless the beneficial use is approved pursuant to 567—102.303(455B), applicants will need to submit the following information on a form prescribed by the department. The department may request that additional information be submitted in order to make a beneficial use determination. The department may also require specific conditions on a beneficial use determination and issue a temporary determination on a trial basis.

A generator, user, or proposed user of a solid by-product may apply to the department in writing for a beneficial use determination. If the department finds the application information to be incomplete, then it shall notify the applicant in writing of that fact and of the specific deficiencies and return the application materials to the applicant within 30 days of such notification. The applicant may reapply without prejudice.

**102.304(1)** The name, address, email, and telephone number of:

*a.* Owner of the site where the project will be located.

*b.* Applicant for the beneficial use determination.

*c.* Official responsible for the operation of the project.

*d.* Professional engineer (P.E.) licensed by the state of Iowa and retained for the project, if any. The department may, at its sole discretion, require the applicant to retain a professional engineer for the project or specific parts thereof in order to obtain a beneficial use determination.

*e.* Agency to be served by the project, if any.

*f.* Responsible official of agency to be served, if any.

**102.304(2)** Scaled map or aerial photograph locating the boundaries of the proposed beneficial use site, if applicable, and identifying:

*a.* North and other principal compass points.

*b.* Section lines and other legal boundaries.

*c.* Zoning and land use within 750 feet.

*d.* Homes and buildings within 750 feet.

*e.* Haul routes to and from the site, including load limits or other restrictions on those routes.

**102.304(3)** A description of the solid by-product under review and its proposed use, including the process that will be used to transport and handle the solid by-product, including any equipment.

**102.304(4)** The chemical and physical characteristics of the solid by-product under review.

**102.304(5)** A demonstration that there is a known or reasonably probable market for the intended use of the solid by-product under review by providing one or more of the following:

*a.* A contract to purchase or utilize the solid by-product for the use proposed.

*b.* A description of how the solid by-product will be used.

*c.* A demonstration that the solid by-product complies with industry standards and specifications for that product.

*d.* Applications submitted by persons other than the generator must be accompanied by written consent for the proposed use from the generator.

*e.* Other documentation that a market for the solid by-product exists.

**102.304(6)** A demonstration that the proposed use of the solid by-product will not adversely affect human health and the environment. On a form prescribed by the department, the demonstration may include but is not limited to a toxicity characteristics leaching procedure analysis and total metals testing of a representative sample of the solid by-product.

**102.304(7)** A solid by-product management plan pursuant to 102.305(3).

**567—102.305(455B) Requirements for beneficial use determinations.**

**102.305(1)** *Solid by-products applied to land.* Unless otherwise approved by the department, all beneficial uses, including those listed in 567—102.303(455B) other than uncontaminated rubble and soil, shall meet the following requirements if the beneficial use entails the solid by-product being used as a fill material, structural fill, or subbase for hard-surface pavement construction or for soil stabilization purposes:

*a.* Leachate characteristics of the solid by-product to be measured by the toxicity characteristics leaching procedure (TCLP, Environmental Protection Agency (EPA) Method 1311) and be consistent with federal regulations (Reference: Table 1, Subpart C, 40 CFR 261, Maximum Concentration of Contaminants for the Toxicity Characteristic).

*b.* Leachate characteristics of the solid by-product to be measured by the synthetic precipitation leaching procedure (SPLP, EPA Method 1312) and shall be less than or equal to ten times the maximum contaminant levels (MCL) for drinking water (Reference: Subpart G, 40 CFR 141, National Primary Drinking Water Regulations). Applicants may limit the SPLP analytes to total metals for drinking water.

*c.* Total metals testing of the solid by-product (Total Metals, EPA Method 6010) shall comply with the department's current statewide standards for soil (reported on dry weight basis) pursuant to 567—Chapter 105, Division III. Levels shall be consistent with the statewide standards for soil or the naturally occurring (i.e., background) levels of the soil, whichever are greater.

*d.* The department may establish additional constituent standards from those outlined in this rule for a solid by-product. The department will review regulatory limits on a quarterly basis and post updates to the department website. It is the responsibility of each generator, applicant and end user to ensure solid by-products comply with the most current regulatory limits.

*e.* The solid by-product shall produce a material that has a pH:

(1) Greater than or equal to 5 and less than or equal to 8 if the solid by-product may be used as growing media either now or in the future.

(2) Greater than or equal to 5 and less than 12 if the solid by-product is specifically intended not to be used as growing media either now or in the future. In this category, solid by-products with a pH equal to or greater than 10 but less than 12 shall be used only in areas where direct physical contact by humans for long periods of time is not expected to occur.

(3) For applications where only the surface may serve as growing media either now or in the future, then at a minimum the top three feet shall have a pH greater than or equal to 5 and less than or equal to 8. Solid by-products below the top three feet shall have a pH greater than or equal to 5 and less than or equal to 12.

*f.* The solid by-product shall not be placed in a waterway or wetland or any waters of the state or extend below or within five feet of the high water table.

*g.* The solid by-product shall not be placed within a 100-year floodplain unless in accordance with all local and department regulations, including 567—Chapter 71.

*h.* The solid by-product shall not be placed closer than 200 feet to a sinkhole or to a well that is being used or could be used for human or livestock water consumption.

*i.* The solid by-product shall not be placed closer than 100 feet of any property line unless written consent is obtained from the adjacent landowner(s).

*j.* The solid by-product shall not be putrescible.

*k.* Any project utilizing a solid by-product being applied to land, not including uncontaminated rubble and soil, that has not received a beneficial use determination shall be presumed to constitute the illegal disposal of solid waste.

**102.305(2)** *Determination.* The department may make a determination that a solid by-product that has received approval to be used beneficially ceases to be a solid waste if it is used in accordance with the terms and conditions of the beneficial use determination. Unless otherwise determined for the particular solid by-product under review, the point at which a solid by-product ceases to be a solid waste occurs when it is used in a manufacturing process to make a product, used as an effective substitute for a commercial product, or used as a fuel for energy recovery.

**102.305(3)** *Solid by-product management plans.* Recipients of beneficial use determinations granted pursuant to 567—102.304(455B) and those beneficial uses listed in 102.305(1) shall develop and maintain a solid by-product management plan (SBMP) that satisfies the following:

*a.* Lists the source(s) of the solid by-product.

*b.* Outlines procedures for periodic testing (not less than semiannually) of the solid by-product to confirm the proposed use continues to be adequately protective of human health and the environment and that the solid by-product continues to possess the physical characteristics and chemical properties that make it suitable for the approved beneficial use. Testing results from a certified laboratory pursuant to 567—Chapter 83 are to be submitted as part of the SBMP on a form prescribed by the department.

*c.* Provides a description of storage procedures including:

(1) Storage location(s).

(2) Maximum anticipated inventory, including dimensions of any stockpiles.

(3) Run-on and runoff controls, which may include a storm water National Pollutant Discharge Elimination System (NPDES) permit.

(4) Management practices to minimize uncontrolled dispersion of the solid by-product.

(5) Maximum storage time, not to exceed six months unless authorized in writing by the department.

**567—102.306(455B) Recordkeeping and reporting requirements.** Recipients of beneficial use determinations granted pursuant to 567—102.304(455B) and those beneficial uses listed in 102.305(1) shall comply with the following recordkeeping and reporting requirements.

**102.306(1)** *Recordkeeping.* An entity subject to this rule must maintain all records related to the solid by-product management plan for a minimum duration of five years after project completion.

**102.306(2)** *Reporting.* Unless otherwise directed by the department, solid by-product management plans are to be filed with the department's central office as follows:

*a.* An entity subject to this rule shall submit to the department a copy of the solid by-product management plan prior to reuse of the solid by-product, whenever that plan is revised, and within 60 days of the end of the calendar year, whichever is earlier.

*b.* An entity subject to this rule whose solid by-product is being applied to land pursuant to 102.305(1) shall also submit to the department the following information for each beneficial use project or activity:

(1) The location of the project.

(2) The tons of solid by-product utilized for the project.

**567—102.307(455B) Revocation of beneficial use determinations.** The department may revoke any beneficial use determination if it finds one or more of the following.

**102.307(1)** The matters serving as the basis for the department's determination were incomplete or incorrect or are no longer valid.

**102.307(2)** The department finds that there has been a violation of any law, rule, permit, or other authorization in its jurisdiction.

**102.307(3)** The department has reasonable cause to suspect, based upon information not previously considered or available as part of the application, demonstrating that management of the solid by-product under the approved beneficial use determination may present a significant risk to or adverse effect on human health and the environment.

**102.307(4)** The solid by-product is used in a manner inconsistent with the terms under which it was determined to no longer be a solid waste. The department may consider the placement, dumping, or other use of a solid by-product in a manner inconsistent with the beneficial use determination to be illegal disposal of solid waste, and the applicant, generator, distributer, or end user may be subject to enforcement action by the department pursuant to Iowa Code section 455B.307.

**102.307(5)** The applicant has requested the revocation of the determination or other legal grounds exist for such revocation.

**567—102.308(455B) Denial of beneficial use determination applications.** For applications that are found to be inconsistent with these regulations by the department, the following conditions apply.

**102.308(1)** The department will notify the applicant in writing of the denial, including supporting rationale, within 90 days of receipt of application.

**102.308(2)** Solid by-products for which a beneficial use determination is denied by the department are considered solid waste and remain subject to all applicable state and federal statutes, ordinances, and regulations.

**102.308(3)** Applicants may appeal the denial of a beneficial use determination to the department within 60 days of notification of denial. Such appeal shall be made in a manner consistent with 7—Chapter 2506 and 561—Chapter 2506.

**567—102.309** to **102.399** Reserved.

These rules are intended to implement Iowa Code section 455B.304(19).

DIVISION V
WASTE TIRE MANAGEMENT

**567—102.400(455D) Purpose.** The purpose of this division is to establish guidelines for the proper management of waste tires, including collection, hauling, storage, processing, disposal, and beneficial reuse of waste tires and processed waste tire materials. This division shall not be construed to exempt a waste tire stockpile site, processing facility, or waste tire hauler from compliance with more stringent local ordinances, fire codes, or other applicable statutes. All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—102.401(455D) Definitions.** For the purposes of this division, the definitions in 567—Chapter 100 and Iowa Code sections 455D.11 and 455D.11I shall apply. In addition, "stockpile" as used in this division shall mean the storage or collection of waste tires in anticipation of final disposal.

**567—102.402(455D) Registration of waste tire haulers.** A waste tire hauler shall register with and obtain a certificate of registration from the department in accordance with this division before hauling waste tires in Iowa. Waste tire haulers that pick up tires within Iowa or that bring waste tires to Iowa for disposal, stockpiling, or processing shall be required to register.

**102.402(1)** *Registration exemption.* A waste tire hauler shall not be required to register under the following circumstances:

*a.* The waste tire hauler only travels through the state with waste tires as a part of interstate commerce and does not pick up, deposit, transfer, store, or dispose of any waste tires in Iowa.

*b.* The waste tire hauler is a municipal, county, state, or other public agency; the vehicles used for transport of the waste tires are owned and licensed by the public agency; and the agency hauls no more than 10,000 waste tires within a 12-month period.

**102.402(2)** *Annual registration.*

*a.* A waste tire hauler registration shall be valid for one year, and the waste tire hauler must annually renew the waste tire hauler registration in order to continue to provide waste tire hauling services within the state.

*b.* Initial registration of a waste tire hauler shall be valid upon the date of issuance by the department and shall be effective for a minimum 12-month period thereafter, with expiration of the initial registration to occur on either January 1 or July 1, whichever date occurs most closely after the initial 12-month registration period.

*c.* Subsequent annual renewal of the waste tire hauler's registration shall then occur on either January 1 or July 1, subject to the date of the original expiration as referenced in 102.402(2)*"b."*

**102.402(3)** *Registration form.* A waste tire hauler shall submit the following information on a form prescribed by the department for application for or renewal of registration as a waste tire hauler.

*a.* The name of the waste tire hauler and any other names under which the waste tire hauler may do business.

*b.* The principal address of the waste tire hauler and any other address at which the waste tire hauler may do business.

*c.* A business telephone number.

*d.* The name and address of the principal officer of a corporate waste tire hauler or the principal owner or owners of a waste tire hauler operating a proprietorship or partnership.

*e.* The following information for each motor vehicle used by the waste tire hauler for hauling waste tires:

(1) The name and address of the owner of the vehicle.

(2) The vehicle identification number of the vehicle.

(3) The year, make, and model of the vehicle.

(4) The license plate number of the vehicle.

(5) The name of the state in which the vehicle is registered.

*f.* A statement that the waste tire hauler agrees to comply with the vehicle identification requirements contained in this division.

*g.* The name of the permitted facility for waste tire disposal, stockpiling, or processing or of another site of end use where the waste tires will be transported.

*h.* A statement that the waste tire hauler shall pay all amounts due to any individual or group of individuals when due for damages caused by improper disposal of waste tires by the waste tire hauler or the waste tire hauler's employee while acting within the scope of employment.

*i.* A statement that the waste tire hauler agrees to notify the department within 30 days of any change in the information contained in the registration form.

*j.* The signature of the waste tire hauler.

**102.402(4)** *Waste tire hauler registration fee.* An application for initial registration or renewal shall be accompanied by a fee of $50.

**567—102.403(455D) Waste tire hauler bond.**

**102.403(1)** An application for registration or renewal shall not be approved by the department until the waste tire hauler has provided a surety bond in the sum of a minimum of $150,000, as provided for in Iowa Code section 455D.11I(6).

**102.403(2)** Bond requirements.

*a.* The bond shall be on a form prescribed by the department, and executed by a surety company authorized by the commissioner of insurance to do business in Iowa. The bond provided to the department shall be an original, or copy thereof.

*b.* The surety shall name the state of Iowa as the obligee for the bond.

*c.* The bond shall be continuous in nature until canceled by the surety. The surety shall provide at least 30 days' notice in writing to the waste tire hauler and the department in the event of any intent to cancel the bond and the effective date of the cancellation.

*d.* The waste tire hauler shall provide the department with a statement from the surety with each waste tire hauler registration renewal application, noting that the bond is paid and current for the annual period for which the waste tire hauler has applied for registration renewal.

**567—102.404(455D) Marking of equipment.** The following information shall be displayed on each side of equipment used by a registered waste tire hauler for the hauling of waste tires in letters and figures large enough to be read easily at a distance of 50 feet and in a color in contrast to the background.

1. The name of the registered waste tire hauler under whose authority the equipment is being operated.
2. The address of the registered waste tire hauler (city and state).
3. The registration number of the waste tire hauler, as assigned by the department. The hauler shall apply the letters and symbol "IA TH#" preceding the assigned registration number.

**567—102.405(455D) Disposition of waste tires collected.**

**102.405(1)** All tires collected by a waste tire hauler for which a fee has been collected or is to be charged shall be defined as solid waste and shall be regulated as such.

**102.405(2)** Upon receipt of waste tires from a person or business, the waste tire hauler shall handle the waste tires as follows:

*a.* The waste tires shall be directly transported to a tire collector, tire processor, or waste tire stockpile site as permitted and approved by the department or applicable local or state agencies.

*b.* The waste tires must be transported to a permitted site within 72 hours of initial pickup from the generator of the waste tires.

*c.* The waste tire hauler may not establish or operate any intermediate stockpiling, waste sorting, transfer, or processing activities regarding the waste tires collected unless such activities occur at a facility or site for which a waste tire stockpile permit or processing permit has been issued in accordance with Iowa Code section 455D.11, 567—102.407(455D), and 567—102.409(455D).

**567—102.406(455D) Waste tire hauler reporting requirements.** A registered waste tire hauler shall submit a semiannual report to the department on a form prescribed by the department. The report shall provide the department with appropriate information to ensure that waste tires recovered by the waste tire hauler have been handled properly for disposal or processing. Failure of a registered waste tire hauler to submit a timely report will result in denial of the waste tire hauler's renewal of registration.

**102.406(1)** *Reporting period.* A waste tire hauler shall submit semiannual reports to the department according to the following schedule:

*a.* For waste tires collected during the six-month period beginning January 1 through June 30, the hauler shall submit a report by the following September 1.

*b.* For waste tires collected during the six-month period beginning July 1 through December 31, the hauler shall submit a report by March 1 of the following year.

**102.406(2)** *Information required.* The semiannual report shall include the following information. All waste tire quantities determined by count or weight shall be reported in passenger tire equivalents.

*a.* Quantity of waste tires collected by the waste tire hauler from within Iowa for the reporting period.

*b.* Quantity of waste tires that are brought to Iowa by the waste tire hauler from out-of-state sources for the reporting period.

*c.* Final disposition of all the waste tires collected during the reporting period by listing each tire collector, tire processor, waste tire stockpile site, or other beneficial site of end use, as approved by the department, and the total quantities of waste tires that the hauler has delivered to each.

**102.406(3)** *Documentation and recordkeeping.* A waste tire hauler shall keep appropriate records, including but not limited to receipts, invoices, or manifests, to document all quantities of waste tires hauled and disposed of by the waste tire hauler for the reporting period. These records shall be kept by the waste tire hauler for a minimum of three years and shall be available for audit or inspection at the request of the department.

**567—102.407(455D) Waste tire stockpiling.**

**102.407(1)** *Quantity limitations.*

*a.* No business or individual shall stockpile more than 500 passenger tire equivalents without obtaining a permit for a waste tire stockpile pursuant to 102.407(2).

*b.* Businesses or individuals may temporarily stockpile up to 1,500 passenger tire equivalents without obtaining a waste tire stockpile permit, subject to the following requirements:

(1) The waste tires are stockpiled only in a mobile container, truck, or trailer provided or serviced by a registered waste tire hauler.

(2) The waste tires are removed by a registered waste tire hauler or delivered to a permitted waste tire processor at least every 60 days.

(3) The waste tire generator has a written copy of a contract or service agreement for waste tire disposal services from a registered waste tire hauler.

*c.* A permitted sanitary disposal project shall be allowed to stockpile up to 1,500 passenger tire equivalents without a permit if the waste tires are removed at least every 120 days and are stockpiled in a manner to minimize the collection of water.

*d.* Persons who use waste tires for an approved beneficial use shall not be required to obtain a waste tire stockpile permit, subject to their compliance with the provisions of 567—102.411(455D).

**102.407(2)** *Waste tire stockpile permits.*

*a.* Any tire collector, business, or individual stockpiling more than 500 passenger tire equivalents on any one site must obtain a waste tire stockpile permit. An authorized vehicle recycler, as licensed by the Iowa department of transportation, may store up to 3,500 passenger tire equivalents without a waste tire stockpile permit; any storage beyond this amount shall require full compliance with this subrule. This subrule is applicable to the indoor, outdoor, and underground storage of waste tires. If the site cannot meet the conditions to obtain a waste tire stockpile permit, all waste tires must be removed from the site and properly disposed of within 30 days of notification by the department.

*b.* Any tire collector, business, or individual seeking to construct a waste tire stockpile under this subrule must obtain a permit from the department prior to initiating operations. The permit shall be issued to the owner of the site or the designated tire collector that will be operating the stockpile.

*c.* Waste tire stockpile permits shall have an annual fee of $850, payable to the department upon the application for a permit, and due annually beginning each July 1 thereafter at the rate of $850. Permit fees shall not be prorated. The permit shall be valid for a period of three years from date of issuance. Failure to remit the annual renewal fee to the department shall be cause for revocation pursuant to 567—100.13(455B,455D).

*d.* Application for a permit shall be on a form prescribed by the department and include, at a minimum, the following:

(1) The name, address, and telephone number of the individual who directly owns the stockpile site.

(2) The name, address, and telephone number of the tire collector at the stockpile site, if different from the owner.

(3) A scaled map showing all areas proposed to be used for the stockpiling of waste tires, all property boundaries of the site, and the location of all buildings and major improvements on the site and within 300 feet of the property boundary.

(4) A vector control plan to prevent infestations of mosquitoes and rodents for aboveground storage. The plan shall be prepared by a firm that provides professional vector management services. Upon request, the permittee must provide documentation to show implementation and monitoring of the approved vector control plan.

(5) A site closure plan describing the actions that would be taken to properly dispose of all waste tire materials at the site 30 days prior to any intent to discontinue operations, so that upon discontinuance of operations, no violation of waste tire or solid waste disposal laws will exist.

(6) An emergency response and remedial action plan, developed and implemented according to 567—100.14(455B). The applicant shall provide documentation that an opportunity for input and review of the plan was extended to the local fire department and local emergency management coordinator.

(7) A financial assurance instrument in compliance with 567—102.410(455D).

(8) A certified check for $850 made payable to the Iowa department of natural resources.

**102.407(3)** *Permitted stockpiling requirements.*

*a.* A permitted waste tire stockpile site in an open area shall meet the following minimum permit conditions:

(1) The site shall not contain more than 250,000 passenger tire equivalents.

(2) A single waste tire pile shall not contain more than 50,000 cubic feet of waste tires.

(3) The vertical dimension of a waste tire pile shall not exceed ten feet.

(4) A single waste tire pile shall not be more than 100 feet in length.

(5) The surface area covered by a waste tire pile shall not exceed 5,000 square feet; the pile may not be constructed upon any waste tire materials or other flammable materials.

(6) A 50-foot fire lane must be maintained between any two waste tire piles.

(7) All waste tire piles shall be located at least 50 feet from any building.

(8) Trees and brush shall be cleared within 50 feet of any waste tire pile.

(9) Combustible materials or volatile chemicals shall not be stored within 50 feet of any waste tire pile unless stored in approved fire-resistant containers or cabinets.

(10) A 20-pound Class ABC dry chemical fire extinguisher shall be available within 100 feet of any one portion of the waste tire stockpile area.

(11) The site must be graded to prevent any standing pools of water and to limit the runoff and run-on of precipitation in all areas where waste tires are stockpiled.

(12) A waste tire pile must be at least 200 feet from any well, lake, pond, river, stream, sinkhole, or tile line surface intake unless appropriate grading, or the construction of a barrier, dike, or berm, is completed to intercept surface water flows that may impact such interceptors. This distance may then be reduced to 50 feet.

(13) The stockpile site must be secured by a fence or barrier of a minimum of six feet in height to impede unauthorized vehicle and personal access. All gates and entry points shall be secured and locked when site personnel are not present.

(14) No open burning of any type shall be allowed at the permitted stockpile site. All fueling of vehicles and equipment and any other work or activity that may release sparks or flame shall be conducted at least 50 feet from any waste tire stockpiling area.

(15) Signs shall be posted every 100 feet on site, placed for visibility of personnel on site, that state: "Open burning on-site prohibited." The perimeter of the site shall be posted with signs every 100 feet, placed for visibility to those offsite, that state: "Highly flammable materials on-site. Burning in area not recommended."

(16) All waste tire piles shall be located at least 300 feet from any property line, street, or public right-of-way.

*b.* A permitted waste tire stockpile site in an enclosed area shall meet the minimum permit conditions in 102.407(3)*"a"*(2) through *"a"*(6), as well as the following:

(1) To qualify as an enclosed area, the area must be enclosed in a structure with a permanent roof and lateral protection to prevent precipitation from accumulating within the waste tires.

(2) An enclosed stockpiling structure shall not contain more than 50,000 passenger tire equivalents.

(3) Combustible materials other than waste tires or volatile chemicals shall not be stored in a structure permitted for waste tire stockpiling unless stored in approved fire-resistant containers or cabinets.

(4) A 20-pound Class ABC dry chemical fire extinguisher shall be available within 50 feet of any one portion of the waste tire stockpiling area.

(5) The structure must be secured from unauthorized access.

(6) No open burning of any type shall be allowed at the permitted stockpile site. All fueling of vehicles and equipment and any other work or activity that may release sparks or flame shall be conducted at least 50 feet from any waste tire stockpiling area. The exterior of the enclosed stockpiling area shall be posted with signs, placed every 100 feet, that state: "Highly flammable materials stored inside. Burning on-site prohibited."

**102.407(4)** *Reporting requirements.* The holder of a permit for a waste tire stockpile facility shall submit a semiannual report to the department on a form prescribed by the department. The report shall state the following:

*a.* Quantity of waste tires stockpiled at the facility at the time of reporting determined by count or weight and reported in passenger tire equivalents.

*b.* Quantity of waste tires received from in-state sources for the reporting period.

*c.* Quantity of waste tires received from out-of-state sources for the reporting period.

*d.* For any waste tires removed from the permitted waste tire stockpile facility during the reporting period, quantity given by equivalent count or weight of such waste tires removed. Documentation shall be provided to denote how the reported quantity of tires were disposed of at a permitted facility, processed, or reused.

**567—102.408(455D) Used tires.**

**102.408(1)** *Used tire storage.* A used tire other than a waste tire shall be stored in a manner that provides for the following:

*a.* Prevention of the collection of water, dirt, or debris within the tire.

*b.* Organized storage through stacking, rows, and sorting that provides for accurate descriptions and counts of the types and sizes of tires.

*c.* Storage conforms to applicable local and state fire codes.

**102.408(2)** *Quantity limitations.* Used tires stored for more than one year without documentation of active resale or reuse, of tire inventory in a proportion equal to 75 percent of the amount stored, shall be considered waste tires and shall be subject to the applicable waste tire stockpiling and disposal rules of this division.

**567—102.409(455D) Waste tire processing.**

**102.409(1)** *Waste tire processing permits.*

*a.* Any business or individual operating a tire processing facility shall obtain a waste tire processing permit prior to initiating operations. The permit shall be issued to the owner of the site or the individual that will be operating the waste tire processing facility.

*b.* A permitted sanitary disposal project that accepts waste tires to cut, grind, or compact only for final disposal shall not be required to obtain a waste tire processing permit. Such facilities shall not store any cut or shredded waste tire materials for more than 30 days prior to final disposal.

*c.* Businesses or individuals operating mobile waste tire processing equipment shall be required to obtain a waste tire processing permit. The permit shall authorize the operator to provide waste tire processing services statewide; however, mobile operations shall not be allowed to store any processed or whole waste tires at any facility or site owned or operated by the permittee unless specifically authorized in writing by the department.

*d.* Businesses or individuals who cut, grind, or compact for disposal waste tires generated directly from operations at their own on-site manufacturing operation or vehicle or equipment service facility shall not be required to obtain a waste tire processing permit provided all waste tire materials processed on site are disposed of at least every 30 days at a permitted facility.

*e.* Processing permits shall have an annual fee of $850, payable to the department upon the application for a permit, and due annually beginning each July 1 thereafter at the rate of $850. Permit fees shall not be prorated. The permit shall be valid for a period of three years from date of issuance. Failure to remit the annual renewal fee shall be cause for revocation pursuant to 567—100.13(455B,455D).

*f.* A permitted waste tire processing facility shall have a site closure plan. The plan shall describe the actions that would be taken to properly dispose of all waste tire materials, in whole or processed form, at the site 30 days prior to any intent to discontinue operations so that, upon discontinuance of operations, no violation of waste tire or solid waste disposal laws exist.

*g.* A permitted processing facility shall have an emergency response and remedial action plan, developed and implemented according to 567—100.14(455B). The applicant shall provide documentation that an opportunity for input and review of the plan was extended to the local fire department and local emergency management coordinator.

*h.* A permitted waste tire processing facility shall obtain financial assurance in accordance with 567—102.410(455D), as necessary.

*i.* Application for a permit shall be on a form prescribed by the department and include, at a minimum, the following:

(1) The name, address, and telephone number of the individual who directly owns the tire processing facility.

(2) The name, address, and telephone number of the operator of the waste tire processing facility, if different from the owner.

(3) The type of processing operations to be conducted, including descriptions of processing equipment and its hourly capacity, operating hours of the facility, and types of processed tire materials to be produced.

(4) A scaled map showing all areas proposed for waste tire stockpiling and processing operations, all property boundaries of the site, and the location of all buildings and major improvements on the site and within 300 feet of the property boundary.

(5) A site closure plan as referenced in 102.409(1)*"f."*

(6) An emergency response and remedial action plan as referenced in 102.409(1)*"g."*

(7) A certified check for $850 made payable to the Iowa Department of Natural Resources.

(8) A financial assurance instrument as referenced in 102.409(1)*"h."*

**102.409(2)** *Permitted processing requirements.* A permitted waste tire processing facility shall meet the following minimum permit requirements.

*a.* The site must be graded to prevent any standing pools of water and to limit the runoff and run-on of precipitation in all areas where waste tires are stockpiled or processed tire material is staged prior to sale.

*b.* The processing facility site must be secured by a fence or barrier of a minimum of six feet in height to impede unauthorized vehicle and personal access. All gates and entry points shall be secured and locked when site personnel are not present.

*c.* No open burning of any type shall be allowed at the permitted waste tire processing facility. All fueling of vehicles and equipment and any other work or activity that may release sparks or flame shall be conducted at least 50 feet from any waste tire stockpiling area.

*d.* Signs shall be posted every 100 feet on site, placed for visibility of personnel on site, and state: "Open burning on-site prohibited." The perimeter of the site shall be posted with signs every 100 feet, placed for visibility to those offsite, that state: "Highly flammable materials on-site. Burning in area not recommended."

**102.409(3)** *Preprocessed whole waste tire stockpiling.*

*a.* Permitted stockpiling of whole waste tires on site prior to processing shall be limited to the quantity of waste tires that the facility has the ability to process within a three-day period. This quantity shall be determined by multiplying the actual number of working hours that processing is normally to occur during a typical three-day period by 80 percent of the manufacturer's specifications of hourly capacity of the processing equipment. After one year of the facility's operation, documented actual hourly production shall be used for this permit determination in lieu of the manufacturer's equipment specifications.

*b.* A permitted waste tire processor may stockpile an additional three-day capacity of preprocessed whole waste tires, above the initial three-day capacity, using the same quantity determination as stated in 102.409(3)*"a,"* subject to the tire processor's obtaining and maintaining financial assurance for these additional waste tires to be stockpiled prior to processing in accordance with 567—102.410(455D).

*c.* Under no circumstance shall a permitted waste tire processor be allowed to stockpile more than 75,000 preprocessed whole waste tires, measured as passenger tire equivalents, through any combination of processing performance or financial assurance. All waste tires on site, including those stored indoors or outdoors or in trucks, trailers, or mobile cages, shall be counted in determining compliance with this subrule.

*d.* Any single waste tire shall not be stockpiled at the processing facility for more than 30 days before the tire is processed.

*e.* Preprocessed whole waste tires stockpiled outdoors shall comply with 102.407(3)*"a"*(2) through *"a"*(16), and any waste tires stockpiled in trucks, trailers, or mobile containers must be at least ten feet from any property line or building.

*f.* Indoor stockpiling of whole waste tires shall not be allowed within 20 feet of any waste tire processing or handling equipment. All waste tires being actively unloaded and fed into processing equipment, including those being off-loaded from trucks, trailers, or mobile containers, shall be cleared at least 20 feet away from the processing equipment by the end of the last working shift of the day. Any remaining indoor stockpiling shall comply with the requirements of 102.407(3)*"b"*(3) through *"b"*(6) and the following:

(1) No more than 25,000 passenger tire equivalents shall be stockpiled indoors.

(2) Combustible materials or volatile chemicals shall not be stored within 25 feet of any waste tire stockpile area unless they are stored in approved containers pursuant to applicable fire codes.

(3) A 20-pound Class ABC dry chemical fire extinguisher shall be available within 50 feet of any one portion of indoor tire stockpile area.

(4) The stockpiling structure must be secured from unauthorized access.

**102.409(4)** *Processed waste tire storage.*

*a.* Storage of processed waste tire materials at a waste tire processing facility shall be limited to the volume of material in aggregate that the processor manufactures within a consecutive 60-day period, using the facility's daily average capacity for processing whole waste tires as determined in 102.409(3)*"a."* The department shall have the final authority for determining the allowable quantities of processed tire materials to be stored.

*b.* Under no circumstances shall the equivalent of more than 500,000 processed tires, or 5,000 tons of material, be stored at the permitted waste tire processing site.

*c.* All processed waste tire material at the site of processing shall be stored as follows:

(1) Processed tires shall be stored in piles no more than 15 feet in height, 100 feet in length, and 50 feet in width and shall contain no more than 75,000 cubic feet of product by volume.

(2) A 50-foot fire lane must be maintained between piles of processed tire material, with the base of the lane kept free from the accumulation of waste tire-derived residuals or materials or other debris.

(3) All processed waste tire material shall be stored at least 50 feet from any property line, street, public right-of-way, or building.

(4) Trees and brush shall be cleared within 50 feet of the storage of all processed waste tire material.

(5) A 20-pound Class ABC dry chemical fire extinguisher shall be available within 100 feet of any one portion of processed waste tire stockpile area.

*d.* For indoor storage of more than 5,000 cubic feet of processed waste tire material, the material shall be stored on concrete floors and all retaining walls, bins, barriers, and roofing material for the material storage shall be constructed of nonflammable materials.

*e.* The processor must demonstrate a reasonable market demand for all types and quantities of processed product stored at the waste tire processing facility. Market demand for processed waste tire products shall be demonstrated by the processor through at least one of the following criteria:

(1) Active contracts, purchase orders, or supply agreements with an end user, noting quantities of material required by the end user, specifications of the quality of the product required by the end user, and monthly or annual demand of product by the end user from the processor. This information shall be made available for review by the department as required to determine compliance with this subrule.

(2) Historic, ongoing demand for product by an end user or type of end user within the state or surrounding region.

(3) Information and evidence that any proposed new product or use for processed waste tires produced by the tire processor will be marketed in a timely fashion, with sufficient demand and consumption by end user markets.

*f.* The department shall have the final authority in determining storage limitations, including prohibition, for processed waste tire products when active markets are not evident from information provided by the waste tire processor.

**102.409(5)** *Reporting requirements.* The holder of a permit for a waste tire processing facility shall submit a semiannual report to the department on a form prescribed by the department. The report shall state the following:

*a.* Quantity of waste tires received by the facility during the reporting period.

*b.* Quantity of waste tires received by the facility from in-state sources.

*c.* Quantity of waste tires received by the facility from out-of-state sources.

*d.* Quantity of unprocessed waste tires on hand at the facility at the time of reporting.

*e.* Quantity of waste tires processed and delivered to end users during the reporting period, by product type, with determinations of quantities of product delivered to identified in-state and out-of-state markets or sites.

*f.* Quantity of processed tire material currently stored at the facility, by product type.

**102.409(6)** *Disposal of solid wastes.*

*a.* All waste materials, residuals, and scraps derived from waste tire processing operations shall be regulated as solid waste. These materials include but are not limited to tire bead rings, metal wire, synthetic fibers, and cording.

*b.* All of these solid wastes must be disposed of at least every 60 days at a permitted sanitary disposal project, scrap recycler, or location, as approved by the department.

*c.* Documentation of the disposal of these solid wastes must be kept at the waste tire processing facility for a period of three years and shall be available for audit or inspection at the request of the department.

**567—102.410(455D) Financial assurance requirements.** Permitted waste tire processing sites and waste tire stockpile sites must obtain and submit a financial assurance instrument to the department in accordance with Iowa Code section 455D.11A and this rule.

**102.410(1)** *No permit without financial assurance.* The department shall not issue or renew a permit to an owner or operator of a waste tire processing or stockpile site until a financial assurance instrument(s) has been submitted to and approved by the department, as necessary.

**102.410(2)** *Financial assurance amounts required.*

*a.* Waste tire stockpile sites shall have financial assurance coverage equal to $2.50 per passenger tire equivalent collected and stockpiled.

*b.* Waste tire processing sites shall have financial assurance coverage equal to $2.50 per passenger tire equivalent stockpiled above the permitted three-day processing capacity, in accordance with 102.409(3)*"b."*

**102.410(3)** *Allowable financial assurance instruments.* The instruments used to demonstrate financial assurance must ensure that the funds necessary to properly dispose of any waste tires that may remain at a permitted waste tire stockpile or waste tire processing site due to the owner's or operator's failure to properly close the site within 30 days of permit termination, revocation, or expiration. The financial assurance instrument must be legally valid, binding, and enforceable under Iowa law and shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department. Owners or operators must choose from options in 102.410(3)*"a"* through *"e,"* as provided for in Iowa Code section 455D.11A(3).

*a.* *Cash.* Cash payments shall be provided by a certified check, made payable to the Iowa Department of Natural Resources.

*b.* *Surety bond.* An owner or operator may demonstrate financial assurance for closure by obtaining a payment or performance surety bond, which conforms to the requirements of this paragraph. The surety bond agreement shall be on a form prescribed by the department and executed by a surety company authorized by the commissioner of insurance to do business in Iowa. The owner or operator shall provide the department with a statement from the surety with each permit renewal application, noting that the bond is paid and current for the period for which the applicant has applied for permit renewal. The executed surety bond provided to the department shall be an original, or copy thereof, that addresses the following:

(1) The penal sum of the bond must be in an amount at least equal to the amount specified in 102.410(2).

(2) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond and upon notice from the department pursuant to 102.410(8)*"e."*

(3) The owner or operator must also establish a standby trust fund. The standby trust fund must meet the requirements of 102.410(3)*"d."*

(4) Payments made under the terms of the letter of credit will be deposited by the issuing institution directly into the standby trust fund. Payments from the trust fund must be authorized by the trustee pursuant to 102.410(3)*"d"*(3).

*c.* *Letter of credit.* An owner or operator may demonstrate financial assurance for closure by obtaining an irrevocable standby letter of credit, which conforms to the requirements of this paragraph. The letter of credit agreement shall be on a form prescribed by the department, and the issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency. The owner or operator shall provide the department with a statement from the issuing institution with each permit renewal application, noting that the letter of credit is paid and current for the period for which the applicant has applied for permit renewal. The executed letter of credit provided to the department shall be an original, or copy thereof, that addresses the following:

(1) The letter of credit must be irrevocable and issued for a period of at least one year in an amount at least equal to the amount specified in 102.410(2).

(2) The provision of funds by the issuer of the letter of credit shall be considered an issuance of a loan to the owner or operator, and the terms of that loan shall be governed by the letter of credit or subsequent agreement between those parties.

(3) A letter from the owner or operator referring to the letter of credit by number, issuing institution, and date; providing the name and address of the facility; and providing the amount of funds assured must be included with the letter of credit submitted to the department.

(4) The owner or operator must also establish a standby trust fund. The standby trust fund must meet the requirements of 102.410(3)*"d."*

(5) Payments made under the terms of the letter of credit will be deposited by the issuing institution directly into the standby trust fund. Payments from the trust fund must be authorized by the trustee pursuant to 102.410(3)*"d"*(3).

*d. Trust fund.* An owner or operator may demonstrate financial assurance for closure by establishing a trust fund that conforms to the requirements of this paragraph. The trust fund agreement shall be on a form prescribed by the department, and the trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. The executed trust fund provided to the department shall be an original, or copy thereof, that addresses the following:

(1) The trust fund shall be in an amount least equal to the amount specified in 102.410(2).

(2) The owner or operator shall provide the department with a statement from the trustee with each permit renewal application, documenting the current value of the trust fund complies with 102.410(2).

(3) The owner or operator, department, or other person authorized to conduct closure may request reimbursement from the trustee for these expenditures as they are incurred. Requests for reimbursement will be granted by the trustee only if sufficient funds are remaining in the trust fund to cover the remaining costs of proper site closure. The owner or operator, or other person authorized to conduct closure, must submit to the department documentation of the justification for reimbursement and verification that reimbursement has been received.

*e. Corporate guarantee.* An owner or operator that satisfies the requirements of this paragraph may demonstrate financial assurance for closure by obtaining a written guarantee.

(1) Affiliation. The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a substantial business relationship with the owner or operator. A certified copy of the executed guarantee must be placed in the facility's operating record along with copies of the letter from the guarantor's chief financial officer and the independent certified public accountant's opinion(s). If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter from the guarantor's chief financial officer must describe the value received in consideration of the guarantee. If the guarantor is a firm with a substantial business relationship with the owner or operator, this letter must describe this substantial business relationship and the value received in consideration of the guarantee.

(2) Terms of the written guarantee. The guarantee must be effective and all required submissions made to the department prior to the initial receipt of waste tires or before the cancellation of an alternative financial assurance instrument, in the case of closure. The guarantee must provide that:

1. If the owner or operator fails to perform proper closure of a site covered by the guarantee, or fails to obtain alternative financial assurance within 90 days of notice of intent to cancel pursuant to 102.410(8), the guarantor will:

- Perform, or pay a third party to perform, proper closure as required (performance guarantee); or
- Establish a fully funded trust fund as specified in 102.410(3)*"d"* in the name of the owner or operator (payment guarantee);

2. The guarantee will remain in force for as long as the owner or operator must comply with the applicable financial assurance requirements of this rule unless the guarantor sends prior notice of cancellation by certified mail to the owner or operator and to the department pursuant to 102.410(8).

(3) The department may, based on a reasonable belief that the corporate guarantor may no longer assure the funds of the written guarantee, require at any time the corporate guarantor to provide reports of its financial condition. If a corporate guarantor can no longer assure the funds of the written guarantee, the owner or operator must submit to the department proof of alternative financial assurance within 90-days of written notification by the department.

**102.410(4)** *Use of multiple financial assurance instruments.* An owner or operator may satisfy the requirements of 567—102.410(455D) by establishing more than one financial assurance instrument per site, except that instruments guaranteeing performance rather than payment may not be combined with other instruments. The instruments must be a combination of those instruments outlined in 102.410(3) and must provide financial assurance for an amount sufficient to satisfy the requirements of 102.410(2).

**102.410(5)** *Exemption.* The requirement for financial assurance shall not apply to waste tire stockpiling or processing sites operated by a city or county or operated in conjunction with a permitted sanitary landfill.

**102.410(6)** *Benefit of creditors; final judgment.* The financial assurance instrument shall not be assigned for the benefit of creditors with the exception of the state and shall not be used to pay any final judgment against a permit holder arising out of the ownership or operation of the site.

**102.410(7)** *Failure to undertake closure activities.* The department shall have full rights of access to all funds existing in a permitted facility's financial assurance instrument(s), at the sole discretion of the department, if the permit holder fails to undertake closure activities after being directed to do so by a final agency action of the department. These funds shall be used only for the purposes of funding closure activities at the site.

**102.410(8)** *Financial assurance cancellation and permit suspension.*

*a.* A financial assurance instrument may be terminated by the owner or operator only if the owner or operator substitutes alternative financial assurance prior to cancellation or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this rule.

*b.* A financial assurance instrument shall be continuous in nature until canceled by the financial assurance provider, or until the department gives written notification to the owner or operator and the financial assurance provider, that the covered site has demonstrated compliance with the applicable closure requirements. The financial assurance provider shall give at least 90 days' notice in writing to the owner or operator and to the department in the event of any intent to cancel a financial assurance instrument, as evidenced by the return receipts.

*c.* Within 30 days of receipt of a written notice of cancellation of a financial assurance instrument, the owner or operator must provide the department with proof of alternative financial assurance or notice from the issuing institution of withdrawal of the cancellation. If a means of continued financial assurance is not provided within the 30-day time frame, the department shall suspend the permit.

*d.* The owner or operator shall perform proper closure within 30 days of the permit suspension, termination, revocation, or expiration. For the purpose of this subrule, proper closure means removal of all waste tires and related products from the site or facility through acceptable disposal or processing options.

*e.* If the owner or operator does not properly close the site within the 30-day period allowed, this shall constitute a failure to perform and the department shall file a claim with the financial assurance instrument provider to collect the amount of funds necessary to properly close the site prior to the expiration of the 90-day notice period.

*f.* Any financial assurance instrument provided to the department must remain in continuous effect until the department gives written notification to the owner, operator, and financial assurance provider that the covered site has been properly closed. An owner or operator who elects to terminate a permitted activity, whose renewal application has been denied, or whose permit has been suspended or revoked for cause must submit within 30 days of the termination of the permit a schedule for completing proper closure of the terminated activity. Closure completion cannot exceed 180 days from the date of termination of the permit.

*g.* The department may request payment from any financial assurance provider for the purpose of completing proper site closure when the owner or operator declares an economic inability to comply with this rule either by sending written notification to the department or through an action such as but not limited to filing for bankruptcy.

**567—102.411(455D) Beneficial use of waste tires.**

**102.411(1)** *Role of the department.* In order to ensure that proposed uses of whole or processed waste tires do not pose a threat to the environment or to the public health, welfare, and safety, the department shall have the authority to determine if a proposed use is beneficial and shall have the authority to approve or deny applications if such a benefit is not evident. Proposed beneficial uses in which the primary purpose of the project is as a land disposal mechanism shall not be approved.

**102.411(2)** *Beneficial uses for whole waste tires.* The following applications shall be considered acceptable beneficial uses for whole waste tires:

*a.* Tire swings, sandboxes, or other equipment for child play areas on residential lots or at schools, care centers, and recreational areas;

*b.* Dock bumpers at vehicle loading/unloading docks or marine docks;

*c.* Crash barriers at racetracks;

*d.* Agricultural uses to hold down covers over hay, silage, and other agricultural commodities. When not in use, the tires should be neatly stacked.

**102.411(3)** *Required notifications and approval for whole waste tire uses.* Prior to the installation or placement of waste tires for a beneficial use as allowed in 102.411(2), the owner or operator of the site of end use shall properly notify or seek approval from the department for the proposed beneficial use under the following circumstances. These circumstances apply to the total combined amount of waste tire material that already is, or is intended to be, used at the site:

*a.* For applications of less than 250 whole waste tires, notification to the department is not required.

*b.* For applications of 250 to 500 whole waste tires, the department shall be notified in writing no less than 30 days prior to the construction or placement of waste tires for a proposed beneficial use, with the following information provided:

(1) The name, address, and telephone number of the owner, operator, or individual responsible for the beneficial use application at the site of end use;

(2) The address of the site of beneficial end use;

(3) The estimated total number of waste tires to be used;

(4) A description of the beneficial use application;

(5) A project timeline, including proposed project start and end dates; and

(6) A statement that explains how the site owner shall properly dispose of such waste tires in the event that the beneficial use is discontinued or dismantled.

*c.* For applications of more than 500 waste tires, approval by the department shall be obtained prior to any such applications. Approval requests shall be made to the department in writing and shall contain all information as requested in 102.411(3)*"b,"* as well as a scaled plan of the site of end use with areas noted where whole waste tires are to be placed, including locations of the site of end use property lines and the location of any structures within 300 feet of the site of end use.

**102.411(4)** *Prevention of public health risks for whole waste tire uses.* All beneficial uses of whole waste tires as approved in this rule shall have incorporated into their design and construction measures to prevent the retention and stagnation of water in the event that such conditions are likely to exist. These measures shall include, at a minimum, the piercing or drilling of holes in whole waste tires to allow for water drainage. Such measures shall be designed to minimize risks to public health and safety caused by the breeding of disease-carrying insects and rodents.

**102.411(5)** *Beneficial uses for processed waste tires.* This subrule establishes acceptable beneficial uses for waste tires that have been processed and required design criteria that shall be observed in the placement of processed waste tires at the site of end use. The following applications shall be considered acceptable beneficial uses for processed waste tires:

*a.* On-site wastewater treatment and disposal system construction, to include use of processed waste tires in lateral trenches and as fill to cover distribution pipes under the following conditions:

(1) The on-site wastewater treatment and disposal system is constructed and permitted according to the requirements of 567—Chapter 69;

(2) Processed waste tires used in the system have a minimum dimension of one inch on any one side and a maximum dimension of three inches on any one side; and

(3) The administrative authority responsible for issuance of the permit approves the beneficial use. The authority shall have the sole discretion to deny use of processed waste tires in system construction based on any engineering or design principle concerns.

*b.* Lightweight fill in public roads, public road embankment construction, and other public civil engineering applications if all of the following conditions are met:

(1) The waste tire pieces are of uniform composition and sizing;

(2) The waste tire pieces are not mixed with other solid wastes, vegetation, composted materials, or other processed waste tire products, including separated tire bead wire, steel cording, or nylon fibers;

(3) The waste tires are not placed in direct contact with surface water or groundwater;

(4) The processed waste tires are isolated from overburden materials by a protective membrane or liner to prevent intrusion and settling of overburden; and

(5) An Iowa-licensed professional engineer designs and supervises the incorporation of processed waste tires.

*c.* Structural foundation drainage material used in a project as approved through a local building permit.

*d.* A bulking agent for composting operations at permitted composting facilities, with processed waste tire pieces no larger than three inches on any one side.

*e.* Leachate drainage medium at a permitted sanitary landfill, provided that the medium meets engineering and design requirements for the landfill's operating permit pursuant to 567—Chapter 101, Divisions I through IV.

*f.* Agricultural uses to hold down covers over hay, silage, and other agricultural commodities.

*g.* Traffic control devices for use in public roadway construction projects.

*h.* Portable surfaces manufactured from tire sidewalls or tread.

*i.* Tire sidewalls used for underturf water conservation and turf growth enhancement systems at golf courses.

**102.411(6)** *Requests for approval of other beneficial use applications.* The department shall have the authority to approve or deny requests for beneficial use applications for waste tires and waste tire material not specifically addressed within this rule. Requests for such use determinations shall be made to the department on a form prescribed by the department. The department may request project descriptions and supporting scientific and engineering data to determine if a request for a beneficial use determination is warranted. The department shall have the sole authority to deny a beneficial use request if the department determines that any one of the following conditions exists:

*a.* The requested beneficial use application poses a risk to the environment or to the public health, welfare, and safety;

*b.* The requested beneficial use application is determined to have the primary purpose as a land disposal mechanism, and any beneficial use would be incidental in nature; or

*c.* The requested beneficial use application would not be in accordance with other applicable federal, state, or local laws, regulations, and ordinances.

**102.411(7)** *Storage of waste tires prior to beneficial use.* Waste tires to be used for a beneficial use may be stored at the site of end use, subject to the following requirements:

*a.* Such waste tire materials shall be stored for no longer than 60 days prior to the date of application, except for whole waste tires for agricultural uses as specified in 102.411(2)*"d."*

*b.* All storage of such waste tire materials shall be conducted in accordance with the uniform fire code and the requirements of 102.409(3) and 102.409(4)*"c"* as applicable.

*c.* Any storage of waste tires associated with a proposed beneficial reuse project at a site of end use for longer than 60 days without implementation of completion of a beneficial reuse project shall be subject to the waste tire storage permitting requirements as contained in 567—102.407(455D).

**567—102.412** to **102.499** Reserved.

These rules are intended to implement Iowa Code sections 455D.11, 455D.11A, 455D.11B, and 455D.11I.

DIVISION VI
SPECIAL WASTE AUTHORIZATIONS

**567—102.500(455B,455D) Purpose.** The purpose of this division is to implement Iowa Code section 455B.304 by providing rules for the disposal of special waste.

**567—102.501(455B,455D) Applicability.**

**102.501(1)** This division shall apply to generators of special waste and municipal solid waste landfills that accept special waste. No special wastes shall be delivered to or accepted by a MSWLF unless disposal is authorized by a special waste authorization (SWA) issued by the department or is general special waste pursuant to 567—102.508(455B,455D). Wastes for which an SWA has been issued shall be disposed of in accordance with the instructions, conditions, and limitations contained in the SWA. Any amendment requests shall be handled under these rules.

**102.501(2)** All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—102.502(455B,455D) Definitions.** For the purposes of this division, the definitions in Iowa Code section 455B.301 and 567—Chapter 100 shall apply.

**567—102.503(455B,455D) Restrictions.** Special wastes regulated by this division shall comply with the following provisions.

**102.503(1)** The waste shall not contain free liquids.

**102.503(2)** The waste shall not be a listed hazardous waste or meet the criteria for characteristic hazardous waste pursuant to the federal Resource Conservation and Recovery Act (RCRA).

**102.503(3)** Wastes with PCB concentrations equal to or greater than 50 ppm shall not be authorized for disposal at an MSWLF unless the waste is defined as PCB bulk product waste in 40 CFR 761.3.

**102.503(4)** Wastes that are used beneficially at an MSWLF are not special wastes.

**567—102.504(455B,455D) Issuance of SWA.**

**102.504(1)** Generators of special waste shall initiate an application for a SWA by providing the following to the receiving MSWLF.

*a.* Appropriate chemical analysis of the waste,

*b.* Description of the process that generates the waste and verification that no RCRA listings in 40 CFR 261 apply,

*c.* Toxicity characteristic leaching procedure (TCLP) test results when appropriate, which show that none of the federal limits in 40 CFR Part 261 are exceeded,

*d.* Physical form of the waste,

*e.* Weight or volume of the waste,

*f.* Safety data sheet (SDS) for the waste or for the materials from which the waste is generated, if applicable,

*g.* A description of the review of the alternatives to landfilling for each waste for which an SWA is requested, including details as to the extent the waste could be recycled, reduced, or reused so that landfilling is not necessary, and

*h.* Any other information requested by the department or the MSWLF.

**102.504(2)** The receiving MSWLF shall review the submitted materials. If after review it is determined that the waste is a special waste and the MSWLF is willing to accept the waste, the MSWLF shall develop a special waste acceptance criteria (SWAC) that includes instructions for disposal of waste. The MSWLF shall submit the SWAC and materials provided by the waste generator to the department for approval.

**102.504(3)** An SWA may be issued for a period not to exceed three years.

**102.504(4)** The holder of an SWA must apply for a renewal prior to the expiration of the SWA.

**102.504(5)** The department may revoke an SWA for cause at any time. Such cause may include but is not limited to evidence that indicates that the characteristics of the authorized quality of the waste vary from the authorized values, evidence that the continued disposal of the waste as authorized may pose a threat to the public health or the environment, or failure to comply with any condition in the SWA or the MSWLF's SWAC.

**102.504(6)** The issuance of an SWA does not obligate any waste disposal facility to accept the waste nor does it preclude the facility from imposing conditions or restrictions other than those listed in the SWA.

**102.504(7)** The issuance of an SWA does not exempt the waste generator or the MSWLF from any local, state, or federal laws or regulations.

**567—102.505(455B,455D) MSWLF responsibilities.**

**102.505(1)** MSWLFs shall submit special waste acceptance criteria to the department with each special waste request.

**102.505(2)** MSWLFs are required to ensure that special wastes delivered to the facility conform to the SWAC on file with the department.

**102.505(3)** Each MSWLF shall provide to the department, on a quarterly basis, a report of SWA activity including each SWA number and the quantities of waste disposed of during the reporting period. This information shall be submitted on a form prescribed by the department.

**567—102.506(455B,455D) Special waste generator responsibilities.** Special waste generator responsibilities shall include the following in addition to any requirements in the SWA or SWAC.

**102.506(1)** The generator shall adhere to the solid waste management hierarchy unless otherwise approved in an SWA. Alternatives include volume reduction at the source; recycling and reuse, including composting and land application; and other approved techniques of solid waste management including but not limited to combustion with energy recovery and combustion for waste disposal.

**102.506(2)** The generator shall ensure that waste regulated by a SWA arrives at the receiving MSWLF as a separate load and is not commingled with any other waste.

**102.506(3)** The generator shall make a waste determination as required by federal regulations and submit it and analytical results supporting an SWA to the MSWLF at a frequency to be determined by the MSWLF.

**102.506(4)** The generator must contact the designated MSWLF for instructions on delivering the waste and instructions for adhering to the MSWLF's SWAC.

**102.506(5)** The generator shall notify the department and MSWLF, prior to disposal, of any change in the characteristics of the special wastes being disposed.

**102.506(6)** Generators shall notify the MSWLF in writing when a one-time disposal under an SWA has been completed. This requirement is for one-time disposals only.

**567—102.507(455B,455D) Additional requirements for specific types of special wastes.**

**102.507(1)** *Sewage sludge.* Sewage sludge, including stabilized septic tank pumpings, shall not be disposed of in a MSWLF if it meets the criteria for Class I or II sewage sludge in 567—Chapter 67, except for use in daily, interim, or final cover according to the approved plan for the landfill. Class III sewage sludge may be disposed of at a MSWLF if stabilized according to 567—Chapter 67.

**102.507(2)** *Infectious waste.* Infectious waste may be placed with municipal solid waste if it is rendered nonpathological; it does not contain free liquids; and sharps are shredded, blunted, granulated, incinerated, or mechanically destroyed. The generator of the infectious waste must notify the waste hauler and the MSWLF that infectious waste is being placed with the regular municipal solid waste and, with the notice, certify that the infectious waste is properly treated in accordance with the requirements of this rule.

**567—102.508(455B,455D) Conditions and requirements for the disposal of general special wastes.** Disposal of general special waste shall be in accordance this rule. An SWA is not required for general special wastes. The following wastes are approved as general special wastes: asbestos-containing material (ACM), stabilized grit, bar screenings, and grease skimmings.

**102.508(1)** *Asbestos-containing material.* The MSWLF permit holder shall comply with the following conditions and requirements whenever asbestos-containing waste materials are accepted and disposed of in an MSWLF.

*a.* ACM wastes with 1 percent or less asbestos can be disposed of at the working face.

*b.* ACM wastes that contain greater than 1 percent asbestos are regulated under federal asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP) and shall be managed in accordance with federal regulations defined in 40 CFR Part 61, Subpart M. Testing to determine asbestos content shall utilize the method specified in 40 CFR Part 763, Section 1, Subpart F, Appendix A.

*c.* Upon arrival at the MSWLF, the transporter shall present to the landfill operator the ACM waste shipment records, which shall include a determination whether the ACM waste is friable or nonfriable, if known. The landfill operator must through visual inspection or testing verify whether the ACM waste is friable or nonfriable. If the waste is friable or the inspection or testing cannot verify that the ACM is nonfriable, the waste must be handled as friable ACM waste.

*d.* Any federal NESHAP-regulated ACM waste shipments that show evidence of visible dust emissions or that are not properly containerized, wrapped, wetted, and covered shall be rejected upon arrival at the landfill.

*e.* ACM wastes with greater than 1 percent asbestos content that are nonfriable when received at the landfill may be disposed of at the working face. Care shall be taken when unloading and covering the waste so that it does not become friable at the working face.

*f.* ACM wastes with greater than 1 percent asbestos content that are confirmed as friable when received at the landfill shall be disposed of in an area separate from the regular working face. The wastes shall be covered carefully with a minimum of six inches of soil cover and compacted by no later than the end of the operating day. Care shall be taken at all times during disposal and covering to prevent rupture of asbestos-containing containers and wrapped waste systems. Covered ACM waste areas shall be protected from erosion at all times.

*g.* Upon delivery, friable ACM wastes must be wet and contained in labeled, leak-tight containers or wrapping that prevents asbestos from becoming airborne. Bulk demolition wastes with friable ACM need not be placed in leak-tight containers but must remain wet at all times and be properly labeled and wrapped to prevent asbestos from becoming airborne during transport and disposal and covering at the landfill.

*h.* Care shall be taken at all times when transporting, depositing, and covering federal NESHAP-regulated ACM waste to control the evolution of dust and airborne asbestos fibers and to not allow the rupture of asbestos containers and wraps.

*i.* After landfill acceptance, if any federal NESHAP-regulated ACM waste becomes dry prior to disposal, rewetting or an approved alternative means of dust emissions control is mandatory. When disposed of, the wet ACM waste must be properly covered before it can dry again.

*j.* In the event that any visible dust emissions from federal NESHAP-regulated ACM waste occur, protective safety equipment, consistent with federal NESHAP and OSHA regulations, shall be immediately utilized by landfill operating staff.

*k.* Daily records of the acceptance and disposal of all ACM wastes shall be maintained. Landfill records for each NESHAP-regulated ACM waste shipment shall include the following:

(1) The date of ACM waste receipt.

(2) The names, addresses, and telephone numbers of the originating waste generation site, facility owner, agent responsible for performing removal and the waste transporter.

(3) The description of ACM wastes, quantity in cubic yards, weight and the number and type of containers or systems received.

(4) The waste shipment record and any accompanying asbestos content laboratory test and friable status documentation.

(5) The operational log notation relative to the landfill operator's visual confirmation of waste type compared to waste shipment records and the friable or nonfriable status for each federal NESHAP-regulated ACM waste shipment.

(6) The operational log notation of any rejected ACM waste and the reasons for rejection by landfill staff.

(7) The site operational area, coordinates location, and vertical elevation keyed to site mapping and the quantity of buried waste in cubic yards for each federal NESHAP-regulated waste shipment disposed of within the disposal site.

*l.* Records for all federal NESHAP-regulated ACM wastes accepted at the landfill in accordance with 40 CFR Part 61, including required federal and state asbestos NESHAP program operational and site closure reports, shall be maintained. All records, except for waste shipment records, shall be maintained through site closure. Waste shipment records shall be retained for at least two years.

*m.* A copy of an Affidavit Explanatory of Title that has been file stamped by the county recorder shall be submitted to the department within 60 days of site closure. The affidavit shall appear at part of the property deed record and shall indicate that:

(1) The landfill has been used for the disposal of ACM waste.

(2) The survey plot and all records of the location and quantity of regulated ACM wastes have been filed with federal and state NESHAP program officials. Such documentation must be filed with the department, along with the notification.

(3) The site is subject to the regulations under 40 CFR Part 61, Subpart M, and the site closure permit requirements issued by the department.

*n.* Strict adherence to federal NESHAP asbestos regulations under 40 CFR Part 61 is mandatory for all federal regulated ACM wastes.

**102.508(2)** *Stabilized grit, bar screenings, and grease skimmings.* The MSWLF operator, the generator, and the hauler shall comply with the following conditions and requirements whenever stabilized grit, bar screenings, or grease skimmings are disposed of in a MSWLF.

*a.* The generator shall stabilize the grit, bar screenings, and grease skimmings prior to their disposal at the landfill in order to destroy any pathogenic organisms. Stabilization shall be done by addition of lime to raise the pH to at least 12 for two hours. In lieu of stabilization for bar screenings, a system that flushes organic matter then dewaters and bags the screenings may be utilized.

*b.* The generator shall prearrange a delivery schedule with the landfill operator.

*c.* Upon arrival at the landfill, the hauler shall identify the waste to the landfill attendant.

*d.* The landfill operator shall direct the hauler to the working face.

*e.* The waste shall be deposited at the working face, covered with regular refuse or soil and compacted.

**567—102.509** to **102.599** Reserved.

These rules are intended to implement Iowa Code section 455B.304.

DIVISION VII
DISCARDED APPLIANCE DEMANUFACTURING

**567—102.600(455D) Purpose; applicability; compliance.** This division is to ensure the proper removal and disposal of electrical parts containing polychlorinated biphenyls (PCBs), components containing mercury, and refrigerants (e.g., CFCs and HCFCs) from discarded appliances.

**102.600(1)** All discarded appliances must be demanufactured pursuant to this division before being disposed of or recycled. This division does not apply to the service, repair, reuse, or rebuilding of appliances or components for their original purpose. These rules do not apply to the removal of capacitors, refrigerants, or components containing mercury during the maintenance or service of equipment containing such items.

**102.600(2)** Compliance with this division in no way relieves the appliance demanufacturer of the responsibility of complying with all other local, state, or federal statutes, ordinances, and rules and other applicable requirements.

**102.600(3)** All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—102.601(455B,455D) Definitions.** The definitions in Iowa Code section 455B.301 and 567—Chapter 100 apply to this division.

**567—102.602(455D) Storage and handling of appliances prior to demanufacturing.**

**102.602(1)** Any person collecting and storing discarded appliances must store the appliances so as to prevent electrical capacitors, refrigerant lines and compressors, and mercury-containing components from being damaged and allowing a release into the environment.

**102.602(2)** No method of handling discarded appliances may be used that in any way damages, cuts, or breaks refrigerant lines; crushes compressors, capacitors, or mercury-containing components; or may cause a release of refrigerant, PCBs, or mercury into the environment.

**102.602(3)** No more than 1,000 discarded appliances may be stored at a location prior to demanufacturing.

**102.602(4)** Discarded appliances may not be stored for more than 270 days before being demanufactured.

**567—102.603(455D) Appliance demanufacturing permits.**

**102.603(1)** *Permit required.* A person must obtain a Solid Waste Management permit pursuant to 567—subrule 100.4(2) for appliance demanufacturing from the department before conducting any demanufacturing activities.

**102.603(2)** *Types of permits.*

*a.* A person may request a permit that excludes appliances that contain a particular type of material (e.g., refrigerants, sodium chromate, PCBs, or mercury switches). Persons may not demanufacture or place their unique mark on an appliance that once contained a material that is excluded from their permit. An appliance demanufacturing facility must clearly post the types of appliances the facility does not accept.

*b.* Permits may be issued for both fixed facilities and mobile operations.

**102.603(3)** *Factors in permit issuance decisions.* The department may request that additional information be submitted for review to make a permit issuance decision. The department may review and inspect the facility, its agents and operators, and compliance history. The department may review whether a good-faith effort to maintain compliance and protect human health and the environment is being made and whether a compliance schedule is being followed. The department may issue a permit on a trial basis. After review of the permit application or a trial period, the department may require financial assurance as a condition of a permit. Any such condition will be consistent with those types detailed in Iowa Code section 455B.301(9).

**567—102.604(455D) Appliance demanufacturing permit application requirements.** In addition to the permit application requirements in 567—100.5(455B,455D), the applicant shall submit the following:

1. Type, source and expected number or weight of appliances to be handled per year.
2. For a fixed facility, schematic site plans of the facility, including the schematic floor plans of any buildings showing where activities will take place and where waste is stored.
3. For mobile operations, schematic plans, or a description and photographs of the mobile van or trailer.
4. The EPA-approved refrigerant removal equipment that will be used.
5. Operation plan: a detailed summary of the activities that will be performed on each type of appliance considered for demanufacturing. This summary must include step-by-step activities of the demanufacturing process.
6. A contingency plan detailing the specific procedures to be used in case of equipment breakdown or fire, including methods to be used to remove or dispose of accumulated waste.
7. A copy of the NPDES Stormwater General Permit Authorization number, if applicable.
8. A copy of EPA Notification of PCB Activity Form 7710-53 and a return response from EPA.
9. Documentation showing compliance with 567—102.606(455D).
10. A copy of the unique mark to be applied to each discarded appliance after demanufacturing.
11. Documentation that a permanent appliance demanufacturing facility meets local zoning requirements.

**567—102.605(455D) Operations.** The following removal and disposal requirements must be met by both fixed facilities and mobile operations.

**102.605(1)** Demanufacturing of appliances must take place on an impervious floor, including but not limited to concrete, ceramic tile, or metal, but not including wood. Any spills must be contained and picked up with proper equipment and procedures and be disposed of properly.

**102.605(2)** The point of demanufacturing must be located at least 50 feet from a well and any water of the state.

**102.605(3)** The facility must be located above the 100-year floodwater elevation.

**102.605(4)** A permanent facility must meet local zoning requirements.

**102.605(5)** Every operation must have a unique mark that signifies all refrigerants, PCB-containing articles, and mercury-containing components have been removed. The unique mark must be a minimum of nine inches by nine inches. The unique mark must be applied to appliances after demanufacturing.

**567—102.606(455D) Training.**

**102.606(1)** At least one owner or employee of an appliance demanufacturing facility must have a training certificate from a department-approved demanufacturer training course. A person who has completed the department-approved training course must be on site at all times when discarded appliances are being demanufactured.

**102.606(2)** To be approved by the department, the training must, at a minimum, cover the following topics.

*a.* State and federal regulations for the removal, storage, transportation, and disposal of refrigerant, PCB-containing articles, and mercury-containing components from appliances.

*b.* Recordkeeping requirements.

*c.* Safety precautions for handling appliances and hazardous materials.

*d.* Spill prevention and cleanup procedures appropriate for appliance demanufacturing.

*e.* The proper methods of loading and unloading discarded appliances.

*f.* General demanufacturing procedures.

**567—102.607(455D) Refrigerant removal requirements.**

**102.607(1)** All demanufacturers of refrigerant containing appliances shall comply with 40 CFR 82.155 as amended March 7, 2025.

**102.607(2)** The removal of refrigerant from refrigeration appliances must take place in an area where the temperature of the surrounding air and of the appliance being demanufactured is 45°F or greater.

**102.607(3)** Facilities that are not EPA-certified refrigerant reclaimers must transport recovered refrigerant to an EPA-certified reclamation facility or properly dispose of the refrigerant at an EPA-permitted facility. Reclamation may take place on site only if the appliance demanufacturing facility is certified as a reclaimer by the EPA.

**102.607(4)** The following rules apply to the demanufacturing of appliances containing compressor oil.

*a.* Compressor oil from refrigeration unit compressors may be removed during the demanufacturing process, and any oil removed must be stored in accordance with 40 CFR 279.22 as amended March 3, 2025.

*b.* Compressor oil is not hazardous and may be burned in used oil-fired space heaters, provided the heaters have a capacity of 0.5 British thermal units (BTUs) per hour or more.

*c.* Compressor oil may be sold to a marketer of used oil.

**102.607(5)** The following rules apply to the demanufacturing of ammonia gas-operated refrigerators and air conditioners.

*a.* Ammonia gas must be vented into water.

*b.* Sodium chromate must be removed from refrigeration equipment containing sodium chromate.

*c.* Sodium chromate liquid is a hazardous waste and must be disposed of at an EPA-permitted facility.

*d.* Removal of sodium chromate liquid must take place on an impervious surface. In case of a spill, the spilled liquid and the material used as absorbent must be handled as a hazardous waste and disposed of as a hazardous waste.

*e.* Sodium chromate must be stored in a department of transportation-approved (DOT-approved) container that shows no sign of damage. The container must be labeled with a proper EPA-approved chromium label stating "chromium" or "hazardous waste" as required by 40 CFR 262.32 as amended March 3, 2025, and 49 CFR 172.304 as amended March 3, 2025, in both English and the predominant language of any non-English-reading workers.

*f.* Prior to shipment, sodium chromate must be packaged to prevent leakage and all containers must be sealed.

*g.* A person generating sodium chromate waste must maintain records to determine if the person is a very small quantity generator (VSQG), small quantity generator (SQG), or large quantity generator (LQG) of hazardous waste.

**567—102.608(455D) Mercury-containing component removal and disposal requirements.**

**102.608(1)** All components containing mercury shall be removed from appliances. Precautions shall be taken to prevent breakage of the mercury-containing components and the release of mercury.

**102.608(2)** All mercury-containing component storage containers must be labeled with the proper EPA-approved mercury label stating: "Universal Waste—Mercury Containing Equipment" or "Waste Mercury-Containing Equipment" or "Used Mercury-Containing Equipment" in both English and the predominant language of any non-English-reading workers.

**102.608(3)** The date when the first mercury-containing component was placed in the container shall be affixed to the container.

**102.608(4)** Mercury-containing components may be stored for no longer than one year.

**102.608(5)** Accumulation of mercury-containing components shall not exceed 5,000 kg (11,025 lbs) at any time.

**102.608(6)** All mercury containers must be sealed prior to shipment.

**102.608(7)** All components containing mercury must be disposed of at an EPA-approved mercury recycling/recovery facility.

**102.608(8)** Fluorescent tubes, lamps, bulbs, and similar items must be placed in a container and packaged to prevent breakage for shipment to an EPA-approved recycler or must be processed in a manner that complies with state and federal regulations.

**102.608(9)** All mercury-containing components must be managed in accordance with 40 CFR 273 as amended March 3, 2025, and all state and federal regulations.

**567—102.609(455D) Capacitor removal requirements.**

**102.609(1)** All capacitors must be removed from discarded appliances unless the appliance manufacturer certifies in writing that no PCBs were used in the manufacture of the appliance.

**102.609(2)** Capacitors that meet one or more of the following criteria may be disposed of or recycled as solid waste. The capacitor:

*a.* Is proven to be free of PCBs by an approved laboratory.

*b.* Is imprinted by the manufacturer with the words "No PCBs" on the body of the capacitor.

*c.* Is certified in writing by the manufacturer of the capacitor not to contain PCBs.

*d.* Does not contain dielectric fluid.

**102.609(3)** The following rules apply to the storage and disposal of PCB-containing items. PCB-containing items must be stored and transported according to the Toxic Substances Control Act (TSCA) and 40 CFR 761 as amended March 3, 2025, and disposed of at a TSCA-permitted disposal facility. Facilities used for the storage of PCB-containing items designated for disposal must meet the following storage requirements:

*a.* Facilities shall register with the EPA and receive an EPA identification number.

*b.* PCB-containing items must be stored in a manner that provides adequate protection from the elements and adequate secondary containment. This storage must take place on an impervious material above the 100-year floodwater elevation.

*c.* The point of demanufacturing must be located above the 100-year floodwater elevation.

*d.* All capacitors containing or suspected of containing PCBs must be placed in a DOT-approved container that shows no signs of damage. The bottom of the container must be filled to a depth of two inches with absorbent material such as sand, oil-dry, or kitty litter.

*e.* All DOT-approved containers must be affixed with the large PCB mark as described in 40 CFR 761.45 as amended March 3, 2025.

*f.* The date when the first PCB-containing item was placed in the container shall be placed on the container.

*g.* Nonleaking small PCB capacitors may be stored for up to 30 days from the date of removal in an area that does not comply with the requirements in 102.609(4)*"a"* through *"f"* provided a notation is placed on the PCB capacitor indicating the date the item was removed from the appliance.

*h.* PCB-containing items may be stored for no more than 270 days. The storage area must be labeled with the PCB $M_L$mark. The storage area must be inspected every 30 days, and the inspection must be documented.

*i.* If a demanufacturer stores more than 45 kg (99.4 lbs) at any one time, the demanufacturer must maintain annual written records and the annual document log as required by 40 CFR 761.180 as amended March 3, 2025.

**102.609(4)** All capacitors not meeting the criteria in 102.609(2) must be disposed of as follows:

*a.* Appliance demanufacturers may dispose of PCB capacitors by one of two means. If the facility is a VSQG, the demanufacturer may send the properly marked and dated container of capacitors to a regional collection center (RCC) licensed under 567—Chapter 103 for disposal. If the facility is not a VSQG, the capacitors must be manifested and shipped for disposal in accordance with 40 CFR 761.65 as amended March 3, 2025.

*b.* Disposal through an RCC. Shipments from a VSQG to an RCC shall be considered equivalent to disposal as municipal solid waste for the purposes of 40 CFR 761.60(b)(2)(iii) as amended March 3, 2025; capacitors may not be disposed of in a landfill. An RCC may accept PCB capacitors without having to provide a certificate of disposal. The RCC shall provide the appliance demanufacturer with a receipt specifying the name of the RCC, the appliance demanufacturer from which the capacitors were received, the weight or number of capacitors, and the date the capacitors were received. Copies of this document must be retained for three years at both locations. The date that capacitors are received shall be considered the date the capacitors are determined to be PCB-containing waste for the purposes of 40 CFR 761.65(a)(1) as amended March 3, 2025. Capacitors may be consolidated in DOT-approved shipping containers for transport for disposal.

*c.* Disposal through EPA-approved facility for the disposal of PCB waste. The labeled and dated DOT-approved container must be transported by a transporter with a valid EPA identification number, using an EPA Uniform Hazardous Waste Manifest Form. All containers must be sealed prior to shipment. The demanufacturer has one year from the date the first PCB-containing item is placed in the container to properly dispose of the contents by incineration, recycling, or another approved method pursuant to 40 CFR 761.60(b) as amended March 3, 2025, or 761.60(c) as amended March 3, 2025. Disposal must be documented and the record kept by the demanufacturer for three years from the date the PCB-containing waste was accepted by the initial transporter.

*d.* PCB-containing items shall be properly disposed of within one year of removal from the appliance. The generator shall obtain a certificate of disposal within 30 days of the date that disposal of the PCB-containing items was completed at a PCB disposal facility. If a certificate of disposal is not obtained within 30 days, the EPA regional administrator must be notified pursuant to 40 CFR 761.218(d) as amended March 3, 2025.

**567—102.610(455D) Spills.**

**102.610(1)** Any spills from leaking or cracked capacitors must be handled by placing the capacitor and any contaminated rags, clothing, and soil into a container for shipment to an EPA-approved waste disposal facility. Spills of liquid PCBs that occur outside a DOT-approved container must be cleaned and the cleanup verified by sampling as described at 40 CFR 761.130 as amended March 3, 2025. Detailed records of such cleanups and sampling must be maintained as described at 40 CFR 761.180 as amended March 3, 2025.

**102.610(2)** Mercury spill kits (with a mercury absorbent in the kits) must be on hand and used in the event of a mercury spill. Any waste from the cleanup of a mercury spill must be disposed of as a hazardous waste.

**102.610(3)** In the event a spill results in a hazardous condition, the facility must follow the requirements in 567—Chapter 105, Division I.

**567—102.611(455D) Recordkeeping and reporting.**

**102.611(1)** Annual reports with the information required in 102.611(2) are:

*a.* To be submitted to the solid waste and contaminated sites section of the department's main office;

*b.* Due January 31 each year for the activities of the previous calendar year;

*c.* To be submitted on forms provided by the department; and

*d.* To be retained by the permit holder for at least three years.

**102.611(2)** Annual reports shall contain the following information for the previous calendar year.

*a.* Number of appliances demanufactured in each of the following categories:

(1) Refrigerators and freezers.

(2) Commercial coolers.

(3) Air-conditioning units.

(4) Dehumidifiers.

(5) Gas water heaters.

(6) Furnaces.

(7) Clothes washers and clothes dryers.

(8) Dishwashers.

(9) Microwave ovens.

(10) Other items containing mercury, refrigerant or PCB-containing articles.

*b.* Number of mercury switches removed from appliances.

*c.* Number of mercury thermocouples removed from appliances.

*d.* Date the first item was placed in the mercury storage drum that is in use on December 31.

*e.* Number of fluorescent tubes removed from appliances.

*f.* Number of sodium chromate-containing appliances shipped to another demanufacturer.

*g.* Amount of refrigerant removed.

*h.* Number of PCB capacitors removed.

*i.* Number of PCB ballasts removed.

*j.* Date the first PCB-containing item was placed in the storage drum that is in use on December 31.

**102.611(3)** A permitted appliance demanufacturing facility shall retain the following records on site for a minimum of three years.

*a.* All hazardous waste manifests and bills of lading for shipments of refrigerant, mercury switches, PCB-containing materials, and any hazardous waste.

*b.* Receipts for any sodium chromate-containing units that were sent to another facility for processing.

*c.* Documentation of destruction or receipt from a regional collection center for all PCB materials shipped.

*d.* Documentation of inspections of the PCB storage area as required by 102.607*"h."*

*e.* Annual written records and annual document log if required by 102.607(4)*"i."*

*f.* Copy of the annual report as required in 102.609(1).

**567—102.612(455D) Appliance demanufacturing facility closure requirements.** In addition to the requirements in 567—100.10(455B), an appliance demanufacturing facility shall do the following prior to closure:

1. Remove all appliances that have not been demanufactured.
2. Properly dispose of all refrigerant, PCBs, mercury, and all hazardous materials.
3. Submit an annual report covering January 1, through the last disposal of hazardous materials, PCBs, and refrigerant.

**567—102.613(455D) Shredding of appliances.**

**102.613(1)** Facilities shredding demanufactured appliances shall sample the fluff from the shredding of demanufactured appliances at least quarterly and analyze the fluff for the presence of PCBs, and according to the TCLP for arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver. The waste shall be sampled once a day for seven consecutive working days to make a composite sample. If the concentrations of heavy metals do not exceed concentrations listed in 40 CFR 261.24 as amended March 3, 2025, the fluff may be landfilled in Iowa. Results must be retained on site for a minimum of three years and be submitted to the department within 30 days of the end of each quarter.

**102.613(2)** Fluff from the shredding of demanufactured appliances may be sampled and tested by the department at any time.

**102.613(3)** A person or facility engaged in demanufacturing in the state may not shred, crush, or bale any appliances that have not been demanufactured. A person or facility located in Iowa that does not engage in demanufacturing but accepts appliances from demanufacturers for recycling or disposal may shred, crush, or bale only appliances that have been demanufactured in accordance with federal regulations and the laws of the state from which the appliances are received.

**567—102.614** to **102.699** Reserved.

These rules are intended to implement Iowa Code section 455D.6(4).

DIVISION VIII
CATHODE RAY TUBE RECYCLING

**567—102.700(455D) Purpose.** The purpose of this division is to implement rules for the recycling of discarded CRTs and the disassembly and removal of toxic parts from discarded CRTs in a manner that is safe for human health and the environment.

**567—102.701(455D) Applicability and compliance.** This division applies to discarded CRTs that are collected for recycling and to CRT glass processed for recycling. This division does not apply to CRTs collected for disposal.

**102.701(1)** This division applies to facilities and short-term CRT collection events that perform CRT recycling functions including but not limited to the collection, demanufacturing, and processing of discarded CRTs.

**102.701(2)** This division does not apply to CRT reuse activities, CRT service and repair activities, or CRT refurbishing activities that do not otherwise qualify as CRT recycling.

**102.701(3)** The issuance of a permit or registration by the department in no way relieves the applicant of the responsibility of complying with all other local, state, or federal statutes, ordinances, and rules or other requirements applicable to the construction, operation, and closure of a CRT collection facility or CRT recycling facility.

**102.701(4)** All discarded CRTs collected for recycling, including those generated by a household, once collected by a CRT collection facility or CRT recycling facility, shall be managed in accordance with 40 CFR 261.39 and this division. If there is a conflict, the more stringent regulation applies.

**102.701(5)** All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—102.702(455D) Definitions.** For the purposes of this division, the definitions in 567—Chapter 100 and Iowa Code section 455B.301 and chapter 455D shall apply.

**567—102.703(455D) Short-term CRT collection events.** All short-term CRT collection events shall be conducted in a manner that complies with this rule. Short-term CRT collection event organizers are not required to register the event as a CRT collection facility.

**102.703(1)** Within one week of collection, all discarded CRTs and CRT glass shall be transported to a properly permitted CRT recycling facility or registered CRT collection facility.

**102.703(2)** During the period between collection and transport, all broken CRTs and CRT glass shall be stored in one of the following ways:

*a.* In a fully enclosed building with a roof, floor, and walls, or

*b.* In a container that is constructed, filled, and closed to minimize releases to the environment of CRT glass (including fine solid materials).

**102.703(3)** During the period between collection and transport, intact discarded CRTs shall be stored in one of the following ways:

*a.* In a fully enclosed building with a roof, floor, and walls, or

*b.* In a secure container (e.g., package or vehicle) that is constructed and maintained to minimize breakage of electronic waste and to prevent releases of hazardous materials to the environment.

**567—102.704(455D) Registration for CRT collection facilities.** A CRT collection facility shall register with the department using a form provided by the department.

**102.704(1)** The registration application shall include proof of the applicant's ownership of the property or legal entitlement to use the property for CRT collection. If the facility is leased, the application shall also include a statement, signed by the property owner, stating that the property owner is aware that CRT collection is taking place at the site and that the property owner may be held liable for wastes abandoned at the property.

**102.704(2)** Registration will expire March 1 of each year if renewal has not been made and approved.

**102.704(3)** Annual registration renewal occurs by complying with the reporting requirements in 567—102.710(455D). Once a complete report is received and confirmed complete in writing by the department, the facility's registration will be renewed until March 1 of the following year.

**102.704(4)** The department may deny or revoke CRT collection facility registration if one or more of the following is determined by the department:

*a.* The registration application is incomplete.

*b.* There is a violation of a requirement of this division, including but not limited to failing to submit accurate and timely reports as required in 567—102.710(455D).

*c.* There is or was a misrepresentation made in obtaining a registration or registration renewal under this division.

*d.* The registrant fails to correct a condition as agreed to in an agreed order with the department or fails to come into compliance with this division within the time frame established in the agreed order.

*e.* The permittee has lost legal entitlement to use the property identified in the registration.

*f.* Upon notice to the department by the permittee that the permittee no longer wishes to retain the registration for future operation.

**567—102.705(455D) CRT recycling facility permits.**

**102.705(1)** *Permit required.* A CRT recycling facility shall not be operated without a solid waste management permit for CRT recycling from the department as per 567—subrule 100.4(2).

**102.705(2)** *Notification of change in status.* CRT recycling facilities must notify the department 30 days prior to any significant change of status of the operation, including any change in the ownership or operation of the facility or location of the facility.

**102.705(3)** *Denial or revocation of permit.* The department may deny, revoke, or limit the length of a permit if one or more of the following is determined:

*a.* The department has revoked the applicant's previous permit under this division.

*b.* There is a violation of a requirement of this division or a condition of the permit.

*c.* There is a failure to disclose all relevant facts in obtaining a permit under this division.

*d.* There is a misrepresentation made in obtaining a permit under this division.

*e.* There is a misrepresentation in the annual report required in 567—102.710(455D).

*f.* The permittee fails to meet the requirements for a permit.

*g.* The permittee fails to correct a condition as agreed to in an agreed order with the department or fails to come into compliance with the permit or this division within the time frame established in the agreed order.

*h.* The permittee has lost legal entitlement to use the property identified in the permit.

*i.* Upon notice to the department by the permittee that the permittee no longer wishes to retain the permit for future operation.

**102.705(4)** *Permit conditions.* The department may place conditions on any permit deemed necessary by the department to ensure compliance with this division and to protect human health and the environment.

**102.705(5)** *Effect of revocation.* If a permit held by any public or private agency is revoked by the director, then no new permit shall be issued to that agency for that CRT recycling facility for a period of one year from the date of revocation. Such revocation shall not prohibit the issuance of a permit for the facility to another public or private agency.

**102.705(6)** *Permits without expiration date.* CRT recycling permits that were issued prior to September 23, 2026, that do not have an expiration date will expire September 23, 2031. The permit holder shall file an application for renewal as per 567—paragraph 100.4(2)*"a."*

**567—102.706(455D) CRT recycling facility permit application requirements.** In addition to the requirements in 567—subrule 100.5(1), a CRT recycling facility permit applicant shall submit the following information to the department.

**102.706(1)** The physical location of any collection sites if separate from the main facility.

**102.706(2)** If the facility is leased, a signed statement from the property owner stating that the property owner is aware that CRT collection or recycling is taking place at the property and that the property owner may be held liable for wastes left at the property.

**102.706(3)** A brief description of the facility and the CRT processing that will take place.

**567—102.707(455D) Discarded CRT management requirements.** CRT collection facilities and CRT recycling facilities shall manage all discarded CRTs in accordance with 40 CFR 261.39 and 40 CFR 40 CFR 260.43.

**102.707(1)** Discarded CRTs and processed CRT glass shall not be speculatively accumulated pursuant to 40 CFR 261.1(c)(8).

**102.707(2)** Broken CRTs and processed CRT glass shall be stored either:

*a.* In a building with a roof, floor, and walls, or

*b.* In a container (e.g., a package or a vehicle) that is constructed, filled, and closed to minimize releases to the environment of CRT glass (including fine solid materials).

**102.707(3)** Intact discarded CRTs shall be stored either:

*a.* In a building with a roof, floor, and walls, or

*b.* In a secure container (e.g., package or vehicle) that is constructed and maintained to minimize breakage of electronic waste and to prevent releases of hazardous materials to the environment.

**102.707(4)** Each container of broken CRTs or CRT glass must be labeled or marked clearly with one of the following phrases: "Used cathode ray tube(s)-contains leaded glass. Do not mix with other glass materials” or “Leaded glass from televisions or computers. Do not mix with other glass materials.” Each container shall also be labeled with the first date that material began to be accumulated in the container.

**102.707(5)** Each container or pallet of intact discarded CRTs shall be labeled with the first date that any material began to accumulate in the container or on the pallet.

**102.707(6)** Broken CRTs must be transported in a container meeting the requirements of 102.707(2).

**102.707(7)** CRT collection facilities or CRT recycling facilities that export broken CRTs shall also comply with 40 CFR 261.39(a)(5).

**102.707(8)** All processing of CRTs shall be processed according to 40 CFR 261.39(b).

**102.707(9)** Failure to comply with this rule and the referenced CFR sections is grounds for termination of any permit or registration authorized by this rule.

**567—102.708(455D) Recordkeeping requirements for CRT collection facilities.**

**102.708(1)** All CRT collection facilities shall maintain the following records on a calendar year basis:

*a.* The name and address of the facility receiving a shipment that left the CRT collection facility and contact information for the receiving facility.

*b.* The type of service the receiving facility will provide to the CRT collection facility.

*c.* A description of the shipment contents.

*d.* All bills of lading.

*e.* All hazardous waste manifests.

**102.708(2)** Records must be maintained at the facility, must be submitted to the department upon request, and may be destroyed after three years.

**567—102.709(455D) Recordkeeping requirements for CRT recycling facilities.**

**102.709(1)** All CRT recycling facilities shall maintain the following records on a calendar year basis:

*a.* The total aggregate weight and receipt date of each shipment of discarded CRTs received from businesses, institutions, CRT collection facilities, short-term CRT collection events, and other permitted CRT recycling facilities.

*b.* The name, address, and contact information for shipments reported pursuant to 102.710(2).

*c.* The total aggregate weight and date of each shipment leaving the CRT recycling facility.

*d.* The name and address of the facility receiving a shipment that left the CRT recycling facility, contact information for the receiving facility, and a description of the shipment contents including all applicable bills of lading.

*e.* The type of service the receiving facility will provide to the CRT recycling facility.

*f.* All hazardous waste manifests.

**102.709(2)** Records must be maintained at the facility, must be available for review by the department on demand, and may be destroyed after three years.

**567—102.710(455D) Reporting requirements.** CRT collection facilities and CRT recycling facilities shall report the following information, on a form provided by the department, to the department by February 1 of each year for the previous calendar year.

**102.710(1)** The amount, either by weight or volume, of discarded CRTs and processed CRT glass on site on January 1.

**102.710(2)** The amount, either by weight or by volume, of discarded CRTs and CRT glass recycled or transferred for recycling during the calendar year.

**102.710(3)** The amount, either by weight or by volume, of discarded CRTs and processed CRT glass on site on December 31.

**102.710(4)** Indication of whether the CRTs received over the past year were generated by households, businesses, or both households and businesses.

These rules are intended to implement Iowa Code section 455D.6(5).

ITEM 2. Rescind and reserve **567—Chapter 108**.

ITEM 3. Rescind and reserve **567—Chapter 116**.

ITEM 4. Rescind and reserve **567—Chapter 117**.

ITEM 5. Rescind and reserve **567—Chapter 118**.

ITEM 6. Rescind and reserve **567—Chapter 120**.

ITEM 7. Rescind and reserve **567—Chapter 121**.

ITEM 8. Rescind and reserve **567—Chapter 122**.

[Filed 7/24/26, effective 9/23/26]
[Published 8/19/26]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

## ARC 0484D

# ENVIRONMENTAL PROTECTION COMMISSION[567]

**Adopted and Filed**

**Rulemaking related to financial and operating license requirements**

The Environmental Protection Commission (Commission) hereby rescinds Chapter 103, "Sanitary Landfills: Coal Combustion Residue"; adopts a new Chapter 103, "Financial and Operating License Requirements for Regional Collection Centers and Satellite Facilities"; and rescinds Chapter 123, "Regional Collection Centers and Satellite Facilities," and Chapter 211, "Financial Assistance for the Management of Household Hazardous Materials and Hazardous Waste From Very Small Quantity Generators," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code section 455F.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 455F and section 455E.11 and Executive Order 10.

*Purpose and Summary*

Chapters 123 and 211 were reviewed consistent with Executive Order 10. The rulemaking rescinds both rules and replaces necessary language into new Chapter 103. The purpose of the chapter is to implement financial and operating license requirements for regional collection centers and satellite facilities, which provide for the collection and proper disposal of household hazardous materials and hazardous waste from very small quantity generators.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 7, 2026, as **ARC 9912C**. A public hearing was held on the following date(s):

- January 28, 2026
- January 30, 2026

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Commission on July 21, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 7—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on September 23, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind 567—Chapter 103 and adopt the following **new** chapter in lieu thereof:

CHAPTER 103
FINANCIAL AND OPERATING LICENSE REQUIREMENTS FOR
REGIONAL COLLECTION CENTERS AND SATELLITE FACILITIES

**567—103.1(455F) Purpose.** The purpose of this chapter is to implement financial and operating license requirements for regional collection centers and satellite facilities that provide for the collection and proper disposal of household hazardous materials and hazardous waste from very small quantity generators. The costs and accessibility of hazardous materials management can be improved by the establishment and maintenance of a system of regional collection centers and satellite facilities for the safe and proper management of household hazardous materials and hazardous materials from very small quantity generators. Therefore, the department may provide financial assistance for costs associated with establishing or improving regional collection centers and satellite facilities when such funding is available. The department may also provide financial assistance for ongoing collection and disposal activities that result in eligible pounds when such funding is available. All rules, standards, technical guidance, and other similar legal or technical documents referenced in this chapter shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—103.2(455B,455D,455F) Definitions.** For the purposes of this chapter, the following definitions; definitions found in 567—Chapter 100; and definitions found in Iowa Code chapters 455B, 455D and 455F shall apply:

*"Applicant for regional collection center or satellite facility financial assistance"* means a regional collection center or satellite facility operated by a private agency, a local government or a public agency representing local governments pursuant to Iowa Code chapter 28E.

*"Eligible pounds"* means household hazardous waste or hazardous waste from very small quantity generators that is disposed of or recycled by a licensed hazardous waste contractor. Very small quantity generator hazardous waste for which a regional collection center is required to charge a fee under Iowa Code section 455F.8A is considered eligible pounds if there is a corresponding disposal charge from a hazardous waste contractor. "Eligible pounds" means net weight as shown on final disposition documents. A manifest shows an estimated weight and cannot be used to determine eligible pounds. Very small quantity generator hazardous waste or household hazardous waste that has no disposal cost, or for which regional collection centers receive compensation or charge a fee, is not eligible pounds. Materials such as cathode ray tubes, electronics, and used oil that are not destined for final disposal, but are instead recycled for reuse of components, are not eligible pounds.

*"Financial assistance"* means monetary assistance including grants, cash payments, or support by other financial means.

*"Hazardous waste contractor"* means a private company that provides proper management (e.g., disposal, recycling) of hazardous waste. "Hazardous waste contractor" does not include regional collection centers.

*"Regional collection center mobile unit"* or *"mobile unit"* means a truck or trailer owned and operated under the direction of a regional collection center that can be moved to different sites within a region. A mobile unit is used to perform collection events and to transport collected materials to a regional collection center for sorting and consolidation.

*"Very small quantity generator"* means a generator that generates less than or equal to the following amounts in a calendar month:

1. 100 kilograms (220 pounds) of non-acute hazardous waste;
2. 1 kilogram (2.2 pounds) of acute hazardous waste listed in 40 CFR 261.31 or 40 CFR 261.33(e);
3. 100 kilograms (220 pounds) of any residue or contaminated soil, water or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 40 CFR 261.31 or 40 CFR 261.33(e).

**567—103.3(455F) Regional collection center license and license renewal.** A license or license renewal will be issued under the following conditions.

**103.3(1)** *License.*

*a.* A regional collection center shall not operate without a license issued by the department. Regional collection centers in existence prior to January 14, 2019, will automatically be issued an operating license.

*b.* A satellite facility shall not be required to obtain a license.

**103.3(2)** *Compliance.* A regional collection center and satellite facility must be in compliance with current local, state and federal statutes and regulations regarding the management, storage, transportation and disposition of household hazardous materials, household hazardous waste and hazardous waste from very small quantity generators.

**103.3(3)** *Construction.* A regional collection center shall not be constructed without review of the site plan and written approval of the site plan by the department. The approved plans and specifications shall constitute a condition of the initial operating license.

**103.3(4)** *Inspection prior to commencing initial operation.* The department shall be notified before a regional collection center or satellite facility begins operations. No household hazardous materials or hazardous waste from very small quantity generators shall be accepted by the regional collection center or satellite facility until the facility has been inspected and approved by the department.

**103.3(5)** *Duration and renewal of license.* The initial license issued may be renewed for a period of five years. If the license applicant is a private agency under contract with a local government, the license shall not extend past the end date of the contract. An entity designated as an environmental management system pursuant to Iowa Code section 455J.7 may opt out of the license renewal requirement provided the entity is in compliance with 103.3(2) and there has been no change in the provisions of the current license. Any change in the provisions of the current license requires written notification to the department as described in 103.3(7).

**103.3(6)** *Request and approval of initial license or license renewal.* A new regional collection center shall file a request for a license on a form provided by the department. An established regional collection center shall file a request for license renewal 45 calendar days prior to the expiration of the current license on a form provided by the department. The facility must be in compliance with Iowa Code chapters 455B, 455D and 455F and the conditions of its current license.

**103.3(7)** *License modification.* A regional collection center shall request to modify its license by notifying the department of changes to any provision of its license. A regional collection center shall notify the department within 30 calendar days of a planned change to the provisions of its license and within 7 calendar days of an unplanned change to the provisions of its license. Upon request to modify a regional collection center license, the facility must be in compliance with Iowa Code chapters 455B, 455D and 455F and the conditions of its current license.

**567—103.4(455F) Site, structure, storage and staff qualifications.** Regional collection centers, satellite facilities and mobile units shall each meet the following criteria.

**103.4(1)** *Siting.* A site selected for a regional collection center, satellite facility or mobile unit shall meet the following criteria:

*a.* A regional collection center, satellite facility or mobile unit used for the collection of very small quantity generator waste and household hazardous materials shall be sited on public property or on private property if an agreement exists that guarantees public access. Documentation of the private property agreement for regional collection centers and satellite facilities shall be provided to the department upon request or upon application and renewal for license.

*b.* The site shall provide adequate secondary containment in case of a spill or other possible on-site contamination.

*c.* The site shall meet all applicable zoning requirements.

*d.* The site shall be adequately sized to accommodate all structures, units and activities that will take place on the site.

*e.* Regional collection centers and satellite facilities shall each have adequate security to prevent unauthorized access. Adequate security may include but is not limited to a fence and locking gate.

*f.* All mobile units and the containers used to package collected materials shall comply with applicable Iowa department of transportation rules and guidelines. At each mobile unit site, the mobile unit shall rest on a pad of a chemical-resistant, impervious, smooth material that provides secondary containment in case of a spill. A temporary surface created by securing an impervious tarp to the unloading/receiving area will meet the requirements of an impervious surface. A plan for conducting mobile unit collection events must consider the possibility of inclement weather, ensure that collected household hazardous materials and very small quantity generator hazardous waste has protection from the elements and ensure that the risk of environmental contamination is minimized.

**103.4(2)** *Structures.* Regional collection center structures or satellite facility structures shall each meet the following criteria:

*a.* All structures shall be sized to adequately accommodate the collection, sorting, bulking and lab packing, packaging for disposal, and temporary storage of household hazardous materials and hazardous waste from very small quantity generators.

*b.* All permanent structures shall meet the requirements of applicable fire codes and building codes.

*c.* Regional collection center structures and satellite facility structures shall each be designed to prevent run-on entering from adjacent areas.

*d.* All receiving areas shall have a storage capacity of at least one day's processing capacity. All receiving, sorting, bulking, transfer and storage area surfaces shall be constructed of a chemical-resistant, impervious, smooth material so designed to be easily cleaned, nonreactive with the waste, and with proper drainage, in the form of sloped flooring, plastic-lined pits or concrete sumps, according to applicable codes. Areas used for the receiving, bulking, transferring, lab packing and storing of household hazardous materials, household hazardous waste and very small quantity generator hazardous waste shall be provided with secondary containment and protection from exposure to the weather.

**103.4(3)** *Storage.* All full containers of household hazardous waste and hazardous wastes from very small quantity generators must be stored in a building designed in accordance with Group H occupancy requirements and local, state and federal fire codes. It is required that hazardous waste or household hazardous waste accumulated for disposal not be accumulated on site for more than 180 days. Once the capacity limit of a collection site or time limit is reached, all waste collected shall be collected by a licensed hazardous waste contractor.

**103.4(4)** *Staff qualifications.* Prior to handling any household hazardous materials, hazardous waste regional collection center and satellite facility staff shall each have received applicable training conducted by trainers who meet Occupational Safety and Health Administration (OSHA) instructor qualification standards. Training shall include but is not limited to the following:

*a.* OSHA 24-hour health and safety training as described in 29 CFR 1910.120.

*b.* Annual eight-hour refresher training as described in 29 CFR 1910.120.

*c.* Hazardous materials chemistry.

*d.* Personnel and site safety.

*e.* Proper lab packing techniques.

*f.* Proper transporting of hazardous materials.

*g.* When applicable, U.S. Department of Transportation hazardous materials training for the operation of a mobile unit used in the collection and transportation of household hazardous materials and hazardous waste from very small quantity generators.

**567—103.5(455F) Operations plans and procedures.**

**103.5(1)** Regional collection centers and satellite facilities must each prepare and maintain on site a current plan of operations.

**103.5(2)** Operations plan. The operations plan shall include, at a minimum, the following information:

*a.* Schedule of operations, including hours of operation for regional collection centers or satellite facilities.

*b.* Site selection procedures for mobile unit collections.

*c.* Standard receiving procedures for household hazardous materials and very small quantity generators.

*d.* Procedures for managing unknown materials.

*e.* Procedures for handling open or leaking containers.

*f.* Procedures for managing large quantities of wastes.

*g.* Recycling and reuse procedures for usable materials.

*h.* Disposal of nonhazardous waste.

*i.* Personal protection equipment.

*j.* Initial training requirements and continuing education of staff.

*k.* An emergency response plan, such as the facility's response to spills, fires or weather-related events.

**567—103.6(455F) Closure notification.** Regional collection centers and satellite facilities shall each notify the department in writing at least 60 calendar days prior to ceasing operations.

**103.6(1)** The notification shall include, at a minimum, the following information:

*a.* A description of how the regional collection center or satellite facility will notify the public within its service area that the regional collection center or satellite facility is closing and how household hazardous materials and hazardous waste from very small quantity generators should be managed after closure of the facility.

*b.* A description of how all household hazardous materials, household hazardous waste and hazardous waste from very small quantity generators will be removed from the regional collection center or satellite facility and properly managed within 60 calendar days of the regional collection center or satellite facility ceasing operations.

*c.* A description of how final waste disposal costs will be paid.

**103.6(2)** After removal of household hazardous waste and very small quantity generator hazardous waste, a final inspection may be conducted by department staff.

**567—103.7(455F) Regional collection center reporting requirements.** On a form supplied by the department, each regional collection center shall submit to the department a correctly completed regional collection center semiannual report. The report shall include but not be limited to the pounds of materials managed through a reuse program, by hazardous waste contractors, and by nonhazardous waste contractors. All hazardous waste contractor invoices shall be attached. Such invoices shall depict hazardous material types, net weight of hazardous materials, and associated collection and disposal costs charged by the hazardous waste contractor to the regional collection center. Regional collection center semiannual reports shall be submitted by September 15 for the portion of the current calendar year January 1 through June 30, and by March 15 for the portion of the previous calendar year July 1 through December 31.

**567—103.8(455E,455F) Funding sources.** Funds appropriated by Iowa Code section 455E.11(2)*"a"*(2)(d) and 455E.11(2)*"c"* may be used to achieve the purpose of this chapter.

**567—103.9(455E,455F) Regional collection center and satellite facility financial assistance.**

**103.9(1)** An applicant for regional collection center and satellite financial assistance shall submit to the department a completed application on a form provided by the department.

**103.9(2)** The department shall coordinate the evaluation of proposals. Applications will be evaluated based on selection criteria contained in the application form. Prior to receiving financial assistance from the department, a regional collection center must obtain a regional collection center license. A satellite facility shall provide documentation of a contractual arrangement with a licensed regional collection center for removal of the waste to be collected.

**103.9(3)** The applicant must be in compliance with applicable federal and state statutes and regulations.

**567—103.10(455E,455F) Regional collection center collection and disposal support funding.**

**103.10(1)** All regional collection centers are eligible to receive funding support, when available, from the department to properly manage eligible pounds of very small quantity generator hazardous waste and household hazardous waste. To receive funding, a regional collection center must be in compliance with applicable federal and state statutes and regulations. The source for this funding is described in Iowa Code section 455E.11(2)*"a"*(2)(d) and (e).

**103.10(2)** To be eligible to receive support and disposal-funding assistance, a regional collection center must:

*a.* Have household hazardous waste and very small quantity generator hazardous waste removed by a licensed hazardous waste contractor.

*b.* Correctly complete the hazardous materials collection semiannual report on a form supplied by the department.

*c.* Attach the following documentation:

(1) Hazardous waste contractor invoices depicting cost and hazardous waste types.

(2) The net weight calculations of household hazardous waste and very small quantity generator hazardous waste obtained by subtracting container weight from final disposal weight, not the manifest weight.

(3) Documentation that all household hazardous waste and very small quantity generator hazardous waste was disposed of by a licensed hazardous waste contractor.

(4) Documentation of materials shipped using final disposal receipts.

*d.* Submit regional collection center semiannual reports by September 15 for the portion of the current calendar year January 1 through June 30, and by March 15 for the portion of the previous calendar year July 1 through December 31. Reports submitted after the due date without prior approval by the department are not eligible for funding.

**103.10(3)** Fall collection and disposal funding will be based on the regional collection center semiannual report due September 15 and on available funding. A regional collection center will receive a percentage of the available funding in an amount proportional to the amount of eligible pounds the regional collection center recycled or disposed of through a hazardous waste contractor, as reported on the regional collection center semiannual report form, compared to the total amount of eligible pounds recycled or disposed of by all regional collection centers as reported on the regional collection center semiannual report form.

Spring collection and disposal funding will be based on the total eligible pounds reported for the calendar year and on available funding. A regional collection center will receive a percentage of the available funding for the calendar year minus the amount received for the fall payment, in an amount proportional to the amount of eligible pounds the regional collection center recycled or disposed of through a hazardous waste contractor, as reported on the regional collection center semiannual report form for the calendar year, compared to the total amount of eligible pounds recycled or disposed of by all regional collection centers as reported on the regional collection center semiannual report form.

These rules are intended to implement Iowa Code chapters 455E and 455F.

ITEM 2. Rescind and reserve **567—Chapter 123**.

ITEM 3. Rescind and reserve **567—Chapter 211**.

[Filed 7/24/26, effective 9/23/26]
[Published 8/19/26]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

**ARC 0485D**

# ENVIRONMENTAL PROTECTION COMMISSION[567]

**Adopted and Filed**

**Rulemaking related to solid waste comprehensive planning and environmental management system requirements**

The Environmental Protection Commission (Commission) hereby adopts new Chapter 104, "Solid Waste Comprehensive Planning and Environmental Management System Requirements," and rescinds Chapter 111, "Annual Reports of Solid Waste Environmental Management Systems," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code sections 455A.6 and 455J.2.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 455J and sections 455B.301A, 455B.302, 455B.306, 455B.310 and 455D.3.

*Purpose and Summary*

Chapter 104 is a consolidation of existing 567—Chapters 101 and 111. These chapters were reviewed, simplified, and consolidated consistent with Executive Order 10. The purpose of the chapter is to provide direction and clarity for comprehensive planning and environmental management system requirements and criteria.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 7, 2026, as **ARC 9929C**. A public hearing was held on the following date(s):

- January 28, 2026
- January 30, 2026

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Commission on July 21, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 7—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on September 23, 2026.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 567—Chapter 104:

CHAPTER 104
SOLID WASTE COMPREHENSIVE PLANNING AND
ENVIRONMENTAL MANAGEMENT SYSTEM REQUIREMENTS

**567—104.1(455B,455D,455J) Purpose.** The purpose of these rules is to provide general definitions and direction for comprehensive integrated solid waste management planning for every city and county of this state and to provide an orderly and efficient process for the assessment and collection of fees for the disposal of solid waste at a sanitary landfill. This chapter also establishes methods and criteria for the environmental management system program, a voluntary alternative to comprehensive planning for planning areas or service areas. All rules, standards, technical guidance, and other similar legal or technical documents referenced in this chapter shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—104.2(28E,455B,455D,455J) Definitions.** For the purposes of this chapter, the following definitions; the definitions in 567—Chapter 100; and the definitions in Iowa Code chapters 28E, 455B, 455D and 455J shall apply.

*"Annual compliance report"* or *"annual report"* means the required submittal to the department that documents an environmental management system's compliance with the requirements of Iowa Code section 455J.3.

*"Solid waste agency"* means an established private or public, or private and public, agency for the purpose of managing solid waste, implementing integrated solid waste management systems on behalf of cities and counties, or both.

**567—104.3(455B,455D) Duties of cities and counties.**

**104.3(1)** Notwithstanding any requirements in the Iowa Code, including Iowa Code section 455B.302, all cities, counties and solid waste agencies shall demonstrate compliance with the provisions of this chapter by either participating in a comprehensive plan approved by the department or being within the planning or service area of an environmental management system.

**104.3(2)** If a planning agency refuses any particular solid waste type for management or disposal, the planning agency must identify another municipal solid waste sanitary disposal project for that waste within the planning area. If no other municipal solid waste sanitary disposal project exists within the planning area, the planning agency must, in cooperation with the waste generator, establish or arrange for access to another municipal solid waste sanitary disposal project. Municipal solid waste sanitary disposal projects are required to maintain written approval from both the department and the planning agency in the planning area of origin in order to accept any Iowa-generated waste from outside the planning area.

**567—104.4(455B,455D,455J) State volume reduction and recycling goals.** The goal of the state is to reduce the amount of materials in the waste stream, existing as of July 1, 1988, by an intermediate goal of 25 percent, and by a final goal of at least 50 percent, through the practice of waste volume reduction at the source and through recycling. The updated goal progress calculations provided by the department for each planning area shall be used by the department in reporting to the general assembly on the state's progress toward meeting the 25 and 50 percent goals. The specific methodology for determining goal progress is outlined in 567—104.5(455B,455D). A planning area designated as an environmental management system pursuant to Iowa Code section 455J.7 is exempt from the waste stream reduction goals of this rule.

**567—104.5(455B,455D) Base year adjustment method.** Planning agencies may request that the department complete a goal progress recalculation once per fiscal year to resolve any discrepancies and to further evaluate progress toward the state's waste volume reduction and recycling goals. At the time of approval of a comprehensive plan or comprehensive plan update, the department will use the most current complete fiscal year data set available to complete goal progress calculations, which will be used to meet the requirements outlined in 567—104.8(455B,455D).

**104.5(1)** The base year adjustment method (see Formula 1) controls for population, employment and taxable sales to more accurately determine progress toward the state's waste volume reduction and recycling goals. Factors included within the base year adjustment method include:

*a.* Base year residential waste disposal tonnage.

*b.* Base year commercial waste disposal tonnage.

*c.* Base year population data (U.S. Bureau of the Census).

*d.* Base year employment data—total nonfarm (Iowa department of workforce development).

*e.* Base year taxable sales data (Iowa department of revenue).

*f.* Base year consumer price index.

*g.* Most current complete fiscal year data set available for waste disposal tonnage.

*h.* Most current complete fiscal year data set available for population (U.S. Bureau of the Census).

*i.* Most current complete fiscal year data set available for employment—total nonfarm (Iowa department of workforce development).

*j.* Most current complete fiscal year data set available for taxable sales (Iowa department of revenue).

*k.* Most current complete fiscal year data set available for consumer price index.

Formula I

$$100\% - \left[ \frac{G}{A\left[\dfrac{\frac{H}{C} + \left[\dfrac{\frac{I}{D} + \dfrac{J\frac{F}{K}}{E}}{2}\right]}{2}\right] + B\left[\dfrac{\frac{I}{D} + \left[\dfrac{J\frac{F}{K}}{E}\right]}{2}\right]} \right] \times 100\%$$

**104.5(2)** Planning agencies must document the amount of waste disposed of in both the base year and the most current fiscal year where a complete data set is available. If no changes have occurred within the planning area that would affect the base year, then only data for the most current fiscal year for which a complete data set is available need to be presented in the comprehensive plan update, since information on each planning area's base year tonnage is presented in prior comprehensive plan submittals. Tonnage data sources that each planning agency must identify include but are not limited to:

*a.* Landfill(s) within the planning area and its respective service area(s).

*b.* Transfer station(s) or hauler(s) transporting waste into or out of the planning area for final disposal.

*c.* Incineration with or without energy recovery of waste within the planning area.

*d.* Allowable base year adjustment method exemptions, including exceptional events, waste originating from out of state, and solid waste generated outside the planning area.

**104.5(3)** Waste generated as part of an exceptional event or contaminated site cleanup should not negatively affect a planning area's goal progress calculation. Requests for goal progress calculation exemptions must be made to the department within six months after initial disposal. The determination to exempt tonnages from goal progress calculations shall be made solely by the department.

*a.* Exceptional events include but are not limited to disasters proclaimed by the governor. Requests to exempt exceptional event debris from goal progress calculations shall be made on a form provided by the department.

*b.* Requests from the municipal solid waste sanitary disposal project or planning agency to exempt contaminated site cleanup waste from goal progress calculations shall be made on a form provided by the department.

**567—104.6(455B,455D) Forms of comprehensive plan submittals to be filed.** Notwithstanding any of the requirements of Iowa Code section 455B.306, there are three forms of comprehensive plan submittals: initial, updates and amendments.

**104.6(1)** *Initial comprehensive plan.* An initial comprehensive plan shall be submitted as determined by the department, including but not limited to when a new planning area is established or a new solid waste landfill or municipal solid waste incinerator is sited. Initial comprehensive plans shall be submitted on a form provided by the department.

**104.6(2)** *Comprehensive plan updates.* A comprehensive plan update shall be submitted according to planning cycle due dates established by the department. Comprehensive plan updates shall be submitted on a form provided by the department.

**104.6(3)** *Comprehensive plan amendments.* If a municipal solid waste sanitary disposal project or city or county requests to be included in a planning area after completion of an initial comprehensive plan or a comprehensive plan update but before the next comprehensive plan update is due, the department may determine that a comprehensive plan amendment may be submitted and approved to fulfill requirements until the beginning of the next planning cycle. Comprehensive plan amendments shall be submitted to the department on a form provided by the department.

**567—104.7(455J) Environmental management systems.** Notwithstanding any other requirements, a planning or service area that has been designated as an environmental management system and that seeks to continue to be so designated in this voluntary program is exempt from filing its comprehensive plan. By September 1 of each year, an annual report shall be submitted to the department on a form provided by the department.

**104.7(1)** *Annual report evaluation criteria.* The department shall review the annual report based on the following:

*a.* Completeness in terms of addressing all of the elements set forth in the form provided by the department.

*b.* Clear demonstration of continuous improvement in terms of progress toward achieving the objectives and targets set forth in the environmental management system.

**104.7(2)** *Annual report evaluation outcomes.*

*a.* If the department determines that the annual report adequately demonstrates compliance with the requirements of Iowa Code section 455J.3, the planning or service area shall remain designated as an environmental management system and shall continue to be qualified for the incentives set forth in Iowa Code section 455J.5.

*b.* The annual report should clearly demonstrate continuous improvement in terms of progress toward achieving the objectives and targets set forth in the environmental management system. If the department determines that the annual report clearly demonstrates that the planning or service area's environmental management system is no longer in compliance with Iowa Code section 455J.3, the department may recommend to the environmental protection commission the revocation of the environmental management system designation. If the commission concurs with the department's recommendation, the planning or service area shall adhere to comprehensive planning requirements.

*c.* Failure by a planning or service area to submit an annual report by September 1 in any year will result in revocation of the environmental management system designation, following which the planning or service area shall adhere to the comprehensive planning requirements.

**567—104.8(455B,455D) Fees for disposal of solid waste at sanitary landfills.**

**104.8(1)** *Authority, purpose and applicability.*

*a.* *Authority.* Pursuant to Iowa Code section 455B.310, the department has the authority to collect fees for the disposal of solid waste at sanitary landfills. All tonnage fees received by the department under this rule shall be deposited in the solid waste account of the groundwater protection fund created under Iowa Code section 455E.11(1).

*b.* *Purpose.* The purpose of this rule is to provide an orderly and efficient process for the assessment and collection of fees for the disposal of solid waste at a sanitary landfill. This rule clarifies the applicability of the fees and sets forth a fee schedule, means of filing and recordkeeping requirements.

*c.* *Applicability.* Except as provided in 104.8(2), operators of all sanitary landfills located within Iowa and subject to the permitting requirements of the department shall pay a fee for each ton of solid waste disposed of in the landfill.

**104.8(2)** *Exclusion.* Fees do not apply to wastes that will not be buried at a sanitary landfill if such material is salvaged or recycled in accordance with the provisions of the landfill permit.

**104.8(3)** *Fee schedule.*

*a.* The base tonnage fee is $4.25 per ton of solid waste.

*b.* The statewide goal progress average is 36 percent, as determined by the department on July 1, 1999.

*c.* If at any time the department notifies a planning agency or municipal solid waste sanitary disposal project(s) that the planning area has either failed to meet the 25 percent goal or has met or exceeded the 25 percent goal, the 36 percent statewide average or the 50 percent goal, all municipal solid waste sanitary disposal projects within that planning area that are required to remit state tonnage fees shall collect, remit and retain tonnage fees according to Table 1 in this subrule, starting with the next scheduled fee payment. Moneys due to the department under this paragraph shall be remitted until such time as evidence of a change in the planning area's progress toward meeting the state's waste volume reduction and recycling goals is documented and approved in writing by the department.

*d.* A solid waste planning or service area designated as an environmental management system pursuant to Iowa Code section 455J.7 shall qualify, pursuant to Iowa Code section 455J.5, for a reduced tonnage fee of $3.65 per ton, of which $2.10 shall be remitted to the department.

Table 1 sets forth the solid waste tonnage fee schedule.

| Table 1 | |
|---|---|
| Planning areas with less than 25% diversion level: | |
| Collect | $4.75 per ton |
| Remit | $3.30 per ton to the department |
| Retain | $1.45 per ton ($0.95 per ton for implementing planning, $0.50 per ton for environmental protection, comprehensive plan development and implementation) |
| Planning areas over 25% diversion, under the state average, and under 50%: | |
| Collect | $3.65 per ton |
| Remit | $2.20 per ton to the department |
| Retain | $1.45 per ton ($0.95 per ton for implementing planning, $0.50 per ton for environmental protection, comprehensive plan development and implementation) |
| Planning areas over 25% diversion, over the state average and under 50%, and planning or service areas designated as an environmental management system: | |
| Collect | $3.65 per ton |
| Remit | $2.10 per ton to the department |
| Retain | $1.55 per ton ($1.05 per ton for implementing planning, $0.50 per ton for environmental protection, comprehensive plan development and implementation) |
| Planning areas over 50% diversion: | |
| Collect | $3.25 per ton |
| Remit | $1.95 per ton to the department |
| Retain | $1.30 per ton ($0.80 per ton for implementing planning, $0.50 per ton for environmental protection, comprehensive plan development and implementation) |

*e.* Retained tonnage fees collected pursuant to this subrule shall be approved by the department and used for implementation of programs and services designed to satisfy the requirements of this chapter.

*f.* For purposes of calculating tonnage fees, sanitary landfills shall utilize scales and shall base the fee assessment on the net scale weight of solid wastes disposed of at the landfill during the reporting period.

*g.* If special conditions existing at a sanitary landfill make it impractical to use the landfill's scales to determine waste tonnages, the landfill may propose for department review and approval an alternate method for determining the weight of disposed solid waste.

**104.8(4)** *Form, manner, time and place of filing.*

*a.* *Form.* Any person to whom or entity to which this rule applies shall submit a form provided by the department.

*b.* *Manner, time and place.* Fees are to be paid on a quarterly basis. Sanitary landfills serving more than one planning area, as expressed in Iowa Code section 455B.306(1) and 455B.306(2), shall submit separate Quarterly Solid Waste Fee Schedule and Retained Fees Reports for each planning area. The fees and report on retained fees will be due January 1, April 1, July 1, and October 1 for the quarters ending September 30, December 31, March 31, and June 30, respectively. The completed form shall be submitted with the appropriate fees to Budget and Finance Bureau, Department of Natural Resources, 6200 Park Avenue, Des Moines, Iowa 50321.

**104.8(5)** *Reporting and recordkeeping.*

*a.* *Operating records.* Those sanitary landfill operators who are subject to the fee assessment requirements of this rule shall maintain adequate records to determine and document the weight of solid waste received at and disposed of in the sanitary landfill during the calendar year. Planning areas entering into an agreement pursuant to Iowa Code section 455B.306(2) shall submit documentation to the department, and a planning area receiving the solid waste under such an agreement shall, in addition, submit evidence to the department demonstrating that required retained fees were returned in a timely manner to other planning area(s) under the agreement.

*b.* *Retention of records.* All records used in determining the solid waste fee assessment must be kept for a period of at least three years from the end of the calendar year that the records represent.

*c.* *Availability of records.* All records required under this rule must be furnished upon request and be made available at all reasonable times for inspection to any officer, employee or representative of the department who is duly designated by the director.

**104.8(6)** *Failure to pay fees.* If it is found that a person or entity has failed to pay the fees assessed by this rule, the director shall enforce the collection of the delinquent fees. A person or entity required to pay fees as required by Iowa Code section 455B.310 that fails or refuses to pay the fees by the due date shall be assessed a penalty of 2 percent of the quarterly fee due, to be assessed on January 2, April 2, July 2, and October 2, and on a monthly basis on the first day of each month thereafter, until paid. A person or entity required to retain fees as required by Iowa Code section 455B.310 that fails or refuses to report the use of the retained fees by the due date shall be assessed a penalty of 2 percent of the retained fees due to the department, with said penalty to be assessed on January 2, April 2, July 2, and October 2, and on a monthly basis on the first day of each month thereafter, until paid. All penalties shall be paid in addition to the fees due.

These rules are intended to implement Iowa Code sections 455B.301A, 455B.302, 455B.306, 455B.310 and 455D.3 and chapter 455J.

ITEM 2. Rescind and reserve **567—Chapter 111**.

[Filed 7/24/26, effective 9/23/26]
[Published 8/19/26]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

# ARC 0486D

# ENVIRONMENTAL PROTECTION COMMISSION[567]

**Adopted and Filed**

**Rulemaking related to hazardous conditions**

The Environmental Protection Commission (Commission) hereby rescinds Chapter 105, "Organic Materials Composting Facilities"; adopts a new Chapter 105, Hazardous Conditions"; and rescinds Chapter 131, "Notification of Hazardous Conditions," Chapter 133, "Rules for Determining Cleanup Actions and Responsible Parties," and Chapter 137, "Iowa Land Recycling Program and Response Action Standards," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code sections 455B.383, 455E.9 and 455H.105.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 455B.383, 455E.9 and 455H.105.

*Purpose and Summary*

Chapter 105 includes the provisions for notification of hazardous conditions (previously included in Chapter 131), determining cleanup action and responsible parties (previously included in Chapter

133), and Iowa land recycling program and response actions (previously included in Chapter 137). The purpose of this chapter is to protect the integrity of Iowa's groundwater. Chapters 131, 133, and 137 have been reviewed, simplified, and consolidated into one chapter consistent with Executive Order 10.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 7, 2026, as **ARC 9927C**. A public hearing was held on the following date(s):

- January 27, 2026
- January 29, 2026

One person attended a hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Commission on July 21, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to Iowa Code section 17A.9A and 7—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on September 23, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind 567—Chapter 105 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 105
## HAZARDOUS CONDITIONS

### DIVISION I
### NOTIFICATION REQUIREMENTS

**567—105.1(455B) Purpose.** The purpose of this division is to implement Iowa Code sections 455B.383 and 455B.386 by providing detail on the notification requirements for reporting a hazardous condition.

**567—105.2(455B) Applicability.** The requirements of this division apply to all persons manufacturing, storing, handling, transporting, or disposing of a hazardous substance, or discovering contamination from a previously unknown hazardous condition, and to the sheriff or police chief who has been notified of a hazardous condition.

**567—105.3(455B) Definitions.** For the purposes of this division, the definitions set out in Iowa Code section 455B.381 apply.

**567—105.4(455B) Exemptions to reporting requirements.** Spills of hazardous substances are exempt from 567—105.5(455B) if all the following criteria are met.

**105.4(1)** The spilled hazardous substance is one or more of the following:

*a.* Less than 25 gallons of petroleum products.

*b.* Less than 100 pounds of anhydrous ammonia.

**105.4(2)** The spilled hazardous substance will not pose an actual or potential threat to waters of the state, groundwater, water wells, stormwater, tile lines, or ambient air quality if cleaned up within 24 hours.

**105.4(3)** The spilled hazardous substance is cleaned up within 24 hours of the spill.

**105.4(4)** The spilled hazardous substance is not an ongoing or repeated spill by the same responsible party, in the same area, within the last 90 days.

**567—105.5(455B) Report of hazardous conditions.**

**105.5(1)** *Initial report.* Any person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall report a hazardous condition to the department and either the local police department or the office of the sheriff of the county where the hazardous condition occurred. The initial report shall be made as soon as possible but not later than six hours after the onset or discovery of the hazardous condition. The initial report shall provide information on as many items listed in 105.5(2) as available data will allow.

**105.5(2)** *Follow-up report.* The responsible party shall submit a follow-up report of a hazardous condition to the department within 30 days of the initial report. The follow-up report may be submitted electronically or via hard copy. The follow-up report shall contain the following information:

*a.* The exact location of the hazardous condition.

*b.* The time and date of onset or discovery of the hazardous condition.

*c.* The name of the material, the manufacturer's name, the volume of each material involved in the hazardous condition, and any contaminants within the material that, by themselves, could cause a hazardous condition.

*d.* The medium (land, water or air) in which the hazardous condition occurred or exists.

*e.* The name, address and phone number of the person responsible for the hazardous condition.

*f.* The time and date of the initial report to the department of the hazardous condition.

*g.* The weather conditions at the time of the hazardous condition onset or discovery.

*h.* The name, mailing address, email address and phone number of the person reporting the hazardous condition.

*i.* The name and phone number of the person closest to the scene of the hazardous condition who can be contacted for further information and action.

*j.* Any other information, such as the circumstances leading to the hazardous condition, visible effects and containment measures taken, that may assist in proper evaluation by the department.

**105.5(3)** *Reporting of subsequent findings.* All subsequent findings and laboratory results shall be reported and submitted electronically or in writing to the department as soon as available.

**567—105.6** to **105.99** Reserved.

These rules are intended to implement Iowa Code sections 455B.383 and 455B.386.

DIVISION II
CLEANUP ACTIONS AND RESPONSIBLE PERSONS

**567—105.100(455B,455E) Purpose.** The purpose of this division is to establish the procedures and criteria the department uses to determine the person(s) responsible and cleanup actions necessary to meet the goals of the state pertaining to the protection of groundwater.

**567—105.101(455B,455E) Applicability.**

**105.101(1)** These rules pertain to the cleanup of groundwater and soils and surface water where groundwater may be impacted. They may also be used as guidelines in other environmental protection activities authorized by Iowa Code chapter 455B. Where specific federal or state programs or funds exist to address situations that are also governed by these rules, the rules and standards of the specific programs or funds will be integrated and utilized to achieve an equitable, expeditious and environmentally sound resolution of the particular contamination situation. These rules apply specifically to point source contamination only.

**105.101(2)** These rules apply specifically to cleanup actions required to abate, prevent or remediate a hazardous condition, the presence of a hazardous substance or waste, the release of a regulated substance, or the discharge of a pollutant.

**105.101(3)** These rules shall not limit the department's authority to require remedial or preventative action, or to take remedial or preventative action, as necessary to protect public health, safety, or the environment. The department will make its evaluation on a case-by-case basis, considering site characteristics, and where more than one contaminant is present or there is no established action level, will consider the toxicity, mobility and persistence of contaminants involved. The evaluation may include the potential synergistic, antagonistic or cumulative effects of the contaminants involved in a particular case.

**105.101(4)** Persons subject to these rules retain all applicable appeal rights provided in Iowa Code chapter 455B.

**105.101(5)** This chapter is applicable to releases of petroleum from underground storage tanks subject to regulation under Iowa Code chapter 455B, division IV, part 8, to the extent they are not inconsistent with the corrective action provisions in 567—135.6(455B) through 567—135.17(455B). This subrule is not intended to limit the authority of the department to establish liability against the responsible person(s) other than owners and operators as defined in Iowa Code section 455B.471(5) and 455B.471(6).

**105.101(6)** All rules, standards, technical guidance and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—105.102(455B,455E) Definitions.** In addition to the definitions in Iowa Code sections 455B.381, 455B.411, and 455E.2, the following definitions shall apply to this division:

*"Action level"* means, for any contaminant:

1. The MCL if one exists;
2. The HAL if one exists and there is no MCL; or
3. The action level established by the department based on current technical literature and recommended guidelines of the United States Environmental Protection Agency (EPA) and recognized experts, if there is no MCL or HAL.

*"AFS"* means the Special Publication 30, "Investigation and Monetary Values of Fish and Freshwater Mussel Kills," published by the American Fisheries Society.

*"Aggravated risk"* means a contamination situation that presents a potentially catastrophic or an immediate and substantial risk of harm to human life or health or to the environment. Examples include

exposure of humans, animals or the food chain to acutely toxic substances, contamination of a drinking water supply, threat of fire or explosion, or similar situations.

*"Air or air resources"* means those naturally occurring constituents of the atmosphere, including those gases essential for human, plant, and animal life.

*"Background"* means groundwater quality unaffected by human activities, and generally shall be determined by historical data of the geological services bureau or other government agencies for the type of aquifer or location involved in a given case. If available data is not adequate, background may be established by groundwater samples upgradient of a source or potential source of a substance that is detected in or has a reasonable probability of entering the groundwater.

*"Best available technology"* means those processes that most effectively remove, treat, or isolate contaminants from groundwater or associated environment, as determined through professional judgment considering actual equipment or techniques currently in use, published technical articles and research results, engineering reference materials, consultation with known experts in the field, and guidelines or rules of other regulatory agencies.

*"Best management practices"* means maintenance procedures, schedules of activities, prohibition of practices, and other management practices, or a combination thereof, that after problem assessment and evaluation of alternatives is determined to be the most effective means of preventing or abating contamination at a location.

*"Biological resources"* means fish, wildlife and other biota belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the state of Iowa, the United States, or local government. Fish and wildlife include freshwater aquatic and terrestrial species; game, nongame, and commercial species; and threatened and endangered species. Other biota encompass shellfish, terrestrial and aquatic plants, and other living organisms not otherwise listed in this definition.

*"Code of Federal Regulations"* or *"CFR"* means the federal administrative rules adopted by the United States as amended through August 1, 2025.

*"Contaminant"* means any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance that does not occur naturally in groundwater or that occurs naturally at a lower concentration, and includes but is not limited to all hazardous substances as defined in 42 U.S.C. 9601 (2018), and any element, compound, mixture, solution or substance designated pursuant to 40 CFR 302.4.

*"Damages"* means the costs of restoration, rehabilitation, and replacement of resources, or acquisition of equivalent resources, as determined in accordance with this chapter; the reasonable and necessary costs of the assessment, to include the cost of performing the assessment and administrative costs and expenses necessary for, and incidental to, the assessment; lost services to the public; and, in the event the damages claim is not resolved within six months after the incident leading to the damages, interest at the current rate published in the Iowa Administrative Bulletin by the department of revenue pursuant to Iowa Code section 421.7. The interest amount shall be computed from the date the amount of the claim is confirmed by a final ruling of the commission in a contested case decision.

*"Drinking water supply"* means any raw or finished water source that is or may be used by a public water system, as defined in Iowa Code section 455B.171, or as drinking water by one or more individuals.

*"Geologic resources"* means those elements of Earth's crust such as soils, sediments, rocks, and minerals, including petroleum and natural gas, that are not included in the definitions of groundwater and surface water resources.

*"Groundwater resources"* means water in a saturated zone or stratum beneath the surface of land or water and the rocks or sediments through which groundwater moves. It includes groundwater resources that meet the definition of drinking water supplies.

*"HAL"* means a lifetime health advisory level for a contaminant, established by the EPA. Health advisories represent the concentration of a single contaminant, based on current toxicological information, in drinking water that is not expected to cause adverse health effects over lifetime exposure.

*"MCL"* means the enforceable maximum contaminant level established by the EPA pursuant to the Safe Drinking Water Act.

*"Natural resources"* or *"resources"* means land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States, the state of Iowa, or local government. These natural resources have been categorized into the following five groups: surface water resources, groundwater resources, air resources, geologic resources, and biological resources.

*"Point source"* means any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or any site or area where a contaminant has been deposited, stored, disposed of, or placed, or otherwise come to be located.

*"Preventative"* or *"prevention"* refers, in the context of these rules, to actions or efforts to minimize or stop further contamination in a situation where contamination already exists or is imminent.

*"Remedial action plan"* means a written report that includes all relevant information, findings, and conclusions from a site assessment, including all analytical results and identification of contaminant migration pathways; identification and evaluation of cleanup alternatives, including both active and passive measures using best available technology and best management practices; a recommended cleanup action or combination of action, including identification of expected cleanup levels consistent with the cleanup goal of 105.104(3)*"b"*; a monitoring network and schedule to document cleanup levels; and a proposed schedule of implementation.

*"Responsible person"* means any person who is legally liable for the contamination in question or who is legally responsible for abating contamination under any applicable law, including Iowa Code chapters 455B and 455E, and the common law. This may include the person causing, allowing or otherwise participating in the activities or events that cause the contamination, persons who have failed to conduct their activities so as to prevent the release of contaminants into groundwater, property owners who are obligated to abate a condition, or persons responsible for or successor to such persons.

*"Significant risk"* means:

1. The presence in groundwater of a contaminant in excess of an action level;
2. The presence of a contaminant in the soils, surface water, or other environment in proximity to groundwater that may reasonably be expected to contaminate the groundwater to an action level; or
3. The presence of a contaminant or contaminants in the groundwater, or in the soils, surface water or other environment in proximity of groundwater that may be expected to contaminate groundwater in quantities, concentrations, or combinations that may have a significant adverse impact on public health, safety, environment, or quality of life. This criterion would normally be applied where there is no established action level or where combinations of more than one contaminant are present.

*"Site assessment plan"* means a written proposal for study of a contamination situation to determine the types, amounts, and sources of contaminants present, hydrogeological characteristics of the site, and the vertical and horizontal extent of contamination, with a goal of developing an adequate remedial action plan. The proposal must include: recommendations for collection of relevant historical data such as site management practices, inventory records, literature searches, photographs and personal interviews; a methodology for obtaining groundwater flow information including well placements, construction and elevation, bore logs, static groundwater table measurements, groundwater elevations, groundwater gradients (isopleth), and information on soil transmissivity, porosity and permeability; and a methodology for identifying contaminant plumes, including additional monitoring wells to identify the horizontal and vertical extent of contamination, a site plot showing the estimated configuration of contamination, and a sampling schedule and list of constituents to be analyzed. The plan development may require preliminary field investigations.

*"Surface water resources"* means the waters of the state, including the sediments suspended in water or lying on the bank, bed, or shoreline. This term does not include groundwater or water or sediments in ponds, lakes, or reservoirs designed for waste treatment under applicable laws regulating waste treatment.

**567—105.103(455B,455E) Documentation of contamination and source.**

**105.103(1)** *Certified laboratory.* Analyses for a contaminant regulated under this division must be performed by a laboratory certified for the analyte(s) and applicable method pursuant to 567—Chapter 83.

**105.103(2)** *Department determination of contamination.* When the department receives or obtains evidence of groundwater contamination or the release or presence of contaminants in the environment associated with groundwater, where contamination of the groundwater may reasonably be expected, the department shall make reasonable efforts to document the source of contamination, and shall require responsible person(s) to take appropriate preventative, investigatory and remedial actions. Evidence of contamination may include but is not limited to the following:

*a.* Water samples indicating the presence of a contaminant at levels above background.

*b.* Soil or surface water samples indicating the presence of a contaminant at levels above background, where release to the groundwater is likely.

*c.* Known releases of contaminants into the environment in quantities and locations that could reasonably be expected to cause groundwater contamination.

*d.* Other events the department determines could potentially cause groundwater contamination.

The amount and type of evidence necessary to document contamination or potential contamination will vary with the circumstances of each case, including the amount and type of contaminant involved, site topography and geologic conditions, and potential adverse effects. Normally, a reasonable number of water and soil samples will be taken or analyses obtained by the department. However, where a significant quantity of contaminants is known to have been released into the environment, for example from a spill, that could reach groundwater, the department is not required to collect samples.

**105.103(3)** *Department determination of source.* The department shall determine whether the contamination is or likely was caused by a particular source or sources, for example a known spill of a contaminant or current or past facilities or activities in the vicinity that involved products or substances that could be a likely source. If no such person or event can be identified, the department shall make reasonable efforts to determine whether there is a relatively restricted area of more concentrated contaminant in the vicinity that is or is likely to be a source of the contamination. This subrule does not require the department to identify a specific person or persons responsible for the contamination, but to determine whether the contamination has or has likely come from a relatively defined source.

**105.103(4)** *Determination of responsible persons.* Where a source or likely source of contamination is identified, the person or persons responsible for that source or sources shall conduct necessary preventative, investigatory and remedial actions.

*a.* Identification. The persons responsible or potentially responsible initially shall be identified by the department through such measures as on-site observations; interviews with witnesses and local officials; review of public records, including department files; and interviews with or information obtained from potentially responsible persons. Where there may be more than one source, or the source is otherwise not conclusively identified, persons who handle or have handled materials or wastes in the vicinity of the contamination, which could be the source, shall investigate and provide information satisfactory to the department to confirm or disaffirm that their activities are a source of the contamination. Investigation by the responsible or potentially responsible person may include inspection of inventory or other records, and soil and groundwater monitoring to better define the source. Such monitoring shall conform to the requirements of 105.104(3)*"a,"* provided that a full-scale assessment may not be required for this purpose.

*b.* Notification. The department shall notify in writing the person determined responsible under the above procedures, and include a brief statement of the facts upon which the department concluded that the person is the responsible person, and the actions required; provided that where immediate action is necessary, verbal notification may be given, followed up with written notification. The person notified may provide information disputing or supplementing the information relied on by the department, which shall be considered by the department.

*c.* Responsible persons may be jointly and severally liable, and the department is not required to name all potentially responsible person(s) in directing responsive actions to contamination.

**567—105.104(455B,455E) Response to contamination.**

**105.104(1)** *Prevention of further contamination.* In all cases where an active source of contamination is identified, such as leaking tanks or current practices, that may be readily corrected, the source shall be removed, repaired or otherwise contained, or the contaminating practices ceased, immediately upon discovery of the source. In addition, readily accessible contaminants, for example concentrated contaminants spilled on the ground or accessible through a recovery well or system, shall be promptly removed to avoid or minimize further contamination in the groundwater.

**105.104(2)** *Aggravated risk.* Where the contamination presents an aggravated risk, the preventative, investigatory and remedial measures provided in 105.104(1) and 105.104(3) shall be expedited to remove such risk. Additionally, the following actions shall be taken by the responsible person(s), if necessary, to protect the public health or environment:

*a.* Provide alternate water supplies.

*b.* Install security fencing or other measures to limit access.

*c.* Conduct necessary measures to control the source of release.

*d.* Remove the contaminant to an approved site for storage, treatment or disposal.

*e.* Place physical barriers to deter the spread of the release.

*f.* Recommend to appropriate authorities the evacuation of threatened individuals.

*g.* Use other materials to restrain the spread of the contaminant or to mitigate its effects.

*h.* Execute damage control or salvage operations.

**105.104(3)** *Significant risk.* In cases of significant risk, the following investigatory and remedial measures shall be implemented:

*a.* *Investigation.* The responsible person shall determine the extent and levels of contamination through a site assessment conducted under the supervision of an Iowa-licensed professional engineer, an expert in the field of hydrogeology, or other qualified person. A site assessment plan shall be submitted to the department within 45 days of notice by the department, unless a shorter time is required or a longer time is authorized by the department. The plan shall be approved by the department prior to initiation of the assessment, unless otherwise approved by the department. The site assessment shall be conducted within a time frame that is approved by the department. The department may require further investigation by the responsible person to adequately assess the extent of contamination and may require the remedial action plan if necessary. If a remedial action plan is required by the department, the remedial action plan shall be submitted to the department within the time approved by the department.

*b.* *Required cleanup actions.*

(1) Groundwater. The goal of groundwater cleanup is use of best available technology and best management practices as long as it is reasonable and practical to remove all contaminants, and in any event until water contamination remains below the action level for any contaminant, and the department determines that the contamination is not likely to increase and no longer presents a significant risk. Where site conditions and available technology are such that attainment of these goals would be impractical, the department may establish an alternative cleanup level or levels, including such other conditions to adequately protect public health, safety, or the environment.

(2) Other. Where significant amounts of contaminants are documented as being present in the soils or other environment, such that groundwater contamination is occurring or is likely, active cleanup of the contaminated soils or other environment shall be implemented to the extent reasonable and necessary to prevent or minimize release to the groundwater; passive cleanup may be allowed in extraordinary circumstances.

**105.104(4)** *Nonsignificant risk.* Where significant risk is not currently present, the responsible person may be required to monitor the groundwater and implement reasonable management or other preventative measures to minimize further contamination.

**567—105.105(455B,455E) Report to commission.** Department actions taken pursuant to this division shall be reported to the commission.

**567—105.106(455B) Compensation for damages to natural resources.**

**105.106(1)** *Applicability.* This rule applies to persons who, by release of a hazardous substance to the environment, cause injury to, destruction of, or loss of natural resources held in trust by the state for the public. In most cases this would involve the destruction of aquatic life or other wildlife under the ownership of the state, as provided in Iowa Code section 481A.2. This rule relates to the compensation to the state and public for the natural resource damages and is in addition to any other legal recourse for the event or action that caused the destruction or damage.

**105.106(2)** *Liability to the state.* Pursuant to Iowa Code section 455B.392(1)*"c,"* this rule establishes the methodologies and criteria for evaluating the extent and value of the damage and establishes the methods of compensation. If the person and the department cannot agree to the proper resolution of a particular case, the issues of liability, damage and compensation will be established through contested case proceedings, as provided by 7—Chapter 2506 and 561—Chapter 2506.

**105.106(3)** *Assessment.* When natural resources are destroyed or damaged by an identifiable source, the degree and value of the losses shall be assessed by collecting, compiling, and analyzing relevant information, statistics, or data through prescribed methodologies to determine damages, as set forth in this rule.

*a. General.* Except as specified otherwise in this rule, the definitions, methodologies, and criteria in 43 CFR Part 11 may be used to assess natural resource damages.

*b. Fish loss.* Assessment of damages for fish kills shall be in accordance with the following:

(1) Normally investigators will follow the methods prescribed by AFS to determine numbers of fish killed, by species and size.

(2) During periods of ice cover, where local conditions prevent using these methods, or in other appropriate circumstances, for example when the resources are known to have been diminished by prior incidents, investigators will utilize the best information available to determine numbers of fish killed by species and size. Information may include existing or prior data on population levels in the affected water body or nearby water bodies with similar characteristics, including any historical fish kill data.

(3) The monetary valuation of fish shall be the replacement values as published in AFS for all fish lost except the following: channel catfish, flathead catfish, blue catfish, northern pike, muskellunge, northern pike/muskellunge hybrid, rainbow trout, brown trout, brook trout, white bass, yellow bass, white bass/striped bass hybrid, largemouth bass, smallmouth bass, spotted bass, crappie, rock bass, bluegill, redear sunfish, warmouth, pumpkinseed, freshwater drum, yellow perch, walleye, sauger, and walleye/sauger hybrid. The value of these fish shall be $15 each, unless AFS establishes a higher value. Notwithstanding the above, the value of each fish classified by the department as an endangered or threatened species shall be $1,000.

(4) The value of lost services to the public shall be the number of fishing trips lost over the period of the resource loss, as determined through local creel survey information or through interpolation from the most recent statewide creel survey. Each trip shall be valued at $30.

(5) The cost of the investigation shall include salaries plus overhead for staff time, including support staff, involved in investigating the fish kill and performing the assessment; meals and lodging for staff while in the field conducting the assessment; mileage, valued at the current rate established pursuant to Iowa Code section 8A.363; costs borne by the department associated with containment or cleanup operations; and any other costs directly associated with the investigation and assessment.

**105.106(4)** *Compensation.* The department will extend to the responsible person the opportunity to reach voluntary agreement as to the amount of damages and the compensation method. If the person disputes liability or the damage amount, the department will make a demand for payment and the person may appeal and demand contested case procedures under 7—Chapter 2506 and 561—Chapter 2506. The method of compensation shall be solely in the discretion of the department.

*a. Direct monetary payment.* Compensation will normally be by direct monetary payment to the department. The money received will be used to replace, restore or rehabilitate the lost or damaged resources. Resource enhancement projects, support of educational programs relating to resource protection or enhancement, or resource acquisition of equal or greater value also may be funded. If practical, such alternatives should provide similar services to the public and should be in the vicinity of the loss.

*b. Indirect monetary payment.* In appropriate cases, an equal or greater amount of compensation may be made by monetary payment to another government agency or private nonprofit group in the natural resource field for the same purposes as provided in 105.106(4)*"a."*

*c. Direct funding of projects.* With the approval and oversight of the department, the person may be allowed to contract directly for the same purposes as provided in 105.106(4)*"a."*

**567—105.107** to **105.199** Reserved.

These rules are intended to implement Iowa Code chapter 455B, subchapter III, part 1, and subchapter IV, part 4, and Iowa Code section 455E.5.

DIVISION III
IOWA LAND RECYCLING PROGRAM AND
RESPONSE ACTION STANDARDS

**567—105.200(455H) Purpose.** This division is adopted under the authority of Iowa Code chapter 455H. These rules establish the policy and procedures for the voluntary enrollment of contaminated property in the land recycling program. These rules also establish the response action standards that participants must meet in order to qualify for a no further action certificate and the statutory protections and immunities that follow from it. Consistent with the declaration of policy stated in Iowa Code section 455H.104, these rules are intended to achieve the dual objective of addressing the current and future risks associated with contaminated property and thereby enhancing the market conditions that can lead to development of these properties into their highest productive use. These objectives can in part be met through a program that encourages voluntary participation by persons who may have a legal duty to address, in whole or in part, the contamination within an affected area, as well as persons who might not have a legal obligation but who have an interest in development of enrolled sites. These rules attempt to provide a degree of certainty in the response action process as an incentive to participants and as a means of assisting participants in quantifying their financial investment.

**105.200(1)** It is the objective of these rules to establish a collaborative process between the participant(s) and the department as the most effective means of achieving consensus and resolving disputes on issues that are not or cannot be fully defined and anticipated by rule.

**105.200(2)** Although participation in this program is voluntary, these rules establish minimum standards that must be met in order to obtain regulatory closure from the department through issuance of a no further action certificate.

**105.200(3)** Although the scope of the response actions addressed under these rules may not in every case address all known or unknown releases within an affected area, it should be the objective of both the department and the participant(s) to work together and to use all resources available to address all known releases within an affected area in the interest of protecting public health and safety and the environment as well as achieving regulatory finality.

**567—105.201(455H) Applicability.**

**105.201(1)** These rules apply only to releases of contaminants that are being addressed at enrolled sites. The department may in its discretion, to facilitate compliance with other provisions of this chapter, apply the response action requirements of 567—105.204(455H) through 567—105.210(455H) to releases of contaminants at sites that are not enrolled. These rules do not in any way limit the statutory liabilities of participants or nonparticipants except as expressly provided within the context of enrollment and Iowa Code chapter 455H. Consistent with Iowa Code section 455H.505, these rules do not limit the authority of the department or the responsibility of statutorily responsible persons to provide notice of hazardous conditions under division I of this chapter or to respond to new releases and undertake emergency response actions under division II of this chapter. For sites that are not enrolled, division II of this chapter will remain in effect, and for enrolled sites, division II of this chapter shall apply to the extent it is not inconsistent with this division.

**105.201(2)** All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—105.202(455H) Definitions.** For the purposes of this division, these definitions and the definitions in Iowa Code section 455H.103 shall apply:

*"ASTM standards"* means the standards as specified in these rules and most recently adopted by ASTM International as of August 1, 2025, unless otherwise noted in these rules.

*"Background standard"* means a standard that represents concentrations of contaminants that are naturally occurring or are generally present and not related to a readily identifiable release.

*"Carcinogenic health risk"* means the incremental risk of a person developing cancer over a lifetime (70 years) as a result of exposure to a hazardous substance, expressed as a probability such as one in a million (10-6). The contaminant level for the probability value is derived from application of certain designated exposure assumptions and a slope factor.

*"Code of Federal Regulations"* or *"CFR"* means the federal administrative rules adopted by the United States as amended through August 1, 2025, unless otherwise noted in these rules.

*"Contaminant"* means any hazardous substance found in the various media of the environment.

*"Contaminant of concern"* means specific hazardous substances that are identified for evaluation in the risk assessment process. Identification can be based on their historical and current use at the site, detected concentrations in environmental media and their mobility, toxicity, and persistence in the environment.

*"Cumulative risk"* means a summation of cancer and noncancer risks, determined separately, based on exposure to multiple contaminants from the same medium and exposure of the same individual to contaminants in multiple media.

*"Enrolled site"* means any property as defined by a legal description, a parcel number, or similar description that sufficiently defines the property in question, that has been or is suspected to be the site of or affected by a release and that has been enrolled pursuant to this division by a participant.

*"Environmental protection easement"* means an institutional control created under Iowa Code section 455H.206 that is a statutorily authorized restriction on land use.

*"Exposure pathway"* means the course a contaminant of concern may take from its source area to an exposed organism. Each exposure pathway includes a source or release from a source, a point of exposure, and an exposure route.

*"Exposure route"* means the manner in which a contaminant of concern comes in contact with an organism (including but not limited to ingestion, inhalation, dermal contact).

*"Free product"* means a hazardous substance that is present as a nonaqueous phase liquid (e.g., liquid not dissolved in water) or is present as a solid in its original form as a product or waste material.

*"Gross contamination"* means contamination present at concentrations in an amount sufficient to reasonably expect that institutional or technological controls will not be adequately protective of human health or the environment.

*"Group A, B, C, D and E chemicals"* means hazardous substances that have been classified based on the weight of evidence of human carcinogenicity. Group A substances are carcinogenic to humans. Group B substances are likely to be carcinogenic to humans. Group C substances have suggestive evidence of human carcinogenicity, but not sufficient evidence to assess human carcinogenic potential. Data are inadequate to assess human carcinogenic potential for Group D substances. Group E substances are not likely to be carcinogenic to humans.

*"Hydraulic conductivity"* means a measure of the capacity of a porous medium (rock or soil) to transmit water. It is expressed as the volume of water that will flow through a unit length of a unit cross-sectional area of the porous medium in a unit time with a unit head loss.

*"Institutional controls"* means a nonphysical action that restricts land use to reduce or eliminate exposure to the contaminants of an affected area.

*"Lifetime health advisory level"* or *"HAL"* means a lifetime health advisory level for a contaminant, established by the United States Environmental Protection Agency (EPA). Health advisories represent the concentration of a single contaminant, based on current toxicological information, in drinking water that is not expected to cause adverse health effects over lifetime exposure.

*"Maximum contaminant level"* or *"MCL"* means the enforceable maximum contaminant level established by the EPA pursuant to the Safe Drinking Water Act.

*"No further action certificate"* means the same as no further action letter as described in Iowa Code section 455H.301. It is a document issued by the department to the participant certifying no further response action is required at an enrolled site for those conditions classified as no further action except the monitoring or the maintenance of institutional or technological controls when required.

*"No further action certification"* means the department has determined an enrolled site has met all standards applicable for the identified hazardous substances and no further response action is required except the monitoring or the maintenance of institutional or technological controls when required.

*"Nonresidential land-use area"* means any area that is not a residential land-use area.

*"Participant"* means any person who applies for the program or enrolls property pursuant to this chapter. A participant is a participant only to the extent the participant complies with the requirements of this chapter.

*"Point of compliance"* means a location selected within the affected area where the concentration of contaminants of concern must be at or below the target levels established for that point.

*"Point of exposure"* means the location at which an individual or population may come in contact with a contaminant of concern from the enrolled site.

*"Receptor"* means an individual or population that is or may be affected by a release from the enrolled site.

*"Reference dose,"* expressed in units of milligrams per day exposure to the contaminant per kilogram of body weight of the exposed individual, means the amount of contaminant that an individual can ingest on a daily basis for a lifetime that is not likely to result in adverse noncancer health effects. A reference dose is protective of the entire human population, including sensitive subpopulations.

*"Residential land-use area"* means an area zoned for residential use or an area where residential use currently exists, is planned, or is not otherwise precluded. In addition, a residential land-use area includes other areas where frequent, long-term, close contact with soils is likely to occur (e.g., playgrounds, sport fields, gardens, child care facilities).

*"Risk evaluation/response action document"* means a document based on the site assessment for the enrolled site that includes a risk evaluation, proposed response action, and proposed compliance verification strategy for the enrolled site.

*"Site assessment plan"* means the optional plan submitted to the department that lays out the rationale and the steps to be followed in the conduct of a site assessment for the enrolled site.

*"Site assessment report"* means the report of the site assessment that defines the nature and extent of contamination, identifies likely exposure pathways, and allows for characterizing potential and current exposure risks posed by the enrolled site.

*"Site-specific standard"* means a standard for a specific site that represents a concentration of a contaminant in a media of an affected area at which exposure through a specific pathway is considered unlikely to pose a threat to human health, safety, or the environment given site-specific factors related to contaminant transport and likely exposure.

*"Slope factor"* means an upper bound estimate that approximates a 95 percent confidence limit of the increased cancer risk from a lifetime exposure to a contaminant. This estimate is expressed in units of the proportion of a population that is affected per milligram per day exposure to the contaminant per kilogram of body weight of the exposed individual.

*"Statewide standard"* means a standard that represents a concentration of a contaminant in a specific media of an affected area at which normal, unrestricted exposure through a specific exposure pathway is considered unlikely to pose a threat to human health, safety, or the environment.

*"Surface water"* means general use segments as provided in 567—paragraph 61.3(1)*"a"* and designated use segments of water bodies as provided in 567—paragraph 61.3(1)*"b"* and 567—subrule 61.3(5).

*"Target level"* means a concentration of a contaminant of concern required to establish compliance with background, statewide or site-specific standards.

*"Target organ"* means the biological organ(s) most adversely affected from exposure to the contaminant of concern. A "reference dose" used to calculate noncancer health risk is normally established based on adverse impact to a target organ or organs from exposure to the contaminant of concern.

*"Technological control"* means a physical action whose main purpose is to reduce or eliminate exposure to the contaminants of an affected area.

**567—105.203(455H) Enrollment in the Iowa land recycling program.**

**105.203(1)** *Property eligible for enrollment.* Unless excluded by statute or this rule and subject to eligibility conditions specified in this division, property that has been or is suspected to be the site of or affected by a release of a hazardous substance as defined in Iowa Code section 455H.103 is eligible for enrollment.

**105.203(2)** *Property ineligible for enrollment.* The following sites shall not be enrolled in the Iowa land recycling program:

*a.* Property with petroleum releases associated with underground storage tanks subject to regulation under Iowa Code chapter 455B, division IV, part 8, and 567—Chapter 135. However, property affected by releases of regulated substances from underground storage tanks other than petroleum as defined in 567—135.2(455B) subject to regulation under 567—Chapter 135 may be enrolled under this division. Property enrolled and affected by a release from underground storage tanks of regulated substances other than petroleum will be subject to the response action standards in this division in lieu of those in 567—135.8(455B) through 567—135.12(455B).

*b.* Property that has been placed or is proposed to be included on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. Section 9601 et seq. A property will be considered proposed at the time that a public notice of intent to list the property on the national priorities list is published in the Federal Register in accordance with 40 CFR 300.425.

*c.* An animal feeding operation structure as defined in Iowa Code section 459.102.

*d.* Properties subject to administrative or judicial enforcement action by the department or the EPA or subject to an administrative or judicial consent order addressing environmental conditions. These properties may be eligible for enrollment only with the written approval of and under such terms as determined by the enforcing agency.

*e.* Eligible properties that are or may be affected by or commingled with ineligible releases or conditions will be evaluated on a case-by-case basis to determine their appropriateness for enrollment. Only the eligible property and participant(s) will be afforded the benefits and immunities available under Iowa Code chapter 455H. Any protections provided by issuance of a no further action certificate will be limited by and may be subject to reopening due to future conditions associated with the ineligible release. Considerations for enrollment or exclusion include but are not limited to the following:

(1) The extent to which eligible releases and site conditions can be assessed and response action(s) designed and implemented independent of the ineligible releases and property.

(2) The extent to which the liability and other protections offered by Iowa Code chapter 455H and the conditions of a no further action certificate can reasonably be defined to apply to the eligible site without consideration of or dependence on future conditions associated with the ineligible release and property.

(3) The extent to which a participant is willing to conduct all response action(s) necessary to address the health, safety and environmental conditions implicated by both eligible and ineligible releases and conditions. The extent to which a nonparticipant responsible for the ineligible release and property can establish an intention and ability to cooperatively address and share costs associated with

the commingled conditions and satisfy both the standards in this division and any other regulatory standards applicable to the ineligible release or condition.

**105.203(3)** *Enrollment policy and procedures.* Prior to enrollment, the participant may conduct a sufficient preliminary site investigation and project planning to be prepared to show that a site is eligible for enrollment and the participant(s) is ready and capable of initiating and completing a response action in accordance with these rules. The participant(s) must submit a completed program application and participation agreement on a form prescribed by the department. The program application shall contain at least the following information:

*a.* An acknowledgment of accessor control of the site signed by the fee titleholder in the affected property. If acknowledgment of access cannot be obtained, the participant must describe efforts to obtain access and reasons why it has been refused.

*b.* The name, address and other relevant information of each current and anticipated participant(s). The description should include a brief statement of the reasons for each person's participation including but not limited to that person's interest in and legal relationship to the property enrolled and the expected role and scope of any participation. Other persons who are not participants but who may have an interest in the project should be identified, such as state and local development agencies, community groups, and financing sources.

*c.* The participant(s) must demonstrate the presence of hazardous substances at concentrations that warrant response action(s) under the standards in this division. At a minimum, the environmental condition to be addressed must be documented by the submission of a report that includes the following:

(1) Analyses for a contaminant regulated under this division must be performed by a laboratory certified for the analyte(s) and applicable method pursuant to 567—Chapter 83.

(2) A description of the current and historical uses of the property based on a reasonable and diligent inquiry. This must include a description of the following: known sources and probable locations of hazardous substances and probable location of the sources at the property that the participant proposes to address as part of the project; a general description of the historical uses of the property and probable hazardous substances that could reasonably be associated with past land use; and a general description of the surface characteristics of the property and surrounding areas such as current zoning, residential, commercial and industrial uses, and current uses of adjoining properties.

*d.* Any assessments or other reports relating to contamination at the property in excess of a statewide standard or reportable under division I of this chapter that are known to and within the control of the participant shall be submitted. If the participant intends to claim that information constitutes a privileged environmental audit as provided in Iowa Code chapter 455K, the participant must notify the department of the claim and resolve the issue of privilege prior to submittal. The participant shall not submit to the department a report or any part of a report that it claims to be privileged and any information submitted under this paragraph shall be deemed a nonprivileged submittal as provided in Iowa Code section 455K.6(1)*"a."* This provision does not relieve the participant of any obligation to notify the department of a hazardous condition as provided in Iowa Code section 455B.386 and rules under division I of this chapter.

*e.* A statement of the project objectives that includes the current use of the property, proposed development activities, and an expected time frame for meeting these objectives. The statement should include a general description of the scope of the proposed environmental condition to be addressed and a proposed schedule for initiation and submittal of site assessment activities pursuant to 567—105.208(455H). The statement should describe any foreseeable barriers toward achieving project objectives such as access to property, financing uncertainties, legal actions, and allocation of responsibility amongst parties.

*f.* A list of all known permits and regulatory actions and directives associated with an environmental condition at the site. If any parcel of the proposed enrolled site is subject to any federal regulatory corrective action directives, administrative orders or judicial actions, these must be explained. The participant must submit written proof that the appropriate federal regulatory agency has been notified of the participant's desire to participate in the Iowa land recycling program. Objections, concerns or issues that could lead to disputes regarding dual or conflicting jurisdiction should be resolved prior to application, if possible, and before admission.

*g.* The department will respond in writing within 60 days of receipt of the enrollment application. The department will notify the participant(s) whether the site has been accepted and an expected time line for assignment of the project to a manager. If the site is not accepted, the department will notify the participant of the reason(s). Upon notification of admission, the property shall be considered enrolled. Once the department has assigned the enrolled site to a project manager, the department will enter into a participation agreement with the participant(s).

**105.203(4)** *Enrollment fees and oversight costs.* A nonrefundable enrollment fee of $750 must be submitted with the program application. This fee is intended to cover the department's cost of reviewing the program application and a minimum amount of subsequent oversight costs. Subsequent fees in excess of the minimum $750 may be assessed for actual oversight costs incurred by the department as provided in this division. Department oversight activities may include but are not limited to review of documents, meetings with the participant(s), site visits, sampling, and laboratory costs related to verification of submitted materials. The total fees for oversight costs shall not exceed $7,500 per enrolled site enrolled prior to July 1, 2018. For sites enrolled on or after July 1, 2018, the fee shall not exceed $25,000 per enrolled site. Fees shall be assessed and collected as follows:

*a.* *Hourly billing rate.* Project oversight fees shall be based on an hourly rate to cover wages and overhead costs of personnel employed by the department in the Iowa land recycling program. The department shall calculate and publish on an annual basis an hourly billing rate at which oversight fees shall be calculated.

*b.* *Quarterly payments.* The department shall bill the participant(s) on a quarterly basis for additional oversight costs beyond the review of the application incurred by the department. The participant(s) shall pay the department within 30 days after receiving the department's quarterly fee statement. If there is more than one participant, each shall be jointly and severally responsible for payment. The department will provide split billings if provided with an enforceable written contract allocating the fees amongst the participants.

*c.* *Failure to pay required fees.* If the participant(s) fails to pay department oversight fees that are required under this subrule, the department shall cease to provide oversight to the participant(s) and terminate enrollment of the site as described in 105.203(7).

**105.203(5)** *Participation agreement.* All participants shall enter into a participation agreement. This agreement shall be executed at the time the project is assigned to a project manager. At a minimum, the agreement shall establish the following:

*a.* A requirement that the participant(s) agree and provide necessary documentation to ensure reasonable access to the affected property by department staff and other authorized representatives of the department.

*b.* A requirement that the participant(s) reimburse the department for the actual costs assessed as provided in 105.203(3).

*c.* A requirement that the participant(s) certify that they have the financial means to complete the project based on an initial estimate of completion costs. The department may require modification and amendment of the financial certification at any stage in the project and may require the participant(s) to provide financial documentation as necessary to support the certification.

*d.* A requirement that the participation agreement include a general description of the scope of the project and the goals to be achieved, a general time frame for submission and review of documents in accordance with this division, allocation of responsibility amongst multiple participants and other appropriate milestones. Either the participant(s) or the department may request a meeting to develop a statement describing the scope, goals, and time frames for the project.

**105.203(6)** *Prioritization.* Eligible sites will be enrolled in the order in which they are received. The department reserves the right to elevate the priority of a given site if it determines the public health and safety and the environment or environmental conditions in combination with the development objectives consistent with Iowa Code section 455H.104 is significantly greater than those of sites with an earlier enrollment date.

**105.203(7)** *Withdrawal procedures.* Enrollment and continued participation in the program are voluntary. The participant(s) may withdraw the enrolled site and individual participants may withdraw from further participation in the Iowa land recycling program at any time upon written notice to the department. Any participant who withdraws an enrolled site from further participation in the program shall not be entitled to any refund or credit for the $750 enrollment fee and shall be liable for any oversight costs actually incurred by the department up to the cap of $7,500 per enrolled site enrolled prior to July 1, 2018, and $25,000 per enrolled site enrolled after July 1, 2018. A participant who withdraws a site prior to completion of all response action(s) required by this division and issuance of a no further action certificate in accordance with 567—105.211(455H) forfeits all benefits and immunities provided by this division and Iowa Code chapter 455H. Prior to withdrawal, the participant(s) shall submit a plan, which must be approved by the department, for stabilization of conditions at the site or a justification for why further action to stabilize the site is not necessary. Participants shall be required to take such actions as the department determines necessary to stabilize conditions at the site, including but not limited to securing or properly abandoning monitoring wells, removing or otherwise properly disposing of all contaminated soil excavations, removing or properly disposing of exposed or exhumed contaminants, filling or properly fencing open excavations, and posting safety notices.

**105.203(8)** *Termination of enrollment.* Enrollment of the participant(s) may be terminated based on a finding of material noncompliance with department rules and statutory requirements including but not limited to the following:

*a.* Significant failure, after written notice, to comply with schedules for completion and submission of reports and implementation of response action(s) required by these rules or otherwise agreed upon in writing by the department and participants. Written requests for reasonable schedule extensions may be granted upon a showing of extenuating circumstances beyond the control of the participant(s) and the participant(s) agent or contractor.

*b.* Failure to proceed in a timely manner after written notice in performing the additional response action required due to a failure of technological and institutional controls pursuant to 567—105.207(455H).

*c.* Material misstatement or omission of fact in reports submitted to the department by the participant or agents of the participant.

*d.* Evidence that the site falls under one of the exclusion categories in 105.203(2).

*e.* Failure to pay required fees to the department as required in 105.203(3).

**105.203(9)** *Appeal rights.* The department will notify participant(s) of a denial of enrollment or of an intent to terminate enrollment and provide a statement of reasons. The participant(s) shall have a right to appeal the decision to deny enrollment or to terminate enrollment. Upon timely appeal, contested case procedures shall be initiated pursuant to 7—Chapter 2506 and 561—Chapter 2506.

**567—105.204(455H) Background standards.**

**105.204(1)** *Purpose.* This rule defines the basis and procedure for establishing background standards in groundwater, soil, surface water and air. Background standards represent concentrations of contaminants that are naturally occurring or generally present and not related to a readily identifiable release. Background standards provide a baseline for assessing impacts of contaminant releases from within the affected area.

**105.204(2)** *Determination of background standards.* Background standards shall be based on sampling at appropriate site-specific background locations. Background sampling locations shall be outside the influence of any possible contamination associated with releases occurring on the property in which the enrolled site is located. Sufficient supporting information shall be provided to demonstrate the appropriateness of background sampling locations. Appropriateness for background sampling locations has two aspects that shall be addressed:

*a.* Background samples shall be collected from a location that represents a true background condition with respect to the enrolled site. A background groundwater sample shall be collected from an upgradient location relative to groundwater movement.

*b.* Background samples will represent conditions that are comparable to the contaminated media being addressed. In the case of soils, samples from the affected area and the background areas will be comparable in physical, chemical, and biological attributes.

Sampling conducted for the purpose of establishing a background standard shall meet quality criteria specified for the site assessment, 567—105.208(455H). The minimum number of samples to be collected from the medium of concern for which a background standard is being established shall be consistent with 567—105.210(455H), regarding demonstration of compliance.

**567—105.205(455H) Statewide standards.**

**105.205(1)** *Purpose.* This rule defines the basis and procedure for establishing statewide standards for contaminants in groundwater, soil, and surface water. Statewide standards for groundwater and soil represent concentrations of contaminants in these media at which normal exposure via ingestion and dermal contact with soil is considered unlikely to pose a threat to human health. Statewide standards for surface water are based on protection of aquatic life and protection of human health. This rule also describes how air standards are to be addressed.

**105.205(2)** *Scope.* Statewide standards described herein address what are considered to be the most likely, normal exposure situations within the state of Iowa. Statewide standards for groundwater address direct exposure via ingestion to individual contaminants in the media of concern only. Statewide standards for soil address direct exposure to individual contaminants via ingestion and dermal contact in the media of concern only. In the event exposure to multiple contaminants may occur or exposure from more than one medium may occur, statewide standards alone may not be protective of human health; therefore, cumulative risk standards must be met in accordance with 105.210(7). In addition, the department may deny the use of the statewide standards prescribed herein and require the use of site-specific standards based on site-specific conditions pursuant to 105.206(10). Examples of exposure concerns not anticipated by the statewide standards include but are not limited to:

*a.* Significant plant uptake of contaminants from soil or groundwater;

*b.* Contaminants entering drinking water lines from contact with soil or groundwater;

*c.* Ecological concerns, other than for surface water;

*d.* Groundwater in a nonprotected groundwater source that is used or likely to be used for drinking water or other use.

**105.205(3)** *Establishment of risk-based contaminant concentrations.*

*a. Risk-based concentration formula.* Risk-based contaminant concentrations for soil and groundwater, except lead, shall be computed using the following formula, where appropriate:

(Formula I)

$$C = \frac{RF \times AT \times 365 \text{ days/year}}{Abs \times [(ER_c \times EF_c \times ED_c) \div BW_c + (ER_a \times EF_a \times ED_a) \div BW_a] \times CF}$$

NOTE: When a risk-based concentration is computed for two routes of exposure to the same medium (e.g., soil oral exposure and soil dermal exposure), the composite risk-based concentration equals the multiple of the risk-based concentration for each route of exposure divided by the sum of the risk-based concentration for each route of exposure.

Where: C = Concentration of contaminant (soil: mg/kg, water: mg/l)
RF = Risk factor

For protection from cancer health risks:
RF = TR ÷ SF
Where: TR = Target cancer risk (unitless)
SF = Slope factor $[(mg/kg)/day]^{-1}$ for a route of exposure; see 105.205(3)*"c"* for source.

For protection from noncancer health risks:
RF = THQ × RfD
Where: THQ = Target hazard quotient (unitless)
RfD = Reference dose (mg/kg)/day for a route of exposure; see 105.205(3)*"c"* for

source.

AT = Averaging time (years); time over which exposure is averaged and potential adverse effects may occur

Abs = Absorption factor (unitless); portion of exposed contaminant absorbed by the body

$ER_c$ = Exposure rate by a child (soil: mg/day, water: l/day)

$EF_c$ = Exposure frequency by a child (days/year)

$ED_c$ = Exposure duration by a child (years)

$BW_c$ = Body weight of exposed child (kg)

$ER_a$ = Exposure rate by an adult (soil: mg/day, water: l/day)

$EF_a$ = Exposure frequency by an adult (days/year)

$ED_a$ = Exposure duration by an adult (years)

$BW_a$ = Body weight of exposed adult (kg)

CF = Conversion factor: $10^{-6}$ kg/mg for soils; 1 (unitless) for water

*b.* *Carcinogenic classification of chemicals.* The potential carcinogenicity of chemicals will be based on the weight-of-evidence classification system utilized by the EPA. Risk-based concentrations will be based on cancer health effects for individual chemicals that are classified as Group A or Group B. The risk-based concentration for an individual chemical will be based on noncancer health effects for chemicals that are classified as Group C, Group D or Group E. In the absence of such classification for a chemical, the Group D classification will be assumed. Noncancer risks for a Group A or Group B chemical will be included in the determination of cumulative noncancer risk in accordance with 105.210(7), if a reference dose exists for that chemical. Cancer risk associated with a Group C chemical shall be included in the determination of cumulative cancer risk in accordance with 105.210(7), if a cancer slope factor exists for that chemical.

*c.* *Source of toxicity values.* EPA's Integrated Risk Information System (IRIS) shall be the primary source of information on toxicity factors (e.g., oral reference doses and oral slope factors), carcinogenic classification for chemicals, and the target organs. Such information that is not available on IRIS shall be obtained from other sources consistent with current EPA guidelines. The Iowa department of health and human services (HHS) shall be consulted regarding toxicity values not available on IRIS. Absorption factors for dermal soil exposure shall be based on best available information, which will usually be obtained from EPA guidance documents.

**105.205(4)** *Statewide standards for groundwater.*

*a.* *Protected groundwater source.* Statewide standards for groundwater in a protected groundwater source will be the enforceable MCL established by the EPA pursuant to the Safe Drinking Water Act as amended in 1996, if an MCL exists. If no enforceable MCL exists, the statewide standard for chemicals will be the HAL as provided in the Drinking Water Regulations and Health Advisories by the EPA's Office of Water. Interim or provisional HALs can also be used. If no MCL or HAL exists, the statewide standard for a chemical will be calculated using Formula I and input variables for groundwater ingestion in accordance with Table I.

*b.* *Groundwater in a nonprotected groundwater source.* The statewide standard for a chemical in groundwater in a nonprotected groundwater source will be five times the statewide standard for the chemical in a protected groundwater source or a risk-based concentration using Formula I with input variables specified in Table I, whichever is larger. The statewide standards for groundwater in a nonprotected groundwater source are based on groundwater ingestion only.

Table I

Input Variables for Risk-Based Statewide Standards for Groundwater

from Protected and Nonprotected Groundwater Sources

| Parameter | Units | Cancer Group | Protected | Nonprotected |
|---|---|---|---|---|
| TR | unitless | A, B | $5 \times 10^{-6}$ | $1 \times 10^{-4}$ |
| SF | $[(mg/kg)/day]^{-1}$ | A, B, C | Chem.-spec. | Chem.-spec.* |
| THQ | unitless | C | 0.02 | 0.1/1* |
| | | D, E | 0.2 | 1 |
| RfD | (mg/kg)/day | C, D, E | Chem.-spec. | Chem.-spec. |

| Parameter | Units | Cancer Group | Protected | Nonprotected |
|---|---|---|---|---|
| AT | years | A - E | 70 | 70 |
| Abs | unitless | A - E | 1 | 1 |
| $ER_c$ | l/day | A - E | 1 | 1 |
| $EF_c$ | days/yr | A - E | 0 | 0 |
| $ED_c$ | years | A - E | 6 | 6 |
| $BW_c$ | kg | A - E | 15 | 15 |
| $ER_a$ | l/day | A - E | 2 | 2 |
| $EF_a$ | days/yr | A - E | 365 | 365 |
| $ED_a$ | years | A - E | 70 | 70 |
| $BW_a$ | kg | A - E | 70 | 70 |
| CF | unitless | A - E | 1 | 1 |

*The risk-based concentration using Formula I for Cancer Group C chemicals that have an SF value established per 105.205(3)*"c"* will be the larger of a value based on the risk factor for protection from noncancer health risks with a THQ = 0.1 or the risk factor for protection from cancer health risks. Risk-based concentrations using Formula I for Cancer Group C chemicals that do not have an SF value established per 105.205(3)*"c"* will be a value based on the risk factor for protection from noncancer health risks with a THQ = 1.

**105.205(5)** *Statewide standards for soil.* Statewide standards for chemicals in soil, except lead, will be calculated using Formula I based on incidental ingestion of soil and dust and dermal contact with soil with input variables in accordance with Table II. The statewide standard for lead in soil shall be 400 mg/kg.

Table II

Input Variables for Statewide Soil Standards

| | | | Route of Exposure | |
|---|---|---|---|---|
| Parameter | Units | Cancer Group | Oral | Dermal |
| TR | unitless | A, B | $5 \times 10^{-6}$ | $5 \times 10^{-6}$ |
| SF | $[(mg/kg)/day]^{-1}$ | A, B, C* | Chem.-spec. | Chem.-spec. |
| THQ | unitless | C* | 0.1/1 | 0.1/1 |
| | | D, E | 1 | 1 |
| RfD | (mg/kg)/day | C, D, E | Chem.-spec. | Chem.-spec. |
| AT | years | A, B | 70 | 70 |
| | | C, D, E | 6 | 6 |
| Abs | unitless | A - E | 1 | Chem.-spec. |
| $ER_c$ | mg/day | A - E | 200 | 560** |
| $EF_c$ | days/yr | A - E | 350 | 350 |
| $ED_c$ | years | A - E | 6 | 6 |
| $BW_c$ | kg | A - E | 15 | 15 |
| $ER_a$ | mg/day | A - E | 100 | 400** |
| $EF_a$ | days/yr | A - E | 350 | 350 |
| $ED_a$ | years | A, B | 24 | 24 |
| | | C, D, E | 0 | 0 |
| $BW_a$ | kg | A - E | 70 | 70 |
| CF | kg/mg | A - E | $10^{-6}$ | $10^{-6}$ |

*The risk-based concentration using Formula I for Cancer Group C chemicals that have an SF value established per 105.205(3)*"c"* will be the larger of a value based on the risk factor for protection from noncancer health risks with a THQ = 0.1 or the risk factor for protection from cancer health risks. Risk-based concentrations using Formula I for Cancer Group C chemicals that do not have an SF value established per 105.205(3)*"c"* will be a value based on the risk factor for protection from noncancer health risks with a THQ = 1.

**Dermal exposure rate is based on 2,800 $cm^2$ of exposed skin on a child with 0.2 $mg/cm^2$ of soil adhering to the child's skin and 5,700 $cm^2$ of exposed skin on an adult with 0.07 $mg/cm^2$ of soil adhering to the adult's skin per each dermal exposure event. A dermal exposure event is assumed to be one event per day of exposure.

**105.205(6)** *Statewide standards for surface water.* Water quality standards pursuant to 567—Chapter 61 shall be considered statewide standards for surface water. If a promulgated water quality standard does not exist for a contaminant of concern, the department may establish an appropriate standard in a manner consistent with 567—Chapter 61.

**105.205(7)** *Statewide standards for air.* Ambient air quality standards pursuant to 567—Chapter 22 constitute statewide standards for air. Air emission sources must meet air quality emission standards as set forth in 567—Chapters 21 through 33 inclusively, as applicable. Any relevant air quality standard that is subsequently promulgated by statute or rule shall become a statewide standard for air upon the effective date of adoption by the state. In the absence of applicable, adopted standards, site-specific air standards must be met, in accordance with 105.206(9), when air quality issues are addressed at a site.

**105.205(8)** *Point of exposure for statewide standards.* The point of exposure associated with the use of only statewide standards in the determination of compliance will be assumed to be anywhere and everywhere, except for surface water. The point of exposure associated with the use of statewide standards for surface water will be assumed to be the point of groundwater or other site runoff immediately before it discharges to the surface water body.

**105.205(9)** *Practical quantification limits.* In no case will the statewide standard be less than the practical quantification limit, as determined by the department.

**105.205(10)** *Maintenance of statewide standards.* The toxicity values, absorption factors for dermal exposure to soils, and promulgated standards that are a basis for statewide standards are subject to periodic revision due to actions not governed under this rule. The department in conjunction with the HHS will maintain a current list of toxicity values, absorption factors for dermal exposure to soils, target organs for cumulative noncarcinogenic health risks, promulgated standards, and the resultant statewide standards that will be readily available to the public. This guidance document will reference all the sources of the information. In the absence of a dermal slope factor or a dermal reference dose for a chemical, the oral slope factor or oral reference dose will be used with adjustments made to account for differences in oral and dermal absorption rates in accordance with current EPA guidance. Statewide standards for individual sites will be locked in at the beginning of the site assessment process pursuant to 567—105.208(455H). If a statewide standard does not exist for a chemical, it will be the department's responsibility to establish a statewide standard, pursuant to 105.205(4) and 105.205(5), for groundwater and soil, and to add the newly established statewide standard to the comprehensive list of statewide standards in the guidance document maintained by the department.

**567—105.206(455H) Site-specific standards.**

**105.206(1)** *Purpose.* As opposed to statewide standards, site-specific standards are derived by applying exposure and risk assumptions applicable to the conditions at a particular site. Like statewide standards, site-specific standards must always be shown to be protective of public health and safety and the environment. Statewide standards may be used in combination with site-specific standards to address different exposure pathways. Site-specific standards may be required to address exposure pathways that the department determines must be evaluated to be protective of human health, safety and the environment and for which statewide standards have not been established under 567—105.205(455H). Site-specific standards may involve development of target levels for contaminants of concern based on site-specific exposure assumptions for use in lieu of background or statewide standards. Site-specific standards may also include consideration of the actual or potential location where exposure to contaminants occurs or may occur, the likelihood of an exposure occurring, and the overall magnitude and extent of contamination. Site-specific standards may involve use of site-specific target levels for contaminants of concern alone or in conjunction with other site-specific criteria, such as the location where the standard is applied.

**105.206(2)** *General provisions.*

*a.* This rule establishes a minimum protocol that must be met at all enrolled sites that have not established compliance by application of background or statewide standards. Groundwater ingestion and soil ingestion pathway standards under this rule must be evaluated. Surface water and air quality standards under 105.206(8) and 105.206(9) must be met whenever exposure concerns are evident and the participant or the department determines these pathways may present an unacceptable risk for current or future exposures. This rule is not intended to preclude the department or the participant from addressing other exposure pathways, and the department expressly reserves the right to require evaluation of other exposure pathways and compliance with site-specific standards developed for them, such as dermal contact, ingestion of vegetables containing contaminants from soil or irrigation water, migration of contaminants from groundwater or soil into water distribution lines or into air in a confined space, migration of contaminants from soil to groundwater, and migration of contaminants in a nonprotected groundwater source to a protected groundwater source. Participants must establish compliance with standards applicable to all exposure pathways required by the department under this rule in order to qualify for no further action classification under 567—105.211(455H) unless granted a waiver as provided in Iowa Code section 455H.205.

*b.* Site-specific standards are subject to the approval of the department. Assurances in the form of technological or institutional controls in accordance with 567—105.207(455H) will be required, as needed, to ensure continued protectiveness of site-specific standards.

*c.* 105.206(3) through 105.206(11) provide options for site-specific standards. The participant may select any of these options, or combinations thereof, for use as site-specific standards.

**105.206(3)** *Site-specific groundwater point of exposure.* A site-specific groundwater standard may be an appropriate target level applied at groundwater points of exposure that are limited by technological or institutional controls.

*a.* A point of exposure for groundwater is a location within the affected area where a well exists or could be placed (potential point of exposure). Where technological or institutional controls are determined to effectively restrict the placement of groundwater wells, the points of exposure apply outside the area of restriction. A sufficient number of points of exposure may be established for determining compliance such that compliance with appropriate target levels at these points will ensure compliance at all points of exposure. A compliance point of exposure will be a location at the boundary of the area restricted by an institutional control where a groundwater well could be installed that would have the highest contaminant concentration, unless otherwise approved by the department. More than one compliance point of exposure must be established due to uncertainties within the environment such as spatial and temporal variabilities in groundwater flow and contaminant occurrence, unless the department approves otherwise.

*b.* Target levels. The point of exposure target level for drinking water wells is the statewide standard applicable to groundwater ingestion or an alternative site-specific target level approved under 105.206(10) or 105.206(11). The point of exposure target level for non-drinking water wells is the statewide standard applicable to nonprotected groundwater or an alternative site-specific target level approved under 105.206(10) or 105.206(11). The point of exposure target level for nonused groundwater meeting the conditions in 105.206(5) is the statewide standard for a nonprotected groundwater source.

*c.* Nonprotected groundwater sources. A nonprotected groundwater source that is affecting or likely to affect an existing drinking water well shall be required to meet the same site-specific standards, including point of exposure target level(s), as applied to a protected groundwater source.

*d.* Unless conditions can be demonstrated to be stable, predictive techniques in accordance with 105.209(4) must be used to determine the future effects of groundwater contamination on existing drinking and non-drinking water wells and to determine the area predicted to exceed the point of exposure target level(s) where wells could be installed. When using predictive techniques, determining the location(s) where the applicable point of exposure target level is expected to be exceeded may involve comparison of the appropriate numerical standard to the predicted contaminant concentration at a passive monitoring well at the groundwater point of exposure. Alternatively, predictive techniques using site-specific models pursuant to 105.209(4)*"b"* may involve simulation of pumping at a well located at the point of exposure, in which case the pumping rate used in the simulation shall be the rate that is reasonably possible for the area that yields water with the highest contaminant concentration. In absence of site-specific justification for doing otherwise, long-term pumping will be assumed to be at a rate of 100 gallons per day; the sustainable yield, if less than 100 gallons per day; or a reasonable, higher rate, if such a rate results in higher contaminant concentration.

*e.* Institutional controls. For a protected groundwater source or a nonprotected groundwater source as described in 105.206(3)*"b,"* institutional controls must be shown to effectively prohibit the installation of wells for the period of time in which contaminant concentrations might otherwise be expected to result in an exceedance of the appropriate target levels. For a nonprotected groundwater not described in 105.206(3)*"b,"* a less stringent standard of effectiveness as well as the type of future well installation to be restricted may be utilized for those areas of potential concern. Unless there is a history of usage of what might otherwise be considered nonprotected groundwater or there is uncertainty as to the uniformity in the hydraulic characteristics of the nonprotected groundwater source, notice to the authority responsible for permitting private wells under 567—Chapters 39 and 49 may be adequate, especially if combined with a municipal or county ordinance prohibiting installation of private wells based on the availability of a public water supply.

**105.206(4)** *Site-specific groundwater point of compliance.* A site-specific standard may be established for a site-specific groundwater point of compliance that is different from a compliance point of exposure. A site-specific groundwater point of compliance must be used in conjunction with all groundwater compliance points of exposure pursuant to 105.206(3) to provide an alternative monitoring location. Target levels for contaminants of concern at a site-specific groundwater point of compliance must be established using predictive techniques as specified in 105.209(4). A target level established for a groundwater point of compliance must ensure that the appropriate target level at the groundwater compliance points of exposure will be achieved. A groundwater point of compliance shall be located on the contaminant migration path from the contaminant source to the point of exposure to the maximum extent practicable.

**105.206(5)** *Nonused groundwater in a protected water source.*

*a.* Statewide standards for groundwater in a nonprotected groundwater source, pursuant to 105.205(4)*"b,"* may be used as target levels for contaminants in an otherwise protected groundwater source when groundwater in the affected area is not used and is not likely to be used in the future in accordance with the following. It must be demonstrated to the satisfaction of the department that contaminants from the enrolled site do not currently, and likely will not in the future, have an impact on any existing water supply well. Any detection, or predicted detection above the practical quantification limit, of a chemical that can be attributed to a release from the enrolled site will be considered to constitute an impact. In addition, it must be demonstrated to the satisfaction of the department that the impacted or potentially impacted aquifer is not a locally significant water resource. Factors that will go into this determination may include but are not limited to:

1. Existence of a nonimpacted public water supply in the potentially affected area;
2. General availability of other water resources in the vicinity;
3. Plans for development of public water supplies in the vicinity;
4. Potential for use of the impacted aquifer as a water supply (e.g., yield, natural water quality); and
5. Identification of the aquifer(s) commonly used for water supply in the vicinity.

*b.* A local ordinance prohibiting installation of private drinking water wells or notification to the local water utility and water permitting authority, or both, may constitute acceptable institutional controls for site-specific standards under this subrule.

*c.* The target levels that may be used in accordance with this subrule are based solely on groundwater ingestion. Compliance with this site-specific standard will not guarantee that contaminants in groundwater may not cause unacceptable exposure via other pathways (e.g., groundwater to air in a confined space, groundwater to surface water, or groundwater to a water distribution line).

**105.206(6)** *Site-specific soil standards based on land use and soil depth.* Site-specific soil standards based on land use and soil depth in conjunction with institutional controls may be used. Predetermined site-specific soil exposures based on land use and soil depth are provided in the following paragraphs. Lists of resulting site-specific soil standards for individual contaminants for these land-use and soil-depth categories will be maintained by the department in a guidance document and made readily available to the public. Use of these site-specific soil standards must be supported by appropriate institutional controls. Site-specific soil standards based on land use and soil depth, as described herein, address ingestion of and dermal contact with soil. Compliance with these standards will not guarantee that contaminants in soils may not cause unacceptable exposure via other pathways (e.g., ecological exposure, soil to groundwater, subsurface movement of vapors from soil to indoor air). In addition, the risk factors that form the bases for site-specific soil standards for individual contaminants, with the exception of some Group C chemicals, are the same as acceptable cumulative risk factors allowed for exposure to multiple contaminants in the same medium and multiple media. Therefore, compliance with site-specific soil standards for individual contaminants may not result in compliance with cumulative risk requirements pursuant to 567—105.210(455H).

*a. Deep soil in a residential land-use area.* Site-specific soil standards for deep soils equaling ten times the statewide standard for soils, except for lead, may be used. The site-specific standard for lead in deep soil in a residential land-use area shall be calculated using the EPA's Exposure Model for Assessing Risk Associated with Adult Exposures to Lead in Soil (U.S. EPA, 1996). Soils at a depth of ten feet and greater will normally be classified as deep soils. The department may deny the use of a deep soil standard associated with a residential land use or require a modification to the standard due to site-specific considerations including topography, development potential, and actual development plans. The use of a site-specific standard for deep soil in a residential land-use area shall be supported by an institutional control that permanently records the existence of contaminants above statewide standards in deep soils and restricts excavation resulting in deep soils being placed on the surface.

*b. Nonresidential land use.* The nonresidential land-use designation will be applicable to areas that are not classified as residential. Site-specific soil standards, except for lead, for nonresidential areas may be based on Formula I using the risk and exposure factors shown in Table III. A value of 1,100 mg/kg may be used as a site-specific soil standard for lead in soils less than 2 feet deep in a nonresidential land-use area. In lieu of this default site-specific lead standard, a site-specific standard for lead in soil less than 2 feet deep may be calculated using the EPA's Exposure Model for Assessing Risk Associated with Adult Exposures to Lead in Soil (U.S. EPA, 1996). The site-specific standard for lead in soils greater than 2 feet deep in a nonresidential land-use area shall be calculated using the EPA's Exposure Model for Assessing Risk Associated with Adult Exposures to Lead in Soil (U.S. EPA, 1996). The use of a nonresidential land-use classification must be supported by an environmental protection easement that prevents a change in land use to residential.

Table III

Input Variables for Site-Specific Soil Standards for Individual Contaminants for Nonresidential Area Land-Use Designation

| Parameter | Units | Cancer Group | Soil Depth (ft.) | |
|---|---|---|---|---|
| | | | $\leq 2$ | $\geq 2$ |
| TR | unitless | A, B | $1 \times 10^{-4}$ | $1 \times 10^{-4}$ |
| SF (oral) | $[(mg/kg)/day]^{-1}$ | A, B, C* | Chem.-spec. | Chem.-spec. |
| SF (dermal) | $[(mg/kg)/day]^{-1}$ | A, B, C* | Chem.-spec. | Chem.-spec. |
| THQ | unitless | C* | 0.1/1 | 0.1/1 |
| | | D, E | 1 | 1 |
| RfD (oral) | (mg/kg)/day | C, D, E | Chem.-spec. | Chem.-spec. |
| RfD (dermal) | (mg/kg)/day | C, D, E | Chem.-spec. | Chem.-spec. |
| AT | years | A, B | 70 | 70 |
| | | C, D, E | 1 | 1 |
| Abs (oral) | unitless | A - E | 1 | 1 |
| Abs (dermal) | unitless | A - E | Chem.-spec. | Chem.-spec. |
| $ER_c$ | mg/day | A - E | 0 | 0 |
| $EF_c$ | days/yr | A - E | 0 | 0 |
| $ED_c$ | years | A - E | 0 | 0 |
| $BW_c$ | kg | A - E | 15 | 15 |
| $ER_a$ (oral) | mg/day | A, B | 100 | 330 |
| | | C, D, E | 330 | 330 |
| $ER_a$ (dermal) | mg/day | A, B | 660** | 990** |

| Parameter | Units | Cancer Group | Soil Depth (ft.) | |
|---|---|---|---|---|
| | | | $\leq 2$ | $\geq 2$ |
| | | C, D, E | 660** | 990** |
| $EF_a$ | days/yr | A, B | 225 | 200 |
| | | C, D, E | 200 | 200 |
| $ED_a$ | years | A, B | 25 | 1 |
| | | C, D, E | 1 | 1 |
| $BW_a$ | kg | A - E | 70 | 70 |
| CF | kg/mg | A - E | $10^{-6}$ | $10^{-6}$ |

NOTE: Oral and dermal factors are the same unless otherwise noted.

*The risk-based concentration using Formula I for Cancer Group C chemicals that have an SF value established per 105.205(3)*"c"* will be the larger of a value based on the risk factor for protection from noncancer health risks with a THQ = 0.1 or the risk factor for protection from cancer health risks. Risk-based concentrations using Formula I for Cancer Group C chemicals that do not have an SF value established per 105.205(3)*"c"* will be a value based on the risk factor for protection from noncancer health risks with a THQ = 1.

**Dermal exposure rate is based on 3,300 $cm^2$ of exposed skin on an adult with 0.2 $mg/cm^2$ of shallow soil adhering to the skin and 0.3 $mg/cm^2$ of deep soil adhering to the skin per each dermal exposure event. A dermal exposure event is assumed to be one event per day of exposure.

**105.206(7)** *Site-specific cumulative risk for residential exposures to soil.* A cumulative risk standard may be used as a site-specific standard for soil in lieu of statewide standards that are provided in 105.205(5) for individual chemicals and soil. Cumulative risk will be determined using the toxicity values and exposure factors (i.e., the input variables less TR and THQ) from Table II in 105.205(5). Criteria for compliance with the cumulative risk standard are specified in 105.210(7). No institutional control will be required with the use of this site-specific standard.

**105.206(8)** *Site-specific surface water standards.* The department will establish site-specific surface water standards at the request of the participant. The participant shall provide the department with information necessary to make this determination upon request from the department. Site-specific surface water standards will be generally equivalent to effluent limitations under a National Pollutant Discharge Elimination System (NPDES) permit pursuant to 567—Chapter 62. Mixing zones and allocation of contaminant loads in a surface water body will be considerations in attainment of in-stream water quality standards. If the site-specific surface water quality standards are met, best practical control technology currently available will not be imposed.

**105.206(9)** *Site-specific air standards.* If there are air quality concerns at a site, they will be addressed with site-specific standards until such time as ambient air quality or source-specific standards are adopted for hazardous air pollutants, unless an alternative method is approved by the department.

*a. Explosivity.* In no case shall contaminants from the enrolled site cause an explosivity level in a confined space of greater than 10 percent of the lower explosivity limit.

*b. Background.* In addition to the establishment of a background standard pursuant to 567—105.204(455H), a site-specific air standard may be set at twice the typical background level based on published information for a comparable setting, if approved by the department.

*c. Health risk.* Site-specific standards for air in a confined space shall be risk-based using the chemical-specific toxicity values of inhalation unit risk (UR) and inhalation reference concentration (RfC) determined in accordance with 105.205(3)*"c."* Formulas II and III shall be used to calculate risk-based, site-specific air standards based on carcinogenic and noncarcinogenic effects, respectively, where C is the risk-based contaminant concentration in air. If a value for both RfC and UR exists for a compound, the risk-based site-specific standard will be the smaller of C resulting from Formulas II and III.

(Formula II)

$$C = AF \times TR \div UR$$

(Formula III)

$$C = AF \times RfC$$

The UR and RfC toxicity values are based on a continuous exposure of 20 cubic meters per day by a 70 kg adult. The adjustment factor (AF) in Formulas II and III may be used to adjust for site-specific exposure conditions. A target cancer risk (TR) of $10^{-4}$ shall be used unless another value is approved by the department.

*d.* *Institutional or technological controls.* Institutional or technological controls may be used to prevent future exposure to contaminants in air in confined spaces and will be required to prevent residential use of the affected area when a nonresidential air standard is used.

**105.206(10)** *Site-specific standards based on site-specific factors.* Numerical site-specific standards (i.e., target levels) for groundwater or soil may be established using site-specific exposure factors in Formula I. Site-specific pumping rates greater than specified in 105.206(3)*"d"* herein may be used when approved by the department. Site-specific exposure factors must be approved by the department. For the department to approve any such site-specific factor there must be well documented rationale for doing so and appropriate institutional or technological controls must be provided.

**105.206(11)** *Site-specific standards or approaches not anticipated by this rule.* Nothing in this rule precludes the use of site-specific standards derived in some way not anticipated by this rule, provided that the rationale is adequately presented and the approach is both approved by the department and provides a level of protection comparable to standards set forth under this rule.

**567—105.207(455H) Technological and institutional controls.**

**105.207(1)** *Technological controls.* The purpose of a technological control is to effectively sever a pathway by use of technologies such that an applicable receptor could not be exposed to hazardous substances above an applicable target risk level. Subject to limitations in this division, technological controls are an acceptable response action either alone or in combination with other remediation systems and institutional controls. The purpose of technological controls may be to control plume migration through use of containment technologies, barriers, or other methods, as an interim or permanent response action or to permanently sever a pathway to a receptor. Technological controls may also be appropriate to treat or control contamination at the point of exposure. Any technological control proposed as a permanent response action option without meeting the reduction in contaminant concentrations objectives must establish that the pathway to a receptor will be permanently severed or controlled. The effectiveness of a technological control must be monitored under a department-approved plan. The department may require reasonable proof of financial assurance when necessary to ensure that a technological control remain effective.

**105.207(2)** *Institutional controls.* The purpose of an institutional control is to restrict access to or use of an affected area such that an existing or future receptor could not be exposed to hazardous substances addressed by the controls for as long as the target level is exceeded at applicable points of exposure and compliance.

**105.207(3)** *Institutional and technological controls.* Single or multiple institutional controls may be used alone or in combination and may also be employed with technological controls and response action to effectively achieve, maintain and enforce an approved level of risk reduction and risk management. The following enumeration of types of institutional and technological controls is not a finding that each is per se an effective control. The effectiveness of any institutional or technological control or combination of controls must be evaluated on a case-by-case basis and in accordance with specified conditions in this division. Institutional and technological controls include:

*a.* A state or federal law or regulation that can be shown to effectively achieve, maintain and enforce the required land-use restrictions and controls.

*b.* An ordinance of any political subdivision of the state that can be shown to effectively achieve, maintain and enforce the required land-use restrictions and controls.

*c.* A contractual obligation recorded and executed in a manner satisfying Iowa Code chapter 558. Recorded notices and affidavits, including a no further action certificate as provided in 567—105.211(455H), which do not create rights or obligations or restrict land use but serve to put current and future property owners on notice of present or future conditions within the affected area.

*d.* A control that the participant demonstrates to the department reduces or manages the risk from a release through the period necessary to comply with the applicable standards, including but not limited to, informational devices such as public notices, informational registries, notices to regulatory authorities and continuing site activities such as periodic inspections, equipment repair and maintenance, and soil and groundwater monitoring.

*e.* An environmental covenant established in accordance with Iowa Code chapter 455I and section 455H.206.

**105.207(4)** *No further action certificates.* Any no further action certificate shall contain a specific reference to any applicable institutional and technological control and shall meet the requirements in 567—105.211(455H). The reference must identify the location of any recorded instrument, contractual agreement or other documents applicable to the control, provide a brief description of the terms of the control and, where appropriate, site diagrams.

**105.207(5)** *Failure of an institutional and technological control(s).* The effectiveness of institutional and technological controls may be jeopardized for several reasons including situations where the technological controls are no longer effective in achieving their technical objectives, the validity of technological or institutional control is challenged due to a pending or final administrative or judicial action or legislative action changing its regulatory effect (e.g., change in an ordinance), or persons fail to comply with the terms of the institutional or technological control. The effect of the failure of a technological or institutional control to achieve its intended purpose is to remove the no further action classification and put all interested parties in the same position had the no further action classification not been made. When the department has reason to believe a technological or institutional control is jeopardized or determines that the control is no longer effective, the following policy and procedure shall apply:

*a.* The department shall make reasonable efforts to provide notice of the failure or noncompliance to the participant(s), protected parties, persons having legal standing to enforce the terms of the controls, other persons who may be legally responsible for contamination at the site and persons legally obligated to comply with the terms of the controls. The notice shall inform these parties of the consequences of failure of the controls and provide the opportunity for one or more of them to correct the deficiency by taking further response action or undertaking enforcement action to obtain compliance with the terms of the controls.

*b.* The participant(s) and other persons legally responsible for contamination at the site shall have primary responsibility to correct deficiencies or seek enforcement of the terms of controls, if they wish to maintain a no further action classification and any attendant statutory protections. The department may in its discretion seek enforcement of controls where persons fail to comply with the terms when it determines there is a strong likelihood of success, other participant(s) or legally responsible persons are unable or unwilling to undertake enforcement, and utilization of the controls remains consistent with these rules and site conditions currently in effect at the site. However, the department is not obligated to seek enforcement of the terms of any technological or institutional controls nor does the election not to undertake enforcement constitute a defense to further action by responsible parties or a basis for challenging the rescission of the no further action classification.

*c.* The department may also elect to require statutorily responsible parties to correct the deficiency as an alternative to rescinding the no further action classification.

*d.* Failure of a participant to timely undertake additional response action may result in termination of enrollment and loss of benefits under these rules and Iowa Code chapter 455H. Any person found to have intentionally violated an environmental protection easement or other institutional or technological control, whether included in a no further action certificate or as part of an approved response action, may lose any of the benefits under these rules or Iowa Code chapter 455H.

**105.207(6)** *Modification and termination of institutional and technological controls.* A participant or successor in interest to a participant, or an owner of property subject to an institutional or technological control, may seek approval from the department for the removal, discontinuance, modification or termination of an institutional or technological control. The person must demonstrate that the control in its present form is no longer required to ensure compliance with applicable standards. The person seeking revision must undertake sufficient risk assessment and provide sufficient assessment data to establish that the applicable compliance standards can be met based on the proposed modification. The department may also determine based on a revised assessment that the applicable controls are no longer effective to meet compliance standards and may require other response action. The department shall issue an amendment to any previously issued no further action certificate specifying the approved modification of the institutional or technological controls. Modification and termination of an environmental covenant shall be consistent with these rules and shall conform with Iowa Code chapter 455I.

**567—105.208(455H) Site assessment.**

**105.208(1)** *Purpose.* A participant must create a site assessment for every enrolled site. A participant may submit a site assessment to the department to characterize the attributes related to the enrolled site and facilitate the risk evaluation/response action. The purpose of the site assessment is to define the nature and extent of contamination, along with identifying likely exposure pathways, with the aim of characterizing potential, current and future risks and making an informed decision concerning an appropriate response in the context of probable future land uses at the site and in the surrounding area. Assessment is to be conducted with the recognition that contaminant fate and transport may alter the current areal extent and depth of contamination. It is recognized that the scope of such an assessment may be appropriately varied dependent upon interrelated factors including the nature and severity of the contamination, the complexity of specific details of the site and its setting, and the nature of the chosen response, if known.

**105.208(2)** *Site assessment plan; notice of proceeding without plan.*

*a.* The participant may submit for department review a site assessment plan prior to proceeding with the site assessment. Participants choosing to initiate site assessment without department review and approval of a work plan shall notify the department in writing of their intentions. Likewise, participants choosing to proceed to the risk evaluation/response action phase in accordance with 567—105.209(455H) without seeking review of the site assessment report shall give prior notice to the department of their intentions. The notice shall include a schedule for implementation and completion, a description of the area to be assessed and the scope of the proposed assessment to be undertaken, any planned construction activities in the affected area and a proposed date for submission of the site assessment report for department review.

*b.* The plan is intended to lay out the rationale to be followed in the conduct of the site assessment and to provide an opportunity for the participant and the department to reach a consensus regarding the appropriate scope of the site assessment.

*c.* In order to accomplish this, the plan should address relevant, known characteristics related to the site and its history, including the results of any preliminary investigations performed at the site, as well as plans for addressing pertinent details spelled out in the subsequent sections on the site assessment and the site assessment report. Departmental review of the site assessment plan may result in suggestions regarding perceived shortcomings or proposed activities that are deemed to be unnecessary.

**105.208(3)** *Site assessment details.* An acceptable site assessment shall address one or more of the following items, as applicable, and any other objective the department deems necessary to characterize the attributes related to the enrolled site and its setting.

*a.* Identify and address the medium or media of concern associated with the contamination situation for which the site is enrolled. The regulatory classification or jurisdiction of contaminants shall be indicated if applicable and, if known, whether the compound is regulated under the Resource Conservation and Recovery Act (RCRA), Toxic Substances Control Act (TSCA), or Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

*b.* Characterize the nature, extent, and degree of contamination in both horizontal and vertical dimensions. This should involve appropriate sample numbers and locations within the contaminated area and beyond the area contaminated in excess of the background or statewide standard. Analyses shall be conducted for the contaminants of concern, breakdown products, and other contaminants likely to be present at significant levels. The department may also require analyses for additional contaminants that are not the focus of enrollment in the program, but that may be of special concern. Special concerns might include waste handling or treatment problems posed by the additional contaminants, or unacceptable risks remaining unaddressed within the affected area, due to the presence of the additional contaminants. In the case of groundwater, attention should also be given to the possibility of contaminant accumulation in strata overlying confining layers and to the possible presence of non-aqueous phase liquids (NAPL). In the case of groundwater, more than one round of sampling shall be incorporated, appropriately separated in time. In the case of soils, particular attention should be given to characterizing shallow soil contamination, from zero to six inches in depth.

*c.* Characterize the nature of the source of contamination or propose a conceptual model explaining the presence of the contamination of concern.

*d.* Characterize local contamination maxima or hot spots for the purposes of evaluation against relevant standards and to identify handling or treatment concerns that they may pose.

*e.* Characterize the stratigraphy. This should be done to a depth extending to the first significant confining layer below the deepest contamination. Descriptions should rely primarily on results gathered in the site assessment, but relevant reference materials or geologic logs from other sources may be incorporated as a supplement.

*f.* Characterize the hydrologic properties of the site and its vicinity to a distance appropriate to the fate, transport and exposure concerns associated with the site. This characterization should consider both horizontal and vertical components of groundwater movement as well as other influences on groundwater hydrology such as pumping wells, injection wells, surface water bodies, effects of seasonal or precipitation-driven variability, and possible aquifer interconnections, including those related to existing or abandoned wells. Water level measurements, related to a common datum, screening of appropriate depth intervals, and determination of hydraulic conductivity will generally be considered as necessary.

*g.* Characterize physical and chemical properties of the site and its environs associated with contaminant fate and transport, e.g., percent organic matter, redox potential, soil bulk density, and transmissivity.

*h.* Characterize topographic and cultural features of the site and its immediate vicinity. Cultural features may include but not be limited to buildings, basements, paved areas, roadways, utilities, storage tanks and associated piping, piles, impoundments, wells, and waste disposal systems.

*i.* Evaluate concerns related to whether the contamination situation is dynamic or stable; if dynamic, address fate and transport and breakdown products appropriately.

*j.* Identify and characterize receptor or exposure concerns. This most clearly involves concerns for drinking water and exposures to contaminated soils, as suggested by the statewide standards, but additional concerns should be identified and addressed by the participant or the department, as the situation warrants, e.g., vapors to basements, threats to water supply lines, threats to surface waters, or environmental threats.

*k.* Characterize current and probable future uses of the site and its surroundings. If probable future uses differ significantly from current uses, then characterize them separately and conduct the assessment in a fashion that addresses concerns arising from the possible change in use.

*l.* Evaluate the potential for contaminants to migrate from one medium to another. The following subparagraphs prescribe requirements for assessing potential migration of contamination from one medium to another. Requirements in the following subparagraphs may be waived if it can be demonstrated in accordance with procedures established in 567—Chapter 135 or ASTM standards E1903-19 related to the Phase II environmental site assessment process that migration of contamination from one medium to another will not cause a violation of the applicable standard in the receiving medium. The assessment activities prescribed in the following subparagraphs are intended to determine if significant migration of contamination from one medium to another has occurred. If evidence of significant migration of contamination from one medium to another (i.e., generally a contaminant concentration in the receiving medium in excess of the statewide standard) is discovered, full-scale characterization of the receiving medium may be required.

(1) The water from any pond or lake on the site or within 300 feet of the site shall be sampled and analyzed for the contaminants of concern, if it is reasonably possible that contaminants from the site could impact the pond or lake. Any surface stream that runs through the site or within 300 feet of the site shall be sampled at a location downstream of any potential impact from the site and analyzed for the contaminants of concern. Depending on the characteristics of the contaminants (e.g., solubility), associated sampling and analysis of sediments may be required.

(2) Groundwater at the location most likely to be impacted by each known substantial area of soil contamination shall be sampled and analyzed for the contaminants of concern. If the area of soil contamination exceeds 10,000 square feet, additional groundwater samples may be required.

(3) Soil vapors in each area that is most likely to be impacted by known groundwater or soil contamination shall be sampled and analyzed for the contaminants of concern. If the area of soil or groundwater contamination exceeds 10,000 square feet, additional soil vapor samples may be required. If vapors may be impacting an existing enclosed space, a soil vapor sample shall be collected from a location that is most likely to have vapor contamination adjacent to the enclosed space.

1. If the potential for the existence of problematic concentrations of the vapors in the enclosed space cannot be dismissed based on soil vapor sampling, sampling and analysis of vapors inside the enclosed space may be conducted to determine whether or not a problem exists. Appropriate measures for distinguishing between contaminant vapors originating from within the enclosed space versus those from the external sources that are under investigation may be made with the approval of the department.

2. Ambient air sampling may be required if a very large area or extremely high concentrations of highly volatile contaminants exist in shallow soil or evidence of vapor contamination exists, such as odors or a high vapor reading on a vapor-screening instrument.

(4) If a water line exists within the zone of known contamination of soil, groundwater or soil vapor and the potential for significant diffusion of contaminants into the water line cannot otherwise be dismissed, a sample from the water line shall be collected at the nearest location where any impact may exist and that sample shall be analyzed for the contaminants of concern. All such samples should be collected at times following minimum movement within the water line (e.g., early morning following a weekend).

**105.208(4)** *Site assessment report.* The site assessment report shall include the presentation of all information gathered during the site assessment, arranged in appropriate sections of the report. It shall include a summary of preliminary information on which the site assessment is based, including but not limited to background and site history. The report shall discuss the sampling strategy and methods used in the assessment. The department encourages the use of innovative or screening techniques to expedite investigations and to control costs, provided that such techniques are approved by the department before implementation and are supported through verification by accepted scientific practices. The report shall also include a description of the quality assurance/quality control (QA/QC) protocols followed during the investigation. QA/QC protocols shall be consistent with accepted scientific practices.

The presentation shall be organized so as to facilitate the assimilation of information by the reader. Maps to be presented, as appropriate, might include maps illustrating the location of the site in a larger geographical context; maps showing cultural features associated with the site and its environs; maps illustrating the contamination extent and concentration in three dimensions; maps illustrating the site hydrology in three dimensions; and maps illustrating receptors, potential receptors, and relevant pathways of exposure. Cross-sectional diagrams shall be included to illustrate stratigraphy, geological boring information, and hydrologic and contaminant factors with depth. Tables and graphs shall be designed for the purpose of summarizing data in a meaningful fashion, including information about successive rounds of sampling. Appendices shall include well logs, copies of laboratory analytical reports, and raw data used to calculate parameters presented elsewhere in the report. Appended material shall be labeled in a fashion permitting the cross-referencing of appended materials and the body of the report.

**105.208(5)** *Approval of site assessment report.* Unless notice has already been given prior to initiation of the site assessment, participants choosing to proceed to the risk evaluation/response action phase without department review and approval of the site assessment report must notify the department in advance as provided in 105.208(2).

**105.208(6)** *Public notification.* Before or upon completion of the site assessment, the participant shall provide the department with the names and addresses of the owners and occupants of all property adjacent to the site enrolled in the Iowa land recycling program and any additional properties where contaminants from the enrolled site have migrated or are likely to migrate in the future. The department shall notify by direct mailing all such property owners and occupants, the city or county in which the property is located, and officials of any potentially impacted public water supply of the site's enrollment in the Iowa land recycling program and of the scope of work described in the participation agreement. The department shall give the notified parties the opportunity to obtain updates regarding the status of activities relating to the site that is enrolled in the Iowa land recycling program. The department may also require the participant of a site enrolled in the Iowa land recycling program to publish public notice in a local newspaper if the department determines that widespread interest in the site exists or is likely to exist. The department may provide additional opportunities for public participation if, after consultation with the participant, the department determines such opportunities are warranted.

**567—105.209(455H) Risk evaluation/response action.**

**105.209(1)** *Purpose; notice of proceeding without department review of assessment.* The purpose of risk evaluation/response action is to utilize information from the site assessment as a basis for:

*a.* Determining whether current exposures result in excessive risks, based on evaluation against appropriate background, statewide, or site-specific standards.

*b.* Determining whether future exposures may result in excessive risks, based on evaluation against appropriate background, statewide, or site-specific standards. This will likely include:

(1) Evaluation of potential changes in usage, e.g., installation of a new well, change in land use, or other activities, that result in unacceptable, potential exposures not evaluated as current exposures, and

(2) Evaluation of exposure concerns related to the movement of contamination such that potential exposures might arise that are not considered under current exposure assumptions, e.g., groundwater plume migration creating a potential for future contamination of existing wells or creating newly contaminated areas in which new well installation may result in unacceptable exposures.

*c.* Proposing an appropriate and acceptable response action or strategy to address the identified, unacceptable exposures or potential exposures.

*d.* Establishing the test criteria to be applied under 567—105.210(455H) for determining final compliance with the selected standard. In some cases this may consist of proving that standards are currently met; in other cases it may result in an assessment of whether the response action succeeds in bringing about compliance with a selected standard.

The risk evaluation/response action is intended only for application to the specific contaminants and situations for which the site is enrolled. Participants choosing to proceed to the risk evaluation/response action phase without seeking review of the site assessment report shall give prior notice to the department of their intentions. The notice shall include the information required in 105.208(2), a general description of the site assessment results, a schedule for submission of the risk evaluation/response action document, and the reasons for not requesting department review and approval of the site assessment report.

**105.209(2)** *Risk evaluation/response action document submission.* A risk evaluation/response action document shall be submitted for review and approval by the department. When considered in conjunction with the site assessment report, these documents shall present a complete picture of the site from its characterization, through the evaluation of risk, to the development of a strategy to address the situation. An effort shall be made to ensure that the reviewer, or other interested parties, can gain an understanding of the existing situation and proposed actions. The risk evaluation/response action document shall include a summary of findings regarding present risks and potential future risks; a pathway-specific identification of the standards to be applied, including the supporting rationale, if appropriate; a discussion of the proposed response actions, including remedial actions to be taken and institutional or technological controls to be implemented; and a discussion of the proposed verification strategy. Any modeling used for purposes of assessing future risk or establishing site-specific standards shall be presented in sufficient detail to permit evaluation of the results by the department.

**105.209(3)** *Department review and approval.* It is recommended that the risk evaluation/response action be submitted for review and approval prior to proceeding with implementation of the response action. The final, department-approved document shall be the basis for assessing subsequent activities at the site. Parties choosing to proceed with response actions without prior review and approval by the department proceed at their own risk and may not assume the response action implemented will result in a no further action certificate.

*a.* Parties choosing to implement a response action without prior review and approval by the department shall submit to the department a proposed risk evaluation/response action document accompanied by an explanation of the reason(s) for proceeding without prior approval. Documentation shall also include a schedule for implementation, a description of construction or other activities to be undertaken, and date for submission of the final report demonstrating compliance, as described in 567—105.210(455H).

*b.* The department shall provide opportunity to comment on proposed response actions to any party that is potentially impacted by off-site migration of contaminants for which notification is required in accordance with 105.208(6). The department shall consider reasonable comments from potentially impacted parties in determining whether to approve or disapprove a proposed response action or site closure.

**105.209(4)** *Risk evaluation.* The risk evaluation/response action document shall identify all locations or areas, and associated exposure pathways, where exposure currently exceeds a statewide standard or where a statewide standard may be exceeded in the future, due to either a change in exposure-related usage or contaminant migration. Current and future exposure pathways shall be evaluated and presented separately. This evaluation shall not be limited to exposure pathways for which the department has formulated risk-based values in 567—105.205(455H) or 567—105.206(455H) but should include any pathway related to the situation for which the site is enrolled, for which a no further action certificate is sought, or for which an unacceptable risk may now or in the future exist, including but not limited to high concentrations of volatile compounds in proximity to a confined space, high concentrations of solvents in proximity to a water distribution line, or environmental concerns unrelated to human health.

*a.* In a case where a background standard is to be applied and there is no violation of a statewide standard, it will be necessary to identify only locations or areas where the background standard is exceeded.

*b.* A risk evaluation may be appropriately abbreviated from the preceding description based on the specific details of the contamination and the proposed response action.

**105.209(5)** *Establishing cleanup standards.* The risk evaluation/response action document shall identify the cleanup standards to be applied in accordance with 567—105.204(455H), 567—105.205(455H), or 567—105.206(455H), outlining respectively the background, statewide, or site-specific standards. These standards may be applied in any combination to address specific components of the contamination problem for which the site is enrolled. If cleanup standards other than those specifically formulated under the statewide standard (567—105.205(455H)) are to be applied, then the rationale behind the determination of such standards shall be justified, in the document, to the department's satisfaction.

**105.209(6)** *The use of models.* Models may be necessary in order to evaluate potential future exposures and may be used to develop target levels.

*a.* *Standard models.* Standard models may be used to predict future contaminant concentrations at potential points of exposure to contaminants or at other locations used for determining compliance when such models are appropriate, as determined by the department. Applicable Tier 2 models approved for use in accordance with 567—Chapter 135 for underground storage tanks (USTs) and applicable Tier 2 models provided in ASTM standards are acceptable standard models. Models that provide a two-dimensional representation of groundwater flow will not be considered to be appropriate when significant three-dimensional components to groundwater flow are anticipated. Default values for input parameters for ASTM and UST Tier 2 models, as provided in applicable ASTM standards and approved for use in accordance with 567—Chapter 135, may be utilized without approval by the department. The department shall maintain a guidance document that includes a list of other chemical-specific default values for all chemicals having statewide standards.

*b. Site-specific models.* Site-specific models may be used to predict future contaminant concentrations at potential points of exposure to contaminants or at other locations used for determining compliance when such models are appropriate, as determined by the department. Site-specific models may include standard models with site-specific input parameters or models utilizing more sophisticated analytical techniques. A site-specific groundwater model shall have proven reliability and be able to simulate, as needed:

(1) A fixed contaminant source,

(2) Groundwater and contaminant flow in three dimensions,

(3) Groundwater and contaminant flow through as many distinct geologic layers as necessary for the site in question,

(4) Effects of pumping,

(5) Effects of groundwater recharge and discharge,

(6) Impacts of hydrologic boundaries,

(7) Contaminant advection, dispersion and chemical reactions, as appropriate for the site in question, and

(8) Other site-specific variables as appropriate.

Default values for input parameters approved for standard models will be approved for use in site-specific models. Otherwise, input parameters used in site-specific models are subject to the department's approval.

**105.209(7)** *Response action.* The risk evaluation/response action document shall include a proposal for a response action or strategy to achieve and maintain compliance with the selected standard(s). This may consist of activities designed to remove or treat contaminants; prevent exposure to unacceptable levels of contamination through technological controls, institutional controls or monitoring; or a combination thereof. If the response action involves the use of a standard that is less stringent than the statewide standard, it will be necessary to implement institutional controls to prevent the type of exposure on which the statewide standard is based unless otherwise authorized by the department. It is the intent of the department to permit the participant to identify and carry out those options by which this may be accomplished, insofar as the department deems the selected options to be reasonable, protective of the public health and safety and the environment, and consistent with provisions of this rule.

**105.209(8)** *Free product and gross contamination.*

*a.* Contaminants presented as free product and gross contamination shall not be addressed through the implementation of institutional or technological controls. For purposes of this rule, gross contamination will be considered to be contamination present at concentrations in excess of a standard by an amount sufficient to reasonably expect that institutional or technological controls will not be adequately protective of the public health and safety and the environment.

*b.* If treatment or removal of free product or gross contamination is not feasible, the participant may request a waiver of this subrule, subject to all provisions of Iowa law related to waivers.

**105.209(9)** *Compliance verification strategy.* The risk evaluation/response action document shall outline a strategy for determining whether the relevant standards are met by the site and will continue to be met in the future. For response strategies that call for longer-term monitoring, standard-based values shall be identified that, if exceeded, would indicate a failure of the response action and necessitate the development and implementation of a new response action. The terms under which monitoring may cease may be proposed. The proposed strategy shall be consistent with 567—105.210(455H) related to demonstration of compliance and shall indicate the standard to be applied and the point of compliance at which it is to be applied, consistent with 567—105.204(455H), 567—105.205(455H), and 567—105.206(455H).

**567—105.210(455H) Demonstration of compliance.**

**105.210(1)** *Purpose.*

*a.* The purpose of the demonstration of compliance is to provide a mechanism by which to verify that:

(1) Appropriate and acceptable standards are complied with and that compliance can be reasonably expected to continue in the future;

(2) Any and all remedial measures proposed under 567—105.209(455H) have achieved their purpose; and

(3) Appropriate institutional and technological controls, or monitoring mechanisms, have been successfully implemented.

*b.* In some cases, the demonstration of compliance may mark the final step, taken by the participant prior to the issuance of an unconditional no further action certificate by the department. In other cases, it may mark the transition to the longer term closure activities associated with the site, such as monitoring, maintenance of technological controls, and continuing enforcement of institutional controls. In this latter case, demonstration of compliance activities may or may not result in the issuance of an unconditional no further action certificate, depending on the approach proposed in the response action. In some cases, it may be necessary to successfully complete a monitoring program or to fulfill other agreed-upon obligations prior to the issuance of the no further action certificate.

*c.* In all cases, sampling of environmental media shall comply with QA/QC requirements addressed in 567—105.208(455H).

**105.210(2)** *General requirements for demonstrating compliance with soil standards.*

*a.* For the standard being applied, the demonstration of compliance shall be at the point of compliance or point of exposure as set forth in 567—105.204(455H), 567—105.205(455H), or 567—105.206(455H) relating to background standards, statewide standards, and site-specific standards and as described in a site-specific context pursuant to 105.209(7) relating to risk evaluation/response action.

*b.* Minimum sample numbers for the demonstration of compliance with the background standard for soils pursuant to 105.210(4)*"b"* or with the statewide standard when applying 105.210(5)*"a"*(1) shall be based on the volume of soil to which the selected standard is being applied as follows:

(1) For volumes less than or equal to 125 cubic yards, a minimum of eight samples.

(2) For volumes greater than 125 cubic yards, but less than or equal to 3,000 cubic yards, a minimum of 12 samples.

(3) For each additional volume of less than or equal to 3,000 cubic yards, a minimum of 12 additional samples.

(4) Additional samples may be required based on site-specific conditions.

*c.* When EPA applicable guidance used pursuant to these rules requires demonstration of a 95 percent upper confidence limit, the minimum sample number shall be as specified in that guidance.

*d.* Sample locations for demonstration of compliance shall be selected in a random fashion to be representative, both horizontally and vertically, of the volume of soil being evaluated for compliance.

*e.* Sampling for the purpose of demonstrating compliance shall be conducted after the completion of site assessment activities and after the implementation of applicable remedial measures.

**105.210(3)** *General requirements for demonstrating compliance with groundwater standards.*

*a.* For the standard being applied, the demonstration of compliance shall be at the point of compliance or point of exposure as set forth in 567—105.204(455H), 567—105.205(455H), or 567—105.206(455H) relating to background standards, statewide standards, and site-specific standards and as described in a site-specific context pursuant to 105.209(7) relating to risk evaluation/response action.

*b.* Monitoring wells installed for the purpose of demonstrating compliance shall be of sufficient number and appropriate location to evaluate all hydrologic strata of concern, based on site-specific considerations, as identified pursuant to 105.209(7), relating to risk evaluation/response action.

*c.* For statistical methods under 105.210(5)*"b"*(1), compliance with the statewide groundwater standard shall be based on eight consecutive quarters of groundwater data. As an alternative, the department may accept four consecutive quarterly sampling events or less with prior written approval from the department under the following conditions:

(1) There is adequate spatial monitoring of the plume upgradient that indicates a decreasing concentration trend toward the downgradient property boundary.

(2) Parameters affecting the fate and transport of regulated substances within the plume have been fully evaluated.

(3) Concentrations of regulated substances in the plume at the point of compliance monitoring wells along the downgradient property boundary are all less than or equal to the groundwater standard or the limit relating to the PQL, whichever is higher, in all samples collected during the quarters of monitoring.

(4) One of the following is met:

1. The age of the plume is sufficiently well known to permit a judgment to be made regarding its stability.

2. The remediation includes source removal or containment actions that would reduce chemical flux into the plume.

*d.* When applying a 95 percent upper confidence limit, according to EPA applicable guidance, to demonstrate compliance with the statewide standard for groundwater pursuant to 105.210(5)*"b"*(2) or a site-specific standard for groundwater pursuant to 105.210(6), the minimum sample number shall be as specified in that guidance.

*e.* Sampling for the purposes of demonstrating compliance shall be conducted after the completion of site assessment activities and after the implementation of applicable remedial measures.

**105.210(4)** *Demonstration of compliance with a background standard.*

*a.* To apply a background standard the participant shall demonstrate to the department, in writing, that the apparent background contamination at the site is due to widespread or naturally occurring contamination and shall obtain the department's approval to apply this subrule. Data collected for the purpose of determining the applicable background standard is subject to department approval, interpretation, and manipulation, if necessary for the purpose of establishing a meaningful background standard.

*b.* For soil, the minimum sample number to determine the background standard shall be ten, unless a lesser number is approved by the department, and the number of samples from the affected area shall be based on volume as described in 105.210(2)*"b."* No sample collected from the affected area may exceed the sum of the background arithmetic mean and three times the sample standard deviation, as calculated based on the background sampling.

*c.* For groundwater, a minimum of 12 locations shall be sampled in the background reference area, unless a lesser number is approved by the department, and an equal number shall be collected from the affected area. In areas involving more than one hydrologic strata, more samples may be required. Sampling shall be conducted concurrently in the background reference area and the affected area. No sample collected from the affected area may exceed the sum of the background arithmetic mean and three times the sample standard deviation, as calculated based on the background sampling.

**105.210(5)** *Demonstration of compliance with the statewide standard.* The following requirements shall be met in order to demonstrate compliance with the statewide standard. Testing shall be performed individually for each contaminant being addressed and for which a no further action certificate is sought.

*a.* To demonstrate compliance with the statewide standard for soils in each affected area, soil samples taken at the enrolled site must be within the statistical limits of either 105.210(5)*"a"*(1) or *"a"*(2), as well as all other applicable requirements of this rule.

(1) Seventy-five percent of all soil samples, collected during a single event, shall be less than or equal to the statewide standard, with no individual sample exceeding ten times the statewide standard.

(2) In accordance with EPA-approved methods (OSWER 9285.6-10, 2002), the 95 percent upper confidence limit of the arithmetic mean of soil sample values from the affected area shall be at or below the statewide standard.

*b.* To demonstrate compliance with the statewide standard for groundwater in each compliance monitoring well, water samples taken from the wells must be within the statistical limits of either 105.210(5)*"a"*(1) or *"a"*(2), as well as all other applicable requirements of this rule.

(1) Seventy-five percent of all samples collected in each compliance monitoring well over time shall be less than or equal to the statewide standard, with no individual sample exceeding ten times the statewide standard.

(2) In accordance with EPA-approved methods (OSWER 9285.6-10, 2002), the 95 percent upper confidence limit of the arithmetic mean of samples collected from a compliance well over time shall be at or below the statewide standard.

**105.210(6)** *Demonstration of compliance with a site-specific standard.* To demonstrate compliance with a site-specific standard, the participant shall use the tests identified in 105.210(5)*"a"*(2) and *"b"*(2), except that the 95 percent upper confidence limit of the arithmetic mean for samples from the medium of concern shall be at or below the site-specific standard.

**105.210(7)** *Compliance with cumulative risk.* In addition to standards for individual contaminants as prescribed above, cumulative risk criteria must be attained, except that for the soil pathway only, the cumulative risk criteria may be attained in lieu of the standards for individual contaminants. Cumulative carcinogenic health risks shall not exceed 1 in 10,000. Noncarcinogenic health risks affecting the same target organ shall not exceed a cumulative hazard quotient of 1. Cumulative risk criteria are applicable to multiple contaminants in the same medium and multiple media in which exposure is likely to occur to the same individual. Cumulative risks shall be based on the same exposure assumptions that are used for determining the selected standard.

*a.* Risks associated with background levels of contaminants shall not be included in the cumulative risk determination. Background levels of contaminants shall be determined in accordance with 105.210(4) or, if approved by the department, by the use of generally available information on background levels of contaminants.

*b.* In situations where the risk associated with exposure to a contaminant at a concentration equal to the selected standard is greater than the acceptable cumulative risk, the cumulative risk may be calculated assuming the risk associated with exposure to the contaminant at a concentration equal to the selected standard is equal to the acceptable cumulative risk criterion. The department will provide a guidance document for calculating cumulative risk and make it readily available to the public.

**105.210(8)** *Final report.* A final report shall be submitted to the department that documents the accomplishment of all provisions set forth in the risk evaluation/response action document. This shall include, as applicable to the specific situation, discussions related to verification of compliance with selected standards, successful completion of remedial actions, implementation of necessary institutional or technological controls, and initiation of any required monitoring strategy. Sufficient details shall be included to permit the department to verify that the terms proposed in the response action have been met with regard to the statistical determination of compliance with standards.

**105.210(9)** *Department review and approval.*

*a.* The final report is subject to review and approval by the department. Following review, the department will either approve the report or make a written response indicating the reason(s) why the report is unacceptable. Acceptance of the report may result in the issuance of an unconditional no further action certificate or it may mark a transition to the long-term closure activities associated with the site, as proposed in the response action. A decision that the report is unacceptable may be based upon an insufficiency of the report or it may be based on a judgment that the terms of the response action have not been met.

*b.* In cases where a participant has elected to proceed through this program without department interaction and without submitting site assessment pursuant to 567—105.208(455H), or risk evaluation/response action documents pursuant to 567—105.209(455H), the final report shall contain the substantive information related to those rules in addition to information required under this rule in a manner that clearly sets forth for departmental review the same process.

**567—105.211(455H) No further action classification.**

**105.211(1)** *Eligibility.*

*a.* An enrolled site shall be eligible to obtain a no further action classification when the department determines the participant has met all compliance standards of this division applicable to the affected area, and the hazardous substances identified and evaluated such that no further response action is required other than maintenance of institutional or technological controls or certain specified continuing site activities. Upon request of a participant or other protected party, and compliance with applicable standards, the department will issue a no further action certificate to each protected party requesting it.

*b.* A no further action classification may be conditioned upon the continued maintenance and effectiveness of any applicable institutional or technological control in accordance with 567—105.207(455H).

**105.211(2)** *No further action certificate.* A no further action certificate shall be in a form recordable in the county real estate records as provided in Iowa Code chapter 558 and consistent with the model forms developed by the department. The no further action certificate may be recorded as provided by law.

**105.211(3)** *No further action certificates conditioned on institutional and technological controls.* A no further action certificate conditioned upon the continuing effectiveness and maintenance of institutional and technological controls or other continuing requirements must be recorded with the consent of the fee titleholder for each parcel of affected property subject to the controls and for parcels of property for which prevention of exposure is dependent upon the continuing effectiveness and maintenance of the controls. If a participant is not able to record the no further action certificate on a parcel within the affected area due to objections of the fee titleholder or other legal restraints, this alone shall not be a basis for denying or rescinding the no further action classification or the certificate or the legal protections attendant to the no further action classification. Any modification or termination of institutional and technological controls shall be noted in an amended no further action certificate and shall be recorded as to any property subject to an earlier recorded certificate or institutional control. If a no further action certificate is required to be recorded, the no further action classification is not effective until the document is recorded with the county recorder.

**105.211(4)** *Public notification.* The department shall prepare a public notice prior to approval of any no further action classification that is conditioned upon use of institutional or technological control(s). The public notice will describe the results of the risk assessment conducted in the affected area, any proposed or completed response action, the vertical and horizontal extent and concentrations of existing soil and groundwater contamination in the affected area, and the actual and potential pathways of exposure the controls are intended to address. The notice will describe the purpose of the institutional and technological control(s) being proposed and the predicted period of coverage. The notice will provide the opportunity for members of the public to review department files, make written comments and request a public hearing. The department may schedule a public hearing on the basis of requests from the public and when it determines the particular remedial options proposed for a site warrant public consideration, for example, when issues of whether and to what concentrations gross contamination should be allowed to remain within the affected area given the relative effectiveness of institutional controls and other community concerns and development plans.

*a.* The notice will be served by certified mail on all property owners that the actual or modeled data indicates are or may be affected by the present or future conditions addressed by the control. The notice will be published in a newspaper of general circulation most likely to reach persons in the immediate locality.

*b.* If the controls are intended to restrict surface or subsurface future land use, the notice shall be sent to each local regulatory body having jurisdiction and control over or a direct interest in regulation of these activities. These may include but are not limited to municipal or county zoning boards, municipal building authorities, public utilities, and economic development agencies. If the controls are intended to restrict groundwater use, the notice shall be sent to the county or city board of health responsible for private well permitting.

*c.* Failure to provide notice to an interested party shall not constitute a basis for invalidating a subsequently approved no further action certificate.

**105.211(5)** *Scope of liability protection.* Upon issuance of the no further action certificate by the department, the liability protection provisions contained in Iowa Code chapter 455H, subchapter 3, apply. The scope of the no further action classification and the scope of liability protection extend only to that area of affected property as defined by actual and modeled contaminant data and the specific environmental condition for which a regulatory standard has been met and approved by a no further action classification. The scope of protection corresponds to the scope of the site assessment conducted by the participant, the exposure pathways actually evaluated by the assessment report and reviewed by the department, and the hazardous substances identified in that assessment for which compliance with a department-approved standard has been achieved. Liability protection does not apply to releases, sources of contamination, hazardous substances or other environmental conditions not expressly addressed in the participant's site assessment, response action or specifically referenced in the no further action certificate.

**105.211(6)** *Reopener and reclassification conditions.*

*a.* The department shall have grounds to reopen and rescind a no further action certificate and consider reclassification of the affected area if specified conditions of the no further action certificate are not maintained, or if institutional or technological controls fail to meet their intended purpose or are determined to be ineffective and unenforceable. If the conditions upon which the no further action certificate was issued cannot be corrected or reinstated, the department may rescind the certificate. The effect of termination is to put all parties in the same position as if the no further action certificate had not been issued.

*b.* If a no further action certificate is issued without conditions or technological and institutional controls, and conditions should arise that might require further corrective action, the department may require further response action by a participant or protected party only as provided in Iowa Code section 455H.301. The department may require further response action against a statutorily responsible party who is not a participant or other protected party. If the participant was a person having control over a hazardous substance, as defined in Iowa Code section 455B.381, at the time of the release, a no further action certificate may require further response action to protect against an imminent and substantial threat to public health and safety and the environment. Another protected party who was a person having control over a hazardous substance, as defined above, may be required by the department to conduct a further response action, where appropriate, to protect against an imminent and substantial threat to public health and safety and the environment.

These rules are intended to implement Iowa Code chapter 455H.

ITEM 2. Rescind and reserve **567—Chapter 131**.

ITEM 3. Rescind and reserve **567—Chapter 133**.

ITEM 4. Rescind and reserve **567—Chapter 137**.

[Filed 7/24/26, effective 9/23/26]
[Published 8/19/26]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

# ARC 0487D

# ENVIRONMENTAL PROTECTION COMMISSION[567]

**Adopted and Filed**

**Rulemaking related to beverage container deposits**

The Environmental Protection Commission (Commission) hereby rescinds Chapter 107, "Beverage Container Deposits," Iowa Administrative Code, and adopts a new Chapter 107 with the same title.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code section 455C.9.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 455C.

*Purpose and Summary*

Chapter 107 regulates the beverage container redemption system in Iowa. The beverage container redemption system in Iowa reduces litter and promotes recycling of beverage containers through a deposit-refund system. This rulemaking is necessary to align Chapter 107 with the requirements of Executive Order 10. This rulemaking removes provisions that are out of date and duplicative of Iowa Code chapter 455C.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 7, 2026, as **ARC 9930C**. A public hearing was held on the following date(s):

- January 27, 2026
- January 29, 2026

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Commission on July 21, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 7—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on September 23, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind 567—Chapter 107 and adopt the following **new** chapter in lieu thereof:

CHAPTER 107
BEVERAGE CONTAINER DEPOSITS

**567—107.1** Reserved.

**567—107.2(455C) Definitions.** In addition to the definitions in Iowa Code section 455C.1, for the purpose of this chapter, the following terms shall have the meaning indicated in this rule.

*"Act"* means Iowa Code chapter 455C.

*"Approved redemption center"* means a redemption center approved by the department pursuant to 107.4(1).

*"Carbonated"* means charged under pressure with carbon dioxide.

*"Distributor redemption center"* means a redemption center that satisfies the requirements of Iowa Code section 455C.14.

*"Emboss"* means to raise the surface in relief.

*"Exempt beverage container"* means a beverage container that is not marked with the words "Iowa Refund 5¢" because it is a refillable glass beverage container having a brand name permanently marked on it and having a refund value of 5 or more cents or because it is a refillable metal or plastic beverage container that has been exempted, in accordance with the procedure of 107.3(7), from the requirement of having the refund value marked on the container. An exempt beverage container is exempt from having the words "Iowa Refund 5¢" indicated on the container but is not necessarily exempt from the minimum deposit and redemption requirements of this chapter.

*"Handling fee"* or *"fee"* means the amount reimbursed by a distributor, in addition to the return of the 5 cent refund value, in an amount that is 1 cent per beverage container for containers accepted from a dealer agent or 3 cents per beverage container accepted from a participating dealer or redemption center. Only one fee shall be charged per container.

*"High-contrasting color"* in reference to labeling requirements means a clear differentiation in hue, value, and intensity with the background on which the redemption message appears, surrounding artwork, and other nearby printed information.

*"Incise"* means to scratch the surface to produce legible letters or characters at a precise width and depth.

*"Indelibly"* means that the refund value is permanently affixed on the beverage container and cannot be smeared or removed during regular use from the point of being offered for sale until the point of redemption.

*"Mineral water"* means water naturally or artificially infused with mineral salts or gases. Mineral water may be carbonated or uncarbonated.

*"Soda water"* means water that has been carbonated.

*"Soft drink"* means any nonalcoholic liquid other than mineral water or soda water intended for human consumption.

*"Unapproved redemption center"* means a redemption center that is not an approved redemption center.

This rule is intended to implement Iowa Code sections 455C.1 and 455C.9.

**567—107.3(455C) Labeling requirements.**

**107.3(1)** All beer, wine, alcoholic liquor, mineral water, soda water and similar carbonated soft drink containers (other than exempt containers) sold or offered for sale in Iowa by a dealer shall have the words "Iowa Refund 5¢" or "IA 5¢" clearly, indelibly and legibly indicated on the container. Any abbreviation of the words "Iowa Refund" other than as provided in this subrule shall be submitted to and approved by the department.

**107.3(2)** The minimum size of the words "Iowa Refund 5¢" or "IA 5¢" and all approved abbreviations shall be a minimum of 9-point type (approximately .125 inch or 3 millimeters) if the words are embossed or incised and 18-point type (approximately .25 inch or 6 millimeters) if the words are otherwise affixed to the container. A stamp or label may have the words "Iowa Refund 5¢" or "IA 5¢" in less than 18-point type if the label is submitted to the department and the department determines that the high-contrasting color or the characteristics of the stamp or label make the stamp or label as easy to discern as a stamp or label with 18-point type.

**107.3(3)** The words "Iowa Refund 5¢" or "IA 5¢" shall be indicated by embossing (raised letters), by incising, by printing in high-contrasting color, by a stamp or label of high-contrasting color, or by other method approved by the department securely and permanently affixed to the container.

**107.3(4)** Reserved.

**107.3(5)** The words "Iowa Refund 5¢" or "IA 5¢" shall be on the top or on the cylindrical portion of a metal beverage container. The words "Iowa Refund 5¢" or "IA 5¢" shall be on the conical portion of a glass or plastic beverage container so that the words are visible from above or shall be on the product label. The placement of refund information solely on the bottom of the beverage container is prohibited.

**107.3(6)** An example of the label or labeled container may, but need not, be submitted to the department for informal approval.

**107.3(7)** An application for exemption from the requirement of having the words "Iowa Refund 5¢" or "IA 5¢" indicated on the container shall be submitted to the department and shall contain:

*a.* The name, address and telephone number of the applicant;

*b.* The refund value of the container; and

*c.* A statement of why the container can be readily and permanently identified by consumers as subject to a deposit.

**107.3(8)** An example of the container for which the exemption is being requested shall be sent to the department along with the application required in 107.3(7). The example may consist of photographic images or empty containers. Examples submitted to the department shall not contain any liquid.

**107.3(9)** The department may exempt the container if the department determines that the container is subject to a deposit of 5 or more cents and that consumers can readily and permanently identify the container as one subject to a deposit.

**107.3(10)** Automatic exemption. Beverage containers sold in Iowa containing alcoholic liquor as defined in Iowa Code section 123.3(5) where the total capacity of the container is not more than 50 milliliters are automatically exempted from the labeling requirement of 567—107.3(455C). However, such beverage containers remain subject to the remainder of this chapter.

**567—107.4(455C) Redemption centers.** The Act provides for both approved and unapproved redemption centers. Both approved and unapproved redemption centers redeem empty beverage containers and pay the refund value to consumers. Only approved redemption centers can satisfy the requirements of Iowa Code section 455C.4(2)*"a"*(2) and *"a"*(3) and 2022 Iowa Acts, Senate File 2378, section 19.1(a) or 19.1(b). Additionally, only approved redemption centers will be listed on the department's electronic database pursuant to Iowa Code section 455C.4(2)*"c."*

**107.4(1)** *Approved redemption centers.*

*a.* Any person may file with the department an application for approval of a redemption center.

*b.* An annual application for approval of a redemption center shall be submitted to the department electronically.

(1) Initial application. Redemption centers that wish to be considered approved under this chapter should file their application within 30 days of starting their business.

(2) Annual renewals. All redemption centers should file their annual renewal application by January 31 of each subsequent year to allow the department to update its approved redemption center list in a timely manner.

(3) Application requirements. A redemption center must submit a separate application for each facility, including if a redemption center is operating a mobile redemption system for a dealer or dealers. The information on the application will be included in an electronic database for consumers to locate the nearest approved redemption center; as such, applications must be resubmitted annually to ensure that contact information remains accurate. There is no fee to submit the application. The application shall include the following information:

1. Name, address and telephone number of the redemption center;

2. Name, address and telephone number of the person or persons responsible for the establishment and operation of the redemption center;

3. A statement that the operator of the redemption center understands it must accept all redeemable containers, except for those containers exempted in 567—107.13(455C);

4. Whether the redemption center will be operating a mobile redemption system and the location(s) where the system will be operated.

*c.* The department will issue an electronic order of approval once a complete application is received.

*d.* The department may at any time rescind the order approving a redemption center if the department determines, after notice and hearing, that the redemption center is in violation of the Act or this chapter or that the redemption center is no longer meeting the above criteria.

*e.* An approved redemption center shall accept from consumers and shall pay the refund value for all beverage containers that bear an Iowa refund value and those containers exempted from the labeling requirement pursuant to 107.3(10).

*f.* When an approved redemption center is closing permanently, it shall give to the department notice that includes the redemption center's final date of operation. As of the final date of operation, the redemption center's approval as a redemption center shall be terminated and a dealer it was approved to serve shall no longer be an exempt dealer. An approved redemption center must notify the department and any dealers or distributors with which the redemption center has agreements 30 days prior to the redemption center's closing.

**107.4(2)** *Refused container redemption centers.* Redemption centers required by Iowa Code section 455C.14 may be either "approved" or "unapproved." To be "approved," the facility must submit an application pursuant to 107.4(1), which includes the requirement to accept all redeemable beverage containers except for those containers exempted in 567—107.13(455C).

**567—107.5** to **107.7** Reserved.

**567—107.8(455C) Miscellaneous requirements.**

**107.8(1)** Beverage containers sold on interstate carriers, such as trains, planes, or buses that travel through Iowa, are not subject to the deposit and labeling requirements of the Act.

**107.8(2)** Transfer tanks, premix tanks and beer kegs are not subject to the deposit and labeling requirements of the Act.

**107.8(3)** Return limits. Dealers may limit the number of containers returned by an individual to 120 containers in a 24-hour period. Redemption centers may limit the number of containers returned by an individual to 500 containers in a 24-hour period.

**567—107.9(455C) Partial pickup and acceptance of redeemed containers by distributor.**

**107.9(1)** *Notification of frequency.* A distributor shall notify each participating dealer served by the distributor of the intended frequency of pickup. A distributor shall notify each redemption center from which the distributor is required to pick up containers of the intended frequency of pickup.

**107.9(2)** *Partial pickup.* A distributor who picks up containers more often than the required frequency shall not be required to pick up all available containers from a participating dealer or redemption center at each pickup provided that all available containers are picked up from the dealer or redemption center within the required frequency.

**567—107.10(455C) Dealer agent lists.** A dealer agent shall provide to a distributor upon request a list of the dealers that the dealer agent is serving.

**567—107.11** and **107.12** Reserved.

**567—107.13(455C) Refusing payment of the refund value.** A distributor, participating dealer, or redemption center may refuse to pay the refund value and, if applicable, the handling fee pursuant to Iowa Code section 455C.4 and in the following situations:

**107.13(1)** *Refusal of certain brands (e.g., store brands).*

*a.* For any beverage container subject to the Iowa beverage container control law, all distributors and manufacturers must charge a 5-cent deposit for each container delivered by that distributor or manufacturer to a dealer and must pick up, or facilitate the pickup of, the container from a participating dealer or an approved redemption center. This includes, at a minimum, reimbursing the participating dealer or approved redemption center for the refund value and the applicable handling fee. The requirements of this paragraph apply regardless of the relationship between the distributor or manufacturer and the dealer.

*b.* Any approved redemption center may refuse to accept containers for redemption if there is no distributor or manufacturer providing reimbursement and paying the requisite fee for the given container. In such cases, the redemption center shall notify the department and must post a notice of the brands it will not accept.

**107.13(2)** *Redeemed containers must be reasonably clean and intact.* Consumers shall return containers in a reasonably clean and intact condition. For a refillable beverage container, the container must hold liquid, be able to be resealed and be in its original shape. A nonrefillable glass container may be chipped, but it may not have the bottom broken out or the neck broken off. A nonrefillable metal container may be dented or partially crushed but may not be crushed flat. In order to be redeemed, an empty beverage container shall be dry and free of foreign materials other than the dried residue of the beverage. Redemption centers and participating dealers may refuse to redeem containers that are not reasonably clean and intact, as well as containers that do not have an Iowa 5-cent redemption label and containers that have had the Iowa 5-cent label removed or if the label is illegible for any reason.

**567—107.14(455C) Payment to redemption centers and dealer agents delivering containers to distributors.** A distributor shall issue to a redemption center or dealer agent payment of the refund value and handling fee within one week of delivery and acceptance of empty beverage containers, unless otherwise agreed to by both the redemption center and the distributor or by both the dealer agent and the distributor, as the case may be.

**567—107.15(455C) Sales tax on deposits.** The department of revenue has determined that the payment of the deposit by a consumer is not a sale subject to the payment of additional sales tax.

These rules are intended to implement Iowa Code chapter 455C.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

# ARC 0488D

# ENVIRONMENTAL PROTECTION COMMISSION[567]

### Adopted and Filed

### Rulemaking related to landfill alternatives financial assistance programs

The Environmental Protection Commission (Commission) hereby rescinds Chapter 109, "Special Waste Authorizations"; adopts a new Chapter 109, "Landfill Alternatives Financial Assistance Programs"; and rescinds Chapter 209, "Landfill Alternatives Financial Assistance Programs," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code sections 455B.301A, 455B.306 and 455E.9.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 455B.301A, 455B.306 and 455E.11.

*Purpose and Summary*

Prior Chapter 209 was reviewed and simplified consistent with Executive Order 10. This rulemaking rescinds the chapter and moves it into new Chapter 109 after removing language that is unnecessary, redundant and duplicative. Rescinding and replacing this chapter does not impact the Department's ability to implement its landfill alternatives programs, nor does it impact the ability of interested parties to voluntarily apply for and implement financial assistance awards.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 7, 2026, as **ARC 9928C**. A public hearing was held on the following date(s):

- January 28, 2026
- January 30, 2026

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Commission on July 21, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 7—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on September 23, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind 567—Chapter 109 and adopt the following **new** chapter in lieu thereof:

CHAPTER 109
LANDFILL ALTERNATIVES FINANCIAL ASSISTANCE PROGRAMS

**567—109.1(455B,455E) Purpose.** The purpose of this chapter is to provide direction for the department's implementation of certain financial assistance programs that are funded from the solid waste account within the groundwater protection fund as described in Iowa Code section 455E.11, including the solid waste alternatives program as described in Iowa Code section 455E.11(2)*"a"*(1)(e); the derelict building program as described in Iowa Code section 455E.11(2)*"a"*(1)(d); the Iowa solid waste environmental management systems program as described in Iowa Code section 455E.11(2)*"a"*(1)(c); and other waste management assistance programs as described in Iowa Code section 455E.11(2)*"a"*(2)(a)(1)(iv). All rules, standards, technical guidance, and other similar legal or technical documents referenced in this chapter shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—109.2(455B,455E,455J) Definitions.** For the purposes of this rule, the definitions in 567—Chapter 100, those found in Iowa Code section 455B.301 and chapters 455E and 455J, and the following definitions shall apply.

*"Abandoned"* means that the building has been unoccupied for a minimum of six continuous months.

*"Asbestos-containing material"* or *"ACM"* means any material that contains more than 1 percent of asbestos.

*"Building renovation"* means repairs that stabilize or improve the structural integrity of the building, including but not limited to roof repair or replacement, building stabilization, and the tuck-pointing of exterior walls.

*"Cost share"* means the applicant's share of the eligible costs of the proposed project.

*"Deconstruction"* means the selective dismantlement of a building for the purpose of maximizing reuse and recycling opportunities through source separation while minimizing disposal costs.

*"Derelict building grant eligibility"* means any city with a population of 5,000 or less is eligible to apply for a derelict building grant. An applicant may partner with a local nonprofit organization on a project.

*"Financial assistance"* means monetary assistance in the form of grants, loans, or forgivable loans awarded by the department.

*"Phase I environmental assessment"* means review of known environmental records and land use information about the site and vicinity.

*"Phase II environmental assessment"* means actual soil, groundwater and structural material sampling and testing to confirm or deny the presence of contamination.

*"Recipient"* means any applicant selected to receive financial assistance under these rules.

**567—109.3(455B,455E) Funding sources.** The department will use moneys that are appropriated by the legislature and that may be obtained from other sources for the purpose of achieving the goals outlined in these rules.

**567—109.4(455B,455E,455J) Requirements for financial assistance programs.** In addition to any of the requirements of Iowa Code chapters 455B, 455E and 455J, the following requirements shall be met.

**109.4(1)** *Requests for financial assistance.* Requests for financial assistance must be made by applicants on the relevant program application form provided by the department and according to accompanying guidance documentation that specifies program criteria.

**109.4(2)** *Awards and agreements for financial assistance.*

*a.* Recipients shall enter into a written agreement with the department for the purposes of implementing the project for which financial assistance has been awarded. The agreement shall be signed by the appropriate department signatory and the recipient's authorized signatory.

*b.* A written agreement must be executed between the department and the award recipient prior to the recipient incurring expenses. Awarded funds are disbursed on a reimbursable basis and are not to be incurred prior to executing a written agreement.

*c.* The department may terminate agreements and seek the return of funds released under the agreement for failure by the recipient to perform under the terms and conditions of the agreement.

*d.* Amendments to agreements may be adopted by mutual written consent of the department and the recipient.

*e.* The department reserves the right to offer financial assistance awards in an amount less than that requested by the applicant.

*f.* For funds to be disbursed, the recipient shall be in compliance with all applicable statutes and regulations as specified in the written agreement.

**567—109.5(455B,455E,455J) Denial of financial assistance.** The department reserves the right to deny financial assistance requests for any reason, including the following:

**109.5(1)** Funds are insufficient to award financial assistance to all qualified applicants.

**109.5(2)** An applicant does not meet eligibility requirements pursuant to the provisions of 109.6(1) for the solid waste alternatives program, 109.7(1) for the derelict building program or 109.8(2) for the environmental management system program.

**109.5(3)** An applicant does not provide sufficient requested information on forms provided by the department pursuant to 567—109.4(455B,455E,455J).

**109.5(4)** An applicant has previously received financial assistance under these rules and is determined by the department to be delinquent in repaying the loan or delinquent in submitting required documentation.

**109.5(5)** The goals or scope of the project is not consistent with 109.6(2) for the solid waste alternatives program, 109.7(2) for the derelict building grant program or 109.8(2) for the environmental management system program.

**567—109.6(455B,455E) Solid waste alternatives program.** Financial assistance awarded under the solid waste alternatives program shall be used to implement activities that support the practical and beneficial use of solid waste materials and for activities leading to a reduction in the reliance on sanitary landfills for disposal of solid waste.

**109.6(1)** *Eligible applicants.* Any unit of local government, public or private group, individual or business that has an interest in or has responsibility for solid waste management in Iowa and is currently in compliance with all applicable state statutes and regulations is eligible to apply for the solid waste alternatives program.

**109.6(2)** *Eligible projects.* The department may provide financial assistance to applicants for the following types of projects that are consistent with the goal and purpose of this program:

*a.* Best practices—practices and programs that will move Iowa toward long-term pollution prevention, waste reduction and recycling sustainability;

*b.* Education—practices and programs that are consistent with a coordinated statewide message on pollution prevention, waste reduction, and recycling to ensure ongoing support of these integrated solid waste management activities; and

*c.* Market development—practices and programs that develop a demand for value-added recyclables sufficient to provide increased and stable commodity markets.

**109.6(3)** *Type of financial assistance.* The types of financial assistance offered to an applicant may include a forgivable loan, zero interest loan, or low-interest loan. The department reserves the right to offer any combination of types of financial assistance to any selected project.

**109.6(4)** *Loans.* The term of all loans executed under these rules shall be determined on a case-by-case basis and shall be based on the specific capital costs financed, as well as the terms of other financing provided for the project. The written agreement between the department and the recipient will establish other conditions or terms needed to manage or implement the project.

**567—109.7(455B,455E) Derelict building grant program.** Financial assistance awarded under the derelict building grant program is available to cities of 5,000 or less to help improve the attractiveness and appearance of their jurisdictions by providing financial assistance for eligible projects. Each project must have a landfill diversion component.

**109.7(1)** *Eligible applicants.* Any city with a population of 5,000 or less is eligible to apply for a derelict building grant. An applicant may partner with a local nonprofit organization on a project.

**109.7(2)** *Eligible projects.* A city's building is eligible for the program if the building meets the following criteria:

*a.* The building is an abandoned commercial or public building of which a city has ownership or will obtain ownership no later than June 30 of the fiscal year in which the city applies.

*b.* The building is not on the National Register of Historic Places.

**109.7(3)** *Eligible activities and amount of financial assistance.* The eligible activities and amount of financial assistance for each are:

*a.* Asbestos-containing material inspections: 100 percent reimbursement for inspection costs conducted by a state of Iowa-licensed asbestos contractor.

*b.* Abatement of asbestos-containing material: 100 percent reimbursement, not to exceed $10,000, for abatement of ACM performed by a state of Iowa-licensed asbestos contractor. A 50 percent cost share is required for those costs exceeding $10,000.

*c.* Structural engineering analysis: 100 percent reimbursement not to exceed $1,500 for a structural engineering analysis conducted by a licensed structural engineer or architectural historian to determine the ability to renovate the building. The recipient is responsible for all costs exceeding $1,500.

*d.* Phase I environmental assessment: 100 percent reimbursement not to exceed $3,000 for conducting a Phase I environmental assessment. The recipient is responsible for all costs exceeding $3,000.

*e.* Phase II environmental assessment: 50 percent reimbursement not to exceed $2,500 for conducting a Phase II environmental assessment. The recipient is responsible for all costs exceeding $5,000. The need for this assessment is determined by the results of the Phase I environmental assessment and involves the sampling of structure components, soil, and groundwater to confirm or deny the presence of contamination.

*f.* Building renovation: 50 percent reimbursement not to exceed $50,000 for renovation costs, including but not limited to:

(1) Restoration or removal of materials for reuse, either at the site or off site, or for recycling.

(2) Roof repair or replacement.

(3) Building stabilization.

(4) Tuck-pointing of exterior walls.

*g.* Deconstruction: 50 percent reimbursement not to exceed $50,000 for costs related to deconstruction. All deconstruction projects must achieve a minimum landfill diversion rate of 30 percent of the structure by weight to receive reimbursement for deconstruction costs.

**109.7(4)** *Deconstruction cost-share incentive.* For every additional 10 percent above 30 percent of landfill diversion by weight that is documented upon completion of the project, the applicant's cost share is reduced by 5 percent and the grant award amount will increase by 5 percent. The maximum grant award for deconstruction projects shall not exceed $75,000.

**567—109.8(455E,455J) Environmental management system program.** Financial assistance awarded under the environmental management system program is to support projects that pursue continuous improvement by mitigating the environmental impacts of solid waste disposal.

**109.8(1)** *Eligible applicants.* Any solid waste planning or service area designated as an environmental management system is eligible to apply.

**109.8(2)** *Eligible projects.* The department may provide financial assistance to applicants for projects that pursue continuous improvement in organics waste management, hazardous household materials collection, water quality improvement, greenhouse gas reduction, recycling services, or environmental education.

These rules are intended to implement Iowa Code sections 455B.301A and 455E.11 and chapter 455J.

ITEM 2. Rescind and reserve **567—Chapter 209**.

[Filed 7/24/26, effective 9/23/26]
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**ARC 0489D**

# ENVIRONMENTAL PROTECTION COMMISSION[567]

**Adopted and Filed**

**Rulemaking related to rescission of chapters**

The Environmental Protection Commission (Commission) hereby rescinds Chapter 119, "Used Oil and Used Oil Filters," Chapter 145, "Household Batteries," and Chapter 213, "Packaging—Heavy Metal Content," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code sections 455D.6, 455D.10A and 455D.19(7).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 455B and sections 455D.6(4), 455D.7(1), 455D.10A, 455D.10B and 455D.19.

*Purpose and Summary*

Chapters 119, 145, and 213 were reviewed consistent with Executive Order 10. These chapters are duplicative relative to the underlying provisions in Iowa Code chapter 455D. As such, these rules are unnecessary. This rulemaking rescinds all three chapters in their entirety.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 7, 2026, as **ARC 9935C**. A public hearing was held on the following date(s):

- January 28, 2026
- January 30, 2026

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Commission on July 21, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 7—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on September 23, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **567—Chapter 119**.

ITEM 2. Rescind and reserve **567—Chapter 145**.

ITEM 3. Rescind and reserve **567—Chapter 213**.

[Filed 7/24/26, effective 9/23/26]
[Published 8/19/26]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

## ARC 0490D

# ENVIRONMENTAL PROTECTION COMMISSION[567]

**Adopted and Filed**

**Rulemaking related to underground storage tank certification programs**

The Environmental Protection Commission (Commission) hereby rescinds Chapter 134, "Underground Storage Tank Licensing and Certification Programs," and adopts a new Chapter 134, "Underground Storage Tank Certification Programs," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code chapter 252J and section 455B.474.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 252J and 455B and 40 CFR Parts 280 and 281.

*Purpose and Summary*

Chapter 134 establishes the requirements to regulate groundwater professionals, underground storage tank (UST) compliance inspectors, and UST professionals. UST professionals include UST installers, UST removers, UST testers, cathodic protection testers, UST liners, and UST installation inspectors.

The purpose of these rules is to ensure that groundwater professionals, UST compliance inspectors, and UST professionals have sufficient knowledge, experience, and continuing education to properly perform the necessary duties to assess and remediate releases at underground storage tank systems and to install, test, inspect, and remove equipment associated with underground storage tanks to ultimately protect the public health and safety of the citizens and natural resources of Iowa.

Iowa's underground storage tank rules have been approved by the U.S. Environmental Protection Agency into Iowa's required State Program Approval.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 7, 2026, as **ARC 9938C**. A public hearing was held on the following date(s):

- January 27, 2026
- January 28, 2026
- January 29, 2026

Thirteen people attended the hearings. Numerous comments were received orally at the hearings and in writing during the comment period.

Minimal changes from the Notice have been made in response to the comments received, such as clarifying and streamlining language.

*Adoption of Rulemaking*

This rulemaking was adopted by the Commission on July 21, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to Iowa Code section 17A.9A and 7—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on September 23, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind 567—Chapter 134 and adopt the following **new** chapter in lieu thereof:

CHAPTER 134
UNDERGROUND STORAGE TANK CERTIFICATION PROGRAMS

**567—134.1(455B) Scope.** The purpose of this chapter is to provide rules for the certification of groundwater professionals, compliance inspectors, and other UST professionals, including certification qualification, fees and administration. All rules, standards, technical guidance, and other similar legal or technical documents referenced in this chapter shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—134.2(455B) Definitions incorporated by reference.** The definitions in 567—Chapter 135, Iowa Code section 455B.471, and 40 CFR §280.12 (2015) shall apply to this chapter.

**567—134.3(455B) Certification classifications for individuals and companies**

**134.3(1)** A separate certification will be issued for:

*a.* UST installers;

*b.* UST removers;

*c.* UST testers;

*d.* UST cathodic protection testers;

*e.* UST liners;

*f.* UST installation inspectors;

*g.* UST compliance inspectors;

*h.* Groundwater professionals.

**134.3(2)** A company employing certified individuals for compliance inspections, installation, upgrading, removal, lining or testing of UST systems shall be certified as a company. A company may have its certification revoked if it employs uncertified individuals to do work requiring a certification.

**134.3(3)** Service technicians as defined in 567—Chapter 135 are exempt from certification under this chapter.

**567—134.4(455B) General certification requirements.**

**134.4(1)** *Applications and certificates.*

*a.* Applications for certifications shall be submitted on a form provided by the department along with all required supporting documentation. Certificates shall be issued and renewed on a two-year calendar basis. Groundwater professional certificates expire on December 31 of each odd-numbered year and all other certificates expire on December 31 of each even-numbered year. All applicants must be at least 18 years of age.

*b.* Applications shall contain the following information:

(1) Evidence that the applicant meets the experience, education, and other qualification prerequisites contained in this chapter for each certification.

(2) Contact information for the applicant.

(3) Other information necessary for a determination of the applicant's qualifications.

**134.4(2)** *Certification fees.* A $200 fee shall be submitted for each groundwater professional certification. For all other certifications, a $200 fee shall be submitted with each application for an initial company and individual certification application, including when an individual applies for multiple non-groundwater professional certifications using a single department-approved form. Fees are nonrefundable, are payable to the Department of Natural Resources, and will not be prorated.

**134.4(3)** *Reciprocity.* Persons who are certified as a UST installer, installation inspector, tester, liner, or remover under another state or federal regulatory program that has been approved by the department may be eligible for certification in Iowa without having to take a course of instruction or pass the examination. Applicants for reciprocity shall still pay the application fee and follow certification renewal requirements.

**567—134.5(455B) Liability insurance**

**134.5(1)** *Environmental liability insurance.* All certificate holders, except for compliance inspectors and groundwater professionals, must hold environmental liability insurance as required by Iowa Code section 455B.474(10). A company may provide insurance for all of its employees who are UST certificate holders.

**134.5(2)** *Employer exception.* Individuals certified by this chapter, except for groundwater professionals, employed by owners or operators of UST systems to work only on the owner's or operator's private system(s) are exempt from insurance requirements.

**134.5(3)** *Forms of acceptable insurance.* All parties certified by this chapter, except groundwater professionals and compliance inspectors, will provide evidence of environmental liability insurance to the department.

*a.* Environmental liability insurance may be provided by a private insurer authorized to do business in Iowa.

*b.* Evidence of environmental liability insurance may be provided using methods of self-insurance as outlined in 567—Chapter 136.

**134.5(4)** *Professional liability insurance requirements.* All certified compliance inspectors are required to have professional liability insurance with minimum liability limits of $1 million per occurrence and in the aggregate.

**567—134.6(455B) Training courses and examinations.**

**134.6(1)** *Requirements.*

*a.* Prior to the issuance of a certification as a groundwater professional, compliance inspector, installer, installation inspector, or remover, the applicant will successfully complete a department-led or department-approved training course and pass a qualification examination offered or approved by the department.

*b.* Examination requirements for all individual certificate holders.

(1) A passing grade of not less than 75 percent is required on the respective examinations for installers, installation inspectors, removers and compliance inspectors. A passing grade of not less than 70 percent is required on the groundwater professional examination.

(2) Applicants who have failed the examination will not perform work unless supervised by an appropriately certified individual.

(3) A fee reflecting the actual costs of developing and administering each course of instruction and examination may be charged.

(4) Nothing in this chapter shall limit the right of the department to require additional educational requirements of certification holders.

*c.* An applicant who receives less than a passing score on an examination may retake the test within 180 days without reapplying. The application of an applicant who fails the second examination will be denied. An applicant who fails the second examination may reapply for certification but will not retake the examination until the applicant has successfully completed a course of instruction that is administered or approved by the department and that is administered after the applicant's second test.

**134.6(2)** *Educational offering requirements.*

*a.* *Courses approved by the department.* The requirement for educational offerings may be met only by those courses that have been approved by the department.

*b.* *Form of course approval.* Approval of a course may take the form of:

(1) Program approval granted by the department to the sponsor or instructor of an educational offering;

(2) Individual requests for credit granted by the department to an installer or inspector for an educational offering whose sponsor or instructor did not seek program approval; or

(3) Blanket approval granted by the department to educational offerings sponsored by the department or other professional organizations whose standards have been approved by the department.

*c.* *Procedures for course approval.*

(1) Application for program approval shall be made by the sponsor or instructor to the department and include an agenda or an outline of the content of the proposed educational offering.

(2) The application shall be reviewed by the department, and notice of approval or denial of program approval shall be sent to the sponsor or instructor. Credit hours may be limited by the department based on program content.

*d.* *Proof of participation.* Any approved course must provide participants a certificate of satisfactory completion of the course or provide the department a list of participants who have satisfactorily completed the course.

**134.6(3)** *Exceptions to required training.*

*a.* An applicant may be issued a compliance inspector certification without the required training if all other requirements are satisfied and the required training is not offered within 60 days of the date of application. The applicant must attend required training when required training is next offered. If an applicant receives a certification under this temporary exception, the individual must attend required training, if offered, before renewal of the certification.

*b.* If an applicant receives a compliance inspector certification under the temporary training exception above, all compliance inspection activities must be conducted under the supervision of a trained Iowa-certified compliance inspector. Supervision does not require the trained Iowa-certified compliance inspector to be on site for compliance inspections conducted by an inspector who has not completed the required training. The trained Iowa-certified compliance inspector must co-sign compliance inspections conducted by the inspector who has not completed the required training.

*c.* Cathodic protection testers are not required to complete a course of instruction but are required to maintain AMPP (NACE) certification, STI cathodic protection certification, or equivalent certification approved by the department.

*d.* UST liners and UST testers are not required to complete a course of instruction or pass a state qualifying examination for initial certification purposes.

**134.6(4)** *Exemption from examination.*

*a.* A professional engineer exempted from groundwater professional certification examination pursuant to Iowa Code section 455B.474(9)*"g"* must meet the continuing education requirements of 567—134.8(455B) for the exemption to apply.

*b.* An engineer who is conducting business as an installation inspector or remover and who has met the requirements in Iowa to be a registered professional engineer (P.E.) is exempt from the educational requirements so long as UST-related work is in the scope of the engineer's P.E. license and regular practice. Professional engineers must meet the continue education requirement of 567—134.8(455B) for this exemption to apply.

**567—134.7(455B) Certification issuance.** Upon receipt, review, and acceptance of an application and corresponding fee, the department will furnish the applicant with a certificate showing the name of the individual or company and the expiration date.

**567—134.8(455B) Certification renewal.**

**134.8(1)** *Renewal period.* Applications for renewal must be submitted on a form provided by the department and no later than 30 days prior to the expiration date. If a certificate holder fails to renew the certification by the expiration date, the department may grant a grace period during which the applicant may submit the application and payment of the renewal fee.

**134.8(2)** *Renewal requirements.*

*a.* The renewal application shall be accompanied by a $200 renewal fee. Company renewal applications will include proof of liability insurance as required under 567—134.5(455B). Applications received after the December 1 deadline will be accepted with an additional $50 late fee.

*b.* To be eligible for renewal, an individual certificate holder shall fulfill all continuing education requirements, along with any other requirements set forth in each certification classification rule in this chapter. The department will consider all past disciplinary actions against the certificate holder when evaluating renewal eligibility.

**134.8(3)** *Continuing education.* Individual certificate holders must complete continuing education requirements as follows:

*a.* Groundwater professionals must complete 12 hours of continuing education every two years in the areas relating to underground storage tank contamination assessment and corrective action activities.

*b.* Cathodic protection testers must complete continuing education sufficient to maintain AMPP (NACE) or STI cathodic protection certification or department-approved equivalent certification.

*c.* All other certificate holders must complete eight hours of department-approved continuing education every two years.

*d.* Proof of completion of continuing education must be submitted to the department no later than the date of each renewal application. The department may limit the number of hours granted for similar courses during a renewal period.

*e.* An individual's first certification period's continuing education requirements can be waived. Continuing education hours cannot be carried forward to the next renewal period.

*f.* Courses other than those currently approved by the department may be submitted to the department for consideration of approval.

**567—134.9(455B) Groundwater professional certification requirements.** In order to be certified as a groundwater professional, a person must meet one or more of the criteria described in Iowa Code section 455B.474(9). For a person to qualify under Iowa Code section 455B.474(9)*"b"*(4), at least two years of related formal education is required. Pursuant to Iowa Code section 455B.474(9)*"c,"* for persons qualified to be certified under this rule, the failure to obtain a certificate prior to conducting applicable work will result in a $50 civil penalty.

**567—134.10(455B) UST compliance inspector certification requirements.**

**134.10(1)** *Qualifications.*

*a.* A person retained by an owner or operator of a UST facility for the purpose of determining compliance of a UST system for a compliance inspection required by the department under 567—135.19(455B) must hold a current UST compliance inspector certification issued by the department.

*b.* Inspector certification will be issued by the department to a person who:

(1) Meets the certification requirements listed under 567—134.6(455B);

(2) Satisfies one of the following:

1. Is a certified installer;

2. Is a certified installation inspector;

3. Has participated on a minimum of 50 onsite compliance inspections with a certified compliance inspector;

4. Has two years of experience working with petroleum equipment, including installations, maintenance, or testing; or

5. Has other relevant experience approved by the department; and

(3) Is not found to be in violation of this chapter and has not had a certification issued by the department under this chapter revoked.

**134.10(2)** *Renewal qualifications.* To be eligible for certification renewal, a compliance inspector shall have:

*a.* Fulfilled the department's continuing education requirements in 567—134.8(455B); and

*b.* Conducted at least 12 compliance inspections in the past two years.

**134.10(3)** *UST compliance inspector responsibilities.*

*a.* *Compliance inspection.* The UST compliance inspector shall conduct a compliance inspection in accordance with this rule and 567—Chapter 135. The inspector shall notify the department of the date of a site inspection at least ten days prior to the inspection or another time frame approved by the department.

*b.* *Inspection process.*

(1) Upon completion of the site inspection, the inspector shall send an inspection report to the owner and operator within ten business days. At a minimum, the report shall provide the following:

1. Any violations or deficiencies related to 567—Chapter 135 or other applicable state or federal law and those specific actions necessary to correct the violations or deficiencies.

2. Applicable time frames to correct violations or deficiencies if established in 567—Chapter 135 or within 60 days of receipt of the inspection report or another reasonable time period approved by the department.

(2) A final electronic report shall be submitted to the department and a copy provided to the owner and operator as provided in 134.10(3)*"c"* within the following time frames:

1. Within ten business days of the inspection if the results of the inspection find no violations or deficiencies requiring corrective action.

2. Within ten business days of the inspector's receipt of all necessary documentation of all action required to correct violations and deficiencies.

3. In any case, no later than 90 days of the site inspection.

4. Any deficiencies identified on the day of a compliance inspection must be reported to the department as a deficiency, regardless of when it is addressed.

*c.* *Electronic inspection reporting.* The inspector shall prepare an electronic report in accordance with the following:

(1) The inspector shall enter the results of the site inspection discovered at the time of the inspection and any actions taken to correct violations and deficiencies on an internet-based electronic format developed by the department and in accordance with guidance. The department's software will be capable of generating an inspection report.

(2) The department will develop a generally compatible electronic platform using XML or another approved format. The department will provide the XML schema file format to describe the data needed to allow an inspector to transfer multiple site inspection results in an electronic batch process over the internet using the department's inspection website.

(3) The inspector shall provide a print copy of the electronically generated inspection report to the owner and operator or an alternative report approved by the department.

(4) The inspection report submitted to the department electronically will include at least one overall site photo.

*d.* *Evidence of violations or deficiencies.* Any evidence of violations or deficiencies observed during the inspection must be photographed using a digital photograph. Digital photographs must be submitted as part of the electronic inspection report and maintained by the inspector for five years as part of the inspector's records.

*e.* *Records.* The inspector must provide any inspection records provided by the owner and operator to the department upon request.

*f.* *Inspection technical requirements.* An inspector of a UST system must check for compliance with the technical standards of 567—Chapter 135. The inspection of a UST system currently in operation shall include but not be limited to the following:

(1) The material currently stored in the UST.

(2) The type of tank and lines currently at the site as compared to the registered information on the department's database.

(3) Checking site records demonstrating operational compliance (567—subrule 135.4(5)).

(4) Checking release detection records (567—subrule 135.5(6)).

(5) Visually checking for releases or other violations by opening covers of dispensers, manways, and containment sumps for submersible pumps and other piping connections for:

1. Damaged or deteriorated product lines and underground fuel delivery components.

2. Visible indications the shear valve is leaking or has been damaged, altered, or modified in a manner that would prevent the valve from functioning properly.

(6) Current operating status of impressed current cathodic protection system, if present.

(7) Presence and operational condition of spill and overfill equipment (567—paragraph 135.3(1)*"c"*).

**134.10(4)** *Conflict of interest.* A compliance inspector shall not conduct a compliance inspection if the compliance inspector is the owner or operator of the UST system, an employee of the owner or operator of the UST system, or a person having daily onsite responsibility for the operation and maintenance of the UST system.

**567—134.11(455B) UST installer certification requirements.**

**134.11(1)** *Qualifications.* An installer of an UST system shall apply for a certification as an installer. In addition to the certification requirements listed under 567—134.6(455B), an installer must:

*a.* Provide documentation of at least two years of relevant experience;

*b.* Provide documentation of manufacturer certification for work, including but not limited to tank systems, piping systems, leak detection and monitoring systems, and corrosion protection systems; and *c.* Have completed a 40-hour OSHA Hazardous Waste Operations and Emergency Response (HAZWOPER) training.

**134.11(2)** *Renewal qualifications.* To be eligible for certification renewal, an installer shall:

*a.* Fulfill the department's continuing education requirements in 567—134.8(455B);

*b.* Maintain manufacturer certification; and

*c.* Complete an annual eight-hour HAZWOPER refresher course.

**134.11(3)** *Responsibilities.*

*a.* *Certified installer.* A certified installer shall be on site during the performance of all work, including subcontracted work, for which the owner/operator has contracted to have completed by the installer. The certified installer is responsible for all UST-related work at the site and must ensure that the performance of the work and the finished work conform to industry standards and codes and manufacturers' requirements.

*b.* *Local permits and notification.* The certified installer is responsible for ensuring that all local installation permits and notice requirements are satisfied.

*c.* *Work performed.* UST system installation includes all work associated with the placement of the tanks, piping, pumps, dispensers, gauging systems, monitoring systems, containment sumps, spill and overfill devices, and ancillary systems that, if installed incorrectly, could cause or delay detection of a leak. Installation specifically includes excavation, equipment placement, backfilling, piping, electrical work, testing calibration, and start-up. Tank installation also includes installation of the appropriate equipment to meet National Emissions Standards for Hazardous Air Pollutants (NESHAP) requirements (40 CFR §63.6580, Subpart ZZZZ), including submerged fill and vapor balance systems (Stage 1 vapor recovery) and the testing of those systems.

*d.* *Testing of UST equipment.* Spill prevention equipment, containment sumps and UDC at new installations must be tested to ensure the equipment is liquid-tight before the UST system is placed into service. Acceptable test methods include vacuum, pressure, or liquid testing used in accordance with requirements developed by the manufacturer; a code of practice such as PEI RP1200; or methods determined by the department to be no less protective of human health and the environment than the requirements listed in this subrule.

**134.11(4)** *Documentation of work performed.* Installing a new UST system or upgrading a UST system requires an installer to submit department forms and testing documents applicable to the installation, signed by the owner, to the department no later than 30 days after the final third-party inspection or 30 days after completion if no inspection is required. Each certified installer responsible for the new system installation or the upgrading of an existing system shall sign DNR Form 148 as required by 567—paragraph 135.3(3)*"e."* Secondary containment testing performed at installation shall be recorded on the department's Secondary Containment Testing form unless otherwise approved by the department. Test results shall be dated and signed by the certified installer who performed the test at installation.

**567—134.12(455B) UST tester certification requirements.**

**134.12(1)** *Qualifications.* A tester of UST systems shall apply for certification as a tester. A person engaging in testing described in 567—subparagraph 134.12(3)*"a"*(2) need not be certified if that person is under the supervision of an individual certified under this chapter when conducting those tests. In addition to the certified requirements listed under 567—134.6(455B), a tester shall provide documentation of the following:

*a.* Current manufacturer certification(s) for equipment being used for testing; and

*b.* Experience as documented by at least one of the following:

(1) One year of relevant experience.

(2) Completion of a minimum of 80 on-site tests with a certified tester.

(3) Other relevant experience as approved by the department.

**134.12(2)** *Renewal qualifications.* To be eligible for certification renewal, a tester shall fulfill the department's continuing education requirements in 567—134.8(455B) and shall maintain manufacturer certification.

**134.12(3)** *Responsibilities.*

*a.* The certified tester is responsible for testing tanks, lines, leak detection systems, or monitoring systems as required by 567—Chapter 135 and this chapter.

(1) A precision test is required when the system is covered and is ready to be placed into service; a volumetric, nonvolumetric, or vacuum test may be used as a method for testing the system and a hydrostatic pressure test may be used for testing the lines. Systems used for leak detection or monitoring (such as statistical inventory reconciliation, vapor or water monitoring wells, or tracer-type tests) shall not be acceptable as a precision test at the completion of the installation of a new system or the upgrading of an existing system. Automatic in-tank gauging may be acceptable if third-party U.S. EPA approval as a precision test has been received for testing tanks.

(2) A certified tester may also perform periodic testing of spill prevention equipment and overfill devices, containment sumps, and UDC as required by 567—Chapter 135. Spill prevention equipment, containment, sumps and UDC at new installations must be tested to ensure the equipment is liquid-tight before the UST system is placed into service. Acceptable methods include vacuum, pressure, or liquid testing used in accordance with requirements developed by the manufacture; a code of practice such as PEI RP1200; or methods determined by the department to be no less protective of human health and the environment than the requirements listed in this subrule.

(3) An individual does not need to be certified with the department to conduct periodic testing of spill prevention equipment, containment sumps, UDC, and annual release detection functionality testing of electronic release detection equipment such as automatic tank gauges, probes, sensors, or electronic line leak detectors as required by 567—Chapter 135.

*b.* Reserved.

Exception: Installation inspectors are not required for the testing of UST systems, lines, leak detection, and cathodic protection as required by 567—Chapter 135 after the system has been put into service.

**134.12(4)** *Documentation of work performed.* A copy of the test results shall be attached to DNR Form 148 when testing is done in connection with an installation. The test results shall identify the tanks and piping tested, the test method employed, and the results of the test. Test results shall be dated and signed by the certified tester who performed the tests at installation.

**567—134.13(455B) UST liners certification requirements.**

**134.13(1)** *Qualifications.* A person installing or repairing the lining for a UST system shall be certified as a liner. In addition to the certification requirements listed under 567—134.6(455B), a liner shall provide documentation of at least two years of relevant experience, provide documentation of current manufacturer certification, and have completed a 40-hour HAZWOPER training.

**134.13(2)** *Renewal qualifications.* To be eligible for certification renewal, a liner shall:

*a.* Fulfill the department's continuing education requirements in 567—134.8(455B);

*b.* Maintain manufacturer certification; and

*c.* Complete an annual eight-hour HAZWOPER refresher course.

**134.13(3)** *Lining system investigation and installation requirements.*

*a.* *Inspection of internal lining.* A steel underground storage tank that satisfies the corrosion protection requirement as set forth in 567—subparagraph 135.3(2)*"b"*(1) by the addition of an internal lining shall be internally inspected within ten years of the date the tank was lined and every five years thereafter. The purpose of the inspection is to determine if the lining continues to perform according to the manufacturer's specifications, state and federal rules, and national standards and codes and to determine if the tank is still structurally sound. The department accepts both manned entry and video camera periodic inspections. The lining method employed must be specifically designed for the purpose, be compatible with the product stored, and meet acceptable federal and state standards as set forth in 567—Chapter 135.

*b.* *Integrity testing for tanks.* Liners shall verify structural integrity, including thickness and strength of the underground storage tanks, whenever tanks are physically entered (manned entry) for periodic inspections. The following standards must be used for lining and periodic inspections and integrity testing:

(1) Manned entry inspection. American Petroleum Institute (API) Standard 1631: Interior Lining and Periodic Inspection of Underground Storage Tanks.

(2) Video camera inspection. API Standard 1631: "Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera" developed by Ken Wilcox Associates Inc. (KWA), Methods A and C; and ASTM G-158 (approved prediction models).

(3) Repairs to lining. Standard 631 of the National Leak Prevention Association (NLPA): Entry, Cleaning, Interior Inspection, Repair and Lining of Underground Storage Tanks. Repaired lining must meet the requirements of API 1631 §8.

(4) Documentation of the inspection. API 1631—Form C: Tank Re-Inspection Affidavit. Liners shall document any defects noted in the system including but not limited to holes and perforations using API 1631—Form C: Tank Re-Inspection Affidavit and shall include photographs of all methods of repair.

*c.* *Documentation of work performed.* A liner shall submit the API 1631 report form to the department certifying that all work was performed in accordance with applicable industry standards.

**567—134.14(455B) UST installation inspector certification requirements.**

**134.14(1)** *Qualifications.* A person inspecting the installation of any UST system shall be certified as an installation inspector. In addition to the certification requirements listed under 567—134.6(455B), an installation inspector shall provide documentation of at least two years of relevant experience and documentation of current manufacturer certification.

**134.14(2)** *Renewal qualifications.* To be eligible for certification renewal, an installation inspector shall fulfill the department's continuing education requirements in 567—134.8(455B) and shall maintain manufacturer certification.

**134.14(3)** *Responsibilities.*

*a.* A copy of the inspection report must be submitted within 14 days after the inspection is complete. Both the inspection form and DNR Form 148 must be received by the department before the UST system can be activated.

*b.* The installation inspector shall be present on site, shall visually observe all inspections, and shall be able to attest to the results. A video or other recording device showing the work completed by the installer shall not be used, nor shall it be an acceptable method of providing independent inspection of the work completed.

*c.* Inspections are required when concrete is cut or excavation is required that could affect the integrity or operation of the UST system or when a component that routinely contains product is installed, replaced, or repaired. Inspections shall occur when the component is uncovered and replaced or repaired and during testing when required (i.e., piping replacement or repair) but before operation recommences.

(1) An inspection shall occur before the tanks or piping are installed.

(2) An inspection shall occur before the covering of tank or piping when all tanks and piping are exposed. The inspector shall witness testing of the primary and secondary piping and testing of the secondary containment, including sumps, UDC, and secondary containment leak detection equipment.

(3) A final inspection shall occur when all components are operational and the system has been covered but before actual operation.

(4) Whenever secondary containment (such as sumps or UDC) is installed, at least one inspection is required after the equipment is installed and before the system is backfilled.

*d.* Replacing, repairing, or installing the following does not require an inspection: drop tubes, overfill devices, spill buckets, ATG systems, dispensers, submersible turbine pumps, automatic line leak detectors, internal lining and periodic inspections or lining repair, cathodic protection systems, interstitial sensors, flex connectors, and line and tank tightness testing.

*e.* Prework notification requirement.

(1) A certified company/individual hired by an owner/operator to perform work shall notify the owner's/operator's certified installation inspector of choice prior to commencing work. Additionally, the owner/operator is responsible for supplying the name of the installation inspector if it is not a governmental entity to any state or local agency with rules affecting installations or upgrades.

(2) The prework notice given to the installation inspector shall include, at a minimum, the following information:

1. Description of the work planned.
2. The certified individual responsible for the work to be performed.
3. A schedule of the work to be performed.
4. A copy of the UST notification of intent to install form submitted to the department.

(3) The installation inspector shall review the work plan, and any required changes by the installation inspector must be submitted to the company/individual prior to the beginning of the described work. An inspection schedule must be agreed upon before work commences. Changes to the work schedule, including the inspection schedule, because of weather or unforeseen jobsite conditions shall be agreed upon as soon as the extenuating circumstances are recognized.

*f.* Preinstallation and installation checklist.

(1) The certified company/individual performing the work shall submit to both the installation inspector and the department a notification of intent to install form 30 days prior to an installation or upgrade.

(2) Installation inspectors are required to use the department's installation inspection checklist. The installation inspection checklist must be submitted within 14 days following the tank installation inspection.

**134.14(4)** *Conflict of interest.* In addition to the conflict-of-interest provisions outlined in 567—134.16(455B), the department may require the owner/operator to seek alternative inspection services for any reason deemed prudent to ensure quality installations.

**134.14(5)** *Miscellaneous requirement.* An installation inspector has the right to postpone work or to stop work on a job if standards as outlined in this chapter are not followed by the installer. Furthermore, once an installation inspector has been placed on a job, that installation inspector cannot be replaced without the department's approval. Installation inspectors must verify that any local permit and notice requirements are in place.

**567—134.15(455B) UST remover certification requirements.**

**134.15(1)** *Qualifications.* A person removing any UST system shall be certified as a remover. In addition to the certification requirements listed under 567—134.6(455B), a remover shall provide documentation of at least two years of removal or other relevant experience and complete a 40-hour OSHA HAZWOPER training.

**134.15(2)** *Renewal qualifications.* To be eligible for certification renewal, a remover shall:

*a.* Fulfill the department's continuing education requirements in 567—134.8(455B);

*b.* Comply with department-issued UST closure guidance in 567—Chapter 135; and

*c.* Complete an annual eight-hour HAZWOPER refresher course.

**134.15(3)** *Responsibilities and documentation of work performed.* A certified remover shall be on site during the performance of all UST closure-related work, including subcontracted work, for which the owner/operator has contracted to have completed by the remover. Removers are responsible for ensuring that all work performed complies with OSHA safety requirements. Removers shall submit to the department a notification of closure form 30 days prior to the scheduled removal or fill in place as required in 567—subrule 135.15(2). Removers shall submit to the department the closure report within 45 days of removal or fill in place as required in 567—paragraph 135.15(3)*"e."* Removers shall ensure that all local permits and notice requirements are satisfied.

**567—134.16(455B) Conflict of interest.**

**134.16(1)** A certified individual or a company will not conduct a UST installation inspection for any facility at which the certificate holder is engaged in other professional services regulated under this chapter.

**134.16(2)** A person working for a certified company as an installer, liner, remover, or tester shall not provide services as an installation inspector on sites where UST systems are being installed or lined by the person's prior employer until six months after leaving the prior employer's certified company. If a certified individual is no longer employed by a certified company, the certified company shall notify the department within 30 days of that occurrence.

**567—134.17(455B) Duty to report.** Any individual or company certified as a compliance inspector, installer, installation inspector, tester, liner, or remover shall timely report suspected and confirmed releases within 24 hours of discovery (6 hours if a hazardous condition exists) as described in 567—135.6(455B) to the owner and operator. The certificate holder shall recommend to the owner and operator any release confirmation actions or other investigatory and response actions that in the certificate holder's judgment would be consistent with the requirements of 567—135.6(455B). The certificate holder shall report to the department within seven days of discovering a confirmed release. The certificate holder is not responsible for reporting a suspected release as described in 567—135.6(455B) directly to the department.

**567—134.18(455B) Disciplinary actions—suspension, revocation and denial of certification.**

**134.18(1)** *General.*

*a.* It is the policy of the department to enforce standards of professional and ethical conduct that are generally accepted within the professions that qualify a person for certification in Iowa. The department intends to investigate and enforce standards of conduct by a certificate holder that fall within the scope of the certificate holder's relationship with the department. The department may impose disciplinary actions, which may include notice of deficiency, probation, suspension, revocation, or denial of a certificate.

*b.* The suspension or revocation of a certificate shall prevent the certificate holder from engaging in activities for which certification is required. A certificate holder shall immediately surrender the certificate after the effective date of a suspension or revocation decision. The department may reinstate the certification if it is determined the person has satisfied the terms of the suspension order and the certification has not expired. Additional education, training, and reexamination may be required as a condition of reinstatement.

*c.* A notice of deficiency may be issued to any certificate holder for any reason below and is not appealable pursuant to 134.18(5).

**134.18(2)** *Reasons for discipline for groundwater professionals.* The department may impose probationary requirements or suspend, revoke or deny certification as a groundwater professional for any of the following reasons:

*a.* A material misstatement of fact in an application for certification.

*b.* Failure to provide the fee for certification.

*c.* Loss of license, certification, or registration necessary to meet the certification requirements in 567—134.9(455B).

*d.* Insufficient proof of qualifications required under 567—134.9(455B).

*e.* Failure to successfully complete the certification requirements.

*f.* Default on an obligation owed to or collected by the state as provided in Iowa Code section 421.17(27)*"e."*

*g.* Fraudulent omissions or misstatements of material fact in any reports, correspondence or communications with the department.

*h.* Violation of an ethical standard that the person knew or should have known and that results in or reasonably could have resulted in material consequences.

*i.* Failure to report the presence of contamination to the parties reasonably believed to be responsible for reporting the contamination to the department as provided in 567—Chapter 131 and 567—135.6(455B).

*j.* Knowingly making a materially false statement, representation or certification on any application, record, report, or document maintained or submitted to the department.

*k.* Gross incompetence in the performance of groundwater professional services and corrective action.

*l.* Material misstatement of facts or misrepresentation of information provided pursuant to Iowa Code chapter 455B, subchapter IV, part 8.

*m.* Repeated acts or omissions that, when taken together, indicate a lack of competency, professionalism, ethical conduct, or adherence to standards of performance generally expected by the profession. The severity of the sanction may be based on the gravity of the acts or omissions and the degree of culpability. Disciplinary sanctions under this subrule will not be applied without providing the person with at least one written notice of the deficiency and a written warning that future repetition may result in discipline. Conduct or omissions that may be a basis for discipline include but are not limited to the following:

(1) Repeated incidents of substandard field investigation will result in suspension or revocation.

(2) Repeated incidents of substandard, inaccurate or incomplete site cleanup reports and failure to follow site cleanup report instructions will result in suspension or revocation.

(3) Conduct warranting a sanction after prior suspension will result in a revocation.

**134.18(3)** *Reasons for discipline for compliance inspectors.*

*a.* *Probation or suspension.* The department may impose probationary requirements or suspend the certification of a certified inspector for good cause. The suspension may require the certificate holder to take remedial measures intended to correct or prevent future acts and omissions. Good cause includes but is not limited to:

(1) A violation of these rules.

(2) Negligent misrepresentation of material facts in a compliance report.

(3) Negligent failure to identify a material violation of UST operation and maintenance standards set out in 567—134.10(455B).

(4) Repeated failure to conduct compliance inspections and submit reports in accordance with the standards set out in 567—134.10(455B).

(5) Incompetence on the part of the certified inspector as evidenced by errors in the performance of duties and activities for which the certification was issued.

(6) Repeated failure to submit reports of inspection activities to the department or the owner and operator as provided in 567—134.10(455B).

*b.* *Revocation.* The department may revoke the inspector certification for one or more of the following:

(1) Willful disregard of, or willful or repeated violations of, this chapter or 567—Chapter 135.

(2) Fraudulent omissions or misstatements of material facts in a compliance inspection report or in other written or oral communications with the department.

(3) A knowing and willful failure to detect and report a material violation of UST operation and maintenance standards as part of a compliance inspection required by 567—135.19(455B).

(4) Acts or omissions warranting suspension after having certification previously suspended.

(5) The revocation of a certification as an installer or installation inspector under 567—134.11(455B) or 567—134.14(455B).

**134.18(4)** *Reasons for discipline for all other certificate holders.*

*a.* *Probation or suspension.* The department may impose probationary requirements or suspend the certificate of any other individual or company certified under this chapter for good cause. A suspension may require the certificate holder to take remedial measures intended to correct or prevent future acts or omissions. Good cause includes but is not limited to:

(1) A violation of these rules.

(2) Negligent misrepresentation of material facts in a report submitted to the department.

(3) Incompetence on the part of the certificate holder as evidenced by errors in the performance of duties and activities for which the certificate was issued.

(4) Repeated failure to submit reports of activities to the department or the owner/operator as provided in this chapter.

*b.* *Revocation.* The department may revoke the certification of a company or individual for one or more of the following:

(1) Willful disregard of, or willful or repeated violations of, this chapter or 567—Chapter 135.

(2) Omissions or misstatements of material facts in a report or in other written or oral communications with the department.

(3) A knowing and willful failure to detect and report a material violation of UST operation and maintenance standards.

(4) Acts or omissions warranting suspension after a certification was previously suspended.

**134.18(5)** *Disciplinary procedure for all certificate holders.*

*a.* Prior to issuance of a final department action imposing a disciplinary sanction of probation, suspension, revocation, or denial of certification, the department shall conduct such lawful investigation as it deems necessary to substantiate material facts sufficient to warrant a disciplinary sanction.

*b.* Written notice of a sanction shall be sent by certified mail to the person against whom the sanction is imposed. The notice shall provide a brief explanation of the facts relied upon and the sanction to be imposed. The notice shall inform the recipient of applicable appeal rights.

*c.* A person may appeal a decision imposing a probation, suspension, revocation or denial of certification within 30 days of receipt of the notice. Upon timely receipt of the notice of appeal, contested case procedures, including informal settlement, shall apply as provided in 7—Chapter 2506 and 561—Chapter 2506. In accordance with 7—subrule 2506.11(1), the department shall initiate pleading by the filing of a petition.

*d.* If a timely appeal has not been filed, the sanction is effective after 30 days from receipt of the notice. A party may request stay of the sanction, as provided in rule 7—2506.29(17A), after issuance of a proposed decision.

**134.18(6)** *Noncompliance with support order procedures.* Upon receipt of a certification of noncompliance with a support obligation as provided in Iowa Code section 252J.7, the department will initiate procedures to deny an application for certification or renewal or to suspend a certification in accordance with Iowa Code section 252J.8(4). The department shall issue a notice by certified mail to the person of its intent to deny or suspend professional certification based on receipt of a certification of noncompliance. The suspension or denial shall be effective 30 days after receipt of the notice unless the person provides the department with a withdrawal of the certificate of noncompliance from the child support recovery unit as provided in Iowa Code section 252J.8(4)*"c."* Pursuant to Iowa Code section 252J.8(4), the person does not have a right to a hearing before the department to contest the denial or suspension action under this subrule but may seek a hearing in district court in accordance with Iowa Code section 252J.9.

These rules are intended to implement Iowa Code section 455B.474 and chapter 252J.

[Filed 7/24/26, effective 9/23/26]
[Published 8/19/26]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

## ARC 0491D

# ENVIRONMENTAL PROTECTION COMMISSION[567]

**Adopted and Filed**

**Rulemaking related to technical standards and corrective action requirements**

The Environmental Protection Commission (Commission) hereby rescinds Chapter 135, "Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks," Iowa Administrative Code, and adopts a new Chapter 135 with the same title.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code section 455B.474.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 455B.474 and 40 CFR Parts 280 and 281.

*Purpose and Summary*

Chapter 135 establishes the requirements to regulate underground storage tanks (USTs) used for storage of regulated substances and includes rules relating to detection, prevention, and correction of releases of regulated substances from such USTs; maintenance of financial responsibility by owners or operators of USTs; new UST performance standards; notice and reporting requirements; and designation of regulated substances. The purpose of these rules is to protect the public health and safety and the natural resources of Iowa by the timely and appropriate detection, prevention, and correction of releases of regulated substances from USTs. Chapter 135 was reviewed consistent with Executive Order 10. Unnecessary and obsolete rules have been removed, and updates and clarification have been made.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 7, 2026, as **ARC 9933C**. An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on June 10, 2026, as **ARC 0357D**. A public hearing was held on the following date(s):

- June 30, 2026
- July 1, 2026

The first hearing had three attendees from the public and was attended by EPA Region 7 staff. The second hearing had no attendees. One comment was received regarding the appropriate signage at unstaffed facilities.

Changes from the Amended Notice have been made based on this comment to provide the public clear instructions on what language to use for the such signs.

*Adoption of Rulemaking*

This rulemaking was adopted by the Commission on July 21, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to Iowa Code section 17A.9A and 7—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on September 23, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind 567—Chapter 135 and adopt the following **new** chapter in lieu thereof:

CHAPTER 135
TECHNICAL STANDARDS AND CORRECTIVE ACTION REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS

**567—135.1(455B) Authority, purpose and applicability.**

**135.1(1)** *Authority.* Iowa Code chapter 455B, subchapter IV, part 8, authorizes the department to regulate underground tanks used for storage of regulated substances, and to adopt rules relating to detection, prevention and correction of releases of regulated substances from such tanks, maintenance of financial responsibility by owners or operators of such tanks, new tank performance standards, notice and reporting requirements, and designation of regulated substances.

**135.1(2)** *Purpose.* The purpose of these rules is to protect the public health and safety and the natural resources of Iowa by timely and appropriate detection, prevention and correction of releases of regulated substances from underground storage tanks (UST).

**135.1(3)** *Applicability.*

*a.* In conjunction with the requirements of Iowa Code chapter 455B, subchapter IV, part 8, the requirements of this chapter apply to all owners and operators of a UST system as defined in 567—135.2(455B) except as otherwise provided in 135.1(3)*"b"* and *"c."*

(1) Previously deferred UST systems. Airport hydrant fuel distribution systems, UST systems with field-constructed tanks, and UST systems that store fuel solely for use by emergency power generators must meet the requirements of these rules as follows:

1. Airport hydrant fuel distribution systems and UST systems with field-constructed tanks must meet the requirements in 567—135.20(455B).

2. UST systems that store fuel solely for use by emergency power generators installed on or before November 28, 2007, must meet the requirements in 567—135.5(455B) by October 13, 2021.

3. UST systems that store fuel solely for use by emergency power generators installed after November 28, 2007, must meet all applicable requirements of this chapter at installation.

(2) Any UST system listed in 135.1(3)*"c"* must meet the requirements of 135.1(4).

*b.* Exclusions. The following UST systems are excluded from the requirements of this chapter:

(1) Any UST system holding hazardous wastes listed or identified under Subtitle C of the Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances.

(2) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the federal Clean Water Act.

(3) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

(4) Any UST system whose capacity is 110 gallons or less.

(5) Any UST system that contains a de minimis concentration of regulated substances.

(6) Any emergency spill or overflow containment UST system that is expeditiously emptied after use.

*c.* Partial exclusions. Rules 567—135.3(455B), 567—135.4(455B), 567—135.5(455B), 567—135.6(455B), 567—135.15(455B) and 567—135.20(455B) do not apply to any of the following types of UST systems:

(1) Wastewater treatment tank systems;

(2) Any UST systems containing radioactive material that are regulated under the federal Atomic Energy Act of 1954 (42 U.S.C. 2011 and following);

(3) Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR 50 Appendix A;

(4) Aboveground storage tanks associated with:

1. Airport hydrant fuel distribution systems regulated under 567—135.20(455B); and

2. UST systems with field-constructed tanks regulated under 567—135.20(455B).

*d.* Nonpetroleum underground storage tank systems. Rules 567—135.8(455B) through 567—135.12(455B) do not apply to any nonpetroleum underground storage tank system, except as otherwise provided for by the department.

**135.1(4)** *Installation requirements for partially excluded UST systems.*

*a.* Owners and operators must install a UST system listed in 135.1(3)*"c"*(1) through *"c"*(3) storing regulated substances (whether of single- or double-wall construction) that meets the following requirements:

(1) Will prevent releases due to corrosion or structural failure for the operational life of the UST system;

(2) Is cathodically protected against corrosion, constructed of noncorrodible material, steel clad with a noncorrodible material, or designed in a manner to prevent the release or threatened release of any stored substance; and

(3) Is constructed or lined with material that is compatible with the stored substance.

*b.* Notwithstanding 135.1(4)*"a,"* a UST system without corrosion protection may be installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life. Owners and operators must maintain records that demonstrate compliance with the requirements of this paragraph for the remaining life of the tank.

NOTE: The codes of practice referenced in 40 CFR 280.11(b) may be used as guidance for complying with this subrule.

**135.1(5)** All rules, standards, technical guidance, and other similar legal or technical documents that are referenced in this chapter shall be the version of those documents in effect on May 27, 2026, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

**567—135.2(455B) Definitions.**

*"Aboveground release"* means any release to the surface of the land or to surface water. This includes but is not limited to releases from the aboveground portion of a UST system and aboveground releases associated with overfills and transfer operations as the regulated substance moves to or from a UST system.

*"Active remediation"* means corrective action undertaken to reduce contaminant concentrations by other than passive remediation or monitoring.

*"Airport hydrant fuel distribution system"* or *"airport hydrant system"* means a UST system that fuels aircraft and operates under high pressure with large diameter piping that typically terminates into one or more hydrants (fill stands). The airport hydrant system begins where fuel enters one or more tanks from an external source such as a pipeline, barge, rail car, or other motor fuel carrier.

*"Ancillary equipment"* means any devices including but not limited to such devices as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from a UST.

*"Appurtenances"* means devices such as piping, fittings, flanges, valves, dispensers and pumps used to distribute, meter, or control the flow of regulated substances to or from an underground storage tank.

*"Asbestos-cement pipe"* (AC refers to asbestos-cement) means a pipe or conduit constructed of asbestos fiber and Portland cement, which can be used to transport water.

*"ASTM"* means the American Society of Testing and Materials.

*"Backflow preventer"* means a check valve used to ensure water flows in one direction and designed to prevent contamination from an end user, such as a home, from getting into the general water supply. An approved backflow preventer shall be a reduced-pressure backflow preventer or an antisiphon device that complies with the standards of the American Water Works Association and has been approved by the Foundation for Cross-Connection Control and Hydraulic Research.

*"Bedrock"* means the rock, usually solid, underlying soil or any other unconsolidated surficial cover.

*"Below-ground release"* means any release to the subsurface of the land and to groundwater. This includes but is not limited to releases from the below-ground portions of an underground storage tank system and below-ground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank.

*"Beneath the surface of the ground"* means beneath the ground surface or otherwise covered with earthen materials.

*"Best available technology"* means those practices that most appropriately remove, treat, or isolate contaminants from groundwater, soil or associated environment, as determined through professional judgment considering actual equipment or techniques currently in use, published technical articles, site hydrogeology and research results, engineering and groundwater professional reference materials, consultation with experts in the field, capital and operating costs, and guidelines or rules of other regulatory agencies.

*"Best management practices"* means maintenance procedures, schedule of activities, prohibition of practices, and other management practices, or a combination thereof, that, after problem assessment, is determined to be the most effective means of monitoring and preventing additional contamination of the groundwater and soil.

*"Biodiesel"* means a renewable fuel comprised of mono-alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats that is blended with petroleum-based diesel fuel that meets the standards provided in Iowa Code section 214A.2.

*"Carcinogenic risk"* means the incremental risk of a person developing cancer over a lifetime as a result of exposure to a chemical, expressed as a probability such as one in a million ($10^{-6}$). For carcinogenic chemicals of concern, probability is derived from application of certain designated exposure assumptions and a slope factor.

*"Cast iron pipe"* means a pipe or conduit used as a pressure pipe for transmission of water, gas, or sewage or as a water drainage pipe. It comprises predominantly a gray cast iron tube historically used uncoated, with newer types having various coatings and linings to reduce corrosion and improve hydraulics.

*"Cathodic protection"* is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

*"Cathodic protection tester"* means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons must have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems.

*"CERCLA"* means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended on October 17, 1986.

*"Certified company"* means a person or company that employs a person who meets all of the qualifications to install, upgrade, repair, test or line underground storage tank systems.

*"Certified individual"* means an individual who has received a certification to perform any of the activities regulated under this chapter.

*"Change-in-service"* means changing the use of a tank system from a regulated to a nonregulated use.

*"Chemicals of concern"* means the compounds derived from petroleum-regulated substances that are subject to evaluation for purposes of applying risk-based corrective action decision making. These compounds are benzene, ethylbenzene, toluene, and xylenes (BTEX) and naphthalene, benzo(a)pyrene, benz(a)anthracene, and chrysene. (NOTE: Concentration values for these last four constituents are determined by a conversion method from total extractable hydrocarbons, see 135.8(3).)

*"Child support recovery unit"* means the child support recovery unit created by Iowa Code section 252B.2.

*"Class A operator"* means the individual who has primary responsibility to operate and maintain the UST system in accordance with applicable requirements. The Class A operator typically manages resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements under this chapter.

*"Class B operator"* means the individual who has day-to-day responsibility for implementing applicable regulatory requirements established by the department. The Class B operator typically implements in-field aspects of operation, maintenance, and associated recordkeeping for the UST systems.

*"Class C operator"* means the individual responsible for initially addressing emergencies presented by a spill or release from a UST system. The Class C operator typically controls or monitors the dispensing or sale of regulated substances.

*"Code of Federal Regulation"* or *"CFR"* means the federal administrative rules adopted by the United States as amended through August 1, 2025.

*"Compatible"* means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the UST.

*"Conduit"* means underground structures that act as pathways and receptors for chemicals of concern, including but not limited to gravity drain lines and sanitary or storm sewers.

*"Connected piping"* means all underground piping including valves, elbows, joints, flanges, and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems should be allocated equally between them.

*"Consumptive use"* with respect to heating oil means consumed on the premises.

*"Containment sump"* means a liquid-tight container that protects the environment by containing leaks and spills of regulated substances from piping, dispensers, pumps and related components in the containment area. Containment sumps may be single-walled or secondarily contained and located at the top of the tank (tank top or submersible turbine sump pump), underneath the dispenser (under-dispenser containment sump), or at other points in the piping run (transition or intermediate sump).

*"Corrective action"* means an action taken to reduce, minimize, eliminate, clean up, control or monitor a release to protect the public health and safety or the environment. Corrective action includes but is not limited to excavation of an underground storage tank for the purpose of repairing a leak or removal of a tank, removal of contaminated soil, disposal or processing of contaminated soil, cleansing of groundwaters or surface waters, natural biodegradation, institutional controls, technological controls and site management practices. Corrective action does not include replacement of an underground storage tank. Corrective action specifically excludes third-party liability.

*"Corrective action meeting process"* means a series of meetings organized by department staff with owners or operators and other interested parties such as certified groundwater professionals, funding source representatives, and affected property owners. The purpose of the meeting process is to develop and agree on a corrective action plan and the terms for implementation of the plan.

*"Corrective action plan"* means a plan that specifies the corrective action to be undertaken by the owner or operator in order to comply with requirements in this chapter and that is incorporated into a memorandum of agreement or other written agreement between the department and the owner or operator. The plan may include but is not limited to provisions for additional site assessment, site monitoring, Tier 2 revisions, Tier 3 assessment, excavation, and other soil and groundwater remedial action.

*"Corrosion expert"* means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

*"Department"* means Iowa department of natural resources.

*"Dielectric material"* means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST systems (e.g., tank from piping).

*"Dispenser"* means equipment located above ground that dispenses regulated substances from the UST system.

*"Dispenser system"* means the dispenser and the equipment necessary to connect the dispenser to the underground storage tank system.

*"Drinking water well"* means any groundwater well used as a source for drinking water by humans and groundwater wells used primarily for the final production of food or medicine for human consumption.

*"Ductile iron pipe"* means a pipe or conduit commonly used for potable water distribution and for the pumping of sewage. The predominant wall material is ductile iron, a spheroidized graphite cast iron, and commonly has an internal cement mortar lining to inhibit corrosion from the carried water and various types of external coatings to inhibit corrosion from the environment.

*"Electrical equipment"* means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

*"Enclosed space"* means space that can act as a receptor or pathway capable of creating a risk of explosion or inhalation hazard to humans and includes "explosive receptors" and "confined spaces." Explosive receptors means those receptors designated in these rules that are evaluated for explosive risk. Confined spaces means those receptors designated in these rules for evaluation of vapor inhalation risks.

*"Ethanol"* means ethyl alcohol that is to be blended with gasoline if it meets the standards provided in Iowa Code section 214A.2.

*"Excavation zone"* means the volume containing the tank system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

*"Existing tank system"* means a tank system used to contain an accumulation of regulated substances or for which installation has commenced on or before January 14, 1987. Installation is considered to have commenced if:

1. The owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system; and

2. Either:

- A continuous on-site physical construction or installation program has begun; or
- The owner or operator has entered into contractual obligations, which cannot be canceled or modified without substantial loss, for physical construction at the site or installation of the tank system to be completed within a reasonable time.

*"Farm tank"* is a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

*"Field-constructed tank"* means a tank constructed in the field. For example, a tank constructed of concrete that is poured in the field or a steel or fiberglass tank primarily fabricated in the field is considered field-constructed.

*"Flow-through process tank"* is a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their

introduction into the production process or for the storage of finished products or by-products from the production process.

*"Free product"* refers to a regulated substance that is present as a light nonaqueous phase liquid (e.g., liquid not dissolved in water).

*"Gasket"* means any type of pipe seals made of a variety of rubbers including but not necessarily limited to styrene-butadiene rubber (SBR), nitrile-butadiene rubber (NBR or nitrile), ethylene propylene diene monomer (EPDM), neoprene (CR), and fluoroelastomer rubber (FKM), which are used to seal pipe connections.

*"Gathering lines"* means any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

*"Groundwater ingestion pathway"* means a pathway through groundwater by which chemicals of concern may result in exposure to a human receptor as specified in rules applicable to Tier 1, Tier 2 and Tier 3.

*"Groundwater plume"* means the extent of groundwater impacted by the release of chemicals of concern.

*"Groundwater professional"* is a person who provides subsurface soil contamination and groundwater consulting services, or who contracts to perform or who supervises remediation or corrective action services at leaking underground storage tank sites. Refer to Iowa Code section 455B.474.

*"Groundwater to water line pathway"* means a pathway through groundwater that leads to a water line.

*"Groundwater vapor to enclosed space pathway"* means a pathway through groundwater by which vapors from chemicals of concern may lead to a receptor creating an inhalation or explosive risk hazard.

*"Hazardous substance UST system"* means an underground storage tank system that contains a hazardous substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under subtitle C) or any mixture of such substances and petroleum and that is not a petroleum UST system.

*"Hazard quotient"* means the ratio of the level of exposure of a chemical of concern over a specified time period to a reference dose for that chemical of concern derived for a similar exposure period. Unless otherwise specified, the hazard quotient designated in these rules is one.

*"Heating oil"* means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy, and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

*"Highly permeable soils"* means for the purpose of UST closures: fractured bedrock, any soils with a hydraulic conductivity rate greater than 0.3 meters per day, or any soil material classified by the Unified Soil Classification System as published by the United States Department of the Interior or ASTM designation as (1) GW - well graded gravel, gravel-sand mixtures, little or no fines, (2) GP - poorly graded gravel, gravel-sand mixtures, little or no fines, (3) SW - well graded sands, gravelly sands, little or no fines, or (4) SP - poorly graded sands, gravelly sands, little or no fines.

*"Hydraulic conductivity"* means the rate of water movement through the soil measured in meters per day (m/d) as determined by the following methods. For a saturated soil, the Bouwer-Rice method or its equivalent shall be used. For unsaturated soil, use a Guelph permeameter or an equivalent in situ constant-head permeameter in a boring finished above the water table. If an in situ method cannot be used for unsaturated soil because of depth, or if the soil is homogeneous and lacks flow-conducting channels, fractures, cavities, etc., laboratory measurement of hydraulic conductivity is acceptable.

If laboratory methods are used, collect undisturbed soil samples using a thin-walled tube sampler in accordance with American Society of Testing and Materials (ASTM) Standard D1587. Samples shall be clearly marked, preserved and transported to the laboratory. The laboratory shall measure hydraulic conductivity using a constant-head permeameter in accordance with ASTM Standard D2434 or a falling-head permeameter in accordance with accepted methodology.

*"Hydraulic lift tank"* means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

*"Install"* or *"installation"* means the physical construction of a UST system including but not limited to activities such as excavating, backfilling, testing, placement of the tank, underground piping, release detection devices, corrosion protection systems, spill and overfill devices and any associated administrative activities such as notifications, recordkeeping and record submissions.

*"Installation inspector"* means a certified individual who is engaged in the inspection and approval of the installation of new or upgraded underground storage tank systems.

*"Installer"* means a certified individual or certified company engaged in the installation of a new underground storage tank system or the upgrading of underground storage tank systems.

*"Institutional controls"* means the restriction on use or access (for example, fences, deed restrictions, restrictive zoning) to a site or facility to eliminate or minimize potential exposure to a chemical(s) of concern. Institutional controls include any of the following:

1. A law of the United States or the state;
2. A regulation issued pursuant to federal or state laws;
3. An ordinance or regulation of a political subdivision in which real estate subject to the institutional control is located;
4. A restriction on the use of or activities occurring at real estate that are embodied in a covenant running with the land that:
   - Contains a legal description of the real estate in a manner that satisfies Iowa Code section 558.1 et seq.;
   - Is properly executed in a manner that satisfies Iowa Code section 558.1 et seq.;
   - Is recorded in the appropriate office of the county in which the real estate is located;
   - Adequately and accurately describes the institutional control; and
   - Is in the form of a covenant acceptable to the department.
5. Any other institutional control the owner or operator can reasonably demonstrate to the department that will reduce the risk from a release throughout the period necessary to ensure that no applicable target risk is likely to be exceeded.

*"In the aggregate"* means for all claims or suits in a single policy year seeking damages.

*"Light, nonaqueous-phase liquid"* or *"LNAPL"* means a light non-aqueous phase liquid (e.g., petroleum oil, gasoline, diesel fuel) that has a density less than water and is immiscible with water.

*"Liner"* means a certified company or an individual who provides services to install underground storage tank lining and to repair underground storage tanks.

*"Liquid trap"* means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants), for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

*"Maintenance"* means the normal operational upkeep to prevent an underground storage tank system from releasing product.

*"MCLs"* means the drinking water primary maximum contaminant levels set out in 567—41.3(455B).

*"Memorandum of agreement"* means a written agreement between the department and the owner or operator that specifies the corrective action that will be undertaken by the owner or operator in order to comply with requirements in this chapter and the terms for implementation of the plan. The plan may include but is not limited to provisions for additional site assessment, site monitoring, Tier 2 revisions, Tier 3 assessment, excavation, and other soil and groundwater remedial action.

*"Migrate"* or *"migrating"* means a LNAPL body that is expanding laterally into areas previously not impacted by LNAPL.

*"Mobile LNAPL"* means LNAPL that exists above residual saturation levels such that it can accumulate in monitoring wells constructed within its footprint or smear vertically with a rising or

falling water table but will not migrate or spread from its current footprint (i.e., move into monitoring wells beyond its current footprint).

*"Modification"* means to change a UST system currently in use by the installation of new UST system components. "Modification" includes but is not limited to the addition of corrosion protection to a previously lined tank, installation of new underground piping or replacement of existing underground piping, changing the primary release detection method, or adding secondary containment. "Modification" does not include those activities defined in this rule as "repair" or "replacement."

*"Motor fuel"* means a complex blend of hydrocarbons typically used in the operation of a motor engine, such as motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any blend containing one or more of these substances (for example, motor gasoline blended with alcohol).

*"New tank system"* means a tank system that will be used to contain an accumulation of regulated substances and for which installation has commenced after January 14, 1987. (See also "Existing Tank System.")

*"Noncarcinogenic risk"* means the potential for adverse systemic or toxic effects caused by exposure to noncarcinogenic chemicals of concern, expressed as the hazard quotient.

*"Noncommercial purposes"* with respect to motor fuel means not for resale.

*"Non-drinking water well"* means any groundwater well (except an extraction well used as part of a remediation system) not defined as a drinking water well including a groundwater well that is not properly plugged in accordance with department rules in 567—Chapters 39 and 49.

*"Nonresidential area"* means land that is not currently used as a residential area and that is zoned for nonresidential uses.

*"Obligor"* means a natural person as defined in Iowa Code section 252B.1 who has been ordered by a court or administrative agency to pay support.

*"On the premises where stored"* with respect to heating oil means UST systems located on the same property where the stored heating oil is used.

*"Operational life"* refers to the period beginning when installation of the tank system has commenced until the time the tank system is properly closed under 567—135.15(455B).

*"OSHA"* means the Occupational Safety and Health Administration.

*"Overexcavation"* refers to the excavation of subsurface materials outside the excavation zone for the purpose of removing contaminated substances.

*"Overfill release"* is a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

*"Pathway"* means a transport mechanism by which chemicals of concern may reach a receptor(s) or the location(s) of a potential receptor.

*"Permanent closure"* means removing all regulated substances from the tank system, assessing the site for contamination, and permanently removing tank and piping from the ground or filling the tank in place with a solid inert material and plugging all piping. Permanent closure also includes partial closure of a tank system such as removal or replacement of tanks or piping only.

*"Person who conveys or deposits a regulated substance"* means a person who sells or supplies the owner or operator with the regulated substance and the person who transports or actually deposits the regulated substance in the underground tank.

*"Petroleum UST system"* means an underground storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

*"Pipe"* or *"piping"* means a hollow cylinder or tubular conduit that is constructed of nonearthen materials and that routinely contains and conveys regulated substances.

*"Pipeline facilities (including gathering lines)"* are new and existing pipe rights-of-way and any associated equipment, facilities, or buildings.

*"Point of compliance"* means the location(s) at the source(s) of contamination or at the location(s) between the source(s) and the point(s) of exposure where concentrations of chemicals of concern must meet applicable risk-based screening levels at Tier 1 or other target level(s) at Tier 2 or Tier 3.

*"Point of exposure"* means the location(s) at which an actual or potential receptor may be exposed to chemicals of concern via a pathway.

*"Polybutylene pipe"* (PB refers to polybutylene) means a water supply pipe comprised of a form of plastic resin that was used extensively from 1978 until 1995. The piping systems were used for underground water mains and as interior water distribution piping. Polybutylene mains are usually blue in color, but may be gray, black, or white. The pipe is usually ½ inch or 1 inch in diameter, and it may be found entering a residence through the basement wall or floor, concrete slab or through the crawlspace; frequently it enters the residence near the water heater.

*"Polyethylene pipe"* (PE refers to polyethylene) means a water supply pipe comprised of thermoplastic material produced from the polymerization of ethylene. PE pipe is manufactured by extrusion in sizes ranging from ½ inch to 63 inches. PE pipe is available in rolled coils of various lengths or in straight lengths of up to 40 feet. PE pipe is available in many forms and colors, including single-extrusion colored or black pipe, black pipe with co-extruded color striping, and black or natural pipe with a co-extruded colored layer. PE pipe has been demonstrated to be very permeable to petroleum while still retaining its flexible structure.

*"Polyvinyl chloride pipe"* (PVC refers to polyvinyl chloride) means a pipe made from a plastic and vinyl combination material. The pipes are durable, hard to damage, and long-lasting. A PVC pipe is very resistant and does not rust, nor is it likely to rot or wear over time. PVC piping is most commonly used in water systems, underground wiring, and sewer lines.

*"Portland cement"* means hydraulic cement (cement that not only hardens by reacting with water but also forms a water-resistant product) and is produced by pulverizing clinkers consisting essentially of hydraulic calcium silicates, usually containing one or more forms of calcium sulfate as an inter ground addition.

*"Potential receptor"* means a receptor not in existence at the time a Tier 1, Tier 2 or Tier 3 site assessment is prepared but that could reasonably be expected to exist within 20 years of the preparation of the Tier 1, Tier 2 or Tier 3 site assessment or as otherwise specified in these rules.

*"Precision test"* means a tank and line tightness test that meets the requirements in 567—135.5(455B).

*"Preferential pathway"* means conditions that act as a pathway permitting contamination to migrate through soils and to groundwater at a faster rate than would be expected through naturally occurring undisturbed soils or unfractured bedrock including but not limited to wells, cisterns, tile lines, drainage systems, utility lines and envelopes, and conduits.

*"Protected groundwater source"* means a saturated bed, formation, or group of formations that has a hydraulic conductivity of at least 0.44 meters per day (m/d) and a total dissolved solids of less than 2,500 milligrams per liter (mg/l) or a bedrock aquifer with total dissolved solids of less than 2,500 milligrams per liter (mg/l) if bedrock is encountered before groundwater.

*"Public water supply well"* means a well connected to a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

*"Receptor"* means enclosed spaces, conduits, protected groundwater sources, drinking and non-drinking water wells, surface water bodies, and public water systems that when impacted by chemicals of concern may result in exposure to humans and aquatic life, explosive conditions or other adverse effects on health, safety and the environment as specified in these rules.

*"Reference dose"* means a designated toxicity value established in these rules for evaluating potential noncarcinogenic effects in humans resulting from exposure to a chemical(s) of concern. Reference doses are designated in Appendix A.

*"Regulated substance"* means an element, compound, mixture, solution or substance that, when released into the environment, may present substantial danger to the public health or welfare or the environment. "Regulated substance" includes:

1. Substances designated in Table 302.4 of 40 CFR Part 302 (September 13, 1988),

2. Substances that exhibit the characteristics identified in 40 CFR 261.20 through 261.24 (May 10, 1984) and that are not excluded from regulation as a hazardous waste under 40 CFR 261.4(b) (May 10, 1984),

3. Any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (but not including any substance regulated as a hazardous waste under subtitle C), and

4. Petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute). The term "regulated substance" includes but is not limited to petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

*"Release detection"* means determining whether a release of a regulated substance has occurred from the UST system into the environment or a leak has occurred into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

*"Removal"* means the process of removing and disposing of an underground storage tank system no longer in service or the process of abandoning an underground storage tank system in place in accordance with 567—135.15(455B).

*"Remover"* means a certified individual who is engaged in permanent closure activities by removal or filling in place of underground storage tank systems in accordance with 567—135.15(455B).

*"Repair"* means to restore to proper operating condition a tank, pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment or other UST system component that has caused a release of product from the UST system or has failed to function properly.

*"Replaced"* means:

1. For a tank: to remove a tank and install another tank.

2. For piping: to remove 50 percent or more of piping and install other piping, excluding connectors, connected to a single tank. For tanks with multiple piping runs, this definition applies independently to each piping run.

*"Replacement"* means the installation of a new underground tank system or component, in substantially the same location as an existing tank system or component.

*"Residential area"* means land used as a permanent residence or domicile, such as a house, apartment, nursing home, school, child care facility or prison, land zoned for such uses, or land where no zoning is in place.

*"Residential tank"* is a tank located on property used primarily for dwelling purposes.

*"Residual LNAPL"* means LNAPL that is bound in the soil and will not move into monitoring wells or smear with a rising or falling water table.

*"Risk-based screening level"* or *"RBSL"* means the risk-based concentration level for chemicals of concern developed for a Tier 1 analysis to be met at the point(s) of compliance and incorporated in the Tier 1 Look-up Table in Appendix A.

*"Secondary containment"* or *"secondarily contained"* means a release prevention and release detection system for a tank or piping. This system has an inner and outer barrier with an interstitial space monitored for leaks. This term includes containment sumps when used for interstitial monitoring of piping.

*"Secondary containment tank"* or *"secondary containment piping"* means a tank or piping that is designed with an inner primary shell and a liquid-tight outer secondary shell or jacket that extends around the entire inner shell, and that is designed to contain any leak through the primary shell from any part of the tank or piping that routinely contains product, and that also allows for monitoring of the interstitial space between the shells and the detection of any leak.

*"Self-insured retention"* means the portion of a claim paid by insureds who self-insure a portion of their risk as part of a policy. Expenses included as a part of the self-insured retention are the cost of claims settlements or suits, the cost of adjusting, legal fees, court costs and any other investigative cost associated with the claim.

*"Septic tank"* is a watertight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

*"Service line"* means a pipe connected to a business or residence from a water main, typically of a size not exceeding six inches in diameter, and including its gaskets and other appurtenances. For purposes of this chapter, service lines refer to pipes specifically used for drinking water transmission.

*"Service technician"* means a noncertified individual who works for a certified individual or a certified company or who is certified by a manufacturer to conduct modification or replacement activities at UST facilities.

*"Site assessment investigation"* means an investigation conducted by a certified groundwater professional to determine relevant site historical data, the types, amounts, and sources of petroleum contaminants present, hydrogeological characteristics of the site, full vertical and horizontal extent of the contamination in soils and groundwater, direction and rate of flow of the contamination, ranges of concentration of the contaminants by analysis of soils and groundwater, the vertical and horizontal extent of the contamination exceeding department standards, and the actual or potential threat to public health and safety and the environment.

*"Site cleanup report"* means the report required to be submitted by these rules and in accordance with department guidance that may include the results of Tier 2 or Tier 3 assessment and analysis.

*"Site-specific target level"* or *"SSTL"* means the risk-based target level(s) for chemicals of concern developed as the result of a Tier 2 or Tier 3 assessment that must be achieved at applicable point(s) of compliance at the source to meet the target level(s) at the point(s) of exposure.

*"Soil leaching to groundwater pathway"* means a pathway through soil by which chemicals of concern may leach to groundwater and through a groundwater transport pathway impact an actual or potential receptor.

*"Soil plume"* means the vertical and horizontal extent of soil impacted by the release of chemicals of concern.

*"Soil to water line pathway"* means a pathway that leads from soil to a water line.

*"Soil vapor to enclosed space pathway"* means a pathway through soil by which vapors from chemicals of concern may lead to a receptor creating an inhalation or explosive risk hazard.

*"Storm water or wastewater collection system"* means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

*"Surface impoundment"* is a natural topographic depression, constructed excavation, or diked area formed primarily of earthen materials (although it may be lined with manufactured materials) that is not an injection well.

*"Surface water body"* means general use segments as provided in 567—paragraph 61.3(1)*"a"* and designated use segments of water bodies as provided in 567—paragraph 61.3(1)*"b"* and 567—subrule 61.3(5).

*"Surface water criteria"* means, for chemicals of concern, the Criteria for Chemical Constituents in Table 1 of 567—61.3(455B), except that "1,000 µg/L" will be substituted for the chronic levels for toluene for Class B designated use segments.

*"Surface water pathway"* means a pathway that leads to a surface water body.

*"Tank"* is a stationary device designed to contain an accumulation of regulated substances and constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.

*"Target level"* means the allowable concentrations of chemicals of concern established to achieve an applicable target risk that must be met at the point(s) of compliance as specified in these rules.

*"Target risk"* refers to an applicable carcinogenic and noncarcinogenic risk factor designated in these rules and used in determining target levels (for carcinogenic risk assessment, target risk is a separate factor, different from exposure factors, both of which are used in determining target levels).

*"Technological controls"* means a physical action that does not involve source removal or reduction, but severs or reduces exposure to a receptor, such as caps, containment, carbon filters, point of use water treatment, etc.

*"Temporary closure"* means a regulated tank or UST system that has been out of operation for three months or more.

*"Tester"* means a certified company or individual who tests tanks, lines, leak detection systems, or monitoring systems as required by 567—Chapter 135. For the purposes of this definition, an owner, operator or an employee of an owner or operator performing leak detection or cathodic protection monitoring, as required by 567—Chapter 135, is not a tester.

*"Testing"* means the process of utilizing a system to test underground storage tank systems or any part thereof for tightness, leak detection, cathodic protection or monitoring.

*"Tier 1 level"* means the groundwater and soil levels in the Tier 1 Look-up Table set out in 567—135.9(455B) and Appendix A.

*"Tier 1 site assessment"* means the evaluation of limited site-specific data compared to the Tier 1 levels established in these rules for the purpose of determining which pathways do not require assessment and evaluation at Tier 2 and which sites warrant a no further action required classification without further assessment and evaluation.

*"Tier 2 site assessment"* means the process of assessing risk to actual and potential receptors by using site-specific contaminant concentrations and designated Tier 2 exposure and fate and transport models to determine the applicable target level(s).

*"Tier 3 site assessment"* means a site-specific risk assessment utilizing more sophisticated data or analytic techniques than a Tier 2 site assessment.

*"Training program"* means any program that provides information to and evaluates the knowledge of a Class A, Class B, or Class C operator through testing, practical demonstration, or another approach acceptable to the department regarding requirements for UST systems that meet the requirements of 135.4(6) through 135.4(12).

*"Under-dispenser containment "* or *"UDC"* means containment underneath a dispenser system designed to prevent leaks from the dispenser and piping within or above the UDC from reaching soil or groundwater.

*"Underground area"* means an underground room, such as a basement, cellar, shaft or vault, providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

*"Underground release"* means any below-ground release.

*"Underground storage tank compliance inspector"* or *"UST compliance inspector"* means a person who inspects a regulated underground storage tank (UST) to satisfy the requirements of 567—135.19(455B) for compliance with UST technical standards in 567—Chapter 135.

*"Underground storage tank professional"* or *"UST professional"* means an individual certified by the department under 567—Chapter 134, excluding groundwater professionals and compliance inspectors. The certification program includes underground storage tank system installation, installation inspection, UST system testing, tank lining, cathodic protection installation/inspection, and UST removal. The certification issued will list the type of work the individual is certified to perform.

*"Underground utility vault"* means any constructed space accessible for inspection and maintenance associated with subsurface utilities.

*"Unit,"* in reference to child support, means the child support recovery unit created in Iowa Code section 252B.2.

*"Unreasonable risk to public health and safety or the environment"* means the Tier 1 levels for a Tier 1 site assessment, the applicable target level for a Tier 2 site assessment, and the applicable target level for a Tier 3 site assessment.

*"Upgrade"* means the addition or retrofit of some systems such as cathodic protection, lining, or spill and overfill controls to improve the ability of an underground storage tank system to prevent the release of product.

*"U.S. EPA"* means the United States Environmental Protection Agency.

*"UST system"* or *"tank system"* means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

*"Utility envelope"* means the backfill and trench used for any subsurface utility line, drainage system and tile line.

*"Wastewater treatment tank"* means a tank that is designed to receive and treat an influent wastewater through physical, chemical, or biological methods.

*"Water line"* means a hollow cylinder or tubular conduit that routinely contains and conveys potable water and is constructed of nonearthen materials, including but not limited to asbestos-cement, copper, high-density polyethylene (HDPE), polybutylene, polyethylene, and wood. Such piping includes any elbows, couplings, unions, valves, or other in-line fixtures, as well as the gaskets, that contain and convey potable water.

*"Water main pipe"* means a main line to the water distribution system with feeder lines or service lines connected to it and that typically is six inches or greater in diameter, and includes its gaskets and other appurtenances.

**567—135.3(455B) UST systems—design, construction, installation and notification.**

**135.3(1)** *Performance standards for new UST systems.* In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, all owners and operators of new UST systems must meet the following requirements. The UST system must be secondarily contained in accordance with 135.3(8).

*a.* *Tanks.* Each tank must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:

(1) The tank is constructed of fiberglass-reinforced plastic; or

NOTE: The codes of practice referenced in 40 CFR 280.20(a)(1) may be used to comply with 135.3(1)*"a"*(1).

(2) The tank is constructed of steel and cathodically protected in the following manner:

1. The tank is coated with a suitable dielectric material.

2. Field-installed cathodic protection systems are designed by a corrosion expert.

3. Impressed current systems are designed to allow determination of current operating status as required in 135.4(2)*"c."*

4. Cathodic protection systems are operated and maintained in accordance with 135.4(2) or according to guidelines established by the department.

(3) The tank is constructed of steel and clad or jacketed with a noncorrodible material; or

NOTE: The industry codes referenced in 40 CFR 280.20(3) may be used to comply with 135.3(1)*"a"*(3).

(4) The tank is constructed of metal without additional corrosion protection measures provided that:

1. The tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life; and

2. Owners and operators maintain records that demonstrate compliance with the requirements of 135.3(1)*"a"*(4)"1" for the remaining life of the tank; or

(5) The tank construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than 135.3(1)*"a"*(1) through *"a"*(4).

*b.* *Piping.* The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified in this rule. This includes piping for remote tank fill locations.

All piping must have secondary containment, installed according to manufacturer's specifications, and be compatible with the product stored and the environment to which it will be exposed. Piping must maintain its original specifications and structural integrity. Piping whose structural integrity has degraded must be replaced. All piping installations must meet National Fire Prevention Association

Standard 30 and Standard 30A or the International Fire Code as adopted by the Iowa state fire marshal in 481—Chapter 282, "Flammable or Combustible Liquids."

(1) The piping is constructed of a noncorrodible material; or

NOTE: The codes of practice referenced in 40 CFR 280.20(b)(1) may be used to comply with 135.3(1)*"b"*(1).

(2) The piping is constructed of steel and cathodically protected in the following manner:

1. The piping is coated with a suitable dielectric material;

2. Field-installed cathodic protection systems are designed by a corrosion expert;

3. Impressed current systems are designed to allow determination of current operating status as required in 135.4(2)*"c"*; and

4. Cathodic protection systems are operated and maintained in accordance with 135.4(2) or guidelines established by the department; or

NOTE: The codes of practice referenced in 40 CFR 280.20(b)(2) may be used to comply with 135.3(1)*"b"*(2).

(3) The piping is constructed of metal without additional corrosion protection measures provided that:

1. The piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life; and

2. Owners and operators maintain records that demonstrate compliance with the requirements of 135.3(1)*"b"*(3)"1" for the remaining life of the piping; or

(4) The piping construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in 135.3(1)*"b"*(1) through *"b"*(3).

*c. Spill and overfill prevention equipment.*

(1) Except as provided in 135.3(1)*"b"*(2), to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators must use the following spill and overfill prevention equipment:

1. Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin); and

2. Overfill prevention equipment that will:

- Automatically shut off flow into the tank when the tank is no more than 95 percent full; or
- Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank (not allowed for suction product delivery systems, for tanks with stage 1 vapor recovery or when product delivery is by pumping) or triggering a high-level alarm; or
- Restrict flow 30 minutes prior to overfilling, alert the transfer operator with a high-level alarm one minute before overfilling, or automatically shut off the flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling.

(2) Owners and operators are not required to use the spill and overfill prevention equipment specified in 135.3(1)*"b"*(1) if:

1. Alternative equipment is used that is determined by the department to be no less protective of human health and the environment than the equipment specified in 135.3(1)*"b"*(1)"1" or "2"; or

2. The UST system is filled by transfers of no more than 25 gallons at one time.

(3) Flow restrictors used in vent lines may not be used to comply with 135.3(1)*"c"*(1)"2" when overfill prevention is installed or replaced.

(4) Spill and overfill prevention equipment must be periodically tested or inspected in accordance with 135.4(12).

(5) Spill prevention equipment must be kept free of any liquid and debris. Any liquid or debris must be removed prior to product delivery.

*d. Installation.* The UST system must be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions. The UST system installation shall be conducted by an installer certified by the department under 567—Chapter 134 and in accordance with 567—subrules 134.11(3) and 134.11(4).

NOTE: Tank and piping system installation practices and procedures described in the codes referenced in 40 CFR 280.20(d) may be used to comply with the requirements of 135.3(1)*"d."*

*e. Certification of installation.* All owners and operators must ensure that the following methods of certification, testing, and inspection are used to demonstrate compliance with 135.3(1)*"d"* by providing a certification of compliance on the UST registration form in accordance with 135.3(3).

(1) The installer is certified by the department as provided in 567—Chapter 134; and

(2) The installation has been inspected by a certified installation inspector as required by 567—Chapter 134.

*f. Dispenser systems.* Each UST system must be equipped with under-dispenser containment (UDC) for any new or replaced dispenser system.

(1) A dispenser system is considered new when both the dispenser and the equipment needed to connect the dispenser to the underground storage tank system are installed at a location where there previously was no dispenser (new UST system or new dispenser location at an existing UST system). The equipment necessary to connect the dispenser to the underground storage tank system includes check valves, shear valves, unburied risers or flexible connectors, or other transitional components that are underneath the dispenser and connect the dispenser to the underground piping.

(2) UDC shall be installed whenever an existing dispenser system is removed and replaced with another dispenser and the equipment used to connect the dispenser to the underground storage tank system is replaced. This equipment includes flexible connectors or risers or other transitional components that are beneath the dispenser and connect the dispenser to the piping. UDC is not required when only the emergency shutoff or shear valves or check valves are replaced.

(3) UDC must be liquid-tight on its sides, bottom, and at any penetrations. UDC must allow for visual inspection and access to the components in the containment system or be periodically monitored for leaks from the dispenser system.

**135.3(2)** *Upgrading of existing UST systems.* Owners and operators must permanently close any UST system that does not meet the new UST system performance standards or has not been upgraded in accordance with 135.3(2)*"b"* through *"d."* This subrule does not apply to previously deferred UST systems. Upgrading is no longer allowed for UST systems not upgraded by December 22, 1998.

*a. Alternatives allowed.* Not later than December 22, 1998, all existing UST systems had to comply with one of the following requirements:

(1) New UST system performance standards under 135.3(1);

(2) The upgrading requirements in 135.3(2)*"b"* through *"d"*; or

(3) Closure requirements under 567—135.15(455B), including applicable requirements for corrective action under 567—135.7(455B) through 567—135.12(455B).

*b. Tank upgrading requirements.* Steel tanks had to be upgraded to meet one of the following requirements in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory:

(1) Interior lining. Tanks upgraded by internal lining must meet the following:

1. The lining was installed in accordance with the requirements of 135.4(4), and

2. Within ten years after lining, and every five years thereafter, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications.

3. If the internal lining is no longer performing in accordance with original design specifications and cannot be repaired in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, the lined tank must be permanently closed in accordance with 567—135.15(455B).

(2) Cathodic protection. Tanks upgraded by cathodic protection meet the requirements of 135.3(1)*"a"*(2)"2," "3," and "4" and the integrity of the tank was ensured using one of the following methods:

1. The tank was internally inspected and assessed to ensure that the tank was structurally sound and free of corrosion holes prior to installing the cathodic protection system; or

2. The tank had been installed for less than ten years and is monitored monthly for releases in accordance with 135.5(4)*"d"* through *"i"*; or

3. The tank had been installed for less than ten years and was assessed for corrosion holes by conducting two tightness tests that meet the requirements of 135.5(4)*"c."* The first tightness test must have been conducted prior to installing the cathodic protection system. The second tightness test must have been conducted between three and six months following the first operation of the cathodic protection system; or

4. The tank was assessed for corrosion holes by a method that is determined by the department to prevent releases in a manner that is no less protective of human health and the environment than 135.3(2)*"b"*(2)"1" through "3."

(3) Internal lining combined with cathodic protection. Tanks upgraded by both internal lining and cathodic protection must have met the following:

1. The lining was installed in accordance with the requirements of 135.4(4); and

2. The cathodic protection system was installed within six months of lining installation and meets the requirements of 135.3(1)*"a"*(2)"2," "3," and "4."

NOTE regarding 135.3(2)*"b"*: The codes referenced in 40 CFR 280.21 are options for complying with 135.3(2)*"b."*

NOTE regarding 135.3(2)*"b"*(1)"2": The codes referenced in 40 CFR 280.21(b)(1)(ii) may be used to comply with the periodic lining inspection requirement of this subrule.

*c. Piping upgrading requirements.* Metal piping that routinely contains regulated substances and is in contact with the ground must be cathodically protected in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and must meet the requirements of 135.3(1)*"b"*(2)"2," "3," and "4."

NOTE: The codes of practice listed in 40 CFR 280.21(c) may be used to comply with this requirement.

*d. Spill and overfill prevention equipment.* To prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems must comply with UST system spill and overfill prevention equipment requirements specified in 135.3(1)*"c."*

**135.3(3)** *Registration and notification requirements.*

*a.* Except as provided in 135.3(3)*"b,"* the owner of an underground storage tank existing on or before July 1, 1985, shall complete and submit to the department a copy of the registration form provided by the department.

*b.* The owner of an underground storage tank system taken out of operation between January 1, 1974, and July 1, 1985, shall complete and submit to the department a copy of the registration form provided by the department unless the owner knows the tank has been removed from the ground. For purposes of this subrule, "owner" means the person who owned the tank immediately before the discontinuation of the tank's use.

*c.* An owner or operator who brings into use an underground storage tank system after July 1, 1985, shall complete and submit to the department a copy of the registration form provided by the department within 30 days of the final installation inspection required in 567—subparagraph 134.14(3)*"c"*(3) by a certified installation inspector. The owner or operator shall not allow the deposit of any regulated substance into the tank without prior approval of the department or until the permanent registration tag and annual tank tag have been attached to the tank fill pipe and the tank system is covered by an approved financial responsibility mechanism in accordance with 567—Chapter 136.

*d.* All owners and operators of new UST systems must provide UST system details and a site diagram and certify in the registration form compliance with the following requirements:

(1) Installation of tanks and piping under 135.3(1)*"e"*;

(2) Cathodic protection of steel tanks and piping under 135.3(1)*"a"* and *"b"*;

(3) Financial responsibility under 567—Chapter 136;

(4) Release detection methods under 135.5(2) and 135.5(3);

(5) Class A and B operator certification under 135.4(6);

(6) NESHAP Stage 1 vapor recovery.

*e.* All owners and operators of new UST systems must ensure that the certified installer certifies in the registration form that the methods used to install the tanks and piping comply with the requirements in 135.3(1)*"d."*

*f.* Exemption from reporting requirement. Paragraphs 135.3(1)*"a"* through *"c"* do not apply to an underground storage tank for which notice was given pursuant to Section 103, Subsection c, of the Comprehensive Environmental Response, Compensation, and Liabilities Act of 1980. (42 U.S.C. Subsection 9603(c)).

*g.* Notification requirement for installing a tank. A person installing an underground storage tank and the owner or operator of the underground storage tank must notify the department of their intent to install the tank 30 days prior to installation. Notification shall be on a form provided by the department.

*h.* Notice requirement for acquiring a UST system. A person, company or lending institution that assumes ownership or operation of a regulated underground storage tank must submit notification to the department on a form provided by the department within 30 days of acquisition and prior to tank operation. The owner must include copies of training certificates for the Class A and Class B operators (135.4(6)) and proof of financial responsibility required in 567—Chapter 136. The new owner is responsible for any current tank management fees that have not been previously paid.

*i.* It is unlawful for a person to deposit or accept a regulated substance into an underground storage tank if the person has received notice from the department that the underground storage tank is subject to a delivery prohibition or if there is a "red tag" attached to the UST fill pipe or fill pipe cap as provided in 135.3(7).

(1) The department may provide written authorization to receive a regulated substance when conditions warrant.

(2) The department may provide known depositors of regulated substances lists of underground storage tank sites that have been issued tank tags, those that have not been issued tank tags, and those subject to a delivery prohibition pursuant to 135.3(7). These lists do not remove the requirement for depositors to verify that current tank tags are affixed to the fill pipe prior to delivering product.

(3) A person shall not accept or deposit a regulated substance in an underground storage tank after receiving written or oral notice from the department that the tank is not covered by an approved form of financial responsibility in accordance with 567—Chapter 136.

**135.3(4)** *Farm and residential tanks.*

*a.* The owner or operator of a farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes is subject to the requirements of this subrule.

*b.* Farm and residential tanks, installed before July 1, 1987, are required to be registered with the department.

*c.* Farm and residential tanks installed on or after July 1, 1987, must be in compliance with all the underground storage tank regulations.

**135.3(5)** *Registration tags and annual management fee.*

*a.* Tanks of 1,100 gallons or less capacity that have registered with the department will be issued a permanent registration tag.

*b.* The owner or operator of tanks over 1,100-gallon capacity must submit a tank management fee form and fee payment of $65 per tank by January 15 of each year.

(1) An additional $250 per tank late fee must be paid if the tank management fee is not paid by March 1.

(2) The owner or operator must submit proof that the tanks are covered by an approved form of financial responsibility in accordance with 567—Chapter 136.

(3) Upon proper payment of the fee and acceptable proof of financial responsibility, and a determination there are no outstanding compliance violations, a one-year renewal tag will be issued for the period from April 1 to March 31.

(4) If there are outstanding compliance violations, the annual tank tags may be withheld until the violations are corrected.

(5) The department shall refund a tank management fee if the tank is permanently closed prior to April 1 for that year.

*c.* The owner or operator shall affix the tag to the fill pipe of the underground storage tank where it will be readily visible.

*d.* A person who conveys or deposits a regulated substance shall inspect the underground storage tank to determine the existence or absence of a permanent registration tag, a current annual renewal tag, or a delivery prohibition "red tag" as provided in 135.3(7). If a current annual renewal tag, or a silver permanent tag for regulated tanks less than 1,100 gallons is not affixed to the fill pipe or fill pipe cap or if a delivery prohibition "red tag" is displayed, the person shall not deposit the substance in the tank.

**135.3(6)** *Previously unregistered petroleum underground storage tanks.* A petroleum underground storage tank required to be registered under 135.3(3) and 135.3(4) that has not been registered shall be registered under the following conditions:

*a.* The tank registration fee under Iowa Code section 455B.473(4) and 455B.473(5) shall accompany the registration.

*b.* The storage tank management fee and any late fees under Iowa Code section 455B.473(8)*"b"* shall be paid for past years in which the tank should have been registered.

*c.* The department may waive the late fee(s).

**135.3(7)** *Delivery prohibition process.*

*a.* *Identifying sites subject to delivery response prohibition action.*

(1) Annual renewal tag and tank management fee process. Owners and operators shall certify to the following on a form prepared by the department when applying for annual tank tags pursuant to 135.3(5):

1. Installation and performance of an approved UST and piping release detection method as provided in 567—135.5(455B), including an annual line tightness test and a line leak detector test if applicable.

2. Installation of an approved overfill and spill protection system as provided in 135.3(1)*"c."*

3. Installation of an approved corrosion protection system as provided in 135.3(1)*"a"* and *"b."*

4. If the UST system has been out of operation for more than three months, that the UST system has been temporarily closed in accordance with 567—135.15(455B) and a certification of temporary closure has been submitted to the department.

5. If the UST system has been removed or filled in place within the last 12 months, the date of removal or filling in place and whether a closure report has been submitted as provided in 567—135.15(455B).

(2) Sites with provisional status. If the UST system has been classified as operating under provisional status as provided in 135.3(7)*"c,"* owners and operators when applying for annual tank tags pursuant to 135.3(5) must certify on a form prepared by the department that the owners and operators are in compliance with an approved provisional status remedial plan as provided in 135.3(7)*"c."*

(3) Compliance inspections. The department may initiate a delivery prohibition response action based on: (1) a finding resulting from a third-party compliance inspection conducted pursuant to 567—135.19(455B); (2) a department investigation and inspection conducted pursuant to Iowa Code section 455B.475; or (3) review of a UST system check or other documentation submitted in response to a suspected release under 567—135.6(455B) or in response to a confirmed release under 567—135.7(455B).

*b.* *Delivery prohibition eligibility criteria.* A delivery prohibition response action may be initiated upon a finding that the UST system is out of compliance with department rules and meets the eligibility criteria as specified below. Reinstatement criteria define the standards and process for owners and operators to document that they have taken corrective action sufficient to authorize resumption of fuel to the USTs. Prior to initiation of the delivery prohibition, owners and operators are afforded a minimum level of procedural due process such as prior notice and the opportunity to present facts to dispute the finding. Where notice and the opportunity to take corrective action prior to initiation of a delivery prohibition response action are required, notice by the department or by a certified compliance inspector as provided in 567—135.19(455B) shall be sufficient.

If the department finds that any one of the following criteria has been satisfied, the department may initiate a delivery prohibition response action following the notice procedures outlined in 135.3(7)*"e."* After initiation of the delivery prohibition response action, the department will offer the owner or operator an opportunity to establish reinstatement criteria by written documentation and, if requested, an in-person meeting.

(1) An approved release detection method for USTs or UST piping is not installed, such as automatic tank gauging, groundwater monitoring wells and line leak detectors, and there is no record that an approved method such as inventory control, statistical inventory reconciliation, or interstitial space monitoring has been employed during the previous three months. If the owner or operator claims to have documentation that an approved release detection method has been conducted, the owner or operator will be given two business days to produce the documentation.

REINSTATEMENT CRITERIA: The owner or operator must submit results of a passing UST system precision tightness test at the 0.1 gallon-per-hour leak rate in 135.5(4)*"c"* and 135.5(5)*"b."* The owner or operator must also document installation and operation of an approved release detection system. This may include proof that a contract has been signed with a qualified statistical inventory reconciliation provider or that a qualified inventory control method has been implemented and training has been provided to onsite supervisory personnel.

(2) No documentation of a required annual line tightness test or line leak detector test has been provided, and the owner or operator has failed to conduct the required testing within 14 days of written notice by the department or a certified compliance inspector as provided in 567—135.19(455B).

REINSTATEMENT CRITERIA: The owner or operator must provide documentation of a passing line precision tightness test at the 0.1 gallon-per-hour leak rate in 135.5(5)*"b"* and a line leak detector test as provided in 135.5(5)*"a."*

(3) Overfill and spill protection is not installed.

REINSTATEMENT CRITERION: The owner or operator must provide documentation that overfill and spill protection equipment has been installed.

(4) A corrosion protection system is not installed or there is no record that an impressed current corrosion protection system has been in operation for the prior six months.

REINSTATEMENT CRITERIA: A manned entry tank integrity inspection must be completed prior to installation of a corrosion protection system, and the owner or operator must submit results of a passing UST system precision tightness test at the 0.1 gallon-per-hour leak rate in 135.5(4)*"c"* and 135.5(5)*"b."* A corrosion protection analysis must be completed and approved by the department.

(5) The owner or operator has failed to provide proof of financial responsibility in accordance with 567—Chapter 136.

REINSTATEMENT CRITERION: The owner or operator must submit acceptable proof of financial responsibility in accordance with 567—Chapter 136.

(6) A qualified UST system release detection method is installed and is being used but the documentation or the absence of documentation is sufficient to question the reliability of the release detection over the past 12-month period. The owner or operator shall be notified of the deficiencies, shall be given at least two business days to produce documentation of compliance and, if necessary, shall be required to conduct a leak detection system analysis and a system tightness test within 14 days. If the owner or operator fails to produce documentation of compliance or to conduct the system analysis and the UST system precision tightness test at the 0.1 gallon-per-hour leak rate in 135.5(4)*"c"* and 135.5(5)*"b,"* the department may initiate a delivery prohibition response action. Notice by the department or a compliance inspector as provided in 567—135.19(455B) shall be sufficient to initiate a delivery prohibition response action.

REINSTATEMENT CRITERIA: The owner or operator must submit documentation that the leak detection method analysis sufficiently documents compliance and explains the reasons for the accuracy and reliability concerns. If necessary, the owner or operator must submit passing results of a UST system precision tightness test at the 0.1 gallon-per-hour leak rate in 135.5(4)*"c"* and 135.5(5)*"b."*

(7) The owner or operator has failed to document completion of a three-year corrosion protection test or to repair defective corrosion protection equipment within 30 days after notice of the violation by the department or a certified compliance inspector as provided in 567—135.19(455B).

Reinstatement Criterion: The owner or operator must submit documentation of a three-year corrosion protection test as provided in 567—135.3(455B).

(8) The owner or operator has failed to complete a compliance inspection required by 567—135.19(455B) within 60 days after written notice of the violation by the department.

Reinstatement Criterion: The owner or operator must submit a compliance inspection report as provided in 567—135.19(455B).

(9) The owner or operator has failed to take necessary abatement action in response to a confirmed release as provided in 135.7(2) and 135.7(3).

Reinstatement Criterion: The owner or operator must document compliance with the abatement provisions in 135.7(2) and 135.7(3).

(10) The owner or operator has failed to undertake and document release investigation and confirmation steps within seven days in response to a suspected release as provided in 135.6(3)*"a."*

Reinstatement Criterion: The owner or operator must document release confirmation and system check as provided in 135.6(3)*"a."*

(11) The owner or operator has failed to provide documentation of Class A or B operator training.

Reinstatement Criterion: The owner or operator must submit a copy of the certificates of training for Class A and B operators.

(12) The owner or operator has failed to install required secondary containment.

Reinstatement Criterion: The owner or operator must document secondary containment has been installed as provided in 135.3(8).

(13) The owner or operator has failed to pay the annual tank management fee.

Reinstatement Criterion: The owner or operator must pay the current and any previous unpaid tank management fees in addition to any late fees as provided in 135.3(5)*"b."*

(14) When tanks are no longer in use or in temporary closure.

Reinstatement Criterion: The owner or operator must provide a completed Return to Service form along with required documents.

*c. Provisional status.* The department may classify a UST system as operating under a provisional status when the department documents a pattern of UST operation and maintenance violations under 567—135.3(455B) through 567—135.5(455B) and suspected release and confirmed release response actions under 567—135.6(455B) and 567—135.7(455B). The department shall provide the owner or operator with a notice specifying the basis for the proposed classification and a proposed remedial action plan. The objective of the remedial action plan is to provide the owner and operator an opportunity to undertake certain remedial actions sufficient to establish a reasonable likelihood that future regulatory compliance will be achieved.

The remedial action plan may include but is not limited to provisions for owner/operator training, development of a facility-specific compliance manual, more frequent third-party compliance inspections than otherwise required under 567—135.19(455B), monthly reporting, and retention of a third-party compliance manager/consultant. If the owner or operator and the department cannot reach agreement on a remedial action plan, the department may initiate enforcement action by issuance of an administrative order pursuant to 567—Chapter 10. This provision does not grant the owner or operator an entitlement to this procedure, and the department reserves all discretion to undertake an enforcement action and assess penalties as provided in Iowa Code sections 455B.476 and 455B.477.

*d. Administrative orders.* The department may impose a delivery prohibition as a remedy for violations of the operation and maintenance provisions in 567—135.3(455B) through 567—135.5(455B) and the suspected and confirmed release response actions in 567—135.6(455B) and 567—135.7(455B). This remedy may be in addition to the assessment of penalties as provided in Iowa Code section 455B.476 and other appropriate injunctive relief necessary to correct violations.

*e. Due process prior to initiation of a delivery prohibition response action.*

(1) Prior to imposing a delivery prohibition response action under 135.3(7)*"b"* above, the department will provide notice to the owner or operator or, if notice to the owner or operator cannot be confirmed, to a person in charge at the UST facility of the basis for the finding and the intent to initiate a delivery prohibition response action. Notice may be by verbal contact, by electronic mail, or by regular or certified mail to the UST facility address or the owner's or operator's last-known address. The owner and operator will be given a minimum of three business days to provide documentation that the finding is inaccurate or that reinstatement criteria in 135.3(7)*"b"*(1) through *"b"*(5) have been satisfied. Additional days and the opportunity for a telephone or in-person conference may be provided the owner and operator to contest the factual basis for a finding under 135.3(7)*"b"*(6) through *"b"*(14). Additional procedural due process may be afforded the owner and operator on a case-by-case basis sufficient to satisfy Constitutional due process standards.

If insufficient information is submitted to change the finding, the department will notify the owner or operator and a person in charge at the UST facility of the final decision to impose the delivery prohibition response action.

(2) Provisional status. Upon a finding that an owner or operator under provisional status has failed to comply with the terms of a remedial action plan as provided above, the department may initiate a delivery prohibition response action by giving actual notice to the owner or operator of the basis for the finding of noncompliance and the department's intent to initiate a delivery prohibition response action. The delivery prohibition response action shall not be imposed without providing the owner or operator the opportunity for an evidentiary hearing consistent with the provisions for suspension and revocation of certifications under 7—Chapter 2506 and 561—Chapter 2506.

*f.* *Delivery prohibition procedure.* Upon oral or written notice that the delivery prohibition response action has been imposed, the owner or operator and any person in charge of the UST facility shall be notified that they are not authorized to receive any further delivery of regulated substances until conditions for reinstatement of eligibility are satisfied. Owners and operators are required to provide the department with names and contact information for all persons who convey or deposit regulated substances to the USTs. The department will attempt to notify known persons who convey or deposit regulated substances to the USTs that they are not authorized to deliver to the USTs until further notice by the department as provided in Iowa Code section 455B.473(8)*"a"* and in 135.3(5).

The department shall visit the site and affix a "red tag" to the fill pipes or fill pipe caps of all affected USTs. It is unlawful for any person to deposit or accept a regulated substance into a UST that has a "red tag" affixed to the fill pipe or fill pipe cap. The department may allow the owner and operator to dispense and sell the remainder of existing fuel unless the department determines there is an immediate risk of a release or other risk to human health, safety or the environment. The department shall confirm in writing the basis for the delivery prohibition response action, contacts made prior to the action, and steps the owner or operator must take to reinstate fuel delivery.

**135.3(8)** *Secondary containment requirements for UST system installations.* All new and replacement underground storage tank systems and appurtenances used for the storage and dispensing of petroleum products shall have secondary containment in accordance with this subrule. The secondary containment provision includes the installation of containment sumps.

*a.* Tanks and piping installed or replaced after November 28, 2007, must have secondary containment that is designed, installed, and maintained according to the performance standards in 135.3(1) and 135.5(3)*"b."*

(1) The secondary containment may be manufactured as an integral part of the primary containment or constructed as a separate containment system.

(2) At a minimum, the secondary containment must:

1. Contain regulated substances leaked from the UST system until detected and removed.

2. Prevent the release of regulated substances into the environment at any time during the operational life of the underground storage tank system.

3. Be checked for evidence of a release from the tank at least every 30 days as provided in 135.5(2)*"a."*

*b.* Testing and inspection. Containment sumps shall be liquid-tight and must be inspected and tested in accordance with the following:

(1) Inspections for secondary containment sumps (spill catchment basins, turbine sumps, transition or intermediate sumps, and under-dispenser containment).

1. Inspections for secondary containment sumps shall consist of visual inspection every year.

2. Containment sumps must be intact (no cracks or perforations) and liquid-tight, including sides and bottom.

3. Containment sumps must be maintained and kept free of debris, liquid, and ice at all times.

4. Regulated substances leaked or spilled into any containment sumps shall be immediately removed.

(2) Secondary containment sumps used for interstitial monitoring of piping shall be tested upon installation and periodically in accordance with 135.4(12).

**567—135.4(455B) General operating requirements.**

**135.4(1)** *Spill and overfill control.*

*a.* Owners and operators must ensure that releases due to spilling or overfilling do not occur. The owner and operator must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.

NOTE: The transfer procedures referenced in 40 CFR 280.30 may be used to comply with 135.4(1)*"a."*

*b.* The owner and operator must report, investigate, and clean up any spills and overfills in accordance with 135.6(4).

**135.4(2)** *Operation and maintenance of corrosion protection.* All owners and operators of metal UST systems with corrosion protection must comply with the following requirements to ensure that releases due to corrosion are prevented until the UST system is permanently closed or undergoes a change in service in accordance with 135.15(2):

*a.* All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.

*b.* All UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:

(1) Frequency. All cathodic protection systems must be tested within six months of installation and at least every three years thereafter or according to another reasonable time frame established by the department; and

(2) Inspection criteria. The criteria that are used to determine that cathodic protection is adequate as required by this subrule must be in accordance with a code of practice developed by a nationally recognized association.

NOTE: The codes of practice in 40 CFR 280.31(b)(2) may be used to comply with 135.4(2)*"b"*(2).

*c.* UST systems with impressed current cathodic protection systems must also be inspected every 60 days to ensure the equipment is running properly.

*d.* For UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained (in accordance with 135.4(5)) to demonstrate compliance with the performance standards in this subrule. These records must provide the following:

(1) The results of the last three inspections required in 135.4(2)*"c"*; and

(2) The results of testing from the last two inspections required in 135.4(2)*"b."*

*e.* When an impressed current cathodic protection system is failing cathodic protection for the time periods given below, owners and operators must take the following actions:

(1) For impressed current cathodic protection systems that have been inoperative for 0 to 90 days after failing a corrosion protection test or after discovering the system is not operating, all of the following must be completed:

1. Power must be restored to an inoperative corrosion protection system. A damaged or failed corrosion protection system must be repaired by a qualified service technician. A corrosion expert must approve any modifications to the system that are outside of the original design.

2. The corrosion protection system must be retested within six months of repair.

3. A copy of the test and any repairs must be kept as part of the cathodic protection records.

4. A copy of the new design standards must be kept as part of the cathodic protection records.

(2) For impressed current corrosion protection systems that have been inoperative for 90 to 365 days or repaired 90 to 365 days after failing a corrosion protection test, all of the following must be completed:

1. Notify the department.

2. Power must be restored to an inoperative corrosion protection system.

3. The corrosion protection system must be repaired, tested and returned to service under the supervision of a corrosion expert.

4. A precision tightness test must be conducted in accordance with 135.5(4)*"c"* and 135.5(5)*"b."*

5. The corrosion protection system must be retested within six months of the repair or power being restored.

6. A copy of the test and any repairs must be kept as part of the cathodic protection records.

7. A copy of the new design standards must be kept as part of the cathodic protection records.

8. If determined the tank is not suitable for corrosion protection, the tank must be permanently closed in accordance with 135.15(2).

(3) If the impressed current corrosion protection system has been inoperative for more than 365 days or was not repaired for more than 365 days after failing a corrosion protection test, all of the following must be completed:

1. Notify the department.

2. Immediately empty and stop using the tank system.

3. An internal inspection of the steel tank must be conducted according to a national standard (e.g., API 1631). If the UST fails the internal inspection, the UST owner must permanently close the tank in accordance with 135.15(2).

4. If the piping and metallic components do not pass a line tightness test or a cathodic protection test and cannot be repaired in accordance with this chapter, the line must be replaced.

5. A precision test must be conducted in accordance with 135.5(4)*"c"* and 135.5(5)*"b."*

6. The corrosion protection system must be retested within six months of repair.

7. A copy of the tests and any repairs must be kept as part of the cathodic protection records.

(4) If the impressed current cathodic protection system has been inoperable for more than 365 days and cannot be brought back into immediate use, the tank system must be permanently closed in accordance with 135.15(2).

**135.4(3)** *Compatibility.* Owners and operators must use a UST system made of or lined with materials that are compatible with the substance stored in the UST system.

*a.* Owners and operators must notify the department at least 30 days prior to switching to a regulated substance containing greater than 10 percent ethanol, greater than 20 percent biodiesel, or any other regulated substance identified by the department.

*b.* Owners and operators must have a UST installer certified under 567—Chapter 134 submit the department's checklist for equipment compatibility for the UST system to the department at least 30 days prior to switching to a regulated substance containing greater than 10 percent ethanol or greater than 20 percent biodiesel, or any other regulated substance identified by the department.

*c.* A retail dealer, as defined in Iowa Code section 214A.1, must show compliance with the requirements of Iowa Code sections 455G.32 and 455G.33, if applicable, by submitting and maintaining the applicable reporting and recordkeeping documentation listed in 135.4(5)*"a"*(10), *"a"*(11), *"b"*(12), and *"b"*(13).

NOTE: Owners and operators storing alcohol blends may use the code in 40 CFR 280.32(b)(2) to comply with the requirements of 135.4(3).

**135.4(4)** *Repairs and replacement.* Owners and operators of UST systems must ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs must meet the following requirements:

*a.* Repairs to UST systems must be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.

NOTE: The codes and standards referenced in 40 CFR 280.33(a) may be used to comply with 135.4(4)*"a."*

*b.* Repairs to fiberglass-reinforced plastic tanks may be made by the manufacturer's authorized representatives or in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.

*c.* Piping and fitting

(1) Metal pipe sections and fittings that have released product as a result of corrosion or other damage must be replaced. Noncorrodible pipes and fittings may be repaired in accordance with the manufacturer's specifications.

(2) If 50 percent or more of any piping run is removed, the entire piping run must be removed and replaced with secondarily contained piping and interstitial monitoring.

(3) All piping replacements requiring secondary containment shall be constructed with transition or intermediate containment sumps.

*d.* Repairs to secondary containment areas of tanks and piping used for interstitial monitoring and to containment sumps used for interstitial monitoring of piping must have the secondary containment tested for tightness according to the manufacturer's instructions, a code of practice developed by a nationally recognized association or independent testing laboratory, or according to requirements established by the department within 30 days following the date of completion of the repair. All other repairs to tanks and piping must be tightness tested in accordance with 135.5(4)*"c"* and 135.5(5)*"b"* within 30 days following the date of the completion of the repair except as provided in 135.4(4)*"d"*(1) through *"d"*(3):

(1) The repaired tank is internally inspected in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory; or

(2) The repaired portion of the UST system is monitored monthly for releases in accordance with a method specified in 135.5(4)*"d"* through *"i"*; or

(3) Another test method is used that is determined by the department to be no less protective of human health and the environment than those listed above.

NOTE regarding 135.4(4)*"d"*: The codes of practice referenced in 40 CFR 280.33(d)(3) may be used to comply with 135.4(4)*"d."*

*e.* Within six months following the repair of any cathodically protected UST system, the cathodic protection system must be tested in accordance with 135.4(2)*"b"* and *"c"* to ensure that it is operating properly.

*f.* Within 30 days following any repair to spill or overfill prevention equipment, the repaired spill or overfill prevention equipment must be tested or inspected, as appropriate, in accordance with 135.4(1) to ensure it is operating properly.

*g.* UST system owners and operators must maintain records of each repair until the UST system is permanently closed or undergoes a change-in-service pursuant to 135.15(2).

**135.4(5)** *Reporting and recordkeeping.* Owners and operators of UST systems must cooperate fully with inspections, monitoring and testing conducted by the department, as well as requests for document submission, testing, and monitoring by the owner or operator pursuant to Section 9005 of Subtitle I of the Solid Waste Disposal Act as amended.

*a.* *Reporting.* Owners and operators must submit the following information to the department:

(1) Notification for all UST systems (135.3(3)), which includes certification of installation for new UST systems (135.3(1)*"e"*);

(2) Notification of equipment replacement or addition of new equipment;

(3) Reports of all releases including suspected releases (135.6(1)), spills and overfills (135.6(4)), and confirmed releases (135.7(2));

(4) Corrective actions planned or taken including initial abatement measures (135.7(3)), initial site characterization (567—135.9(455B)), free product removal (135.7(4)), investigation of soil and groundwater cleanup and corrective action plan (567—135.8(455B) through 567—135.12(455B));

(5) A notification before permanent closure or change-in-service (135.15(2));

(6) Notification of any change in ownership;

(7) Notification of any change in Class A or Class B operators;

(8) Notification of any loss of financial responsibility (i.e., insurance);

(9) Notification prior to UST systems switching to certain regulated substances;

(10) Documentation establishing compatibility as required in Iowa Code section 455G.32, if applicable;

(11) Documentation establishing compatibility as required in Iowa Code section 455G.33, if applicable.

*b. Recordkeeping.* Owners and operators must maintain the following information:

(1) A corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used (135.3(1)*"a"*(4); 135.3(1)*"b"*(3)).

(2) Documentation of operation of corrosion protection equipment (135.4(2));

(3) Documentation of UST system repairs (135.4(4)*"h"*);

(4) Documentation of compliance with release detection requirements (135.5(6));

(5) Results of the site investigation conducted at permanent closure (135.15(3));

(6) Cathodic protection system testing results (135.4(2));

(7) Class A, B and C operator training certificates (135.4(6));

(8) Secondary containment test results (135.3(8));

(9) Documentation of periodic walkthrough inspections (135.4(13));

(10) Documentation of compatibility for UST systems (135.4(3));

(11) Documentation of compliance for spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping (135.4(12));

(12) Documentation establishing compatibility as required in Iowa Code section 455G.32, if applicable;

(13) Documentation establishing compatibility as required in Iowa Code section 455G.33, if applicable.

*c. Availability and maintenance of records.* Owners and operators must keep the records required either:

(1) At the UST site and immediately available for inspection by the department; or

(2) At a readily available alternative site and be provided for inspection to the department within two business days of department request.

(3) In the case of permanent closure records required under 135.15(5), owners and operators are also provided with the additional alternative of mailing closure records to the department if they cannot be kept at the site or an alternative site as indicated above.

**135.4(6)** *Training required for UST operators.*

*a.* An owner or operator shall designate Class A, Class B, and Class C operators for each underground storage tank system or facility that has underground storage tanks regulated by the department, except for unstaffed facilities, which may designate only Class A and Class B operators.

*b.* A facility may not operate unless operators have been designated and trained as required in this rule or unless otherwise agreed upon by the department based on a finding of good cause for failure to meet this requirement and a plan for designation and training at the earliest practicable date.

*c.* Trained operators must be readily available to respond to suspected or confirmed releases, equipment shut-offs or failures, and other unusual operating conditions.

*d.* A Class A or Class B operator should be immediately available for telephone consultation with the Class C operator when a facility is in operation.

*e.* For staffed facilities, a Class C operator must be on site whenever the UST facility is in operation.

*f.* For unstaffed facilities, a Class B operator must be geographically located such that the person can be on site within two hours of being contacted by the public, the owner or operator of the facility, or the department. An unstaffed facility shall have an emergency shutoff device as provided in 135.5(1). An approved emergency procedures sign shall be posted in a conspicuous location and shall read:

IN CASE OF FIRE, SPILL OR RELEASE

1. USE EMERGENCY PUMP SHUTOFF
2. REPORT THE ACCIDENT!

FIRE DEPARTMENT TELEPHONE NO.___________

FACILITY ADDRESS & PHONE NUMBER___________

*g.* Designated operators must successfully complete required training under 135.4(9).

*h.* A person may be designated for more than one class of operator.

*i.* When a facility is found to be out of compliance, the department may require that the designated UST system Class A, B, or C operator be retrained under a plan approved by the department. The retraining must occur within 30 days from departmental notice for Class A and Class B operators and within 15 days for Class C operators.

**135.4(7)** *UST operator responsibilities.*

*a.* *Class A operator.*

(1) Class A operators have the primary responsibility to operate, maintain, and have knowledge of the regulatory requirements for the underground storage tank system and facility. The Class A operator's responsibilities include managing resources and personnel to achieve and maintain compliance with regulatory requirements under this chapter in the following ways:

1. Class A operators assist the owner by ensuring that underground storage tank systems are properly installed and expeditiously repaired and inspected; financial responsibility is maintained; and records of system installation, modification, inspection and repair are retained and made available to the department and certified compliance inspectors. The Class A operator shall properly respond to and report emergencies caused by releases or spills from UST systems, ensure that the annual tank management fees are paid, and ensure that Class B and Class C operators are properly trained.

2. Class A operators shall be familiar with training requirements for each class of operator and may provide required training for Class C operators.

3. Class A operators shall provide site drawings that indicate equipment locations for Class B and Class C operators.

(2) Department-certified installers, installation inspectors, and department-certified compliance inspectors may perform Class A operator duties when employed or contracted by the tank owner to perform these functions so long as they are properly trained and designated as Class A operators pursuant to 135.4(9) through 135.4(11). Class A operators who are also certified compliance inspectors under 567—Chapter 134 may perform in-house facility inspections of the UST system, but shall not perform department-mandated compliance inspections pursuant to 567—135.19(455B). Compliance inspections of a UST facility required by 567—135.19(455B) must be completed by a third-party compliance inspector certified under 567—Chapter 134.

(3) When there is a change in ownership or operator status, the new owner or operator is responsible for designating a Class A operator prior to bringing the UST system into operation. The Class A operator is responsible for ensuring that all necessary documentation for change of ownership is completed and submitted to the department and that all compliance requirements of this chapter are satisfied prior to bringing the UST system into operation. The compliance requirements may be provided to the owner or operator using the department's checklist.

If the UST system was temporarily closed, the designated Class A operator must ensure the department's checklist for returning a UST into service is followed, all compliance requirements of this chapter have been met, and the necessary documentation is submitted to the department.

(4) When there is a change in UST ownership, property ownership or operator status, the designated Class A operator for the current owner and operator is responsible for notifying the department when the change is final and, if possible, prior to the new owner or operator taking possession of the site.

*b. Class B operator.*

(1) A Class B operator is knowledgeable of the applicable underground storage tank regulatory requirements and standards and implements them in the field or at the tank facility. A Class B operator oversees and implements the day-to-day aspects of operation, maintenance, and recordkeeping for the underground storage tanks at facilities within four hours of travel time from the Class B operator's principal place of business. A Class B operator's responsibilities include but are not limited to:

1. Performing mandated system tests at required intervals and making sure spill prevention, overfill control equipment, and corrosion protection equipment are properly functioning.
2. Assisting the owner by ensuring that release detection equipment is operational, release detection monitoring and tests are performed at the proper intervals, and release detection records are retained and made available to the department and compliance inspectors.
3. Making sure recordkeeping and reporting requirements are met and that relevant equipment manufacturers' or third-party performance standards are available and followed.
4. Properly responding to, investigating, and reporting emergencies caused by releases or spills from USTs.
5. Performing UST release detection in accordance with 567—135.5(455B).
6. Monitoring the status of UST release detection.
7. Meeting spill prevention, overfill prevention, and corrosion protection requirements.
8. Reporting suspected and confirmed releases and taking release prevention and response actions according to the requirements of 567—135.6(455B).
9. Training and documenting Class C operators to make sure at least one Class C operator is on site during operating hours. Class B operators shall be familiar with Class C operator responsibilities and may provide training for Class C operators.

(2) Department-certified installers, installation inspectors, and department-certified compliance inspectors may perform Class B operator duties when employed or contracted by the tank owner to perform these functions so long as they are properly trained and designated as Class B operators under 135.4(9) through 135.4(11). Class B operators who are also certified compliance inspectors under 567—Chapter 134 may perform in-house facility inspections of the UST system, but cannot perform department-mandated compliance inspections pursuant to 567—135.19(455B). Compliance inspections of a UST facility pursuant to 567—135.19(455B) must be completed by a third-party compliance inspector certified under 567—Chapter 134.

(3) The owner or operator of a site undergoing a change in ownership shall designate a Class B operator prior to bringing the UST system into operation. The Class B operator must conduct an inspection using the department's inspection checklist and submit the completed checklist along with the change of ownership form prior to operation. If a UST system was temporarily closed, the Class B operator shall ensure that the department's checklist for returning a UST to service is followed and that the necessary documentation is submitted to the department prior to operation of the UST system.

*c. Class C operator.* A Class C operator is an on-site employee who typically controls or monitors the dispensing or sale of regulated substances and is the first to respond to events indicating emergency conditions. A Class C operator must be present at the facility at all times during normal operating hours. A Class C operator monitors product transfer operations to ensure that spills and overfills do not occur. The Class C operator must know how to properly respond to spills, overfills and alarms when they do occur. In the event of a spill, overfill or alarm, a Class C operator shall notify the Class A and Class B operators, as well as the department and appropriate local emergency authorities as required by rule.

(1) Written basic operating instructions, emergency contact names and telephone numbers, and basic procedures specific to the facility shall be provided to all Class C operators and readily available on site.

(2) There may be more than one Class C operator at a storage tank facility, but not all employees of a facility need be Class C operators.

**135.4(8)** *UST operator training course requirements.* Individuals must attend a department-approved training course covering material designated for each operator class. Individuals must attend every session of the training, take the examination, and attend examination review.

*a. Class A operators.* To be certified as a Class A operator, the applicant must successfully complete a department-approved training course that covers underground storage tank system requirements as outlined in 567—Chapters 134 through 136. The course must also provide a general overview of the department's UST program, purpose, groundwater protection goals, public safety and administrative requirements. The training must include but is not limited to the following:

(1) Components and materials of underground storage tank systems.

(2) A general discussion of the content of PEI/RP900, Recommended Practices for the Inspection and Maintenance of UST Systems, and PEI/RP500, Recommended Practices for Inspection and Maintenance of Motor Fuel Dispensing Equipment.

(3) Spill and overfill prevention, to include the American Petroleum Institute (API) Publication RP1621, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets," and National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code."

(4) Ensuring product delivery to the correct tank by using color-symbol codes in the API Standard RP1637, "Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Service Stations and Distribution Terminals."

(5) Proper fuel ordering and delivery, including procedures in API RP1007, "Loading and Unloading of MC/DOT 406 Cargo Tank Motor Vehicles."

(6) Release detection methods and related reporting requirements.

(7) Corrosion protection and inspection requirements, including the requirement to have a department-certified cathodic protection tester.

(8) Discussion of the benefits of monthly or frequent inspections and content and use of inspection checklists. Training materials for operators shall include the department's "Iowa UST Operator Inspection Checklist" or a checklist template similar to the department's document.

(9) Requirement and content of third-party compliance inspections.

(10) How to properly respond to an emergency, including hazardous conditions.

(11) Product and equipment compatibility, including the department's ethanol compatibility guidance and certification.

(12) Financial responsibility, including detailed explanation of liability, notice and claim procedures, and the six-month window to check for and report a release prior to insurance termination to maintain coverage for corrective action.

(13) Notification of installation and storage tank registration requirements.

(14) Requirement to use department-certified companies and individuals for UST installation, testing, lining, and removal.

(15) Temporary and permanent closure procedures and requirements.

(16) NESHAP vapor recovery requirements.

(17) Conditions under which the department may stop fuel delivery and take enforcement action.

(18) Ensuring that annual tank management fees are paid.

(19) Ensuring that suspected and confirmed releases are investigated and reported according to 135.6(1).

*b. Class B operators.* To be certified as a Class B operator, the individual must successfully complete a department-approved training course that provides in-depth understanding of UST system regulations applicable to this class. Training must also provide a general overview of the department's UST program, purpose, groundwater protection goals, public safety and administrative requirements. Training shall cover the operation and maintenance requirements set forth in this chapter, including but not limited to the following:

(1) A general discussion of the content of PEI/RP900, Recommended Practices for the Inspection and Maintenance of UST Systems, and PEI/RP500, Recommended Practices for Inspection and Maintenance of Motor Fuel Dispensing Equipment.

(2) Components and materials of underground storage tank systems.

(3) Spill and overfill prevention.

(4) Ensuring product delivery to the correct tank by using color-symbol codes in the API Standard RP1637.

(5) Proper fuel ordering and delivery, including procedures from API RP1007.

(6) Methods of release detection and related reporting requirements.

(7) Corrosion protection and related testing.

(8) Requirements of 30-day and annual walkthrough inspections. Training materials for operators shall include the department's "Iowa UST Operator Inspection Checklist" or a checklist template similar to the department's document.

(9) Requirement and content of third-party compliance inspections.

(10) Emergency response, reporting and investigating releases.

(11) Product and equipment compatibility, including the department's ethanol compatibility guidance and certification.

(12) Financial responsibility, including detailed explanation of liability, notice and claim procedures, and the six-month window to check for and report a release prior to insurance termination to maintain coverage for corrective action.

(13) Notification of installation and storage tank registration requirements.

(14) Requirement to use department-certified companies and individuals for UST installation, testing, lining, and removal.

(15) Reporting and recordkeeping requirements.

(16) Overview of Class C operator training requirements.

(17) NESHAP vapor recovery requirements.

(18) Conditions under which the department may stop fuel delivery and take enforcement action.

(19) Requirements for facilities that operate unstaffed at any time.

*c. Class C operators.* To be certified as a Class C operator, an individual must complete a department-approved training course. A Class A or Class B operator who has completed a department-approved training course may provide the Class C training. Class C operator training must include at a minimum:

(1) A general overview of the department's UST program and purpose;

(2) Groundwater protection goals;

(3) Public safety;

(4) UST system overview;

(5) Administrative requirements; and

(6) Action to be taken in response to an emergency condition due to a spill or release from a UST system.

Training must include written procedures for the Class C operator, including notification instructions necessary in the event of emergency conditions. The written instructions and procedures must be readily available on site. A Class A or Class B operator may provide additional on-site Class C training specific to the operator's UST system.

**135.4(9)** *Examination and review requirement.* Class A and Class B operators must complete the department-approved training course and take an examination to verify their understanding and knowledge. The examination may include both written and practical (hands-on) testing activities. The trainer must follow up the examination with a review of missed test questions with the class or individual to ensure understanding of problem areas. Upon successful completion of the training course, the applicant will receive a certificate verifying the applicant's status as a Class A, Class B, or Class C operator.

*a. Reciprocity.* The department may waive the training course for operators upon a showing of successful completion of a training course and examination approved by another state or regulatory agency that the department determines are substantially equivalent to the UST requirements contained in this chapter.

*b. Transferability to another UST site.* Class A and Class B operators may transfer to other UST facilities in Iowa provided the operator is properly designated by the facility owner as a Class A or Class B operator according to 567—subrule 135.4(11). Class A and Class B operators transferring from other states shall seek prior approval of training qualifications, unless the department has preapproved the out-of-state program as substantially equivalent to the requirements of this chapter.

**135.4(10)** *Timing of UST operator training.*

*a.* An owner shall ensure that Class A, Class B, and Class C operators are trained by approved training providers before an operator assumes duties of that class of operator.

*b.* When a Class A or Class B operator is replaced, a new operator must be trained prior to assuming duties for that class of operator. A copy of the certificate of training must be submitted to the department within 30 days of assuming duties.

*c.* Class C operators must be trained before assuming the duties of a Class C operator. Written basic operating instructions, emergency contact names and telephone numbers, and basic procedures specific to the facility shall be provided to all Class C operators and readily available on site. A Class C operator may be briefed on these procedures concurrent with annual safety training required under Occupational Safety and Health Administration regulations, 29 CFR, Part 1910.

**135.4(11)** *Documentation of operator training.*

*a.* The owner of an underground storage tank facility shall maintain a list of designated operators. The list shall be made available to the department in accordance with 135.4(5). The list shall represent the current Class A, Class B and Class C operators for the UST facility and must include:

(1) The name of each operator and the operator's class(es); contact information for Class A and Class B operators; the date each operator successfully completed initial training and refresher training, if any; the name of the company providing the training; and the name of the trainer.

(2) For all classes of operators, the site(s) for which an operator is responsible if more than one site.

*b.* A copy of the certificates of training for Class A and Class B operators shall be on file and readily available for inspection in accordance with 135.4(5). Records verifying completion of training or retraining of Class A, Class B, and Class C operators must identify name of trainee, date trained, operator training class completed, and list the name of the trainer or examiner and the training company name, address, and telephone number. Owners and operators must maintain these records for as long as Class A, Class B, and Class C operators are designated.

*c.* A copy of the certificates of training for Class B and Class C operators shall be available at each facility for which the operator is responsible.

**135.4(12)** *Periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overfill prevention equipment.*

*a.* Owners and operators of UST systems with spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping must meet these requirements to ensure the equipment is operating properly and will prevent releases to the environment:

(1) Spill prevention equipment (such as a catchment basin, spill bucket, or other spill containment device) and containment sumps used for interstitial monitoring of piping must prevent releases to the environment by meeting one of the following:

1. The equipment is double walled and the integrity of both walls is periodically monitored at a frequency of not less than the frequency of the walkthrough inspections described in 135.4(13). If owners and operators discontinue periodic monitoring of this equipment, they must begin meeting 135.4(12)*"a"*(1)"2" and conduct a test within 30 days of discontinuing periodic monitoring of this equipment; or

2. The spill prevention equipment and containment sumps used for interstitial monitoring of piping are tested at least once every three years to ensure the equipment is liquid tight by using vacuum, pressure, or liquid testing in accordance with one of the following criteria:

- Requirements developed by the manufacturer (Note: Owners and operators may use this option only if the manufacturer has developed requirements); or
- A code of practice developed by a nationally recognized association or independent testing laboratory; or
- Requirements determined by the department to be no less protective of human health and the environment than the requirements listed in this subrule.

(2) Overfill prevention equipment must be inspected at least once every three years. At a minimum, the inspection must ensure that overfill prevention equipment is set to activate at the correct level

specified in 135.3(1)*"c"* and will activate when regulated substance reaches that level. Inspections must be conducted in accordance with one of the following criteria:

1. Requirements developed by the manufacturer (Note: Owners and operators may use this option only if the manufacturer has developed requirements); or

2. A code of practice developed by a nationally recognized association or independent testing laboratory; or

3. Requirements determined by the department to be no less protective of human health and the environment than the requirements listed in this subrule.

*b.* Owners and operators must begin meeting these requirements as follows:

(1) For UST systems in use on or before June 23, 2021, the initial spill prevention equipment test and overfill prevention equipment inspection must be conducted not later than October 13, 2021.

(2) For UST systems brought into use after June 23, 2021, these requirements apply at installation.

*c.* Owners and operators must maintain records as follows for spill prevention equipment and overfill prevention equipment:

(1) All records of testing or inspection must be maintained for three years; and

(2) For spill prevention equipment and containment sumps used for interstitial monitoring of piping not tested every three years, documentation showing that the prevention equipment is double-walled and the integrity of both walls is periodically monitored must be maintained for as long as the equipment is periodically monitored.

NOTE: The code of practice referenced in 40 CFR 280.35(a)(2) may be used to comply with this section.

**135.4(13)** *Periodic operation and maintenance walkthrough inspections.* Conduct inspections to properly operate and maintain UST systems.

*a.* Conduct a walkthrough inspection every 30 days that, at a minimum, checks the following equipment as specified below (Exception: spill prevention equipment at UST systems receiving deliveries at intervals greater than every 30 days may be checked prior to each delivery):

(1) Spill prevention equipment: visually check for damage; remove liquid or debris; check for and remove obstructions in the fill pipe; check the fill cap to make sure it attaches securely on the fill pipe and gasket is in good condition; and, for double-walled spill prevention equipment with interstitial monitoring, check for a leak in the interstitial area, and

(2) Release detection equipment: check to make sure the release detection equipment is operating with no alarms or other unusual operating conditions present, and ensure records of release detection testing are reviewed and current.

*b.* Conduct a walkthrough inspection annually, at a minimum, checking the following equipment as specified below:

(1) Containment sumps: visually check for damage, leaks to the containment area, or releases to the environment; remove liquid (in contained sumps) or debris; and, for double-walled sumps with interstitial monitoring, check for a leak in the interstitial area, and

(2) Handheld release detection equipment: check devices such as tank gauge sticks or groundwater bailers for operability and serviceability;

*c.* Conduct operation and maintenance walkthrough inspections according to a standard code of practice developed by a nationally recognized association or independent testing laboratory that checks equipment comparable to 135.4(13)*"a"* and *"b"*; or

NOTE regarding 135.4(13)*"c"*: The code of practice referenced in 40 CFR 280.36(a)(2) may be used to comply with 135.4(13)*"c."*

*d.* Conduct operation and maintenance walkthrough inspections developed by the department that checks equipment comparable to 135.4(13)*"a"* and *"b."*

*e.* Owners and operators must maintain records (in accordance with 135.4(5)) of operation and maintenance walkthrough inspections for 12 consecutive months. Records must include a list of each area checked, whether each area checked was acceptable or needed action taken, a description of actions taken to correct an issue, and delivery records if spill prevention equipment is checked less frequently than every 30 days due to infrequent deliveries.

**567—135.5(455B) Release detection.**

**135.5(1)** *General requirements for all UST systems.*

*a.* Owners and operators of UST systems must provide a method, or combination of methods, of release detection that:

(1) Can detect a release from any portion of the tank and the connected underground piping that routinely contains product;

(2) Is installed and calibrated in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; and

(3) Beginning October 13, 2021, is operated and maintained, and electronic and mechanical components are tested for proper operation, in accordance with one of the following:

1. Manufacturer's instructions;

2. A code of practice developed by a nationally recognized association or independent testing laboratory; or

3. Requirements determined by the department to be no less protective of human health and the environment than the two options listed above.

(4) A test of the proper operation must be performed at least annually and, at a minimum, as applicable to the facility, cover the following components and criteria:

1. Automatic tank gauge and other controllers: test alarm, verify system configuration, test battery backup;

2. Probes and sensors: inspect for residual buildup, ensure floats move freely, ensure shaft is not damaged, ensure cables are free of kinks and breaks, test alarm operability or running condition and communication with controller;

3. Automatic line leak detector: test operation to meet criteria in 135.5(5)*"a"* by simulating a leak;

4. Vacuum pumps and pressure gauges: ensure proper communication with sensors and controller; and

5. Handheld electronic sampling equipment associated with groundwater and vapor monitoring: ensure proper operation.

The code of practice referenced in 40 CFR 280.40(a)(3) may be used to comply with 135.5(1)*"a"*(3) and *"a"*(4).

(5) Meets the performance requirements in 135.5(4) or 135.5(5), with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, methods conducted in accordance with 135.5(4)*"b," "c,"* and *"d"* and 135.5(5)*"a"* and *"b"* must be capable of detecting the leak rate or quantity specified for that method with a probability of detection of 0.95 and a probability of false alarm of 0.05.

*b.* When an owner and operator continually show the inability to conduct leak detection with the method being used, the department may require the owner and operator to find an alternative leak detection method.

*c.* Any UST system that cannot apply a method of release detection that complies with the requirements of this rule must complete the closure procedures in 567—135.15(455B). For previously deferred UST systems described in 567—135.1(455B) and 567—135.20(455B), this requirement applies after the effective dates described in 135.1(3) and 567—135.20(455B).

*d.* Any UST facility that uses pressurized piping and dispenses product in the absence of a Class A, B, or C operator shall comply with the following requirements:

(1) Employ automatic line leak detectors that do one or more of the following:

1. Shut down the submersible pump when a leak is detected.

2. Restrict the flow of product when a leak is detected.

3. Trigger an audible or visual alarm when a leak is detected.

(2) At facilities implementing 135.5(1)*"d"*(1)"2" or "3," the facility's operator shall be notified or shall conduct a visit through one of the following methods:

1. Notification of the Class B operator by immediate electronic communication.

2. An approved emergency procedures sign shall be posted in a conspicuous location and shall read:

IN CASE OF FIRE, SPILL OR RELEASE
1. USE EMERGENCY PUMP SHUTOFF
2. REPORT THE ACCIDENT!
FIRE DEPARTMENT TELEPHONE NO.___________
FACILITY ADDRESS & PHONE NUMBER___________
IN THE EVENT OF AN ALARM OR SLOW FLOW, CONTACT THE FACILITY.

3. Daily visit to the site by a Class A, B, or C operator or designee. Visits shall include observation of every automatic line leak detector for shutdown, alarm, or restricted flow conditions. Methods of observing for restricted flow conditions may include dispensing product into a proper container or personal vehicle, observing a customer dispense product into a vehicle, or another method approved by the department. Owners and operators shall maintain an onsite log of site visits to demonstrate compliance with this provision. The log shall include the name of the observer and method used to observe the status of the automatic line leak detectors.

(3) All UST facilities subject to 135.5(1)*"d"* must comply with its provisions by July 1, 2014.

**135.5(2)** *Requirements for petroleum UST systems.* Owners and operators of petroleum UST systems must provide release detection for tanks and piping as follows:

*a. Tanks.* Tanks must be monitored at least every 30 days for releases using one of the methods listed in 135.5(4)*"d"* through *"i"* except that:

(1) Tanks installed after November 28, 2007, must use interstitial monitoring of the secondary containment as the primary leak detection method in accordance with 135.5(4)*"g."*

(2) Tanks installed on or before November 28, 2007, with capacity of 550 gallons or less and tanks with a capacity of 551 to 1,000 gallons that meet the tank diameter criteria in 135.5(4)*"b"* may use manual tank gauging (conducted in accordance with 135.5(4)*"b"*).

*b. Piping.* Underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets one of the following requirements:

(1) Pressurized piping. Underground piping that conveys regulated substances under pressure must:

1. Be equipped with an automatic line leak detector conducted in accordance with 135.5(5)*"a"*; and

2. Have an annual line tightness test conducted in accordance with 135.5(5)*"b"* or have monthly monitoring conducted in accordance with 135.5(5)*"c."* Piping installed after November 28, 2007, must use interstitial monitoring of the piping secondary containment in accordance with 135.5(5)*"d."*

(2) Suction piping. Underground piping that conveys regulated substances under suction must either have a line tightness test conducted at least every three years and in accordance with 135.5(5)*"b,"* or use a monthly monitoring method conducted in accordance with 135.5(5)*"c."* Remote fill is considered suction piping. No release detection is required for suction piping that is designed and constructed to meet the following standards:

1. The below-grade piping operates at less than atmospheric pressure;

2. The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

3. Only one check valve is included in each suction line;

4. The check valve is located directly below and as close as practical to the suction pump; and

5. A method is provided that allows compliance with "2" through "4" to be readily determined.

(3) Piping installed or replaced must meet one of the following:

1. Pressurized piping must be monitored for releases at least every 30 days in accordance with 135.5(5)*"d"* and be equipped with an automatic line leak detector.

2. Suction piping must be monitored for releases at least every 30 days. No release detection is required for suction piping that meets 135.5(5)*"b"*(2)"1" through "5."

**135.5(3)** *Requirements for hazardous substance UST systems.* Owners and operators of hazardous substance UST systems must have containment that meets the following requirements and monitor these systems pursuant to 135.5(4)*"g"* at least every 30 days:

*a.* Secondary containment systems must be designed, constructed and installed to:

(1) Contain regulated substances leaked from the primary containment until they are detected and removed;

(2) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and

(3) Be checked for evidence of a release at least every 30 days.

*b.* Double-walled tanks must be designed, constructed, and installed to:

(1) Contain a leak from any portion of the inner tank within the outer wall; and

(2) Detect the failure of the inner wall.

*c.* External liners (including vaults) must be designed, constructed, and installed to:

(1) Contain 100 percent of the capacity of the largest tank within its boundary;

(2) Prevent the interference of precipitation or groundwater intrusion with the ability to contain or detect a release of regulated substances; and

(3) Surround the tank completely (i.e., it is capable of preventing lateral as well as vertical migration of regulated substances).

*d.* Underground piping must be equipped with secondary containment that satisfies the requirements of this subrule (e.g., trench liners, jacketing of double-walled pipe). In addition, underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector in accordance with 135.5(5)*"a"*;

*e.* For hazardous substance UST systems installed on or before November 28, 2007, other methods of release detection may be used if owners and operators:

(1) Demonstrate to the department that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in 135.5(4)*"b"* through *"i"* can detect a release;

(2) Provide information to the department on effective corrective action technologies, health risks, and chemical and physical properties of the stored substance, and the characteristics of the UST site; and

(3) Obtain approval from the department to use the alternate release detection method before the installation and operation of the new UST system.

**135.5(4)** *Methods of release detection for tanks.* Each method of release detection for tanks used to meet the requirements of 135.5(2) must be conducted in accordance with the following:

*a.* *Inventory control.* Product inventory control (or another test of equivalent performance) must be conducted monthly to detect a release of at least 1.0 percent of flow-through plus 130 gallons on a monthly basis in the following manner:

(1) Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank are recorded each operating day;

(2) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest 1/8 inch;

(3) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;

(4) Deliveries are made through a drop tube that extends to within one foot of the tank bottom;

(5) Product dispensing is metered and recorded within the local standards for meter calibration or an accuracy of six cubic inches for every five gallons of product withdrawn; and

(6) The measurement of any water level in the bottom of the tank is made to the nearest 1/8 inch at least once a month.

NOTE: Practices described in 40 CFR 280.43(a)(6) may be used, where applicable, as guidance in meeting the requirements of 135.5(4)*"a"*(1) through *"a"*(6).

*b.* *Manual tank gauging.* Manual tank gauging must meet the following requirements:

(1) Tank liquid level measurements are taken at the beginning and end of the test period during which no liquid is added to or removed from the tank;

(2) Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;

(3) The equipment is capable of measuring the level of product over the full range of the tank's height to the nearest 1/8 inch;

(4) A release is suspected and subject to the requirements of 567—135.6(455B) if the variation between the beginning and ending measurements exceeds the weekly or monthly standards in the following table. Immediately contact the department if these standards are exceeded.

| Nominal Tank Capacity | Minimum Duration of Test | Weekly Standard (one test) | Monthly Standard (four-test average) |
|---|---|---|---|
| 550 gallons or less | 36 hours | 10 gallons | 5 gallons |
| 551-1,000 gallons (when tank diameter is 64 inches) | 44 hours | 9 gallons | 4 gallons |
| 551-1,000 gallons (when tank diameter is 48 inches) | 58 hours | 12 gallons | 6 gallons |
| 551-1,000 gallons (also requires annual tank tightness testing) | 36 hours | 13 gallons | 7 gallons |
| 1,001-2,000 gallons (also requires annual tank tightness test) | 36 hours | 26 gallons | 13 gallons |

(5) Only those tanks of 550 gallons or less nominal capacity or tanks of 551 to 1,000 gallons nominal capacity with diameters of 64 inches or 48 inches may use this as the sole method of release detection. Other tanks of 551 to 2,000 gallons may use this method in place of inventory control in 135.5(4)*"a."* Tanks of greater than 2,000 gallons nominal capacity may not use this method to meet the requirements of this rule.

*c. Tank tightness testing.* Tank tightness testing (or another test of equivalent performance) must be capable of detecting a 0.1 gallon-per-hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.

The tank tightness test procedure must be certified by a third party and meet US EPA testing procedures. The testing procedures are found in *Standard Test Procedures for Evaluating Leak Detection Methods*: *Volumetric Tank Tightness Testing Methods* (EPA /530/UST-90/004) March 1990 or as revised by EPA or *Non-Volumetric Tank Tightness Testing Methods* (EPA /530/UST-90/005) March 1990 or as revised by EPA.

*d. Automatic tank gauging.* Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:

(1) The automatic product level monitor test can detect a 0.2 gallon-per-hour leak rate from any portion of the tank that routinely contains product;

(2) The automatic tank gauging equipment must meet the inventory control (or other test of equivalent performance) requirements of 135.5(4)*"a"*;

(3) The leak test must be performed according to manufacturer specifications;

(4) The automatic tank gauging equipment must be certified by a third party and meet US EPA testing procedures in *Standard Test Procedures for Evaluating Leak Detection Methods: Automatic Tank Gauging Systems* (ATGS) (EPA /530/UST-90/006) March 1990 or as revised by US EPA; and

(5) The test must be performed with the system operating in one of the following modes:

1. In-tank static testing conducted at least once every 30 days; or

2. Continuous in-tank leak detection operating on an uninterrupted basis or operating within a process that allows the system to gather incremental measurements to determine the leak status of the tank at least once every 30 days.

*e. Vapor monitoring.* Testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:

(1) The materials used as backfill are sufficiently porous (e.g., gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation area;

(2) The stored regulated substance, or a tracer compound placed in the tank system, is sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;

(3) The measurement of vapors by the monitoring device is not rendered inoperative by the groundwater, rainfall, or soil moisture or other known interferences so that a release could go undetected for more than 30 days;

(4) The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;

(5) The vapor monitors are designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system;

(6) In the UST excavation zone, the site is assessed to ensure compliance with the requirements in 135.5(4)*"e"*(1) through *"e"*(4) and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product;

(7) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering; and

(8) The vapor product detector must be certified by a third party and meet US EPA testing procedures in *Standard Test Procedures for Evaluating Leak Detection Methods: Vapor-Phase Out-of-Tank Product Detectors* (EPA/530/UST-90/008) March 1990 or as revised by US EPA.

*f.* *Groundwater monitoring.* Testing or monitoring for liquids on the groundwater must meet the following requirements:

(1) The regulated substance stored is immiscible in water and has a specific gravity of less than 1;

(2) Groundwater is never more than 20 feet from the ground surface and the hydraulic conductivity of the soil(s) between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials);

(3) The slotted portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;

(4) Monitoring wells shall be sealed from the ground surface to the top of the filter pack;

(5) Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;

(6) The continuous monitoring devices or manual methods used can detect the presence of at least 1/8 of free product on top of the groundwater in the monitoring wells;

(7) Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in 135.5(4)*"f"*(1) through *"f"*(5) and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product; and

(8) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

*g.* *Interstitial monitoring.* Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:

(1) For secondary containment systems, the sampling or testing method must be able to detect a leak through the inner wall in any portion of the tank that routinely contains product:

1. Continuously, by means of an automatic leak sensing device that signals to the operator the presence of any regulated substance in the interstitial space; or

2. Monthly, by means of a procedure capable of detecting the presence of any regulated substance in the interstitial space.

3. The interstitial space shall be maintained and kept free of liquid, debris or anything that could interfere with leak detection capabilities.

(2) For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a leak between the UST system and the secondary barrier:

1. The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (at least $10^{-6}$ cm/sec for the regulated substance stored) to direct a leak to the monitoring point and permit its detection;

2. The barrier is compatible with the regulated substance stored so that a leak from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;

3. For cathodically protected tanks, the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system;

4. The groundwater, soil moisture, or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days;

5. The site is assessed to ensure that the secondary barrier is always above the groundwater and not in a 25-year flood plain, unless the barrier and monitoring designs are for use under such conditions; and

6. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

(3) For tanks with an internally fitted liner, an automated device can detect a leak between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.

*h. Statistical inventory reconciliation.* Release detection methods based on the application of statistical principles to inventory data that test for the loss of product must meet the following requirements:

(1) Use a leak threshold that does not exceed one-half the minimum detectible leak rate;

(2) The statistical test must be able to detect at least a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product; and

(3) The report by the SIR company must be a quantitative result with a calculated leak rate and include the leak threshold (leak rate at which a leak is declared), the calculated leak rate (leak rate calculated from the inventory records) and minimum detectable leak rate (minimum leak rate that can be determined from the inventory records).

1. A "pass" means that the calculated leak rate for the data set is less than the leak threshold and the minimum detectable leak rate is less than or equal to the certified performance standard;

2. A "fail" means the calculated leak rate for the data set is equal to or greater than the leak threshold;

3. An "inconclusive" means the minimum detectable leak rate exceeds the certified performance standard and the calculated leak rate is less than the leak threshold. If for any other reason the test result is not a "pass" or "fail," the result is "inconclusive";

(4) Owners and operators must notify the department in accordance with 567—135.6(455B) when a monthly SIR report of "fail" occurs or two consecutive inconclusive results occur.

(5) Owners and operators must assure the SIR analytical results are complete and available to the department upon request.

(6) The statistical inventory reconciliation method must be certified by a third party and meet US EPA testing procedures in *Standard Test Procedures for Evaluating Release Detection Methods: Statistical Inventory Reconciliation* (EPA 510-B-19-004) May 2019 or as revised by EPA.

*i. Other methods.* Any other type of release detection method, or combination of methods, can be used if:

(1) It can detect a 0.2 gallon-per-hour leak rate or a release of 150 gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05; or

(2) The department may approve another method if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in 135.5(5)*"c"* through *"h."* In comparing methods, the department shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator must comply with any conditions imposed by the department on its use to ensure the protection of human health and the environment.

**135.5(5)** *Methods of release detection for piping.* Each method of release detection for piping used to meet the requirements of 135.5(2) must be conducted in accordance with the following:

*a. Automatic line leak detectors.* Methods that alert the operator to the presence of a leak in pressurized piping by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of 3 gallons per hour at 10 pounds per square inch line pressure within one hour. An annual test of the operation of the leak detector must be conducted in accordance with 135.5(1)*"a."*

*b. Line tightness testing.* A periodic test of piping may be conducted only if it can detect a 0.1 gallon-per-hour leak rate at one and one-half times the operating pressure. The line leak detection method must be certified by a third party and meet US EPA testing procedures in *Standard Test Procedures for Evaluating Release Detection Methods: Pipeline Release Detection* (EPA 510-B-19-005) May 2019 or as revised by EPA.

*c. Applicable tank methods.* Except as described in 135.5(2)*"a,"* any of the methods in 135.5(4)*"e"* through *"i"* may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

*d. Interstitial monitoring of secondary containment.* Interstitial monitoring may be used for any piping with secondary containment designed for and capable of interstitial monitoring.

(1) Leak detection shall be conducted:

1. Continuously, by means of an automatic leak sensing device that signals to the operator the presence of any regulated substance in the interstitial space or containment sump; or

2. Monthly, by means of a procedure capable of detecting the presence of any regulated substance in the interstitial space or containment sump, such as visual inspection.

(2) The interstitial space or sump shall be maintained and kept free of water, debris or anything that could interfere with leak detection capabilities.

(3) At least every two years, any sump shall be visually inspected for integrity of sides and floor and tightness of piping penetration seals. Any automatic sensing device shall be tested for proper function.

**135.5(6)** *Release detection recordkeeping.* All UST system owners and operators must maintain records in accordance with 135.4(5) demonstrating compliance with all applicable requirements of this rule. These records must include the following:

*a.* All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, must be maintained for five years, or for another reasonable period of time determined by the department, from the date of installation. Records of site assessments required for vapor monitoring under 135.5(4)*"e"*(6) and groundwater monitoring under 135.5(4)*"f"*(7) must be maintained for as long as the methods are used. Records of site assessments must be signed by a professional engineer or professional geologist, or equivalent certified professional with experience in environmental engineering, hydrogeology, or other relevant technical discipline acceptable to the department;

*b.* The results of any sampling, testing, or monitoring must be maintained for at least one year, or for another reasonable period of time determined by the department, except as follows:

(1) The results of tank tightness testing conducted in accordance with 135.5(4)*"c"* must be retained until the next test is conducted; and

(2) The results of annual operation tests conducted in accordance with 135.5(1)*"a"*(3) and *"a"*(4), must be maintained for three years. At a minimum, the results must list each component tested, indicate whether each component tested meets criteria in 135.5(1)*"a"*(3) and *"a"*(4), or needs to have action taken, and describe any action taken to correct an issue; and

(3) The results of tank tightness testing, line tightness testing, and vapor monitoring using a tracer compound placed in the tank system conducted in accordance with 567—135.20(455B) must be retained until the next test is conducted; and

*c.* Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site must be maintained for at least one year after the servicing work is completed, or for another reasonable time period determined by the department. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must be retained for five years from the date of installation.

**567—135.6(455B) Release reporting, investigation, and confirmation.**

**135.6(1)** *Reporting of suspected releases.* Owners and operators of UST systems must report to the department within 24 hours, or within 6 hours in accordance with 567—Chapter 105 if a hazardous condition exists as defined in 567—105.3(455B), or another reasonable time period specified by the department, and follow the procedures in 135.8(1) for any of the following conditions:

*a.* The discovery by owners and operators or others of released regulated substances at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface water);

*b.* Unusual operating conditions observed by owners and operators (such as the erratic behavior of product dispensing equipment, the sudden loss of product from the UST system, an unexplained presence of water in the tank, or liquid in the interstitial space of secondarily contained systems) unless:

(1) The system equipment or component is found not to be releasing regulated substances to the environment;

(2) Any defective system equipment or component is immediately repaired or replaced; and

(3) For secondarily contained systems, except as provided for in 135.5(4)*"g"*(2)"4," any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine filled) is immediately removed.

*c.* Monitoring results, including investigation of an alarm, from a release detection method required under 135.5(2) and 135.5(3) that indicate a release may have occurred unless:

(1) The monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result; or

(2) The leak is contained in the secondary containment and:

1. Except as provided for in 135.5(4)*"g"*(2)"4," any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine filled) is immediately removed; and

2. Any defective system equipment or component is immediately repaired or replaced;

(3) In the case of inventory control, a second month of data does not confirm the initial result or the investigation determines no release has occurred; or

(4) The alarm was investigated and determined to be a non-release event (for example, from a power surge or caused by filling the tank during release detection testing).

**135.6(2)** *Investigation due to off-site impacts.* When required by the department, owners and operators of UST systems must follow the procedures in 135.6(3) to determine if the UST system is the source of off-site impacts. These impacts include the discovery of regulated substances (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface and drinking waters) that has been observed by the department or brought to its attention by another party.

**135.6(3)** *Release investigation and confirmation steps.* Owners and operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under 135.6(1) within seven days, or another reasonable time period specified by the department, using either the following steps or another procedure approved by the department:

*a.* System test. Owners and operators must conduct tests (according to the requirements for tightness testing in 135.5(4)*"c"* and 135.5(5)*"b"*) or, as appropriate, secondary containment testing described in 135.4(4).

(1) The test must determine whether:

1. A leak exists in that portion of the tank that routinely contains product, or the attached delivery piping; or

2. A breach of either wall of the secondary containment has occurred.

(2) If the system test confirms a leak into the interstice or a release, owners and operators must repair, replace, upgrade, or close the UST system. In addition, owners and operators must begin corrective action in accordance with 567—135.9(455B) if the test results for the system, tank, or delivery piping indicate a release exists.

(3) Further investigation is not required if the test results for the system, tank, and delivery piping do not indicate a release exists and if environmental contamination is not the basis for suspecting a release.

(4) Owners and operators must conduct a site check as described in 135.6(3)*"b"* if the test results for the system, tank, and delivery piping do not indicate a release exists but environmental contamination is the basis for suspecting a release.

*b.* Site check. A certified groundwater professional must conduct a site check in accordance with the tank closure in place procedures as provided in 135.15(3) or they may conduct a Tier 1 assessment in accordance with 135.9(3). Under either procedure, the certified groundwater professional must follow the policies and procedures applicable to sites where bedrock is encountered before groundwater as provided in 135.8(5) to avoid creating a preferential pathway for soil or groundwater contamination to reach a bedrock aquifer. The certified groundwater professional must measure for the presence of a release where contamination is most likely to be present at the UST site. The certified groundwater professional must follow the policies and procedures applicable to sites where bedrock is encountered before groundwater as provided in 135.8(5) to avoid creating a preferential pathway for soil or groundwater contamination to reach a bedrock aquifer. In selecting sample types, sample locations, and measurement methods, the certified groundwater professional must consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth of groundwater, and other factors appropriate for identifying the presence and source of the release.

(1) If the test results of the site check indicate action levels in 567—135.14(455B) have been exceeded, owners and operators must begin corrective action in accordance with 567—135.7(455B) through 567—135.12(455B).

(2) If the test results for the excavation zone or the UST site do not indicate a release has occurred, further investigation is not required.

**135.6(4)** *Reporting and cleanup of spills and overfills.*

*a.* *Reportable releases.* Owners and operators of UST systems must contain and immediately clean up a spill, overfill or any aboveground release, and report to the department within 24 hours, or within 6 hours in accordance with 567—Chapter 105 if a hazardous condition exists as defined in 567—105.3(455B) and begin corrective action in accordance with 567—135.7(455B) through 567—135.12(455B) in the cases identified in 40 CFR 280.53(a)(1) and (2).

*b.* *Nonreportable releases.* Owners and operators of UST systems must contain and immediately clean up a spill, overfill or any aboveground release of petroleum that is less than 25 gallons and a spill, overfill or any aboveground release of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within 24 hours, owners and operators must immediately notify the department.

NOTE: Any spill or overfill that results in a hazardous condition as defined in 567—105.3(455B) must be reported within 6 hours. This includes the transporter of the product. A release of a hazardous substance equal to or in excess of its reportable quantity must also be reported immediately (rather than within 24 hours) to the National Response Center under Sections 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and to appropriate state and local authorities under Title III of the Superfund Amendments and Reauthorization Act of 1986.

**567—135.7(455B) Release response and corrective action for UST systems containing petroleum or hazardous substances.**

**135.7(1)** *General.* Owners and operators of petroleum or hazardous substance UST systems must, in response to a confirmed release from the UST system, comply with the requirements of this rule except for USTs excluded under 135.1(3)*"b"* and UST systems subject to RCRA Subtitle C corrective action requirements under Section 3004(u) of the Resource Conservation and Recovery Act, as amended.

**135.7(2)** *Initial response.* Upon confirmation of a release in accordance with 135.6(3) or after a release from the UST system is identified in any other manner, owners and operators must perform the following initial response actions within 24 hours of a release or within another reasonable period of time specified by the department:

*a.* Report the release to the department (e.g., by telephone or electronic mail);

*b.* Take immediate action to prevent any further release of the regulated substance into the environment; and *c.* Identify and mitigate fire, explosion, and vapor hazards.

**135.7(3)** *Initial abatement measures.*

*a.* Unless directed to do otherwise by the department, owners and operators must perform the following abatement measures:

(1) Remove as much of the regulated substance from the UST system as is necessary to prevent further release to the environment;

(2) Visually inspect any aboveground releases or exposed below-ground releases and prevent further migration of the released substance into surrounding soils and groundwater;

(3) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements);

(4) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement, or corrective action activities. If these remedies include treatment or disposal of soils, the owner and operator must comply with applicable state and local requirements;

(5) Investigate to determine the possible presence of free product, and begin free product removal as soon as practicable and in accordance with 135.7(4).

*b.* Within 20 days after release confirmation, or within another reasonable period of time determined by the department, owners and operators must submit a report to the department summarizing the initial abatement steps taken under 135.7(3)*"a"* and any resulting information or data.

**135.7(4)** *Free product assessment and removal.* The free product assessment and removal requirements in this chapter are primarily concerned with a regulated substance that is present as a light nonaqueous phase liquid (LNAPL) in a monitoring well, boring, excavation, or other location at a thickness of more than 0.01 ft. At sites where investigations under 135.7(3)*"a"*(5) indicate 0.01 ft. or more of free product, owners and operators must immediately initiate a free product recovery assessment and submit a report in accordance with 135.7(4)*"d"* and initiate interim free product removal while continuing, as necessary, any actions initiated under 135.7(2) and 135.7(3), or preparing for actions required under 567—135.8(455B) through 567—135.12(455B). Owners and operators must immediately begin interim free product removal by bailing or by installation and maintenance of passive skimming equipment until an alternative removal method is required by or approved by the department. A certified groundwater professional must initially determine the frequency of bailing and proper installation and maintenance of the skimming equipment based on a determination of the recharge rate of the free product. The department may approve implementation of this interim removal process by persons not certified as groundwater professionals. For approval a certified groundwater professional must submit (1) sufficient documentation establishing that the bailing or skimming system has been adequately designed and tested, and (2) a written plan for regular maintenance, reporting and supervision by a certified groundwater professional. Interim free product recovery reports must be submitted to the department on a monthly basis and on forms provided by the department. In meeting the requirements of this subrule, owners and operators must:

*a.* Conduct free product removal at a frequency determined by the recharge rate of the product and in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges or disposes of recovery by-products in compliance with applicable local, state and federal regulations. Unless approved by the department, free product assessment and recovery activities must be conducted by a certified groundwater professional. Owners and operators must report the results of free product removal activities on forms designated by the department;

*b.* Use abatement of free product migration as a minimum objective for the design of the free product removal system. Free product recovery systems must be designed to remove free product in accordance with 135.7(4)*"a"*;

*c.* Handle any flammable products in a safe and competent manner to prevent fires or explosions; and *d.* Free product recovery assessment and report. Unless directed to do otherwise by the department, prepare and submit to the department, within 45 days after confirming a release, a free product recovery assessment report and a proposal for subsequent free product removal activities. The free product recovery assessment report and removal proposal must contain at least the following information:

(1) The name of the person(s) responsible for implementing the free product removal measures;

(2) The estimated quantity, type and thickness of free product observed or measured in monitoring wells, boreholes, and excavations, the recharge rate in all affected monitoring wells and a detailed description of the procedures used to determine the recharge rate;

(3) A detailed justification for the free product removal technology proposed for the site. Base the justification narrative on professional judgment considering the characteristics of the free product plume (i.e., estimated volume, type of product, thickness, extent), an assessment of cost effectiveness based on recovery costs compared to alternative methods, site hydrology and geology, when the release event occurred, testing conducted to verify design assumptions and the potential for petroleum vapors or explosive conditions to occur in enclosed spaces. Proposals for removal systems other than hand bailing or passive skimming systems must be completed and submitted on a format consistent with the department's corrective action design report.

(4) A schematic and narrative description of the free product recovery system used;

(5) Whether any discharge will take place on site or off site during the recovery operation and where this discharge will be located;

(6) A schematic and narrative description of the treatment system, and the effluent quality expected from any discharge;

(7) The steps that have been or are being taken to obtain necessary permits for any discharge;

(8) The disposition of the recovered free product;

(9) Free product plume definition and map. The extent of free product must be assessed. If monitoring wells are used to define the free product plume, the number and location of wells and separation distance between the wells used to define the plume must be based on the receptors present and the site hydrology and geology. A minimum of five monitoring wells are required to construct the plume map. The boundary of the plume may be determined by half the distance between wells with free product and wells with no free product. If the groundwater professional can adequately define the plume using other technology as approved by the department, fewer than five wells may be used to define the boundary of the plume;

(10) The estimated volume of free product present, how the volume was calculated, recoverable volume and estimated recovery time; and

(11) Identification of all water lines, regardless of construction material, within the area of free product. Water lines and gaskets that are susceptible to petroleum contamination shall be considered within the area of free product if they are located within the boundary of the free product plume as defined by wells unless it can be demonstrated that no LNAPL exists within ten feet (horizontally or vertically) of the water line and the LNAPL is not migrating nor is likely to migrate. Water lines and gaskets that are susceptible to petroleum contamination within the area of free product must be relocated unless the department has approved an alternate plan of construction or it can be demonstrated that mobile LNAPL is not in contact with water lines or gaskets. See 135.12(3)*"c."*

*e.* The department will review the free product assessment report; and, if approved, the owner or operator must implement the installation of the approved recovery system within 60 days or other time period approved by the department.

*f.* Termination of free product recovery activities. Owners and operators may propose to the department to terminate free product recovery activities when significant amounts of hydrocarbons are not being recovered. The department will consider proposals to terminate free product recovery when the amount of product collected from a monitoring well is equal to or less than 0.1 gallon each month for a year or it is documented that the free product plume has been adequately delineated horizontally and vertically and free product is documented to not be migrating. When free product activities have been terminated based on the recovery rate of equal to or less than 0.1 gallon each month for a year, owners and operators must inspect the monitoring wells monthly for at least a year unless another schedule is approved by the department. The department must be notified and may require that free product recovery activities be reinitiated if during the monthly well inspections it is determined the product thickness in a monitoring well exceeds 0.02 ft. The monthly well inspection records must be kept available for review by the department.

*g.* Unless directed to do otherwise by the department, prepare and submit to the department within 180 days after confirming a release, a Tier 2 site cleanup report.

**567—135.8(455B) Risk-based corrective action.**

**135.8(1)** *General.* The objective of risk-based corrective action is to effectively evaluate the risks posed by contamination to human health, safety and the environment using a progressively more site-specific, three-tiered approach to site assessment and data analysis. Based on the tiered assessment, a corrective action response is determined sufficient to remove or minimize risks to acceptable levels. Corrective action response includes a broad range of options including reduction of contaminant concentrations through active or passive methods, monitoring of contamination, use of technological controls or institutional controls.

*a.* *Tier 1.* The purpose of a Tier 1 assessment is to identify whether a site poses an unreasonable risk to public health and safety or the environment based on limited site data. The objective is to determine maximum concentrations of chemicals of concern at the source of a release(s) in soil and groundwater. The Tier 1 assessment assumes worst-case scenarios in which actual or potential receptors could be exposed to these chemicals at maximum concentrations through certain soil and groundwater pathways. The point of exposure is assumed to be the source showing maximum concentrations. Risk-based screening levels (Tier 1 levels) contained in the Tier 1 Look-Up Table have been derived from models that use conservative assumptions to predict exposure to actual and potential receptors. (These models and default assumptions are contained in Appendix A.) If Tier 1 levels are not exceeded for a pathway, that pathway may not require further assessment. If the maximum concentrations exceed a Tier 1 level, the options are to conduct a more extensive Tier 2 assessment, apply an institutional control, or in limited circumstances excavate contaminated soil to below Tier 1 levels. If all pathways clear the Tier 1 levels, it is possible for the site to obtain a no action required classification.

*b.* *Tier 2.* The purpose of a Tier 2 assessment is to use site-specific data to assess the risk from chemicals of concern to existing receptors and potential receptors using fate and transport models in accordance with 567—135.10(455B). See 135.10(2)*"a."*

*c.* *Tier 3.* Where site conditions may not be adequately addressed by Tier 2 procedures, a Tier 3 assessment may provide more accurate risk assessment. The purpose of Tier 3 is to identify reasonable exposure levels of chemicals of concern and to assess the risk of exposure to existing and potential receptors based on additional site assessment information, probabilistic evaluations, or sophisticated chemical fate and transport models in accordance with 567—135.11(455B).

*d.* *Notification.* Whenever the department requires a tiered site assessment and a public water supply well is within 2,500 feet of a leaking underground storage tank site, the department will notify the public water supply operator.

*e.* *Pathway reevaluation.* Prior to issuance of a no further action certificate in accordance with 135.12(10) and Iowa Code section 455B.474(1)*"h"*(3), if it is determined that the conditions for an individual pathway that has been classified as "no action required" no longer exist, or the site presents an unreasonable risk to a public water supply well and the model used to obtain the pathway clearance underpredicts the actual contaminant plume, the individual pathway shall be further assessed consistent with the risk-based corrective action provisions in 567—135.8(455B) through 567—135.12(455B).

**135.8(2)** *Certified groundwater professional.* All assessment, corrective action, data analysis and report development required under 567—135.6(455B) through 567—135.12(455B) must be conducted by or under the supervision of a certified groundwater professional in accordance with these rules and department guidance as specified.

**135.8(3)** *Chemicals of concern.* Soil and groundwater samples from releases of petroleum regulated substances must always be analyzed for the presence of benzene, ethylbenzene, toluene, and xylenes. In addition, if the release is suspected to include any petroleum regulated substance other than gasoline or gasoline blends, or if the source of the release is unknown, the samples must be tested for the presence of Total Extractable Hydrocarbons (TEH). Appendices A and B and department Tier 2 guidance define a method for converting TEH values to a default concentration for naphthalene, benzo(a)pyrene, benz(a)anthracene and chrysene and conversion back to a representative TEH value. These default values must be used in order to apply Tier 2 modeling to these constituents in the absence of accurate laboratory analysis.

**135.8(4)** *Boring depth for sampling.* When drilling for the placement of groundwater monitoring wells, if groundwater is encountered, drilling must continue to the maximum of 10 feet below the first encountered groundwater or to the bottom of soil contamination as estimated by field screening. If groundwater is not encountered, drilling must continue to the deeper of 10 feet below the soil contamination as estimated by field screening or 75 feet from the ground surface.

**135.8(5)** *Bedrock aquifer assessment.* Prior to conducting any groundwater drilling, a groundwater professional must determine if there is a potential to encounter bedrock before groundwater. These potential areas include (1) areas where karst features or outcrops exist in the vicinity and (2) areas with bedrock less than 50 feet from the surface as illustrated in Tier 1 and Tier 2 guidance. The purpose of this determination is to prevent drilling through contaminated subsurface areas thereby creating a preferential pathway to a bedrock aquifer. If the first encountered groundwater is above bedrock but near the bedrock surface or fluctuates above and below bedrock, the groundwater professional should evaluate the subsurface geology and aquifer characteristics to determine the potential for creating a preferential pathway. If it is determined that the aquifer acts like a nongranular aquifer as provided in 135.10(3)*"a"* or bedrock is encountered before groundwater, the groundwater professional must conduct a Tier 2 assessment for all pathways under 567—135.10(455B), including the specified bedrock procedures under 135.10(3).

If the first encountered groundwater is above bedrock with sufficient separation and aquifer characteristics to establish that it acts as a granular aquifer, site assessment may proceed under the site check procedure in 567—135.6(455B), the Tier 1 procedure in 567—135.9(455B) or the Tier 2 procedure in 567—135.10(455B) as would be customary regardless of the bedrock designation. However, even under this condition, drilling through bedrock should be avoided in contaminated areas.

**567—135.9(455B) Tier 1 site assessment policy and procedure.**

**135.9(1)** *General.* The main objective of a Tier 1 site assessment is to reasonably determine the highest concentrations of chemicals of concern that would be associated with any suspected or confirmed release and an accurate identification of applicable receptors. The potential source of a release, nature of the substance released, site stratigraphy, depth to groundwater, and other appropriate factors must be considered when selecting the sample types, sample locations, and measurements methods. The placement and depth of borings and the construction of monitoring wells must be sufficient to determine the sources of all releases, the vertical extent of contamination, an accurate description of site stratigraphy, and a reliable determination of groundwater flow direction.

*a.* *Pathway assessment.* The pathways to be evaluated at Tier 1 are the groundwater ingestion pathway, soil leaching to groundwater pathway, groundwater vapor to enclosed space pathway, soil vapor to enclosed space pathway, soil to water line pathway, groundwater to water line pathway and the surface water pathway. Assessment requires a determination of whether a pathway is complete, an evaluation of actual and potential receptors, and a determination of whether conditions are satisfied for obtaining no further action clearance for individual pathways or for obtaining a complete site classification of "no action required." A pathway is considered complete if a chemical of concern has a route that could be followed to reach an actual or potential receptor.

*b.* *Pathway clearance.* If contaminant concentrations for an individual pathway do not exceed the applicable Tier 1 levels or if a pathway is incomplete, no further action is required to evaluate the pathway unless otherwise specified in these rules. If the contaminant concentrations for a pathway exceed the applicable Tier 1 level(s) in the "Iowa Tier 1 Look-up Table," the response is to conduct further assessment under Tier 2 or Tier 3 unless an effective institutional control is approved. In limited circumstances excavation of contaminated soils may be used as an option to obtain pathway clearance. If further site assessment indicates site data exceeds an applicable Tier 1 level(s) for a previously cleared pathway or the conditions justifying a determination of pathway incompleteness change, that pathway must be reevaluated as part of a Tier 2 or Tier 3 assessment.

*c.* *Chemical group clearance.* If concentrations for all chemicals of concern within a designated group of chemicals are below the Tier 1 levels, no further action is required as to the group of chemicals unless otherwise specified in these rules. Group one consists of benzene, ethylbenzene, toluene, and xylenes (BTEX). Group two consists of naphthalene, benzo(a)pyrene, benz(a)anthracene and chrysene; TEH default values are incorporated into the Iowa Tier 1 Look-Up Table and Appendix A for group two chemicals.

*d.* *Site classification.* A site can be classified as no action required only after all pathways have met the conditions for pathway clearance as provided in this rule.

*e.* *Groundwater sampling procedure.* Groundwater sampling and field screening must be conducted in accordance with department Tier 1 guidance. A minimum of three properly constructed groundwater monitoring wells must be installed, subject to the limitations on maximum drilling depths, for the purpose of identifying maximum concentrations of groundwater contamination, suspected sources of releases, and groundwater flow direction.

(1) Field screening must be used to locate suspected releases and to determine locations with the greatest concentrations of contamination. Field screening is required as per department guidance at each former and current tank basin, each former and current pump island, along the piping, and at any other areas of actual or suspected releases. In placing monitoring wells, the following must be considered: field screening data, available current and historical information regarding the releases, tank and piping layout, site conditions, and drilling data available from sites in the vicinity. At least one well must be placed at each suspected source of release that shall include at a minimum: the pump island with the greatest field screening level, each current and former underground storage tank basin, and if field screening shows greater levels than at the pump islands or tank basins, at other suspected sources of releases. As a general rule, wells should be installed outside of the tank basin through native soils but as close to the tank basin as feasible. A well must be installed in a presumed downgradient direction and within 30 feet of the sample with the greatest field screening level. Three of the wells must be placed in a triangular arrangement to determine groundwater flow direction.

(2) Where the circumstances that prompt a Tier 1 assessment identify a discrete source and cause of a release, and the groundwater professional is able to rule out other suspected sources or contributing sources such as pump islands, piping runs and tank basins, the application of field screening and groundwater well placement may be limited to the known source.

*f.* *Soil sampling procedure.* The objective of soil sampling is to identify the maximum concentrations of soil contamination in the vadose and saturated zones and to identify sources of releases. The same principles stated above apply to soil sampling. Soil samples must be taken from borings with the greatest field screening levels even if the boring will not be converted to a monitoring well. At a minimum, soil and groundwater samples must be collected for analysis from all borings that are converted to monitoring wells.

Iowa Tier 1 Look-Up Table

| Media | Exposure Pathway | Receptor | Group 1 | | | | Group 2: TEH | |
|---|---|---|---|---|---|---|---|---|
| | | | Benzene | Toluene | Ethylbenzene | Xylenes | Diesel* | Waste Oil |
| Groundwater (µg/L) | Groundwater Ingestion | Actual | 5 | 1,000 | 700 | 10,000 | 1,200 | 400 |
| | | Potential | 290 | 7,300 | 3,700 | 73,000 | 75,000 | 40,000 |
| | Groundwater Vapor to Enclosed Space | All | 1,540 | 20,190 | 46,000 | NA | 2,200,000 | NA |
| | Groundwater to Water Line | PVC or Gasketed Mains | 7,500 | 6,250 | 40,000 | 48,000 | 75,000 | 40,000 |
| | | PVC or Gasketed Service Lines | 3,750 | 3,120 | 20,000 | 24,000 | 75,000 | 40,000 |

| Media | Exposure Pathway | Receptor | Group 1 | | | | Group 2: TEH | |
|---|---|---|---|---|---|---|---|---|
| | | | Benzene | Toluene | Ethylbenzene | Xylenes | Diesel* | Waste Oil |
| | | PE/PB/AC Mains or Service Lines | 200 | 3,120 | 3,400 | 19,000 | 75,000 | 40,000 |
| | Surface Water | All | 290 | 1,000 | 3,700 | 73,000 | 75,000 | 40,000 |
| Soil (mg/kg) | Soil Leaching to Groundwater | All | 0.54 | 42 | 15 | NA | 3,800 | NA |
| | Soil Vapor to Enclosed Space | All | 1.16 | 48 | 79 | NA | 47,500 | NA |
| | Soil to Water Line | All | 2.0 | 3.2 | 45 | 52 | 10,500 | NA |

NA: Not applicable. There are no limits for the chemical for the pathway, because for groundwater pathways the concentration for the designated risk would be greater than the solubility of the pure chemical in water, and for soil pathways the concentration for the designated risk would be greater than the soil concentration if pure chemical were present in the soil.

TEH: Total Extractable Hydrocarbons. The TEH value is based on risks from naphthalene, benzo(a)pyrene, benz(a)anthracene, and chrysene. Refer to Appendix B for further details.

Diesel*: Standards in the Diesel column apply to all low volatile petroleum hydrocarbons except waste oil.

**135.9(2)** *Conditions requiring Tier 1 site assessment.* Unless owners and operators choose to conduct a Tier 2 assessment, the presence of bedrock requires a Tier 2 assessment as provided in 135.8(5), or these rules otherwise require preparation of a Tier 2 site assessment, a Tier 1 site assessment must be completed in response to release confirmation as provided in 567—135.6(455B), or tank closure investigation under 567—135.15(455B), or other reliable laboratory analysis that confirms the presence of contamination above the action levels in 567—135.14(455B).

**135.9(3)** *Tier 1 assessment report.* Unless directed to do otherwise by the department or the owners or operators choose to prepare a Tier 2 site cleanup report, owners and operators must assemble information about the site and the nature of the release in accordance with the department Tier 1 guidance, including information gained while confirming the release under 567—135.6(455B), tank closure under 567—135.15(455B) or completing the initial abatement measures in 135.7(1) and 135.7(2). This information must include but is not necessarily limited to the following:

*a.* Data on the nature and estimated quantity of release.

*b.* Results of any release investigation and confirmation actions required by 135.6(3).

*c.* Results of the free product investigations required under 135.7(3)*"a"*(5), to be used by owners and operators to determine whether free product must be recovered under 135.7(4).

*d.* Chronology of property ownership and underground storage tank ownership, identification of the person(s) having control of, or having responsibility for the daily operation of the underground storage tanks and the operational history of the underground storage tank system. The operational history shall include but is not limited to a description of or suspected known subsurface or aboveground releases, past remediation or other corrective action, type of petroleum product stored, recent tank and piping tightness test results, any underground storage tank system repairs, upgrades or replacements and the underground storage tank and piping leak detection method being utilized. The operational history shall confirm that current release detection methods and recordkeeping comply with the requirements of 567—135.5(455B), that all release detection records have been reviewed and report any evidence that a release detection standard has been exceeded as provided in 135.5(4) and 135.5(5).

*e.* Appropriate diagrams of the site and the underground storage tank system and surrounding land use, identifying site boundaries and existing structures and uses such as residential properties, schools, hospitals, child care facilities and a general description of relevant land use restrictions and known future land use.

*f.* Current proof of financial responsibility as required by 567—Chapter 136 and the status of coverage for corrective action under any applicable financial assurance mechanism or other financial assistance program.

*g.* A receptor survey including but not limited to the following: existing buildings, enclosed spaces (basements, crawl spaces, utility vaults, etc.), conduits (gravity drain lines, sanitary and storm sewer mains and service lines), water lines and other utilities within 500 feet of the source. For conduits and enclosed spaces, there must be a description of construction material, conduit backfill material, slope of conduit and trenches (include flow direction of sewers), burial depth of utilities or subsurface enclosed spaces, and the relationship to groundwater elevations.

*h.* An explosive vapor survey of enclosed spaces where there may be the potential for buildup of explosive vapors. The groundwater professional must provide a specific justification for not conducting an explosive vapor survey.

*i.* A survey of all surface water bodies within 200 feet of the source.

*j.* A survey of all active, abandoned and plugged groundwater wells within 1,000 feet of the source with a description of construction and present or future use.

*k.* Accurate and legible site maps showing the location of all groundwater monitoring wells, soil borings, field screening locations and screening values, and monitoring well and soil boring construction logs.

*l.* A tabulation of all laboratory analytical results for chemicals of concern and copies of the laboratory analytical reports.

*m.* Results of hydraulic conductivity testing and description of the procedures utilized.

*n.* A Tier 1 site assessment in accordance with the department's Tier 1 guidance. The Tier 1 report shall be submitted on forms and in a format prescribed by this guidance.

**135.9(4)** *Groundwater ingestion pathway assessment.* The groundwater ingestion pathway addresses the potential for human ingestion of petroleum-regulated substances from existing groundwater wells or potential drinking water wells.

*a.* *Pathway completeness.* This pathway is considered complete if: (1) there is a drinking or non-drinking water well within 1,000 feet of the source(s) exhibiting the maximum concentrations of the chemicals of concern; or (2) the first encountered groundwater is a protected groundwater source.

*b.* *Receptor evaluation.* A drinking or non-drinking water well within 1,000 feet of the source(s) is an actual receptor. The Tier 1 levels for actual receptors apply to drinking water wells and the Tier 1 levels for potential receptors apply to non-drinking water wells. Potential receptor points of exposure exist if the first encountered groundwater is a protected groundwater source but no actual receptors presently exist within 1,000 feet of the source.

*c.* *Pathway clearance.* If the pathway is incomplete, no further action is required for this pathway. If the Tier 1 level for actual or potential receptors is not exceeded, no further action is required for this pathway. Groundwater wells that are actual or potential receptors may be plugged in accordance with 567—Chapters 39 and 49 and may result in no further action clearance if the groundwater is not a protected groundwater source and the pathway is thereby incomplete.

*d.* *Corrective action response.* If maximum concentrations exceed the applicable Tier 1 levels for either actual or potential receptors, a Tier 2 assessment must be conducted unless effective institutional controls are implemented as provided below. Technological controls are not acceptable at Tier 1 for this pathway. Abandonment and plugging of drinking and non-drinking water wells in accordance with 567—Chapters 39 and 49 is an acceptable corrective action response.

*e.* *Use of institutional controls.* To apply an effective institutional control, if drinking or non-drinking water wells are present within 1,000 feet of the source, and the applicable Tier 1 level is exceeded, the well(s) for which there is an exceedance must be properly plugged. If the groundwater is a protected groundwater source and the maximum concentrations do not exceed the Tier 1 level for potential receptors but do exceed the Tier 1 level for actual receptors, the owner or operator must provide notification of site conditions on a department form to the department water supply section, or if a county has delegated authority, then the designated county authority responsible for issuing private water supply construction permits or regulating non-public water well construction as provided in 567—Chapters 39 and 49.

If the groundwater is a protected source and the maximum concentrations exceed the Tier 1 level for potential receptors, the owner or operator must (1) implement an institutional control prohibiting the use of the groundwater for installation of drinking and non-drinking water wells within 1,000 feet of the source; and (2) provide notification as provided above. If an effective institutional control is not feasible, a Tier 2 assessment must be performed for this pathway in accordance with 567—135.10(455B).

**135.9(5)** *Soil leaching to groundwater pathway assessment.* This pathway addresses the potential for soil contamination to leach to groundwater creating a risk of human exposure through the groundwater ingestion pathway.

*a.* *Pathway completeness.* If the groundwater ingestion pathway is complete, the soil leaching to groundwater pathway is considered complete.

*b.* *Receptor evaluation.* There is a single receptor type for this pathway and one applicable Tier 1 level.

*c.* *Pathway clearance.* If the pathway is incomplete or the pathway is complete and the maximum concentrations of chemicals of concern do not exceed the Tier 1 levels, no further action is required for assessment of this pathway.

*d.* *Corrective action response.* If the Tier 1 levels are exceeded for this pathway, a Tier 2 assessment must be conducted or alternatively, institutional controls or soil excavation may be undertaken in accordance with 135.9(7)*"h."*

*e.* *Use of institutional controls.* Institutional controls must satisfy the conditions applicable to the groundwater ingestion pathway as provided in 135.9(4)*"e."*

**135.9(6)** *Groundwater vapor to enclosed space pathway assessment.* This pathway addresses the potential for vapors from contaminated groundwater to migrate to enclosed spaces where humans could inhale chemicals of concern at unacceptable levels. This pathway assessment assumes the health-based Tier 1 levels will adequately protect against any associated short- and long-term explosive risks.

*a.* *Pathway completeness.* This pathway is always considered complete for purposes of Tier 1 and must be evaluated.

*b.* *Explosive vapor survey.* An explosive vapor survey must be conducted in accordance with procedures outlined in the department Tier 1 guidance. If potentially explosive levels are detected, the groundwater professional must notify the owner or operator with instructions to report the condition in accordance with 567—Chapter 105. The owner or operator must begin immediate response and abatement procedures in accordance with 567—135.7(455B) and 567—Chapter 105.

*c.* *Receptor evaluation.* For purposes of Tier 1, there is one receptor type for this pathway and the Tier 1 level applies regardless of the existence of actual or potential receptors.

*d.* *Pathway clearance.* No further action is required for this pathway, if the maximum groundwater concentrations do not exceed the Tier 1 levels for this pathway.

*e.* *Corrective action response.* If the maximum concentrations exceed the Tier 1 levels for this pathway, a Tier 2 assessment of this pathway must be conducted unless institutional controls are implemented. Technological controls are not acceptable at Tier 1 for this pathway.

*f.* *Use of institutional controls.* An institutional control must be effective to prohibit the placement of enclosed space receptors within 500 feet of the source.

**135.9(7)** *Soil vapor to enclosed space pathway assessment.* This pathway addresses the potential for vapors from contaminated soils to migrate to enclosed spaces where humans could inhale chemicals of concern at unacceptable levels. This pathway assessment assumes health-based screening levels at Tier 1 will adequately protect against short- and long-term explosive risks.

*a.* *Pathway completeness.* This pathway is always considered complete for purposes of Tier 1 and must be evaluated.

*b.* *Explosive vapor survey.* An explosive vapor survey must be conducted in accordance with procedures outlined in the department Tier 1 guidance. If potentially explosive levels are detected, the groundwater professional must notify the owner or operator with instructions to report the condition in accordance with 567—Chapter 105. The owner or operator must begin immediate response and abatement procedures in accordance with 567—135.7(455B) and 567—Chapter 105.

*c.* *Receptor evaluation.* For purposes of Tier 1, there is one receptor type for this pathway, and the Tier 1 level applies regardless of existing or potential receptors.

*d.* *Pathway clearance.* No further action is required for this pathway, if the maximum soil concentrations do not exceed the Tier 1 levels for this pathway. If the Tier 1 levels are exceeded, soil gas measurements may be taken in accordance with the Tier 2 guidance at the area(s) of maximum concentration. Subject to confirmation sampling, if the soil gas measurements do not exceed the target levels in 135.10(7)*"f,"* no further action is required for this pathway. If the Tier 1 level is not exceeded but the soil gas measurement exceeds the target level, further action is required for the pathway.

*e.* *Soil gas samples.* To establish that the soil gas measurement is representative of the highest expected levels, a groundwater professional must obtain two soil gas samples taken at least two weeks apart. One of the samples should be collected beneath the frost line depth during a seasonal period of lowest groundwater elevation.

*f.* *Corrective action response.* If the maximum concentrations exceed the Tier 1 levels and the soil gas measurements exceed target levels for this pathway, or if no soil gas measurement was taken, a Tier 2 assessment of this pathway must be conducted unless institutional controls are implemented or soil excavation is conducted as provided below. Technological controls are not acceptable at Tier 1 for this pathway.

*g.* *Use of institutional controls.* An institutional control must be effective to eliminate the placement of enclosed space receptors within 500 feet of the source.

*h.* *Soil excavation.* Excavation of contaminated soils for the purpose of removing soils contaminated above the Tier 1 levels is permissible as an alternative to conducting a Tier 2 assessment. Adequate field screening methods must be used to identify maximum concentrations during excavation. At a minimum, one soil sample must be taken for field screening every 100 square feet of the base and each sidewall. Soil samples must be taken for laboratory analysis at least every 400 square feet of the base and each sidewall of the excavated area to confirm that remaining concentrations are below Tier 1 levels. If the base or a sidewall of the excavation is less than 400 square feet, a minimum of one sample must be analyzed for each sidewall and the base.

**135.9(8)** *Groundwater to water line pathway assessment.* This pathway addresses the potential for creating a drinking water ingestion risk due to contact with water lines and causing infusion to the drinking water.

*a.* *Pathway completeness and receptor evaluation.*

(1) Actual receptors. This pathway is considered complete for an actual receptor if there is an existing water line within 200 feet of the source and the first encountered groundwater is less than 20 feet below ground surface.

(2) Potential receptors. This pathway is considered complete for a potential receptor if the first encountered groundwater is less than 20 feet below ground surface.

*b.* *Pathway clearance.* If the pathway is not complete, no further action is required for this pathway. If the pathway is complete and the maximum concentrations of all chemicals of concern do not exceed the Tier 1 levels for this pathway, no further action is required for this pathway.

*c.* *Utility company notification.* The utility company that supplies water service to the area must be notified of all actual and potential water line impacts as soon as knowledge of a potential risk is determined.

*d.* *Corrective action response.*

(1) For actual receptors, if the Tier 1 levels are exceeded for this pathway, all water lines within 200 feet must be replaced with water line materials and gasket materials of appropriate construction in accordance with current department standards set forth in 567—Chapter 43 and with no less than nitrile or FKM gaskets or as otherwise approved by the department, or the water lines must be relocated beyond the 200-foot distance from the source. A Tier 2 assessment must be conducted for this pathway if lines are not replaced or relocated.

(2) For potential receptors, upon utility company notification, no further action will be required for this pathway.

**135.9(9)** *Soil to water line pathway assessment.* This pathway addresses the potential for creating a drinking water ingestion risk due to contact with water lines and infusion into the drinking water.

*a.* *Pathway completeness and receptor evaluation.*

(1) Actual receptors. This pathway is considered complete for an actual receptor if a water line exists within 200 feet of the source.

(2) Potential receptors. This pathway is always considered complete for potential receptors.

*b. Pathway clearance.* If the pathway is not complete for actual receptors, no further action is required for this pathway. If the pathway is complete for actual receptors and the maximum concentrations of all chemicals of concern do not exceed Tier 1 levels for this pathway, no further action is required. For potential receptors, upon utility company notification, no further action will be required for this pathway for potential receptors.

*c. Utility company notification.* The utility company that supplies water service to the area must be notified of all actual and potential water line impacts as soon as knowledge of a potential risk is determined.

*d. Corrective action response.* For actual receptors, if the Tier 1 levels are exceeded for this pathway, all water lines within 200 feet must be replaced with water line materials and gasket materials of appropriate construction in accordance with current department standards set forth in 567—Chapter 43 and with no less than nitrile or FKM gaskets or as otherwise approved by the department, or the water lines must be relocated beyond the 200-foot distance from the source. Excavation of soils to below Tier 1 levels may be undertaken in accordance with 135.9(7)*"h."* If none of these options is implemented, a Tier 2 assessment must be conducted for this pathway.

**135.9(10)** *Surface water pathway assessment.* This pathway addresses the potential for contaminated groundwater to impact surface water bodies creating risks to human health and aquatic life.

*a. Pathway completeness.* This pathway is considered complete if a surface water body is present within 200 feet of the source. For purposes of Tier 1, surface water bodies include both general use segments and designated use segments as provided in 567—subrule 61.3(1).

*b. Receptor evaluation.* The Tier 1 levels for this pathway only apply to designated use segments of surface water bodies as provided in 567—subrules 61.3(1) and 61.3(5). The point of compliance is the source with the highest concentrations of chemicals of concern. General use segments of surface water bodies as provided in 567—paragraph 61.3(1)*"a"* are only subject to the visual inspection criteria.

*c. Visual inspection requirements.* A visual inspection of all surface water bodies within 200 feet of the source must be conducted to determine if there is evidence of a sheen on the water or there is evidence of petroleum residue along the bank. If a sheen or residue is evident or has been reported to be present, the groundwater professional must make a sufficient investigation to reasonably determine its source. If in the opinion of the groundwater professional, the sheen is not associated with the underground storage tank site, the professional must report and reasonably justify this opinion. If in the opinion of the groundwater professional the sheen is not a petroleum-regulated substance, a sample must be laboratory tested in accordance with 567—135.16(455B) to confirm it is not a petroleum-regulated substance.

*d. Pathway clearance.* If the pathway is not complete or it is complete and the maximum concentrations of all chemicals of concern at the point of compliance do not exceed the Tier 1 levels and there is no petroleum sheen or residue attributable to the site, no further action is required for assessment of this pathway.

*e. Corrective action response.* If a Tier 1 level is exceeded for any chemical of concern for a designated use segment within 200 feet of the source, or the groundwater professional determines the presence of a petroleum-regulated substance sheen or residue, a Tier 2 assessment of this pathway must be conducted.

**135.9(11)** *Tier 1 submission and review procedures.*

*a.* Within 90 calendar days of release confirmation or another reasonable period of time determined by the department, owners and operators must submit to the department a Tier 1 report in a format prescribed by the department and in accordance with these rules and the department Tier 1 guidance.

*b.* If the owner or operator elects to prepare a Tier 2 site cleanup report instead of a Tier 1 assessment, the department must be notified in writing prior to the expiration of the Tier 1 submission deadline. The Tier 2 site cleanup report must be submitted to the department in accordance with

567—135.10(455B) within 180 calendar days of release confirmation or another reasonable period of time determined by the department.

*c.* A Tier 1 report is considered to be complete if it contains all the information and data required by this rule and the department Tier 1 guidance. The report is accurate if the information and data is reasonably reliable based first on application of the standards in these rules and department guidance and second, generally accepted industry standards.

*d.* The certified groundwater professional shall include the following certification with the Tier 1 site assessment report:

I, ____________________________________________, Groundwater Professional Certification No. ________________, am familiar with all applicable requirements of Iowa Code section 455B.474 and all rules and procedures adopted thereunder including, but not limited to, 567—Chapter 135 and the Department of Natural Resources Tier 1 guidance. Based on my knowledge of those documents and information I have prepared and reviewed regarding this site, UST Registration No. ________________, LUST No.____________ I certify that this document is complete and accurate as provided in 567 IAC 135.9(11)*"c"* and meets the applicable requirements of the Tier 1 site assessment.

Signature:

Date:

*e.* Upon receipt of the groundwater professional's certified Tier 1 report, the groundwater professional's proposed site classification for the site shall be determinative unless, within 90 days of receipt, the department identifies material information in the report that is inaccurate or incomplete. Material information may be data found to be inaccurate or incomplete or a report that lacks information that, if correct and complete, would result in a different site classification than proposed by the certified groundwater professional. If the department determines that the site cleanup report is inaccurate or incomplete, the department shall notify the groundwater professional of the inaccurate or incomplete information within 90 days of receipt of the report and shall work with the groundwater professional and the party responsible for cleanup to obtain correct information or additional information necessary to appropriately classify the site. If the groundwater professional recommends proceeding to Tier 2, or a Tier 2 site cleanup report is required pursuant to 135.7(4)*"g,"* 135.8(5), or 567—135.9(455B), the groundwater professional's site classification and pathway classification recommendations shall not be considered determinative until the Tier 2 report is submitted for review as provided in 135.10(11).

*f.* If a "no action required" site classification is proposed, the department shall review the report in accordance with 135.12(6) and the review standards in 135.9(11)*"e."*

**135.9(12)** *Tier 1 site classification and corrective action response.*

*a.* No action required site classification. At Tier 1, a site is only eligible for a "no action required" classification. To be classified as no action required, each pathway must meet the requirements for pathway clearance as specified in this rule. If the department determines a no action required site classification is appropriate, a no further action certificate will be issued as provided in 135.12(10).

*b.* Where an individual pathway or a chemical group meets the requirements for clearance but the site is not entitled to a no action required classification, only those pathways and chemical groups that do not meet the no further action requirements must be evaluated as part of a Tier 2 assessment as provided in 567—135.10(455B).

*c.* Compliance monitoring and confirmation sampling. Compliance monitoring is not an acceptable corrective action at Tier 1. Except for soil gas sampling under 135.9(7), confirmation sampling to verify a sample does not exceed a Tier 1 level is not required. However, the department retains the authority to require confirmation sampling from existing groundwater monitoring wells if a no action required classification is being proposed at Tier 1 and the department has a reasonable basis to question the representative validity of the samples based on, for example, the seasonal bias of the sampling, evidence of multiple sources of releases, marginal groundwater monitoring well locations and analytical variability.

*d.* Expedited corrective action is permissible in accordance with 135.12(11).

**567—135.10(455B) Tier 2 site assessment policy and procedure.**

**135.10(1)** *General conditions.* A Tier 2 site assessment must be conducted and a site cleanup report submitted for all sites that have not obtained a no action required site classification and for all pathways and chemicals of concern groups that have not obtained no further action clearance as provided in 567—135.9(455B). If in the course of conducting a Tier 2 assessment, data indicates the conditions for pathway clearance under Tier 1 no longer exist, the pathway shall be further assessed under this rule. The Tier 2 assessment and report must be completed whenever free product is discovered as provided in 567—135.7(455B). If the owner or operator elects to complete the Tier 2 site assessment without doing a Tier 1 assessment, all the Tier 1 requirements as provided in 567—135.9(455B) must be met in addition to requirements under this rule.

*a.* *Guidance.* The Tier 2 site assessment shall be conducted in accordance with the department's "Tier 2 Site Assessment Guidance" and these rules. The site cleanup report shall be submitted on forms and in a format prescribed by this guidance. The Tier 2 data analysis shall be performed by using computer software or online application developed by the department.

*b.* *Classification.* At Tier 2, individual pathways may be classified as high risk or low risk or no action required and separate classification criteria may apply to actual and potential receptors for any pathway. A single pathway may have multiple classifications based on actual or potential receptor evaluations. A pathway must meet both the criteria for actual and potential receptors for the pathway to obtain a classification of no action required. Sites may have multiple pathway classifications. For a site to obtain a no action required classification, all pathways must meet the individual pathway criteria for no action required classification.

*c.* *Public right-of-way.* As a general rule, public right-of-way will not be considered an area of potential receptor exposure except for potential sanitary sewer evaluation under the soil and groundwater vapor pathways (135.10(6) and 135.10(7)).

**135.10(2)** *General Tier 2 assessment procedures.*

*a.* *Objectives.* The objective of a Tier 2 assessment is to collect site-specific data and with the use of Tier 2 modeling determine what actual or potential receptors could be impacted by chemicals of concern and what concentrations at the source are predicted to achieve protection of these receptors. Both Tier 1 and Tier 2 are based on achieving similar levels of protection of human health, safety and the environment.

*b.* *Groundwater modeling.* Tier 2 uses fate and transport models to predict the maximum distance groundwater contamination is expected to move and the distribution of concentrations of chemicals of concern within this area. The model is used for two basic purposes. One, it is used to predict at what levels of concentration contamination would be expected to impact actual and potential receptors. Two, it is used to determine a concentration at the source that if achieved, and after dispersion and degradation, would protect actual and potential receptors at the point of exposure. In predicting the transport of contaminants, the models assume the contaminant plume is at "steady state" such that concentrations throughout the plume have reached a maximum level and are steady or decreasing. The Tier 2 models are only designed to predict transport in a direct line between the source and downgradient to a receptor. In order to more reasonably define a modeled plume in all directions, 135.10(2)*"i"* defines a method of decreasing modeled concentrations as a percentage of their distance in degrees from the downgradient direction.

*c.* *Soil vapor models.* The soil vapor models are vertical transport models and do not use modeling to predict soil contaminant transport horizontally to receptors.

*d.* *Soil leaching to groundwater modeling.* The soil leaching to groundwater model is a model that predicts the maximum concentrations of chemicals of concern that would be expected in groundwater due to vertical leaching from the area of maximum soil concentrations and then incorporates the groundwater transport models to predict contaminant transport through groundwater pathways.

*e.* *Modeling default parameters.* The Tier 2 model formulas and applicable parameters are designated in Appendix B and must be followed unless otherwise specified in these rules. Unless otherwise specified, target levels at a point of exposure may be the Tier 1 level(s) or may be determined using site-specific parameters. The target level at a point of exposure is calculated using the Tier 1 formulas in Appendix A and either site-specific measurements or the default values for those parameters identified as "optional" and "site-specific" in Appendix B.

*f. Source width.* The source width and source length are variables used in modeling and must be determined by the following criteria and as specified in the department's Tier 2 guidance. The following are not to be used as criteria for defining the extent of the contaminant plumes.

(1) Source width (equals $S_w$ in models) for groundwater transport modeling. The sum of group one chemical (benzene, toluene, ethylbenzene, xylenes or "BTEX") concentrations for each groundwater sample is determined and the location of the sample with the maximum total BTEX is identified. Linear interpolation is used to estimate the area where groundwater concentrations would be expected to exceed 50 percent of the maximum BTEX value, and this area is considered for the source width measurement. The same procedure is used to determine source width for group two chemicals, using TEH in groundwater. The width of the groundwater contamination perpendicular to estimated groundwater flow direction ($S_w$) is determined, and the larger of either group one or group two chemicals is used in the groundwater transport model.

(2) Source width ($S_w$) and source length (equals W in models) for soil leaching to groundwater transport modeling. Both the source width perpendicular to the estimated groundwater flow direction ($S_w$) and the source length parallel to the estimated groundwater flow direction (W) are used in the soil leaching to groundwater model. The sum of BTEX concentrations for each soil sample is determined and the location of the sample with the maximum total BTEX is identified. Concentrations from both the vadose zone and the saturated zone must be considered when determining the maximum. Linear interpolation is used to estimate the area where soil concentrations would be expected to exceed 50 percent of the maximum BTEX value, and this area is considered for the source width and source length measurements. The same procedure is used to determine source width for group 2 chemicals, using TEH in soil. Source width and source length measurements for BTEX in groundwater are also taken following the same linear interpolation criteria in 135.10(2)*"f"*(1). The source width value used in the model is the greatest of either the soil source width measurements or the groundwater source width measurement. The source length value used in the model is the greatest of either of the soil source length measurements or the groundwater length measurement.

*g. Modeled simulation line.* The simulation line represents the predicted maximum extent of groundwater contamination and distribution of contaminant concentrations between the source(s) and actual or potential receptor locations. The model calculates the simulation line using maximum concentrations at the source(s) and predicting the amount of dispersion and degradation. Modeled data in the simulation line are compared with actual contaminant concentrations to verify the predictive validity of the model and to make risk classification decisions.

*h. Modeled site-specific target level (SSTL) line.* The modeled SSTL line represents acceptable levels of contaminant concentrations at points between and including the source(s) and an applicable point(s) of exposure or other point(s) of compliance (ex. a potential receptor point of exposure). The SSTL line is calculated by assuming an applicable target level concentration at the point(s) of exposure or point(s) of compliance and modeling back to the source to determine the maximum concentrations at the source (SSTL) that must be achieved to meet the target level at the point of exposure or compliance. Comparison of contaminant concentrations from actual samples to this SSTL line is used to determine a risk classification and determine appropriate corrective action response.

*i. Crossgradient and upgradient modeling.* In determining the SSTL line and the simulation line in directions other than downgradient, the modeled contaminant concentrations are applied to reduced distances as specified in the "Tier 2 Guidance." The modeled results are applied to 100 percent of the distance within an angle of 30 degrees on either side of the range of downgradient directions as specified in Tier 2 guidance. The modeled results are applied to 20 percent of the distance in the upgradient direction and directly proportional distances between these two outer limits. If the groundwater gradient is less than 0.005 or the groundwater contaminant plume shows no definitive direction or shows directional reversals, the modeled concentrations are applied to 100 percent of the distance in all directions from the source. As the downgradient velocity increases, the upgradient modeled distance is reduced to less than 20 percent of the downgradient modeled distance.

*j. Plume definition.* The purpose of plume definition at Tier 2 is to obtain sufficient data to determine the impact on actual and potential receptors, to determine and confirm the highest levels of contamination, to verify the validity of the models, and to determine groundwater flow direction. The number and location of borings and monitoring wells and the specificity of plume definition will depend on the pathway or pathways being assessed and the actual or potential receptors of concern. Unless otherwise specified, groundwater and soil contamination shall be defined to Tier 1 levels for the applicable pathways. Linear interpolation between two known concentrations must be used to delineate plume extent. Samples with no concentrations detected shall be considered one-half the detection limit for interpolation purposes.

*k. Pathway completeness.* Unless a pathway has obtained clearance under Tier 1, each pathway must be evaluated at Tier 2. Pathways are generally considered complete (unless otherwise specified) and receptors affected if actual receptors or potential receptor points of exposure exist within the modeled contaminant plume using the modeled simulation line calculated to the applicable target level at a point of exposure. If the actual contaminant plume exceeds the modeled plume, the pathway is complete and must be evaluated if actual or potential points of exposure exist within a distance extending 10 percent beyond the edge of the defined plume.

*l. Points of exposure and compliance.* For actual receptors, the point(s) of exposure is the receptor. For potential receptors, the potential receptor point(s) of exposure is determined by using actual plume definition or the modeled simulation line to determine all points that exceed the target level(s) for potential receptors. The potential receptor point(s) of exposure is the location(s) closest to the source where a receptor could reasonably exist and that is not subject to an institutional control; for example, the source is the potential receptor point of exposure if not subject to an institutional control or an adjoining property boundary line if that property is not subject to an institutional control. At Tier 2, the point(s) of exposure or potential receptor point(s) of exposure is a point of compliance unless otherwise specified. Other points of compliance are specified by rules and will generally include all points along the SSTL line for purposes of pathway and site classification and corrective action response.

**135.10(3)** *Bedrock assessment.*

*a. General.* As provided in 135.8(5), if bedrock is encountered before groundwater, special assessment procedures under this subrule apply. The Tier 2 assessment procedures apply to the extent they are not inconsistent with this subrule. The objectives of these special procedures are to avoid creating a preferential pathway for contamination through a confining layer to a bedrock aquifer; to avoid creating a preferential pathway to a fractured system, and to determine whether groundwater transport modeling can be used and, if not, what alternative procedures are required. The owner or operator may choose to conduct a Tier 3 assessment under 567—135.11(455B) as an alternative to proceeding under this subrule. For sites where bedrock is encountered before groundwater, there are three general categories of site conditions that determine the assessment procedures that apply:

(1) Nongranular bedrock. Nongranular bedrock is bedrock that is determined to not act as a granular aquifer as provided in 135.10(3)*"a"*(2). Nongranular bedrock generally has some type of fractured system where groundwater transport modeling cannot be applied and that makes it difficult to define the extent of contamination.

(2) Granular bedrock. Granular bedrock is bedrock that is determined to act as a granular aquifer and for which monitoring wells do not exist at the source. For purposes of this rule, a granular aquifer is one that shows no extraordinary variations or inconsistencies in groundwater elevations across the site, groundwater flow, hydraulic conductivities, or total dissolved solid concentrations among monitoring wells. Although the extent of contamination can be defined in granular bedrock, groundwater transport modeling cannot be used because monitoring wells shall not be installed at the source if soil contamination is present. If soil contamination above a Tier 1 level is not identified or an overexcavation of contaminated soil has successfully removed all soil contamination greater than a Tier 1 level, then monitoring wells can be installed in the source area and the site can be evaluated as exempt granular bedrock.

(3) Exempt granular bedrock. Exempt granular bedrock is bedrock that is determined to act as a granular aquifer as provided in 135.10(3)*"a"*(2) and for which monitoring wells exist at the source as

of August 15, 1996. Sites in exempt granular bedrock shall be evaluated using regular Tier 1 and Tier 2 procedures in this rule.

NOTE: Nongranular bedrock is subject to special bedrock assessment procedures even if groundwater monitoring wells exist at the source because the flow is not predictable by the Tier 2 model.

*b.* *Exempt soil pathways.* The soil vapor to enclosed space pathway and the soil to water lines pathway shall be assessed under the regular Tier 2 procedures in 135.10(7) and 135.10(9), respectively. In all cases, the assessment must comply with the policy of avoiding a preferential pathway to groundwater consistent with 135.8(5) and this subrule.

*c.* *Soil and groundwater assessment.* The vertical and horizontal extent of soil contamination shall first be defined to Tier 1 levels for the soil leaching to groundwater pathway without drilling into bedrock. A minimum of three groundwater monitoring wells shall be located and installed between 50 to 100 feet beyond the soil contamination Tier 1 levels to avoid creating a preferential pathway. Analytical data as normally required by these rules and guidance must be obtained.

*d.* *Soil contamination remediation.* For all sites where soil contamination exceeds the soil leaching to groundwater Tier 1 levels, soil excavation or other active soil remediation technology must be conducted in accordance with department guidance to reduce concentrations to below this Tier 1 level. Soil remediation monitoring must be conducted in accordance with 567—135.12(455B).

*e.* *Groundwater plume definition.* If it is determined the groundwater acts in a manner consistent with a granular aquifer as provided in 135.10(3)*"a"*(2) and guidance but does not meet the criteria for exemption under 135.10(3)*"a"*(3), the plume must be defined. The policy of avoiding the creation of a preferential pathway to the bedrock aquifer in accordance with 135.8(5) must be followed.

*f.* *Soil leaching to groundwater ingestion pathway.* Under this subrule, the soil leaching to groundwater pathway only need be evaluated in combination with the groundwater ingestion pathway. Because of the policies requiring soil remediation to the soil leaching to groundwater Tier 1 levels under 135.10(3)*"d"* and *"k,"* the soil leaching pathway target levels applicable to other groundwater transport pathways and other soil pathways would not be exceeded. If a soil leaching to groundwater Tier 1 level is exceeded, the pathway is high risk.

*g.* *Special procedures for the groundwater ingestion pathway.*

(1) A protected groundwater source is assumed without measurements of hydraulic conductivity for all sites designated as granular or nongranular bedrock.

(2) Groundwater well receptor evaluation for granular and nongranular bedrock designations. All drinking and non-drinking water wells within 1,000 feet of the source must be identified and tested for chemicals of concern. All public water supply systems within one mile of the source must be identified and raw water tested for chemicals of concern. All area within 1,000 feet of the source is considered a potential receptor point of exposure.

(3) Target levels. The following target levels apply regardless of granular aquifer designation. If drinking water wells are within 1,000 feet of the source, the applicable target level is the groundwater ingestion pathway Tier 1 level for actual receptors. If non-drinking water wells are within 1,000 feet of the source, the applicable target level is the groundwater ingestion pathway Tier 1 level for potential receptors. For potential wells, the applicable target level is the groundwater ingestion pathway Tier 1 level for potential receptors.

(4) Sentry well. If the Tier 1 level for actual receptors is exceeded at sites designated as granular bedrock and the receptor has not yet been impacted, a monitoring well shall be placed between the source and an actual receptor, outside the defined plume and approximately 200 feet from the actual receptor. For alternative well placement, the certified groundwater professional must provide justification and obtain department approval. This monitoring well is to be used for monitoring potential groundwater contamination of the receptor.

(5) High risk classification. A site where bedrock is encountered before groundwater shall be classified high risk for this pathway if any of the following conditions exist regardless of granular aquifer determination: The target level at any actual receptor is exceeded; drinking water well receptors are present within 1,000 feet and groundwater concentrations in any monitoring well exceed the groundwater ingestion Tier 1 level for actual receptors; non-drinking water wells are within 1,000 feet

and groundwater concentrations in any monitoring well exceed the groundwater ingestion pathway Tier 1 level for potential receptors; or for sites designated nongranular bedrock, if groundwater concentrations for chemicals of concern from any public water system well within one mile of the source exceed 40 percent of the Tier 1 level for actual receptors, and groundwater concentrations in any monitoring well exceed the groundwater ingestion Tier 1 level for actual receptors. Corrective action shall be undertaken as provided in 135.10(3)*"k."*

(6) Low risk classification. Sites without an actual receptor within 1,000 feet shall be classified as low risk for this pathway if no high risk conditions exist and the Tier 1 level for potential receptors is exceeded. The site is subject to monitoring as provided in 135.10(3)*"l."* If an actual receptor exists within 1,000 feet, a site designated as granular or nongranular bedrock shall be classified low risk for this pathway when soil contamination has been removed or remediated to below the soil leaching to groundwater Tier 1 levels and all groundwater monitoring wells are non-detect or below the applicable target level for actual and potential receptors. A site may be reclassified to no action required for this pathway after all monitoring wells meet the exit monitoring criteria as specified in 135.10(3)*"l."* (NOTE: Exit monitoring is required because groundwater monitoring wells are not located at the source or if they are, the data is highly unreliable given the nature of bedrock.) If actual receptors do not exist or have been properly plugged and concentrations exceed the Tier 1 level for potential receptors, institutional controls and notification to permitting authorities may be employed in accordance with 135.10(4)*"h."* The institutional control must prohibit use of groundwater for 1,000 feet.

*h. Special procedures for the groundwater vapor to enclosed space pathway.*

(1) Soil gas plume. Soil gas measurements must be taken regardless of granular aquifer determination and in accordance with Tier 2 guidance to determine a soil gas plume. Soil gas where practical should be measured at the soil-bedrock interface. At a minimum, soil gas must be measured at the suspected area of maximum contamination and near the three monitoring wells with the highest concentrations that exceed the Tier 1 level for the groundwater to enclosed space pathway. Where the plume has been defined, soil gas measurements should be taken near wells exceeding the Tier 1 level. Other soil gas measurements must be taken as needed to define the extent of contamination where soil gas measurements exceed the soil gas vapor target levels.

(2) The soil gas target levels are those defined in 135.10(7)*"f."*

(3) High risk classification. A site designated as granular or nongranular bedrock shall be classified high risk for this pathway if an actual confined space receptor exists within 50 feet of the soil gas plume based on the soil gas target level as defined in 135.10(6).

(4) Low risk classification. A site designated as granular or nongranular bedrock shall be classified as low risk for this pathway if the soil gas exceeds the vapor target level at any point and no actual confined space receptors exist within 50 feet of the soil gas contaminant plume.

*i. Special procedure for the groundwater to water line pathway.*

(1) Target level. The applicable target level is the Tier 1 level for the specific type of water line.

(2) High risk classification. A site designated as granular or nongranular bedrock shall be classified high risk for this pathway if the highest groundwater elevation is within three feet of the bottom of a water line as provided in 135.10(8)*"a"*(1), risk classification cannot be determined as provided in 567—135.12(455B) due to limitations on placement of monitoring wells, and water lines exist within 200 feet of a monitoring well that exceeds the Tier 1 level.

*j. Special procedures for the surface water pathway.* Any surface water body within 200 feet of the source must be evaluated under the following for sites designated as granular or nongranular bedrock. The provisions of 135.10(10) apply to the extent they are not inconsistent with the following, including the visual inspection requirements.

(1) Point of compliance. The monitoring well closest to the surface water body must be used as the point of compliance to evaluate impacts to designated use segments as described in 135.10(10) and for general use segments that fail the visual inspection criteria of 135.10(10)*"b."* If the surface water criteria are exceeded for a designated use segment, an allowable discharge concentration must be calculated and met at the point of compliance. For general use segments failing the visual inspection criteria, the acutely toxic target level must be met at the point of compliance.

(2) High risk classification. A site designated as granular or nongranular bedrock shall be classified high risk for this pathway if the surface water body is within 200 feet of the source, risk classification cannot be determined as per 567—135.12(455B) due to limitations on placement of monitoring wells, and the monitoring well closest to the designated use segment exceeds the allowable discharge concentration. A general use segment failing the visual inspection criteria is high risk if, after the sheen is removed, the monitoring well closest to the general use segment exceeds the acutely toxic target level.

(3) Low risk classification. If the allowable discharge concentration is not exceeded at the point of compliance, the site shall be classified as low risk for this pathway and subject to monitoring under 135.10(3)*"l."* The monitoring well closest to the receptor shall serve as the sentry well for monitoring purposes.

*k. High risk corrective action response.* Owners and operators have the option to conduct a Tier 3 assessment in accordance with 567—135.11(455B).

(1) Groundwater ingestion pathway. For high risk sites, where soil exceeds the soil leaching to groundwater Tier 1 level for actual receptors, soil excavation or other active remediation of soils must be conducted in accordance with department guidance to reduce soil concentrations to below the soil leaching Tier 1 level. Corrective action other than monitoring of groundwater is required at sites designated as nongranular bedrock if the actual receptor has been or is likely to be impacted. Corrective action other than monitoring of groundwater is required at sites designated as granular bedrock if the actual receptor has been impacted or the sentry well required by 135.10(3)*"g"*(4) has been impacted above Tier 1 levels. Acceptable corrective action for impacted or vulnerable groundwater wells may include active remediation, technological controls, institutional controls, well plugging, relocation, and well reinstallation with construction measures sufficient to prevent contaminant infiltration to the well and to prevent formation of a preferential pathway.

(2) Groundwater ingestion pathway high risk monitoring. For high risk sites designated as nongranular or granular bedrock, if the soil concentrations do not exceed the soil leaching to groundwater Tier 1 levels or have been reduced to this level by corrective action, and corrective action of groundwater is not required as in 135.10(3)*"k"*(1), these sites shall be subject to groundwater monitoring as provided in 135.10(3)*"l."* Corrective action other than monitoring of groundwater is required at sites designated as granular bedrock if groundwater concentrations exceed the applicable target level less than 200 feet from an actual receptor. Reevaluation of the potential for impact to actual receptors is required at sites designated as nongranular bedrock if concentrations from monitoring wells increase more than 20 percent of the previous samples.

(3) For water line pathways. For high risk sites, active remediation must be conducted to reduce concentrations below the applicable target levels, or water lines and gaskets must be replaced or relocated, including the use of institutional and technological controls. If lines are polybutylene, polyethylene, or asbestos-cement, the lines must be removed or relocated. All water lines that are replaced must be replaced with water line materials and gasket materials of appropriate construction in accordance with current department standards set forth in 567—Chapter 43 and with no less than nitrile or FKM gaskets or as otherwise approved by the department.

(4) Other pathways. For high risk sites other than groundwater ingestion and water lines, active remediation must be conducted to reduce concentrations below the applicable target levels, including the use of institutional and technological controls.

*l. Monitoring.* For high and low risk sites, annual monitoring at a minimum is required as specified below, and potential receptor status for low risk sites must be confirmed. Annual monitoring may be used to meet the exit requirements for no action required classification in accordance with 135.10(3)*"m."*

(1) Groundwater in nongranular bedrock designations. All groundwater monitoring wells must be monitored at least annually.

(2) Groundwater in granular bedrock designations. The following monitoring wells must be monitored at least annually: a well with detected levels of contamination closest to the leading edge of the groundwater plume between the source and the receptor, and a sentry well with concentrations below the applicable target level consistent with 135.10(3)*"g"*(4) and 135.10(3)*"j."*

(3) Soil gas. For sites where the soil gas target level is exceeded, annual monitoring of soil gas is required at the suspected area of maximum contamination and between the soil gas plume and any actual receptors within 100 feet of the soil gas plume.

*m. No action required classification.* A site may be given a no action required classification after conducting a Tier 2 assessment as provided in this subrule if maximum soil concentrations do not exceed the Tier 1 levels for the soil leaching pathway, and if groundwater exit monitoring criteria and soil gas confirmation sampling are met as specified below.

(1) Groundwater in nongranular bedrock designations. Exit monitoring requires that samples from all groundwater monitoring wells must not exceed the applicable target levels for annual sampling for three consecutive years. If soil contamination above a Tier 1 level is not identified or if an overexcavation has successfully removed all soil contamination greater than a Tier 1 level and monitoring wells are installed in the source area, exit monitoring criteria are met when two consecutive samples collected at least six months apart from all monitoring wells show concentrations less than the lowest target level.

(2) Groundwater in granular bedrock designations. Exit monitoring must be met in two ways: A monitoring well between the source and the receptor must not exceed applicable target levels for three sampling events, and samples must be separated by at least six months; and the three most recent consecutive groundwater samples from a monitoring well between the source and the receptor with detected levels of contamination must show a steady or declining trend and meet the following criteria: The first of the three samples must be greater than detection limits, concentrations cannot increase more than 20 percent from the first of the three samples to the third sample; concentrations cannot increase more than 20 percent from the previous sample; and samples must be collected at least six months apart.

(3) Soil gas. Confirmation sampling for soil gas must be conducted as specified in 135.12(6)*"c."*

*n. Properly plugged monitoring wells.* After receiving a no action required classification, all monitoring wells must be properly plugged in accordance with 567—Chapters 39 and 49.

**135.10(4)** *Groundwater ingestion pathway assessment.*

*a. Pathway completeness.* Unless cleared at Tier 1, this pathway is complete and must be evaluated under any of the following conditions: (1) the first encountered groundwater is a protected groundwater source; or (2) there is a drinking water well or a non-drinking water well within the modeled groundwater plume or the actual plume as provided in 135.10(2)*"j"* and *"k."*

*b. Receptor evaluation.* All drinking and non-drinking water wells located within 100 feet of the largest actual plume (defined to the appropriate target level for the receptor type) must be tested, at a minimum, for chemicals of concern as part of the receptor evaluation. Actual plumes refer to groundwater plumes for all chemicals of concern. Untreated or raw water must be collected for analysis unless it is determined to be infeasible or impracticable.

All existing drinking water wells and non-drinking water wells within the modeled plume or the actual plume as provided in 135.10(4)*"a"* must be evaluated as actual receptors. Potential receptors only exist if the groundwater is a protected groundwater source. Potential receptor points of exposure are those points within the modeled plume or actual plume that exceed the potential point of exposure target level. The point(s) of compliance for actual receptor(s) is the receptor. The point(s) of compliance for potential receptor(s) is the potential receptor point of exposure as provided in 135.10(2)*"j"* and *"k."*

*c. Target levels.* For drinking water wells, the target level at the point(s) of exposure is the Tier 1 level for actual receptors. For non-drinking water wells, the target level at the point(s) of exposure is the Tier 1 levels for potential receptors. For potential receptors, the target level at the potential receptor point(s) of exposure is the Tier 1 level for potential receptors.

*d. Pathway evaluation.* The soil leaching to groundwater pathway must be evaluated in accordance with 135.9(5) if this pathway is complete.

*e. Modeling.* At Tier 2, the groundwater well located within the modeled plume is assumed to be drawing from the contaminated aquifer, and the groundwater transport model is designed to predict horizontal movement to the well. If the groundwater professional determines that assessment of the vertical movement of contamination is advisable to determine the potential or actual impact to the well source, a Tier 3 assessment of this vertical pathway may be conducted. The groundwater professional shall submit a work plan to the department specifying the assessment methods and objectives for approval in accordance with 567—135.11(455B). Factors that should be addressed include but are not limited to well depth and construction, radius of influence, hydrogeologic separation of aquifer, preferential pathways, and differing water quality characteristics.

*f.* *Plume definition.* The groundwater plume shall be defined to the applicable Tier 1 level for actual receptors except, where there are no actual receptors and the groundwater is a protected groundwater source, the plume shall be defined to the Tier 1 level for potential receptors.

*g.* *Pathway classification.* This pathway shall be classified as high risk, low risk or no action required in accordance with 567—135.12(455B).

*h.* *Corrective action response.* Corrective action must be conducted in accordance with 567—135.12(455B). Abandonment and plugging of wells in accordance with 567—Chapters 39 and 49 is an acceptable corrective action response.

*i.* *Use of institutional controls.* Institutional controls may be used to obtain no action required pathway classification. If the pathway is complete and the concentrations exceed the applicable Tier 1 level(s) for actual receptors, the drinking or non-drinking water well must be properly plugged in accordance with 567—Chapters 39 and 49 and the institutional control must prohibit the use of a protected groundwater source (if one exists) within the actual or modeled plume as provided in 135.10(2)*"j"* and *"k."* If the Tier 1 level is exceeded for potential receptors, the institutional control must prohibit the use of a protected groundwater source within the actual or modeled plume, whichever is greater. If concentrations exceed the Tier 1 level for drinking water wells and the groundwater is a protected groundwater source, the owner or operator must provide notification of the site conditions on a department form to the department water supply section, or if a county has delegated authority, then the designated county authority responsible for issuing private water supply construction permits or regulating non-public water well construction as provided in 567—Chapters 39 and 49.

*j.* *Notification of well owners.* Upon receipt of a Tier 2 site cleanup report and as soon as practicable, the department shall notify the owner of any public water supply well identified within the Tier 2 site cleanup report that a leaking underground storage tank site is within 2,500 feet and an assessment has been performed.

**135.10(5)** *Soil leaching to groundwater pathway assessment.*

*a.* *General.* The soil leaching to groundwater pathway is evaluated using a one-dimensional model that predicts vertical movement of contamination through soil to groundwater and transported by the groundwater to a receptor. The model is used to predict the maximum concentrations of chemicals of concern that would be present in groundwater beneath a source that is representative of residual soil contamination and maximum soil concentrations. The predicted groundwater concentrations then must be used as a groundwater source concentration to evaluate its impact on other groundwater transport pathways, including the groundwater ingestion pathway, the groundwater vapor pathway, the groundwater water line pathway and the surface water pathway.

*b.* *Pathway completeness.* This pathway is complete whenever a groundwater transport pathway is complete as provided in this rule.

*c.* *Plume definition.* The soil plume shall be defined to the Tier 1 levels for the soil leaching to groundwater pathway.

*d.* *Receptor evaluation.* Receptors for this pathway are the same as the receptors for each complete groundwater transport pathway.

*e.* *Modeling and target levels.* The soil and groundwater parameters shall be measured as provided in 135.10(2).

The soil leaching to groundwater model shall be used to calculate the predicted groundwater source concentration. Each applicable groundwater transport pathway model shall then be used in accordance with the rules for that pathway to predict potential impact to actual receptors, the location of potential receptor points of exposure and the SSTL in groundwater at the source. This SSTL then is used to calculate a SSTL for soil at the source. If the soil concentrations exceed the SSTL for soil, corrective action response shall be evaluated.

*f.* *Corrective action response.* If the maximum soil concentration at the source exceeds the SSTL for soil for actual or potential receptors, corrective action must be taken in accordance with 567—135.12(455B).

**135.10(6)** *Groundwater vapor to enclosed space pathway assessment.*

*a.* *Pathway completeness.* Unless cleared at Tier 1, this pathway is always considered complete for purposes of Tier 2.

*b.* *Explosive vapor survey.* If an explosive vapor survey has not been conducted as part of a Tier 1 assessment, an explosive vapor survey of enclosed spaces must be conducted during the Tier 2 assessment in accordance with 135.9(6)*"b"* and procedures outlined in the department's Tier 1 guidance.

*c.* *Confined space receptor evaluation.* Actual and potential receptors are evaluated at Tier 2 for this pathway.

(1) Actual receptors. An existing confined space within the modeled groundwater plume or the actual groundwater plume as provided in 135.10(2)*"j"* and *"k"* is an actual receptor. For the purpose of Tier 2, a confined space is a basement in a building occupied by humans. Buildings constructed with a concrete slab on grade or buildings constructed without a concrete slab, but with a crawl space are not considered confined spaces. Sanitary sewers are considered confined space receptors and preferential pathways if an occupied building exists within 200 feet of where the sewer line crosses over or through actual or modeled groundwater contamination that exceeds the target levels calculated for sewers. The sanitary sewer includes its utility envelope. The point of exposure is the receptor and points of compliance include the locations where target level measurements may be taken as provided in 135.10(6)*"f"* and *"g."*

(2) Potential receptors. Potential receptors are confined spaces that do not presently exist but could exist in the future. Areas within the actual groundwater plume perimeter or modeled groundwater plume perimeter are considered potential receptor points of exposure. Potential receptors are evaluated and target levels established based on the current zoning as provided in 135.10(6)*"f."* The potential receptor point of exposure is a point of compliance.

*d.* *Vapor inhalation hazards.* Owners and operators may be required to address vapor inhalation hazards in occupied spaces other than confined spaces as defined in these rules when evidence arises that would give the department a reasonable basis to believe vapor hazards are present or may occur.

*e.* *Plume definition.*

(1) The soil plume must be defined in accordance with 135.10(2)*"f"* for the purposes of estimating source width and source length used in soil leaching to groundwater and groundwater transport models.

(2) The groundwater plume must be defined to the target levels derived from site-specific data as provided in 135.10(6)*"f."*

*f.* *Target levels.* Target levels can be based on groundwater concentrations, soil gas measurements, and indoor vapor measurements as provided below.

(1) For actual receptors and potential receptors, groundwater modeling as provided in 135.10(2) is used to calculate the groundwater concentration target level at the point of exposure. Default residential exposure factors, default residential building parameters, and a target risk of $10^{-4}$ are used to determine target levels for actual receptors and potential receptor points of exposure in residential areas and areas with no zoning. Default nonresidential exposure factors, default nonresidential building parameters, and a target risk of $10^{-4}$ are used to determine target levels for actual receptors and potential receptor points of exposure in nonresidential areas. Default values are provided in Appendices A and B.

(2) For actual receptors, the indoor vapor target levels are designated in 135.10(7)*"f."* For actual and potential receptors, the soil gas target levels are designated in 135.10(7)*"f."*

(3) Sanitary sewers are treated as human health receptors, and groundwater concentration target levels at the point of exposure are based on the application of a target risk of $2 \times 10^{-4}$ for carcinogens and a hazard quotient of 2 for noncarcinogens.

*g.* *Pathway evaluation and classification.* Upon completion of evaluation of analytical results of appropriate samples and modeled data, the pathway must be classified high risk, low risk or no further action as provided in 567—135.12(455B).

(1) Actual receptors. If it can be demonstrated that the groundwater plume has reached steady state concentrations under a confined space, indoor vapor measurements at the point(s) of exposure and soil gas measurements at an alternative point(s) of compliance may be used for the pathway evaluation. When assessing sanitary sewers for pathway clearance, soil gas measurements may be evaluated against the soil gas target levels; however, indoor vapor cannot be used as criteria for pathway clearance. Soil gas measurements shall be taken and analyzed in accordance with 135.16(5) and the department's Tier 2 guidance, and at locations in the plume where measured groundwater concentrations exceed the levels that are projected by modeling to exist beneath the actual receptor. If measured groundwater concentrations beneath the actual receptor exceed the levels projected from modeling, then the soil gas measurements may be taken either adjacent to the actual receptor in areas expected to exhibit the greatest soil gas measurements or at an alternative point of compliance between the source and receptor where the actual groundwater concentrations exceed the groundwater concentrations that exist beneath the confined space. If the soil gas measurements and confirmation samples taken in accordance with 135.12(6)*"c"* do not exceed the soil gas target levels, the pathway as to actual receptors shall be classified no action required. If the soil gas target levels are exceeded, either the pathway shall be classified high risk, or indoor vapor measurements may be taken in accordance with the department's Tier 2 guidance. If indoor vapor measurements and confirmation samples do not exceed the indoor vapor target levels, the pathway as to actual confined space receptors shall be classified no action required. If the Tier 1 indoor vapor target levels are exceeded, the pathway shall be classified high risk.

(2) Potential receptors. If the potential receptor groundwater concentration target level(s) is exceeded at any potential receptor point of exposure based on actual data or modeling, the pathway shall be classified low risk. However, if soil gas measurements taken at the potential receptor point(s) of exposure and alternate point(s) of compliance and confirmation samples do not exceed the target levels in 135.10(7)*"f,"* the pathway, as to potential receptors, shall be classified no action required. If the target level(s) for potential sanitary sewer receptors is exceeded, the pathway shall be classified as low risk. Where the area of potential receptor exposure includes public right-of-way, the pathway may be classified as no action required if the owner or operator provides sufficient documentation to establish that there are no foreseeable plans for construction of sanitary sewers through the area of potential receptor exposure. The municipal authority must acknowledge consent to the no action required classification whenever target levels are exceeded. If the municipal authority reports that it has confirmed plans for construction of sanitary sewers through the area of potential receptor exposure, the pathway shall be reevaluated as an actual receptor.

*h. Corrective action response.* Unless the pathway is classified as no action required, corrective action for this pathway must be conducted as provided in 567—135.12(455B). Actual receptors are subject to corrective actions that (1) reduce groundwater concentrations beneath the enclosed space to below the target level; (2) reduce the measured soil gas levels to below the soil gas target levels; (3) reduce the indoor vapor concentrations to below the indoor vapor target level; or (4) reduce the vapor level to below 10 percent of the lower explosive limit (LEL), if applicable. Potential receptors are subject to the monitoring requirements in 135.12(5). Soil vapor monitoring may be conducted in lieu of groundwater monitoring for this pathway. Institutional or technological controls as provided in 567—135.12(455B) may be used.

*i. Municipal authority notification for potential sewer receptors.* The municipal authority responsible for sewer construction must be notified of the environmental conditions whenever target level(s) is exceeded for potential sanitary sewers. The notification must show the area where groundwater concentrations and soil gas samples exceed target levels. The owner or operator must acknowledge what plans, if any, exist for construction of sanitary sewers through the area of potential receptor exposure.

**135.10(7)** *Soil vapor to enclosed space pathway assessment.*

*a. Pathway completeness.* Unless cleared at Tier 1, this pathway is always considered complete for purposes of Tier 2.

*b. Explosive vapor survey.* If an explosive vapor survey has not been conducted as part of a Tier 1 assessment, an explosive vapor survey of enclosed spaces must be conducted during the Tier 2 assessment in accordance with 135.9(6)*"b"* and procedures outlined in the department's Tier 1 guidance.

*c. Confined space receptor evaluation.* Actual and potential receptors are evaluated at Tier 2 for this pathway.

(1) Actual receptors. An existing confined space within 50 feet of the edge of the plume is an actual receptor. For the purpose of Tier 2, a confined space is a basement in a building occupied by humans. Buildings constructed with a concrete slab on grade or buildings constructed without a concrete slab, but with a crawl space are not considered receptors. Sanitary sewers are considered confined space receptors and preferential pathways if an occupied building exists within 200 feet of where the sewer line crosses over or through soil contamination that exceeds the target levels calculated for sewers. The sanitary sewer includes its utility envelope. The point of exposure is the receptor and points of compliance include the locations where target level measurements may be taken as provided in 135.10(7)*"f"* and *"g."*

(2) Potential receptors. Potential receptors are confined spaces that do not presently exist but could exist in the future. Areas where soil concentrations are greater than the Tier 1 level applicable to residential areas or alternative target levels for nonresidential areas as specified in 135.10(7)*"f"* are considered potential receptor points of exposure. Potential receptors are evaluated and target levels established based on the current zoning. An area with no zoning is considered residential. The potential receptor point of exposure is a point of compliance.

*d. Vapor inhalation hazards.* Owners and operators may be required to address vapor inhalation hazards in occupied spaces other than confined spaces as defined in these rules when evidence arises that would give the department a reasonable basis to believe vapor hazards are present or may occur.

*e. Plume definition.* The soil plume must be defined to the Tier 1 level for this pathway unless vapor measurements taken at the area(s) with the maximum levels of soil contamination do not exceed the soil gas target level in 135.10(7)*"f."* If soil gas measurements taken from the area(s) of maximum soil concentration do not exceed target levels, confirmation sampling must be conducted in accordance with 135.12(6)*"c"* prior to proposing a no action pathway classification.

*f. Target levels.* Target levels can be based on soil concentrations, soil gas measurements, and indoor vapor measurements as provided below:

(1) For actual receptors, the soil concentration target level is the Tier 1 level. For potential receptors, the soil concentration target level for residential areas and areas with no zoning is the Tier 1 level. For areas zoned nonresidential, the target level is calculated using the default nonresidential exposure factors and building parameters from Appendix A and a target risk of $10^{-4}$.

(2) The following indoor vapor target levels apply to actual receptors other than sanitary sewers and the soil gas target levels apply to all actual and potential receptors. These levels were derived from the ASTM indoor air inhalation and the soil vapor to enclosed space models designated in Appendix A.

| | **Indoor Vapor ($\mu g/m^3_{air}$)** | **Soil Gas ($\mu g/m^3$)** |
|---|---|---|
| Benzene | 39.2 | 600,000 |
| Toluene | 555 | 9,250,000 |

(3) Sanitary sewers are treated as human health receptors, and soil concentration target levels at the point of exposure are based on application of a target risk of $2 \times 10^{-4}$ for carcinogens and hazard quotient of 2 for noncarcinogens.

*g. Pathway evaluation and classification.*

(1) Actual receptors. Confined space receptors may be evaluated using soil gas measurements and indoor vapor measurements. When assessing sanitary sewers for pathway clearance, soil gas measurements may be evaluated against the soil gas target levels, however, indoor vapor cannot be used as criteria for pathway clearance. Soil gas measurements shall be taken adjacent to the actual receptor or at an alternative point of compliance between the source and receptor such as the property boundary and in accordance with 135.16(5) and the department's Tier 2 guidance. If the soil gas measurements and confirmation samples taken in accordance with 135.12(6)*"c"* do not exceed the soil gas target

levels, the pathway as to actual receptors shall be classified no action required. If the soil gas target levels are exceeded, either the pathway shall be classified high risk, or indoor vapor measurements may be taken in accordance with the department's Tier 2 guidance. If indoor vapor measurements and confirmation samples do not exceed the indoor vapor target levels, the pathway as to actual receptors shall be classified no action required. If the indoor vapor target levels are exceeded, the pathway shall be classified high risk.

(2) Potential receptors. If the potential receptor target level(s) based on soil concentrations is exceeded at any potential receptor point of exposure, the pathway shall be classified low risk. However, if soil gas measurements taken at the potential receptor point(s) of exposure and alternate point(s) of compliance and confirmation samples do not exceed the target levels in 135.10(7)*"f,"* the pathway shall be classified no action required as to potential receptors. If the target level(s) for potential sanitary sewer receptors is exceeded, the pathway shall be classified as low risk. Where the area of potential receptor exposure includes public right-of-way, the pathway may be classified as no action required if the owner or operator provides sufficient documentation to establish that there are no foreseeable plans for construction of sanitary sewers through the area of potential receptor exposure. The municipal authority must acknowledge consent to the no action required classification whenever target levels are exceeded. If the municipal authority reports that it has confirmed plans for construction of sanitary sewers through the area of potential receptor exposure, the pathway shall be reevaluated as an actual receptor.

*h. Corrective action response.* Unless the pathway is classified as no action required, corrective action for this pathway must be conducted as provided in 567—135.12(455B) and in accordance with department Tier 2 guidance. Actual receptors are subject to corrective actions that (1) reduce the indoor vapor concentrations to below the target level; (2) reduce measured soil gas levels to below the soil gas target levels; and (3) if applicable, reduce the vapor level to below 10 percent of the lower explosive limit (LEL). Potential receptors are subject to monitoring requirements as provided in 135.12(5). Soil vapor monitoring may be conducted in lieu of soil monitoring for this pathway. Institutional or technological controls as provided in 567—135.12(455B) may be used.

*i. Municipal authority notification for potential sewer receptors.* The municipal authority responsible for sewer construction must be notified of the environmental conditions whenever target level(s) is exceeded for potential sanitary sewers. The notification must show the area where soil concentrations and soil gas samples exceed target levels. The owner or operator must acknowledge what plans, if any, exist for construction of sanitary sewers through the area of potential receptor exposure.

**135.10(8)** *Groundwater to water line pathway assessment.*

*a. Pathway completeness and receptor evaluation.*

(1) Actual receptors include all water lines where the highest groundwater elevation is higher than three feet below the bottom of the water line at the measured or predicted points of exposure. The highest groundwater elevation is the estimated average of the highest measured groundwater elevations for each year. All water lines must be evaluated for this pathway regardless of distance from the source and regardless of the Tier 1 evaluation, if the lines are in areas with actual data above the applicable Tier 1 level and modeled data above the SSTL line. If actual data exceeds modeled data, then all water lines are considered actual receptors if they are within a distance extending 10 percent beyond the edge of the contaminant plume defined by the actual data.

(2) Potential receptors include all areas where the first encountered groundwater is less than 20 feet deep and where actual data or modeled data are above Tier 1 levels.

(3) The point(s) of exposure is the water line, and the points of compliance are monitoring wells between the source and the water line that would be effective in monitoring whether the line has been or may be impacted by chemicals of concern.

*b. Plume definition.* If this pathway is complete for an actual receptor, the groundwater plume must be defined to the Tier 1 levels, with an emphasis between the source and any actual water lines. The water inside the water lines shall be analyzed for all chemicals of concern.

*c. Target levels.* Groundwater modeling as provided in 135.10(2) must be used to calculate the projected concentrations of chemicals of concern and site-specific target levels. The soil leaching to groundwater pathway must be evaluated to ensure contaminated soil will not cause future groundwater concentrations to exceed site-specific target levels. The target level at the point(s) of exposure is the Tier 1 level.

*d. Pathway evaluation and classification.* Upon completion of evaluation of analytical results of appropriate samples and modeled data, the pathway must be classified high risk, low risk or no further action as provided in 567—135.12(455B). The water quality inside the water lines is not a criterion for clearance of this pathway.

*e. Utility company notification.* The utility company that supplies water service to the area must be notified of all actual and potential water line impacts as soon as knowledge of a potential risk is determined. If the extent of contamination has been defined, this information must be included in utility company notification, and any previous notification made at Tier 1 must be amended to include this information.

*f. Corrective action response.*

(1) For actual receptors, unless the pathway is classified as no further action, corrective action for this pathway must be conducted as provided in 567—135.12(455B). If the concentrations of chemicals of concern in a water line exceed the Tier 1 levels for actual receptors for the groundwater ingestion pathway, immediate corrective action must be conducted to eliminate exposure to the water, including but not limited to replacement of the line with an approved material.

(2) For potential receptors, upon utility company notification, no further action will be required for this pathway for potential receptors.

**135.10(9)** *Soil to water line pathway assessment.*

*a. Pathway completeness and receptor evaluation.*

(1) All water lines must be evaluated for this pathway regardless of distance from the source if the lines are in areas where Tier 1 levels are exceeded. Actual receptors include all water lines within ten feet of the soil plume defined to the Tier 1 level unless it can be demonstrated that the water line inside the soil plume is not in contact with the soil contamination.

(2) Potential receptors include all areas where Tier 1 levels are exceeded.

*b. Plume definition.* The extent of soil contamination must be defined to Tier 1 levels for the chemicals of concern.

*c. Target level.* The point(s) of exposure includes all areas within ten feet of the water line. The target level at the point(s) of exposure is the Tier 1 level.

*d. Pathway classification.* Upon completion of evaluation of analytical results of appropriate samples, the pathway must be classified high risk, low risk or no further action as provided in 567—135.12(455B). Measurements of water quality inside the water lines may be required, but are not allowed as criteria to clear this pathway.

*e. Utility company notification.* The utility company that supplies water service to the area must be notified of all actual and potential water line impacts as soon as knowledge of the potential risk is determined. If the extent of contamination has been defined, this information must be included in utility company notification, and any previous notification made at Tier 1 must be amended to include this information.

*f. Corrective action response.*

(1) For actual receptors, unless the pathway is classified as no further action, corrective action for this pathway must be conducted as provided in 567—135.12(455B).

(2) For potential receptors, upon utility company notification, no further action will be required for this pathway for potential receptors.

**135.10(10)** *Surface water pathway assessment.*

*a. Pathway completeness.* Unless maximum concentrations are less than the applicable Tier 1 levels, this pathway is complete and must be evaluated under any of the following conditions: (1) there is a designated use surface water within the modeled groundwater plume or the actual plume as provided in 135.10(2)*"f"* and *"g"*; or (2) any surface water body that failed the Tier 1 visual inspection as provided in 135.9(10).

*b.* *Visual inspection.* A visual inspection must be conducted according to 135.9(10)*"c."* If a sheen or residue from a petroleum-regulated substance is present, soil and groundwater sampling must be conducted to identify the source of the release and to define the extent of the contaminant plume to the levels acutely toxic to aquatic life as provided in 567—subrule 61.3(2).

*c.* *Receptor evaluation.*

(1) Surface water criteria apply only to designated use segments of surface water bodies as provided in 567—subrules 61.3(1) and 61.3(5). If the surface water body is a designated use segment and if maximum groundwater concentrations exceed applicable surface water criteria, the extent of contamination must be defined as provided in 135.10(10)*"d."* The point of compliance for measuring chemicals of concern at the point of exposure is the groundwater adjacent to the surface water body because surface water must be protected for low flow conditions. In-stream measurements of concentrations are not allowed as a basis for no further action.

(2) If the visual inspection indicates the presence of a petroleum sheen in a general use segment within 200 feet of the source, as defined in 567—paragraph 61.3(1)*"a,"* the segment must be evaluated as an actual receptor. The point of compliance for measuring chemicals of concern at the point of exposure is the groundwater adjacent to the general use segment.

*d.* *Plume definition.* The groundwater plume must be defined to the surface water criteria levels for designated use segment receptors and to the acutely toxic levels for general use segment receptors, with an emphasis between the source and the surface water body.

*e.* *Target levels.* Determining target levels for this pathway involves a two-step process.

(1) Groundwater modeling as provided in 135.10(2) must be used to calculate the projected concentrations of chemicals of concern at the point of compliance. If the modeled concentrations or field data at the point of compliance exceed surface water criteria for designated use segments, an allowable discharge concentration must be calculated. If the projected concentrations and actual concentrations at the point of compliance do not exceed surface water criteria, no further action is required to assess this pathway.

(2) The department water quality section will calculate the allowable discharge concentration using information provided by the certified groundwater professional on a department form. Required information includes, at a minimum, the site location and a discharge flow rate calculated according to the department's Tier 2 guidance. The allowable discharge concentration is the target level that must be met adjacent to the surface water body that is the point of compliance.

(3) The target level at the point of exposure/compliance for general use segments subject to evaluation is the acutely toxic levels established by the department under 567—Chapter 61 and 567—subrule 62.8(2). If the modeled concentrations of contaminant concentrations at the point of exposure/compliance exceed the acutely toxic levels, modeling must be used to determine site classifications and corrective action in accordance with 567—135.12(455B).

*f.* *Pathway evaluation and classification.* Upon completion of evaluation of analytical results of appropriate samples and modeled data, the pathway must be classified high risk, low risk or no further action as provided in 567—135.12(455B).

(1) For general use segments, as defined in 567—subrule 61.3(1), if the groundwater professional determines there is no sheen or residue present or if the site is not the source of the sheen or residue or if the sheen does not consist of petroleum-regulated substances, no further action is required for assessment of this pathway. If a petroleum-regulated substance sheen is present, the pathway is high risk and subject to classification in accordance with 567—135.12(455B).

(2) For designated use segments, as provided in 567—subrules 61.3(1) and 61.3(5), if projected concentrations of chemicals of concern and actual contaminant concentrations at the point of compliance do not exceed the target level adjacent to the surface water, and the groundwater professional determines there is no sheen or residue present, no further action is required for assessment of this pathway.

*g.* *Corrective action response.* Unless the pathway is classified as no further action, corrective action for this pathway must be conducted as provided in 567—135.12(455B). For surface water bodies failing the visual inspection criteria, corrective action must eliminate the sheen and reduce concentrations to below the site specific target level in accordance with 567—135.12(455B).

**135.10(11)** *Tier 2 submission and review procedures.*

*a.* Owners and operators must submit a Tier 2 site cleanup report within 180 days of the date the department approves or is deemed to approve a Tier 1 assessment report under 135.9(12). If the owner or operator has elected to conduct a Tier 2 assessment instead of a Tier 1, or a Tier 2 assessment is required due to the presence of free product under 135.7(4), the Tier 2 site cleanup report must be submitted within 180 days of the date the release was confirmed. The department may establish an alternative schedule for submittal.

*b.* Site cleanup report completeness and accuracy. A Tier 2 site cleanup report is considered to be complete if it contains all the information and data required by this rule and the department's Tier 2 guidance. The report is considered accurate if the information and data are reasonably reliable based first on the standards in these rules and department guidance, and second, on generally accepted industry standards.

*c.* The certified groundwater professional responsible for completion of the Tier 2 site assessment and preparation of the report must accompany each Tier 2 site cleanup report with a certification as set out below:

I, ___________________________________, groundwater professional certification number __________________, am familiar with all applicable requirements of Iowa Code section 455B.474 and all rules and procedures adopted thereunder including, but not limited to, the Department of Natural Resources' Tier 2 guidance. Based on my knowledge of those documents and the information I have prepared and reviewed regarding this site, UST registration number __________________, LUST No.____________, I certify that this document is complete and accurate as provided in 135.10(11) and meets the applicable requirements of the Tier 2 site cleanup report.

Signature

Date

*d.* Upon receipt of the groundwater professional's certified Tier 2 report, the groundwater professional's proposed site classification for the site shall be determinative unless, within 90 days of receipt, the department identifies material information in the report that is inaccurate or incomplete. Material information may be data found to be inaccurate or incomplete or a report that lacks information that, if accurate and complete, would result in a different site or pathway classification than proposed by the certified groundwater professional. If the department determines that the site cleanup report is inaccurate or incomplete, the department shall notify the groundwater professional of the inaccurate or incomplete information within 90 days of receipt of the report and shall work with the groundwater professional and the party responsible for cleanup to obtain correct information or additional information necessary to appropriately classify the site. If the groundwater professional recommends proceeding to Tier 3, the groundwater professional's site classification and any pathway classification recommendations subject to or influenced by a Tier 3 assessment shall not be considered determinative until the Tier 3 report is submitted for review as provided in 567—135.11(455B).

*e.* If a "no action required" site classification is proposed, the department shall review the report in accordance with 135.12(6) and the review standards in 135.10(11)*"d."*

*f.* The department may, in the interest of minimizing environmental or public health risks and promoting a more effective cleanup, require owners and operators to begin cleanup of soil and groundwater before the Tier 2 site cleanup report is approved.

**567—135.11(455B) Tier 3 site assessment policy and procedure.**

**135.11(1)** *General.* Tier 3 site assessment. Unless specifically limited by rule or an imminent hazard exists, an owner or operator may choose to prepare a Tier 3 site assessment as an alternative to completion of a Tier 2 assessment under 567—135.10(455B) or as an alternative to completion of a corrective action design report under 567—135.12(455B). Prior to conducting a Tier 3 site assessment, a groundwater professional must submit a work plan to the department for approval. The work plan must contain an evaluation of the specific site conditions that justify the use of a Tier 3 assessment, an outline of the proposed Tier 3 assessment procedures, a reporting format and a method for determining a risk classification consistent with the provisions underlying the risk classification system in 567—135.12(455B). Upon approval, the groundwater professional may implement the assessment plan and submit a report within a reasonable time designated by the department.

**135.11(2)** *Tier 3 site assessment.* A Tier 3 assessment may include but is not limited to the use of more site-specific or multidimensional models and assessment data, methods for calibrating Tier 2 models to make them more predictive of actual site conditions, and more extensive assessment of receptor construction and vulnerability to contaminant impacts. If use of Tier 2 models is proposed with substitution of other site-specific data (as opposed to the Tier 2 default parameters), the groundwater professional must adequately justify how site-specific data is to be measured and why it is necessary. The groundwater professional must demonstrate that the proposal has a proven applicability to underground storage tank sites or similar conditions or has a strong theoretical basis for applicability and is not biased toward underestimating assessment results. The Tier 3 assessment report shall make a recommendation for site classification as high risk, low risk or no action required, at least two corrective action response technologies and provide justification consistent with the standards and policies underlying risk classification and corrective action response under 567—135.12(455B) and Iowa Code chapter 455B, subchapter IV, part 8.

**135.11(3)** *Review and submittal.* The department will review the Tier 3 assessment for compliance with the terms of the approved work plan and based on principles consistent with these rules and Iowa Code chapter 455B, subchapter IV, part 8. Upon approval of the Tier 3 assessment, the department may require corrective action in accordance with 567—135.12(455B).

**567—135.12(455B) Tier 2 and 3 site classification and corrective action response.**

**135.12(1)** *General.* Iowa Code section 455B.474(1)*"a"*(4)(b) provides that sites shall be classified as high risk, low risk and no action required. Risk classification is accomplished by comparing actual contaminate concentrations to the concentrations that are predicted by the use of models. Concentrations must be compared to the simulation model that uses the maximum concentrations at a source and predicts at what levels actual or potential receptors could be impacted in the future. Concentrations must also be compared to the site-specific target level line that assumes a target level concentration at the point of exposure and is used to predict the reduction in concentration that must be achieved at the source in order to meet the applicable target level at the point of exposure. These models not only predict concentrations at points of exposure or a point of compliance at a source but also predict a distribution of concentrations between the source and the point of exposure, which may also be points of compliance. The comparison of contaminate concentrations with these distribution curves primarily is considered for purposes of judging whether the modeled data is reasonably predictive and what measures such as monitoring are prudent to determine the reliability of modeled data and actual contaminate concentrations.

For the soil vapor to enclosed space and soil to water line pathways, there are no horizontal transport models to use for predicting future impacts. Therefore, for these pathways, sites are classified as high risk, low risk or no action required based on specified criteria below and in 567—135.10(455B).

**135.12(2)** *High risk classification.* Except as provided below, sites shall be classified as high risk if, for any pathway, any actual contaminate concentrations exceed the site-specific target level line at any point for an actual receptor.

*a.* For the soil vapor to enclosed space and soil to water line pathways, sites shall be classified as high risk if the target levels for actual receptors are exceeded as provided in 135.10(7) and 135.10(9).

*b.* For the soil vapor or groundwater vapor to enclosed space pathways, sites shall be classified as high risk if the explosivity levels at applicable points of compliance are exceeded as provided in 135.10(6) and 135.10(7).

*c.* Generally, sites are classified as low risk if only potential receptor points of compliance are exceeded. The following is an exception. For the soil leaching to groundwater ingestion pathway for potential receptor conditions, the site shall be classified as high risk if the groundwater concentration(s) exceeds the groundwater Tier 1 level for potential receptor and the soil concentration exceeds the soil leaching site-specific target level at the source.

**135.12(3)** *High risk corrective action response.*

*a.* Objectives. The primary objectives of corrective action in response to a high risk classification are both short-term and long-term. The short-term goal is to eliminate or reduce the risk of exposure at actual receptors that have been or are imminently threatened with exposure above target levels. The longer term goal is to prevent exposure to actual receptors that are not currently impacted or are not imminently threatened with exposure. To achieve these objectives, it is the intent of these rules that concentrations of applicable chemicals of concern be reduced by active remediation to levels below the site-specific target level line at all points between the source(s) and the point(s) of exposure as well as to undertake such interim corrective action as necessary to eliminate or prevent exposure until concentrations below the SSTL line are achieved. If it is shown that concentrations at all applicable points have been reduced to below the SSTL line, the secondary objective is to establish that the actual chemical concentrations can be reasonably relied upon to predict future conditions at points of exposure rather than reliance on the modeled data. Reliance on actual contaminant concentrations is achieved by establishing through monitoring that concentrations within the contaminant plume are steady or declining. Institutional controls and technological controls may be used to sever pathways or control the risk of receptor impacts.

*b.* For the groundwater to water line and soil to water line receptors, these objectives are achieved by active remediation, replacement or relocation of high risk water line receptors in the actual and modeled plume areas. If water lines and gaskets are replaced in an area of contamination, they must be replaced with water line materials and gasket materials of appropriate construction in accordance with current department standards set forth in 567—Chapter 43 and with no less than nitrile or FKM gaskets or as otherwise approved by the department.

*c.* In areas of free product, all water lines, regardless of construction material, must be relocated unless there is no other option and the department has approved an alternate plan of construction. Refer to 135.7(4)*"d"*(11). If a service line remains in the area of LNAPL, a backflow preventer shall be installed to prevent impacts to the larger water distribution system.

*d.* For the soil vapor pathway, these objectives are achieved by active remediation of soil contamination below the target level at the point(s) of exposure or other designated point(s) of compliance using the same measurement methods for receptor evaluation under 135.10(7) and 135.10(9).

*e.* For a site classified as high risk or reclassified as high risk for the soil leaching to groundwater ingestion pathway, these objectives are achieved by active remediation of soil contamination to reduce the soil concentration to below the site-specific target level at the source.

*f.* A corrective action design report (CADR) must be submitted by a certified groundwater professional for all high risk sites unless the terms of a corrective action plan are formalized in a memorandum of agreement within a reasonable time frame specified by the department. The CADR must be submitted on a form provided by the department and in accordance with department CADR guidance within 60 days of site classification approval as provided in 135.10(11). The CADR must identify at least two principally applicable corrective action options designed to meet the objectives in 135.12(3), an outline of the projected timetable and critical performance benchmarks, and a specific monitoring proposal designed to verify its effectiveness and must provide sufficient supporting documentation consistent with industry standards that the technology is effective to accomplish site-specific objectives. The CADR must contain an analysis of its cost-effectiveness in relation to other options. The department will review the CADR in accordance with 135.12(9).

*g.* Interim monitoring. From the time a Tier 2 site cleanup report is submitted and until the department determines a site is classified as no action required, interim monitoring is required at least annually for all sites classified as high risk. Groundwater samples must be taken: (1) from a monitoring well at the maximum source concentration; (2) from a transition well, meaning a monitoring well with detected levels of contamination closest to the leading edge of the groundwater plume as defined to the pathway-specific target level, and between the source(s) and the point(s) of exposure; and (3) from a guard well, meaning a monitoring well between the source(s) and the point(s) of exposure with concentrations below the SSTL line. If a receptor is located within an actual plume contoured to the applicable target level for that receptor, the point of exposure must be monitored. If concentrations at the receptor already exceed the applicable target level for that receptor, corrective actions must be implemented as soon as practicable. Monitoring conducted as part of remediation or as a condition of establishing a no action required classification may be used to the extent it meets these criteria. Soil monitoring is required at least annually for all applicable pathways in accordance with 135.12(5)*"d."* All drinking water wells and non-drinking water wells within 100 feet of the largest actual plume (defined to the appropriate target level for the receptor type) must be tested annually for chemicals of concern. Actual plumes refer to groundwater plumes for all chemicals of concern.

*h.* Remediation monitoring. Remediation monitoring during operation of a remediation system is required at least four times each year to evaluate effectiveness of the system. A remediation monitoring schedule and plan must be specified in the corrective action design report and approved by the department.

*i.* Technological controls. The purpose of a technological control is to effectively sever a pathway by use of technologies such that an applicable receptor could not be exposed to chemicals of concern above an applicable target risk level. Technological controls are an acceptable corrective action response either alone or in combination with other remediation systems. The purpose of technological controls may be to control plume migration through use of containment technologies, barriers, etc., both as an interim or permanent corrective action response or to permanently sever a pathway to a receptor. Controls may also be appropriate to treat or control contamination at the point of exposure. Any technological control proposed as a permanent corrective action option without meeting the reduction in contaminant concentrations objectives must establish that the pathway to a receptor will be permanently severed or controlled. The effectiveness of a technological control must be monitored under a department approved plan until concentrations fall below the site-specific target level line or its effectiveness as a permanent response is established and no adverse effects are created.

*j.* Following completion of corrective action, the site must meet exit monitoring criteria to be reclassified as no action required as specified in 135.12(6)*"c."* At any point where an institutional or technological control is implemented and approved by the department, the site may be reclassified as no action required consistent with 135.12(6).

**135.12(4)** *Low risk classification.* A site shall be classified as low risk if none of the pathways are high risk and if any of the pathways are low risk. A pathway shall be classified low risk if it meets one of the following conditions:

*a.* For actual and potential receptors, if the modeled data and the actual concentrations are less than the site-specific target level line, and any of the actual concentrations are greater than the simulation line.

*b.* For potential receptors, if any actual concentrations exceed the site-specific target level line at any point.

*c.* For the soil leaching to groundwater ingestion pathway where modeling predicts that the Tier 1 levels for potential receptors would be exceeded in groundwater at applicable potential receptor points of compliance and the soil concentration exceeds the soil leaching to groundwater site-specific target level but groundwater concentrations are currently below the Tier 1 level for potential receptors, the site shall be initially classified as low risk and subject to monitoring under 135.12(5)*"d"*(2). If at any time during the three-year monitoring period, groundwater concentrations exceed the Tier 1 level for potential receptors, the site shall be classified as high risk requiring soil remediation in accordance with 135.12(3)*"d."*

**135.12(5)** *Low risk corrective action response.*

*a.* Purpose. For sites or pathways classified as low risk, the purpose of monitoring is to determine if concentrations are decreasing such that reclassification to no action required may be appropriate or if the contaminant plume is stable such that reclassification to no action required can be achieved with implementation of an institutional control in accordance with 135.12(8), or if concentrations are increasing above the site-specific target level line such that reclassification to high risk is appropriate. Monitoring is necessary to evaluate impacts to actual receptors and assess the continued status of potential receptor conditions. Low risk monitoring shall be conducted and reported by a certified groundwater professional.

*b.* For sites or pathways classified as low risk, provide a best management practices plan. The plan must include maintenance procedures, schedule of activities, prohibition of practices, and other management practices, or a combination thereof, which, after problem assessment, are determined to be the most effective means of monitoring and preventing additional contamination of the groundwater and soil. The plan will also contain a contamination monitoring proposal containing sufficient sampling points to ensure the detection of any significant movement of or increase in contaminant concentration.

*c.* Groundwater monitoring. For groundwater pathways, samples must be taken at a minimum of once per year: (1) from a monitoring well at the maximum source concentration; (2) a transitional well meaning a well with detected levels of contamination closest to the leading edge of the groundwater plume as defined to the pathway-specific target level and between the source and the receptor; and (3) a guard well meaning a monitoring well between the source and the point of exposure with concentrations below the SSTL line. (NOTE: Monitoring under this provision may be used to satisfy exit monitoring if it otherwise meets the criteria in 135.12(6).)

*d.* Soil monitoring.

(1) For the soil vapor to enclosed space pathway potential receptors, soil gas samples must be taken at a minimum of once per year in the area(s) of expected maximum vapor concentrations where an institutional control is not in place.

(2) For the soil leaching to groundwater pathway potential receptors, annual groundwater monitoring is required for a minimum of three years as provided in 135.12(5)*"c."* If groundwater concentrations are below the applicable SSTL line for all three years, no further action is required. If groundwater concentrations exceed the applicable SSTL line in any of the three years, corrective action is required to reduce soil concentrations to below the Tier 1 levels for soil leaching to groundwater. Therefore, annual monitoring of soil is not applicable.

(3) For the soil to water line pathway potential receptors, notification of the utility company is required. Notification will result in reclassification to no action required. Therefore, annual monitoring of soil is not applicable.

*e.* Receptors must be evaluated at least annually to ensure no actual or modeled data are above the site-specific target level line for any actual receptors. Potential receptor areas of concern must be evaluated at least annually and the presence of no actual receptors confirmed. If actual receptors are present or reasonably expected to be brought into existence, the owner or operator must report this fact to the department as soon as practicable. Annual monitoring that also meets the exit criteria under 135.12(6) may be used for that purpose.

*f.* The site or pathway must meet exit monitoring criteria to be reclassified as no action required as specified in 135.12(6)*"b."* If concentrations for actual receptors increase above the site-specific target level line or potential receptor status changes to actual receptor status, the site must be reclassified as high risk and further corrective action required in accordance with 135.12(3).

**135.12(6)** *No action required classification.* A site shall be classified as no action required if all of the pathways are classified as no action required as provided below:

*a.* Soil pathways shall be classified as no action required if samples are less than the applicable target levels as defined for each pathway and confirmational sampling requirements have been met.

*b.* For initial classification, groundwater pathways shall be classified as no action required if the contaminant concentrations are below the site-specific target level line and all concentrations are at or less than the simulation line, and confirmation monitoring has been completed successfully. Confirmation sampling for groundwater is a second sample that confirms the no action required criteria.

*c.* A groundwater pathway shall be reclassified from high risk to no action required if:

(1) All contaminant concentrations are below the site-specific target level and if exit monitoring criteria have been met. Exit monitoring criteria means that the three most recent consecutive groundwater samples from all monitoring wells must show a steady or declining trend and the most recent samples are below the site-specific target level. A steady and declining trend includes the following: the first of the three samples for the source well and transition well must be more than detection limits, concentrations cannot increase more than 20 percent from the first of the three samples

to the third sample, concentrations cannot increase more than 20 percent of the previous sample, and samples must be separated by at least six months; or

(2) There are no actual receptors within the actual groundwater plume defined to the applicable target level and plume stability has been documented to show that the actual plume is not migrating to actual receptors.

*d.* A low risk site shall be reclassified as "no action required" if contaminant concentrations are below the site-specific target level and if exit monitoring criteria have been met pursuant to 135.12(6)*"c"* or if the site has maintained less than the applicable target level for four consecutive sampling events separated by at least six months as defined in the monitoring plan regardless of exit monitoring criteria and guidance.

*e.* Confirmation sampling for soil gas and indoor vapor. For the enclosed space pathways, confirmation sampling is required to reasonably establish that the soil gas and indoor vapor samples represent the highest expected levels. A groundwater professional must obtain two samples taken at least two weeks apart. One of the samples should be collected beneath the frost line depth during a seasonal period of lowest groundwater elevation.

*f.* As a condition of obtaining site classification as no action required, all groundwater monitoring wells must be properly plugged in accordance with 567—Chapters 39 and 49 unless the department requires selected wells to be maintained or a written request with justification and a plan for properly maintaining the wells are submitted to the department for approval. Approval to maintain wells shall be deemed granted if not disapproved with reason within 30 days of request.

*g.* Prior to acceptance of a request to classify the site as no action required, and in the event there is a question of validity of the data or sampling methods, laboratory analysis procedures, indication of plume movement, or the department obtains information about new conditions at the site, the department may conduct or require the owner to conduct confirmation sampling of the soil, groundwater, soil gas, or indoor vapor to confirm that the no action required criteria have been met.

*h.* The department may waive, at its discretion, the exit monitoring criteria based on a certified groundwater professional's written justification to support a no action required classification for the site based on a reasoned assessment of data, trends, receptor status, and corrective actions performed. One example is when steady and declining criteria have not been met due solely to variations among a laboratory's lowest achievable detection limits.

**135.12(7)** *Reclassification.* Any site or pathway that is classified as high risk may be reclassified to low risk if in the course of corrective action the criteria for low risk classification are established. Any site or pathway that is classified as low risk may be reclassified to high risk if in the course of monitoring the conditions for high risk classification are established. Sites subject to department-approved institutional or technological controls are classified as no action required if all other criteria for no action required classification are satisfied.

**135.12(8)** *Use of institutional and technological controls.*

*a.* Purpose. The purpose of an institutional control is to restrict access to or use of property such that an applicable receptor could not be exposed to chemicals of concern for as long as the target level is exceeded at applicable points of exposure and compliance. Institutional controls include:

(1) A law of the United States or the state;

(2) A regulation issued pursuant to federal or state laws;

(3) An ordinance or regulation of a political subdivision in which real estate subject to the institutional control is located;

(4) An environmental covenant as provided in Iowa Code chapter 455I;

(5) Any other institutional control the owner or operator can reasonably demonstrate to the department will reduce the risk from a release throughout the period necessary to ensure that no applicable target level is likely to be exceeded.

*b.* Modification or termination of institutional and technological controls. At a point when the department determines that an institutional or technological control has been removed or is no longer effective for the purpose intended, regardless of the issuance of a no further action certification or previous site classification, it may require owners and operators to undertake such reevaluation of the site conditions as necessary to determine an appropriate site classification and corrective action response. If the owner or operator is in control of the affected property, the department may require reimplementation of the institutional or technological control or may require a Tier 2 assessment of the affected pathway(s) be conducted to reevaluate the site conditions and determine alternative corrective action response. An owner or operator subject to an institutional or technological control may request modification or termination of the control by conducting a Tier 2 assessment of the affected pathway or conduct such other assessment as required by the department to establish that the control is no longer required given current site conditions.

*c.* If the owner or operator is not in control of the affected property or cannot obtain control and the party in control refuses to continue implementation of an institutional control, the department may require the owner or operator to take such legal action as available to enforce institution of the control or may require the owner or operator to undertake a Tier 2 assessment to determine site classification and an alternative corrective action response. If a person in control of the affected property appears to be contractually obligated to maintain an institutional or technological control, the department may, but is not required to, attempt enforcement of the contractual obligation as an alternative to requiring corrective action by the owner or operator.

*d.* If a site is classified no action required, subject to the existence of an institutional control or technological control, the holder of the fee interest in the real estate subject to the institutional control or technological control may request, at any time, that the department terminate the institutional control or technological control requirement. The department shall terminate the requirement for an institutional control if the holder demonstrates by completion of a Tier 2 assessment of the applicable pathway or other assessment as required by the department that the site conditions warranting the control no longer exist and that the site or pathway has met exit criteria for no action required classification under 135.12(6).

**135.12(9)** *Corrective action design report submission and review procedures.*

*a.* Owners and operators must submit a CADR within 60 days of the date the department approves or is deemed to approve a Tier 2 assessment report under 135.10(11) or a Tier 3 assessment is to be conducted. The department may establish an alternative schedule for submittal. As an alternative to submitting a CADR, owners or operators may participate in a corrective action meeting process to develop a corrective action plan that would be incorporated into a memorandum of agreement or other written agreement approved by the department. Owners or operators shall implement the terms of an approved CADR, memorandum of agreement or other corrective action plan agreement.

*b.* Corrective action design report completeness and accuracy. A CADR is considered to be complete if it contains all the information and data required by this rule and the department's guidance. The report is considered accurate if the information and data are reasonably reliable based first on the standards in these rules and department guidance, and second, on generally accepted industry standards.

*c.* The certified groundwater professional responsible for completion of the CADR must provide the following certification with the CADR:

I, ____________________, groundwater professional certification number ______________, am familiar with all applicable requirements of Iowa Code section 455B.474 and all rules and procedures adopted thereunder including, but not limited to, the Department of Natural Resources' guidance and specifications for corrective action design reports. Based on my knowledge of those documents and the information I have prepared and reviewed regarding this site, UST registration number ________________________, LUST No._____________, I certify that this document is complete and accurate as provided in 135.12(9) and meets the applicable requirements of the corrective action design report, and that the recommended corrective action can reasonably be expected to meet its stated objectives.

Signature

Date

*d.* Review. A CADR submitted by a groundwater professional shall be accepted by the department and shall be primarily relied upon by the department to determine the corrective action response requirements of the site. However, if within 90 days of receipt of a CADR, the department identifies material information in the CADR that is inaccurate or incomplete, and if based upon information in the report the appropriate corrective action response cannot be reasonably determined by the department based on industry standards, the department may reject the report and require modifications. If the department does not reject the report within 90 days of receipt, the report shall be deemed approved as submitted unless changes to the report are requested by the groundwater professional. The department shall work with the groundwater professional and the owner or operator to correct any materially inaccurate information or to obtain the additional information necessary to determine the appropriate corrective action response as soon as practicable.

*e.* Memorandums of agreement. Owners or operators that fail to implement the actions or meet the activity schedule in a memorandum of agreement resulting from a corrective action meeting or other written corrective action plan agreement or that fail to implement the actions or meet the schedule outlined in an approved CADR are subject to legal action.

**135.12(10)** *Monitoring certificates and no further action certificates.*

*a.* Monitoring certificate. The department will issue a monitoring certificate to the owner or operator of an underground storage tank from which a release has occurred, the current property owner, or other responsible party who has undertaken the corrective action warranting issuance of the certificate. Sites classified as low risk or sites classified as high risk/monitoring shall be eligible for a monitoring certificate. The monitoring certificate will be valid until the site is reclassified to a high risk requiring active remediation or no action required site. A site that has been issued a monitoring certificate shall not be eligible to receive a certificate evidencing completion of remediation until the site is reclassified as no action required. The monitoring certificate may be invalidated and the site reclassified to high risk if it is determined by the department that the owner of the site is not in compliance with the requirements specified in the monitoring certificate.

*b.* No further action certificate. When the no action required site classification has been determined based on a recommendation of the certified groundwater professional as provided in 135.9(11), 135.10(11) and 135.12(6) (see also Iowa Code section 455B.474(1)*"a"*(8)(a) and (c)), the department shall issue a no further action certificate.

The department will issue a no further action certificate to an owner or operator of an underground storage tank from which a release has occurred, the current property owner, or other responsible party who has undertaken the corrective action warranting classification of the site as no action required. Prior to the issuance of a no further action certificate, an accurate legal description of the property on which the underground storage tanks are or were formerly located shall be submitted to the department. The following conditions apply:

(1) If free product is present, the department shall not issue a no further action certificate until the department has approved termination of all free product assessment and recovery in accordance with 135.7(4).

(2) The site has been determined by a certified groundwater professional not to present an unreasonable risk to the public health and safety or the environment.

(3) A person issued the certificate or a subsequent purchaser of the site cannot be required to perform further corrective action because action standards are changed at a later date. Action standards refer to applicable standards under this rule.

(4) The certified groundwater professional has certified that all groundwater monitoring wells have been permanently closed in accordance with 135.12(6)*"f"* with the exception of wells that are allowed to be maintained pursuant to 135.12(6)*"f."* Wells not properly maintained shall be referred to the water supply section of the department that enforces 567—Chapters 39 and 49.

(5) The certificate shall not prevent the department from ordering remediation of a release identified subsequent to the release for which the no further action certificate was issued. The certificate shall not prevent the department from requiring corrective action of a release of a regulated substance from an unregulated tank.

(6) The certificate will not constitute a warranty of any kind to any person as to the condition, marketability or value of the described property.

(7) The certificate shall reflect any institutional control utilized to ensure compliance with any applicable Tier 2 level; and may include a notation that the classification is based on the fact that designated potential receptors are not in existence.

(8) The certificate shall be in a form provided by the department that is recordable in accordance with Iowa Code section 558.1 et seq.

(9) The owner or operator or other persons conducting corrective action shall be responsible for recording the no further action certificate with the county recorder and return a file-stamped copy to the department within 30 days of the issue date. At its discretion, the department may record the no further action certificate with the appropriate county recorder as authorized in Iowa Code section 455B.474(1)*"a"*(8)(c).

*c.* The department shall modify any issued no further action certificates containing institutional controls once the owner, operator or their successor or assign has demonstrated that the institutional control is no longer necessary to meet the applicable Tier 2 level as provided in 135.12(10).

**135.12(11)** *Expedited corrective action.* An owner, operator or responsible party of a site at which a release of regulated substance is suspected to have occurred may carry out corrective actions at the site so long as the department receives notice of the expedited cleanup activities prior to 30 calendar days of their commencement; the owner, operator, or responsible party complies with the provisions of these rules; and the corrective action does not include active treatment of groundwater other than:

*a.* As previously approved by the department; or

*b.* Free product recovery pursuant to 135.7(4).

*c.* Soil overexcavation. When undertaking overexcavation of contaminated soils, adequate field screening methods must be used to identify maximum concentrations during excavation. At a minimum one soil sample must be taken for field screening every 100 square feet of the base and each sidewall. Soil samples must be taken for laboratory analysis at least every 400 square feet of the base and each sidewall of the excavated area to confirm remaining concentrations are below Tier 1 levels. If the excavation is less than 400 square feet, a minimum of one sample must be analyzed for each sidewall and the base. The owner or operator must maintain adequate records of the excavation area to document compliance with this procedure unless submitted to the department and must provide it to the department upon request.

**567—135.13(455B) Public participation.**

**135.13(1)** For each confirmed release that is classified as high or low risk, the department must provide notice to the public by means designated to reach those members of the public directly affected by the release and the recommended corrective action response. This notice may include but is not limited to public notice in local newspapers, block advertisements, public service announcements, publication in a state register, letters to individual households, or personal contacts by the staff.

**135.13(2)** The department must ensure site release information and decisions concerning the Tier 1 assessment report, Tier 2 and Tier 3 site cleanup reports are made available to the public for inspection upon request.

**135.13(3)** Before approving the Tier 2 or Tier 3 site cleanup report, the department may hold a public meeting to consider comments on the proposed corrective action response if there is sufficient public interest, or for any other reason.

**135.13(4)** The department must give a public notice that complies with 135.13(1) above if the implementation of the approved Tier 2 or Tier 3 site cleanup report does not achieve the established cleanup levels in the report and the termination of that report is under consideration by the department.

**567—135.14(455B) Action levels.** The following corrective action levels apply to petroleum-regulated substances as regulated by this chapter. These action levels shall be used to determine if further corrective action under 567—135.6(455B) through 567—135.12(455B) or 567—135.15(455B) is required as the result of tank closure sampling under 135.15(3) or other analytical results submitted to the department. The contaminant concentrations must be determined by laboratory analysis as stated in 567—135.16(455B). Final cleanup determination is not limited to these contaminants. The contamination corrective action levels are:

| | **Soil (mg/kg)** | **Groundwater (µg/L)** |
|---|---|---|
| Benzene | 0.54 | 5 |
| Toluene | 3.2 | 1,000 |
| Ethylbenzene | 15 | 700 |
| Xylenes | 52 | 10,000 |
| Total Extractable Hydrocarbons—Diesel | 3,800 | 1,200 |
| Total Extractable Hydrocarbons—Waste Oil | | 400 |

**567—135.15(455B) Out-of-service UST systems, temporary closure, and permanent closure.**

**135.15(1)** *Out-of-service UST systems and temporary closure.*

*a.* UST systems not meeting either the performance standards in 135.3(1) for new UST systems or the upgrading requirements in 135.3(2) by December 22, 1998, must be permanently closed according to 135.15(2). The tanks cannot be brought back into use.

*b.* When a UST system in compliance with new tank standards is out of service for less than three months, owners and operators must:

(1) Continue operation and maintenance of corrosion protection in accordance with 135.4(2);

(2) Continue operation and maintenance of any release detection in accordance with 567—135.5(455B) unless the system is empty. The UST system is empty when all materials have been removed using commonly employed practices. No more than 2.5 centimeters (one inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, may remain in the system;

(3) Comply with 567—135.6(455B) through 567—135.12(455B) if a release is suspected or confirmed;

(4) Maintain financial responsibility in accordance with 567—Chapter 136.

(5) Continue to pay the tank management fee as required in 135.3(5).

(6) Continue to have compliance inspections conducted as required in 567—135.19(455B).

*c.* When a UST system is out of service for three months or more, an owner must submit a notification of temporary closure form to the department. Owners and operators must complete the requirements in 135.15(1)*"b"* for temporary closure and certify the following:

(1) The UST system is empty of all regulated substances (e.g., receipt of product removal).

(2) Vent lines are open and functioning.

(3) All other piping, pumps, accesses, and ancillary equipment are capped and locked.

(4) The corrosion protection system is being maintained in accordance with 135.4(2).

(5) Maintain financial responsibility (e.g., insurance) according to 567—Chapter 136.

*d.* When a tank system is temporarily closed for more than 12 months, the owner must remain in compliance with the department's temporary closure requirements in 135.15(1)*"c."* The department may provide an extension to the 12-month temporary closure period. Owners and operators must complete a site check in accordance with 135.6(3)*"b"* before such an extension can be applied for.

*e.* If a tank system is temporarily closed for more than 12 months, but the tank system has not been temporarily closed according to the requirements of 135.15(1)*"c,"* or the owner or operator has failed to maintain out-of-service requirements in 135.15(1)*"b,"* the UST system must be permanently closed in accordance with 135.15(2).

*f.* Prior to returning a temporarily closed tank back into service, the owner or operator must complete and submit the department's return-to-service form signed by the owner/operator and provide the following documentation unless otherwise approved by the department. The tank system cannot be operated or receive fuel until current tank tags have been issued.

(1) Where applicable, documentation that corrosion protection has been maintained continuously in accordance with 135.4(2). The owner or operator must provide an inspection log of the cathodic

protection system and the inspection report of the cathodic protection system completed by an Iowa-certified cathodic protection tester.

(2) For lined tanks, provide a lining and tank integrity inspection report in accordance with 135.3(2)*"b."*

(3) Results of precision tightness tests (0.1 gph) conducted on tanks in accordance with 567—135.5(455B).

(4) Results of precision tightness tests (0.1 gph) conducted on lines in accordance with 567—135.5(455B).

(5) Function test (3.0 gph) results of mechanical or electronic leak detectors conducted in accordance with 567—135.5(455B).

(6) Tank and piping leak detection is operational and in good condition.

(7) Provide test results of the periodic testing of spill and overfill prevention equipment and containment sumps used for interstitial monitoring in accordance with 135.4(12) in the last 12 months.

(8) Copy of the financial responsibility (e.g., UST insurance) mechanism in accordance with 567—Chapter 136.

(9) Copies of Class A and Class B operator training certificates.

(10) Change of ownership form (if the UST system was sold).

**135.15(2)** *Permanent closure and changes-in-service.* Permanent closure of an underground storage tank system must be conducted by an Iowa-certified tank remover. Closure sampling must be conducted by or under the supervision of an Iowa-certified groundwater professional.

*a.* At least 30 days before beginning either permanent closure or a change-in-service under 135.15(2)*"b"* and *"c,"* owners and operators must notify the department of their intent to permanently close or make the change-in-service. An owner or operator must seek prior approval to permanently close a tank in a time frame shorter than the 30-day notice. The required assessment of the excavation zone under 135.15(3) must be performed after notifying the department but before completion of the permanent closure or a change-in-service.

*b.* To permanently close a tank or piping, owners and operators must empty and clean them by removing all liquids and accumulated sludge. All tanks taken out of service permanently must also be removed from the ground, filled with an inert solid material, or closed in place by a method approved by the department. Piping must be removed from the ground or have the ends plugged with an inert solid material.

*c.* Continued use of a UST system to store a nonregulated substance is considered a change-in-service. Before a change-in-service, owners and operators must empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with 135.15(3).

*d.* Permanent closure procedures must be followed in the replacement of tanks or piping. Notification must be made using DNR Form 542-1308, "Notification of Tank Closure or Change-in-Service." The form must include the date scheduled for the closure. Confirmation of the closure date must be given to the DNR field office 24 hours prior to the actual closure. The required assessment of the excavation zone under 135.15(3) must be performed after notifying the department but before completion of the permanent closure or change-in-service.

NOTE: The cleaning and closure procedures listed in 40 CFR 280.71(c) may be used to comply with 135.15(2).

**135.15(3)** *Assessing the site at closure or change-in-service.*

*a.* Before permanent closure or a change-in-service is completed, owners or operators must measure for the presence of a release where contamination is most likely to be present at the UST site. This soil and groundwater closure investigation must be conducted or supervised by a groundwater professional certified under 567—Chapter 134 unless the department in its discretion grants an exemption and provides direct supervision of the closure investigation. In selecting the sample types, sample locations, and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence of a release.

(1) At UST sites with a history of petroleum storage, soil and groundwater samples shall in every case be analyzed for benzene, toluene, ethylbenzene, and xylenes (BTEX) with each compound reported separately in accordance with 567—135.16(455B). If there has been a history or suspected history of petroleum storage other than gasoline or gasoline blends (i.e., all grades of diesel fuels, fuel oil, kerosene, oil and mineral spirits), or such storage history is unknown or uncertain, soil and groundwater samples shall also be analyzed for total extractable hydrocarbons in accordance with 567—135.16(455B).

(2) All such samples shall be collected separately and shipped to a laboratory certified under 567—Chapter 83 within 72 hours of collection. Samples shall be refrigerated and protected from freezing during shipment to the laboratory.

(3) When a UST is removed from an area of confirmed contamination, the department may waive closure sampling if written documentation is submitted with the closure notification. Documentation should include laboratory analytical reports and a site map showing tank and piping locations along with contamination plume and sampling locations.

*b.* For all permanent tank and piping closures or changes-in-service, at least one water sample must be taken from the first saturated groundwater zone via a developed monitoring well except as provided in 135.15(3)*"g."* The well must be located downgradient from and as close as possible to the UST system but no farther away than 20 feet from system components. At some tank and piping closures, a minimum of one monitoring well may not be sufficient to represent a release where it is most likely to be present. An additional groundwater monitoring well or wells may be necessary.

If, however, the first saturated groundwater zone is not encountered within 10 feet below the lowest elevation of the tank excavation, the requirement for groundwater sampling shall not apply unless:

(1) Sands or highly permeable soils are encountered within 10 feet below the lowest level of the tank excavation that together with the underlying geology would, in the judgment of the department, pose the reasonable possibility that contamination may have reached groundwaters deeper than 10 feet below the lowest level of the tank excavation. The method of determining highly permeable soil is found in the departmental guidance document entitled "Underground Storage Tank Closure Guidance."

(2) Indications of potential groundwater contamination, including petroleum products in utility lines, petroleum products in private wells, petroleum product vapors in basements or other structures, occur in the area of the tank installation undergoing closure or change-in-service.

*c.* For permanent closure by tank removal, the departmental guidance document entitled "Underground Storage Tank Closure Guidance" must be followed. The minimum number of soil samples that must be taken depends on the tank size and length of product piping. Samples must be taken at a depth of one to two feet beneath the tank fill area below the base of the tank along the tank's centerline. Soil samples must also be taken at least every ten feet along the product piping at a depth of one to two feet beneath the piping fill area below the piping, unless alternate sampling is approved by the department.

If sands or other highly permeable soils are encountered, alternative sampling methods may be required.

If contamination is suspected or found in any area within the excavation (i.e., sidewall or bottom), a soil sample must be taken at that location.

The numbers of samples required for tanks are as follows:

| Nominal Tank Capacity (gallons) | Number of Samples | Location on Centerline |
|---|---|---|
| 1,000 or less | 1 | center of tank |
| 1,001 - 8,000 | 2 | 1/3 from ends |
| 8,001 - 30,000 | 3 | 5 feet from ends and at center of tank |
| 30,001 - 40,000 | 4 | 5 and 15 feet from ends |
| 40,001 and more | 5 | 5 and 15 feet from ends and at center of tank |

*d.* For closing a tank in place by filling with an inert solid material or for a change-in-service, the departmental guidance document entitled "Underground Storage Tank Closure Guidance" must be followed. The minimum number of soil borings required for sampling depends on the size of the tank and the length of the product piping. Soil samples must be taken within five feet of the sides and ends of the tank at a depth of two to four feet below the base of the tank, but outside the backfill material, at equal intervals around the tank. Soil samples must also be taken at least every ten feet along the product piping at a depth of one to two feet beneath the piping fill area below the piping, unless alternate sampling is approved by the department. If sands or other highly permeable soils are encountered, alternative sampling methods may be required.

The minimum numbers of soil borings and samples required are as follows:

| Nominal Tank Capacity (gallons) | Number of Samples | Location of Samples |
|---|---|---|
| 6,000 or less | 4 | 1 each end and each side |
| 6,001 - 12,000 | 6 | 1 each end and 2 each side |
| 12,001 or more | 8 | 1 each end and 3 each side |

*e.* A closure report in a format prescribed by the department must be submitted to the department within 45 days of the tank removal or closure in place. Refer to the Underground Storage Tank Closure Guidance for reporting format. The tank tags must be returned with the closure report.

*f.* The requirements of this subrule are satisfied if one of the external release detection methods allowed in 135.5(4)*"e"* and *"f"* is operating in accordance with the requirements in 135.5(4) at the time of closure and indicates no release has occurred.

*g.* If contaminated soils, contaminated groundwater, or free product as a liquid or vapor is discovered during the site assessment or by any other manner, contact the department in accordance with 135.6(1). Normal closure procedures no longer apply. Owners and operators must begin corrective action in accordance with 567—135.7(455B) through 567—135.12(455B).

Identification of free product requires immediate response in accordance with 135.7(4). If contamination appears extensive or the groundwater is known to be contaminated, a full assessment of the contamination will be required. When a full assessment is required or anticipated, collection of the required closure samples is not required. If contamination appears limited to soils, overexcavation of the contaminated soils in accordance with 135.15(4) may be allowed at the time of closure.

**135.15(4)** *Overexcavation of contaminated soils at closure.*

*a.* If contaminated soils are discovered while assessing a site at closure in accordance with 135.15(3), owners and operators may overexcavate up to one foot of the contaminated soils surrounding the tank pit. The contamination and overexcavation must be reported to the department in accordance with the requirements of 135.6(4)*"a"* prior to backfilling the excavation. If excavation is limited to one foot of contaminated soils, a soil sample shall be taken and laboratory analyzed in accordance with 567—135.16(455B) from the area showing the greatest contamination. Any overexcavation of contaminated soils beyond one foot of contaminated soils is considered expedited corrective action and must be conducted by or under supervision of a certified groundwater professional in accordance with the procedures in 135.12(11).

*b.* Excavated contaminated soils must be properly disposed in accordance with 567—Chapters 100, 101, 102, 120, and 121.

*c.* A report must be submitted to the department within 30 days of completion of the laboratory analysis. The report must include the requirements of 135.15(3)*"e"* and a dimensional drawing showing the depth and area of the excavation prior to and after overexcavation. The area of contamination must be shown.

**135.15(5)** *Applicability to previously closed UST systems.* When directed by the department, the owner and operator of a UST system permanently closed before October 24, 1988, must assess the excavation zone and close the UST system in accordance with this rule if releases from the UST may, in the judgment of the department, pose a current or potential threat to human health and the environment.

**135.15(6)** *Closure records.* Owners and operators must maintain records in accordance with 135.4(5) that are capable of demonstrating compliance with closure requirements under this rule. The results of the excavation zone assessment required in 135.15(3) must be maintained for at least three years after completion of permanent closure or change-in-service in one of the following ways:

*a.* By the owners and operators who took the UST system out of service;

*b.* By the current owners and operators of the UST system site; or

*c.* By mailing these records to the department if they cannot be maintained at the closed facility.

**135.15(7)** *Applicability to pre-1974 USTs.* The closure provisions of 567—135.15(455B) are not applicable to USTs that have been out of operation prior to January 1, 1974. For purposes of this subrule, out of operation means that no regulated substance has been deposited into or dispensed from the tanks and that the tanks do not currently contain an accumulation of regulated substances other than a de minimis amount as provided in 135.15(1)*"a."*

Owners and operators or other interested parties are not required to submit documentation that USTs meet the exemption conditions and may rely on this subrule as guidance. However, should a question arise as to whether USTs meet the exemption, or owners and operators or other interested parties request acknowledgment by the department that USTs are exempt, they must submit an affidavit on a form provided by the department. The affiant must certify that based on a reasonable investigation and to the best of the affiant's knowledge, the USTs were taken out of operation prior to January 1, 1974, the USTs have not contained a regulated substance since January 1, 1974, and the USTs do not currently contain an accumulation of regulated substances.

If the department has a reasonable basis to suspect a release has occurred, the release investigation and confirmation steps of 567—135.6(455B) and the corrective action requirements as provided in 567—135.7(455B) through 567—135.12(455B) shall apply.

**567—135.16(455B) Laboratory analytical methods for petroleum contamination of soil and water.**

**135.16(1)** *General.* When analyzing for petroleum or hazardous substances, owners and operators of UST systems must use a laboratory certified under 567—Chapter 83. In addition they must ensure that all samples are properly preserved and shipped within 72 hours of collection to a laboratory certified under 567—Chapter 83. This rule provides acceptable analytical procedures for petroleum substances and required information that must be provided in all laboratory reports.

**135.16(2)** *Laboratory report.* All laboratory reports must contain the following information:

*a.* Laboratory name, address, telephone number and Iowa laboratory certification number. If analytical work is subcontracted to another laboratory, the analytical report from the certified laboratory that analyzed the sample must be submitted and include the information required in this subrule.

*b.* Medium sampled (soil, water).

*c.* Client submitting sample (name, address, telephone number).

*d.* Sample collector (name, telephone number).

*e.* UST site address.

*f.* Clients sample location identifier.

*g.* Date sample was collected.

*h.* Date sample was received at laboratory.

*i.* Date sample was analyzed.

*j.* Results of analyses and units of measure.

*k.* Detection limits.

*l.* Methods used in sample analyses (preparation method, sample detection method, and quantitative method).

*m.* Laboratory sample number.

*n.* Analyst name.

*o.* Signature of analyst's supervisor.

*p.* Condition in which the sample was received at the laboratory and whether it was properly sealed and preserved.

*q.* Note that analytical results are questionable if a sample exceeded an established holding time or was improperly preserved. (The recommended holding time for properly cooled and sealed petroleum contaminated samples is 14 days, except for water samples containing volatile organic compounds that have a 7-day holding time unless acid-preserved.)

*r.* Laboratory reports required by this chapter for tank closure investigations under 567—135.15(455B) and site checks under 135.6(3) or Tier 1 or Tier 2 assessments under 567—135.9(455B) through 567—135.11(455B) must include a copy of the chromatograms and associated quantitation reports for the waste oil, diesel and gasoline standard used by the laboratory in analyzing submitted samples. The laboratory analytical report for each sample must state whether the sample tested matches the laboratory standard for waste oil, diesel or gasoline or that the sample cannot be reliably matched with any of these standards. A copy of the chromatograms and associated quantitation reports for only the soil and groundwater samples with the maximum concentrations of BTEX and TEH must be included.

**135.16(3)** *Analysis of soil and water for high volatile petroleum compounds (i.e., gasoline, benzene, ethylbenzene, toluene, xylene).* Sample preparation and analysis shall be by Method OA-1, "Method for Determination of Volatile Petroleum Hydrocarbons (gasoline)," revision 12/01/2019, state hygienic laboratory at the University of Iowa, or EPA Method 8260D, "Test Methods for Evaluating Solid Waste," 3rd Edition–Update 6, July 2018. Copies of Method OA-1 are available from the department.

**135.16(4)** *Analysis of soil and water for low volatile petroleum hydrocarbon contamination (i.e., all grades of diesel fuel, fuel oil, kerosene, oil, and mineral spirits).* Sample preparation and analysis shall be by Method OA-2, "Determination of Extractable Petroleum Products (and Related Low Volatility Organic Compounds)," revision 12/01/2019, state hygienic laboratory at the University of Iowa. Copies of Method OA-2 are available from the department.

**135.16(5)** *Analysis of soil gas for volatile petroleum hydrocarbons.* Analysis of soil gas for volatile petroleum hydrocarbons shall be conducted in accordance with the National Institute for Occupational Safety and Health (NIOSH) Method 1501, Issue 3, March 15, 2003, or a department-approved equivalent method.

**135.16(6)** *Analytical methods for methyl tertiary-butyl ether (MTBE).* Analysis of water for MTBE must be conducted by a laboratory certified under 567—Chapter 83 for petroleum analyses.

*a.* Sample preparation and analysis shall be by U.S. Environmental Protection Agency Method 8260D, "Test Methods for Evaluating Solid Waste," 3rd Edition–Update 6, July 2018.

*b.* Laboratories performing the analyses must run standards for MTBE on a routine basis, and standards for other possible compounds like ethyl tertiary-butyl ether (ETBE), tertiary-amyl methyl ether (TAME), di-isopropyl ether (DIPE), and tertiary-butyl alcohol (TBA) to be certain of their identification should they be detected.

*c.* Laboratories must run a method detection limit study and an initial demonstration of capability for MTBE. These records must be kept on file.

*d.* The minimum detection level for MTBE in water is 15 µg/L.

**567—135.17(455B) Evaluation of ability to pay.**

**135.17(1)** General. The ability to pay guidance procedures referenced in this rule will be used by the department when an owner or operator of an underground storage tank (UST) claims to be financially unable to comply with corrective action requirements under 567—135.7(455B) through 567—135.12(455B) or closure investigation requirements under 567—135.15(455B). If an owner or operator of a regulated UST claims to be financially unable to meet these departmental requirements, that responsible party must provide documentation of the party's finances on forms provided by the department in order for the department to act on the claim of financial inability. The department may request additional financial documentation to verify or supplement reported information.

**135.17(2)** Individual claims. The financial ability of individual owners and operators of USTs, with or without an active business (including but not limited to sole proprietorships and general partnerships), may be evaluated using the most current version of "INDIPAY" developed by the U.S. Environmental

Protection Agency and generally accepted principles of financial analysis. This guidance is only one tool the department may use in evaluating claims of financial inability.

**135.17(3)** Corporate claims. The financial ability of corporate owners and operators of USTs may be evaluated using the most current version of "ABEL" developed by the U.S. Environmental Protection Agency and generally accepted principles of financial analysis. This guidance is only one tool the department may use in evaluating claims of financial inability.

**135.17(4)** Federal LUST Trust Fund. The financial ability of owners and operators of USTs shall be evaluated for the purpose of determining if the department is authorized to use Federal LUST Trust Fund moneys as provided in the current cooperative agreement with the U.S. Environmental Protection Agency, Region VII. A determination of financial inability does not create an entitlement or any expectation interest on behalf of an owner or operator that Federal LUST Trust Fund moneys will be used for corrective action at any individual site.

**135.17(5)** The evaluation of financial ability will also be used by the department in making other administrative planning decisions including but not limited to decisions as to whether to pursue and when to pursue administrative or judicial enforcement of regulatory and statutory duties and the assessment of penalties. A determination of financial inability does not create an entitlement or expectation interest that enforcement actions will be deferred or suspended. The evaluation of this factor is only one of many affecting the department's fully discretionary decisions regarding enforcement options and program planning.

**135.17(6)** An evaluation of financial inability as provided in this rule does not relieve any owner or operator of legal liability to comply with department rules or Iowa Code chapter 455B or provide a defense to any legal actions to establish liability or enforce compliance.

**567—135.18(455B) Analyzing for methyl tertiary-butyl ether (MTBE).**

**135.18(1)** *General.* The objective of analyzing for MTBE is to determine its presence in water samples collected as part of investigation and remediation of contamination for underground storage tank facilities.

**135.18(2)** *Required MTBE testing.* Water samples must be analyzed for MTBE when collected for risk-based corrective action as required in 567—135.8(455B) through 567—135.12(455B). These sampling requirements include but are not limited to Tier 2 and Tier 3 assessments where groundwater ingestion pathway evaluation and subsequent monitoring is required.

**135.18(3)** *MTBE testing not required.* Analysis for MTBE is not required for the following:

*a.* Closure sampling under 567—135.15(455B).

*b.* Site checks under 135.6(3).

*c.* If prior analysis under 135.18(2) has not shown MTBE present.

*d.* If the department determines MTBE analysis is no longer needed at a site.

**135.18(4)** *Reporting.* The analytical data must be submitted in a format prescribed by the department.

**567—135.19(455B) Compliance inspection of UST system.**

**135.19(1)** The owner or operator must have the UST system inspected and an inspection report submitted to the department by a UST compliance inspector certified by the department under 567—Chapter 134. An initial compliance site inspection shall be conducted within two years after new tank installation. All subsequent compliance site inspections conducted after the initial compliance site inspection shall be conducted within 24 months of the prior compliance site inspection. Compliance site inspections must be separated by at least six months.

**135.19(2)** Compliance inspection requirements. The owner and operator must comply with the following as part of the inspection process.

*a.* Review and respond to the inspection report provided by the certified compliance inspector and complete the corrective actions specified in the compliance inspection report within the specified time frames.

*b.* Provide all records and documentation required by the certified compliance inspector and this chapter.

*c.* Upon notification of a suspected release by the certified compliance inspector pursuant to 567—paragraph 134.10(3)*"b,"* report the condition to the department and undertake steps to investigate and confirm the suspected release as provided in 567—135.6(455B).

*d.* Ensure that the compliance inspector completes and submits an electronic inspection form in accordance with 567—subrule 134.10(3).

**135.19(3)** The owner and operator shall do the following upon receipt of a compliance inspection report as provided in 567—paragraph 134.10(3)*"b,"* which finds violations of the department's rules:

*a.* Take all actions necessary to correct any compliance violations or deficiencies in accordance with this chapter. Corrective action must be taken within 60 days of receipt of the inspector's report or another reasonable time period approved by the department. The granting of time to remedy a violation does not preclude the department from exercising its discretion to assess penalties for the violation.

*b.* Within 60 days of receipt of the inspector's report, provide documentation to the compliance inspector that the violation or deficiencies have been corrected.

*c.* Conduct a follow-up inspection in instances where there are serious problems or a history of repeated violations when required by the department.

**135.19(4)** Conflict of interest. A compliance site inspection must be conducted by a certified compliance inspector who is not the owner or operator of the UST system being inspected, an employee of the owner or operator of the UST system being inspected, or a person having daily on-site responsibility for the operation and maintenance of the UST system.

**567—135.20(455B) UST systems with field-constructed tanks and airport hydrant fuel distribution systems.** The commission adopts by reference the definitions and requirements of 40 CFR 280 Subpart K.

**567—135.21(455B) Waivers.** A request for a waiver to these rules will be reviewed in accordance with law and procedures of Iowa Code chapter 17A and 7—Chapter 2504.

These rules are intended to implement Iowa Code sections 455B.304, 455B.424 and 455B.474.

## Appendix A - Tier 1 Table, Assumptions, Equations and Parameter Values

### Iowa Tier 1 Look-Up Table

| Media | Exposure Pathway | Receptor | Group 1 | | | | Group 2: TEH | |
|---|---|---|---|---|---|---|---|---|
| | | | Benzene | Toluene | Ethylbenzene | Xylenes | Diesel* | Waste Oil |
| Groundwater (µg/L) | Groundwater Ingestion | Actual | 5 | 1,000 | 700 | 10,000 | 1,200 | 400 |
| | | Potential | 290 | 7,300 | 3,700 | 73,000 | 75,000 | 40,000 |
| | Groundwater Vapor to Enclosed Space | All | 1,540 | 20,190 | 46,000 | NA | 2,200,000 | NA |
| | Groundwater to Water Line | PVC or Gasketed Mains | 7,500 | 6,250 | 40,000 | 48,000 | 75,000 | 40,000 |
| | | PVC or Gasketed Service Lines | 3,750 | 3,120 | 20,000 | 24,000 | 75,000 | 40,000 |
| | | PE/PB/AC Mains or Service Lines | 200 | 3,120 | 3,400 | 19,000 | 75,000 | 40,000 |
| | Surface Water | All | 290 | 1,000 | 3,700 | 73,000 | 75,000 | 40,000 |
| Soil (mg/kg) | Soil Leaching to Groundwater | All | 0.54 | 42 | 15 | NA | 3,800 | NA |
| | Soil Vapor to Enclosed Space | All | 1.16 | 48 | 79 | NA | 47,500 | NA |
| | Soil to Water Line | All | 2.0 | 3.2 | 45 | 52 | 10,500 | NA |

NA: Not applicable. There are no limits for the chemical for the pathway, because for groundwater pathways the concentration for the designated risk would be greater than the solubility of the pure chemical in water, and for soil pathways the concentration for the designated risk would be greater than the soil concentration if pure chemical were present in the soil.

TEH: Total Extractable Hydrocarbons. The TEH value is based on risks from naphthalene, benzo(a)pyrene, benz(a)anthracene, and chrysene. Refer to Appendix B for further details.

Diesel*: Standards in the Diesel column apply to all low volatile petroleum hydrocarbons except waste oil.

Assumptions Used for Iowa Tier 1 Look-Up Table Generation

1. Groundwater ingestion pathway. The maximum contaminant levels (MCLs) were used for Group 1 chemicals. The target risk for carcinogens for actual receptors is $10^{-6}$ and for potential receptors is $10^{-4}$. A hazard quotient of one, and residential exposure and building parameters are assumed.

2. Groundwater vapor to enclosed space pathway. Residential exposure and residential building parameters are assumed; no inhalation reference dose is used for benzene; the capillary fringe is assumed to be the source of groundwater vapor; and the hazard quotient is 1 and target risk for carcinogens is $1x10^{-4}$.

3. Groundwater to water line. This pathway uses the same assumptions as the groundwater ingestion pathway for potential receptors, including a target risk for carcinogens of $10^{-4}$.

4. Surface water. This pathway uses the same assumptions as the groundwater ingestion pathway for potential receptors, including a target risk for carcinogens of $10^{-4}$, except for toluene which has a chronic level for aquatic life of 1,000 as in the definition for surface water criteria in 567—135.2(455B).

5. Soil leaching to groundwater. This pathway assumes the groundwater will be protected to the same levels as the groundwater ingestion pathway for potential receptors, using residential exposure and a target risk for carcinogens of $10^{-4}$.

6. Soil vapor to enclosed space pathway. The target risk for carcinogens is $1x10^{-4}$; the hazard quotient is 1; no inhalation reference dose is used for benzene; residential exposure factors are assumed; and the average of the residential and nonresidential building parameters is assumed.

7. Soil to water line pathway. This pathway uses the soil leaching to groundwater model with nonresidential exposure and a target risk for carcinogens of $10^{-4}$.

In addition to these assumptions, the equations and parameter values used to generate the Iowa Tier 1 Look-Up Table are described below.

<u>Groundwater Ingestion Equations</u>

Carcinogens:

$$RBSL_W\left[\frac{mg}{L-H_2O}\right]=\frac{TR\ \times BW\times AT_c\times\dfrac{365\ days}{year}}{SF_O\times IR_W\times EF\times ED}$$

Noncarcinogens:

$$RBSL_W\left[\frac{mg}{L-H_2O}\right]=\frac{THQ\ \times RfD_O\times BW\times AT_n\times\dfrac{365\ days}{year}}{IR_W\times EF\times ED}$$

<u>Soil Leaching to Groundwater Equations</u>

$$RBSL_{sl}\left[\frac{mg}{kg-soil}\right]=\frac{RBSL_w\left[\dfrac{mg}{L-H_2O}\right]}{LF}$$

$$LF\left[\frac{mg/L-H_2O}{mg/kg-soil}\right]=\frac{\rho_s}{\theta_{ws}+k_s\rho_s+H\theta_{as}\left(1+\dfrac{U\delta}{IW}\right)}$$

<u>Soil Vapor to Enclosed Space Equations</u>

$$RBSL_{sv}\left[\frac{mg}{kg-soil}\right]=\frac{RBSL_{air}\left[\frac{\mu g}{m^3-air}\right]}{VF_{sv}}\left(\frac{mg}{1000\mu g}\right)$$

$$VF_{sv}\left[\frac{mg/m^3-air}{mg/kg-soil}\right]=\frac{\frac{H\rho_S}{\theta_{WS}+k_s\rho_s+H\theta_{as}}\left[\frac{D_S^{eff}/L_s}{ER\ L_B}\right]}{1+\left[\frac{D_s^{eff}/L_s}{ER\ L_B}\right]+\left[\frac{D_s^{eff}/L_s}{\left(D_{crack}^{eff}/L_{crack}\right)^{\eta}}\right]}\left(10^3\,\frac{cm^3-kg}{m^3-g}\right)$$

$$D_{crack}^{eff}\left|\frac{cm^2}{s}\right|=D^{air}\frac{\theta_{acrack}^{3.33}}{\theta_T^2}+D^{wat}\frac{1}{H}\frac{\theta_{wcrack}^{3.33}}{\theta_T^2}$$

$$D_s^{eff}\left|\frac{cm^2}{s}\right|=D^{air}\frac{\theta_{as}^{3.33}}{\theta_T^2}+D^{wat}\frac{1}{H}\frac{\theta_{ws}^{3.33}}{\theta_T^2}$$

Indoor Air Inhalation Equations

Carcinogens:

$$RBSL_{air}\left[\frac{\mu g}{m^3 - air}\right] = \frac{TR \times BW \times AT_c \times \frac{365 days}{year} \times \frac{1000\mu g}{mg}}{SF_i \times IR_{air} \times EF \times ED}$$

Noncarcinogens:

$$RBSL_{air}\left[\frac{\mu g}{m^3 - air}\right] = \frac{THQ \times RfD_i \times BW \times AT_n \times \frac{365\ days}{year} \times \frac{1000\mu g}{mg}}{IR_{air} \times EF \times ED}$$

Groundwater Vapor to Enclosed Space Equations

$$RBSL_{gw}\left[\frac{mg}{L - H_2O}\right] = \frac{RBSL_{air}\left[\frac{\mu g}{m^3 - air}\right]}{VF_{gw}}\left(\frac{mg}{1000\mu g}\right)$$

$$VF_{gw}\left[\frac{\left(mg/m^3 - air\right)}{\left(mg/L - H_2O\right)}\right] = \frac{H\left[\frac{D_s^{eff}/L_{gw}}{ERL_B}\right]}{1 + \left[\frac{D_s^{eff}/L_{gw}}{ER\,L_B}\right] + \left[\frac{D_s^{eff}/L_{gw}}{\left(D_{crack}^{eff}/L_{crack}\right)^{\eta}}\right]}\left(\frac{10^3 L}{m^3}\right)$$

Variable Definitions

| Symbol | Definition |
|---|---|
| $\delta$ | groundwater mixing zone thickness (cm) |
| $\eta$ | areal fraction of cracks in foundation/wall ($cm^2$-cracks/$cm^2$-area) |
| $\rho_s$ | soil bulk density ($g/cm^3$) |
| $\theta_{acrack}$ | volumetric air content in foundation/wall cracks ($cm^3$-air/$cm^3$-soil) |
| $\theta_{as}$ | volumetric air content in vadose zone ($cm^3$-air/$cm^3$-soil) |
| $\theta_T$ | total soil porosity ($cm^3$-voids/$cm^3$-soil) |
| $\theta_{wcrack}$ | volumetric water content in foundation/wall cracks ($cm^3$-$H_2O$/$cm^3$-soil) |
| $\theta_{ws}$ | volumetric water content in vadose zone ($cm^3$-$H_2O$/$cm^3$-soil) |
| $AT_c$ | averaging time for carcinogens (years) |
| $AT_n$ | averaging time for noncarcinogens (years) |
| BW | body weight (kg) |
| $D^{air}$ | chemical diffusion coefficient in air ($cm^2/s$) |
| $D^{wat}$ | chemical diffusion coefficient in water ($cm^2/s$) |
| $D^{eff}_{crack}$ | effective diffusion coefficient through foundation cracks ($cm^2/s$) |
| $D^{eff}_{s}$ | effective diffusion coefficient in soil based on vapor-phase concentration ($cm^2/s$) |
| ED | exposure duration (years) |
| EF | exposure frequency (days/year) |
| ER | enclosed space air exchange rate ($s^{-1}$) |
| $f_{oc}$ | fraction organic carbon in the soil (kg-C/kg-soil) |
| H | henry's law constant (L-$H_2O$)/L-air) |
| i | groundwater head gradient (cm/cm) |
| I | infiltration rate of water through soil (cm/year) |
| $IR_{air}$ | daily indoor inhalation rate ($m^3$/day) |
| $IR_w$ | daily water ingestion rate (L/day) |
| K | hydraulic conductivity (cm/year) |
| $K_{oc}$ | carbon-water sorption coefficient (L-$H_2O$/kg-C) |
| $k_s$ | soil-water sorption coefficient (L-$H_2O$/kg-soil), $f_{oc}$ x $K_{oc}$ |
| $L_B$ | enclosed space volume/infiltration area ratio (cm) |
| $L_{crack}$ | enclosed space foundation or wall thickness (cm) |
| LF | leaching factor from soil to groundwater ((mg/L-$H_2O$)/(mg/kg-soil)) |
| $L_{gw}$ | depth to groundwater from the enclosed space foundation (cm) |
| $L_s$ | depth to subsurface soil sources from the enclosed space foundation (cm) |
| $RBSL_{air}$ | Risk-Based Screening Level for indoor air (μg/$m^3$-air) |
| $RBSL_{gw}$ | Risk-Based Screening Level for vapor from groundwater to enclosed space air inhalation (mg/L-$H_2O$) |
| $RBSL_{sl}$ | Risk-Based Screening Level for soil leaching to groundwater (mg/kg-soil) |
| $RBSLs_v$ | Risk-Based Screening Level for vapors from soil to enclosed space air inhalation (mg/kg-soil) |
| $RBSL_w$ | Risk-Based Screening Level for groundwater ingestion (mg/L-$H_2O$) |
| $RfD_i$ | inhalation chronic reference dose (mg/(kg-day)) |
| $RfD_o$ | oral chronic reference dose (mg/(kg-day)) |
| $SF_i$ | inhalation cancer slope factor ((kg-day)/mg) |
| $SF_o$ | oral cancer slope factor ((kg-day)/mg) |
| THQ | target hazard quotient for individual constituents (unitless) |
| TR | target excess individual lifetime cancer risk (unitless) |
| U | groundwater Darcy velocity (cm/year), U=Ki |
| $VF_{gw}$ | volatilization factor for vapors from groundwater to enclosed space ((mg/$m^3$-air)/(mg/kg-soil)) |
| $VF_{sv}$ | volatilization factor for vapors from soil to enclosed space ((mg/$m^3$-air)/(mg/kg-soil)) |
| W | width of soil source area parallel to groundwater flow direction (cm) |

Soil and Groundwater Parameter Values Used for Iowa Tier 1 Table Generation

| Parameter | | Iowa Tier 1 Table Value |
|---|---|---|
| K | hydraulic conductivity | 16060 cm/year |
| i | groundwater head gradient | 0.01 cm/cm |
| W | width of soil source area parallel to groundwater flow direction | 1500 cm |
| I | infiltration rate of water through soil | 7 cm/year |
| $\delta$ | groundwater mixing zone thickness | 200 cm |
| $\rho_s$ | soil bulk density | 1.86 g/cm$^3$ |
| $\theta_{as}$ | volumetric air content in vadose zone | 0.2 cm$^3$-air/cm$^3$-soil |
| $\theta_{ws}$ | volumetric water content in vadose zone | 0.1 cm$^3$-$H_2O$/cm$^3$-soil |
| $\theta_{acrack}$ | volumetric air content in foundation/wall cracks | 0.2 cm$^3$-air/cm$^3$-soil |
| $\theta_{wcrack}$ | volumetric water content in foundation/wall cracks | 0.1 cm$^3$-$H_2O$/cm$^3$-soil |
| $\theta_T$ | total soil porosity | 0.3 cm$^3$-voids/cm$^3$-soil |
| $f_{oc}$ | fraction organic carbon in the soil | 0.01 kg-C/kg-soil |
| $L_s$ | depth to subsurface soil sources from the enclosed space foundation | 1 cm |
| $L_{gw}$ | depth to groundwater from the enclosed space foundation | 1 cm |

Exposure Factors Used in Iowa Tier 1 Table Generation

| Parameter | | Residential | Nonresidential |
|---|---|---|---|
| $AT_c$ (years) | averaging time for carcinogens | 70 | 70 |
| $AT_n$ (years) | averaging time for noncarcinogens | 30 | 25 |
| BW (kg) | body weight | 70 | 70 |
| ED (years) | exposure duration | 30 | 25 |
| EF (days/year) | exposure frequency | 350 | 250 |
| $IR_{air}$ (m$^3$/day) | daily indoor inhalation rate | 15 | 20 |
| $IR_w$ (L/day) | daily water ingestion rate | 2 | 1 |
| THQ (unitless) | target hazard quotient for individual constituents | 1.0 | 1.0 |

Building Parameters Used in Iowa Tier 1 Table Generation

| Parameter | | Residential | Nonresidential |
|---|---|---|---|
| ER (s$^{-1}$) | enclosed space air exchange rate | 0.00014 | 0.00023 |
| $L_B$ (cm) | enclosed space volume/infiltration area ratio | 200 | 300 |
| $L_{crack}$ (cm) | enclosed space foundation or wall thickness | 15 | 15 |
| $\eta$ | areal fraction of cracks in foundation/wall | 0.01 | 0.01 |

Chemical-Specific Parameter Values Used for Iowa Tier 1 Table Generation

| Chemical | $D^{air}$ (cm$^2$/s) | $D^{wat}$ (cm$^2$/s) | H (L-air/L-water) | log($K_{oc}$), L/kg |
|---|---|---|---|---|
| Benzene | 0.093 | 1.1e-5 | 0.22 | 1.58 |
| Toluene | 0.085 | 9.4e-6 | 0.26 | 2.13 |
| Ethylbenzene | 0.076 | 8.5e-6 | 0.32 | 1.98 |
| Xylenes | 0.072 | 8.5e-6 | 0.29 | 2.38 |
| Naphthalene | 0.072 | 9.4e-6 | 0.049 | 3.11 |
| Benzo(a)pyrene | 0.050 | 5.8e-6 | 5.8e-8 | 5.59 |
| Benz(a)anthracene | 0.05 | 9.0e-6 | 5.74e-7 | 6.14 |
| Chrysene | 0.025 | 6.2e-6 | 4.9e-7 | 5.30 |

Saturation Values Used to Determine "NA" for the Iowa Tier 1 Table

| Chemical | Solubility in Water (mg/L) S | Saturation in Soil (mg/kg) $C_s^{sat}$ |
|---|---|---|
| Benzene | 1,750 | 801 |
| Toluene | 535 | 765 |
| Ethylbenzene | 152 | 159 |

| Chemical | Solubility in Water (mg/L) S | Saturation in Soil (mg/kg) $C_s^{sat}$ |
|---|---|---|
| Xylenes | 198 | 492 |
| Naphthalene | 31 | 401 |
| Benzo(a)pyrene | 0.0012 | 4.69 |
| Benz(a)anthracene | 0.014 | 193.3 |
| Chrysene | 0.0028 | 5.59 |

The maximum solubility of the pure chemical in water is listed in the table above. The equation below is used to calculate the soil concentration ($C_s^{sat}$) at which dissolved pore-water and vapor phases become saturated. Tier 1 default values are used in the equation. "NA" (for not applicable) is used in the Tier 1 table when the risk-based value exceeds maximum solubility for water (S) or maximum saturation for soil ($C_s^{sat}$).

$$C_s^{sat}\left[\frac{mg}{kg-soil}\right] = \frac{S}{\rho_s} \times (H\theta_{as} + \theta_{ws} + k_s\rho_s)$$

## Slope Factors and Reference Doses Used for Iowa Tier 1 Table Generation

| Chemical | $SF_i$ ((kg-day)/mg) | $SF_o$ ((kg-day)/mg) | $RfD_i$ (mg/(kg-day)) | $RfD_o$ (mg/(kg-day)) |
|---|---|---|---|---|
| Benzene | 0.029 | 0.029 | ---- | ---- |
| Toluene | ---- | ---- | 0.114 | 0.2 |
| Ethylbenzene | ---- | ---- | 0.286 | 0.1 |
| Xylenes | ---- | ---- | 2.0 | 2.0 |
| Naphthalene | ---- | ---- | 0.004 | 0.004 |
| Benzo(a)pyrene | 6.1 | 7.3 | ---- | ---- |
| Benz(a)anthracene | 0.61 | 0.73 | ---- | ---- |
| Chrysene | 0.061 | 0.073 | ---- | ---- |

## Appendix B – Tier 2 Equations and Parameter Values (Revised Model)

All Tier 1 equations and parameters apply at Tier 2 except as specified below.

Equation for Tier 2 Groundwater Contaminant Transport Model

Equation (1)

$$C(x) = C_s \exp\left(\frac{X_m}{2a_x}\left[1 - \sqrt{1 + \frac{4\lambda a_x}{u}}\right]\right) \operatorname{erf}\left(\frac{S_w}{4\sqrt{a_y x_m}}\right) erf\left(\frac{S_d}{4\sqrt{a_z x_m}}\right)$$

Equation (2)

Where xm = ax + bxc

The value of Xm is computed from Equation (2), where the values for a, b and c in Equation (2) are given in Table 1.

Table 1. Parameter Values for Equation (2)

| Chemical | a | b | c |
|---|---|---|---|
| Benzene | 1 | 0.000000227987 | 3.929438689 |
| Toluene | 1 | 0.000030701 | 3.133842393 |
| Ethylbenzene | 1 | 0.0001 | 2.8 |
| Xylenes | 1 | 0.0 | 0.0 |
| TEH-Diesel | 1 | 0.000000565 | 3.625804634 |
| TEH-Waste Oil | 1 | 0.000000565 | 3.625804634 |
| Naphthalene | 1 | 0 | 0 |

Variable definitions

x: distance in the x direction downgradient from the source

erf( ): the error function

C(x): chemical concentration in groundwater at x

$C_s$: Source concentration in groundwater (groundwater concentration at x=0)

$S_w$: width of the source (perpendicular to x)

$S_d$: vertical thickness of the source

u: groundwater velocity (pore water velocity); u=Ki/θe

K: hydraulic conductivity

i: groundwater head gradient

θe: effective porosity

λ: first order decay coefficient, chemical specific

αx, αy, αz: dispersivities in the x, y and z directions, respectively

For the following lists of parameters, one of three is required: site-specific measurements, defaults or the option of either (which means the default may be used or replaced with a site-specific measurement).

Soil parameters

| Parameter | | Default Value | Required |
|---|---|---|---|
| $\rho_s$ | soil bulk density | 1.86 g/cm$^3$ | option |
| $f_{oc}$ | fraction organic carbon in the soil | 0.01 kg-C/kg-soil | option |
| $\theta_T$ | total soil porosity | 0.3cm$^3$-voids/cm$^3$-soil | option |
| $\theta_{as}$ | volumetric air content in vadose zone | 0.2cm$^3$-air/cm$^3$-soil | default |
| $\theta_{ws}$ | volumetric water content in vadose zone | 0.1cm$^3$-$H_2O$/cm$^3$-soil | default |

| Parameter | | Default Value | Required |
|---|---|---|---|
| $\theta_{acrack}$ | volumetric air content in foundation/wall cracks | $0.2 cm^3$-air/$cm^3$-soil | default |
| $\theta_{wcrack}$ | volumetric water content in foundation/wall cracks | $0.1 cm^3$-$H_2O$/$cm^3$-soil | default |
| I | infiltration rate of water through soil | 7 cm/year | default |

If the total porosity is measured, assume 1/3 is air filled and 2/3 is water filled for determining the water and air fraction in the vadose zone soil and floor cracks.

Groundwater Transport Modeling Parameters

| Parameter | | Default Value | Required |
|---|---|---|---|
| K | hydraulic conductivity | 16060 cm/year | site-specific |
| i | groundwater head gradient | 0.01 cm/cm | site-specific |
| $S_w$ | width of the source | use procedure specified in 135.10(2) | site-specific |
| $S_d$ | vertical thickness of the source | 3 m | default |
| αx | dispersivity in the x direction | 0.1x | default |
| αy | dispersivity in the y direction | 0.33αx | default |
| αz | dispersivity in the z direction | 0.05αx | default |
| θe | effective porosity | 0.1 | default |

where u=Ki/θe

First-order Decay Coefficients

| Chemical | Default Valueλ (d-1) | Required |
|---|---|---|
| Benzene | 0.000127441 | default |
| Toluene | 0.0000208066 | default |
| Ethylbenzene | 0.0 | default |
| Xylenes | 0.0005 | default |
| Naphthalene | 0.00013 | default |
| TEH-Diesel | 0.0000554955 | default |
| TEH-Waste Oil | 0.0000554955 | default |

Other Parameters for Groundwater Vapor to Enclosed Space

| Parameter | | Default Value | Required |
|---|---|---|---|
| Lgw | depth to groundwater from the enclosed space foundation | 1 cm | option |
| $L_B$ | enclosed space volume/infiltration area ratio | 200 cm | option |
| ER (s-1) | enclosed space air exchange rate | 0.00014 | default |
| Lcrack | enclosed space foundation or wall thickness | 15 cm | default |
| η | areal fraction of cracks in foundation/wall | 0.01 | default |

Other Parameters for Soil Vapor to Enclosed Space

| Parameter | | Default Value | Required |
|---|---|---|---|
| $L_s$ | depth to subsurface soil sources from the enclosed space foundation | 1 cm | option |
| $L_B$ | enclosed space volume/infiltration area ratio | 250 cm * | option |
| ER (s-1) | enclosed space air exchange rate | 0.000185 * | default |
| Lcrack | enclosed space foundation or wall thickness | 15 cm | default |
| η | areal fraction of cracks in foundation/wall | 0.01 | default |

*These values are an average of residential and nonresidential factors.

Soil Leaching to Groundwater

| Parameter | | Default Value | Required |
|---|---|---|---|
| δ | groundwater mixing zone | 2 m | default |

Building Parameters for Iowa Tier 2

| Parameter | | Residential | Nonresidential |
|---|---|---|---|
| ER (s-1) | enclosed space air exchange rate | 0.00014 | 0.00023 |
| $L_B$ | enclosed space volume/infiltration area ratio | 200 cm | 300 cm |

Other Parameters

For Tier 2, the following are the same as Tier 1 values (refer to Appendix A): chemical-specific parameters, slope factors and reference doses, and exposure factors (except for those listed below).

Exposure Factors for Tier 2 Groundwater Vapor to Enclosed Space Modeling:

Potential Residential: use residential exposure and residential building parameters.

Potential Nonresidential: use nonresidential exposure and nonresidential building parameters.

Diesel and Waste Oil

| Diesel and Waste Oil | | | Chemical-Specific Values for Tier 1 | | | |
|---|---|---|---|---|---|---|
| Media | Exposure Pathway | Receptor | Naphthalene | Benzo(a) pyrene | Benz(a) anthracene | Chrysene |
| Groundwater (μg/L) | Groundwater Ingestion | actual | 150 | 0.012 | 0.12 | 1.2 |
| | | potential | 150 | 1.2 | 12.0 | NA |
| | Groundwater Vapor to Enclosed Space | all | 4,440 | NA | NA | NA |
| | Groundwater to Water Line | all | 150 | 1.2 | 12.0 | NA |
| | Surface Water | all | 150 | 1.2 | 12.0 | NA |
| Soil (mg/kg) | Soil Leaching to Groundwater | all | 7.6 | NA | NA | NA |
| | Soil Vapor to Enclosed Space | all | 95 | NA | NA | NA |
| | Soil to Water Line | all | 21 | NA | NA | NA |

Due to difficulties with analytical methods for the four individual chemicals listed in the above table, Total Extractable Hydrocarbon (TEH) default values were calculated for each chemical, using the assumption that diesel contains 0.2% naphthalene, 0.001% benzo(a)pyrene, 0.001% benz(a)anthracene, and 0.001% chrysene. Resulting TEH Default Values are shown in the following table.

| Diesel | | | TEH Default Values | | | |
|---|---|---|---|---|---|---|
| Media | Exposure Pathway | Receptor | Naphthalene | Benzo(a) pyrene | Benz(a) anthracene | Chrysene |
| Groundwater (µg/L) | Groundwater Ingestion | actual | 75,000 | 1,200 | 12,000 | 120,000 |
| | | potential | 75,000 | 120,000 | 1,200,000 | NA |
| | Groundwater Vapor to Enclosed Space | all | 2,200,000 | NA | NA | NA |
| | Groundwater to Water Line | all | 75,000 | 120,000 | 1,200,000 | NA |
| | Surface Water | all | 75,000 | 120,000 | 1,200,000 | NA |
| Soil (mg/kg) | Soil Leaching to Groundwater | all | 3,800 | NA | NA | NA |
| | Soil Vapor to Enclosed Space | all | 47,500 | NA | NA | NA |
| | Soil to Water Line | all | 10,500 | NA | NA | NA |

The lowest TEH default value for each pathway (shown as a shaded box) was used in the Tier 1 Table.

Due to difficulties with analytical methods for the four individual chemicals, Total Extractable Hydrocarbon (TEH) default values were calculated for each chemical, using the assumption that waste oil contains no naphthalene, 0.003% benzo(a)pyrene, 0.003% benz(a)anthracene, and 0.003% chrysene. Resulting TEH Default Values are shown in the following table.

| Waste Oil | | | TEH Default Values | | | |
|---|---|---|---|---|---|---|
| Media | Exposure Pathway | Receptor | Naphthalene | Benzo(a) pyrene | Benz(a) anthracene | Chrysene |
| Groundwater (ug/L) | Groundwater Ingestion | actual | NA | 400 | 4,000 | 40,000 |
| | | potential | NA | 40,000 | 400,000 | NA |
| Groundwater (µg/L) | Groundwater Vapor to Enclosed Space | all | NA | NA | NA | NA |
| | Groundwater to Water Line | all | NA | 40,000 | 400,000 | NA |
| | Surface Water | all | NA | 40,000 | 400,000 | NA |
| Soil (mg/kg) | Soil Leaching to Groundwater | all | NA | NA | NA | NA |
| | Soil Vapor to Enclosed Space | all | NA | NA | NA | NA |
| | Soil to Water Line | all | NA | NA | NA | NA |

The lowest TEH default value for each pathway (shown as a shaded box) was used in the Tier 1 Table.

Water Line Calculations

**Explanation of Target Levels for**
**Petroleum Fuel-Derived BTEX Compounds in Groundwater and Soil**

**GROUNDWATER**

PVC or Gasketed Mains

*Benzene: 7,500 µg/L*
Gasoline-saturated groundwater was considered to be an extreme condition of environmental contamination, and it was considered unacceptable to leave water lines, regardless of material, in contact with this level of benzene contamination. While Ong et al. (2008) showed that gasoline-saturated groundwater would not pose a significant risk of permeation exceeding the 5 µg/L MCL for benzene of gasketed DI or PVC water mains, a safety factor of 1/8th was applied to the level of benzene in premium gasoline-saturated water determined by Ong et al. (2008). A 1/2 safety factor was compounded for each of four potential safety risks: material defects in the pipe (= 1/2), presence of service line taps (= 1/4), stagnation of water (= 1/6), and water line breaks (= 1/8). This was an average of 67.5 mg/L ± 4.9 mg/L for multiple preparations of gasoline-saturated water and was rounded to 60.0 mg/L to conservatively account for the statistical uncertainty. Hence,

$$Target \quad Level = {}^{1}/_{8} \times 60{,}000\,\mu g/L = 7{,}500\,\mu g/L\ benzene$$

*Toluene: 6,250 µg/L*
The target level for toluene was determined similarly to that for benzene. The level of toluene in premium gasoline-saturated water was determined by Ong et al. (2008) to be 56.2 mg/L ± 4.9 mg/L and conservatively rounded to 50.0 mg/L. Hence,

$$Target \quad Level = {}^{1}/_{8} \times 50{,}000\,\mu g/L = 6{,}250\,\mu g/L\ toluene$$

*Ethylbenzene: 40,000 µg/L*
The target level was set to be double that for PVC or Gasketed Service Lines (20,000 µg/L – see below).

*Total Xylenes: 48,000 µg/L*
The target level was set to be double that for PVC or Gasketed Service Lines (24,000 µg/L – see below).

PVC or Gasketed Service Lines

*Benzene: 3,750 µg/L*
The target level was set to be one-half of that for PVC or Gasketed Mains (7,500 µg/L as above) since service lines tend to be of higher risk than mains owing to their smaller diameter and greater potential for stagnation.

*Toluene: 3,120 µg/L*
Similar to benzene, the target level was set to be one-half of that for PVC or Gasketed Mains (6,250 µg/L as above) since service lines tend to be of higher risk than mains owing to their smaller diameter and greater potential for stagnation. Odd-even rounding to 3 significant figures was applied.

*Ethylbenzene: 20,000 µg/L*
The target level was based on two observations by Ong et al. (2008): (1) premium gasoline-saturated water has an average concentration of 3.4 mg/L ethylbenzene and (2) ethylene permeates high density polyethylene 46 times slower than does benzene (presumably, this is reasonably representative of other materials such as rubber gaskets). The 1/8 safety factor was also applied, as above. Odd-even rounding to 2 significant figures was applied. Hence:

$$Target \quad Level = 3{,}400\,\mu g/L \times 46x \times {}^{1}\!/_{8} = 19{,}550\,\mu g/L = 20{,}000\,\mu g/L$$

*Total Xylenes: 24,000 µg/L*
Similar to ethylbenzene, the target level was based on (1) premium gasoline-saturated water has an average concentration of 19 mg/L total xylenes and (2) total xylenes permeate high density polyethylene 10 times slower than does benzene. The 1/8 safety factor was also applied, as above. Odd-even rounding to 2 significant figures was applied. Hence:

$$Target \quad Level = 19{,}000\,\mu g/L \times 10x \times {}^{1}\!/_{8} = 23{,}750\,\mu g/L = 24{,}000\,\mu g/L$$

<u>PE/PB/AC</u>

*Benzene: 200 µg/L*
The target level was set at the concentration of benzene in groundwater surrounding a 1″ HDPE service line (SIDR 9 IPS) that would result in a concentration of 2 µg/L benzene in the service line after a 24 hr stagnation period. This level was chosen because 2 µg/L is generally the minimum reportable concentration of benzene in laboratory reports received by the department.

The permeation rate is a function of the concentration of benzene in the groundwater as described by Ong et al. (2008), equation 3.4a:

$$P_m = 0.0079C_{bulk}^{1.1323}$$

where $P_m$ is the benzene permeation rate in µg/cm$^2$/day through the pipe described above (cm$^2$ refers to the inner surface of the pipe) and $C_{bulk}$ is the concentration of benzene in the groundwater (mg/L).

For any length of exposed 1″ SIDR 9 IPS pipe, l (cm), the concentration in the pipe after 24 hr stagnation, $C_{24hr}$ (µg/L), can be computed from $P_m$ and the ratio of the inner surface of the pipe to the internal volume:

$$C_{24hr} = P_m \times \left(\frac{2\pi rl}{\pi r^2 l/1000}\right) = 0.0079C_{bulk}^{1.1323} \times \frac{2000}{r}$$

where r is the inside radius of the pipe (cm), l is the length of exposed pipe (cm), and dividing by 1000 converts from cm$^3$ to liters (and, therefore, 2000/r converts µg/cm$^2$/day to µg/L/day).

Solving for $C_{bulk}$ (mg/L) with $C_{24hr}$= 2 µg/L and r = 1.28 cm (per manufacturer's specifications):

$$C_{bulk}^{1.1323} \times \frac{2 \times 1.28}{0.0079 \times 2000}$$

and

$$C_{bulk} = \sqrt[1.1323]{0.162} = 0.200\,mg/L = 200\,\mu g/L$$

While the target level is expressed as 200 µg/L for clarity, the underlying data support only two significant figures. In a stricter treatment of the data, this would be expressed as 20 × 10$^1$ µg/L.

*Toluene: 3,120 µg/L*
The target level was set to be equal to that for PVC or Gasketed Service Lines. Calculations similar to those used above for benzene (Ong et al. (2008), equation 3.4b) indicate that 3,120 µg/L toluene in

groundwater would result in 50 µg/L inside a 1" SIDR 9 IPS HDPE pipe after 24 hours of stagnation, which is 1/20th of the 1,000 µg/L MCL for toluene.

*Ethylbenzene: 3,400 µg/L*
The target level was set to be equal to the concentration of ethylbenzene in premium gasoline-saturated water (see discussion above for PVC or Gasketed Mains/Benzene). Unlike other target levels based on contaminant concentrations in gasoline-saturated water, the 1/8th safety factor was not applied because of the very low permeation rate of ethylbenzene through HDPE, the relatively low solubility of ethylbenzene in water, and the relatively high MCL (700 µg/L). Ong et al. (2008) found that permeation of HDPE by aqueous ethylbenzene was minimal and of no consequence for public health.

*Total Xylenes: 19,000 µg/L*
The target level was set to be equal to the concentration of ethylbenzene in premium gasoline-saturated water following the same reasoning for ethylbenzene (above). The permeation rate and water solubility are also very low, and the MCL is 10,000 µg/L. Ong et al. (2008) found that permeation of HDPE by aqueous xylenes was minimal and of no consequence for public health.

**SOIL**

Target levels for soil were set to be the same for mains and service lines of any material discussed above under "Groundwater." The underlying data support two significant figures for target levels in soil. Odd-even rounding was applied where appropriate.

*Benzene: 2.0 mg/Kg*
The target level was derived from the concentration of benzene (mg/Kg) that would result if soil that was 10% moisture and 1% organic matter was equilibrated with premium gasoline-saturated water (60 mg/L benzene – as per discussion of PVC or Gasketed Mains/Benzene above). The equilibrium concentration in soil was calculated using the approach of Chiou et al. (1983). The 1/8th safety factor discussed previously for groundwater was applied. Accordingly:

$$C_T = C_w K_d + C_w{}^{\theta}$$

where $C_T$ is the total concentration of benzene in soil (mg/Kg), θ is the fraction of moisture in the soil (Kg/Kg), and Kd is the partition coefficient from water to soil (L/Kg). Further:

$$K_d = K_{om} f_{om}$$

where $K_{om}$ is the partition coefficient from water to organic matter in the soil, which is 16.8 L/Kg for benzene in soils with naturally occurring organic matter (Chiou et al. (1983)), and $f_{om}$ is the fraction of organic matter in the dry soil (Kg/Kg).

For soil containing 1% naturally occurring organic matter and 10% moisture, the total concentration of benzene upon exposure to premium gasoline-saturated groundwater (60 mg/L benzene, as per above discussion of PVC or Gasketed Mains) would be:

$$C_T = \left(\frac{60mg}{L} \times \left(\frac{16.8L}{Kg} \times \frac{0.01Kg}{Kg}\right)\right) + \left(\frac{60mg}{L} \times \frac{0.1Kg}{Kg}\right) = \frac{16mg}{Kg}$$

Applying the 1/8th safety factor:

$$Target\ Level = \frac{1}{8} \times \frac{16mg}{Kg} = \frac{2.0mg}{Kg}$$

*Toluene: 3.2 mg/Kg*
The target level was derived in the same manner as for benzene except that the concentration of toluene in premium gasoline-saturated water is 50 mg/L and $K_{om}$ is 42 L/Kg. Accordingly:

$$C_T = \left(\frac{50mg}{L} \times \left(\frac{42L}{Kg} \times \frac{0.01Kg}{Kg}\right)\right) + \left(\frac{50mg}{L} \times \frac{0.1Kg}{Kg}\right) = \frac{26mg}{Kg}$$

and

$$Target\ Level = \frac{1}{8} \times \frac{26mg}{Kg} = \frac{3.2mg}{Kg}$$

*Ethylbenzene: 45 mg/Kg*

The target level was based on the target level set for Groundwater/PVC or Gasketed Mains (40,000 µg/L, rounded from 39,100 µg/L, or 39.1 mg/L) and the principles of Chiou et al. (1983) discussed above. In a manner similar to that for benzene in soil, $C_W$ was 3.4 mg/L, $K_d$ was 0.106 L/Kg, and $C_T$ was calculated to be 3.9 mg/Kg. The target level for soil that is equivalent to the target level set for groundwater was calculated as follows:

$$Target\ Level\, mg/Kg = 39.1\, mg/L \times \frac{3.9\, mg/Kg}{3.4\, mg/L} = 45\, mg/Kg$$

*Total Xylenes: 52 mg/Kg*

The target level was set in the same manner as for ethylbenzene (above), based on the groundwater target level of 48,000 µg/L (rounded from 47.5 mg/L). $C_W$ was 19 mg/L, $K_d$ was 1.001 L/Kg (assuming a mixture of m-, o-, and p-xylenes which is 60%, 20%, and 20%, respectively, which is typical of xylenes derived from petroleum), and $C_T$ was calculated to be 21 mg/Kg. Hence:

$$Target\ Level\, mg/Kg = 47.5\, mg/L \times \frac{21\, mg/Kg}{19\, mg/L} = 52\, mg/Kg$$

**Note:** The 1/8th safety factor was applied above to the target levels for ethylbenzene and total xylenes for Groundwater, PVC or Gasketed Service Lines, thence the target levels for Groundwater, PVC or Gasketed Mains, were derived. Consequently, the 1/8th safety factor has also been applied to the target levels for both ethylbenzene and total xylenes in soil.

**REFERENCES**

Chiou, C. T., P. E. Porter and D. W. Schmedding. 1983. Partition equilibria of nonionic organic compounds between soil organic matter and water. Environ. Sci. Technol., 17(4)227-231.

Ong, S. K., J. A. Gaunt, F. Mao, C. L. Cheng, L. Esteve-Agelet, and C. R. Hurburgh. 2008. Impact of hydrocarbons on PE/PVC pipes and pipe gaskets, Publication 91204. Awwa Research Foundation (presently Water Research Foundation), Denver, CO.

## Appendix B-1 – Tier 2 Equations and Parameter Values (Old Model)

All Tier 1 equations and parameters apply at Tier 2 except as specified below.

<u>Equation for Tier 2 Groundwater Contaminant Transport Model</u>

$$C(x) = C_s \exp\left(\frac{X}{2a_x}\left[1 - \sqrt{1 + \frac{4\lambda a_x}{u}}\right]\right) \operatorname{erf}\left(\frac{S_w}{4\sqrt{a_y x}}\right) erf\left(\frac{S_d}{4\sqrt{a_z x}}\right)$$

<u>Variable definitions</u>

x: distance in the x direction downgradient from the source
erf( ): the error function
C(x): chemical concentration in groundwater at x
$C_s$: Source concentration in groundwater (groundwater concentration at x=0)
$S_w$: width of the source (perpendicular to x)
$S_d$: vertical thickness of the source
u: groundwater velocity (pore water velocity); u=Ki/θe
K: hydraulic conductivity
i: groundwater head gradient
θe: effective porosity
λ: first-order decay coefficient, chemical specific
αx, αy, αz: dispersivities in the x, y and z directions, respectively

For the following lists of parameters, one of three is required: site-specific measurements, defaults or the option of either (which means the default may be used or replaced with a site-specific measurement).

Soil parameters

| Parameter | | Default Value | Required |
|---|---|---|---|
| $\rho_s$ | soil bulk density | 1.86 g/cm$^3$ | option |
| $f_{oc}$ | fraction organic carbon in the soil | 0.01 kg-C/kg-soil | option |
| $\theta_T$ | total soil porosity | 0.3cm$^3$-voids/cm$^3$-soil | option |
| $\theta_{as}$ | volumetric air content in vadose zone | 0.2cm$^3$-air/cm$^3$-soil | default |
| $\theta_{ws}$ | volumetric water content in vadose zone | 0.1cm$^3$-$H_2O$/cm$^3$-soil | default |
| $\theta_{acrack}$ | volumetric air content in foundation/wall cracks | 0.2cm$^3$-air/cm$^3$-soil | default |
| $\theta_{wcrack}$ | volumetric water content in foundation/wall cracks | 0.1cm$^3$-$H_2O$/cm$^3$-soil | default |
| I | infiltration rate of water through soil | 7 cm/year | default |

If the total porosity is measured, assume 1/3 is air filled and 2/3 is water filled for determining the water and air fraction in the vadose zone soil and floor cracks.

Groundwater Transport Modeling Parameters

| Parameter | | Default Value | Required |
|---|---|---|---|
| K | hydraulic conductivity | 16060 cm/year | site-specific |
| i | groundwater head gradient | 0.01 cm/cm | site-specific |
| $S_w$ | width of the source | use procedure specified in 135.10(2) | site-specific |
| $S_d$ | vertical thickness of the source | 3 m | default |

| Parameter | | Default Value | Required |
|---|---|---|---|
| $\alpha x$ | dispersivity in the x direction | 0.1x | default |
| $\alpha y$ | dispersivity in the y direction | $0.33\alpha x$ | default |
| $\alpha z$ | dispersivity in the z direction | $0.05\alpha x$ | default |
| $\theta e$ | effective porosity | 0.1 | default |

where $u=Ki/\theta e$

First-order Decay Coefficients

| Chemical | Default Value$\lambda$ (d-1) | Required |
|---|---|---|
| Benzene | 0.0005 | default |
| Toluene | 0.0007 | default |
| Ethylbenzene | 0.00013 | default |
| Xylenes | 0.0005 | default |
| Naphthalene | 0.00013 | default |
| Benzo(a)pyrene | 0 | default |
| Benz(a)anthracene | 0 | default |
| Chrysene | 0 | default |

Other Parameters for Groundwater Vapor to Enclosed Space

| Parameter | | Default Value | Required |
|---|---|---|---|
| Lgw | depth to groundwater from the enclosed space foundation | 1 cm | option |
| $L_B$ | enclosed space volume/infiltration area ratio | 200 cm | option |
| ER (s-1) | enclosed space air exchange rate | 0.00014 | default |
| Lcrack | enclosed space foundation or wall thickness | 15 cm | default |
| $\eta$ | areal fraction of cracks in foundation/wall | 0.01 | default |

Other Parameters for Soil Vapor to Enclosed Space

| Parameter | | Default Value | Required |
|---|---|---|---|
| $L_s$ | depth to subsurface soil sources from the enclosed space foundation | 1 cm | option |
| $L_B$ | enclosed space volume/infiltration area ratio | 250 cm * | option |
| ER (s-1) | enclosed space air exchange rate | 0.000185 * | default |
| Lcrack | enclosed space foundation or wall thickness | 15 cm | default |
| $\eta$ | areal fraction of cracks in foundation/wall | 0.01 | default |

*These values are an average of residential and nonresidential factors.

Soil Leaching to Groundwater

| Parameter | | Default Value | Required |
|---|---|---|---|
| $\delta$ | groundwater mixing zone | 2 m | default |

Building Parameters for Iowa Tier 2

| Parameter | | Residential | Nonresidential |
|---|---|---|---|
| ER (s-1) | enclosed space air exchange rate | 0.00014 | 0.00023 |
| $L_B$ | enclosed space volume/infiltration area ratio | 200 cm | 300 cm |

<u>Other Parameters</u>

For Tier 2, the following are the same as Tier 1 values (refer to Appendix A): chemical-specific parameters, slope factors and reference doses, and exposure factors (except for those listed below).

Exposure Factors for Tier 2 Groundwater Vapor to Enclosed Space Modeling:
Potential Residential: use residential exposure and residential building parameters.
Potential Nonresidential: use nonresidential exposure and nonresidential building parameters.

Diesel and Waste Oil

| Diesel and Waste Oil | | | Chemical-Specific Values for Tier 1 | | | |
|---|---|---|---|---|---|---|
| Media | Exposure Pathway | Receptor | Naphthalene | Benzo(a) pyrene | Benz(a) anthracene | Chrysene |
| Groundwater (ug/L) | Groundwater Ingestion | actual | 150 | 0.012 | 0.12 | 1.2 |
| | | potential | 150 | 1.2 | 12.0 | NA |
| | Groundwater Vapor to Enclosed Space | all | 4,440 | NA | NA | NA |
| | Groundwater to Plastic Water Line | all | 150 | 1.2 | 12.0 | NA |
| | Surface Water | all | 150 | 1.2 | 12.0 | NA |
| Soil (mg/kg) | Soil Leaching to Groundwater | all | 7.6 | NA | NA | NA |
| | Soil Vapor to Enclosed Space | all | 95 | NA | NA | NA |
| | Soil to Plastic Water Line | all | 21 | NA | NA | NA |

Due to difficulties with analytical methods for the four individual chemicals listed in the above table, Total Extractable Hydrocarbon (TEH) default values were calculated for each chemical, using the assumption that diesel contains 0.2% naphthalene, 0.001% benzo(a)pyrene, 0.001% benz(a)anthracene, and 0.001% chrysene. Resulting TEH Default Values are shown in the following table.

| Diesel | | | TEH Default Values | | | |
|---|---|---|---|---|---|---|
| Media | Exposure Pathway | Receptor | Naphthalene | Benzo(a) pyrene | Benz(a) anthracene | Chrysene |
| Groundwater (ug/L) | Groundwater Ingestion | actual | 75,000 | 1,200 | 12,000 | 120,000 |
| | | potential | 75,000 | 120,000 | 1,200,000 | NA |
| | Groundwater Vapor to Enclosed Space | all | 2,200,000 | NA | NA | NA |
| | Groundwater to Plastic Water Line | all | 75,000 | 120,000 | 1,200,000 | NA |
| | Surface Water | all | 75,000 | 120,000 | 1,200,000 | NA |
| Soil (mg/kg) | Soil Leaching to Groundwater | all | 3,800 | NA | NA | NA |
| | Soil Vapor to Enclosed Space | all | 47,500 | NA | NA | NA |
| | Soil to Plastic Water Line | all | 10,500 | NA | NA | NA |

The lowest TEH default value for each pathway (shown as a shaded box) was used in the Tier 1 Table.

Due to difficulties with analytical methods for the four individual chemicals, Total Extractable Hydrocarbon (TEH) default values were calculated for each chemical, using the assumption that waste oil contains no naphthalene, 0.003% benzo(a)pyrene, 0.003% benz(a)anthracene, and 0.003% chrysene. Resulting TEH Default Values are shown in the following table.

| Waste Oil | | | TEH Default Values | | | |
|---|---|---|---|---|---|---|
| Media | Exposure Pathway | Receptor | Naphthalene | Benzo(a) pyrene | Benz(a) anthracene | Chrysene |
| Groundwater (ug/L) | Groundwater Ingestion | actual | NA | 400 | 4,000 | 40,000 |
| | | potential | NA | 40,000 | 400,000 | NA |
| Groundwater (ug/L) | Groundwater Vapor to Enclosed Space | all | NA | NA | NA | NA |
| | Groundwater to Plastic Water Line | all | NA | 40,000 | 400,000 | NA |
| | Surface Water | all | NA | 40,000 | 400,000 | NA |
| Soil (mg/kg) | Soil Leaching to Groundwater | all | NA | NA | NA | NA |
| | Soil Vapor to Enclosed Space | all | NA | NA | NA | NA |
| | Soil to Plastic Water Line | all | NA | NA | NA | NA |

The lowest TEH default value for each pathway (shown as a shaded box) was used in the Tier 1 Table.

[Filed 7/24/26, effective 9/23/26]
[Published 8/19/26]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

## ARC 0492D

# ENVIRONMENTAL PROTECTION COMMISSION[567]

**Adopted and Filed**

**Rulemaking related to financial responsibility for underground storage tanks**

The Environmental Protection Commission (Commission) hereby rescinds Chapter 136, "Financial Responsibility for Underground Storage Tanks," Iowa Administrative Code, and adopts a new Chapter 136 with the same title.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code section 455B.474.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 455B and 40 CFR parts 280 and 281.

*Purpose and Summary*

Chapter 136 establishes financial responsibility requirements for owners and operators of petroleum underground storage tanks (USTs).

The purpose of these rules is to ensure that owners and operators of petroleum USTs can demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from operation of petroleum USTs. Chapter

136 has been reviewed consistent with Executive Order 10. Unnecessary and obsolete rules have been removed, and updates and clarification have been made.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 7, 2026, as **ARC 9937C**. A public hearing was held on the following date(s):

- January 27, 2026
- January 28, 2026
- January 29, 2026

All attendees at the hearings were present for hearings for other chapters hosted at the same time. All comments given were supportive of the changes. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Commission on July 21, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 7—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on September 23, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind 567—Chapter 136 and adopt the following **new** chapter in lieu thereof:

CHAPTER 136
FINANCIAL RESPONSIBILITY FOR UNDERGROUND STORAGE TANKS

**567—136.1(455B) Applicability.**

**136.1(1)** This chapter applies to owners and operators of all petroleum underground storage tank (UST) systems, except as otherwise provided in this rule.

**136.1(2)** State and federal government entities whose debts and liabilities are the debts and liabilities of a state or the United States are exempt from the requirements of this chapter.

**136.1(3)** The requirements of this chapter do not apply to owners and operators of farm or residential tanks of 1,100 gallons or less capacity installed prior to July 1, 1987, or any UST system described in 567—paragraph 135.1(3)*"b"* or 567—subparagraph 135.1(3)*"c"*(1), *"c"*(3) or *"c"*(4).

**567—136.2(455B) Policy; adoption by reference.**

**136.2(1)** It is the policy of the commission to ensure consistency, equity, and efficiency in providing financial responsibility for Iowans and the businesses providing services to Iowans that owners and operators of UST systems in this state must comply with the provisions of the federal rules requiring and regulating the financial assurance of UST systems. This rule shall be interpreted in a manner consistent with this policy.

**136.2(2)** The commission hereby adopts by reference 40 CFR Chapter I, Subchapter I, Part 280, Subpart H (2015), subject to the following conditions:

*a.* All uses of "Agency," "Environmental Protection Agency," "EPA," and "implementing agency," and any reference to the regional offices of the Environmental Protection Agency, shall be replaced with "Department of Natural Resources," except where the context of the rule requires notice or submission to both federal and state entities, in which case the replacement language shall be in addition to the original language.

*b.* All uses of "Administrator" and "regional administrator," and any reference to the designee of either, are replaced with "the director of the Department of Natural Resources or their designee," except where the context of the rule requires notice or submission to both federal and state entities, in which case the replacement language shall be in addition to the original language.

*c.* 40 CFR 280.100 is not adopted by reference.

*d.* 40 CFR 280.101 is not adopted by reference.

**567—136.3(455B) Additional requirements.**

**136.3(1)** *Notice of extended reporting.* In any written final cancellation or nonrenewal notice, an entity that provides insurance pursuant to this chapter shall notify the primary insured party and any additional named insured parties of the six-month extended reporting expiration date provided in 40 CFR 280.97 (2015).

**136.3(2)** *Notice and claim by the department.* Notwithstanding any other requirement or limit in 40 CFR Chapter I, Subchapter I, Part 280, Subpart H (2015), timely notice of a release and claim for coverage to the insurer by the department of natural resources shall be deemed sufficient notice on behalf of the insured under the terms, conditions, and exclusions of a policy issued to demonstrate compliance with this chapter. Notice by the department shall not modify or enlarge the terms, conditions, and exclusions of coverage, but is only intended to preserve coverage to which the insured may otherwise be entitled under the policy.

These rules are intended to implement Iowa Code sections 455B.424 and 455B.474.

[Filed 7/24/26, effective 9/23/26]
[Published 8/19/26]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

# ARC 0493D

# ENVIRONMENTAL PROTECTION COMMISSION[567]

**Adopted and Filed**

**Rulemaking related to fees for hazardous waste**

The Environmental Protection Commission (Commission) hereby rescinds Chapter 149, "Fees for Transportation, Treatment and Disposal of Hazardous Waste," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code sections 455B.103 and 455B.105.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 17A.7 and Executive Order 10.

*Purpose and Summary*

This rulemaking rescinds Chapter 149 without replacement. This chapter is intended to implement registration and fees for transporting, producing, and/or treating hazardous wastes in Iowa. However, the required aspects of this chapter can be implemented using Iowa Code section 455B.424, which is self-implementing.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 7, 2026, as **ARC 9936C**. A public hearing was held on the following date(s):
- January 27, 2026
- January 29, 2026

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Commission on July 21, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 7—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on September 23, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **567—Chapter 149**.

[Filed 7/24/26, effective 9/23/26]
[Published 8/19/26]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

**ARC 0494D**

# ENVIRONMENTAL PROTECTION COMMISSION[567]

**Adopted and Filed**

**Rulemaking related to criteria for siting low-level radioactive waste disposal facilities**

The Environmental Protection Commission (Commission) hereby rescinds Chapter 152, "Criteria for Siting Low-Level Radioactive Waste Disposal Facilities," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code section 455B.486.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 455B.484 through 455B.486.

*Purpose and Summary*

Chapter 152 establishes criteria for the Department of Natural Resources (Department) to identify and recommend sites that are suitable for operation of low-level radioactive waste disposal facilities as required by the Low-Level Radioactive Waste Policy Amendments Act of 1980. However, the current rule structure is outdated.

At present, there are four low-level radioactive waste disposal sites in the United States; none are located in Iowa. Since 1985, Iowa has been part of a compact to dispose of such waste generated in Iowa at these out-of-state sites. As such, this rule was never utilized. If it were to be utilized, it is unclear in 2025 whether the standards in Chapter 152 are still applicable and warranted. Therefore, the Commission is rescinding these rules until such a time as it is necessary to dispose of low-level radioactive waste in the State.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 7, 2026, as **ARC 9934C**. A public hearing was held on the following date(s):

- January 27, 2026
- January 29, 2026

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Commission on July 21, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 7—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on September 23, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **567—Chapter 152**.

[Filed 7/24/26, effective 9/23/26]
[Published 8/19/26]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

**ARC 0495D**

# HUMAN RIGHTS DEPARTMENT[421]

**Adopted and Filed**

**Rulemaking related to rescission of chapters**

The Department of Health and Human Services hereby rescinds Chapter 1, "Organization and Operations," Chapter 20, "Functions of Division," Chapter 21, "Community Services Block Grant (CSBG)," Chapter 22, "Low-Income Home Energy Assistance Program (LIHEAP)," Chapter 23, "Weatherization," and Chapter 25, "Individual Development Account (IDA)," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code chapters 216A and 541A.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514, and Executive Order 10.

*Purpose and Summary*

The chapters in legacy agency [421] were under Red Tape Review in 2026. As part of that review and under the government realignment authorized by 2023 Iowa Acts, Senate File 514, these chapters are being rescinded. Some of the chapters are concurrently repromulgated under agency [441] (**ARCs 0496D**, **0497D**, **0498D**, and **0499D**, IAB 8/19/26).

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 24, 2026, as **ARC 0382D**. Public hearings were held on the following date:

- July 14, 2026

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Department on July 29, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on October 1, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **421—Chapter 1**.

ITEM 2. Rescind and reserve **421—Chapter 20**.

ITEM 3. Rescind and reserve **421—Chapter 21**.

ITEM 4. Rescind and reserve **421—Chapter 22**.

ITEM 5. Rescind and reserve **421—Chapter 23**.

ITEM 6. Rescind and reserve **421—Chapter 25**.

[Filed 7/29/26, effective 10/1/26]
[Published 8/19/26]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

**ARC 0496D**

# HUMAN SERVICES DEPARTMENT[441]

**Adopted and Filed**

**Rulemaking related to the community services block grant**

The Department of Health and Human Services hereby adopts new Chapter 58, "Community Services Block Grant (CSBG)," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code chapter 216A.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 216A and 42 U.S.C. 9901 et seq.

*Purpose and Summary*

This rulemaking describes the Department's administration of the CSBG. The grant provides assistance to states and local communities, working through a network of community action agencies and other neighborhood-based organizations, for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become self-sufficient.

This chapter underwent a Red Tape Review pursuant to Executive Order 10. As a result of the review, the Department removed redundant information and added dates certain. The Department also standardized appeal language to refer to the Department's uniform chapter on contested cases. The content of this chapter was originally located under legacy agency [421].

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 24, 2026, as **ARC 0381D**. Public hearings were held on the following date:

- July 14, 2026

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Department on July 29, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on October 1, 2026.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 441—Chapter 58:

CHAPTER 58
COMMUNITY SERVICES BLOCK GRANT (CSBG)

**441—58.1(216A,PL97-35) Definitions.** For the purpose of these rules, unless context otherwise requires:

*"Community action agency"* or *"eligible entity"* means any organization that was officially recognized as a community action agency under the provisions of Section 673(1) of the CSBG Act and Iowa Code sections 216A.91 and 216A.93.

*"CSBG"* means community services block grant program.

*"CSBG Act"* means the Omnibus Budget Reconciliation Act of 1981, PL 97-35, Title VI, Subtitle B, as amended to August 1, 2026. All references to the CSBG Act herein are as amended to August 1, 2026.

*"Program year"* means the year beginning October 1 and ending the succeeding September 30. The program year is numbered for that year in which it ends.

*"Reduction"* means funding reduced below the proportional share of funding the eligible entity received in the previous program year.

*"Termination"* means permanent withdrawal of the eligible entity's authority to obligate funds before that authority would otherwise expire. If an eligible entity's authority to obligate funds is terminated, no funds may be obligated by the eligible entity after the effective date of the termination.

**441—58.2(216A,PL97-35) Purposes.** The CSBG as established by the CSBG Act provides assistance to states and local communities, working through a network of community action agencies and other neighborhood-based organizations, for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become self-sufficient.

Pursuant to Iowa Code section 216A.92, the department administers the community services block grant.

**441—58.3(216A,PL97-35) Uses of funds.** The CSBG makes available to the state of Iowa funds to be used:

**58.3(1)** To support the following activities that are designed to assist low-income families and individuals:

*a.* Removing obstacles and solving problems that block the achievement of self-sufficiency;

*b.* Securing and retaining meaningful employment;

*c.* Attaining an adequate education;

*d.* Making better use of available income;

*e.* Obtaining and maintaining adequate housing and a suitable living environment;

*f.* Obtaining emergency assistance through loans, grants, or other means to meet immediate and urgent family and individual needs; and

*g.* Achieving greater participation in the affairs of the communities involved.

**58.3(2)** To address the needs of youth in low-income communities through youth development programs.

**58.3(3)** To make more effective use of, and to coordinate with, other programs related to the purposes of this program.

**441—58.4(216A,PL97-35) Apportionment distribution.**

**58.4(1)** *Iowa apportionment.* There are appropriated to the department from the fund created by Iowa Code section 8.41(1) funds to implement the CSBG as described in the CSBG Act.

**58.4(2)** *Distribution of funds.* CSBG funds received according to subrule 58.4(1) will be allocated to the department and eligible entities as provided by federal law and in accordance with Iowa law.

**58.4(3)** *Poverty-level population.* The state will use U.S. census statistics to determine the poverty-level population in each community action area.

**58.4(4)** *Local share.* There shall be no local share required under the CSBG.

**441—58.5(216A,PL97-35) Eligibility requirements.** The eligibility requirements for an organization to receive and administer CSBG funds are as follows.

**58.5(1)** *Organization.* The organization must meet the definition of a "community action agency" as defined in these rules.

**58.5(2)** *Board composition.* A recognized community action agency shall be governed by a board of directors composed of at least nine members. The board membership shall follow the requirements in Iowa Code section 216A.94.

**441—58.6(216A,PL97-35) Community action plan.** All eligible entities shall submit a community action plan for the purpose of applying for CSBG funds. Community action plans must be outcome-based and antipoverty-focused and tie directly to the eligible entity's community assessment.

**58.6(1)** *Timing.* Eligible entities shall be informed in writing by the department of the due date for the community action plan and the amount of the eligible entities' allocation in accordance with subrule 58.4(2).

**58.6(2)** *Contents.* The department will provide instructions for preparing the community action plan to all eligible entities. In addition to other information specified in the instructions, the community action plan must:

*a.* Document the continuous use of the full federal model for the Results Oriented Management and Accountability cycle of assessment, planning, implementation, achievement of results, and evaluation for planning and administering the CSBG;

*b.* Include a budget that equals the amount of the eligible entity's allocation;

*c.* Include a description of the service delivery system targeted to low-income individuals and families in the service area;

*d.* Include a description of how linkages will be developed to fill identified gaps in the services through the provision of information, referrals, case management, and follow-up consultations;

*e.* Include a description of how CSBG funds will be coordinated with other public and private resources;

*f.* Include a description of how CSBG funds will be used to support innovative community and neighborhood-based initiatives related to the purposes in rule 441—58.2(216A,PL97-35); and

*g.* Include outcome measures to be used to measure eligible entity performance in promoting self-sufficiency, family stability, and community revitalization.

**58.6(3)** *Nondiscrimination provisions.* Eligible entities must ensure that no person shall, on the basis of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any activity funded in whole or in part with CSBG funds.

**58.6(4)** *Community assessment.* Eligible entities must conduct a community assessment at least once every three years. The community assessment shall include data specific to poverty, qualitative and quantitative data, and key findings on the causes and conditions of poverty and the needs of the communities assessed. The results of the assessment shall be used to plan activities contained in the community action plan.

**58.6(5)** *Contract.* The department will issue the eligible entity a CSBG contract once the department accepts the community action plan.

**441—58.7(216A,PL97-35) Review and acceptance of community action plans.**

**58.7(1)** *Compliance review.* All activities proposed in the community action plan will be reviewed by the department for:

*a.* Compliance with the specific purposes and uses of funds outlined in rules 441—58.2(216A,PL97-35) and 441—58.3(216A,PL97-35);

*b.* Inclusion of assurances that the eligible entity will conduct the CSBG in compliance with all applicable laws; and

*c.* Inclusion and proper completion of all forms and instructions included in the request for community action plans.

**58.7(2)** *Performance.* Acceptance of community action plans is dependent on the satisfactory performance of the eligible entity in the past funding year(s). Additionally, available records, audits, and determinations from other relevant state and federal agencies may be utilized.

**441—58.8(216A,PL97-35) Ineligible items.** CSBG funds cannot be used for the following activities or costs:

**58.8(1)** Any partisan or nonpartisan political activity or any political activity associated with a candidate, or faction group, in an election for public or party office; any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or any voter registration activity.

**58.8(2)** The purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility. Exceptions shall only be provided through the waiver procedure described in Section 678F(a) of the CSBG Act.

**441—58.9(216A) Audits and records.** Eligible entities shall arrange and pay for an annual audit. Audits shall be performed by a certified public accountant and in accordance with generally accepted auditing standards. Audit procedures shall conform to 2 CFR Chapter I, Office of Management and Budget Governmentwide Guidance for Grants and Agreements as amended to August 1, 2026, and Chapter II, Part 200, et al., Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as amended to August 1, 2026. In addition, the department may request more frequent audits or examinations of financial records of the eligible entity in order to ensure adequate financial controls are in place and operating.

**441—58.10(216A,PL97-35) Designating eligible entities for unserved areas.** If any geographic area of the state is not, or ceases to be, served by a community action agency and the governor decides to serve such area, the department will adhere to the requirements in Section 676A of the CSBG Act, U.S. Department of Health and Human Services statutory guidance, and other federal and state laws to solicit applications from qualified organizations.

**441—58.11(216A,PL97-35) Termination and reduction of funding.** The department may terminate the designation of or reduce the share of CSBG funds allocated to an eligible entity if the department determines that an eligible entity fails to comply with the terms of an agreement, or the Iowa CSBG State Plan as amended to August 1, 2026, to provide CSBG services or to meet appropriate standards, goals, and other requirements established by the department, including performance objectives. If the department finds cause to terminate the designation of or reduce the funding of an eligible entity, the department will adhere to the requirements in Section 678C of the CSBG Act, U.S. Department of Health and Human Services statutory guidance, and other federal and state laws, including provisions of notification, technical assistance, corrective action, opportunity for a hearing under 441—Chapter 2506, and federal review, to initiate proceedings to terminate the designation of or reduce the funding of the eligible entity.

**441—58.12(216A,PL97-35) Client grievance and appeal process.**

**58.12(1)** Eligible entities shall adopt client grievance procedures to address CSBG client complaints. The grievance procedures must be approved by the department. The procedures shall be used for all clients to file a complaint for nonappealable items. If complaints are unable to be resolved, the eligible entity shall forward the issue to the department for assistance with resolution.

**58.12(2)** The department will handle client appeals pursuant to 441—Chapter 2506. Items that are appealable are denial of eligibility, services, or benefits when services are solely CSBG-funded assistance or for services provided through co-funded programs where there is no other dispute resolution avenue.

**441—58.13(216A,PL97-35) Further criteria.** The Iowa CSBG State Plan and Application as amended to August 1, 2026, and the Iowa CSBG Policies and Procedures Manual as amended to August 1, 2026, are incorporated by reference as part of these rules. If any rule in this chapter conflicts with federal law or rules, federal law or rules shall prevail.

These rules are intended to implement Iowa Code chapter 216A and PL 97-35.

[Filed 7/29/26, effective 10/1/26]
[Published 8/19/26]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

**ARC 0497D**

# HUMAN SERVICES DEPARTMENT[441]

**Adopted and Filed**

**Rulemaking related to the low-income home energy assistance program**

The Department of Health and Human Services hereby adopts new Chapter 58, "Low-Income Home Energy Assistance Program (LIHEAP)," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code chapter 216A.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 216A, PL 97-35, and PL 98-558.

*Purpose and Summary*

This rulemaking describes the Department's administration of LIHEAP. LIHEAP is designed to aid qualifying low-income Iowa households (homeowners and renters) in the payment of a portion of their residential heating costs for the winter heating season; to encourage regular utility payments; to promote energy awareness; and to encourage reduction of energy usage through energy efficiency, client education, and weatherization.

This chapter underwent a Red Tape Review pursuant to Executive Order 10. As a result of the review, the Department removed redundant information and restrictive terms and added pertinent definitions and dates certain. The Department also standardized appeals language to refer to the Department's uniform chapter on contested cases. The Department is concurrently rescinding 421—Chapter 22 (**ARC 0495D**, IAB 8/19/26), which is the legacy Department of Human Rights chapter that outlines LIHEAP.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 24, 2026, as **ARC 0383D**. Public hearings were held on the following date:

- July 14, 2026

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Department on July 29, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on October 1, 2026.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 441—Chapter 59:

CHAPTER 59
LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

**441—59.1(216A,PL97-35,PL98-558) Definitions.** For the purposes of this chapter, the following definitions apply:

*"Assurance 16"* means a provision of 42 U.S.C. Sections 8621 through 8630 as amended to August 1, 2026, that provides low-income home energy assistance program (LIHEAP) subrecipients the option of spending no more than 5 percent of their LIHEAP funds on services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance.

*"DHHS"* means the United States Department of Health and Human Services.

*"Energy crisis"* means weather-related (including natural disasters) supply shortage emergencies or other household energy-related emergencies as follows:

1. Nonworking heating unit (there must be a heating unit present).
2. Temporary need for alternate shelter due to lack of energy or fuel source.
3. Disconnected from utility service.
4. Past-due amounts owed create the risk of disconnection or an empty liquid propane (LP) or fuel oil (FO) tank.
5. LP tank 30 percent or less remaining.
6. Window or portable air-conditioning unit or repair of existing central air unit, when medically necessary.

*"Household"* includes all the people who occupy a housing unit (such as a house or apartment) as their usual place of residence. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit or a group of unrelated people sharing a housing unit, such as partners or roomers, is also counted as a household.

*"LAA"* means a local administering agency with which the department contracts to administer LIHEAP.

*"Manual"* or *"the manual"* means the LIHEAP Policy and Procedures Manual that is available on the department's website. All references herein are to those as amended to August 1, 2026.

*"State plan"* means the LIHEAP state plan that is available on the department's website. All references herein are to those as amended to August 1, 2026.

**441—59.2(216A,PL97-35,PL98-558) Household eligibility.**

**59.2(1)** Households with incomes at or below the annually determined federal poverty guidelines, but not to exceed 150 percent of the guidelines, or an amount equal to 60 percent of the state median income for the state, according to DHHS, that are published annually in the Federal Register, may be eligible for assistance under LIHEAP. To receive benefits, an application must be made, eligibility must be determined, and program funds must be available before any payments may be made.

**59.2(2)** Proof of income eligibility is required as outlined in the manual. Any individual listed on a LIHEAP-approved application for the current fiscal year will not be listed on another application unless an exception is granted by the department.

**59.2(3)** Income criteria and guidelines are contained in the state plan and the manual.

**59.2(4)** All households applying for assistance under LIHEAP will simultaneously be making application for weatherization assistance, and 441—Chapter 63 will govern weatherization applications.

**441—59.3(216A,PL97-35,PL98-558) LAAs.**

**59.3(1)** The department shall administer the LIHEAP program by contracting with LAAs that meet program and fiscal guidelines as required by federal law.

**59.3(2)** Each LAA will conduct outreach activities to ensure that eligible households are made aware of the program. In addition to its normal outreach functions, each LAA will authorize its workers to take applications in an applicant's home and other locations specified in the manual. A notice of the appeal and hearing procedure pursuant to 441—Chapter 2506 must be posted at each intake site, and a copy of the appeal and hearing procedure and any other state-required handouts must be given to each client at the time of application or determination.

**441—59.4(216A,PL97-35,PL98-558) Application period.** The application period for the program is between October 1, or the first working day of October, and April 30, or the last working day of April, or as defined in the manual.

**441—59.5(216A,PL97-35,PL98-558) Payments.**

**59.5(1)** *Types of payments.* The following types of energy assistance payments may be made:

*a.* Payments may be made to suppliers on behalf of eligible households. The client's assistance shall remain as a credit on the client account until the program assistance is expended or the account is terminated.

*b.* Eligible households that pay an undesignated portion of the rent toward energy costs will receive assistance sent directly to the secondary vendor.

*c.* Direct payments may be made to eligible households as outlined in the manual.

**59.5(2)** *Duplicate and fraudulent payment control.* Each LAA is required to monitor, refer to the department, and prevent possible duplicate and other fraudulent applications and payments pursuant to the federal Office of Management and Budget guidance on the Payment Integrity Information Act of 2019 (PL 116-117) as amended to August 1, 2026, and the manual.

**441—59.6(216A,PL97-35,PL98-558) Change in status.** The level of assistance for the program year will be determined based on the household's circumstances at the time of approval. If a household moves, a household of one passes away, or a household moves to a different service territory, etc., after applying for the program, the process outlined in the manual is to be followed.

**441—59.7(216A,PL97-35,PL98-558) Vendor agreement.** A signed utility vendor agreement must be on file with the LAA before payments may be made to the vendor. If a fuel supplier does not sign a vendor agreement, a direct payment may be made to the eligible applicant. In cases where a vendor has not complied with all provisions of the vendor agreement, the state may approve direct payments to clients as an alternative.

**441—59.8(216A,PL97-35,PL98-558) Crisis assistance.**

**59.8(1)** *Eligibility.* To be eligible for crisis assistance, a household must file an application, meet the income guidelines of LIHEAP, and meet the definition of "energy crisis."

**59.8(2)** *Evaluation.* Each crisis application will be evaluated individually by the LAA, which shall determine the appropriate resolution and the amount of assistance to be provided as defined by the manual.

**441—59.9(216A,PL97-35,PL98-558) Assurance 16 activities.** LIHEAP customer services that encourage and enable households to reduce their home energy needs, and thereby reduce their need for energy assistance, shall be provided as Assurance 16 activities as outlined in the manual.

**441—59.10(216A,PL97-35,PL98-558) Grievances and appeals.** Each LAA shall have a grievance process and procedures approved by the department for nonappealable actions. The following appeal and hearing procedures shall be used:

**59.10(1)** An applicant may initiate an appeal:

*a.* If an application is denied.

*b.* If an application is not acted upon within the required time frame.

*c.* If the benefit awarded is less than expected or less than previously notified.

*d.* If immediate or emergency support is refused or delayed beyond 48 hours or 18 hours for an energy crisis.

**59.10(2)** The department will process appeals pursuant to 441—Chapter 2506.

**441—59.11(216A,PL97-35,PL98-558) Further criteria.** The state plan, the manual, and assistance award criteria for the program are incorporated by reference as part of these rules. If any rule in this chapter conflicts with federal law or rule, federal law or rule shall prevail.

These rules are intended to implement Iowa Code chapter 216A, PL 97-35 and PL 98-558.

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## ARC 0498D

# HUMAN SERVICES DEPARTMENT[441]

**Adopted and Filed**

**Rulemaking related to weatherization**

The Department of Health and Human Services hereby adopts new Chapter 63, "Weatherization," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code chapter 216A.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 216A, PL 94-385, and PL 98-558.

*Purpose and Summary*

This chapter outlines the Department's administration of the Weatherization Assistance Program (WAP). The purpose of the program is to reduce heating and cooling costs for low-income households, particularly those with elderly members, persons with disabilities, or young children, by improving the energy efficiency of their homes while ensuring their health and safety.

This chapter underwent a Red Tape Review pursuant to Executive Order 10. As a result of the review, the Department eliminated redundant information and restrictive terms and added clarifying information and dates certain. The Department also standardized the appeals procedure to the Department's uniform chapter on contested cases. The Department is concurrently rescinding 421—Chapter 23 (**ARC 0495D**, IAB 8/19/26), which is the legacy Department of Human Rights chapter that implements the WAP.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 24, 2026, as **ARC 0384D**. Public hearings were held on the following date:

- July 14, 2026

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Department on July 29, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on October 1, 2026.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 441—Chapter 63:

# CHAPTER 63
# WEATHERIZATION

**441—63.1(216A,PL94-385,PL98-558) Eligible households.**

**63.1(1)** A household includes all the people who occupy a housing unit (such as a house or apartment) as their usual place of residence. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit or a group of unrelated people sharing a housing unit, such as partners or roomers, is also counted as a household. A household occupying a dwelling unit is eligible for assistance under the weatherization assistance program if the household:

*a.* Has an annual income no higher than 200 percent of the federal poverty guidelines determined in accordance with criteria established by the Director of the Office of Management and Budget (OMB).

*b.* Is receiving supplemental security income (SSI) or family investment program (FIP) assistance, regardless of income.

**63.1(2)** Household eligibility, including income verification, will be determined in accordance with the application requirements for the low-income home energy assistance program (LIHEAP), the application for which is considered a joint application. Household eligibility and prioritization for weatherization services are established annually.

**63.1(3)** Both owner-occupied and renter-occupied dwellings may be weatherized. However, rental units occupied by low-income residents shall be weatherized, providing benefits accrue primarily to the low-income tenants, rents are not raised because of the weatherization, and no undue or excessive enhancement occurs to the value of the dwelling unit. Landlords of rental dwellings must agree to have their dwellings weatherized before assistance is provided.

**63.1(4)** Provision of all weatherization program services are contingent upon the availability of funds.

**441—63.2(216A,PL94-385,PL98-558) Local administering agencies (LAAs).**

**63.2(1)** The department will administer the program by utilizing community action agencies (CAAs) or their approved subcontractors or other public or nonprofit entities that have shown the ability or have the capacity to undertake a timely and effective weatherization program. Program funds shall be used for the purchase and installation of weatherization materials, training and technical assistance, administration, and supportive services.

**63.2(2)** LAAs will be required to sign a contractual agreement that specifies required and allowable program activities, including U.S. Department of Energy regulations, special conditions, participant forms, program and fiscal reporting, and audit requirements.

**441—63.3(216A,PL94-385,PL98-558) Application period.** Households may apply for weatherization assistance between October 1, or the first working day of October, and September 30, or the last working day of September, as defined in the annual Weatherization Assistance Program State Plan as amended to August 1, 2026.

**441—63.4(216A,PL94-385,PL98-558) Payments.**

**63.4(1)** *Duplicate and fraudulent payment control.* Each LAA is required to provide a system to monitor and prevent possible duplicate and other fraudulent applications and payments. Duplication cross-checks shall be based on the unique client or vendor identifier.

**63.4(2)** *Referrals.* Each LAA is required to refer all suspected cases of fraud, including duplicate payments, overpayments, and fraudulent statements on applications, to the department for investigation.

**441—63.5(216A,PL94-385,PL98-558) Grievances and appeals.**

**63.5(1)** Each LAA shall have grievance policies and procedures approved by the department for nonappealable items, including quality or extent of work performed.

**63.5(2)** Items that are appealable to the department pursuant to 441—Chapter 2506 are:

*a.* Services that have been denied for eligibility.

*b.* Weatherization work that is delayed or postponed for extenuating circumstances. The LAA must document the reasons for the delay of services and inform the client and the department.

*c.* Quality or completeness of work, if the LAA has exhausted its grievance process.

*d.* LAA contractors and subcontractors that have exhausted the grievance process.

**441—63.6(216A,PL94-385,PL98-558) Further criteria.** The Weatherization Assistance Program State Plan as amended to August 1, 2026, and Weatherization Assistance Program Policy and Procedures Manual as amended to August 1, 2026, are incorporated by reference as part of these rules. If any rule in this chapter conflicts with federal law or rule, the federal law or rule shall prevail.

These rules are intended to implement Iowa Code section 216A.99, PL 94-385 and PL 98-558.

[Filed 7/29/26, effective 10/1/26]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

# ARC 0499D

# HUMAN SERVICES DEPARTMENT[441]

**Adopted and Filed**

**Rulemaking related to individual development accounts**

The Department of Health and Human Services hereby adopts new Chapter 64, "Individual Development Account," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code section 541A.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 541A.5.

*Purpose and Summary*

The purpose of this chapter is to outline the Department's administration of the individual development account program outlined in Iowa Code chapter 541A. The program has not been funded since SFY 2016.

This chapter underwent a Red Tape Review pursuant to Executive Order 10. As a result of the review, the Department removed redundant or duplicative information and restrictive terms and added dates certain. The Department is concurrently rescinding 421—Chapter 25 (**ARC 0495D**, IAB 8/19/26), which was the legacy Department of Human Rights chapter that corresponds to this new chapter in agency [441].

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 24, 2026, as **ARC 0379D**. Public hearings were held on the following date:

- July 14, 2026

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Department on July 29, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on October 1, 2026.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 441—Chapter 64:

CHAPTER 64
INDIVIDUAL DEVELOPMENT ACCOUNT (IDA)

**441—64.1(541A) Definitions.** As used in these rules, unless the context otherwise requires:

*"Account holder"* means the same as defined in Iowa Code section 541A.1.

*"Charitable contributor"* means an individual, company or organization that makes a contribution through a nonprofit association described in Section 501(c)(3) of the Internal Revenue Code as amended to August 1, 2026, which association makes a deposit to an individual development account and which association is exempt from taxation under Section 501(a) of the Internal Revenue Code as amended to August 1, 2026.

*"Federal poverty level"* means the poverty income guidelines established annually for a calendar year and published in the Federal Register by the U.S. Department of Health and Human Services.

*"Financial institution"* means a financial institution, including but not limited to a bank, savings and loan, or credit union, approved by the department to accept individual development accounts.

*"Household"* means the adults who are related by blood, marriage or adoption or who are unrelated but have maintained a stable family relationship together over a period of time and the individuals who are under 18 years of age related to the above adults by marriage, blood or adoption who are living together. "Living together" refers to domicile as evidenced by the parties' intent to maintain a home for their family and does not include a temporary visit.

*"Individual contributor"* means the same as defined in Iowa Code section 541A.1.

*"Individual development account"* or *"IDA"* means an investment account that has the characteristics described in Iowa Code section 541A.2 and is operated by the operating organization.

*"Individual development account state match fund"* means the fund established in the state treasury under the authority of the department into which are deposited funds for payment to operating organizations for state match payments to individual investment accounts and administrative costs to implement the individual investment account program.

*"Minor account holder"* means an account holder who is younger than 18 years of age.

*"Operating organization"* means an entity selected by the department for involvement in operating individual development accounts directed to the eligible target population.

*"Source of principal"* means any of the following sources of a deposit:

1. Deposits made by the account holder.
2. Deposits of state match payments.
3. Deposits of individual development account moneys that are transferred from another individual development account holder. The moneys transferred from another individual development account will be considered to be a deposit of principal made by the account holder.
4. Deposits made on behalf of the account holder by an individual contributor or a charitable contributor.

**441—64.2(541A) Establishment of individual development accounts.** An investment account qualifies as an IDA when it is established and operates in accordance with the following.

**64.2(1)** *Operating organization.* The investment account shall be established through an operating organization.

**64.2(2)** *Account.* The account shall be opened at a financial institution and kept in the name of an individual account holder.

**64.2(3)** *Deposits.* Deposits made to an IDA are also known as sources of principal and shall be made in any of the manners indicated in the definition of "source of principal" in rule 441—64.1(541A).

**64.2(4)** *Investment of funds.* The funds deposited in the IDA may be invested in any investment that the financial institution is authorized to offer to the public.

**64.2(5)** *Income.* The account earns income.

**64.2(6)** *Maximum deposits of principal.* The total of all sources of principal in an individual development account may not exceed $30,000.

**441—64.3(541A) Eligibility, state match payments, and state tax provisions.**

**64.3(1)** *Eligibility based on countable household income level.* Eligibility will be based on the prospective account holder's household income for the calendar year preceding the calendar year in which the IDA will be opened. The household income shall not exceed 200 percent of the federal poverty level as published in the same year. If an account holder's household income exceeds 200 percent of the federal poverty level in any subsequent year following the year that the account holder established the account, the account will remain open, but the account holder will not be eligible to receive the state savings match payment for deposits made during the year following the year when the household income exceeds 200 percent of the federal poverty level. If the prospective account holder files an income tax return on a fiscal year basis, the household income must nonetheless be computed on a calendar year basis.

**64.3(2)** *Countable household income.*

*a.* The household's countable income shall be the Iowa net income as defined in Iowa Code section 422.7, with the following inclusions and exclusions:

(1) Inclusions to the extent not already included in Iowa net income are as follows:

1. Capital gains.
2. Alimony.
3. Child support money.
4. Cash public assistance and relief, except property tax relief under Iowa Code chapter 425, subchapter II.
5. The gross payment amount of any pension or annuity, including but not limited to railroad retirement benefits.
6. Military retirement and veterans' disability pensions.
7. Interest received from local, state or federal government securities.
8. Workers' compensation.
9. The gross amount of disability income or "loss of time" insurance.

(2) Exclusions are as follows:

1. Gifts from nongovernmental sources.
2. Surplus foods, including food assistance.
3. Payments received by an individual under the age of 18 under the federal Social Security Act.
4. Other in-kind relief supplied by a governmental agency.

*b.* Income shall not be reduced by either a net operating loss carryover or by a capital loss carryover.

**64.3(3)** *Determination of income status and eligibility.*

*a.* In lieu of calculating countable household income as provided in subrule 64.3(2) to determine income status and eligibility of an individual to hold an IDA, the operating organization may use evidence of an individual's enrollment in a program with income eligibility restrictions that are equal to or less than the maximum household income provided in subrule 64.3(1) as sufficient for determining the individual's eligibility to hold an IDA.

*b.* In order to determine the amount of countable household income of an individual seeking to open an IDA and to maintain household income records on an annual basis, the operating organization shall use any of the following methods or other methods deemed appropriate by the operating organization to obtain accurate income information:

(1) The operating organization shall ask both the individual who wishes to establish an IDA and other members of the individual's household who have filed federal or state income tax returns to furnish a copy of the returns with attached W-2 statements and to sign a release of information form permitting the operating organization to receive from the Iowa department of revenue summary information indicating the Iowa net income or to receive a copy of the state income tax return for the specific calendar year used to establish income eligibility to participate in the IDA program and for specified successive calendar years during which the IDA account is open. The operating organization shall protect the confidentiality of this information.

(2) If the individual and members of the individual's household have not filed federal or state income tax returns for the calendar year used to determine eligibility, the operating organization shall ask the individual to provide copies of available financial records of the household to determine the amount of countable income for the calendar year used to determine eligibility.

(3) The operating organization may also ask the individual seeking to hold an IDA to sign a release of information form allowing the operating organization to obtain individual and household income records held by agencies administering the programs referred to in paragraph 64.3(3)*"a."* The operating organization shall use this information to verify and maintain household income records of individuals seeking to hold an IDA, thereby facilitating the administration of the IDA program. The operating organization shall maintain the confidentiality of this information. Countable household income determinations shall include the amount of the cash assistance provided through the programs referred to in paragraph 64.3(3)*"a."*

(4) If the individual has minimal or no financial records and the operating organization determines that the totality of the individual's circumstances corroborates a credible explanation for the absence of said records, the operating organization may accept a written self-declaration from the individual as sufficient to document initial income eligibility to hold an IDA.

*c.* The operating organization shall obtain and maintain income information records from an account holder and all members of the account holder's family on a yearly basis to determine continued IDA eligibility.

**64.3(4)** *Exemption from income tax for income earned on assets in an IDA.* Income earned on principal in an IDA will be exempt from state income tax even if the account holder's household income is greater than 200 percent of the federal poverty level for the tax year.

**64.3(5)** *State match payments.* The operating organization shall determine the account holder's countable household income and account deposits on an annual basis for the purpose of computing the state match payment. The operating organization shall file with the department a claim for a state match payment on behalf of the account holder by April 30 of the year following the year in which the account holder made deposits into the IDA. The claim shall be filed on a form provided by the department. The department will make a payment of a savings match on a 1:1 ratio on amounts of up to $2,000 that an eligible account holder deposited in the account holder's account the previous year. The total state savings match for all years shall not exceed $2,000 for any IDA. Neither the moneys transferred to an IDA from another IDA nor the state match received by the account holder pursuant to this subrule will be considered an account holder deposit for purposes of determining a state match payment. The department or operating organization shall make the state match payment directly to the IDA in the manner deemed appropriate by the department.

**64.3(6)** *Tax implications.* IDAs shall be subject to rule 701—302.44(422,541A).

**441—64.4(541A) Requests for proposals—operation of IDAs.**

**64.4(1)** *Issuance of requests for proposals.* The department may issue requests for proposals (RFPs) for operating organizations interested in operating an IDA program. The RFP will require the operating organization to provide information in its proposal regarding the financial institution that the operating organization will use for the proposed IDA program. The department will include such information in evaluating proposals submitted in response to the RFP.

**64.4(2)** *Review criteria used to evaluate and select proposals responding to the RFP.* The department will evaluate and select proposals submitted by operating organizations in response to the RFP based upon but not limited to the criteria as provided in the RFP.

**64.4(3)** *Other considerations and guidelines.* Other considerations and guidelines in implementing IDAs are:

*a.* The department shall have the authority to designate and limit the number of locations where IDA projects will be implemented, taking into account demographic characteristics and geographic considerations.

*b.* The department will require all IDA operating organizations and projects to comply with any federal individual development account program requirements for drawing federal funding.

*c.* The department and the operating organization shall enter into an agreement that specifies the responsibilities of both parties. The agreement will incorporate by reference the provisions of the RFP.

*d.* The operating organization shall maintain a clear and precise audit trail of all deposits and withdrawals of funds in IDAs. All withdrawals from an IDA shall require a signature of approval from the operating organization. Upon the termination of the agreement between the operating organization and the department or upon the discontinuance of the IDA program for any reason, the IDA accounts under the management of that operating organization shall terminate and the funds in the IDAs shall be distributed to the account holders unless the operating organization and a successor operating organization located in the same geographic area and operating an IDA program approved by the department enter into an agreement for the transfer of IDA accounts to the successor operating organization. The department shall have authority to review and approve in advance the agreement between the two operating organizations.

*e.* Upon the termination of an operating organization's relationship with the financial institution holding its IDA accounts, the operating organization managing the accounts shall enter into an agreement with a department-approved successor financial institution to hold the accounts and shall arrange for the transfer of the accounts to the new financial institution. The new agreement shall be subject to the department's review and advance approval.

*f.* If an account holder moves within the state to a location that is not served by the operating organization but is served by another operating organization with a department-approved IDA program, the original operating organization shall arrange for the transfer of the account to a financial institution that has an agreement with the operating organization in the new location. If there is no operating organization in the new location, the IDA account shall be closed, with funds in the account distributed to the account holder; alternatively, the operating organization and the account holder may jointly agree to maintain the account under the management of the existing operating organization and financial institution. The operating organization shall provide a written notification to the department of all transfers of IDA accounts to the management of a new operating organization.

**441—64.5(541A) Authorized withdrawals of principal and income.**

**64.5(1)** *Approved purposes for withdrawal of funds from an IDA.* An account holder may withdraw principal and income earned on principal from an IDA only with the written approval of the operating organization and only for the purposes outlined in Iowa Code section 541A.2(4).

**64.5(2)** *Conditions on withdrawals of principal and income.* An account holder may withdraw funds from the account holder's IDA subject to the following conditions:

*a.* Any amount of principal and income earned on principal, provided the sum is authorized under Iowa Code section 541A.2(4) and in accordance with the procedure for authorized withdrawals set forth under subrule 64.5(3).

*b.* If the account holder is 59½ years of age or older, any amount of principal and income earned on principal. Such withdrawals shall not require the approval of the operating organization.

**64.5(3)** *Procedures for account holder deposits and withdrawals.* The operating organization and the financial institution shall agree upon and provide to account holders procedures to facilitate authorized withdrawals.

**441—64.6(541A) Notice of nonapproved withdrawals and closure of the account.**

**64.6(1)** *Nonapproved withdrawals and attempted withdrawals for nonapproved purposes.* The financial institution shall notify the operating organization within five calendar days of any withdrawals or attempted withdrawals that appear to be nonapproved. The financial institution shall refuse to release any funds that do not have the written authorization of approval from the operating organization.

**64.6(2)** *Closure of an IDA by the operating organization.* The operating organization may close an IDA pursuant to Iowa Code section 541A.2(6).

**441—64.7(541A) Transfers of assets of an IDA.**

**64.7(1)** *Transfers by an adult account holder.* An adult account holder may transfer all or part of the assets in the adult account holder's IDA to any other account holder's IDA. Upon compliance by the operating organization and financial institution with the requirements of rule 441—64.5(541A), IDA account holders who have transferred funds into another individual's IDA account and any beneficiaries of the transferee's IDA account shall sign a waiver of liability form releasing the operating organization and the financial institution from civil liability and responsibility for the wrongful withdrawals of funds by the account holder due to the account holder's false representation of the purpose of the withdrawal, resulting in the loss to the account balance of deposited principal funds, including individual and charitable contributions, transferred funds, and the state match payments.

**64.7(2)** *No transfers of assets from a minor account holder's IDA.* Neither a minor account holder nor the parents or legal guardian of such minor account holder shall have the right or ability to transfer assets from the minor account holder's IDA to the IDA of any other account holder.

**64.7(3)** *Transfers when an account holder dies.* At the time an IDA is established, an account holder shall name a contingent beneficiary or contingent beneficiaries or an account holder transferee to whom the assets of the account holder's IDA shall be transferred upon the account holder's death. Upon the account holder's death, the account assets shall be transferred to the named contingent beneficiary or contingent beneficiaries or to the account holder transferee's IDA, as applicable. A named contingent beneficiary or contingent beneficiaries or account holder transferee may be changed at the discretion of the account holder. If the named contingent beneficiary or contingent beneficiaries or account holder transferee is deceased or otherwise does not accept the transfer, the assets of the deceased account holder's IDA shall be transferred to the IDA state match fund.

These rules are intended to implement Iowa Code chapter 541A.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

**ARC 0500D**

# HUMAN SERVICES DEPARTMENT[441]

**Adopted and Filed**

**Rulemaking related to IV-A emergency assistance program**

The Department of Health and Human Services hereby rescinds Chapter 133, "IV-A Emergency Assistance Program," Iowa Administrative Code, and adopts a new Chapter 133 with the same title.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code section 235.3.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 235.3.

*Purpose and Summary*

This chapter defines and structures the Department's IV-A emergency assistance program. This program is designed to extend a menu of services to children who are victims of or at risk of abuse or neglect, at risk of out-of-home placement, or in need of care or treatment. These rules define emergency assistance services as family-centered services, family preservation services, foster care, protective day care, and wrap-around services. The rules further outline an application process, eligibility criteria, methods of service provision, and duration of service.

Upon a Red Tape Review of the chapter pursuant to Executive Order 10, the Department removed restrictive terms and outdated or redundant definitions and cross-references.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 24, 2026, as **ARC 0380D**. Public hearings were held on the following date:

- July 14, 2026

No one attended the public hearings. No public comments were received.

Changes from the Notice have been made. During the July 13, 2026, Administrative Rules Review Committee meeting, it was noted that the proposed definition of "child," referring to Iowa Code section 234.1, was more expansive than the current definition. After reviewing federal requirements, the Department has restored the existing definition of "child."

*Adoption of Rulemaking*

This rulemaking was adopted by the Department on July 29, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on October 1, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind 441—Chapter 133 and adopt the following **new** chapter in lieu thereof:

CHAPTER 133
IV-A EMERGENCY ASSISTANCE PROGRAM

**441—133.1(235) Definitions.**

*"Child"* means a person under 18 years of age or a person 18 or 19 years of age who meets any of the following conditions:

1. Is in full-time attendance at an accredited school pursuing a course of study leading to a high school diploma,
2. Is attending an instructional program leading to a high school equivalency diploma, or
3. Has been identified by the director of special education of an area education agency as a child requiring special education as defined in Iowa Code section 256B.2(1)*"a."*

A person over 18 years of age who has received a high school diploma or a high school equivalency diploma is not a child within this definition.

*"Emergency assistance"* means any one or more of the following services provided in response to a IV-A emergency assistance application:

1. Family-centered services as set forth in 441—Chapter 172.
2. Shelter care as set forth in 441—Chapters 156 and 202, except for placements of less than 48 hours.
3. Protective child care as set forth in 441—Chapter 170.

*"Family"* includes the following members:

1. Legal spouses (including common-law) who reside in the same household.
2. Natural, adoptive, or stepmother or stepfather, and children who reside in the same household.
3. An individual or child who lives alone or who resides with a person, or persons, not legally responsible for the child's support.

**441—133.2(235) Application.** An application for emergency assistance shall be made on a form prescribed by the department. An application shall be completed any time a decision is made to provide emergency assistance or when an adult family member requests emergency assistance on behalf of a child.

**133.2(1)** The application shall be filed by a parent, except where both parents are absent or unwilling to apply on behalf of a child who meets all other eligibility conditions, in which case another adult member of the family with whom the child resides or has resided within the past six months acting on behalf of the child may file the application.

**133.2(2)** If the application is made on behalf of a child for whom the department has legal custody, the department may sign the application on behalf of the child.

**441—133.3(235) Eligibility.** To be eligible for emergency assistance, the family shall meet all of the following criteria.

**133.3(1)** *Existence of an emergency.* An emergency situation shall exist. An emergency exists when one of the following situations exists:

*a.* Abuse, neglect, or abandonment of a child, or risk of same.

*b.* Children are in imminent danger where continued presence in the home is not in the best interest of the child.

*c.* Children have been removed from the home or are at risk of removal from the home because of abuse; neglect, which may include homelessness; or inability of parents to provide needed care or treatment or to control the behavior of the child.

**133.3(2)** *No refusal to accept employment or training.* The emergency situation did not arise out of an applicant's or applicant's family's refusal without good cause to accept employment or training for employment within 30 days of the date of the application.

**133.3(3)** *Residence.* The child is living, or within six months prior to the month in which assistance is requested has been living, with a specified relative. "Relative" includes people related by blood, marriage, or adoption. The child may be considered as meeting the requirement of living with a specified relative if the child's home is with one of the following or with a spouse of one of the following even though the marriage is terminated by death or divorce:

*a.* Father—adoptive father.

*b.* Mother—adoptive mother.

*c.* Grandfather—grandfather-in-law, meaning the subsequent husband of the child's natural grandmother, i.e., stepgrandfather—adoptive grandfather.

*d.* Grandmother—grandmother-in-law, meaning the subsequent wife of the child's natural grandfather, i.e., stepgrandmother—adoptive grandmother.

*e.* Great-grandfather—great-great-grandfather.

*f.* Great-grandmother—great-great-grandmother.

*g.* Stepfather, but not his parents.

*h.* Stepmother, but not her parents.

*i.* Brother—brother-of-half-blood—stepbrother—brother-in-law—adoptive brother.

*j.* Sister—sister-of-half-blood—stepsister—sister-in-law—adoptive sister.

*k.* Uncle—aunt, of whole or half blood.

*l.* Uncle-in-law—aunt-in-law.

*m.* Great uncle—great-great-uncle.

*n.* Great aunt—great-great-aunt.

*o.* First cousins—nephews—nieces.

*p.* Second cousins, meaning the son or daughter of one's parent's first cousin.

**133.3(4)** *Service need.* The applicant must demonstrate a need for one or more of the emergency assistance services as follows:

*a.* Family-centered services as established in 441—Chapter 172.

*b.* Shelter care as established in rule 441—202.2(234).

*c.* Protective child care as established in 441—subparagraph 170.2(2)*"b"*(3).

**133.3(5)** *Receipt of assistance.* An application for IV-A emergency assistance was not previously approved within 12 months of the current application for IV-A emergency assistance.

**133.3(6)** *Financial eligibility.* The applicant family:

*a.* Is receiving family investment program (FIP), supplemental security income (SSI), Supplemental Nutrition Assistance Program (SNAP) benefits, or Medicaid in the month of the application, or

*b.* Does not have money to provide needed emergency care or services as evidenced by the applicant family's income not exceeding 800 percent of the poverty guidelines established by the federal Office of Management and Budget.

**441—133.4(235) Method of service provision.** Services shall be provided through the department or through purchase of service agreements with providers that are approved by the department as qualified to provide specified services and have a current contract with the department to provide services.

**441—133.5(235) Duration of services.** Services to families and children provided through the emergency assistance program as a result of a single application may be provided for either a period not to exceed 12 months or until there is no longer a need for services according to eligibility criteria for the specified services, whichever occurs first.

**441—133.6(235) Discontinuance of the program.** The program will be discontinued when federal funds have been exhausted.

These rules are intended to implement Iowa Code section 235.3(9).

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

# ARC 0501D

# INSPECTIONS AND APPEALS DEPARTMENT[481]

**Adopted and Filed**

**Rulemaking related to the occupational therapy licensure compact**

The Department of Inspections, Appeals, and Licensing hereby amends Chapter 804, "Licensure of Occupational Therapists and Occupational Therapy Assistants," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code chapter 148B and sections 147E.1, 272C.3 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148B and 272C and section 147E.1.

*Purpose and Summary*

These amendments define the requirements for participation in the Occupational Therapy Licensure Compact; add background check requirements for initial licensure, licensure by endorsement, and license reactivation for all occupational therapist (OT) and occupational therapist assistant (OTA) applicants; add a fee for the issuance of a compact privilege to practice in Iowa; and waive the compact privilege fee for an active duty military member or spouse.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on July 9, 2025, as **ARC 9393C**. A public hearing was held on the following date(s):

- August 11, 2026

An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on January 21, 2026, as **ARC 9988C**. A public hearing was held on the following date(s):

- February 10, 2026

Public comments were received. Five individuals were present for the hearing.

A member of the public supported the new rules and the beneficial impact for Iowa patients and providers, especially in rural areas

Two members of the professional associations were opposed to mandating background checks for all licenses and cited concerns about licensure delays for new applicants and temporary license holders.

After consideration of these comments and review of Iowa Code section 147E.1, the Board of Physical and Occupational Therapy determined that the proposed rules are necessary and will not impact temporary license holders since temporary license holders are not compact-eligible. The Department has effective and efficient processes in place to expedite background checks and comply with the law. The public will be informed of this rule change, anticipated to take effect July 1, 2027, through public announcements via GovDelivery, during Board meetings, via the website and via email to licensees.

No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Board on June 12, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 7—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on July 1, 2027.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** definitions of "DCI" and "FBI" in rule **481—804.1(147)**:

*"DCI"* means the Iowa division of criminal investigation.

*"FBI"* means the Federal Bureau of Investigation.

ITEM 2. Renumber subrules **804.2(3)** to **804.2(4)** as **804.2(4)** to **804.2(5)**.

ITEM 3. Adopt the following **new** subrule 804.2(3):

**804.2(3)** Submit required waivers and fingerprints pursuant to the board-approved process to facilitate a national criminal history background check by the DCI and the FBI. The cost of the criminal history background check by the DCI and the FBI shall be assessed to the applicant.

ITEM 4. Renumber rules **481—804.4(147)** to **481—804.9(17A,147,272C)** as **481—804.5(147)** to **481—804.10(17A,147,272C)**.

ITEM 5. Adopt the following **new** rule 481—804.4(147E):

**481—804.4(147E) Occupational therapy licensure compact.** The rules of the occupational therapy compact commission are incorporated by reference. An occupational therapist or occupational therapist assistant may engage in the practice of occupational therapy in Iowa without a license issued by the board if the individual has a current compact privilege to practice in Iowa issued by the occupational therapy compact commission. The state fee for issuance of a compact privilege to practice in Iowa shall be $60, which will be collected by the occupational therapy compact commission. The state fee for issuance of a compact privilege to practice in Iowa shall be waived for an active duty military member or spouse of an individual who is an active duty military member. An occupational therapist or occupational therapist assistant who practices occupational therapy in Iowa using a compact privilege is subject to the rules governing licensees in this chapter and in 481—Chapters 806 and 807. Complaints, investigations, and disciplinary proceedings involving a compact privilege shall be handled in accordance with Iowa Code chapters 17A and 272C; Iowa Code section 147E.1; and 481—Chapters 503, 504, and 506.

This rule is intended to implement Iowa Code section 147E.1.

ITEM 6. Adopt the following **new** subrule 804.8(9):

**804.8(9)** Compact eligibility review. This rule applies to licensees who were licensed prior to adoption of this rule. In order to complete the compact eligibility review, at or prior to the next renewal, a licensee must submit required waivers and fingerprints pursuant to the board-approved process to facilitate a national criminal history background check. The cost for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant. The board may withhold issuing a license pending receipt of a report from the DCI and FBI.

ITEM 7. Adopt the following **new** subrule 804.9(4):

**804.9(4)** If the license has been inactive for two or more years and the licensee cannot provide verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation, submit required waivers and fingerprints pursuant to the board-approved process to facilitate a national criminal history background check. The cost for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant. The board may withhold issuing a license pending receipt of a report from the DCI and FBI.

ITEM 8. Amend renumbered rule 481—804.10(17A,147,272C) as follows:

**481—804.10(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 481—506.31(272C) and must apply for and be granted reactivation of the license in accordance with rule ~~481—804.8(17A,147,272C)~~ 481—804.9(17A,147,272C) prior to practicing occupational therapy in this state.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.

# ARC 0502D

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

## Adopted and Filed

### Rulemaking related to agency realignment

The Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby rescinds Chapter 1, "General," Chapter 9, "UST Fund Board Authority to Transfer Liabilities to a Third Party (Loss Portfolio Transfers)," Chapter 11, "Claims," and Chapter 13, "Community Remediation," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code chapter 455G and section 17A.7(2).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 455G and section 17A.7(2); 2024 Iowa Acts, Senate File 2414; and Executive Order 10.

*Purpose and Summary*

The rules of the Underground Storage Tank (UST) Fund Board (Board) were intended to govern the Board and regulate the disbursement of moneys allocated to the Board by Iowa Code chapter 455G and other applicable laws. On April 19, 2024, Governor Reynolds signed 2024 Iowa Acts, Senate File 2414, into law, which dissolved the Board. The legislation also transferred the remaining moneys to the Department of Natural Resources (Department) to disburse consistent with the laws previously governing the Board and capped the moneys available to that amount currently appropriated to the fund. Additionally, Senate File 2414 transferred the jurisdiction of the rules from the Board to the Department.

The rules will continue to provide benefits to stakeholders while funds remain available for disbursal. The Department anticipates the final disbursal of regulated funding ending by December 31, 2026. To provide ample time for the expenditure of funds and to support stakeholders, these rules are being rescinded on December 31, 2027. This delayed rescission will provide stakeholders ample time to request reimbursement for actions, such as tank removals and other funding regulated by the rules. After that date, the Department will rely on the authority of Iowa Code chapter 455B and existing, related agreements to finalize any matters remaining.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 7, 2026, as **ARC 9895C**. A public hearing was held on the following date(s):

- January 27, 2026
- January 28, 2026

The Department received comments supporting the rescission of the rules in a delayed manner to ensure funds could fully and effectively be distributed to interested stakeholders. No other comments were received.

Changes from the Notice have been made to remove the items rescinding 591—Chapters 2 through 4, 16, and 17 because those chapters were editorially rescinded pursuant to 2026 Iowa Acts, Senate File 2463.

*Adoption of Rulemaking*

This rulemaking was adopted by the Board on July 21, 2026.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 7—Chapter 2504.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on December 31, 2027.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **591—Chapter 1**.

ITEM 2. Rescind and reserve **591—Chapter 9**.

ITEM 3. Rescind and reserve **591—Chapter 11**.

ITEM 4. Rescind and reserve **591—Chapter 13**.

[Filed 7/24/26, effective 12/31/27]
[Published 8/19/26]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/26.