



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike-through letters~~ indicate deleted material.

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CITATION of Administrative Rules

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- 441 IAC 79 (Chapter)
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- 441 IAC 79.1(1) (Subrule)
- 441 IAC 79.1(1)“a” (Paragraph)
- 441 IAC 79.1(1)“a”(1) (Subparagraph)

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

Schedule for Rule Making 2005

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Dec. 31 '04	Jan. 19 '05	Feb. 8 '05	Feb. 23 '05	Feb. 25 '05	Mar. 16 '05	Apr. 20 '05	July 18 '05
Jan. 14 '05	Feb. 2	Feb. 22	Mar. 9	Mar. 11	Mar. 30	May 4	Aug. 1
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Apr. 8	Apr. 27	May 17	June 1	June 3	June 22	July 27	Oct. 24
Apr. 22	May 11	May 31	June 15	June 17	July 6	Aug. 10	Nov. 7
May 6	May 25	June 14	June 29	***June 29***	July 20	Aug. 24	Nov. 21
May 18	June 8	June 28	July 13	July 15	Aug. 3	Sept. 7	Dec. 5
June 3	June 22	July 12	July 27	July 29	Aug. 17	Sept. 21	Dec. 19
June 17	July 6	July 26	Aug. 10	Aug. 12	Aug. 31	Oct. 5	Jan. 2 '06
June 29	July 20	Aug. 9	Aug. 24	***Aug. 24***	Sept. 14	Oct. 19	Jan. 16 '06
July 15	Aug. 3	Aug. 23	Sept. 7	Sept. 9	Sept. 28	Nov. 2	Jan. 30 '06
July 29	Aug. 17	Sept. 6	Sept. 21	Sept. 23	Oct. 12	Nov. 16	Feb. 13 '06
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Aug. 24	Sept. 14	Oct. 4	Oct. 19	Oct. 21	Nov. 9	Dec. 14	Mar. 13 '06
Sept. 9	Sept. 28	Oct. 18	Nov. 2	Nov. 4	Nov. 23	Dec. 28	Mar. 27 '06
Sept. 23	Oct. 12	Nov. 1	Nov. 16	***Nov. 16***	Dec. 7	Jan. 11 '06	Apr. 10 '06
Oct. 7	Oct. 26	Nov. 15	Nov. 30	Dec. 2	Dec. 21	Jan. 25 '06	Apr. 24 '06
Oct. 21	Nov. 9	Nov. 29	Dec. 14	***Dec. 14***	Jan. 4 '06	Feb. 8 '06	May 8 '06
Nov. 4	Nov. 23	Dec. 13	Dec. 28	Dec. 30	Jan. 18 '06	Feb. 22 '06	May 22 '06
Nov. 16	Dec. 7	Dec. 27	Jan. 11 '06	Jan. 13 '06	Feb. 1 '06	Mar. 8 '06	June 5 '06
Dec. 2	Dec. 21	Jan. 10 '06	Jan. 25 '06	Jan. 27 '06	Feb. 15 '06	Mar. 22 '06	June 19 '06
Dec. 14	Jan. 4 '06	Jan. 24 '06	Feb. 8 '06	Feb. 10 '06	Mar. 1 '06	Apr. 5 '06	July 3 '06
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PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
18	Friday, February 11, 2005	March 2, 2005
19	Friday, February 25, 2005	March 16, 2005
20	Friday, March 11, 2005	March 30, 2005

PLEASE NOTE:

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

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

Note change of filing deadline

PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies
FROM: Kathleen K. West, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses QuickSilver XML Publisher, version 2.0.0, to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

bruce.carr@legis.state.ia.us and
kathleen.west@legis.state.ia.us

2. Alternatively, you may send a PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, Third Floor West, Ola Babcock Miller Building, or included with the documents submitted to the Governor's Administrative Rules Coordinator.

Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies, but not on the diskettes; diskettes are returned unchanged.

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DENTAL EXAMINERS BOARD[650]		
Authorization of registered dental assistant to provide intraoral suctioning under the general supervision of a dentist, 1.1, 20.4(2) IAB 2/2/05 ARC 3976B	Board Conference Room Suite D 400 SW Eighth St. Des Moines, Iowa	February 22, 2005 10 a.m.
Mandatory reporting, 10.6(4), 30.4, 31.13, 31.14 IAB 2/2/05 ARC 3973B	Board Conference Room Suite D 400 SW Eighth St. Des Moines, Iowa	February 22, 2005 10 a.m.
Temporary permit to provide volunteer services, 13.3, 15.1 IAB 2/2/05 ARC 3975B	Board Conference Room Suite D 400 SW Eighth St. Des Moines, Iowa	February 22, 2005 10 a.m.
HUMAN SERVICES DEPARTMENT[441]		
Disability services management— minimum data set, 25.41 IAB 1/19/05 ARC 3936B	First Floor Southeast Conference Rm. Hoover State Office Bldg. Des Moines, Iowa	February 16, 2005 9 to 10:30 a.m.
PUBLIC HEALTH DEPARTMENT[641]		
Swimming pools and spas, ch 15 IAB 2/2/05 ARC 3970B	Third Floor Conference Room Room 518 Lucas State Office Bldg. Des Moines, Iowa	February 22, 2005 1 p.m.
Radiation, amendments to chs 38 to 42, 45, 46 IAB 2/2/05 ARC 3964B	Conference Room, Suite D 401 SW Seventh St. Des Moines, Iowa	February 22, 2005 8:30 a.m.
PUBLIC SAFETY DEPARTMENT[661]		
Fire fighter certification, 54.100 to 54.104 IAB 1/5/05 ARC 3906B (See also ARC 3482B , IAB 7/7/04)	Classroom Fire Service Training Bureau 3100 Fire Service Rd. Ames, Iowa	February 3, 2005 10 a.m.
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Coal mining, amendments to ch 40 IAB 2/2/05 ARC 3945B	First Floor Conference Room, West Half Wallace State Office Bldg. Des Moines, Iowa	February 22, 2005 1 p.m.
TRANSPORTATION DEPARTMENT[761]		
Regulations applicable to carriers, 520.1, 520.5 IAB 2/2/05 ARC 3944B	DOT Conference Room Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	February 24, 2005 10 a.m. (If requested)

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“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 which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

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ARC 3965B**AGRICULTURE AND LAND
STEWARDSHIP DEPARTMENT[21]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 159.5(11) and 214A.2, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 85, “Weights and Measures,” Iowa Administrative Code.

This amendment makes two changes relating to standards for motor vehicle fuel, antifreeze, oxygenate octane enhancers, and raffinate natural gasoline. One change updates the reference to standards established by the American Society for Testing and Materials (ASTM) from January 1, 2000, to January 1, 2005; however, the amendment proposes to delay the enforcement date of the ASTM standard relating to diesel fuel lubricity until October 1, 2005. The second change reduces the maximum amount of methyl tertiary butyl ether (MTBE) allowed in motor vehicle fuel from two percent to one-half of one percent by volume. This change is made to make the rule conform to statutory requirements in Iowa Code section 214A.18.

Any interested persons may make written comments or suggestions on the proposed amendment on or before 4:30 p.m. on February 22, 2005. Such written materials should be directed to Steve Pedersen, Bureau Chief, Bureau of Weights and Measures, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319; or faxed to (515)281-4282. E-mail comments may be sent to Steve.Pedersen@idals.state.ia.us.

No waiver provision is included in this proposed amendment because an existing rule allows for waivers in appropriate cases. The waiver rule also applies to this amendment.

This amendment is intended to implement Iowa Code chapter 214A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend rule 21—85.33(214A,208A) as follows:

21—85.33(214A,208A) Motor vehicle fuel and antifreeze tests and standards. In the interest of uniformity, the tests and standards for motor vehicle fuel, oxygenate octane enhancers, raffinate natural gasoline and motor vehicle antifreeze shall be those established by the American Society for Testing and Materials (ASTM) in effect on January 1, 2000 2005, except that the standards for E-Grade denatured fuel ethanol shall be the American Petroleum Institute’s (API) specification in use at the Iowa terminals; *however, the diesel fuel lubricity standard (ASTM D 975, Table 1, Lubricity) shall not be enforced until October 1, 2005.* In addition, a retail dealer of motor vehicle fuel shall not sell or offer for sale in Iowa a motor vehicle fuel that contains more than ~~2~~ *one-half*

of one percent of methyl tertiary butyl ether (MTBE) by volume.

This rule is intended to implement Iowa Code sections 208A.5, 208A.6 and 215.18 and 1999 Iowa Acts, chapter 204.

ARC 3976B**DENTAL EXAMINERS BOARD[650]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Dental Examiners hereby gives Notice of Intended Action to amend Chapter 1, “Administration,” and Chapter 20, “Dental Assistants,” Iowa Administrative Code.

These amendments authorize a registered dental assistant to provide intraoral suctioning under the general supervision of a dentist. These amendments will facilitate sealant programs, especially in public health programs.

These amendments are subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7.

Any interested person may make written comments or suggestions on the proposed amendments on or before February 22, 2005. Such written comments should be directed to Jennifer Hart, Executive Officer, Board of Dental Examiners, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687. E-mail may be sent to Jennifer.Hart@iowa.gov.

Also, there will be a public hearing on February 22, 2005, beginning at 10 a.m. in the Board Conference Room, 400 SW 8th Street, Suite D, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any person who plans to attend the public hearing and who may have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

These amendments were approved at the January 13, 2005, regular meeting of the Board of Dental Examiners.

These amendments are intended to implement Iowa Code chapters 147, 153, and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **650—1.1(153)**, definition of “general supervision of a dental assistant,” as follows:

“General supervision of a dental assistant” means that a dentist has delegated the ~~extraoral~~ services to be provided by a dental assistant, *which are limited to all extraoral duties and intraoral suctioning.* The dentist need not be present in the facility while these ~~extraoral~~ services are being provided.

ITEM 2. Amend subrule 20.4(2) as follows:

20.4(2) Registered dental assistant. A registered dental assistant may perform under general supervision all extraoral duties ~~in the dental office or dental clinic and intraoral suc-~~

DENTAL EXAMINERS BOARD[650](cont'd)

tioning that are assigned by the dentist that are consistent with these rules. During intraoral procedures, the registered dental assistant may, under direct supervision, assist the dentist in performing duties assigned by the dentist that are consistent with these rules. The registered dental assistant may take radiographs if qualified pursuant to 650—Chapter 22.

ARC 3973B**DENTAL EXAMINERS BOARD[650]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Dental Examiners hereby gives Notice of Intended Action to amend Chapter 10, “General Requirements,” Chapter 30, “Discipline,” and Chapter 31, “Complaints and Investigations,” Iowa Administrative Code.

These amendments specify requirements related to the obligation of all licensees and registrants to make mandatory reports of any acts or omissions that could constitute a basis for disciplinary action when committed by another person regulated by the Board, as required by Iowa Code section 272C.9. Board rules define a reportable act or omission as any conduct that may constitute a basis for disciplinary action under the rules or statutory provisions governing the practice of dentistry, dental hygiene, or dental assisting in Iowa. Grounds for disciplinary action include violating any provision of Iowa law.

The proposed amendments also require licensees and registrants to make mandatory reports of acts or omission within 30 days. However, in the event that the reportable act or omission poses an immediate threat to patient safety, the report must be filed within 24 hours from the date the licensee or registrant acquires knowledge of the reportable act or omission.

These amendments are not subject to waiver pursuant to rule 650—30.4(147,153,272C).

Any interested person may make written comments or suggestions on the proposed amendments on or before February 22, 2005. Such written comments should be directed to Jennifer Hart, Executive Officer, Board of Dental Examiners, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687. E-mail may be sent to Jennifer.Hart@iowa.gov.

Also, there will be a public hearing on February 22, 2005, beginning at 10 a.m. in the Board Conference Room, 400 SW 8th Street, Suite D, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any person who plans to attend the public hearing and who may have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

These amendments were approved at the January 13, 2005, regular meeting of the Board of Dental Examiners.

These amendments are intended to implement Iowa Code chapters 17A, 147, 153, and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3)

will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 10.6(4) as follows:

10.6(4) Reporting acts or omissions. In accordance with 650—31.13(272C), each licensee or registrant shall be responsible for reporting to the board, ~~within seven days,~~ any acts or omissions that could result in the ~~suspension or revocation~~ discipline of a license licensee or registration registrant when committed by another person licensed or registered to practice dentistry, dental hygiene, or dental assisting.

ITEM 2. Amend rule 650—30.4(147,153,272C), numbered paragraph “24,” introductory paragraph and first unnumbered paragraph, as follows:

24. Failure to report any of the following:

Any acts or omissions which could result in the ~~suspension or revocation~~ discipline of a license licensee or registration registrant when committed by a person licensed or registered to practice dentistry, dental hygiene, or dental assisting.

ITEM 3. Amend subrule 31.13(2), paragraph “a,” and subrule 31.13(3) as follows:

a. The report shall be filed with the board within seven 30 days from the date the licensee or registrant acquires knowledge of the reportable act or omission. *However, in the event such reportable act or omission poses an immediate threat to patient safety, the report shall be filed within 24 hours from the date the licensee or registrant acquires knowledge of the reportable act or omission.*

31.13(3) Failure to report. Failure to report knowledge of a reportable act or omission within the required seven-day time period shall constitute a basis for the initiation of a board disciplinary action against the licensee or registrant who failed to report.

ITEM 4. Rescind and reserve rule 650—31.14(272C).

ARC 3975B**DENTAL EXAMINERS BOARD[650]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Dental Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Special Licenses,” and Chapter 15, “Fees,” Iowa Administrative Code.

These amendments allow the Board to issue a temporary permit authorizing the permit holder to practice dentistry or dental hygiene on a short-term basis in Iowa at a specific location or locations to provide volunteer services. The amendments specify eligibility requirements and limitations of the permit.

A temporary permit to provide volunteer services is limited to applicants who practice in a free or nonprofit dental clinic. In addition, the applicant must not receive compensation directly or indirectly for providing dental services. The

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application fee is \$25 for a temporary permit to provide volunteer services.

The proposed amendments do not authorize the issuance of temporary permits to dental assistants because dental assistants are eligible to apply for dental assistant trainee status to work in Iowa on a temporary basis to provide volunteer services.

These amendments are subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7.

Any interested person may make written comments or suggestions on the proposed amendments on or before February 22, 2005. Such written comments should be directed to Jennifer Hart, Executive Officer, Board of Dental Examiners, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687. E-mail may be sent to Jennifer.Hart@iowa.gov.

Also, there will be a public hearing on February 22, 2005, beginning at 10 a.m. in the Board Conference Room, 400 SW 8th Street, Suite D, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any person who plans to attend the public hearing and who may have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

These amendments were approved at the January 13, 2005, regular meeting of the Board of Dental Examiners.

These amendments are intended to implement Iowa Code section 153.19.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 650—13.3(153) as follows:

650—13.3(153) Temporary permit. The board may issue a temporary permit authorizing the permit holder to practice dentistry or dental hygiene on a short-term basis in Iowa at a specific location or locations to fulfill an urgent need, or to serve an educational purpose, or to provide volunteer services. A temporary permit may be granted on a case-by-case basis.

13.3(1) General provisions.

a. The temporary permit is intended for dentists and dental hygienists with short-term assignments in Iowa that fulfill an urgent need, or serve an educational purpose, or provide volunteer services, and clearly have no long-term implications for licensure. If the need changes or if the permit holder wishes to continue in short-term assignments in other Iowa locations, the permit holder is expected to seek permanent licensure. A temporary permit is not meant as a way to practice before a permanent license is granted or as a means to practice because the applicant does not fulfill the requirements for permanent licensure.

b. and c. No change.

d. A person may be issued not more than three temporary permits to fulfill an urgent need or serve an educational purpose.

e. to g. No change.

13.3(2) Eligibility for a temporary permit to fulfill an urgent need or serve an educational purpose. An application for a temporary permit shall be filed on the form provided by the board and must be completely answered, including required credentials and documents. To be eligible for a tem-

porary permit to fulfill an urgent need or serve an educational purpose, an applicant shall provide all of the following:

a. No change.

b. The nonrefundable application fee for a temporary permit to fulfill an urgent need or serve an educational purpose as specified in 650—Chapter 15.

c. to g. No change.

13.3(3) Eligibility for a temporary permit to provide volunteer services.

a. A temporary permit to provide volunteer services is intended for dentists and dental hygienists who will provide volunteer services at a free or nonprofit dental clinic and who will not receive compensation for dental services provided. A temporary permit issued under this subrule shall be valid only at the location specified on the permit, which shall be a free clinic or a dental clinic for a nonprofit organization, as described under Section 501(c)(3) of the Internal Revenue Code.

b. An application for a temporary permit shall be filed on the form provided by the board and must be completely answered, including required credentials and documents. To be eligible for a temporary permit to provide volunteer services, an applicant shall provide all of the following:

(1) Satisfactory evidence of graduation with a DDS or DMD degree for applicants seeking a temporary permit to practice dentistry or satisfactory evidence of graduation from a dental hygiene school for applicants seeking a temporary permit to practice dental hygiene.

(2) The nonrefundable application fee for a temporary permit to provide volunteer services as specified in 650—Chapter 15.

(3) Evidence that the applicant possesses a valid certificate in a nationally recognized course in cardiopulmonary resuscitation.

(4) A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges against the applicant.

(5) Evidence that the applicant holds an active, permanent license to practice in at least one United States jurisdiction and that no formal disciplinary action is pending or has ever been taken.

(6) Certification from the appropriate examining board from each jurisdiction in which the applicant has ever held a license. At least one license must be issued on the basis of clinical examination.

(7) A request for the temporary permit from those individuals or organizations seeking the applicant's services that establishes, to the board's satisfaction, the justification for the temporary permit, the dates the applicant's services are needed, and the location or locations where those services will be delivered.

(8) A statement from the applicant seeking the temporary permit that the applicant shall practice only in a free dental clinic or dental clinic for a nonprofit organization and that the applicant shall not receive compensation directly or indirectly for providing dental services.

13.3(3 4) Dental hygiene committee review. The dental hygiene committee shall make recommendations to the board regarding the issuance or denial of any temporary permit to practice dental hygiene. The board's review of the dental hygiene committee's recommendation is subject to 650—Chapter 1.

13.3(4 5) Denial of temporary permit. The board may deny a temporary permit in accordance with 650—11.9(147,153) or, at the sole discretion of the board, for fail-

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ure to justify the need for a temporary permit. The procedure for appealing the denial of a permit is set forth in 650—11.10(147).

13.3(6) *A temporary permit holder shall be subject to and follow all rules and state laws pertaining to the practice of dentistry and dental hygiene in this state.*

This rule is intended to implement Iowa Code section 153.19.

ITEM 2. Amend subrule 15.1(16) and adopt **new** subrule 15.1(17) as follows:

15.1(16) The fee for an application for a temporary permit to *serve an urgent need or provide educational services* is \$100.

15.1(17) *The fee for an application for a temporary permit to provide volunteer services is \$25.*

ARC 3974B**DENTAL EXAMINERS BOARD[650]****Notice of Termination**

Pursuant to the authority of Iowa Code section 147.76, the Board of Dental Examiners terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on November 10, 2004, as **ARC 3779B**, amending Chapter 30, "Discipline," and Chapter 31, "Complaints and Investigations," Iowa Administrative Code. These amendments were also simultaneously Adopted and Filed Emergency as **ARC 3777B**.

The Notice proposed to specify the obligation of all licensees and registrants to make mandatory reports of any acts or omissions that could constitute a basis for disciplinary action when committed by another person regulated by the Board. The Notice also specified the time frame to make mandatory reports.

The Board is terminating the rule making commenced in **ARC 3779B** because the proposed amendments conflicted with other Board rules. The Board is proposing new amendments that eliminate the conflict in Board rules and further clarify the obligations of licensees and registrants. Notice of Intended Action on the new amendments is published herein as **ARC 3973B**.

ARC 3966B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 234.6(7), the Department of Human Services amends Chapter 65, "Food Assistance Program Administration," Iowa Administrative Code.

These amendments increase two of the deductions from household income used in determining Food Assistance eligibility and benefits. In anticipation of an increase in heating

costs this season, the Department requested an analysis of Iowa Food Assistance utility allowances. The consultant has recommended the following increases:

- An increase in the standard utility allowance for households that are responsible for heating and cooling expenses of \$5 per month, from \$271 to \$276. This increase is based on estimated energy, water, and sewer bills for each Iowa county, weighted by the county's percentage of the total statewide population of persons whose income is below 125 percent of the federal poverty level. The analysis estimates that an allowance of \$276 will cover the utility expenses of 80 percent of low-income Iowa households.

- An increase in the standard telephone allowance of \$16 per month, from \$20 to \$36. This increase is based on the average monthly household expenditures on local telephone services (excluding long-distance services) cited in a statistical report published by the Federal Communications Commission in May 2004. Current federal line charges, interstate access charges, universal service charges, and average 911, disability access, and state and federal taxes cited in the report total \$17 per month, without considering any charge for local services.

These amendments are expected to increase Food Assistance benefits by an average of \$8 per month for 25,000 Iowa households. Food Assistance benefits are completely federally funded.

These amendments do not provide for waivers in specified situations because they benefit the households affected. Federal law does not allow the Department to waive limits on deductions used in the Food Assistance program.

Any interested person may make written comments on the proposed amendments on or before February 23, 2005. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3968B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement Iowa Code section 234.6(7).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 3970B**PUBLIC HEALTH
DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 135I.4, the Iowa Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 15, "Swimming Pools and

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Spas,” Iowa Administrative Code, and adopt a new Chapter 15 with the same title.

The rules describe the standards for the design, construction and operation of swimming pools and spas; qualifications for swimming pool and spa operators, lifeguards and inspectors; and procedures and fees for plan review, registration, and inspection of swimming pools and spas.

The rules were distributed among interested parties, including public health agencies, municipal swimming pool operators, motel/hotel owner organizations, pool builders, engineers, and architects, in October 2003. A revised draft was distributed November 1, 2004, for additional comment.

Below is a summary of the major changes from the existing rules.

In subrule 15.1(1), spray pads are added to the facilities regulated under the rules.

Definitions for “di-chlor,” “leisure river,” “gravity outlet,” “suction outlet,” “spray pad,” and “tri-chlor” are added.

Definitions for “certified operator,” “residential swimming pool,” “spa,” “swimming pool,” and “swimming pool slide” are revised.

Paragraph 15.4(2)“a,” entitled “disinfection,” has been rewritten to clarify the use of chemical automation for operation at pools and to define the regulatory conditions for pool closure using disinfectant concentration and oxidation-reduction potential. Paragraph 15.4(2)“a” prohibits the addition of cyanuric acid to an indoor pool except with already installed chemical feed equipment and requires replacement of the existing indoor chemical feed systems at three years.

Subparagraph 15.4(4)“b”(3) is added to provide a standard for ladder installation.

Subparagraph 15.4(4)“d”(4) establishes a minimum supervision ratio for “structured programs.”

Subparagraph 15.4(4)“d”(5) allows alternative water slide management plans to be approved by the department.

Subparagraph 15.4(4)“f”(6) strengthens the requirement for an emergency communication system at swimming pools.

Paragraph 15.4(4)“h,” entitled “main drains,” requires the closure of a swimming pool if a main drain cover is broken or missing.

Subparagraph 15.4(4)“i”(5) removes the requirement for a float line for a water slide or swimming pool slide landing installed next to a diving board. An alternate landing area designation is given for slides in very shallow water.

Subparagraphs 15.4(4)“j”(5) and (6) establish depth and “No Diving” marking requirements for leisure rivers.

Paragraph 15.4(6)“i,” entitled “operations manual,” adds specificity to the contents of a pool operations manual.

Paragraph 15.4(6)“n,” entitled “residential swimming pools used for commercial purposes,” provides the requirements for a residential swimming pool that is used for commercial purposes.

Paragraph 15.5(2)“a,” entitled “plan certification,” adds to the type of projects that may be submitted without a design professional’s certification.

Paragraph 15.5(5)“b,” entitled “recirculation flow rate,” adds turnover requirements for leisure rivers and spray pads, and increases turnover requirements for wave pools, water slide plunge pools and wading pools.

Paragraph 15.5(11)“a,” entitled “ORP controller required,” requires that new pools have automatic disinfectant control based on ORP.

Paragraph 15.5(11)“b,” entitled “di-chlor, tri-chlor prohibited indoors,” prohibits new installations of chemical feed systems using di-chlor or tri-chlor for indoor pools.

Paragraph 15.5(12)“a,” entitled “pH controller required,” requires that new pools have automatic control of pH.

Subrule 15.5(19), entitled “spray pads,” establishes design standards for spray pads.

Subrule 15.5(20), entitled “leisure rivers,” establishes design standards for leisure rivers.

Paragraph 15.6(2)“d,” entitled “revocation or withholding of registration,” allows and sets the procedures for the revocation or withholding of a pool registration.

Rule 641—15.11(135I), entitled “swimming pool/spa operator qualifications,” recognizes new operator training programs and changes continuing education requirements.

Rule 641—15.12(135I), entitled “fees,” increases registration and plan review fees and adds a registration change fee and fees for the inspection of new types of facilities.

Paragraph 15.51(1)“a,” entitled “filters,” was modified to require specific periodic filter maintenance procedures for spa filtration systems.

Paragraph 15.51(2)“a,” entitled “disinfection,” has been rewritten to be similar to paragraph 15.4(2)“a.”

Subparagraph 15.51(2)“d”(1) modifies the procedures required when bacteria are detected in a sample from a spa.

Subparagraph 15.51(3)“b”(2) allows larger spas to operate longer before being required to be drained and cleaned.

Paragraph 15.51(4)“c” has been revised to provide for closure of a spa if the water temperature exceeds 104°F.

Paragraph 15.51(4)“l” is added to require that the jet timers for all spas have a cycle of ten minutes or less.

Paragraph 15.52(3)“d” now allows a spa to be adjacent to a swimming pool and sets a minimum distance if the spa is not immediately adjacent to a swimming pool.

Paragraph 15.52(5)“e” is added to require that spa circulation systems be equipped with a flow meter.

Other changes in rules 641—15.51(135I) and 641—15.52(135I) correspond to changes in 641—15.4(135I) and 641—15.5(135I).

Any interested person may make written suggestions or comments on these rules on or before February 22, 2005. Written materials should be directed to Michael Magnant, Iowa Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319-0075; fax (515)281-4529; E-mail mmagnant@idph.state.ia.us.

There will be a public hearing on February 22, 2005, at 1 p.m. in the Third Floor Conference Room, Side 1 (Room 518), Lucas State Office Building, 321 East 12th Street, Des Moines, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Public Health and advise of specific needs.

These rules are intended to implement Iowa Code chapter 135I.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Rescind **641—Chapter 15** and insert in lieu thereof the following **new** chapter:

CHAPTER 15
SWIMMING POOLS AND SPAS

641—15.1(135I) Applicability.

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15.1(1) These rules apply to swimming pools, spas, wading pools, water slides, wave pools, spray pads, and bath-houses connected to swimming pools owned or operated by local or state government, or commercial interests or private entities including, but not limited to, public or private school corporations, hotels, motels, camps, apartments, condominiums, health clubs and country clubs. These rules do not apply to a residential swimming pool or spa that is permanently installed in a single-family dwelling, to a decorative fountain or to a therapeutic swimming pool or spa which is under the direct supervision of qualified medical personnel.

15.1(2) These rules do not apply to a swimming pool or spa operated by a homeowners association representing 72 or fewer dwelling units if the association bylaws, which also apply to a rental agreement relative to any of the dwelling units, include an exemption from the requirements of this chapter, provide for inspection of the swimming pool or spa by an entity other than the department or local board of health, and assume any liability associated with operation of the swimming pool and spa. The association shall notify the department in writing if the association bylaws are amended as above. The inspector designated by the association shall be a certified operator as defined in 15.3(1). A report of the inspection shall be filed with the association secretary and shall be available to any association member on request.

641—15.2(135I) Scope. These rules stipulate minimum safety and water quality requirements for the operation of swimming pools and spas; standards for construction; procedures for registration; qualifications for swimming pool and spa inspectors; qualifications for swimming pool and spa operators and lifeguards; and procedures for health departments to provide for the inspection of swimming pools and spas and enforcement of these rules. Swimming pools and spas which are in compliance with these rules must also comply with the requirements of any other applicable federal, state or local laws, rules or ordinances.

641—15.3(135I) Definitions and abbreviations.

15.3(1) Definitions.

“Air break” is a piping arrangement in which a drain from a fixture, appliance or device discharges indirectly into a fixture, receptacle, or interceptor at a point below the flood-level rim of the receptacle.

“Air gap” means the unobstructed vertical distance through the free atmosphere between the lowest opening from an inlet pipe and the flood-level rim of a receptacle or floor drain.

“Board of health” means a county, city, or district board of health.

“Body feed” means the continuous addition of controlled amounts of filtering aid during the operation of a diatomaceous earth filter to maintain a permeable filter cake. This is sometimes referred to as a “slurry feed.”

“Certified operator” means a person who has:

1. Successfully completed the Certified Pool/Spa Operator course sanctioned by NSPF, the Aquatic Facility Operator course sanctioned by NRPA, the Professional Pool & Spa Operator course sanctioned by the NSPI, the Licensed Aquatic Facility Technician course sanctioned by the American Swimming Pool and Spa Association, or an equivalent course approved by the department; and

2. Been recertified as required by the sanctioning organization; and

3. Obtained the continuing education required by 15.11(2).

“Combined chlorine” means nitrogen-chlorine compounds formed by the reaction of a chlorine disinfectant chemical with ammonia and organic nitrogen compounds as measured with a DPD (diethyl-p-phenylene diamine) test kit or as measured by another method approved by the department. Another term for combined chlorine is “chloramines.”

“Construction” means the installation of a new swimming pool facility. “Construction” includes modifications to an existing facility which change the total recirculated water volume or the total water surface area by 20 percent or more.

“Deck” means a walkway immediately adjacent to a swimming pool.

“Decorative fountain” means a basin equipped with water sprays or jets that does not serve primarily as a wading or swimming pool and whose drain is not directly connected to any type of suction device for removing or recirculating the water.

“Deep water” means those areas of a swimming pool where the water is more than five feet deep.

“Department” means the Iowa department of public health.

“Di-chlor” means sodium dichloro-s-triazinetriene dihydrate. Di-chlor is a form of chlorine that includes cyanuric acid in its formulation.

“Engineering plans” means plans and specifications certified in accordance with the rules of the engineering and land surveying examining board or the architectural examining board by an engineer or architect licensed to practice in the state of Iowa.

“Equalizer” means an arrangement including a pipe from an opening below the water level in a swimming pool or spa to the body of a skimmer and a normally closed valve at the skimmer body. The arrangement is designed to automatically prevent air from being drawn into the pump when the water level drops below the skimmer inlet.

“Fill and drain wading pool” means a wading pool having no recirculation system.

“Filter” means a mechanical device for removing suspended particles from the swimming pool water and refers to the complete mechanism including all component parts.

“Fountain” means a water fountain that is not established primarily for swimming or wading, but where swimming or wading is allowed, and that has a drain which is connected to a mechanical suction device for removing or recirculating the water.

“Free chlorine” means the concentration of hypochlorous acid and hypochlorite ion in the swimming pool water as measured with a DPD (diethyl-p-phenylene diamine) test kit or as measured by another method approved by the department.

“Gravity outlet” means an outlet that directly connects to a tank or other structure that is at atmospheric pressure. Water flows through a gravity outlet by the natural head of water over the outlet.

“Hose bib” means a fresh-water outlet that is threaded to permit the attachment of a garden hose.

“Hydrostatic relief valve” means a relief valve installed in the bottom of the swimming pool and designed to operate automatically when the swimming pool is empty, relieving the groundwater pressure around the structure by allowing the groundwater into the swimming pool tank.

“Inlet” means a fitting or opening through which recirculation water enters the swimming pool.

“Leisure river” means a closed-path channel of near constant depth with a river-like flow of water. A leisure river

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may include water features and play devices. Leisure rivers are also called "lazy rivers" or "slow rivers."

"Lifeguard."

1. "Certified lifeguard" means an individual who holds current certification in one of the following courses and, where applicable, current additional certification in American Red Cross first aid and American Red Cross or American Heart Association infant, child and adult CPR; two-person CPR, or equivalent first-aid and CPR certification approved by the department:

- American Red Cross Lifeguard Training
- YMCA Lifeguarding
- Boy Scouts of America Lifeguard

2. "Licensed lifeguard" means an individual who holds a current license from the National Pool and Waterpark Lifeguard Training Program in one of the following programs:

- National Pool and Waterpark Pool Lifeguard
- National Pool and Waterpark Lifeguard Training
- National Pool and Waterpark Deep Water Lifeguard

NOTE: Lifeguard, CPR and first-aid training programs will sometimes be renamed or restructured by the sponsoring organization. American Red Cross lifeguard training now includes first aid and CPR; the lifeguard receives the lifeguard certificate and a CPR certificate. Separate CPR and first-aid training is available from the American Red Cross, the American Heart Association, and other providers. If there is a question whether a specific training course will meet the requirements of these rules, information about the course should be submitted to the department for evaluation.

"Main drain" means the outlet(s) at the deepest part of a swimming pool or spa.

"Manufacturer's specifications" means written guidelines established by a manufacturer for the installation and operation of the manufacturer's equipment.

"Multisection water recreation pool" means a swimming pool with three or more distinct use areas such as, but not limited to, a zero-depth play area, a water slide landing area, a lap swim area, and a diving area.

"Outlet" means a fitting or opening, including the main drain, through which water leaves the swimming pool or spa.

"Perimeter overflow gutter" means a weir and trough around the perimeter of a swimming pool that is used to skim the surface of the water and return the water to the treatment system.

"Plunge pool" means a pool designed to serve as a landing area for a water slide.

"Recirculation system" means the pump(s), piping, inlets, outlets, filtration system, chemical feed systems and accessories provided to convey and treat the swimming pool or spa water to meet the water quality standards in these rules.

"Reconstruction" means the replacement or modification of a swimming pool or spa shell or deck, a swimming pool or spa recirculation system, a perimeter overflow gutter or skimmer, or a bathhouse associated with a public swimming pool or spa. "Reconstruction" does not include the replacement of equipment or piping previously approved by the department, provided that the type and size of the equipment are not revised, nor does it include normal maintenance or repair.

"Residential swimming pool" means any swimming pool that is used, or intended to be used, in connection with a single-family residence and that is available only to the family of the householder and the householder's private guests. A residential swimming pool used for any commercial purpose including, but not limited to, swimming lessons or exercise classes, shall comply with the requirements of 15.4(6)"n." A

residential swimming pool used for commercial purposes for more than 60 hours in a calendar month shall be considered a public swimming pool.

"Shallow water" means those areas of a swimming pool where the water is 5 ft deep or less.

"Shallow water guard."

1. "Certified shallow water guard" means a person who has current certification in American Red Cross basic water rescue, current certification in American Red Cross first aid, and current certification in American Red Cross or American Heart Association infant, child and adult CPR, or equivalent training approved by the department.

2. "Licensed shallow water guard" means a person who holds a current license from the National Pool and Waterpark Lifeguard Training Program as a National Pool and Waterpark Shallow Water Waterpark Lifeguard.

NOTE: Water safety, CPR and first-aid training programs will sometimes be renamed or restructured by the sponsoring organization. If there is a question whether a specific training course will meet the requirements of these rules, information about the course should be submitted to the department for evaluation.

"Skimmer" means a manufactured device designed to be directly connected to the recirculation pump suction and used to skim the swimming pool over a self-adjusting weir.

"Spa" means a structure, chamber, or tank, such as a hot tub or whirlpool, that is designed for recreational or therapeutic use and is designed not to be drained, cleaned, and refilled after each individual use. A spa is designed to provide a means of agitation. A swimming pool with a bench equipped with agitation is not considered a spa provided that the bench length is no more than 10 percent of the swimming pool perimeter and that the water temperature is maintained at 90°F or less. Rules 15.51(135I) and 15.52(135I) define minimum standards for the operation and design of spas.

"Speed slide" means a water slide which is designed to enter users into a plunge pool or other deceleration arrangement at a speed of 30 ft per second or more.

"Spray pad" means a constructed area equipped with water sprays or other water play features where the water is intended to contact the users. A spray pad includes no standing water. A spray pad uses water that is recirculated independently or from an associated swimming pool. Spray pads are also called "wet decks," "splash pads," "interactive play attractions," "water recreation attractions," and other names.

A play area with sprays or other features that includes no standing water and that uses only potable water that is not circulated (the water drains to waste) is not included in this definition.

"Suction outlet" means an outlet that is directly connected to the inlet side of a circulation pump.

"Superchlorination" means the addition of a chlorine disinfectant compound to a swimming pool or spa to a concentration at least ten times the combined chlorine concentration before the addition. Treatment of swimming pool or spa water with nonchlorine chemicals to eliminate or suppress combined chlorine is not superchlorination.

"Swimming pool" means a structure, chamber, tank, or area constructed of man-made material through which water is circulated and that is designed and operated for recreation, training, or competition that includes full body contact with the water. This definition includes, but may not be limited to, swimming pools, wading pools, spray pads, leisure rivers, water slides, and wave pools. The swimming pool may be either publicly or privately owned. This definition includes, but is not limited to, swimming pools operated by cities,

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counties, public and private schools, hotels, motels, camps, apartments, condominiums, and health clubs and country clubs.

1. "Class A swimming pool" means a swimming pool with a water surface area of 1500 ft² or more, except for wading pools.

2. "Class B swimming pool" means a swimming pool with a water surface area of less than 1500 ft².

"Swimming pool slide" means any device used to enter a swimming pool by sliding down an inclined plane or through a tube. "Swimming pool slide" as used in this chapter is equipment generally similar to a playground slide. A swimming pool slide shall have a slide path of 20 ft or less in length and a water flow down the slide of 20 gpm or less. A slide exceeding either of these criteria shall be a water slide.

"Temporary spa" means a spa which is installed or situated in one location for a period of less than 30 days.

"Total bromine" means the concentration of hypobromous acid, hypobromite ion and nitrogen-bromine compounds in the swimming pool water as measured with a DPD (diethyl-p-phenylene diamine) test kit or as measured by another method approved by the department.

"Tri-chlor" means trichloro-s-triazinetrione. Tri-chlor is a form of chlorine that includes cyanuric acid in its formulation.

"Wading pool" means a swimming pool that is no more than 24 inches deep at any point and that is primarily intended for use by young children for general recreation or training.

"Water slide" means a recreational ride which is a sloped trough-like or tubular structure using water as a lubricant and as a method of regulating rider velocity and which terminates in a plunge pool, swimming pool, or in a specially designed deceleration structure. "Water slide" includes appurtenant structures and devices, such as a plunge pool, pump reservoir, recirculation equipment, flume pumps, and access structures, when they are provided.

"Wave pool" means a swimming pool of special shape and design which is provided with wave-generating equipment.

"Zero-depth pool" means a swimming pool in which the pool floor intersects the water surface along at least one side of the pool. This definition does not include wading pools.

15.3(2) Abbreviations.

"AFO" means aquatic facility operator.

"AGA" means American Gas Association, 400 N. Capitol Street, NW, Washington, DC 20001.

"ANSI" means American National Standards Institute, 25 West 43rd Street, New York, NY 10036.

"ASME" means American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.

"AWWA" means American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235.

"BTU" means British thermal unit.

"CPO" means certified swimming pool/spa operator.

"CPR" means cardiopulmonary resuscitation.

"feet" means feet of water (feet x 0.43 = psi) when used in discussing pump requirements.

"ft" means foot or feet (distance).

"ft²" means square foot or square feet.

"gal" means gallon(s).

"gpm" means gal per minute.

"in Hg" means inches of mercury (in Hg x 0.49 = psi).

"in²" means square inch(es).

"LAFT" means licensed aquatic facility technician.

"mg/L" means milligram(s) per liter.

"mV" means millivolts.

"NRPA" means National Recreation and Park Association, 22377 Belmont Ridge Road, Ashburn, VA 20148.

"NSF" means NSF International (formerly National Sanitation Foundation), 789 N. Dixboro Road, P.O. Box 130140, Ann Arbor, MI 48113-0140.

"NSPF" means National Swimming Pool Foundation, 224 E. Cheyenne Mountain Blvd., Colorado Springs, CO 80906.

"NSPI" means the National Spa & Pool Institute, 2111 Eisenhower Avenue, Alexandria, VA 22314.

"ORP" means oxidation-reduction potential.

"ppm" means parts per million; mg/L and ppm are equivalent terms.

"PPSO" means professional pool and spa operator.

"psi" means pounds per square inch.

"sec" means second (time).

"Standard 50" means NSF/ANSI Standard 50, "Circulation System Components for Swimming Pools, Spas, or Hot Tubs."

"TDH" means total dynamic head.

"UL" means Underwriters Laboratories, 333 Pfingsten Road, Northbrook, IL 60062-2096.

641—15.4(135I) Swimming pool operations. Swimming pools shall be operated in a safe, sanitary manner and shall meet the following operational standards.

15.4(1) Filtration and recirculation.

a. Filtration. A swimming pool, except a fill and drain wading pool, shall have a filtration system in good working condition which provides water clarity in compliance with the water quality standards of 15.4(2).

b. Recirculation. The recirculation system of a swimming pool shall meet the following requirements:

(1) During the operating season, pumps, filters, disinfectant feeders, flow indicators, gauges, and all related components of the swimming pool water recirculation system shall be operated continuously except for backwashing or servicing.

(2) The recirculation system shall have an operating pressure gauge located in front of the filter if it is a pressure filter system. A vacuum filter system shall have a vacuum gauge located between the filter and the pump.

(3) The recirculation system shall have inlets adequate in design, number, location, and spacing to ensure effective distribution of treated water and maintenance of uniform disinfectant residual throughout the swimming pool.

(4) Swimming pools shall have a means for skimming the pool water surface.

1. Each skimmer shall have an easily removable basket or screen upstream from any valve. Self-adjusting weirs shall be in place to provide skimming action.

2. Gutter or skimmer drainage shall be sufficient to minimize flooding and prevent backflow of skimmed water into the swimming pool.

c. Wastewater. Backwash water from a swimming pool shall be discharged through an air break or an air gap.

d. Water supply. The water supplied to a swimming pool shall be from a water supply meeting the requirements of the department of natural resources for potable water.

(1) Water supplied to a swimming pool shall be discharged to the pool system through an air gap or a reduced-pressure principle backflow device meeting AWWA C-511-97, "Reduced-Pressure Principle Backflow-Prevention Assembly."

(2) Each hose bib at a swimming pool facility shall be equipped with an atmospheric vacuum breaker or a hose connection backflow preventer.

e. Swimming pool water heaters.

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- (1) Electric water heaters shall bear the seal of UL.
- (2) Gas-fired water heaters shall bear the seal of the AGA and shall be equipped with a pressure relief valve.
- (3) Fuel-burning water heaters shall be vented to the outside in accordance with the Iowa state plumbing code.
- (4) Each indoor swimming pool equipment room with fuel-burning water heating equipment shall have one or more openings to the outside of the room for the provision of combustion air.
- f. Fill and drain wading pools. Each fill and drain wading pool shall be drained at least once every 12 hours and left empty when the pool is not open for use.

15.4(2) Water quality and testing.

a. Disinfection.

- (1) Swimming pool water shall have a free chlorine residual of at least 1.0 ppm and no greater than 8.0 ppm, or a total bromine residual of at least 2.0 ppm and no greater than 18 ppm when the swimming pool is open for use, except as given in Table 1.

Table 1

Preferred Operating Range			Acceptable Operating Range		
ORP (mV)	Free Cl (ppm)	Total Br (ppm)	ORP (mV)	Free Cl (ppm)	Total Br (ppm)
700-880	1.0-8.0	2.0-18.0	700-880	0.50-0.90	1.0-2.0
			650-700 [#]	1.0-8.0	2.0-18.0
			650-700 [†]	8.2-10.0	18.5-22.0

[#] If these conditions occur on any 5 consecutive days or on any 10 days within a 14-day period, the facility management shall evaluate water parameters including, but not limited to, cyanuric acid, pH, combined chlorine, and phosphates (ortho- and total); and other conditions at the swimming pool. The facility management shall modify parameters and conditions as practical to bring the ORP to a minimum of 700 mV. The evaluation shall be completed within 30 days after the low ORP condition is known to the facility management. A written report of the evaluation shall be kept with the pool records.

[†] If these conditions occur on any 3 consecutive days or on any 7 days within a 14-day period, the facility management shall notify the inspection agency and shall cause the conditions at the swimming pool specified in the previous footnote and the function of the ORP equipment to be investigated by a professional pool service company. A written report detailing source water parameters, pool water parameters, pool design (including information about the installed mechanical and chemical equipment), other conditions affecting the disinfectant concentration and the ORP, and the actions taken to increase ORP relative to the disinfectant residual shall be submitted to the inspection agency within 30 days after the low ORP condition is known to the facility management.

- b. pH level. The pH of swimming pool water shall be 7.2 to 7.8.

c. Water clarity. A swimming pool that is less than 8 ft deep shall be closed if the grate openings on the main drain are not clearly visible from the deck. A swimming pool that is 8 ft deep or deeper shall be closed if the main drain is not clearly visible from the deck.

d. Bacteria detection.

(1) If coliform bacteria are detected in a sample taken in accordance with 15.4(2)“e”(6), the swimming pool shall be superchlorinated and a check sample shall be taken when the disinfectant residual is within the requirements of paragraph “a” above. If coliform bacteria are detected in the check sample, the swimming pool shall be closed. The swimming pool may reopen when no coliform bacteria are detected in a swimming pool water sample taken when the pool water meets the requirements of paragraphs “a,” “b” and “c” above.

(2) The facility management shall notify the inspection agency having jurisdiction of the positive bacteriological result within one business day after the facility management has become aware of the result.

- e. Test frequency. The results of the tests required below shall be recorded in the swimming pool records.

(2) The swimming pool shall be closed if the free chlorine is measured to be less than 0.6 ppm or the total bromine is measured to be less than 1.0 ppm.

(3) The swimming pool shall be closed if a free chlorine measurement exceeds 8.0 ppm or if the total bromine measurement exceeds 18 ppm except as given in Table 1.

(4) If an ORP controller with a readout meeting the requirements of 15.4(2)“f”(4) is installed on the swimming pool system, the swimming pool water shall have an ORP of at least 700 mV, but no greater than 880 mV, except as given in Table 1. The swimming pool shall be closed if the ORP is less than 650 mV or greater than 880 mV.

(5) The swimming pool shall be closed if the cyanuric acid concentration in the swimming pool water exceeds 80 ppm. The swimming pool may be reopened when the cyanuric acid concentration is 40 ppm or less.

(6) No cyanuric acid shall be added to an indoor swimming pool after [insert effective date of these rules], except through an existing chemical feed system designed to deliver di-chlor or tri-chlor. No cyanuric acid in any form shall be added to an indoor swimming pool after May 31, 2008.

(1) The disinfectant residual in the swimming pool water shall be tested or the ORP of the swimming pool water shall be checked each day within one-half hour of the swimming pool opening time and at intervals not to exceed four hours thereafter until the swimming pool closing time. For swimming pools at condominiums, apartments or homeowners associations with 25 or fewer living units, testing must be performed at least once each day that the swimming pool is available for use.

If the swimming pool is equipped with an automatic controller with a readout or local printout of ORP meeting the requirements of 15.4(2)“f”(4), the operator may make visual readings of ORP in lieu of manual testing, but the swimming pool water shall be tested manually for disinfectant residual at least twice per day. Both ORP and disinfectant residual shall be recorded when manual testing is done. The operator shall specify in the swimming pool records which results are from the manual tests.

(2) The pH of the swimming pool water shall be tested each day within one-half hour of the swimming pool opening time and at intervals not to exceed four hours thereafter until the swimming pool closing time. For swimming pools at condominiums, apartments or homeowners associations with 25 or fewer living units, testing for pH must be per-

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formed at least once each day that the swimming pool is available for use.

If the swimming pool is equipped with an automatic controller with a readout or local printout of pH meeting the requirements of 15.4(2)“f”(5), the operator may make visual readings of pH in lieu of manual testing, but the swimming pool water shall be tested manually for pH at least twice per day. The operator shall specify in the swimming pool records which results are from the manual tests.

(3) The swimming pool water shall be tested for total alkalinity at least once in each week that the swimming pool is open for use. The swimming pool shall be tested for calcium hardness at least once in each month that the swimming pool is open for use.

(4) If a chlorine chemical is used for disinfection, the swimming pool water shall be tested for combined chlorine at least once in each week that the swimming pool is open for use.

(5) If cyanuric acid or a stabilized chlorine is used at a swimming pool, the swimming pool water shall be tested for cyanuric acid at least once in each week that the swimming pool is open for use.

(6) At least once in each month that a swimming pool is open for use, the facility management shall submit a sample of the swimming pool water to a laboratory certified by the department of natural resources for the determination of coliform bacteria in drinking water. The sample shall be analyzed for total coliform.

f. Test equipment.

(1) Each swimming pool facility shall have functional water testing equipment for free chlorine and combined chlorine, or total bromine; pH; total alkalinity; calcium hardness; and cyanuric acid (if cyanuric acid or a stabilized chlorine is used at the facility).

(2) The test equipment shall provide for the direct measurement of free chlorine and combined chlorine from 0 to 10 ppm in increments of 0.2 ppm or less over the full range, or total bromine from 0 to 20 ppm in increments of 0.5 ppm or less over the full range.

(3) The test equipment shall provide for the measurement of swimming pool water pH from 7.0 to 8.0 with at least five increments in that range.

(4) A controller readout used in lieu of manual disinfectant residual testing shall be a numerical analog or digital display (indicator lights are not acceptable) with an ORP scale with a range of at least 600 to 900 mV with increments of 20 mV or less.

(5) A controller readout used in lieu of manual pH testing shall be a numerical analog or digital display (indicator lights are not acceptable) with a pH range at least equal to the range required in 15.4(2)“f”(3) with increments of 0.2 or less over the full range.

g. Operator availability. A person knowledgeable in testing water and in operating the water treatment equipment shall be available whenever a swimming pool is open for use.

15.4(3) Chemical feed equipment and cleaning.

a. Chemical feed equipment.

(1) Equipment for continuous feed of chlorine, a chlorine compound or a bromine compound to the swimming pool water shall be provided and shall be operational. The equipment shall be adjustable in at least five increments over its feed capacity. Where applicable, the chemical feeder shall be listed by NSF or another listing agency approved by the department for compliance with Standard 50.

(2) Equipment for the continuous feed of a chemical for pH adjustment of the swimming pool water shall be provided and shall be operational for each Class A swimming pool and

for each swimming pool constructed after July 1, 1998. Where applicable, the chemical feeder shall be listed by NSF or another listing agency approved by the department for compliance with Standard 50.

b. Cleaning.

(1) The inspection agency (the department or a contracting board of health) may require that a swimming pool be drained and scrubbed with a disinfecting agent prior to further usage.

(2) A vacuum system shall be provided to remove dirt from the bottom of the swimming pool.

15.4(4) Safety.

a. Chemical safety.

(1) No disinfectant chemical, pH control chemical, algaeicide, shock treatment chemical, or any other chemical that is toxic or irritating to humans may be added to the swimming pool water from the deck of the swimming pool while the swimming pool is in use. When chemical additions are made from the deck, the swimming pool shall be closed from use for at least one-half hour. The operator shall test the swimming pool water as appropriate before allowing use of the swimming pool. The chemical addition and the test results shall be recorded in the swimming pool records.

(2) Swimming pool treatment chemicals shall be stored and handled in accordance with the manufacturer's recommendations.

(3) Material safety data sheets (MSDS) for the chemicals used at the pool shall be at the facility in a location known and readily accessible to the facility staff.

(4) Chemical storage containers shall be clearly labeled.

(5) A chemical hazard warning sign shall be placed at the entrance of a room where chemicals are used or stored, or where bulk containers are located.

b. Stairs, ladders, recessed steps, and ramps.

(1) Ladders or recessed steps shall be provided in the deep portion of a swimming pool. Stairs, ladders, recessed steps, or ramps shall be provided in the shallow portion if the vertical distance from the bottom of the swimming pool to the deck is more than 2 ft.

(2) Ladders, ladder rungs and ramps shall be securely anchored.

(3) The distance between the swimming pool wall to the vertical rail of a ladder shall be no greater than 6 inches and no less than 3 inches. The lower end of each ladder rail shall be securely covered with a smooth nonmetallic cap. The lower end of each ladder rail shall be within 1 inch of the swimming pool wall.

(4) Stairs, ladder rungs, ramps and recessed steps shall be slip-resistant.

(5) If a swimming pool is over 30 ft wide, recessed steps, ladders, ramps, or stairs shall be installed on each side. If a stairway centered on the shallow end wall of the swimming pool is within 30 ft of each side of the swimming pool, that end of the swimming pool shall be considered in compliance with this subparagraph.

(6) Each set of recessed steps shall be equipped with a securely anchored grab rail on each side of the recessed steps.

(7) Each set of stairs and each ramp shall be equipped with a securely anchored handrail(s).

(8) When stairs are provided for entry into a swimming pool, a stripe at least 1 inch wide of a color contrasting with the step surface and with the swimming pool floor shall be marked at the top front edge of each tread. The stripe shall be slip-resistant.

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c. Diving areas.

(1) No diving shall be permitted in areas where the water is 5 ft deep or less except for purposes of competition or training. The diving shall be supervised by a lifeguard, swim instructor or swim coach.

(2) Starting blocks shall only be used for competition or training purposes under the supervision of a lifeguard, swim instructor, or swim coach. Starting blocks and starting block installation shall meet the requirements of the competition governing body (National Collegiate Athletic Association, USA Swimming, or National Federation of State High School Associations). When the swimming pool is open for general use, the starting blocks shall be secured from use by removal, covering, or signage and active supervision.

(3) Diving boards shall be permitted only if the diving area dimensions conform to the minimum requirements indicated in Figure 1, Table 2 and Table 3. Alternative diving well configurations may be used, subject to the approval of the department.

(4) There shall be a completely unobstructed clear distance of 13 ft above the diving board, measured from the center of the front end of the board. This area shall extend at least 8 ft behind, 8 ft to each side, and 16 ft ahead of the measuring point.

(5) Diving boards and platforms over 3 meters in height are prohibited except where approved by the department.

(6) Diving boards and platforms shall have a slip-resistant surface.

(7) Where the top of a diving board or platform is more than 18 inches above the deck, stairs or a ladder shall be provided for access to the diving board or platform.

(8) Handrails shall be provided at all steps and ladders leading to diving boards which are more than 32 inches above the deck.

(9) A platform or diving board that is 32 inches or more above the swimming pool deck shall have a guardrail on both sides. The guardrails shall be at least 36 inches high and shall extend to the edge of the deck. The guardrails shall have at least one horizontal mid-bar.

(10) Supports, platforms, and steps for diving boards shall be of substantial construction and of sufficient structural strength to safely carry the maximum anticipated load.

NOTE: The information contained in Figure 1 and Tables 2 and 3 is for swimming pools constructed prior to March 14, 1990. Swimming pools constructed after March 14, 1990, shall meet the requirements contained in 15.5(13)“a.”

When determining distances set out in Tables 2 and 3, measurements shall be taken from the top center of the front edge of the diving board. The reference water level shall be the midpoint of the skimmer opening for a skimmer pool or a stainless steel gutter system with surge weirs. The reference water level for a gutter pool shall be the top of the gutter weir.

Figure 1

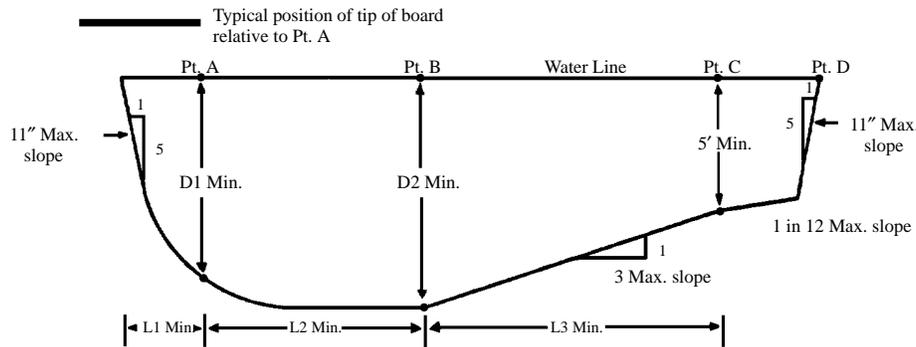


Table 2

Diving Board Height Above Water	Maximum Diving Board Length	Minimum Dimensions				
		D1	D2	L1	L2	L3
Deck level to 2/3 meter	10 ft	7 ft	8.5 ft	2.5 ft	8 ft	10.5 ft
Greater than 2/3 meter to 3/4 meter	12 ft	7.5 ft	9 ft	3 ft	9 ft	12 ft
Greater than 3/4 meter to 1 meter	16 ft	8.5 ft	10 ft	4 ft	10 ft	15 ft
Greater than 1 meter to 3 meters	16 ft	11 ft	12 ft	6 ft	10.5 ft	21 ft

Table 3

Diving Board Height Above Water	Minimum Distance		
	To Pool Side	To 1-Meter Diving Board	To 3-Meter Diving Board
Deck level to 1 meter	9 ft	8 ft	10 ft
Greater than 1 meter	11 ft	10 ft	10 ft

d. Lifeguards and shallow water guards.

(1) Except for wading pools and spray pads, lifeguards are required at municipal and school swimming pools of any

size and other swimming pools having a water surface area of 1500 ft² or larger. Swimming pools operated by apartments, condominiums, country clubs, neighborhoods, or mobile home parks are exempt from lifeguard requirements.

(2) Shallow water guards may be used at plunge pools which are 5 ft deep or less and at wading pools.

(3) For open recreation swimming, there shall be at least one lifeguard guarding the pool at all times for up to 30 swimmers in the water; for over 30 swimmers in the water, there shall be at least two lifeguards on duty, one of whom

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shall be guarding the pool at all times for up to 125 swimmers in the water. An additional lifeguard shall be provided for each additional 125 swimmers in the water or fraction thereof.

NOTE: The department recognizes that this standard will not provide adequate lifeguard coverage for the majority of facilities. It is the responsibility of the management of each swimming pool facility to evaluate the facility configuration, the features of the facility, including water slides, spray pads, play features, etc., the patrons, and the type of use, and to determine the facility-specific requirements for supervision by lifeguards.

(4) For a structured swimming program, such as lap swim, competitive swimming, water exercise classes, swim lessons and physical education classes, a lifeguard is not required provided the program is supervised by an instructor, teacher, or coach who is a lifeguard or who has current certification from the American Red Cross in basic water rescue, first aid, and infant, child and adult CPR, or equivalent training approved by the department. An instructor, teacher or coach may be responsible for a maximum of 30 persons within a structured activity. If more than 30 persons are involved in a structured activity, a second qualified supervisor must be present.

(5) Water slide attendants. Each water slide shall have a minimum of two attendants, one stationed at the top of the slide and one at the bottom of the slide. If the plunge pool is shallow, the water slide attendants shall be either lifeguards or shallow water guards. If the plunge pool includes deep water, the water slide attendants shall be lifeguards. Where the water slide attendant stationed at the bottom of a slide which empties into a swimming pool is a shallow water guard, the attendant shall only be responsible for guarding the water slide landing area.

The department may approve alternate water slide management based on a review of the slide and swimming pool configuration. Alternate water slide management plans shall be in writing and shall be at the swimming pool facility during the operating season.

If two or three water slides start at the same platform and the distance between the centerlines of any two start structures is 10 ft or less, one attendant may supervise the slides. If two or three water slides terminate within the same landing area, one attendant may supervise the landing area.

e. Lifeguard chairs. For outdoor swimming pools where lifeguards are required by rule, at least one elevated lifeguard chair or station shall be provided for a swimming pool with a water surface area of 2000 to 4000 ft² inclusive; at least two chairs shall be provided if the area is 4001 to 6000 ft²; and at least three chairs shall be provided if the area is 6001 ft² or more. Swimming pools are not required to have more than three lifeguard chairs or stations. This requirement does not apply to wave pools, leisure rivers, spray pads, or wading pools.

f. Emergency equipment and facilities.

(1) Except for wading pools, a minimum of one unit of lifesaving equipment shall be provided for each 1500 ft² of water surface area or fraction thereof. The area of a swimming pool where the water is 2 ft deep or less may be subtracted from the total area for this requirement. A swimming pool is not required to have more than ten units of lifesaving equipment.

(2) A unit of lifesaving equipment consists of one of the following:

1. A U.S. Coast Guard-recognized ring buoy fitted with a 1/4-inch diameter line with a length of at least one-half the width of the pool, but no more than 60 ft; or

2. A life pole, or a "shepherd's crook" of at least 8 ft in length, and having blunted ends; or

3. A rescue buoy made of lightweight, hard, buoyant plastic with molded hand grips along each side and provided with a 4- to 6-ft tow rope and shoulder strap; or

4. A rescue tube made of a soft, strong foam material 3 inches by 6 inches by 40 inches with a molded strap providing a ring at one end and a hook at the other. Attached to the end with the ring shall be a 6-ft-long towline with a shoulder strap; or

5. Any other piece of rescue equipment approved by the department.

NOTE: Rescue equipment identified in 15.4(4)"F"(2)"3" and 15.4(4)"F"(2)"4" above shall be used only at swimming pools where lifeguards are employed. If a swimming pool facility employs lifeguards (whether required by rule or not), the lifeguards shall be provided with the minimum equipment required by their training including, but not necessarily limited to, rescue tubes and personal CPR masks.

(3) Lifesaving equipment shall be mounted in conspicuous places around the swimming pool deck during normal operations.

(4) A swimming pool facility shall have a first-aid kit which contains, at a minimum, the following:

1. Band-Aids.
2. Sterile 4" x 4" bandage compress.
3. Self-adhering gauze bandage.
4. Disposable gloves.
5. Chemical cold compress.

Where lifeguards are not provided, the first-aid kit shall be prominently mounted in the swimming pool enclosure, or a sign stating its location shall be posted near the swimming pool. The first-aid kit shall be accessible when the swimming pool is open.

(5) A standard spine board with straps and a head immobilizer shall be provided at each swimming pool where lifeguards are required by rule.

(6) Except for wading pools and spray pads, each swimming pool where lifeguards are not provided shall have a designated emergency telephone or equivalent emergency communication system that can be operated without coins. The communication system shall be available to users of swimming pools when the swimming pool is open. When the telephone is not within the confines of the swimming pool enclosure, the location of the emergency telephone shall be posted in at least one conspicuous place within the swimming pool enclosure. Instructions for emergency use of the telephone shall be posted near the telephone.

At each swimming pool where lifeguards are employed, a telephone shall be available to the swimming pool staff for emergency purposes.

g. Water level. Water level in swimming pools shall be maintained at the skimming level.

h. Main drains. Each outlet, including the main drain(s), shall be designed to prevent user entrapment. A swimming pool shall be closed if a main drain cover is missing or broken.

(1) Each drain shall have a cover with openings or slots no more than 1/2-inch wide.

(2) Drain covers shall not be removable without the use of tools.

(3) Each main drain shall be covered with a grate with a minimum area equal to a 12-inch by 12-inch square or with

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an antivortex cover or another drain cover approved by the department.

i. Surface finish and float lines.

(1) The bottom and sides of a swimming pool shall be white or a light color. This does not prohibit painting or marking racing lines, stairs or turn targets with contrasting colors.

(2) The swimming pool walls and floor shall have a smooth surface to facilitate cleaning.

(3) The boundary between shallow and deep water (5 ft) shall be marked by a float line with floats spaced no more than 5 ft apart. The float line shall be installed on the shallow side of the boundary within 12 inches of the boundary. When the slope of the floor of a swimming pool exceeds 1 ft vertical to 12 ft horizontal at a depth of less than 5 ft, the float line shall be placed on the shallow side of the slope change within 12 inches of the slope change in lieu of a float line at the 5 ft depth.

(4) A wave pool shall be equipped with a float line with floats spaced no more than 5 ft apart. The float line shall be located at least 6 ft from the deep-end wall. Users shall not be permitted between the float line and the deep-end wall.

(5) The landing area for a swimming pool slide or a water slide that terminates in a swimming pool shall be delineated by a float line or as approved by the department.

A float line is not required when the landing area is in deep water provided the distance between the slide and any diving board(s) meets the requirements for diving board spacing. The distance between the side of the slide at the slide's terminus and the swimming pool wall shall be in accordance with the manufacturer's recommendations, but shall be at least 8 ft.

A float line is not required for a slide that is designed for toddlers and young children and that terminates in water that is 2 ft deep or less. The landing area shall be designated by a brightly colored pad securely fastened to the floor of the swimming pool or by painting the floor at the end of the slide.

j. Depth marking.

(1) Depth markers shall be painted or otherwise marked on the deck within 3 ft of the edge of the swimming pool. The depth of a wave pool shall also be marked on the side walls of the wave pool, above the maximum static water level, where the depth is 3 ft or more, and on the deep-end wall of the wave pool. Depth markers are not required at the zero-depth end of a wading pool, wave pool, or a zero-depth swimming pool. Depth markers are not required at a plunge pool on the flume discharge end or on the exit end if stairs are used for exit.

(2) Depth markers shall be located at 1-ft depth intervals, but not more than 25 ft apart measured between the centers of the depth markers around the area of a swimming pool which has a water depth of 5 ft or less.

(3) Depth markers shall be located not more than 25 ft apart measured between the centers of the depth markers around the deep end of the swimming pool. The words "Deep Water" may be used in place of numerals.

(4) In lieu of subparagraph (2) above, the maximum depth of a wading pool may be posted at each entrance to a wading pool enclosure and at one conspicuous location inside the wading pool enclosure in letters or numbers at least 3 inches high.

(5) The depth of a leisure river shall be posted at the entrance(s) to the leisure river in characters at least 3 inches high. The depth of the leisure river shall be marked on the side wall of the leisure river above the static water level at intervals not to exceed 50 ft on center. The depth of the leisure river shall be marked on the deck in the areas where users are

permitted. The depth markers shall be within 3 ft of the edge of the leisure river at intervals not to exceed 25 ft on center. The depth markers at a leisure river constructed before [insert effective date of these rules] are not required to be changed until the deck or channel structure is replaced or repaired.

(6) "No Diving" or equivalent wording or graphics shall be marked on the swimming pool deck within 3 ft of the edge of the swimming pool where the water is shallow and at other pool areas determined by management. The markers shall be 25 ft apart or less, center to center, around the perimeter of the area. This marking is not required for wading pools or at the zero-depth end of a wave pool or of a zero-depth swimming pool. "No Diving" or equivalent wording or graphics shall be marked on the deck of a leisure river in areas where users are permitted. The "No Diving" markers shall be within 3 ft of the edge of the leisure river at intervals not to exceed 25 ft on center. The "No Diving" markers at a leisure river constructed before [insert effective date of these rules] are not required to be changed until the deck or channel structure is replaced or repaired.

(7) Letters, numbers, and graphics marked on the deck shall be slip-resistant, of a color contrasting with the deck and at least 4 inches in height.

k. Deck safety.

(1) Decks shall be maintained slip-resistant, and free of litter, obstructions and tripping hazards.

(2) Glass objects, other than eyeglasses and safety glass doors and partitions, shall not be permitted on the deck.

(3) There shall be no underwater or overhead projections or obstructions which would endanger swimmer safety or interfere with proper swimming pool operation.

l. Fencing.

(1) Except for a fill and drain wading pool, a circulated wading pool that is drained when not in use, or a spray pad, a swimming pool shall be enclosed by a fence, wall, building, or combination thereof not less than 4 ft high. The enclosure shall be constructed of durable materials.

(2) A fence, wall, or other means of enclosure shall have no openings that would allow the passage of a 4-inch sphere, and shall not be easily climbable by toddlers. The distance between the ground and the top of the lowest horizontal support accessible from outside the facility, or between the two lowest horizontal supports accessible from outside the facility, shall be at least 45 inches. A horizontal support is considered accessible if it is on the exterior of the fence relative to the swimming pool, or if the gap between the vertical members of the fence is greater than 1¾ inches.

(3) At least one gate or door with an opening of at least 36 inches in width shall be provided for emergency purposes. When closed, gates and doors shall comply with the requirements of (2) above. Except where lifeguard or structured program supervision is provided whenever the swimming pool is open, gates and doors shall be self-closing and self-latching.

(4) If a wading pool is within 50 ft of a swimming pool, the wading pool shall have a barrier at least 36 inches high separating it from the swimming pool. A barrier installed after [insert effective date of these rules] shall have no openings that would allow the passage of a 4-inch sphere. The barrier shall have at least one 36-inch-wide gate or door. Gates and doors shall be lockable. Except where lifeguard supervision is provided, gates and doors shall be self-closing and self-latching.

The department may approve alternate management of the area between the wading pool and swimming pool at a facility where lifeguards are provided whenever the pools are

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open. The alternate management plan shall be in writing and shall be at the facility when the pools are open.

(5) An indoor swimming pool shall be enclosed by a barrier at least 3 ft high if there are sleeping rooms, hallways, apartments, condominiums, or permanent recreation areas which are used by children and which open directly into the swimming pool area. No opening in the barrier shall permit the passage of a 4-inch sphere. There shall be at least one 36-inch-wide gate or door through the barrier. Gates and doors shall be lockable. Except where lifeguard supervision is provided whenever the pool is open, gates or doors shall be self-closing and self-latching.

(6) A wave pool shall have a continuous barrier along the full length of each side of the wave pool. The barrier shall be at least 42 inches high and be installed no more than 3 ft from the side of the wave pool. Wave pool users shall not be permitted in this area.

m. Electrical.

(1) Electrical outlets. Each electrical outlet in the deck, shower room, and pool water treatment equipment areas shall be equipped with a properly installed ground fault circuit interrupter (GFCI) at the outlet or at the breaker serving the outlet. Electrical outlets energized through an ORP/pH controller are not required to have a separate GFCI if the controller is equipped with a GFCI or is energized through a GFCI breaker. GFCI receptacles and breakers shall be tested at least once in each month that the swimming pool is in operation. Testing dates and results shall be recorded in the pool records.

(2) Lighting.

1. Artificial lighting shall be provided at a swimming pool which is to be used at night or which does not have adequate natural lighting so that all portions of the swimming pool, including the bottom and main drain, may be clearly seen.

2. Underwater lights and fixtures shall be designed for their intended use. When the underwater lights operate at more than 15 volts, the underwater light circuit shall be equipped with a GFCI. When an underwater light needs to be repaired, the electricity shall be shut off until repairs are completed.

3. For outdoor swimming pools, no electrical wiring, except for overhead illumination, shall extend over a swimming pool.

n. Chlorine gas and carbon dioxide.

(1) Chlorine gas feed equipment and full and empty chlorine cylinders shall be housed in a room or building used exclusively for that purpose during the pool operation season. Chlorine gas installations constructed prior to March 14, 1990, that are housed within chain-link fence or similar enclosure may be used provided that the chlorine cylinders are protected from direct sunlight and the applicable requirements below are met.

1. A chlorine gas room or building shall have an airtight exhaust system which takes its suction near the floor and discharges out of doors in a direction to minimize the exposure to swimming pool patrons. The system shall provide one air change every four minutes.

2. An air intake shall be provided near the ceiling.

3. The exhaust fan shall be operated from a switch in a nearby location outside the chlorine room or building. The switch shall be clearly labeled "Chlorine Exhaust Fan."

4. The discharge from the exhaust system shall be outside the pool enclosure.

5. Artificial lighting shall be provided in the chlorine room or building.

6. The door of a chlorine room or building shall be secured in an open position whenever the room is occupied.

7. A plastic bottle of commercial strength ammonia solution for leak detection shall be provided.

8. Rooms or buildings where chlorine is stored or used shall be placarded in accordance with 875—Chapter 140, Iowa Administrative Code.

(2) Chlorine and carbon dioxide (CO₂) cylinders.

1. Chlorine gas and CO₂ cylinders shall be individually anchored with safety chains or straps.

2. Storage space shall be provided so that chlorine cylinders are not subject to direct sunlight.

3. The chlorinator shall be designed to prevent the backflow of water or moisture into the chlorine gas cylinder.

4. An automatic shutoff shall be provided to shut off the gas chlorinator and the pH control chemical pump when the recirculation pump stops.

o. Water slides.

(1) Water slide support structures shall be free of obvious structural defects.

(2) The internal surface of a flume shall be smooth and continuous for its entire length.

(3) The flume shall have no sharp edges within reach of a user while the user is in the proper sliding position.

15.4(5) Showers, dressing rooms, and sanitary facilities. Swimming pool users shall have access to showers, dressing rooms, and sanitary facilities that are clean and free of debris. If a bathroom is provided, the following shall be met:

a. Floors shall have a slip-resistant surface.

b. Floors shall provide adequate drainage to prevent standing water.

c. Olefin or other approved carpeting may be used in locker room or dressing room areas provided there is an adequate drip area between the carpeting and the shower room, toilet facilities, swimming pool, or other area where water can accumulate.

d. All lavatories, showers, and sanitary facilities shall be functional.

e. Soap shall be available at each lavatory and at each indoor shower fixture.

15.4(6) Management, notifications, and records.

a. Certified operator required. Each swimming pool facility shall employ a certified operator. One certified operator may be responsible for a maximum of three swimming pool/spa facilities. Condominium associations, apartments and homeowners associations with 25 or fewer living units are exempt from this requirement.

b. Pool rules sign. A legible pool rules sign shall be posted conspicuously at a minimum of two locations within the swimming pool enclosure. The sign shall include the following stipulations:

(1) No diving in the shallow end of the swimming pool and in other areas marked "No Diving."

(2) No rough play in or around the swimming pool.

(3) No running on the deck.

c. Other rules. Management may adopt and post such other rules as it deems necessary to provide for user safety and the proper operation of the facility.

d. "No Lifeguard" signs. A sign shall be posted at each entry to a swimming pool or a wading pool where lifeguards are not provided whenever the pool is open.

(1) The sign(s) at a swimming pool shall state that lifeguards are not on duty and children under the age of 12 must be accompanied by an adult.

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(2) The sign(s) at a wading pool shall state that lifeguards are not on duty and children must be accompanied by an adult.

e. Water slide rules. Rules and restrictions for the use of a water slide shall be posted near the slide. The rules shall address the following as applicable:

- (1) Use limits.
- (2) Attire.
- (3) Riding restrictions.
- (4) Water depth at exit.
- (5) Special rules to accommodate unique aspects of the attraction.
- (6) Special warnings about the relative degree of difficulty.

f. Operational records. The operator of a swimming pool shall have the swimming pool operational records for the previous 12 months at the swimming pool facility and shall make these records available when requested by a swimming pool inspector. These records shall contain a day-by-day account of swimming pool operation, including:

- (1) ORP and pH readings, results of pH, free chlorine or total bromine residual, cyanuric acid, total alkalinity, combined chlorine, and calcium hardness tests, and any other chemical test results.
- (2) Results of microbiological analyses.
- (3) Reports of complaints, accidents, injuries, and illness.
- (4) Dates and quantities of chemical additions, including resupply of chemical feed systems.
- (5) Dates when filters were backwashed or cleaned or when a filter cartridge was changed.
- (6) Monthly ground fault circuit interrupter test results.
- (7) Dates of review of material safety data sheets.

g. Submission of records. The inspection agency (the department or a contracting board of health) may require a swimming pool facility operator to submit to the inspection agency on a monthly basis a copy of the records of the ORP and pH readings, chemical test results and microbiological analyses. The inspection agency shall notify the facility management of this requirement in writing at least 15 days before the reports are to be submitted for the first time. The facility operator shall submit the required reports to the inspection agency within 10 days after the end of each month of operation.

h. Certificates. Copies of certified operator certificates, and copies of lifeguard, first-aid, basic water rescue, and CPR certificates for the facility staff shall be kept at the facility.

i. Operations manual. A permanent manual for the operation of the swimming pool shall be kept at the facility. The manual shall include instructions for routine operations at the swimming pool including, but not necessarily limited to:

- (1) Water testing procedures, including the required frequency of testing.
- (2) Maintaining the chemical supply for the chemical feed systems.
- (3) Filter backwash or cleaning.
- (4) Vacuuming and cleaning the swimming pool.
- (5) Superchlorination.
- (6) Controller sensor maintenance, where applicable.

j. Schematic drawing. A schematic drawing of the pool recirculation system shall be posted in the swimming pool filter room or shall be in the operations manual. Clear labeling of the swimming pool piping with flow direction and water status (unfiltered, treated, backwash) may be substituted for the schematic drawing.

k. Material safety data sheets. Copies of material safety data sheets (MSDS) of the chemicals used at the swimming pool shall be kept at the facility in a location known and readily accessible to facility staff with chemical-handling responsibilities. Each member of the facility staff with chemical-handling responsibilities shall review the MSDS at least annually. The facility management shall retain records of the MSDS reviews at the facility and shall make the records available upon request by a swimming pool inspector.

l. Emergency plan. A written emergency plan shall be provided. The plan shall include, but may not be limited to, actions to be taken in cases of drowning, serious illness or injury, chemical-handling accidents, weather emergencies, and other serious incidents. The emergency plan shall be reviewed with the facility staff at least once a year, and the dates of review or training shall be recorded in the pool records.

m. Lifeguard staffing plan. The lifeguard/program staffing plan for the facility shall be available to the swimming pool inspector at the facility. The plan shall include staffing assignments for all programs conducted at the pool.

n. Residential swimming pools used for commercial purposes. A residential swimming pool that is used for commercial purposes shall be subject to the following requirements:

(1) The owner of a residential swimming pool that is used for commercial purposes shall register the swimming pool with the department in accordance with 15.9(135I), except that no registration fee is required.

(2) The recirculation system of the swimming pool shall be operating whenever the swimming pool is used for commercial purposes.

(3) The owner or the owner's representative shall test the swimming pool water for the free chlorine or the total bromine residual prior to and after each commercial use of the swimming pool. The owner or the owner's representative shall test the swimming pool water for pH and cyanuric acid (if applicable) at least once in each day that the swimming pool is used for commercial purposes. The test results shall be recorded. The records shall be made available to a swimming pool inspector upon request.

(4) The owner or the owner's representative shall test the swimming pool water for total alkalinity and calcium hardness at least once in each month that the swimming pool is used for commercial purposes. The test results shall be recorded. The records shall be made available to a swimming pool inspector upon request.

(5) During commercial use of a residential swimming pool, the chlorine or bromine residual shall meet the requirements of 15.4(2)"a." The pH shall meet the requirements of 15.4(2)"b." If an alternative disinfectant is used, the residual shall be maintained as recommended by the manufacturer of the product. The operational range specified by the manufacturer for an alternative disinfectant shall be written in the pool records.

(6) The swimming pool shall be inspected at least annually by the inspection agency having jurisdiction. The inspection shall be limited to a review of the records and a survey of the swimming pool for sanitation and obvious safety hazards.

15.4(7) Reports. Swimming pool and spa operators shall report to the inspection agency, within one business day of occurrence, all deaths; near drowning incidents; head, neck, and spinal cord injuries; and any injury which renders a person unconscious or requires immediate medical attention.

641—15.5(135I) Construction and reconstruction. A swimming pool constructed or reconstructed after [insert ef-

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fective date of these rules] shall comply with the following standards. Nothing in these rules is intended to exempt swimming pools and associated structures from any applicable federal, state or local laws, rules, or ordinances. Applicable requirements may include, but are not limited to, the handicapped access and energy requirements of the state building code, the fire and life safety requirements of the state fire marshal, the rules of the department of workforce development, and the rules of the department of natural resources.

15.5(1) Construction permit.

a. Permit required. No swimming pool shall be constructed or reconstructed without the owner or a designated representative of the owner first receiving a permit from the department. Construction shall be completed within 24 months from the date the construction permit is issued unless an extension is granted in writing by the department.

b. Permit application. The owner of a proposed or existing swimming pool facility or a designated representative of the owner shall apply for a construction permit on forms provided by the department. The application shall be submitted to the department at least 15 days prior to the start of construction of a new swimming pool or the reconstruction of an existing swimming pool.

c. Plan submission and fee. Three sets of plans and specifications shall be submitted with the application. A nonrefundable plan review fee for each swimming pool, leisure river, water slide, wave pool, wading pool, spray pad, zero-depth swimming pool, and multisection water recreation pool shall be remitted with the application as required in 15.12(3).

d. Notification of completion. The owner of a newly constructed or reconstructed swimming pool facility, or the owner's designated representative, shall notify the department in writing at least 15 business days prior to opening the pool.

15.5(2) Plans and specifications.

a. Plan certification. Plans and specifications shall be sealed and certified in accordance with the rules of the engineering and land surveying examining board or the architectural examining board by an engineer or architect licensed to practice in Iowa. This requirement may be waived by the department if the project is the addition or replacement of a chemical feed system, including a disinfection system, or a simple replacement of a filter or pump or both.

If the requirement for engineering plans is waived, the owner of the swimming pool facility assumes full responsibility for ensuring that the reconstruction complies with these rules and with any other applicable federal, state and local laws, rules and ordinances.

b. Content of plans. Plans and specifications submitted shall contain sufficient information to demonstrate to the department that the proposed swimming pool will meet the requirements of this chapter. The plans and specifications shall include, but may not be limited to:

(1) The name and address of the owner and the name, address, and telephone number of the architect or engineer responsible for the plans and specifications. If a swimming pool contractor applies for a construction permit, the name, address and telephone number of the swimming pool contractor shall be included.

(2) The location of the project by street address or other legal description.

(3) A site plan showing the pool in relation to buildings, streets, water and sewer service, gas service, and electrical service.

(4) Detailed scale drawings of the swimming pool and its appurtenances, including a plan view and cross sections at a scale of 3/32 inch per ft or larger. The location of inlets, overflow system components, main drains, the deck and deck drainage, the location and size of pool piping, the swimming pool ladders, stairs and deck equipment, including diving stands and boards, and fencing shall be shown.

(5) A drawing(s) showing the location, plan, and elevation of filters, pumps, chemical feeders, ventilation devices, heaters, and surge tanks; and additional drawings or schematics showing operating levels, backflow preventers, valves, piping, flow meters, pressure gauges, thermometers, the make-up water connection, and the drainage system for the disposal of filter backwash water.

(6) Plan and elevation drawings of bathhouse facilities including dressing rooms; lockers; showers, toilets and other plumbing fixtures; water supply; drain and vent systems; gas service; water heating equipment; electrical fixtures; and ventilation systems, if provided.

(7) Complete technical specifications for the construction of the swimming pool, for the swimming pool equipment and for the swimming pool appurtenances.

c. Deviation from plans. No deviation from the plans and specifications or conditions of approval shall be made without prior approval of the department.

15.5(3) General design.

a. Construction of fill and drain wading pools is prohibited.

b. Materials. Swimming pools shall be constructed of materials which are inert, stable, nontoxic, watertight, and durable.

c. Structural loading.

(1) Swimming pools shall be designed and constructed to withstand the anticipated structural loading. If maintenance of the structural integrity of the swimming pool requires specific operations or limits of operation, these shall be specified in the permanent operations manual required in 15.5(3)"f."

(2) Except for aboveground swimming pools, a hydrostatic relief valve or a suitable underdrain system shall be provided.

d. Water supply. The water supplied to a swimming pool shall be from a water supply meeting the requirements of the department of natural resources for potable water.

(1) Water supplied to a swimming pool shall be discharged to the pool system through an air gap, or a reduced-pressure principle backflow device complying with AWWA C-511-97, "Reduced-Pressure Principle Backflow-Prevention Assembly."

(2) Each hose bib at a swimming pool facility shall be equipped with an atmospheric vacuum breaker or a hose connection backflow preventer.

e. No part of a swimming pool recirculation system may be directly connected to a sanitary sewer. An air break or an air gap shall be provided.

f. Operations manual. The owner shall require that a permanent manual for the operation of the swimming pool facility be provided. The manual shall include, but may not be limited to:

(1) Instructions for routine operations at the swimming pool including, but not necessarily limited to:

1. Filter backwash or cleaning.

2. Maintaining the chemical supply for the chemical feed systems.

3. Vacuuming and cleaning the swimming pool.

4. Swimming pool water testing procedures, including the frequency of testing.

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5. Superchlorination.

6. Controller sensor maintenance and calibration, including the recommended frequency of maintenance.

(2) For each centrifugal pump, a pump performance curve plotted on an 8½" x 11" or larger sheet.

(3) For each chemical feeder, the maximum rated output listed in weight per time or volume per time units.

(4) Basic operating and maintenance instructions for swimming pool equipment that requires cleaning, adjustment, lubrication, or parts replacement, with recommended maintenance frequencies or the parameters that would indicate a need for maintenance.

g. A schematic drawing of the pool recirculation system shall be posted in the swimming pool filter room or shall be in the operations manual. Clear labeling of the swimming pool piping with flow direction and water status (unfiltered, treated, backwash) may be substituted for the schematic drawing.

h. A permanent file containing the operations and maintenance manuals for the equipment installed at the swimming pool shall be established. The file shall include a source for parts or maintenance for the equipment at the swimming pool. The file may be located in a location other than the swimming pool facility, but it shall be readily available to the facility management and maintenance staff.

15.5(4) Decks.

a. Deck width. A swimming pool shall be surrounded by a deck. The deck shall be at least 6 ft wide for a Class A swimming pool, and 4 ft wide for a Class B swimming pool, and shall extend at least 4 ft beyond the diving stands, life-guard chairs, swimming pool slides, or any other deck equipment.

b. Materials. Decks shall be constructed of stable, non-toxic, durable, and impervious materials and shall be provided with a slip-resistant surface.

c. Deck coverings. Porous, nonfibrous deck coverings may be used, subject to department approval, provided that:

(1) The covering allows drainage so that the covering and the deck underneath it do not remain wet or retain moisture.

(2) The covering is inert and will not support bacterial growth.

(3) The covering provides a slip-resistant surface.

(4) The covering is durable and cleanable.

d. Deck drainage. The deck of a swimming pool shall not drain to the pool or to the pool recirculation system except as provided in 15.5(15)"c" and 15.5(16)"b." For deck-level swimming pools ("rim flow" or "rollout" gutter), a maximum of 5 ft of deck may slope to the gutter.

e. Deck slope. The deck slope shall be at least 1/8 inch/ft and no more than 1/2 inch/ft to drain. The deck shall be designed and constructed so that there is no standing water on the deck during normal operation of the facility.

f. Surface runoff. For outdoor swimming pools, the drainage for areas outside the facility and for nondeck areas within the facility shall be designed and constructed to keep the drainage water off the deck and out of the swimming pool.

g. Carpeting. The installation of a floor covering of synthetic material may be used only in separate sunbathing, patio, or refreshment areas, except as permitted by 15.5(4)"c."

h. Hose bibs. At least one hose bib shall be provided for flushing the deck.

i. Rinse showers. If users are permitted free access between the deck and an adjacent sand play area without having to pass through a bathhouse, a rinse shower area shall be installed between the deck and the sand play area. Fences,

barriers and other structures shall be installed so that users must pass through the rinse shower area when going from the sand play area to the deck.

(1) Tempered water shall be provided for the rinse shower(s).

(2) The rinse shower area shall have sufficient drainage so that there is no standing water.

(3) Foot surfaces in the rinse shower area shall be impervious and slip-resistant.

15.5(5) Recirculation.

a. Combined recirculation. Except for wading pools, two or more swimming pools may share the same recirculation system. A wading pool shall have a recirculation system separate from any other wading pool or swimming pool.

(1) The recirculation flow rate for each swimming pool shall be calculated in accordance with 15.5(5)"b." The recirculation flow rate for the system shall be at least the arithmetic sum of the recirculation flow rates of the swimming pools.

(2) The flow to each pool shall be adjustable. A flow meter shall be provided for each pool.

b. Recirculation flow rate. The recirculation flow rate shall provide for the treatment of one pool volume within:

(1) Four hours for a swimming pool with a volume of 30,000 gal or less.

(2) Six hours for a swimming pool with a volume of more than 30,000 gal.

(3) Two hours for a wave pool.

(4) Four hours for a zero-depth pool.

(5) One hour for a wading pool.

(6) One hour for a water slide plunge pool.

(7) Four hours for a leisure river.

(8) Thirty minutes for a spray pad with its own filter system.

(9) For swimming pools with skimmers, the recirculation flow rate shall be at least 30 gpm per skimmer or the recirculation flow rate defined above, whichever is greater.

The recirculation flow rate for pools not specified in 15.5(5)"b"(1) to (9) shall be determined by the department.

c. Recirculation pump. The recirculation pump(s) shall be listed by NSF or by another listing agency approved by the department as complying with the requirements of Standard 50 and shall comply with the following requirements:

(1) The pump(s) shall supply the recirculation flow rate required by 15.5(5)"b" at a TDH of at least that given in "1," "2," or "3" below, unless a lower TDH is shown by the designer to be appropriate. A valve for regulating the rate of flow shall be provided in the recirculation pump discharge piping.

1. 40 feet for vacuum filters; or

2. 60 feet for pressure sand filters; or

3. 70 feet for pressure diatomaceous earth filters or cartridge filters.

(2) For sand filter systems, the pump and filter system shall be designed so that each filter can be backwashed at a rate of at least 15 gpm/ft² of filter area.

(3) If a pump is located at an elevation higher than the pool water surface, it shall be self-priming or the piping shall be arranged to prevent the loss of pump prime when the pump is stopped.

(4) Where a vacuum filter is used, a vacuum limit control shall be provided on the pump suction line. The vacuum limit switch shall be set for a maximum vacuum of 18 in Hg.

(5) A compound vacuum-pressure gauge shall be installed on the pump suction line as close to the pump as practical. A vacuum gauge may be used for pumps with suction lift. A pressure gauge shall be installed on the pump dis-

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charge line as close to the pump as practical. Gauges shall be of such a size and located so that they may be easily read by the operator.

(6) On pressure filter systems, a hair and lint strainer shall be installed on the suction side of each recirculation pump. The hair and lint strainer basket shall be readily accessible for cleaning, changing, or inspection. A spare strainer basket shall be provided, except where the strainer basket has a volume of 15 gallons or more. This requirement may be waived for systems using vertical turbine pumps or pumps designed for solids handling.

d. Swimming pool water heaters.

(1) A heating coil, pipe or steam hose shall not be installed in a swimming pool.

(2) Gas-fired pool water heaters shall comply with the requirements of ANSI/AGA Z21.56-2001, ANSI/AGA Z21.56a-2004, and ANSI/AGA Z21.26b-2004. The data plate of the heater shall bear the AGA mark.

(3) Electric pool water heaters shall comply with the requirements of UL 1261 and shall bear the UL mark.

(4) A swimming pool water heater with an input of greater than 400,000 BTU/hour (117 kilowatts) shall have a water heating vessel constructed in accordance with ASME Boiler Code, Section 8. The data plate of the heater shall bear the ASME mark.

(5) A thermometer shall be installed in the piping to measure the temperature of the water returning to the pool. The thermometer shall be located so that it may be easily read by the operator.

(6) Combustion air shall be provided for fuel-burning water heaters as required by the state plumbing code, 641—Chapter 25, Iowa Administrative Code, or as required by local ordinance.

(7) Fuel-burning water heaters shall be vented as required by the state plumbing code, 641—Chapter 25, Iowa Administrative Code, or as required by local ordinance.

(8) Each fuel-burning water heater shall be equipped with a pressure relief valve sized for the energy capacity of the water heater.

e. Flow meters.

(1) Each swimming pool recirculation system shall be provided with a permanently installed flow meter to measure the recirculation flow rate.

(2) In a multiple pool system, a flow meter shall be provided for each pool.

(3) A flow meter shall be accurate within 5 percent of the actual flow rate between ± 20 percent of the recirculation flow rate specified in 15.5(5)“b” or the nominal recirculation flow rate specified by the designer.

(4) A flow meter shall be installed on a straight length of pipe with sufficient clearance from valves, elbows or other sources of turbulence to attain the accuracy required by 15.5(5)“e”(3). The flow meter shall be installed so that it may be easily read by the facility operator, or a remote read-out of the flow rate shall be installed where it may be easily read by the operator. The designer may be required to provide documentation that the installation meets the requirements of subparagraph (3).

f. Vacuum cleaning system.

(1) A swimming pool vacuum cleaning system capable of reaching all parts of the pool bottom shall be provided.

(2) A vacuum system may be provided which utilizes the attachment of a vacuum hose to the suction piping through a skimmer.

(3) Automatic vacuum systems may be used provided they are capable of removing debris from all parts of the swimming pool bottom.

15.5(6) Filtration. A filter shall be listed by NSF or by another listing agency approved by the department as complying with the requirements of Standard 50 and shall comply with the following requirements:

a. Pressure gauges. Each pressure filter shall have a pressure gauge on the inlet side. Gauges shall be of such a size and located so that they may be read easily by the operator. A differential pressure gauge that gives the difference between the inlet and outlet pressure of the filter may be used in place of a pressure gauge.

b. Air relief valve. An air relief valve shall be provided for each pressure filter.

c. Backwash water visible. Backwash water from a pressure filter shall discharge through an observable free fall, or a sight glass shall be installed in the backwash discharge line.

d. Indirect discharge required. Backwash water shall be discharged indirectly to a sanitary sewer or another point of discharge approved by the department of natural resources.

e. Rapid sand filter.

(1) The filtration rate shall not exceed 3 gpm/ft² of filter area.

(2) The backwash rate shall be at least 15 gpm/ft² of filter area.

f. High-rate sand filter.

(1) The filtration rate shall not exceed 15 gpm/ft² of filter area.

(2) The backwash rate shall be at least 15 gpm/ft² of filter area.

(3) If more than one filter tank is served by a pump, the designer shall demonstrate that the backwash flow rate to each filter tank meets the requirements of subparagraph (2) above, or an isolation valve shall be installed at each filter tank to permit each filter to be backwashed individually.

g. Vacuum sand filter.

(1) The filtration rate shall not exceed 15 gpm/ft² of filter area.

(2) The backwash rate shall be at least 15 gpm/ft² of filter area.

(3) An equalization screen shall be provided to evenly distribute the filter influent over the surface of the filter sand.

(4) Each filter system shall have an automatic air-purging cycle.

h. Sand filter media shall comply with the filter manufacturer's specifications.

i. Diatomaceous earth filter.

(1) The filtration rate shall not exceed 1.5 gpm/ft² of effective filter area except that a maximum filtration rate of 2.0 gpm/ft² may be allowed where continuous body feed is provided.

(2) Diatomaceous earth filter systems shall have piping to allow recycling of the filter effluent during precoat.

(3) Waste diatomaceous earth shall be discharged to a sanitary sewer or other point of discharge approved by the department of natural resources. The discharge may be subject to the requirements of the local wastewater utility.

j. Cartridge filter.

(1) The filtration rate shall not exceed 0.38 gpm/ft² of filter area.

(2) A duplicate set of cartridges shall be provided.

k. Other filter systems may be used if approved by the department.

15.5(7) Piping.

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a. Piping standards. Swimming pool piping shall conform to applicable nationally recognized standards and shall be specified for use within the limitations of the manufacturer's specifications. Swimming pool piping shall comply with the applicable requirements of NSF/ANSI Standard 61, "Drinking Water System Components—Health Effects." Plastic swimming pool pipe shall comply with the requirements of NSF/ANSI Standard 14, "Plastic Piping Components and Related Materials," for potable water pipe.

b. Pipe sizing. Swimming pool recirculation piping shall be sized so water velocities do not exceed 6 ft/sec for suction flow and 10 ft/sec for pressure flow. Gravity piping shall be sized in accordance with recognized engineering principles.

c. Overflow system piping. The piping for an overflow perimeter gutter system shall be designed to convey at least 125 percent of the recirculation flow rate. The piping for a skimmer system shall be designed to convey at least 100 percent of the recirculation flow rate.

d. Main drain piping. The main drains and main drain piping shall be designed to convey 100 percent of the recirculation flow rate.

e. Play feature circulation. Where there are attractions, such as water slides, fountains and play features, that circulate water to the swimming pool and through the main drain and overflow systems, the main drain and overflow systems and the associated piping shall be designed to accommodate the combined flow of the recirculation system and the attractions within the requirements of paragraph "b" above and the applicable requirements of 15.5(9) and 15.5(10).

15.5(8) Inlets.

a. Inlets required. Wall inlets or floor inlets, or both, shall be provided for a swimming pool. The inlets shall be adequate in design, number, location, and spacing to ensure effective distribution of treated water and the maintenance of a uniform disinfectant residual throughout the swimming pool. The designer may be required to provide documentation of adequate distribution. The department may require dye testing of a pool.

b. Wall inlet spacing. Where wall inlets are used, they shall be no more than 20 ft apart around the perimeter of the area with an inlet within 5 ft of each corner of the swimming pool.

(1) There shall be at least one inlet at each stairway or ramp leading into a swimming pool.

(2) Except for wading pools, wall inlets shall be located at least 6 inches below the design water surface.

(3) Wall inlets in pools with skimmers shall be directional flow-type inlets.

(4) Each inlet shall have a directional flow inlet fitting with an opening of 1-inch diameter or less, or a fixed fitting with openings ½ inch wide or less.

c. Floor inlets. Floor inlets shall be provided for the areas of a zero-depth swimming pool or wave pool where the water is less than 2 ft deep and may be used throughout a swimming pool in lieu of or in combination with wall inlets. Floor inlets shall be no more than 20 ft apart in the area where they are used. There shall be floor inlets within 15 ft of each wall of the swimming pool in the area where they are used. Floor inlets shall be flush with the pool floor.

15.5(9) Overflow system.

a. Skimmers. Recessed automatic surface skimmers shall be listed by NSF or by another listing agency approved by the department as complying with the requirements of Standard 50 except that an equalizer is not required for a

skimmer installed in a swimming pool equipped with an automatic water level maintenance device.

(1) Skimmers may be used for swimming pools which are no more than 30 ft wide.

(2) A swimming pool shall have at least one skimmer for each 500 ft² of surface area or fraction thereof.

(3) Each skimmer shall be designed for a flow-through rate of at least 30 gpm or 3.8 gpm per lineal inch of weir, whichever is greater. The combined flow capacity of the skimmers in a swimming pool shall not be less than the total recirculation rate.

(4) Each skimmer shall have a weir that adjusts automatically to variations in water level of at least 4 inches.

(5) Each skimmer shall be equipped with a device to control flow through the skimmer.

(6) If a swimming pool is not equipped with an automatic water level maintenance device, each skimmer that is a suction outlet shall have an operational equalizer. The equalizer opening in the swimming pool shall be covered with a fitting listed by a listing agency approved by the department as meeting the requirements of ANSI/ASME A112.19.8M-1987.

(7) A skimmer pool shall have an approved handhold around the perimeter of the pool. The handhold shall be 9 inches or less above the minimum skimmer operation level.

b. Perimeter overflow gutters.

(1) A perimeter overflow gutter system is required for a swimming pool greater than 30 ft in width, except for a wave pool or a wading pool.

(2) The overflow weir shall extend completely around the swimming pool, except at stairs, ramps, or water slide flumes.

(3) The gutter shall be designed to provide a handhold and to prevent entrapment.

(4) Drop boxes, converters, return piping, or flumes used to convey water from the gutter shall be designed to convey 125 percent of the recirculation flow rate. The flow capacity of the gutter and the associated plumbing shall be sufficient to prevent backflow of skimmed water into the swimming pool.

(5) Gutter overflow systems shall be designed with an effective surge capacity within the gutter system and surge tank of not less than one gal/ft² of swimming pool surface area. In-pool surge may be permitted for prefabricated gutter systems, subject to the approval of the department.

c. Alternative overflow systems. Overflow systems not meeting all of the requirements in 15.5(9)"a" or 15.5(9)"b" may be used if the designer can provide documentation that the alternative overflow system will skim the pool water surface at least as effectively as a skimmer system.

15.5(10) Main drain system.

a. Main drains. Each swimming pool shall have two or more main drains or a single main drain with an area of at least 324 in². The main drains shall be connected to the recirculation system.

(1) Main drains shall be at least 3 ft apart on center and shall be connected in parallel.

(2) Each main drain and its associated piping in a swimming pool shall be designed for the same flow rate. The piping system shall be designed to equalize flow among the main drains.

(3) If two main drains are installed, each main drain and the associated piping shall be designed for at least 100 percent of the recirculation flow rate. Where three main drains are installed, each combination of two main drains and the

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associated piping shall have a capacity of at least 100 percent of the recirculation flow rate.

b. Main drain covers. Each main drain shall be covered with a grate or other approved cover. The water velocity through the open area of the cover shall be no more than 1½ ft/sec based on the recirculation flow rate specified in 15.5(5)“b” or the flow rate specified by the designer, whichever is greater. If an approved antivortex cover is used, the water velocity through the cover openings shall be no more than 6 ft/sec. The main drain cover shall be designed to be securely fastened to the pool so that it is not removable without tools.

c. Control valve. There shall be a control valve to adjust the flow between the main drain and the overflow system.

15.5(11) Disinfection.

a. Each swimming pool recirculation system approved for construction after [insert effective date of these rules] shall be equipped with an automatic controller for maintenance of the disinfectant level in the swimming pool water. The control output of the controller to the disinfectant feed system shall be based on the continuous measurement of the ORP of the water in the swimming pool recirculation system.

b. No disinfection system designed to use di-chlor or tri-chlor shall be installed for an indoor swimming pool after [insert effective date of these rules].

c. Disinfection system capacity. A continuous feed disinfectant system shall be provided. The disinfectant feed system shall have the capacity to deliver at least 10 mg/L chlorine or bromine equivalent based on the recirculation flow rate required in 15.5(5)“b” for an outdoor swimming pool and 4 mg/L chlorine or bromine equivalent based on the recirculation flow rate required in 15.5(5)“b” for an indoor swimming pool.

d. Feeder listing. A disinfectant feeder (except chlorine gas feed equipment) shall be listed by NSF or by another listing agency approved by the department as complying with the requirements of Standard 50.

e. Chemical feed stop. The disinfectant system shall be installed so that chemical feed is automatically and positively stopped when the recirculation flow is interrupted.

f. Gas chlorinators. Gas chlorinator facilities shall comply with applicable federal, state and local laws, rules and ordinances and the requirements below.

(1) The chlorine supply and gas feeding equipment shall be housed in a separate room or building.

1. No entrance or openable window to the chlorine room shall be to the inside of a building used other than for the storage of chlorine.

2. The chlorine room shall be provided with an exhaust system which takes its suction not more than 8 inches from the floor and discharges out of doors in a direction to minimize the exposure of swimming pool patrons to chlorine gas. The exhaust system shall be capable of producing 15 air changes per hour in the chlorine room.

3. An automatic chlorine leak detector and alarm system shall be provided in the chlorine room. The alarm system shall provide visual and audible alarm signals outside the chlorine room.

4. An air intake shall be provided near the ceiling of the chlorine room. The air intake and the exhaust system outlet shall be at least 4 ft apart.

5. The room shall have a window at least 12 inches square. The window glass shall be shatterproof.

6. The door of the chlorine enclosure shall open outward. The inside of the door shall be provided with panic hardware.

7. The chlorine room shall have adequate lighting.

8. Electrical switches for the exhaust system and for the lighting shall be outside the chlorine room and adjacent to the door, or in an adjoining room.

9. An anchoring system shall be provided so that full and empty chlorine cylinders can be individually secured.

10. Scales shall be provided for weighing the cylinders that are in use.

(2) A chlorine enclosure that is 30 inches deep or less and 72 inches wide or less and that is installed out-of-doors shall comply with the above requirements except:

1. An automatic chlorine leak detector is not required.

2. The enclosure shall have a window of at least 48 in².

3. The light and exhaust fan may be activated by opening the door rather than by a separate switch.

(3) The chlorinator shall be designed to prevent the back-flow of water into the chlorine cylinder.

g. Solution feed. Where a metering pump is used to feed a solution of disinfectant, the disinfectant solution container shall have a capacity of at least one day's supply at the rate specified in 15.5(11)“c,” except that when the system is designed to feed directly from a 55-gal shipping container, a larger solution container is not required.

NOTE: Secondary containment must be provided when a tank larger than 55 gallons is installed for the storage of sodium hypochlorite.

h. Erosion disinfectant feeders. The storage capacity of an erosion feeder shall be at least one day's supply of disinfectant at the rate specified in 15.5(11)“c.”

i. Test equipment. Test equipment complying with the following requirements shall be provided.

(1) The test equipment shall provide for the direct measurement of free chlorine and combined chlorine from 0 to 10 ppm in increments of 0.2 ppm or less over the full range, or total bromine from 0 to 20 ppm in increments of 0.5 ppm over the full range.

(2) The test equipment shall provide for the measurement of swimming pool water pH from 7.0 to 8.0 with at least five increments in that range.

(3) The test equipment shall provide for the measurement of total alkalinity and calcium hardness with increments of 10 ppm or less.

(4) The test equipment shall provide for the measurement of cyanuric acid from 30 to 100 ppm. This requirement may be waived for a facility that does not use cyanuric acid or a stabilized chlorine disinfectant.

15.5(12) pH control.

a. pH controller required. Each swimming pool recirculation system approved for construction after [insert effective date of these rules] shall be equipped with a controller that senses the pH of the swimming pool water, and that automatically controls the operation of a metering pump for the addition of a pH control chemical or the operation of a carbon dioxide (CO₂) gas feed system.

b. pH chemical feed required. Each swimming pool shall have a metering pump for the addition of a pH control chemical to the pool recirculation system, or a carbon dioxide (CO₂) gas feed system.

c. Metering pump listing. A metering pump shall be listed by NSF or by another listing agency approved by the department as meeting the requirements of Standard 50.

d. CO₂ cylinder anchors. Where carbon dioxide (CO₂) is used as a method of pH control, an anchoring system shall be provided to individually secure full and empty CO₂ cylinders.

e. Chemical feed stop. The pH control system shall be installed so that chemical feed is automatically and positively stopped when the recirculation flow is interrupted.

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15.5(13) Safety.

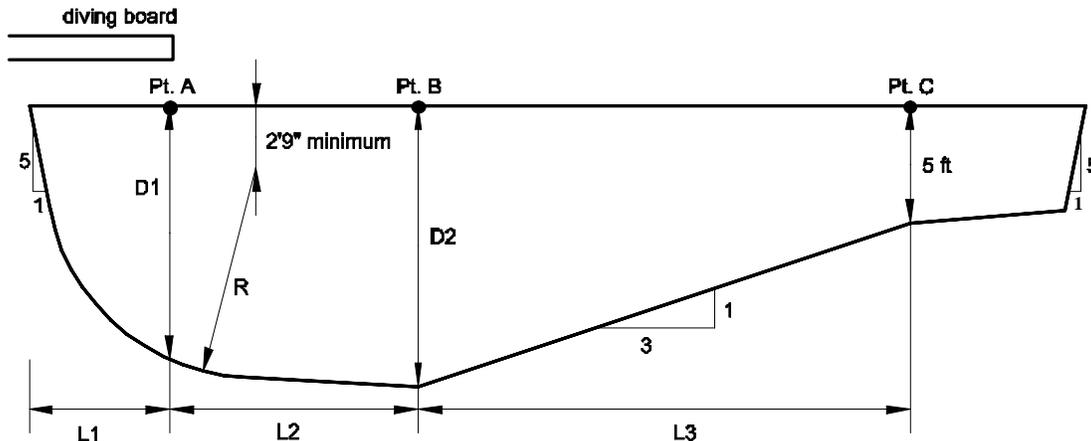
a. Diving areas.

(1) Diving boards are permitted only if the diving area dimensions conform to the minimum requirements shown in Figure 2, Tables 4 and 5. Alternative diving well configurations may be used, subject to the approval of the department, but the boundaries of the diving well shall be outside the boundaries prescribed in these rules. The distances specified in Tables 4 and 5 shall be measured from the top center of the leading edge of the diving board. The reference water level

shall be the midpoint of the skimmer opening for a skimmer pool or a stainless steel gutter system with surge weirs. The reference water level for a gutter pool shall be the top of the gutter weir.

(2) Where diving boards are specified that have been advertised or promoted to be "competition" diving boards, the diving area shall comply with the standards of the National Collegiate Athletic Association (NCAA) or the National Federation of State High School Associations (NFHS).

Figure 2



R minimum = Pool depth minus Vertical wall depth from the water line minus 3 inches.

Table 4

Diving Board Height Above Water	Maximum Board Length	Minimum Dimensions					Minimum Width of Pool		
		D1	D2	L1	L2	L3	Pt A	Pt B	Pt C
Deck level to 2/3 meter	10 ft	7 ft	8.5 ft	2.5 ft	8 ft	10.5 ft	16 ft	18 ft	18 ft
Greater than 2/3 meter to 3/4 meter	12 ft	7.5 ft	9 ft	3 ft	9 ft	12 ft	18 ft	20 ft	20 ft
Greater than 3/4 meter to 1 meter	16 ft	8.5 ft	10 ft	4 ft	10 ft	15 ft	20 ft	22 ft	22 ft
Greater than 1 meter to 3 meters	16 ft	11 ft	12 ft	6 ft	10.5 ft	21 ft	22 ft	24 ft	24 ft

Table 5

Diving Board Height Above Water	To Pool Side	To 1-Meter Board	To 3-Meter Board
Deck level to 1 meter	10 ft	8 ft	10 ft
Greater than 1 meter	11 ft	10 ft	10 ft

(3) There shall be a completely unobstructed clear distance of 13 ft above the diving board measured from the center of the front end of the board. This area shall extend at least 8 ft behind, 8 ft to each side, and 16 ft beyond the end of the diving board.

(4) Diving boards and platforms over 3 meters high are prohibited except where approved by the department.

(5) Diving boards and platforms shall have slip-resistant surfaces.

(6) Diving board supports, ladders, and guardrails.

1. Supports, platforms, and steps for diving boards shall be of substantial construction and of sufficient structural strength to safely carry the maximum anticipated loads.

2. Ladders, steps, supports, handrails and guardrails shall be of corrosion-resistant materials or shall be provided with a corrosion-resistant coating. They shall be designed to

have no exposed sharp edges. Ladder steps shall have slip-resistant surfaces.

3. Handrails shall be provided at steps and ladders leading to diving boards and diving platforms. Guardrails shall be provided for diving boards and platforms which are more than 1 meter above the water. Guardrails for diving boards and platforms shall be at least 36 inches high and shall have at least one horizontal mid-bar and shall extend to the edge of the water.

b. Starting blocks and starting block installation shall meet the requirements of the competition governing body (National Collegiate Athletic Association, USA Swimming, or National Federation of State High School Associations).

c. Stairs, ladders, and recessed steps.

(1) Ladders or recessed steps shall be provided in the deep portion of a swimming pool and in the shallow portion if the vertical distance from the bottom of the swimming pool to the deck is more than 2 ft. Stairs or ramps may be used instead of ladders or recessed steps at the shallow end of the swimming pool.

(2) If a swimming pool is over 30 ft wide, recessed steps, ladders, ramps, or stairs shall be installed on each side. If a stairway centered on the shallow end wall of the swimming

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pool is within 30 ft of each side of the swimming pool, that end of the swimming pool shall be considered in compliance with this subrule.

(3) The foot contact surfaces of stairs, ramps, ladder rungs, and recessed steps shall be slip-resistant.

(4) Ladders.

1. Ladders shall have a handrail on each side which extends from below the water surface to the top surface of the deck.

2. Ladders, treads, or supports shall be of a color contrasting with the swimming pool walls; however, stainless steel ladders may be used with stainless steel wall pools.

3. A ladder shall have a tread width of at least 16 inches and a uniform rise of 12 inches or less.

4. The distance between the swimming pool wall and the vertical rail of a ladder shall be no greater than 6 inches and no less than 3 inches. The lower end of each ladder rail shall be securely covered with a smooth nonmetallic cap. The lower end of each ladder rail shall be within 1 inch of the swimming pool wall.

(5) Recessed steps.

1. Recessed steps shall have a tread depth of at least 5 inches, a tread width of at least 12 inches, and a uniform rise of no more than 12 inches.

2. Each set of recessed steps shall be equipped with a securely anchored deck-level grab rail on each side.

3. Recessed steps shall drain to the pool.

(6) Stairs.

1. Stairs shall have a uniform tread depth of at least 12 inches and a uniform rise of no more than 10 inches. The area of each tread shall be at least 240 in².

2. Stairs shall be provided with at least one handrail for each 12 ft in width. Handrails shall be between 34 inches and 38 inches high, measured vertically from the line defined by the front edge of the steps.

3. A stripe at least 1 inch wide of a color contrasting with the step surface and with the swimming pool floor shall be marked at the top front edge of each tread. The stripe shall be slip-resistant.

(7) Handrails and grab rails.

1. Ladders, handrails, and grab rails shall be designed to be securely anchored so that tools are required for their removal.

2. Ladders, handrails, and grab rails shall be constructed of corrosion-resistant materials or provided with corrosion-resistant coatings. They shall have no exposed sharp edges.

d. Floor slope. The bottom of the swimming pool shall slope toward the main drain(s). The slope of the swimming pool bottom where the water is less than 5 ft deep shall not exceed 1 ft vertical in 12 ft horizontal.

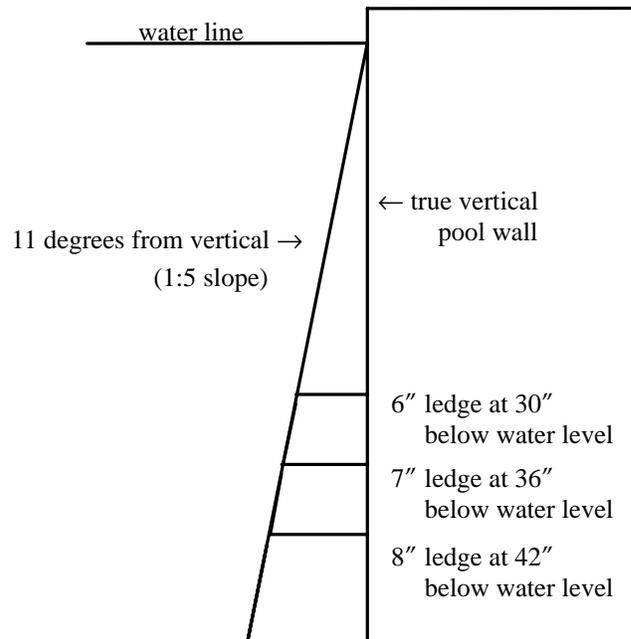
(1) Subject to the approval of the department, a swimming pool may be designed to have the change in slope (from 1:12 or less to a steeper slope) at a point where the water depth is less than 5 ft. The marking requirements of 15.5(13)“f”(3) and 15.5(13)“f”(4) shall apply and, if possible, depth markers which are clearly visible to persons in the pool shall be provided.

(2) For a wave pool, steeper slopes may be approved by the department if they are required for the proper function of the wave pool.

e. Walls.

(1) Walls in the deep section of a swimming pool shall be vertical to a water depth of at least 2.8 ft. If a transition radius is provided, it shall comply with Figure 2.

Figure 3



(2) The term “vertical” is interpreted to permit slopes not greater than 1 ft horizontal for each 5 ft of depth of side wall (11° from vertical).

(3) Ledges, when provided, shall fall within an 11° line from vertical, starting at the water surface (Figure 3). A ledge shall be no less than 4 inches wide and no more than 8 inches wide. A ledge shall have a slip-resistant surface.

f. Surface finish and markings.

(1) The swimming pool floor shall have a slip-resistant finish.

(2) The bottom and sides of the swimming pool shall be white or a light color. This does not prohibit painting or marking racing lines or turn targets.

(3) Where the slope of a swimming pool bottom in a shallow area changes from 1:12 or less to a slope greater than 1:12, or at the 5-ft depth area, the pool bottom and sides shall be marked with a stripe at least 4 inches wide in a color contrasting with the pool bottom and sides. The stripe shall be on the shallow side of the slope change or 5-ft depth area within 6 inches of the slope change or 5-ft depth area. Depending on the pool configuration, more than one stripe may be required.

(4) A float line with floats no more than 5 ft apart shall be installed on the shallow side of the stripe required in 15.5(13)“f”(3) within 12 inches of the stripe.

(5) The landing area for a swimming pool slide or a water slide which does not terminate in a separate plunge pool shall be delineated by a float line or as approved by the department.

(6) Depth markers.

1. Depth markers shall be painted or otherwise marked on the deck within 3 ft of the edge of a swimming pool. The depth of a wave pool shall also be marked on the side walls of the wave pool above the maximum static water level where the static water depth is 3 ft or more, and on the deep-end wall of the wave pool.

2. Depth markers shall be located 25 ft apart or less, center to center, around the full perimeter of a swimming pool.

EXCEPTIONS: Depth markers are not required at the zero-depth end of a wading pool, wave pool, or a zero-depth swimming pool. Depth markers are not required on the deck of a

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plunge pool on the flume discharge end or on the exit end if stairs are used for exit.

3. The maximum depth of a swimming pool shall be marked on both sides of a swimming pool at the main drain.

4. The water depth of a swimming pool shall be marked at both ends of a float line required by 15.5(13)“f”(4).

5. In shallow water, the depth shall be marked at 1-ft depth intervals starting at one of the points specified in “3” and “4” above, if the 1-ft depth interval is less than 25 ft. The zero depth shall be used as the starting point for a zero-depth swimming pool.

6. In deep water, the words “Deep Water” may be used in place of numerals except as required in “3” above.

7. “No Diving” or equivalent wording or graphics shall be marked on the swimming pool deck within 3 ft of the edge of the swimming pool where the water is shallow and at other pool areas determined by management. The markers shall be 25 ft apart or less, center to center, around the perimeter of the area. This marking is not required at the zero-depth end of a wave pool or of a zero-depth swimming pool. “No Diving” or equivalent wording or graphics shall be marked on the deck of a leisure river in the areas where users will be permitted. The “No Diving” markers shall be within 3 ft of the edge of the leisure river at intervals not to exceed 25 ft on center.

8. Letter, number and graphic markers shall be slip-resistant, of a contrasting color from the deck and at least 4 inches in height.

9. In lieu of the requirements of “1” through “8” above, the maximum depth of a wading pool may be posted in lettering a minimum of 3 inches high at each entrance to the wading pool area and at least at one conspicuous location inside the wading pool enclosure. “No Diving” markers are not required at a wading pool.

10. The depth of a leisure river shall be posted at the entrance(s) to the leisure river in characters at least 3 inches high. The depth of the leisure river shall be marked on the side wall of the leisure river above the static water level at intervals not to exceed 50 ft on center. The depth of the leisure river shall be marked on the deck in the areas where users will be permitted. The depth markers shall be within 3 ft of the edge of the leisure river at intervals not to exceed 25 ft on center.

g. Lifeguard chairs. One elevated lifeguard chair or station shall be provided for a swimming pool with a water surface area of 2000 to 4000 ft² inclusive; two chairs shall be provided if the area is 4001 to 6000 ft²; three chairs shall be provided if the area is 6001 ft² or more. A swimming pool is not required to have more than three lifeguard chairs or stations. This requirement does not apply to wave pools, leisure rivers or wading pools.

h. Emergency equipment and facilities.

(1) If a swimming pool facility employs lifeguards, whether required by rule or not, the lifeguards shall be provided with the minimum equipment required by their training including, but not necessarily limited to, rescue tubes and personal CPR masks.

(2) A minimum of one unit of lifesaving equipment shall be provided for each 1500 ft² of water surface area or fraction thereof. The area of a swimming pool where the water is 2 ft deep or less may be subtracted from the total area for this requirement. A swimming pool is not required to have more than ten units of lifesaving equipment.

(3) A unit of lifesaving equipment consists of at least one of the following:

1. A U.S. Coast Guard-recognized ring buoy fitted with a ¼-inch diameter line with a length at least one-half the width of the pool, but no more than 60 ft; or

2. A life pole with a “shepherd’s crook,” having blunted ends with a minimum length of 8 ft; or

3. A rescue buoy which is made of a hard, buoyant plastic and is provided with molded hand grips along each side, a shoulder strap, and a towing rope between 4 and 6 ft long; or

4. A rescue tube made of a soft, strong foam material 3 inches by 6 inches by 40 inches with a molded strap providing a ring at one end and a hook at the other. Attached to the ring end shall be a 6-ft-long towline with a shoulder strap; or

5. Any other piece of rescue equipment approved by the department.

Rescue equipment identified in 15.5(13)“h”(3)“3” and 15.5(13)“h”(3)“4” above shall be used only at swimming pools where lifeguards are employed.

(4) Whenever lifeguard chairs are provided, each chair shall be equipped with at least one unit of lifesaving equipment.

(5) A standard spine board with straps and head immobilizer shall be provided at each swimming pool where lifeguards are required by rule.

i. Pool enclosures.

(1) Except for a fill and drain wading pool, a circulated wading pool that is drained when not in use, or a spray pad, a swimming pool shall be enclosed by a fence, wall, building, or combination thereof not less than 4 ft high. The enclosure shall be constructed of durable materials.

(2) A fence, wall, or other means of enclosure shall have no openings that would allow the passage of a 4-inch sphere, and shall not be easily climbable by toddlers. The distance between the ground and the top of the lowest horizontal support accessible from outside the facility, or between the two lowest horizontal supports accessible from outside the facility, shall be at least 45 inches. A horizontal support is accessible if it is on the exterior of the fence relative to the swimming pool, or if the space between the vertical members of a fence is greater than 1¾ inches.

(3) Gates and doors shall be installed in the enclosure for general access, maintenance and emergency access. At least one 36-inch-wide gate or door shall be installed for emergency access. When closed, gates and doors shall comply with the requirements of 15.5(13)“i”(1) and (2). Gates and doors shall be lockable. Except where lifeguard or structured program supervision is provided whenever the swimming pool is open, gates and doors shall be self-closing and self-latching.

(4) If a wading pool is within 50 ft of a swimming pool, the wading pool shall have a barrier at least 36 inches high separating it from the swimming pool. A barrier installed after [insert effective date of these rules] shall have no openings that would allow the passage of a 4-inch sphere. The barrier shall have at least one 36-inch-wide gate or door. Gates and doors shall be lockable. Except where lifeguard supervision is provided, gates and doors shall be self-closing and self-latching.

The department may approve alternate management of the area between the wading pool and swimming pool at facilities where lifeguards are provided whenever the pools are open. The alternate management plan shall be in writing and shall be at the facility when the pools are open.

(5) An indoor swimming pool shall be enclosed by a barrier at least 3 ft high if there are sleeping rooms, hallways, apartments, condominiums, or permanent recreation areas which are used by children and which open directly into the

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swimming pool area. No opening in the barrier shall permit the passage of a 4-inch sphere. There shall be at least one 36-inch-wide gate or door through the barrier. Gates and doors shall be lockable. Except where lifeguard supervision is provided whenever the pool is open, gates or doors shall be self-closing and self-latching.

j. Electrical. Construction or reconstruction shall meet the requirements in Section 680 of the National Electrical Code, 70-05, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, and the following requirements:

(1) Each electrical outlet in the deck, shower and dressing rooms, and the pool water treatment equipment areas shall be equipped with a properly installed ground fault circuit interrupter (GFCI) at the outlet or at the breaker serving the outlet. Electrical outlets energized through an ORP/pH controller are not required to have a separate GFCI if the controller is equipped with a GFCI or is energized through a GFCI breaker.

(2) An underwater light circuit shall be equipped with a GFCI unless the underwater light(s) operates at 15 volts or less.

k. Lighting. Artificial lighting shall be provided at indoor swimming pools and at outdoor swimming pools which are to be used after sunset in accordance with the following:

(1) Underwater lighting of at least 60 lamp lumens/ft² or 0.5 watts/ft² of water surface area, located to provide illumination of the entire swimming pool bottom, and area lighting of at least 10 lumens/ft² or 0.6 watts/ft² of deck area.

(2) If underwater lights are not provided, overhead lighting of at least 30 lumens/ft² or 2.0 watts/ft² of swimming pool water surface area shall be provided.

l. Swimming pool slides. Swimming pool slides shall meet the requirements of the January 1, 2004, product standard of the United States Consumer Product Safety Commission (CFR Title 16, Part 1207). Swimming pool slides shall be installed in accordance with the manufacturer's recommendations.

15.5(14) Wading pools. Wading pools shall comply with the applicable provisions of 15.5(1) to 15.5(13), except as modified below.

- a. A wading pool shall have at least 4 ft of deck.
- b. Overflow system.

(1) Intermittent fixed weir overflow structures, including gutters, overflow fixtures, and drains at zero depth may be used. They shall have a hydraulic capacity of at least 125 percent of the recirculation flow rate. The designer shall be responsible for demonstrating that the overflow system will provide adequate skimming.

(2) If skimmers are used, there shall be at least one skimmer for every 500 ft² of water surface area or fraction thereof.

1. The recirculation flow rate shall be at least 3.8 gpm per lineal inch of skimmer weir or as required in 15.5(5)“b,” whichever is greater.

2. The skimmer(s) suction line may be connected to the main drain line in lieu of an equalizer.

3. A skimmer(s) may be used in combination with overflow drains in a zero-depth wading pool.

c. Main drains. Each wading pool shall have at least two main drains or a single main drain with an area of at least 324 in². Each drain shall have a cover that meets the requirements of 15.5(10)“b.” Each drain that is a suction outlet shall have an area of at least 324 in².

d. Inlet system. Inlets shall be designed to uniformly distribute treated water throughout the wading pool. Wall and floor inlets or other means may be used, alone or in com-

ination. The designer shall be responsible for demonstrating that the inlet system will provide adequate distribution of the treated water.

15.5(15) Wave pools. Wave pools shall comply with the applicable provisions of 15.5(1) to 15.5(13), except as modified below.

a. Overflow not required. Perimeter overflow gutters and skimmers are not required on the deep-end wall where the wave generation equipment is located.

b. Overflow drain at zero depth. There shall be an overflow drain or weir across the full width of the zero-depth end of the wave pool. Full width is interpreted to allow construction joints at each end of the drain. The combined length of the joints shall be no more than 10 percent of the width of the end of the pool.

The drain shall be covered with a grate designed to prevent entrapment. The grate shall be designed so that it is securely fastened to the pool floor and cannot be removed without a tool or tools.

c. Deck above zero depth. The deck above the overflow drain at the zero-depth end of the pool may slope to the overflow drain for a distance no greater than 15 ft. The deck slope shall be no greater than 1 ft vertical in 12 ft horizontal.

d. Overflow gutter or fittings. There shall be a perimeter overflow gutter or overflow fittings along both sides of the wave pool where the water is 3 ft deep or more.

(1) If a perimeter overflow gutter is used, it shall be designed to prevent entrapment during wave action. Overflow grates shall be securely fastened so they will not be dislodged by wave action.

(2) Overflow fittings need not be continuous, but they shall be spaced no more than 10 ft apart.

e. Overflow capacity. The combined hydraulic capacity of the overflow drain at zero depth and the gutter or overflow outlets shall be at least 125 percent of the recirculation flow rate.

f. Main drains. A main drain system shall be provided which complies with the requirements of 15.5(10).

g. Wave generator openings. Openings or connections between the wave pool and the wave generation equipment shall be designed to prevent entrapment of users.

h. Side barrier. There shall be a continuous barrier along the full length of each side of a wave pool. The barrier shall be at least 42 inches high and installed no more than 3 ft from the side of the wave pool.

i. Emergency switches. Emergency switches which will stop the wave action shall be provided in at least four locations on the deck of the wave pool. Switch locations shall be marked by signs or contrasting bright colors.

j. Float line. A wave pool shall be equipped with a float line with floats spaced no more than 5 ft apart. The float line shall be located at least 6 ft from the deep-end wall. Users shall not be permitted between the float line and the deep-end wall.

15.5(16) Zero-depth swimming pools. Zero-depth swimming pools shall comply with the applicable provisions of 15.5(1) to 15.5(13), except as modified below.

a. Overflow drain at zero depth. There shall be an overflow drain or weir across the full width of the zero-depth end of the swimming pool. Full width is interpreted to allow construction joints at each end of the drain. The combined length of the joints shall be no more than 10 percent of the width of the end of the pool.

(1) The drain shall be covered with a grate designed to prevent entrapment. The grate shall be designed so that it is not removable without a tool.

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(2) The drain and its associated piping shall be designed to convey at least 50 percent of the recirculation flow rate.

b. Deck above zero depth. The deck above the overflow drain at the zero-depth end of the pool may slope to the overflow drain for a distance no greater than 15 ft. The deck slope shall be no greater than 1 ft vertical in 12 ft horizontal.

c. Perimeter overflow gutter. If a perimeter overflow gutter is provided, the gutter may be interrupted in the area where the water is less than 2 ft deep provided that:

(1) The length of the perimeter overflow gutter and overflow drain shall be at least 60 percent of the total pool perimeter.

(2) The hydraulic capacity of the perimeter overflow gutter system combined with the overflow drain shall be at least 125 percent of the recirculation flow rate.

d. Skimmers. Recessed automatic surface skimmers may be used with the overflow drain at zero depth in accordance with 15.5(9)“a.” The hydraulic capacity of the skimmer/drain system shall be at least 125 percent of the recirculation flow rate.

15.5(17) Water slides. Water slides shall comply with the applicable provisions of 15.5(1) to 15.5(13) and the following:

a. Flume construction. A water slide flume shall comply with the following:

(1) The flume shall be perpendicular to the plunge or swimming pool wall for at least 10 ft from the flume end.

(2) The flume shall be sloped no more than 1 ft vertical in 10 ft horizontal for at least 10 ft before the end of the flume.

(3) The flume shall terminate between 6 inches below and 2 inches above the design water level in the plunge pool or swimming pool.

(4) There shall be at least 5 ft between the side of the plunge pool or swimming pool and the side of the flume. Adjacent flumes shall be at least 10 ft apart on center.

(5) The inside surface of a flume shall be smooth and continuous.

(6) The flume shall be designed to ensure that users cannot be thrown out of the flume and to minimize user collisions with the sides of the flume.

(7) The flume shall have no sharp edges within reach of a user while the user is in the proper riding position.

(8) The flume path shall be designed to prevent users from becoming airborne while in the ride.

b. Water slide landing areas. The landing area for a water slide flume shall comply with the following:

(1) The water depth shall be at least 3 ft and no more than 4 ft at the end of the flume and for at least 15 ft beyond the end of the flume.

(2) The landing area floor may slope up to a minimum of 2 ft water depth subject to (1) above. The slope shall be no greater than 1 ft vertical in 12 ft horizontal.

(3) There shall be at least 20 ft between the end of the flume and any barrier or steps.

(4) If the water slide flume ends in a swimming pool, the landing area shall be divided from the rest of the swimming pool by a float line or as approved by the department.

c. Speed slides. A speed slide shall provide for the safe deceleration of the user. A run-out system or a special plunge pool entry system shall control the body position of the user relative to the slide to provide for a safe exit from the ride.

d. Decks. The deck around a water slide plunge pool shall be at least 4 ft wide, except on the side where the flume enters the pool. A walkway which is at least 4 ft wide and meets the requirements of a deck shall be provided between the plunge pool and the slide steps.

e. Alternate overflow systems. Intermittent fixed weir overflow structures may be used for a separate plunge pool if:

(1) Floor inlets are provided according to the requirements of 15.5(8)“c.”

(2) The hydraulic capacity of the combined overflow structures and the appurtenant piping is at least 125 percent of the recirculation flow rate. The department may require more hydraulic capacity based on the specific design of the plunge pool system.

f. Pump reservoir. If a pump reservoir or surge tank is provided, it shall have a capacity of at least one minute of the combined recirculation and flume flow. Openings between the plunge pool and the pump reservoir or surge tank shall be designed and constructed in accordance with 15.5(10)“a” and “b.”

g. Swimming pool water level. If the water slide flume ends in a swimming pool, the water level shall not be lowered more than 1 inch when the flume pump(s) is operating.

h. Suction outlets. If a suction outlet is in a plunge pool or in a swimming pool, it shall be located away from normal water slide user traffic areas. One of the following designs shall be used:

(1) Multiple outlets may be used. Outlets shall be at least 3 ft apart. The outlets shall be covered with grates or other protective covers approved by the department. Water velocity through the outlet covers shall not exceed 1½ ft/sec.

(2) The outlet shall have an area of at least 324 in². The outlet shall be covered by a grate or other protective cover approved by the department. Water velocity through the outlet cover shall not exceed 1½ ft/sec.

i. Outlet covers. An outlet cover shall be designed to prevent user entrapment. It shall be securely fastened to the pool or to the outlet pipe so it cannot be removed without tools.

j. Water slide support structure. The support structure for a water slide and for any access stairs or ramps shall be designed and constructed to withstand the anticipated structural loading, both static and dynamic, including wind forces.

k. Stairs. A stairway providing access to the top of a water slide shall be at least 2 ft wide. Stair surfaces shall be slip-resistant and easily cleanable. The stairway shall comply with the applicable requirements of state and local building codes and Occupational Safety and Health Administration requirements.

l. Alternate water slide designs. Water slides differing substantially from the standards in this subrule may be approved, if the designer provides sufficient information to demonstrate to the department that the slide and its landing area can be operated safely.

15.5(18) Multisection water recreation pools. A multisection water recreation pool shall comply with the applicable provisions of 15.5(1) to 15.5(13) and the following:

a. Recirculation flow rate. The minimum recirculation flow rate for a multisection water recreation pool shall be determined by computing the recirculation flow rate for each section of the pool in accordance with 15.5(5)“b” and adding the flow rates together.

b. Water distribution. The treated water distribution system shall be designed to return treated water to the sections of the pool in proportion to the flow rates determined in “a” above.

c. Float lines. Each section of a multisection water recreation pool shall be separated from the other sections by a float line meeting the requirements of 15.5(13)“f”(4).

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15.5(19) Spray pads. A spray pad shall comply with the applicable provisions of 15.5(1) through 15.5(13) and the following:

a. The surface of a spray pad shall be impervious and durable. Padding specifically designed for spray pads may be used with play features. The padding shall be water resistant or shall permit full drainage without retaining water in its structure. Walking surfaces shall be slip-resistant.

b. The spray pad surface shall slope to drain at least 1/8 inch per ft, but no more than 1/2 inch per ft. Deck or other areas outside the spray pad shall not drain into the spray pad.

c. A spray pad shall be exempt from fencing requirements (15.5(13)“i”); “No Lifeguard” sign requirements (15.4(6)“d”); safety equipment requirements (15.4(4)“f”) and depth marking requirements (15.4(4)“j”). Unless the spray pad is supervised by facility staff, a sign shall be posted near the spray pad that addresses:

(1) No running on or around the spray pad.

(2) No rough play.

(3) No facility supervision. Parents are responsible for supervising their children.

Facility management may adopt and post other rules deemed necessary for user safety and the proper operation of the spray pad.

d. Spray pad drains shall be gravity outlets. At least two drains shall be provided, or a single drain with an area of at least 324 in² shall be provided. The drain cover shall meet the requirements for a main drain cover in 15.5(10)“b.” The drain and associated piping shall be designed for 125 percent of the flow into the spray pad (play feature and recirculation, as applicable).

e. Spray pads with independent treatment systems.

(1) The minimum volume of water for a spray pad shall be two minutes of the flow of the play features and the recirculation system combined.

(2) The water storage tank shall have a volume of at least 125 percent of the volume specified in (1). The tank shall be accessible for cleaning and inspection.

(3) The recirculation (treatment) system and the play feature pump and piping system shall be separate.

(4) The recirculation system inlet(s) and outlet(s) within the water storage tank shall be designed to ensure a uniform disinfectant concentration and pH level throughout the water volume of the spray pad.

(5) The play feature pump system shall be designed so that it will not operate if the recirculation system is not operating.

(6) There shall be a readily accessible sample tap in the equipment area that allows sampling of the water in the play feature piping.

f. Spray pads using water from an adjacent swimming pool or wading pool.

(1) If there is a suction outlet in the swimming pool or wading pool for the play feature pump(s), the outlet shall be designed as a main drain as specified in 15.5(10). Water velocity through the outlet cover shall be 1½ ft per sec or less.

(2) If the adjacent pool has a volume of 10,000 gallons or less, or if the spray pad water is circulated directly from the swimming pool surge tank, the spray pad pump system shall be equipped for automatic supplemental disinfection in accordance with 15.5(11), except that the disinfection capacity shall be at least one-half of the capacity specified in 15.5(11)“c”; with filtration in accordance with 15.5(6); or both.

g. Play features and sprays shall be designed and installed so that they do not create a safety hazard.

(1) Surface sprays shall be flush with the spray pad surface. Spray openings shall have a diameter of ½ inch or less. Noncircular spray openings shall have a width of ½ inch or less.

(2) Aboveground features shall not present a tripping hazard. Features shall have no sharp edges or points and no rough surfaces. Aboveground features shall be constructed of corrosion-resistant materials or provided with a corrosion-resistant coating. Accessible spray openings shall have a diameter of ½ inch or less. Noncircular accessible spray openings shall have a width of ½ inch or less.

15.5(20) Leisure rivers. A leisure river shall comply with the applicable requirements of 15.5(1) through 15.5(13) and the following:

a. The leisure river propulsion system and recirculation system shall be separate.

b. Intermittent fixed weir structures may be used for the overflow system. At least two separate fixed weir structures shall be used. The hydraulic capacity of the overflow system using fixed weir structures shall be at least 125 percent of the recirculation flow rate. Fixed weir structures shall be designed to prevent entrapment of leisure river users.

c. A deck as specified in 15.5(4) is not required in areas where users are not permitted. A leisure river and the area on the inside and outside perimeter of the leisure river shall be designed to ensure that lifeguard staff and emergency personnel can access any part of the leisure river quickly and to provide a sufficient hard surface area for emergency functions.

d. The depth of a leisure river shall be posted conspicuously at the entrance(s) to the leisure river in characters at least 3 inches high. The depth of the leisure river shall be marked on the side wall of the leisure river above the static water level at intervals not to exceed 50 ft on center. The depth of the leisure river shall be marked on the deck in the areas where users are permitted. The depth markers shall be within 3 ft of the edge of the leisure river at intervals not to exceed 25 ft on center.

e. “No Diving” characters or graphics shall be marked every 25 ft on center on the deck in deck areas where users are permitted.

f. At least one user egress point shall be provided for each 500 ft of leisure river length (measured at the centerline) or fraction thereof.

g. Outlets for the leisure river propulsion system shall be designed as main drains as specified in 15.5(10).

15.5(21) Showers, dressing rooms, and sanitary facilities.

a. Facilities required. Bather preparation facilities shall be provided at each swimming pool facility except where the swimming pool facility is intended to serve living units such as a hotel, motel, apartment complex, condominium association, dormitory, subdivision, mobile home park, or resident institution.

b. Swimming pool patron load. If a bathhouse is provided, the patron load for determining the minimum sanitary fixtures (Table 6) is:

(1) One individual per 15 ft² of water surface in shallow areas.

(2) One individual per 20 ft² of water surface in deep areas with the exclusion of 300 ft² of water surface for each diving board.

(3) For each swimming pool slide, 200 ft² shall be excluded, and for each water slide which terminates in the swimming pool, 300 ft² shall be excluded in determining the patron load.

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c. Bathhouses.

(1) A bathhouse shall be designed and constructed to meet the requirements of the local building ordinance. If no local ordinance is in effect, the bathhouse shall be designed to meet the requirements of the state of Iowa building code, 661—Chapter 16, Iowa Administrative Code.

(2) Bathhouse floors shall have a slip-resistant finish and shall slope at least 1/8 inch/ft to drain. Except as provided in 15.5(19)“c”(3), floor coverings shall comply with the requirements of 15.5(4)“c.”

(3) Olefin, or other approved carpeting, may be permitted in locker room or dressing room areas provided:

1. There is an adequate drip area between the carpeting and the shower room, toilet facilities, swimming pool, or other areas where water can accumulate.

2. Drip areas shall be constructed of materials as described in 15.5(4)“b” and 15.5(4)“c.”

(4) Bathhouse fixtures shall be provided in accordance with Table 6.

Table 6
Fixtures Required

Patron Load	Male				Female		
	Showers	Toilets	Urinals	Lavatories	Showers	Toilets	Lavatories
1 - 100	1	1	1	1	1	1	1
101 - 200	2	1	2	1	2	3	1
201 - 300	3	1	3	1	3	4	1
301 - 400	4	2	3	2	4	5	2
401 - 500	5	3	3	2	5	6	2
501 - 1000	6	3	4	2	6	7	2

(5) All indoor swimming pool areas, bathhouses, dressing rooms, shower rooms, and toilets shall be ventilated by natural or mechanical means to control condensation and odors.

d. Showers and lavatories.

(1) Showers shall be supplied with water at a temperature of at least 90°F and no more than 110°F and at a rate of no more than 3 gpm per shower head.

(2) Soap dispensers or bar soap trays shall be provided at each lavatory and in the showers. Glass soap dispensers are prohibited.

e. Hose bibs. At least one hose bib shall be installed within the bathhouse.

f. Storage-type hot water heaters.

(1) Gas-fired storage-type hot water heaters shall comply with the requirements of ANSI/AGA Z21.10.1-2001, or with the requirements of ANSI/AGA Z21.10.3-2001. The heater shall bear the mark of the AGA.

(2) Electric storage-type hot water heaters shall comply with the requirements of ANSI/UL 174-1996. The heater shall bear the mark of UL.

(3) Combustion air shall be provided for fuel-burning water heaters as required by the state plumbing code, 641—Chapter 25, Iowa Administrative Code, or as required by local ordinance.

(4) Fuel-burning water heaters shall be vented as required by the state plumbing code, 641—Chapter 25, Iowa Administrative Code, or as required by local ordinance.

641—15.6(135I) Enforcement.

15.6(1) A city, county or district board of health may inspect swimming pools and spas regulated by these rules and enforce these rules according to contracts which are reached pursuant to the authority of Iowa Code chapters 28E and 135I.

15.6(2) The department or contracting board of health shall take the following steps when enforcement of these rules is necessary.

a. Owner notification. As soon as possible after the violations are noted, the inspection agency shall provide written notification to the owner of the facility that:

(1) Cites each section of the Iowa Code or Iowa Administrative Code violated.

(2) Specifies the manner in which the owner or operator failed to comply.

(3) Specifies the steps required for correcting the violation.

(4) Requests a corrective action plan, including a time schedule for completion of the plan.

(5) Sets a reasonable time limit, not to exceed 30 days from the receipt of the notice, within which the owner of the facility must respond.

b. Corrective action plan review. The department or contracting board of health shall review the corrective action plan and approve it or require that it be modified.

c. Failure to comply. When the owner of a swimming pool or spa fails to comply with conditions of the written notice, the department or contracting board of health may take enforcement action in accordance with Iowa Code chapters 137 and 135I, or in accordance with local ordinances.

d. Revocation or withholding of registration. An inspection agency may request that the department revoke or withhold the registration for a swimming pool or spa when the owner of the swimming pool or spa does not correct violations or does not pay fees, including penalties.

(1) A request for the revocation or withholding of a registration shall be in writing. The inspection agency shall list the violations that have not been corrected or the fees that have not been paid. The inspection agency shall provide a full accounting of the actions taken by the inspection agency to enforce the rules or to collect fees.

(2) Upon a decision to revoke or withhold a registration, the department shall notify the owner of the swimming pool(s) or spa(s) by restricted certified mail, return receipt requested, or by personal service. The notice shall inform the owner of the right to appeal the decision and the appeal procedures. The inspection agency and the county attorney in the county where the swimming pool or spa is located shall be notified in writing of the registration revocation or withholding.

(3) An appeal of a denial, suspension or revocation shall be submitted by certified mail, return receipt requested, within 30 days of receipt of the department’s notice. The appeal shall be sent to Iowa Department of Public Health, Division of Health Statistics and Environmental Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. If such a request is made within the 30-day time period, the notice of revocation or withholding shall be

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deemed to be suspended. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the revocation or withholding has been or will be removed. After the hearing, or upon default of the applicant or alleged violator, the administrative law judge shall affirm, modify or set aside the revocation or withholding. If no appeal is submitted within 30 days, the revocation or withholding shall become the department's final agency action.

(4) Upon receipt of an appeal that meets contested case status, the appeal shall be transmitted to the department of inspections and appeals within 5 working days of receipt pursuant to the rules adopted by that department regarding the transmission of contested cases. The information upon which the revocation or withholding is based shall be provided to the department of inspections and appeals.

(5) The hearing shall be conducted in accordance with 481—Chapter 10.

(6) When the administrative law judge makes a proposed decision and order, it shall be served by restricted certified mail, return receipt requested, or delivered by personal service. The proposed decision and order then becomes the department's final agency action without further proceedings 10 days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subparagraph 15.6(2)“d”(7).

(7) Any appeal to the director of the department for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within 10 days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for appeal shall state the reason for appeal.

(8) Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

1. All pleadings, motions and rules.
2. All evidence received or considered and all other submissions by recording or transcript.
3. A statement of all matters officially noticed.
4. All questions and offers of proof, objections, and rulings thereon.
5. All proposed findings and exceptions.
6. The proposed findings and order of the administrative law judge.

(9) The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by restricted certified mail, return receipt requested.

(10) It is not necessary for the owner to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department that has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

(11) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent by certified mail, return receipt requested, or by personal service to the Iowa Department of Public Health, Division of Health Statistics and Environmental Health, 321 East 12th Street, Des Moines, Iowa 50319-0075.

(12) The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

641—15.7(135I) Variances. A variance to these rules may be granted only by the department. A variance can be granted only if sufficient information is provided to substantiate the need for and propriety of the action.

15.7(1) Requests for variances shall be in writing and shall be sent to the contracting board of health for comment. The board of health shall send the request for variance to the department within 15 business days of its receipt.

15.7(2) The granting or denial of a variance will take into consideration, but not be limited to, the following criteria:

a. Substantially equal protection of health and safety shall be provided by a means other than that prescribed in the particular rule, or

b. The degree of violation of the rule is sufficiently small so as not to pose a significant risk of injury to any individual, and the remedies necessary to alleviate this minor violation would incur substantial and unreasonable expense on the part of the person seeking a variance.

15.7(3) Decisions shall be issued in writing by the department and shall include the reasons for denial or granting of the variance. Copies of decisions shall be kept at the department, and a copy shall be sent to the contracting board of health.

15.7(4) The applicant for a variance that is denied may request a review of the denial by the director of the department. The request shall be submitted in writing within 30 days of the applicant's receipt of the department's denial of a variance request. The request for a review shall be addressed to the Iowa Department of Public Health, Office of the Director, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. The decision of the director shall be considered the department's final agency action.

15.7(5) The applicant may petition for judicial review of the final agency action pursuant to Iowa Code chapter 17A.

641—15.8(135I) Penalties. A person violating a provision of this chapter shall be guilty of a simple misdemeanor pursuant to the authority of Iowa Code section 135I.5. Each day upon which a violation occurs constitutes a separate violation.

641—15.9(135I) Registration.

15.9(1) Swimming pool and spa registration. No swimming pool or spa shall be operated in the state without being registered with the department. The owner of a swimming pool or spa or the owner's designated representative shall register the swimming pool or spa before the swimming pool or spa is first used and shall renew the registration annually on or before April 30. The initial registration and registration renewal shall be submitted on forms supplied by the department. The registration for a swimming pool or spa is valid from May 1 through the following April 30.

15.9(2) Change in ownership. Within 30 days of the change in ownership of a swimming pool or spa, the new owner shall furnish the department with the following information:

- a. Name and registration number of the swimming pool or spa.
- b. Name, address, and telephone number of new owner.
- c. Date the change in ownership took place.
- d. A nonrefundable fee of \$20 per swimming pool or spa.

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641—15.10(135I) Training courses.

15.10(1) A training course designed to fulfill the requirements of 15.11(135I) shall be reviewed by the department.

15.10(2) At least 15 days prior to the course date, the course director shall submit at a minimum the following to the department:

- a. A course outline with a list of instructors and guest speakers and their qualifications.
- b. Date or dates the course is to be held.
- c. Place the course is to be held.
- d. Number of hours of instruction.
- e. Course agenda.

15.10(3) The department shall approve or disapprove the course of instruction in writing within 10 business days of receipt of the information required in 15.10(2).

15.10(4) Within 30 business days after the conclusion of the course of instruction, the course director shall furnish the department with the name and address of each person who successfully completed the course.

641—15.11(135I) Swimming pool/spa operator qualifications.

15.11(1) A person designated as a certified operator of a facility for compliance with 15.4(6)“a” and 15.51(5)“a” shall have successfully completed a CPO certification course, an AFO certification course, a PPSO certification course, an LAFT certification course, or another course of instruction approved by the department. A copy of a current, valid CPO or AFO certificate for the certified operator shall be maintained in the pool or spa records.

15.11(2) A certified operator with a CPO certificate, a PPSO certificate, or an LAFT certificate shall attend at least ten hours of continuing education between the original certification date and the first renewal of the certificate, and shall attend at least ten additional hours of continuing education before each subsequent renewal of the certificate. A certified operator with an AFO certificate shall attend at least six hours of continuing education between the original certification date and the first renewal of the certificate, and shall attend at least six additional hours of continuing education before each subsequent renewal of the certificate. The department shall determine the continuing education requirements for a certified operator training course that is approved after [insert effective date of these rules]. Proof of continuing education shall be kept with certification records at the swimming pool or spa facility.

641—15.12(135I) Fees.

15.12(1) Registration fees. For each swimming pool or spa, the registration fee is \$35. Registration fees are delinquent if not received by the department by April 30 or the first business day thereafter. The owner shall pay a \$25 penalty for each month or fraction thereof that the fee is late for each swimming pool or spa that is required to be registered.

15.12(2) Registration change fees. For each swimming pool or spa, the fee for a change of ownership, change of facility name, or other change in registration is \$20.

15.12(3) Inspection fees. The department or contracting board of health shall bill the owner of a swimming pool or spa facility upon completion of an inspection. Inspection fees are due upon receipt of a notice of payment due.

When the swimming pool is located within the jurisdiction of a board of health which has a 28E agreement with the department to do inspections and enforce this chapter, the board of health may establish fees needed to defray the costs of inspection and enforcement under this chapter. Inspection fees

billed by a contracted board of health shall be paid to the contracted board of health or its designee.

- a. Inspection fee schedule.

Table 7
Swimming Pools and Spas

Pool Type	Inspection Fee
Swimming pool or leisure river, surface area less than 1500 ft ²	\$170
Swimming pool or leisure river, surface area 1500 ft ² or greater	\$270
Wave pool	\$270
Water slide and plunge pool	\$270
Spa	\$170
Wading pool less than or equal to 500 ft ²	\$50
Wading pool greater than 500 ft ²	\$90
Residential swimming pool used for commercial purposes	\$50

Table 8
Water Slides

	Inspection Fee
Each additional water slide into a plunge pool	\$75
Water slide into a swimming pool	\$175
Each additional water slide into a swimming pool	\$75

b. Multipool facilities. If more than one pool (swimming pool, water slide, wave pool, wading pool, or spa) is located within a fenced compound or a building, the inspection fee for the pools in the fenced compound or building shall be reduced by 10 percent. This reduction does not apply to the fees specified in Table 8.

c. Special inspection fee. When the department or contracting board of health determines that a special inspection is required, i.e., a follow-up inspection or an inspection generated by complaints, the department or contracting board of health may charge a special inspection fee which shall be based on the actual cost of providing the inspection.

d. Penalty. Unpaid inspection fees will be considered delinquent 45 days after the date of the bill. A penalty of \$30 per month or fraction thereof that the payment is delinquent will be assessed to the owner for each pool inspected.

15.12(4) Plan review fees.

a. New construction. A plan review fee as specified in Tables 9, 10 and 11 shall be submitted with a construction permit application for each body of water in a proposed facility. If two or more pools share a common recirculation system as specified in 15.5(5)“a,” the plan review fee shall be 25 percent less than the total plan review fee required by Tables 9, 10 and 11.

Table 9
Swimming Pools, Wading Pools and Wave Pools

Swimming Pool Area (ft ²)	Plan Review Fee
less than 500	\$165
500 to 999	\$275
1000 to 1999	\$385
2000 to 3999	\$550*
4000 and greater	\$825*

*This may include one water slide.

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Table 10
Water Slides

Description	Plan Review Fee
Water slide and dedicated plunge pool	\$550
Each additional water slide into a plunge pool or swimming pool	\$165

Table 11
Spas

Spa Volume (gal)	Plan Review Fee
less than 500	\$165
500 to 999	\$275
1000 +	\$385

b. Reconstruction. The plan review fee for reconstruction is \$250 for each swimming pool, spa or bathhouse altered in the reconstruction.

c. Penalty for construction without a permit. Whenever any work for which a permit is required has been started before a permit is obtained, the plan review fee shall be 150 percent of the fee specified in 15.12(3)“a” or “b.” The department may require that construction not done in accordance with the rules be corrected before a facility is used.

EXCEPTION: After receiving a construction permit application, the department may authorize preliminary construction on a project to start before issuance of a permit. The authorization shall be in writing to the owner or the owner's authorized representative.

15.12(5) Training fees. The course sponsor for a training course designed to fulfill the requirements of 641—15.11(135I) shall pay to the department a fee of \$20 for each person who successfully completes the course. The fee is due within 30 business days of the completion of the course.

641—15.13(135I) 28E agreements. A city, county or district board of health may apply to the department for authority to inspect swimming pools and spas and enforce these rules.

15.13(1) Application and review process. Applications shall be made to the Iowa Department of Public Health, Swimming Pool Program, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

15.13(2) Each application shall include, at a minimum:

a. A commitment that inspectors will meet the educational requirements of 641—15.11(135I). A person who is a registered sanitarian (R.S.) or a registered environmental health specialist (R.E.H.S.) with the National Environmental Health Association shall be considered to have met the educational requirements of subrule 15.11(2).

b. A statement of the ability of the board of health to provide inspections of all swimming pools and spas within the contracted area.

c. A statement of the ability of the board of health to follow enforcement procedures contained in subrule 15.6(2).

15.13(3) If the department approves the application, the 28E agreement shall be perpetual, subject to the conditions set forth by both parties.

641—15.14(135I) Application denial or partial denial—appeal.

15.14(1) Denial or partial denial of an application shall be done in accordance with the requirements of Iowa Code section 17A.12. Notice to the applicant of denial or partial denial shall be served by restricted certified mail, return receipt requested, or by personal service.

15.14(2) Any request for appeal concerning denial or partial denial shall be submitted by the aggrieved party, in writing, to the department by certified mail, return receipt re-

quested, within 30 days of the receipt of the department's notice. The address is Iowa Department of Public Health, Swimming Pool Program, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. Prior to or at the hearing, the department may rescind the denial or partial denial. If no request for appeal is received within the 30-day time period, the department's notice of denial or partial denial shall become the department's final agency action.

15.14(3) Upon receipt of an appeal that meets contested case status, the appeal shall be forwarded within five working days to the department of inspections and appeals, pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

641—15.15 to 15.50 Reserved.

641—15.51(135I) Spa operations. A spa shall be operated in a safe, sanitary manner and shall meet the following operational standards.

15.51(1) Filtration and recirculation.

a. Filters. A spa shall have a filtration system in good working condition which provides water clarity in compliance with the water quality standards of subrule 15.51(2).

(1) Each filter cartridge shall be replaced with a new, unused, or cleaned and disinfected filter cartridge in accordance with the manufacturer's recommendations for pressure rise at the inlet of the filter, but at least once a month. If a functioning pressure gauge is not present at the filter inlet, the filter cartridge(s) shall be replaced whenever the spa is drained and at least every two weeks. Filter cartridge replacements shall be recorded in the spa records.

(2) Each sand filter serving a spa shall be opened at least annually and the sand media examined for grease buildup, channeling and other deficiencies. The sand shall be cleaned and disinfected before the filter is put back into service. The annual inspection shall be recorded in the spa records.

(3) Each diatomaceous earth filter serving a spa shall be dismantled, and the filter socks and the interior of the filter shall be cleaned and disinfected at least annually. The annual cleaning shall be recorded in the spa records.

(4) The recirculation system shall have an operating pressure gauge located in front of the filter if it is a pressure filter system. A vacuum filter system shall have a vacuum gauge located between the filter and the pump.

b. The recirculation system for a spa shall treat one spa volume of water in 30 minutes or less.

c. Continuous operation required. Pumps, filters, disinfectant feeders, flow indicators, gauges, and all related components of the spa water recirculation system shall be operated continuously whenever the spa contains water, except for cleaning or servicing.

d. Inlets. The recirculation system shall have inlets adequate in design, number, location, and spacing to ensure effective distribution of treated water and maintenance of uniform disinfectant residual throughout the spa.

e. Skimmers. A spa shall have at least one skimmer.

(1) Each skimmer shall have a self-adjusting weir in place and operational.

(2) Each skimmer shall have an easily removable basket or screen upstream from any valve.

f. Wastewater. Wastewater and backwash water from a spa shall be discharged through an air break or an air gap.

g. Water supply. The water supplied to a spa shall be from a water supply meeting the requirements of the department of natural resources for potable water.

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(1) Water supplied to a spa shall be discharged to the spa system through an air gap or a reduced-pressure principle backflow device meeting AWWA C-511-97, "Reduced-Pressure Principle Backflow-Prevention Assembly."

(2) Each hose bib at a spa facility shall be equipped with an atmospheric vacuum breaker or a hose connection backflow preventer.

h. Spa water heaters.

(1) Electric water heaters shall bear the seal of UL.

(2) Gas-fired water heaters shall bear the seal of the AGA and shall be equipped with a pressure relief valve.

(3) Fuel-burning water heaters shall be vented to the outside, in accordance with the Iowa state plumbing code.

(4) Each indoor swimming pool equipment room with fuel-burning water heating equipment shall have one or more openings to the outside of the room for the provision of combustion air.

15.51(2) Water quality and testing.

a. Disinfection.

(1) Spa water shall have a free chlorine residual of at least 2.0 ppm and no greater than 8.0 ppm, or a total bromine residual of at least 4.0 ppm and no greater than 18 ppm when the spa is open for use, except as given in Table 12.

(2) A spa shall be closed if the free chlorine is measured to be less than 1.0 ppm or the total bromine is measured to be less than 2.0 ppm.

(3) The spa shall be closed if a free chlorine measurement exceeds 8.0 ppm or if the total bromine measurement exceeds 18 ppm, except as given in Table 12.

(4) If an ORP controller with a readout meeting the requirements of 15.51(2)"f"(4) is installed on the spa system, the spa water shall have an ORP of at least 700 mV, but no greater than 880 mV, except as given in Table 12. The spa shall be closed if the ORP is less than 650 mV or greater than 880 mV.

(5) The spa shall be closed if the cyanuric acid concentration in the spa water exceeds 80 ppm. The spa may be reopened when the cyanuric acid concentration is 40 ppm or less.

(6) No cyanuric acid shall be added to an indoor spa after [insert effective date of these rules], except through an existing chemical feed system designed to deliver di-chlor or tri-chlor. No cyanuric acid in any form shall be added to an indoor spa after June 30, 2008.

Table 12

Preferred Operating Range			Acceptable Operating Range		
ORP (mV)	Free Cl (ppm)	Total Br (ppm)	ORP (mV)	Free Cl (ppm)	Total Br (ppm)
700-880	2.0-8.0	4.0-18.0	700-880	1.0-1.8	2.0-3.5
			650-700 [#]	2.0-8.0	4.0-18.0
			650-700 [†]	8.2-10.0	18.5-22.0

[#] If these conditions occur on any 3 consecutive days or on any 5 days within a 7-day period, and the conditions reoccur after the spa is drained and cleaned, the facility management shall evaluate water parameters including, but not limited to, cyanuric acid, pH, combined chlorine, and phosphates (ortho- and total); and other conditions at the spa. The facility management shall modify parameters and conditions as practical to bring the ORP to a minimum of 700 mV. The evaluation shall be completed within 30 days after the low ORP condition is known to the facility management. A written report of the evaluation shall be kept with the spa records.

[†] If these conditions occur on any 2 consecutive days or on any 4 days within a 7-day period, the facility management shall drain and clean the spa, and notify the inspection agency. If the conditions reoccur after the spa is drained and cleaned, the facility management shall cause the conditions at the spa specified in the previous footnote and the function of the ORP equipment to be investigated by a professional pool service company. A written report detailing source water parameters, spa water parameters, spa design (including information about the installed mechanical and chemical equipment), other conditions affecting the disinfectant concentration and the ORP, and the actions taken to increase ORP relative to the disinfectant residual shall be submitted to the inspection agency within 30 days after the low ORP condition is known to the facility management.

b. pH level. The pH of spa water shall be 7.2 to 7.8.

c. Water clarity. A spa shall be closed if the grate openings on drain fittings at or near the bottom of the spa are not clearly visible when the agitation system is off.

d. Bacteria detection.

(1) If coliform or Pseudomonas aeruginosa bacteria are detected in a sample taken in accordance with 15.51(2)"e"(8), the spa shall be drained, cleaned, and disinfected. The spa may reopen, and a check sample shall be taken when the spa water meets the requirements of paragraphs "a," "b" and "c" above. If coliform or Pseudomonas aeruginosa bacteria are detected in the check sample, the spa shall be closed. The spa shall be drained, physically cleaned, and disinfected. The filter(s) shall be cleaned and disinfected.

1. For cartridge filters, the cartridge shall be replaced with a new, unused cartridge or a cleaned, disinfected cartridge; the filter housing shall be physically cleaned, then disinfected.

2. For sand and DE filters, the filter shall be opened and the media and components cleaned and disinfected.

The spa may reopen when no coliform or Pseudomonas aeruginosa bacteria are detected in a spa water sample taken when the spa water meets the requirements of paragraphs "a," "b" and "c" above.

(2) The facility management shall notify the inspection agency having jurisdiction of the positive bacteriological result within one business day after the facility management has become aware of the result.

e. Test frequency. The results of the tests required below shall be recorded in the spa records.

(1) The disinfectant residual in the spa water shall be tested or the ORP of the spa water shall be checked each day before the spa is opened for use and at intervals not to exceed two hours thereafter until the spa closing time. For a spa at a condominium complex, an apartment building or a homeowners association with 25 or fewer living units, the disinfectant level in the spa water shall be tested or the ORP of the spa water shall be checked at least twice each day the spa is available for use.

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If the spa is equipped with an automatic controller with a readout or local printout of ORP complying with the requirements of 15.51(2)“f”(4), the operator may make visual readings of ORP in lieu of manual testing, but the spa water shall be tested manually for disinfectant residual at least twice per day. Both ORP and disinfectant residual shall be recorded when manual testing is done. The operator shall specify in the spa records which results are from the manual tests.

(2) The pH of the spa water shall be tested each day before the spa is opened for use and at intervals not to exceed two hours thereafter until the spa closing time. For a spa at a condominium complex, an apartment building or a homeowners association with 25 or fewer living units, the pH of the spa water shall be tested at least twice each day the spa is available for use.

If the spa is equipped with an automatic controller with a readout or local printout of pH complying with the requirements of 15.51(2)“f”(5), the operator may make visual readings of pH in lieu of manual testing, but the spa water shall be tested manually for pH at least twice per day. The operator shall specify in the spa records which results are from the manual tests.

(3) The spa water temperature shall be measured whenever a manual test of the spa water is performed.

(4) If a chlorine compound is used for disinfection, the spa water shall be tested for combined chlorine at least once a day.

(5) If cyanuric acid or a stabilized chlorine is used in a spa, the spa water shall be tested for cyanuric acid at least once a day.

(6) The spa water shall be tested for total alkalinity each time the spa is refilled and at least once in each week that the spa is open for use.

(7) The spa water shall be tested for calcium hardness each time the spa is refilled.

(8) At least once in each month that a spa is open for use, a sample of the spa water shall be submitted to a laboratory certified by the department of natural resources for the determination of coliform bacteria in drinking water. The sample shall be analyzed for total coliform and *Pseudomonas aeruginosa*.

f. Test equipment.

(1) Each spa facility shall have functional water testing equipment for free chlorine and combined chlorine, or total bromine; pH; total alkalinity; calcium hardness; and cyanuric acid (if cyanuric acid or a stabilized chlorine is used at the facility).

(2) The test equipment shall provide for the direct measurement of free chlorine and combined chlorine from 0 to 10 ppm in increments of 0.2 ppm or less over the full range, or total bromine from 0 to 20 ppm in increments of 0.5 ppm or less over the full range.

(3) The test equipment shall provide for the measurement of spa water pH from 7.0 to 8.0 with at least five increments in that range.

(4) A controller readout used in lieu of manual disinfectant residual testing shall be a numerical analog or digital display (indicator lights are not acceptable) with an ORP scale with a range of at least 600 to 900 mV with increments of 20 mV or less.

(5) A controller readout used in lieu of manual pH testing shall be a numerical analog or digital display (indicator lights are not acceptable) with a range at least as required in 15.51(2)“f”(3) with increments of 0.2 or less over the full range.

g. Operator availability. A person knowledgeable in testing water and in operating the water treatment equipment shall be available whenever a spa is open for use.

15.51(3) Disinfection systems and cleaning.

a. Disinfectant system.

(1) Equipment for continuous feed of a chlorine or bromine compound to the spa water shall be provided and shall be operational. The equipment shall be adjustable in at least five increments over its feed capacity. Where applicable, the chemical feeder shall be listed by NSF or another listing agency approved by the department for compliance with Standard 50.

(2) The disinfectant equipment shall be capable of providing at least 10 ppm of chlorine or bromine to the spa water based on the recirculation flow rate.

(3) Equipment and piping used to apply any chemicals to the water shall be of such size, design, and material that they may be cleaned. All material used for such equipment and piping shall be resistant to action of chemicals to be used.

(4) The use of chlorine gas is prohibited.

b. Cleaning and superchlorination.

(1) A spa shall be clean.

(2) A spa containing 500 gal of water or less shall be drained, cleaned and refilled a minimum of once a week. A spa containing over 500 gal to 2000 gal of water shall be drained, cleaned and refilled a minimum of one time every two weeks. A spa with a water volume greater than 2000 gal shall be drained, cleaned and refilled a minimum of one time every three weeks.

The department may permit a longer period between refills for spas over 2000 gal upon evaluation of the use of the spa. Such permission shall be in writing, and a copy shall be available to an inspector upon request.

(3) The inspection agency (the department or a contracting board of health) may require that a spa be drained, cleaned, and superchlorinated prior to further usage.

15.51(4) Safety.

a. Chemical safety.

(1) No disinfectant chemical, pH control chemical, algaeicide, shock treatment chemical, or any other chemical that is toxic or irritating to humans shall be added to a spa over the top when the spa is occupied. If chemicals are added to the spa over the top, the spa shall not be occupied for a period of at least 30 minutes. The operator shall test the spa water as appropriate before allowing use of the spa. The chemical addition and the test results shall be recorded in the spa records.

(2) Spa chemicals shall be stored and handled in accordance with the manufacturer's recommendations.

(3) Material safety data sheets (MSDS) for the chemicals used in the spa shall be at the facility in a location known and readily accessible to the facility staff.

(4) Chemical containers shall be clearly labeled.

(5) A chemical hazard warning sign shall be placed at the entrance of a room where chemicals are used or stored, or where bulk containers are located.

b. Stairs, ladders, recessed steps, and ramps.

(1) When the top rim of a spa is more than 24 inches above the surrounding floor area, stairs or a ramp shall be provided to the top of the spa.

(2) Stairs, ladders, ladder rungs, and ramps shall be slip-resistant.

(3) Where stairs and ramps are provided, they shall be equipped with a handrail.

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(4) Ladders and handrails shall be constructed of corrosion-resistant materials or provided with corrosion-resistant coatings. They shall have no exposed sharp edges.

(5) Ladders, handrails and grab rails shall be securely anchored.

c. Water temperature. Water temperature in the spa shall not exceed 104°F. The spa shall be closed if the water temperature exceeds 104°F.

(1) A thermometer shall be available to measure temperatures in the range of 80° to 120°F.

(2) Water temperature controls shall be accessible only to the spa operator.

d. Emergency telephone. Each spa facility where lifeguards are not provided shall have a designated emergency telephone or equivalent communication system that can be operated without coins. The communication system shall be available to users of the spa whenever the spa is open. If the emergency communication system is not located within the spa enclosure, management shall post a sign(s) indicating the location of the emergency telephone. Instructions for emergency use of the telephone shall be posted near the telephone.

e. Water level. Water level shall be maintained at the skimming level.

f. Outlets below water level. Each outlet that is entirely below the operating water level, including the main drain(s), shall be designed to prevent user entrapment. A spa shall be closed if an outlet cover is missing or broken.

(1) Each pump that draws water directly from a spa shall have two or more outlets or a single outlet with an area of at least 144 in².

(2) Each outlet shall have a cover with openings or slots no more than ½ inch wide. A suction outlet cover shall have an area of at least 144 in² or shall be listed for compliance with ANSI/ASME 112.19.8M-1987 by a listing agency approved by the department.

g. Spa walls and floor shall be smooth and easily cleanable.

h. Decks.

(1) The deck shall have a slip-resistant surface.

(2) The deck shall be clean and free of debris.

(3) A hose bib shall be provided for flushing or cleaning of the deck.

(4) Glass objects, other than eyeglasses and safety glass doors and partitions, shall not be permitted on the deck.

i. There shall be no underwater or overhead projections or obstructions which would endanger user safety or interfere with proper spa operation.

j. Electrical.

(1) Each electrical outlet in the deck, shower room, and pool water treatment equipment areas shall be equipped with a properly installed ground fault circuit interrupter (GFCI) at the outlet or at the breaker serving the outlet. Electrical outlets energized through an ORP/pH controller are not required to have a separate GFCI if the controller is equipped with a GFCI or is energized through a GFCI breaker. Ground fault circuit interrupter receptacles and breakers shall be tested at least once in each month the spa is operating. Test dates and results shall be recorded in the spa records.

(2) There shall be no outlets located on, or within 5 ft of, the inside wall of a spa.

(3) An air switch within reach of persons in the spa and its connecting tube shall be constructed of materials that do not conduct electricity.

(4) Lighting.

1. Artificial lighting shall be provided at all spas which are to be used at night or which do not have adequate natural

lighting so all portions of the spa, including the bottom and main drain, may be readily seen.

2. Underwater lights and fixtures shall be designed for their intended use. When the underwater lights operate at more than 15 volts, the underwater light circuit shall be equipped with a GFCI. When underwater lights need to be repaired, the electricity shall be shut off until repairs are completed.

3. No electrical wiring shall extend over an outdoor spa.

k. Fencing.

(1) A spa shall be enclosed by a fence, wall, building, or combination thereof not less than 4 ft high. The spa enclosure shall be constructed of durable materials. A spa may be in the same room or enclosure as another spa or a swimming pool.

(2) A fence, wall, or other means of enclosure shall have no openings that would allow the passage of a 4-inch sphere, and shall not be easily climbable by toddlers. The distance between the ground and the top of the lowest horizontal support accessible from outside the facility, or between the two lowest horizontal supports accessible from outside the facility, shall be at least 45 inches. A horizontal support is considered accessible if it is on the exterior of the fence relative to the spa, or if the gap between the vertical members of the fence is greater than 1¾ inches.

(3) At least one gate or door with an opening of at least 36 inches in width shall be provided for emergency purposes. When closed, gates and doors shall comply with the requirements of (2) above. Gates and doors shall be lockable. Except where lifeguard supervision is provided whenever the spa is open, gates and doors shall be self-closing and self-latching.

(4) If there are sleeping rooms, apartments, condominiums, or permanent recreation areas which are used by children and which open directly into the spa area, the spa shall be enclosed by a barrier at least 3 ft high. No opening in the barrier shall permit the passage of a 4-inch sphere. There shall be at least one 36-inch-wide gate or door through the barrier. Gates and doors shall be lockable. Except where lifeguard supervision is provided whenever the pool is open, gates and doors provided shall be self-closing and self-latching.

1. Agitation system control. The agitation system control shall be installed out of the reach of persons in the spa. The "on" cycle for the agitation system shall be no more than ten minutes.

15.51(5) Management, notification, and records.

a. Certified operator required. Each spa facility shall employ a certified operator. One certified operator may be responsible for a maximum of three swimming pool/spa facilities.

b. Spa rules sign. A "Spa Rules" sign shall be posted near the spa. The sign shall include the following stipulations:

(1) Persons with a medical condition, including pregnancy, should not use the spa without first consulting with a physician.

(2) Anyone having a contagious disease shall not use the spa.

(3) Persons shall not use the spa immediately following exercise or while under the influence of alcohol, narcotics, or other drugs.

(4) Persons shall not use the spa alone or without supervision.

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- (5) Children shall be accompanied by an adult.
- (6) Persons shall not use the spa longer than ten minutes.
- (7) No one shall dive or jump into the spa.
- (8) The maximum patron load of the spa. (The maximum patron load of a spa is one individual per 2 lineal ft of inner edge of seat or bench.)
 - c. Spa depth. The maximum depth of a spa shall be posted at a conspicuous location near the spa in numerals or letters at least 3 inches high.
 - d. Glass prohibited. Glass objects other than eyeglasses, safety glass doors, and partitions shall not be permitted in a spa enclosure.
 - e. Operational records. The operator of a spa shall have the spa operational records for the previous 12 months at the spa facility and shall make these records available when requested by a swimming pool/spa inspector. These records shall contain a day-by-day account of spa operation, including:
 - (1) ORP and pH readings, results of pH, free chlorine or total bromine residual, cyanuric acid (if used), combined chlorine, total alkalinity, and calcium hardness tests, and any other chemical test results.
 - (2) Results of microbiological analyses.
 - (3) Water temperature measurements.
 - (4) Reports of complaints, accidents, injuries, or illnesses.
 - (5) Dates and quantities of chemical additions, including resupply of chemical feed systems.
 - (6) Dates when filters were backwashed or cleaned or a filter cartridge(s) was changed.
 - (7) Draining and cleaning of spa.
 - (8) Dates when ground fault circuit interrupter receptacles or circuit breakers were tested.
 - (9) Dates of review of material safety data sheets.
 - f. Submission of records. The inspection agency (the department or a contracting board of health) may require a spa facility operator to submit copies of readings of ORP and pH, chemical test results and microbiological analyses to the inspection agency on a monthly basis. The inspection agency shall notify the facility management of this requirement in writing at least 15 days before the reports are to be submitted for the first time. The facility operator shall submit the required reports to the inspection agency within 10 days after the end of each month of operation.
 - g. Operations manual. A permanent manual for operation of a spa shall be at the facility. The manual shall include instructions for routine operations at the spa including, but not necessarily limited to:
 - (1) Maintaining the chemical supply for the chemical feed systems.
 - (2) Filter backwash or cleaning.
 - (3) Water testing procedures, including the required frequency of testing.
 - (4) Procedures for draining, cleaning and refilling the spa, including chemical adjustments and controller adjustments.
 - (5) Controller sensor maintenance, where applicable.
 - (6) Superchlorination.
 - h. Schematic drawing. A schematic drawing of the spa recirculation system shall be posted in the swimming pool filter room or shall be in the operations manual. Clear labeling of the spa piping with flow direction and water status (unfiltered, treated, backwash) may be substituted for the schematic drawing.
 - i. Material safety data sheets. Copies of material safety data sheets (MSDS) for the chemicals used at the spa shall be kept at the facility in a location known and readily accessible

to facility staff with chemical-handling responsibilities. Each member of the facility staff with chemical-handling responsibilities shall review the MSDS at least annually. The facility management shall retain records of the MSDS reviews at the facility and shall make the records available upon request by a swimming pool inspector.

j. Emergency plans. A written emergency plan shall be provided. The plan shall include, but may not be limited to, actions to be taken in cases of drowning, hyperthermia, serious illness or injury, chemical-handling accidents, weather emergencies, and other serious incidents. The emergency plan shall be reviewed with the facility staff at least once a year, and the dates of review or training shall be recorded.

k. Temporary spas.

(1) A person offering temporary spas for rent shall be a certified operator.

(2) Records of temporary spas shall be maintained for one year which identify the location of all installations.

(3) Written operational instructions shall be provided to individuals operating or leasing a spa. The instructions shall be consistent with this chapter and provide guidance in the following areas:

1. Acceptable sources of water supply and procedure for cross-connection control—15.51(1)“g.”

2. Methods for routine cleaning and superchlorination—15.51(3)“b.”

3. Procedures for maintaining prescribed levels of disinfectant residual, pH, total alkalinity, clarity, and microbiological quality, and using the test kit—15.51(2)“a” to 15.51(2)“f.”

4. Procedures for maintaining temperature and operation of temperature controls—15.51(4)“c.”

5. Warning to prevent electrical hazards—15.51(4)“j.”

6. Procedures for operation of filters, including backwashing—15.51(1)“a.”

7. A warning to the renter that the renter should prevent unauthorized or accidental access to a spa when it contains water.

15.51(6) Reports. Spa operators shall report to the inspection agency, within one working day of occurrence, all deaths; near drowning incidents; head, neck, and spinal cord injuries; and any injury which renders a person unconscious or requires immediate medical attention.

641—15.52(135I) Construction and reconstruction. A spa constructed or reconstructed after [insert effective date of these rules] shall comply with the following standards. Nothing in these rules is intended to exempt spas and associated structures from any applicable federal, state or local laws, rules or ordinances. Applicable requirements include, but are not limited to, the handicapped access and energy requirements of the state building code, the fire and life safety requirements of the state fire marshal, the rules of the department of workforce development, and the rules of the department of natural resources.

15.52(1) Construction permits.

a. Permit required. No spa shall be constructed or reconstructed without the owner or a designated representative of the owner first receiving a permit from the department. Construction shall be completed within 24 months from the date the construction permit is issued unless a written extension is granted by the department.

b. Permit application. The owner of a proposed or existing spa or a designated representative of the owner shall apply for a construction permit on forms provided by the department. The application shall be submitted to the depart-

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ment at least 15 days prior to construction of a new spa or the reconstruction of a spa.

c. Plan submission. Three sets of plans and specifications shall be submitted with the application. A nonrefundable plan review fee shall be remitted with the application for each spa as required in 15.12(4).

d. Notification of completion. The owner of a newly constructed or reconstructed spa facility or the owner's designated representative shall notify the department in writing at least 15 business days prior to opening the spa.

15.52(2) Plans and specifications.

a. Plan certification. Plans and specifications shall be sealed and certified in accordance with the rules of the engineering and land surveying examining board or the architectural examining board by an engineer or architect licensed to practice in Iowa.

(1) This requirement may be waived by the department if the project is the addition or replacement of a chemical feed system, including a disinfection system, or a simple replacement of a filter or pump or both.

(2) If the requirement for engineering plans is waived, the owner of the spa assumes full responsibility for ensuring that the construction or reconstruction complies with these rules and with any other applicable federal, state and local laws, rules, and ordinances.

b. Content of plans. Plans and specifications shall contain sufficient information to demonstrate to the department that the proposed spa will meet the requirements of this chapter. This information shall include, but may not be limited to:

(1) The name and address of the owner and the name, address, and telephone number of the architect or engineer responsible for the plans and specifications. If a contractor applies for a construction permit, the name, address and telephone number of the contractor shall be included.

(2) The location of the project by street address or other legal description.

(3) A site plan showing the spa in relation to buildings, streets, any swimming pool within the same general area, water and sewer service, gas service, and electrical service.

(4) Detailed scale drawings of the spa and its appurtenances, including a plan view and cross sections at a scale of 1/4 inch per foot or larger. The location of inlets, overflow system components, main drains, deck and deck drainage, the location and size of spa piping, and the spa steps and handrails shall be shown.

(5) A drawing(s) showing the location, plan, and elevation of filters, pumps, chemical feeders, ventilation devices, and heaters, and additional drawings or schematics showing operating levels, backflow preventers, valves, piping, flow meters, pressure gauges, thermometers, the make-up water connection, and the drainage system for the disposal of filter backwash water.

(6) Plan and elevation drawings of bathhouse facilities including dressing rooms; lockers; showers, toilets and other plumbing fixtures; water supply and drain and vent systems; gas service; water heating equipment; electrical fixtures; and ventilation systems, if provided.

(7) Complete technical specifications for the construction of the spa, for the spa equipment and for the spa appurtenances.

c. Deviation from plans. No deviation from the plans and specifications or conditions of approval shall be made without prior approval of the department.

15.52(3) General design.

a. Materials. A spa shall be constructed of materials which are inert, stable, nontoxic, watertight, and durable.

b. Water depth. The maximum water depth for a general use spa shall not exceed 4 ft measured from the overflow level of the spa. The maximum depth of any seat or sitting bench shall not exceed 2 ft measured from the overflow level. A special-use spa may be deeper than 4 ft with written approval from the department.

c. Structural loading. A spa shall be designed and constructed to withstand anticipated structural loading for both full and empty conditions.

d. Distance from a swimming pool. A spa may be immediately adjacent to a swimming pool, or a minimum of 4 ft from a Class B swimming pool or 6 ft from a Class A swimming pool. The distance shall be measured from the outside edge of a ladder support or handrail on the deck, a lifeguard stand, a swimming pool slide, or a similar obstruction.

e. Water supply. The water supplied to a spa shall be from a source meeting the requirements of the department of natural resources for potable water.

(1) Water supplied to a spa shall be discharged to the spa system through an air gap or a reduced-pressure principle backflow device complying with the requirements of AWWA C-511-97, "Reduced-Pressure Principle Backflow-Prevention Assembly."

(2) Each hose bib at a spa facility shall be equipped with an atmospheric vacuum breaker or a hose connection backflow preventer.

f. Sewer separation required. No part of a spa recirculation system may be directly connected to a sanitary sewer. An air break or an air gap shall be provided.

g. Operations manual. The owner shall require that a permanent manual for operation of a spa facility be provided. The manual shall include, but may not be limited to:

(1) Instructions for routine operations at the spa including, but not necessarily limited to:

1. Filter backwash or cleaning.

2. Maintaining the chemical supply for the chemical feed systems.

3. Vacuuming and cleaning the swimming pool.

4. Swimming pool water testing procedures, including the frequency of testing.

5. Superchlorination.

6. Controller sensor maintenance and calibration, including the recommended frequency of maintenance.

(2) For each centrifugal pump, a pump performance curve plotted on an 8 1/2" x 11" or larger sheet.

(3) For each chemical feeder, the maximum rated output listed in weight per time or volume per time units.

(4) Basic operating and maintenance instructions for spa equipment that requires cleaning, adjustment, lubrication, or parts replacement, with recommended maintenance frequencies or the parameters that would indicate a need for maintenance.

h. A schematic drawing of the spa recirculation system shall be posted in the spa filter room or shall be included in the operations manual. Clear labeling of the spa piping with flow direction and water status (unfiltered, treated, backwash) may be substituted for the schematic drawing.

i. A permanent file containing the operations and maintenance manuals for the equipment installed at the spa shall be established. The file shall include a source for parts or maintenance for the equipment at the spa. The file may be located in a location other than the spa facility, but the file shall be readily available to the facility management and maintenance staff.

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15.52(4) Decks. A spa shall have a deck around at least 50 percent of the spa perimeter. The deck shall be at least 4 ft wide.

a. Deck materials. The deck shall be constructed of stable, nontoxic, and durable materials.

b. Deck drainage. The deck shall drain away from the spa at a slope of at least 1/8 inch/ft, but no more than 1/2 inch/ft to deck drains or to the surrounding ground surface. The deck shall be constructed to eliminate standing water.

c. Deck surface. The deck shall be provided with a slip-resistant, durable, and cleanable surface.

d. Deck covering. A deck covering may be used provided that:

(1) The covering allows drainage so that the covering and the deck do not remain wet or retain moisture.

(2) The covering is inert and will not support bacterial growth.

(3) The covering provides a slip-resistant surface.

(4) The covering is durable and cleanable.

e. Steps or ramp required. When the top rim of a spa is more than 24 inches above the surrounding floor area, stairs or a ramp shall be provided to the top of the spa. Stairs or a ramp shall be designed in accordance with the state building code or the building code adopted by the jurisdiction in which the spa is located.

15.52(5) Recirculation.

a. Separate recirculation required. A spa shall have a recirculation system separate from another spa or any swimming pool.

b. Recirculation flow rate. The recirculation system shall be capable of processing one spa volume of water within 30 minutes. For spas with skimmers, the recirculation flow rate shall be at least 3.8 gpm per linear inch of skimmer weir or the flow rate required above, whichever is greater.

c. Recirculation pump. The recirculation pump(s) shall be listed by NSF or by another listing agency approved by the department as complying with the requirements of Standard 50 and shall comply with the following requirements:

(1) The pump(s) shall supply the recirculation flow rate required by 15.52(5)“b” at a TDH of at least that given in “1,” “2” or “3” below, unless a lower TDH is shown by the designer to be hydraulically appropriate. A valve for regulating the rate of flow shall be provided in the recirculation pump discharge piping.

1. 40 feet for vacuum filters; or

2. 60 feet for pressure sand filters; or

3. 70 feet for pressure diatomaceous earth filters or cartridge filters.

(2) A separate pump or pumps shall be provided for the spa agitation system.

(3) For sand filter systems, the pump and filter system shall be designed so that each filter can be backwashed at a rate of at least 15 gpm/ft² of filter area.

(4) If a pump is located at an elevation higher than the spa water surface, it shall be self-priming or the piping shall be arranged to prevent the loss of pump prime when the pump is stopped.

(5) Where a vacuum filter is used, a vacuum limit control shall be provided on the pump suction line. The vacuum limit switch shall be set for a maximum vacuum of 18 in Hg.

(6) A compound vacuum-pressure gauge shall be installed on the pump suction line as close to the pump as practical. A vacuum gauge may be used for pumps with suction lift. A pressure gauge shall be installed on the pump discharge line as close to the pump as practical. Gauges shall be

of such a size and located so that they may be easily read by the operator.

(7) On pressure filter systems, a hair and lint strainer shall be installed on the suction side of the recirculation pump. The hair and lint strainer basket shall be readily accessible for cleaning, changing, or inspection. A spare strainer basket shall be provided. This requirement may be waived for systems using vertical turbine pumps or pumps designed for solids handling.

d. Spa water heater.

(1) A heating coil, pipe or steam hose shall not be installed in a spa.

(2) Gas-fired spa water heaters shall comply with the requirements of ANSI/AGA Z21.56-2001, ANSI/AGA Z21.56a-2004, and ANSI/AGA Z21.26b-2004. The data plate of the heater shall bear the AGA mark.

(3) Electric spa water heaters shall comply with the requirements of UL 1261 and shall bear the UL mark.

(4) A spa water heater with an input of greater than 400,000 BTU/hour (117 kilowatts) shall have a water heating vessel constructed in accordance with ASME Boiler Code, Section 8. The data plate of the heater shall bear the ASME mark.

(5) A thermometer shall be installed in the piping to measure the temperature of the water returning to the spa. The thermometer shall be located so that it may be read easily by an operator.

(6) Combustion air shall be provided for fuel-burning water heaters as required by the state plumbing code, 641—Chapter 25, Iowa Administrative Code, or as required by local ordinance.

(7) Fuel-burning water heaters shall be vented as required by the state plumbing code, 641—Chapter 25, Iowa Administrative Code, or as required by local ordinance.

(8) Fuel-burning water heaters shall be equipped with a pressure relief valve sized for the energy capacity of the heater.

e. Flow meters.

(1) Each spa recirculation system shall be provided with a permanently installed flow meter to measure the recirculation flow rate.

(2) A flow meter shall be accurate within 5 percent of the actual flow rate between ± 20 percent of the recirculation flow rate specified in 15.52(5)“b” or the nominal recirculation flow rate specified by the designer.

(3) A flow meter shall be installed on a straight length of pipe with sufficient clearance from valves, elbows or other sources of turbulence to attain the accuracy required by 15.52(5)“e”(2). The flow meter shall be installed so that it may be easily read by the facility operator, or a remote read-out of the flow rate shall be installed where it may be easily read by the operator. The designer may be required to provide documentation that the installation meets the requirements of subparagraph (2).

15.52(6) Filtration. A filter shall be listed by NSF or by another listing agency approved by the department as complying with the requirements of Standard 50 and shall comply with the following requirements:

a. Pressure gauges. Each pressure filter shall have a pressure gauge on the inlet side. Gauges shall be of such a size and located so that they may be read easily by the operator. A differential pressure gauge which gives the difference in pressure between the inlet and outlet of the filter may be used in place of a pressure gauge.

b. Air relief valves. An air relief valve shall be provided for each pressure filter.

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c. Backwash water visible. Backwash water from a pressure filter shall discharge through an observable free fall, or a sight glass shall be installed in the backwash discharge line.

d. Backwash water discharge. Backwash water shall be discharged indirectly to a sanitary sewer or another point of discharge approved by the department of natural resources.

e. Rapid sand filter.

(1) The filtration rate shall not exceed 3 gpm/ft² of filter area.

(2) The backwash rate shall be at least 15 gpm/ft² of filter area.

f. High-rate sand filter.

(1) The filtration rate shall not exceed 15 gpm/ft² of filter area.

(2) The backwash rate shall be at least 15 gpm/ft² of filter area.

(3) If more than one filter tank is served by a pump, the designer shall demonstrate that backwash flow rate to each filter tank meets the requirements of subparagraph (2), or an isolation valve shall be installed at each filter tank to permit each filter to be backwashed individually.

g. Vacuum sand filter.

(1) The filtration rate shall not exceed 15 gpm/ft² of filter area.

(2) The backwash rate shall be at least 15 gpm/ft² of filter area.

(3) An equalization screen shall be provided to evenly distribute the filter influent over the surface of the filter sand.

(4) Each filter system shall have an automatic air-purging cycle.

h. Sand filter media shall comply with the filter manufacturer's specifications.

i. Diatomaceous earth filters.

(1) The filtration rate shall not be greater than 1.5 gpm/ft² of effective filter area except that a maximum filtration rate of 2.0 gpm/ft² may be allowed where continuous body feed is provided.

(2) Diatomaceous earth filter systems shall have piping to allow recycling of the filter effluent during precoat.

(3) Waste diatomaceous earth shall be discharged to a sanitary sewer or other point of discharge approved by the department of natural resources. The discharge may be subject to the requirements of the local waste water utility.

j. Cartridge filters.

(1) The filtration rate shall not exceed 0.38 gpm/ft².

(2) A duplicate set of cartridges shall be provided.

k. Other filter systems may be used if approved by the department.

15.52(7) Piping.

a. Piping standards. Spa piping shall conform to applicable nationally recognized standards and shall be specified for use within the limitations of the manufacturer's specifications. Spa piping shall comply with the applicable requirements of NSF/ANSI Standard 61, "Drinking Water System Components—Health Effects." Plastic pipe shall comply with the requirements of NSF/ANSI Standard 14, "Plastic Piping Components and Related Materials," for potable water pipe.

b. Pipe sizing. Spa recirculation piping shall be sized so that water velocities do not exceed 6 ft/sec for suction flow and 10 ft/sec for pressure flow.

c. Skimmer pipe capacity. The piping for the skimmer system shall be designed to convey 100 percent of the recirculation flow rate.

d. Main drain pipe capacity. The main drain piping shall be designed to convey 100 percent of the recirculation flow rate. If the spa agitation system uses the same suction piping as the recirculation system, the piping shall be designed for the combined flow within the requirements of paragraph "b" above.

e. Separate piping required. The piping from the spa agitation system pump to the spa shall be separate from the recirculation system piping.

15.52(8) Inlets.

a. Wall inlets shall be provided for a spa.

b. The inlets shall be adequate in design, number, location, and spacing to ensure effective distribution of treated water and the maintenance of a uniform disinfectant residual throughout the spa. At least two recirculation inlets shall be provided.

(1) Inlets shall be located at least 6 inches below the design water surface.

(2) Inlets shall be directional flow-type inlets. Each inlet shall have a fitting with an opening of 1 inch diameter or less.

c. Each agitation system opening shall have a fitting with an opening of 1 inch diameter or less.

15.52(9) Skimmers. A recessed automatic surface skimmer shall be listed by NSF or by another listing agency approved by the department as complying with the requirements of Standard 50, except that an equalizer is not required for a skimmer installed in a spa equipped with an automatic water level maintenance device.

a. Skimmers required. A spa shall have at least one skimmer for each 100 ft² of surface area or fraction thereof.

b. Flow-through skimmers. Each skimmer shall be designed for a flow-through rate of at least 3.8 gpm per lineal inch of weir. The combined capacity of all skimmers in a spa shall not be less than the total recirculation rate.

c. Skimmer weirs. Skimmers shall have weirs that adjust automatically to variations in water level of at least 4 inches.

d. Flow control. Skimmers shall be equipped with a device to control flow through the skimmer.

e. Equalizers. If a spa is not equipped with an automatic water level maintenance device, each skimmer shall have an operational equalizer. The equalizer opening in the spa shall be covered with a fitting listed by a listing agency approved by the department as meeting the requirements of ANSI/ASME A112.19.8M-1987.

f. The skimmer(s) shall not be connected to the agitation system.

15.52(10) Main drain system. Spa main drains may be on the side wall of a spa near the spa bottom.

a. Main drains. Each spa pump shall be connected to two or more main drains or to a single main drain with an area of at least 324 in². The recirculation system and the agitation system may use the same drains.

(1) Main drains shall be at least 3 ft apart on center or on different spa surfaces, and shall be connected in parallel.

(2) Each main drain connected to the recirculation system shall be designed for 100 percent of the recirculation flow. If the agitation system draws from the same drains, the drains shall be designed for the total combined flow.

b. Control valve. There shall be a control valve to adjust the flow between the main drains and the overflow system.

c. Main drain covers. Each main drain shall be covered with a grate or other approved cover that is designed to prevent user entrapment. The water velocity through the open area of the cover shall be no more than 1½ ft/sec based on the recirculation flow rate specified in 15.52(5)"b" or the flow

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rate specified by the designer, whichever is greater, or the cover shall be listed as complying with the requirements of ANSI/ASME 112.19.8M-1987 by a listing agency approved by the department. A listed cover shall be used in accordance with its listing. Each main drain cover shall be designed to be securely fastened to the spa so it is not removable without tools.

15.52(11) Disinfection and pH control.

a. Controller required. A spa recirculation system shall be equipped with an automatic controller for maintenance of the disinfectant level and pH in the spa water. The control output of the controller to the chemical feed systems shall be based on the continuous measurement of the ORP and the pH of the water in the spa recirculation system.

b. No disinfection system designed to use di-chlor or tri-chlor shall be installed for an indoor spa after [insert effective date of these rules].

c. Disinfection system. A continuous feed disinfectant system shall be provided. The disinfectant feed system shall have the capacity to supply at least 10 mg/L chlorine or bromine based on the recirculation flow rate required in 15.52(5)“b.”

d. Disinfection feeder listing. A disinfectant feeder shall be listed by NSF or by another listing agency approved by the department as complying with the requirements of Standard 50.

e. Gas chlorine shall not be used as a disinfectant for a spa.

f. Solution feed. Where a metering pump is used to feed a solution of disinfectant, the disinfectant solution container shall have a capacity of at least one day's supply at the rate specified in 15.52(11)“c.”

g. Erosion chlorine feeders. The storage capacity of an erosion feeder shall be at least one day's supply of disinfectant at the rate specified in 15.52(11)“c.”

h. pH chemical system. Each spa shall have a metering pump for the addition of a pH control chemical to the spa recirculation system, or a carbon dioxide (CO₂) gas feed system. A metering pump shall be listed by NSF or another listing agency approved by the department as complying with the requirements of Standard 50.

i. Chemical feed stop. The chemical feed systems shall be designed so that chemical feed is automatically and positively stopped when the recirculation flow is interrupted.

j. Test equipment. Test equipment complying with the following requirements shall be provided.

(1) The test equipment shall provide for the direct measurement of free chlorine and combined chlorine from 0 to 10 ppm in increments of 0.2 ppm or less over the full range, or total bromine from 0 to 20 ppm in increments of 0.5 ppm over the full range.

(2) The test equipment shall provide for the measurement of spa water pH from 7.0 to 8.0 with at least five increments in that range.

(3) The test equipment shall provide for the measurement of total alkalinity and calcium hardness with increments of 10 ppm or less.

(4) The test equipment shall provide for the measurement of cyanuric acid from 30 to 100 ppm. This requirement may be waived for a facility that does not use cyanuric acid or a stabilized chlorine disinfectant.

15.52(12) Safety.

a. Spa entry. A spa shall have at least one stairway, ramp, ladder, or set of recessed steps designating a point of entry and exit for every 50 ft of perimeter or fraction thereof.

(1) Stair steps leading into a spa shall be at least 12 inches wide, the tread depth shall be no less than 10 inches, and the riser height shall be no more than 12 inches. If a bench or seat is used as a part of the stair, the first riser height from the bottom of the spa to the seat or bench shall be no more than 14 inches. Except for the first riser, the riser height shall be uniform.

1. Stair steps shall be provided with a slip-resistant surface.

2. The stair steps shall be provided with two handrails or grab rails, one on each side of the steps.

(2) Ladders.

1. Ladders shall be provided with a handrail which extends from below the water surface to the top surface of the deck on each side of the ladder.

2. Ladders shall be of a color contrasting with the spa walls.

(3) Recessed steps.

1. Recessed steps shall have a tread depth of at least 5 inches, a tread width of at least 12 inches, and a uniform rise of no more than 12 inches.

2. Recessed steps shall be provided with a handrail or with deck-level grab rails on each side of the recessed steps.

3. Recessed steps shall drain to the spa.

(4) Handrails and grab rails.

1. Ladders, handrails, and grab rails shall be designed to be securely anchored and so that tools are required for their removal.

2. Ladders, handrails, and grab rails shall be of corrosion-resistant materials, or provided with corrosion-resistant coatings. They shall have no exposed sharp edges.

b. Agitation system control. The agitation system start control shall be installed out of the reach of persons in the spa. The “on” cycle for the agitation system shall be no more than ten minutes.

c. Electrical. New construction or reconstruction shall comply with the requirements of the National Electrical Code, 70-2005, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

d. Lighting. Artificial lighting shall be provided at indoor spas and at outdoor spas which are to be used after sunset, in accordance with the following:

(1) Underwater lighting of at least 60 lamp lumens/ft² or 0.5 watts/ft² of water surface area and area lighting of at least 10 lumens/ft² or 0.6 watts/ft² of deck area.

(2) If underwater lights are not provided, overhead lighting of at least 30 lumens/ft² or 2.0 watts/ft² of spa water surface area shall be provided.

e. Spa enclosure.

(1) A spa shall be enclosed by a fence, wall, building, or combination thereof not less than 4 ft high. The spa enclosure shall be constructed of durable materials. A spa may be in the same room or enclosure as another spa or a swimming pool.

(2) A fence, wall, or other means of enclosure shall have no openings that would allow the passage of a 4-inch sphere, and shall not be easily climbable by toddlers. The distance between the ground and the top of the lowest horizontal support accessible from the outside of the facility, or between the two lowest horizontal supports accessible from outside the facility, shall be at least 45 inches. A horizontal support is considered accessible if it is on the exterior of the fence relative to the spa, or if the gap between the vertical members of the fence is greater than 1¾ inches.

(3) At least one gate or door with an opening of at least 36 inches in width shall be provided for emergency purposes.

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When closed, gates and doors shall comply with the requirements of (2) above. Gates and doors shall be lockable. Except where lifeguard or structured program supervision is provided whenever the swimming pool is open, gates and doors shall be self-closing and self-latching.

(4) For indoor spas, if there are sleeping rooms, apartments, condominiums, or permanent recreation areas used by children which open directly into the spa area, the spa shall be enclosed by a barrier at least 3 ft high. No opening in the barrier shall permit the passage of a 4-inch sphere. There shall be at least one 36-inch-wide gate or door through the barrier. Gates and doors shall be lockable. Except where lifeguard supervision is provided whenever the pool is open, gates or doors shall be self-closing and self-latching.

These rules are intended to implement Iowa Code chapter 135I.

ARC 3964B**PUBLIC HEALTH
DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 136C.3, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 38, “General Provisions for Radiation Machines and Radioactive Materials,” Chapter 39, “Registration of Radiation Machine Facilities, Licensure of Radioactive Materials and Transportation of Radioactive Materials,” Chapter 40, “Standards for Protection Against Radiation,” Chapter 41, “Safety Requirements for the Use of Radiation Machines and Certain Uses of Radioactive Materials,” Chapter 42, “Minimum Certification Standards for Diagnostic Radiographers, Nuclear Medicine Technologists, and Radiation Therapists,” Chapter 45, “Radiation Safety Requirements for Industrial Radiographic Operations,” and Chapter 46, “Minimum Requirements for Tanning Facilities,” Iowa Administrative Code.

The following itemize the proposed changes.

Items 1, 11, 31, 61, and 94 amend the rules to reflect current federal regulations.

Items 2, 32, and 95 amend definitions to meet Nuclear Regulatory Commission (NRC) compatibility requirements.

Item 3 rescinds subrule 38.3(2) and replaces it with updated language to meet NRC compatibility requirements.

Items 4, 10, 26, 39, and 68 correct or change wording for clarity.

Item 5 prohibits scanning for nonmedical purposes because of exposure factors.

Item 6 adds a fee for mammography accreditation in order to cover the cost of the review.

Item 7 adds a fee for a new category of permit, the radiologist assistant.

Item 8 amends the fee for transportation of radioactive material across the state in order to cover the cost of the escort and emergency training.

Item 9 allows an exemption from fees in exchange for certain services used by the Agency.

Items 12 and 13 clarify the requirements a facility must meet in order to be registered or licensed. This clarification particularly affects companies operating mobile vans.

Item 14 adds new language for license exemptions to meet NRC compatibility requirements.

Items 15, 16, 17, 18, 19, 21, 22, 24, 28, and 30 amend rules governing general licensed radioactive material to meet NRC compatibility requirements.

Items 20 and 29 add new language governing general licensed radioactive material to meet NRC compatibility requirements.

Items 23, 25, 27, 53, 65, 92, and 119 rescind provisions that are duplicated in another rule or no longer apply.

Items 33, 37, 54, and 56 update language to meet NRC compatibility requirements.

Items 34, 35, 36, 47, 48, 49, 50, 51, 52, and 59 are amended to remove references to forms no longer available from the Agency. These forms are standard industrywide and easily available from other sources.

Items 38, 40, 41, 42, 43, 44, 55, 57, and 58 add or correct language governing radiation exposure to meet NRC compatibility requirements.

Items 45 and 46 add language regarding securing radioactive material.

Item 60 changes posting requirements for certain documents.

Item 62 adds language to allow the citing of violations for equipment that is not covered in other rules.

Item 63 removes wording to allow verbal orders when the doctor is not in the room.

Item 64 adds language to require X-ray processors to be in good working order.

Item 66 removes language that is no longer needed due to industry standards.

Item 67 adds language to limit which individuals may administer radioactive materials.

Item 69 adds a paragraph to update requirements for a radiation therapy physicist in order to meet NRC compatibility requirements.

Item 70 revises language for written directives in order to meet NRC compatibility requirements.

Items 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, and 84 amend mammography rules for clarity and federal compliance.

Item 85 adds language to allow a screening program for cardiac scoring.

Item 86 adds a definition for a new category of certification and removes language from a definition that is no longer applicable.

Item 87 clarifies and adds language to expand the Agency’s authority to sanction certification holders.

Item 88 adds continuing education requirements for a new category of certification.

Item 89 clarifies requirements for individuals submitting continuing education courses for review.

Item 90 clarifies and adds language to accept additional testing organizations. These organizations are already included in Agency policy.

Item 91 removes testing organizations that are no longer recognized as providing approved certification examinations.

Item 93 adds requirements for a new certification, radiologist assistant.

Items 96, 97, 98, 99, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 117, 118, and 120 amend rules for industrial radiography to meet NRC compatibility requirements.

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Items 100 and 102 add new language for training of industrial radiographers to meet NRC compatibility requirements.

Item 116 rescinds old language and adds new language to meet NRC compatibility requirements for leak testing.

Items 121 and 122 amend and add language to require the posting of negative health effects in tanning facilities.

Item 123 adds a requirement that facility operators instruct consumers about the need to wear protective eyewear. This requirement is in Agency policy.

Items 124 and 125 add language to allow the Agency to proceed with certain disciplinary actions.

Item 126 adds a new appendix in conjunction with Items 121 and 122.

These rules are subject to waiver pursuant to the Department's exemption provision contained at 641—38.3(136C). For this reason, the Department has not provided a specific provision for waiver of these particular rules.

Any interested person may make written suggestions or comments on these proposed amendments prior to the close of business on February 22, 2005. Such written materials should be directed to Donald A. Flater, Chief, Bureau of Radiological Health, Iowa Department of Public Health, 401 SW 7th Street, Suite D, Des Moines, Iowa 50309-4611; fax (515)725-0318; or E-mail: dflater@idph.state.ia.us.

A public hearing will be held on February 22, 2005, at 8:30 a.m. in the Conference Room, Iowa Department of Public Health, 401 SW 7th Street, Suite D, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any person who plans to attend the public hearing and has special requirements such as those related to hearing or mobility impairments should contact the Department to advise of specific needs.

These amendments are intended to implement Iowa Code chapter 136C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 38.1(2) as follows:

38.1(2) All references to Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~May 5, 2004~~ *May 4, 2005*.

ITEM 2. Amend rule **641—38.2(136C)** as follows:

Amend the following definitions:

"Gray (Gy)" means the SI unit of absorbed dose, ~~kerma, and specific energy imparted equal to~~. *One gray is equal to an absorbed dose of 1 joule per kilogram. (1 Gy=100 rad).*

"Individual monitoring" means the assessment of:

1. Dose equivalent by the use of ~~individual monitoring~~ devices *designed to be worn by an individual* or by the use of survey data; or

2. Committed effective dose equivalent by bioassay or by determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours. See the definition of DAC-hours in 641—Chapter 40.

"Industrial radiography" means ~~a nondestructive testing method using ionizing radiation, such as gamma rays or X-rays, an examination of the structure of materials by nondestructive methods, utilizing ionizing radiation~~ to make radiographic images.

"Misadministration" means the administration of:

4. Radiation doses received from linear accelerator therapy, deep X-ray machine therapy or superficial therapy; involving the ~~wrong patient or human research subject, wrong mode of treatment or wrong treatment site;~~

~~When the treatment consists of three or fewer fractions and the calculated total administered dose differs from the total prescribed dose by more than 10 percent of the total prescribed dose;~~

~~When the calculated weekly administered dose is 30 percent greater than the weekly prescribed dose; or~~

~~When the calculated total administered dose differs from the total prescribed dose by more than 20 percent of the total prescribed dose.~~

Administration of external beam radiation that results, or will result, in unintended permanent functional damage to an organ or a physiological system as determined by a physician.

A dose that differs from the prescribed dose by more than 5 rem (0.05 sievert) effective dose equivalent, 50 rem (0.5 sievert) to an organ or tissue, or 50 rem (0.5 sievert) shallow dose equivalent to the skin; and either:

(1) *The total dose delivered differs from the prescribed dose by 20 percent or more; or*

(2) *The fractionated dose delivered differs from the prescribed dose for a single fraction by 50 percent or more.*

A dose that exceeds 5 rem (0.05 sievert) effective dose equivalent, 50 rem (0.5 sievert) to an organ or tissue, or 50 rem (0.5 sievert) shallow dose equivalent to the skin from either of the following:

(1) *An administration of the wrong treatment modality.*

(2) *An administration to the wrong patient or human research subject.*

A dose to the skin or an organ or tissue other than the treatment site that exceeds by 50 rem (0.5 sievert) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive.

2. ~~A diagnostic radiopharmaceutical dosage, other than quantities greater than 30 microcuries of either sodium iodide I-125 or I-131, both:~~

~~Involving the wrong patient or human research subject, wrong radiopharmaceutical, wrong route of administration; or when the administered dosage differs from the prescribed dosage; and~~

~~When the dose to the patient or human research subject exceeds 5 rem effective dose equivalent or 50 rem dose equivalent to any individual organ.~~

"Public dose" means the dose received by a member of the public from exposure to radiation or to radioactive material released by a licensee, registrant, or other person, or to any other source of radiation under the control of a licensee, registrant, or other person. It does not include occupational dose or doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered sources of radiation or radioactive material and released ~~in accordance with~~ *under* 641—subrule 41.2(27) or from voluntary participation in medical research programs.

"Radiation" means alpha particles, beta particles, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. For purposes of these rules, ionizing radiation is an equivalent term. Radiation, as used in these rules, does not include nonionizing radiation, such as radiowaves *or microwaves*, visible, infrared, or ultraviolet light.

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“Sealed source” means radioactive material that is permanently bonded or fixed in a capsule or matrix designed to prevent release and dispersal of the radioactive material under the most severe conditions which are likely to be encountered in normal use and handling encased in a capsule designed to prevent leakage or escape of the radioactive material.

“Survey” means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources of radiation. When appropriate, such evaluation includes, but is not limited to, tests, physical examinations, a physical survey of the location of radioactive material and measurements or calculations of levels of radiation or concentrations or quantities of radioactive material present.

Add the following **new** definition in alphabetical order:

“Lot tolerance percent defective” means, expressed in percent defective, the poorest quality in an individual inspection lot that should be accepted.

ITEM 3. Rescind subrule 38.3(2) and adopt **new** subrule 38.3(2) as follows:

38.3(2) Persons using by-product material under certain Department of Energy and Nuclear Regulatory Commission contracts.

a. Except to the extent that NRC facilities or activities of the types subject to licensing pursuant to the Energy Reorganization Act of 1974 are involved, any prime contractor of the NRC is exempt from the license requirements of these rules and from the regulations of these rules to the extent that such contractor, under the contractor’s prime contract with the NRC, manufactures, produces, transfers, receives, acquires, owns, possesses, or uses by-product material for:

(1) The performance of work for a department at the United States government-owned or government-controlled site, including the transportation of by-product material to or from such site and the performance of contract services during temporary interruptions of such transportation;

(2) Research in, or development, manufacture, storage, testing or transportation of, atomic weapons or components thereof; or

(3) The use or operation of nuclear reactors or other nuclear devices in a United States government-owned vehicle or vessel.

b. In addition to the foregoing exemptions and subject to the requirement for licensing of NRC facilities and activities pursuant to the requirements of the Energy Reorganization Act of 1974, any prime contractor or subcontractor of the NRC is exempt from the requirements for a license set forth in the Act and from the regulations in these rules to the extent that such prime contractor or subcontractor manufactures, produces, transfers, receives, acquires, owns, possesses, or uses by-product material under the contractor’s or subcontractor’s prime contract or subcontract when the NRC determines that the exemption of the prime contractor or subcontractor is authorized by law; and that, under the terms of the contract or subcontract, there is adequate assurance that the work can be accomplished without undue risk to the public health and safety.

c. Carriers. Common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service are exempt from these rules to the extent that they transport or store radioactive material in the regular course of carriage for another or of storage incident thereto.

ITEM 4. Amend subrule **38.4(4)**, paragraph “a,” as follows:

a. As used in these rules, the quality factors for converting absorbed dose to dose equivalent are shown in Table I.

TABLE I

QUALITY FACTORS AND ABSORBED DOSE EQUIVALENCIES

TYPE OF RADIATION	Quality Factor (Q)	Absorbed Dose Equal to a Unit Dose Equivalent ^a (see “I”)
X, gamma, or beta radiation and high-speed electrons	1	1
Alpha particles, multiple-charged particles, fission fragments and heavy particles of unknown charge	20	0.05
Neutrons of unknown energy	10	0.1
High-energy protons	10	0.1

^a 1. Absorbed dose in gray equal to 1 Sv or the absorbed dose in rad equal to 1 rem; rad equal to 1 rem or the absorbed dose in gray equal to 1 sievert.

ITEM 5. Amend rule 641—38.6(136C) as follows:

641—38.6(136C) Prohibited uses. A hand-held fluoroscopic screen shall not be used with X-ray equipment unless it has been accepted for certification by the U.S. Food and Drug Administration, Center for Devices and Radiological Health. A shoe-fitting fluoroscopic device shall not be used. *Whole-body scanning devices shall not be used on humans for non-medical purposes.*

ITEM 6. Amend subrule **38.8(1)** by adopting **new** paragraph “f” as follows:

f. All Iowa-accredited facilities providing mammography services in Iowa must submit a \$200 accreditation fee for initial accreditation and each reaccreditation.

ITEM 7. Amend subrule 38.8(6), introductory paragraph, as follows:

38.8(6) Certification fees. Diagnostic radiographers, radiologist assistants, radiation therapists, and nuclear medicine technologists (as defined in 641—Chapter 42), other than licensed practitioners of the healing arts, are required to pay fees sufficient to defray the cost of administering 641—Chapter 42. Fees are as follows:

ITEM 8. Amend subrule **38.8(11)**, paragraph “a,” subparagraphs (1), (2), and (3), as follows:

(1) \$1750 1800 per highway cask for each truck shipment of spent nuclear fuel, high-level radioactive waste or transuranic waste traversing the state or any portion thereof. Single cask truck shipments are subject to a surcharge of \$45 20 per mile for every mile over 250 miles traveled.

(2) \$1250 1300 for the first cask and \$100 125 for each additional cask for each rail shipment of spent nuclear fuel, high-level radioactive waste or transuranic waste traversing the state or any portion thereof.

(3) \$100 \$125 for each shipment by truck or by rail paid by the shipper for low-level radioactive waste shipped in or across Iowa. The department may accept an annual shipment fee as negotiated with a shipper or accept payment per shipment. This fee applies to waste shipped to a site authorized by a government agency to receive low-level radioactive waste or shipped to a storage site to be held for future disposal.

ITEM 9. Amend rule 641—38.8(136C) by adopting **new** subrule 38.8(12) as follows:

38.8(12) Fee waiver. Any fee may be waived in exchange for services (low-level waste disposal, radiation detection in-

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strument calibration, instrument repair, sample analysis, etc.) provided to the agency. The waiver may only occur as a result of a 28E agreement between the parties.

ITEM 10. Amend subrule 38.10(1), introductory paragraph, as follows:

38.10(1) Any licensee, registrant, applicant for a license or certificate of registration, employee of a licensee, registrant or applicant; or any contractor (including a supplier or consultant), subcontractor, employee of a contractor or subcontractor of any licensee or registrant or applicant for a license or certificate of registration, who knowingly provides to any licensee, applicant, registrant, contractor, or subcontractor any components, equipment, materials, or other goods or services that relate to a licensee's, registrant's or applicant's activities in this rule, ~~may~~ may not:

ITEM 11. Amend subrule 39.1(3) as follows:

39.1(3) All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~May 5, 2004~~ May 4, 2005.

ITEM 12. Amend subrule **39.3(2)**, paragraph "a," as follows:

a. Apply for registration of such facility with the agency prior to the operation of a radiation machine facility. In order to register equipment, the person must have a ~~permanent office located in Iowa that has a non-wireless telephone, employee and equipment, and storage for records regarding the equipment and operator certification.~~ *storage area located in Iowa where records of equipment maintenance and quality assurance, personnel monitoring, and personnel certification must be kept for review during an inspection. The records may be stored on a van, if appropriate. An Iowa mailing address is not required.* Application for registration shall be completed on forms furnished by the agency and shall include the appropriate fee from 641—38.8(136C).

ITEM 13. Amend subrule **39.4(1)**, paragraph "b," as follows:

b. An Iowa radioactive materials license requires that the person have a ~~permanent office~~ *storage area* in Iowa where records are maintained pertaining to licensed activities, *equipment maintenance and quality assurance, personnel monitoring, and personnel certification* and where material can be stored. *The records may be stored on a van, if appropriate.* ~~The office must have at least one full-time employee and a telephone~~ *storage area must be assessible during inspections. An Iowa mailing address is not required.*

ITEM 14. Amend subrule **39.4(3)**, paragraph "a," by adopting ~~new~~ subparagraphs (4) and (5) as follows:

(4) This rule shall not be deemed to authorize the import of radioactive material or products containing radioactive material.

(5) A manufacturer, processor, or producer of a product or material in an agreement state is exempt from the requirements for a license and from these rules to the extent that the manufacturer, processor, or producer transfers radioactive material contained in a product or material in concentrations not in excess of the requirements in Appendix A of this chapter and introduced into the product or material by a licensee holding a specific license issued by an agreement state or the U.S. Nuclear Regulatory Commission expressly authorizing such introduction. This exemption does not apply to the transfer of radioactive material contained in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

ITEM 15. Amend subrule **39.4(3)**, paragraph "b," subparagraph (3), as follows:

(3) This paragraph (39.4(3)"b") does not authorize *for purposes of commercial distribution* the production, packaging or repackaging of radioactive material for purposes of commercial distribution, or the incorporation of radioactive material into products intended for commercial distribution.

ITEM 16. Amend subrule **39.4(3)**, paragraph "c," subparagraph (1), introductory paragraph, as follows:

(1) Certain items containing radioactive material. Except for persons who apply radioactive material to, or persons who incorporate radioactive material into, the following products, *or persons who initially transfer for sale or distribution the following products containing radioactive material*, any person is exempt from these rules to the extent that the person receives, possesses, uses, transfers, owns, or acquires the following products:

ITEM 17. Amend subrule **39.4(3)**, paragraph "c," subparagraph (1), numbered paragraph "9," as follows:

9. ~~Ionizing radiation measuring or detection devices instruments, for purposes of internal calibration or standardization,~~ containing one or more sources of radioactive material, provided that:

- Each source contains no more than one exempt quantity set forth in Appendix B of this chapter;
- Each device contains no more than ten exempt quantities. For purposes of this requirement, a device's source(s) may contain either one *type of* or different types of radionuclides, and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in Appendix B of this chapter, provided that the sum of such fractions shall not exceed unity; or
- For americium-241, 0.05 microcurie (1.85 kBq) is considered an exempt quantity under 39.4(3)"c"(1)"9."

ITEM 18. Amend subrule **39.4(3)**, paragraph "c," subparagraph (2), numbered paragraph "1," as follows:

1. Tritium, krypton-85, or promethium-147. Except for persons who manufacture, process, ~~or produce,~~ *or initially transfer for sale or distribution* self-luminous products containing tritium, krypton-85, or promethium-147, any person is exempt from these rules to the extent that such person receives, possesses, uses, transfers, owns, or acquires tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced, imported, or transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to Section 32.22 of 10 CFR Part 32, which license authorizes the ~~initial transfer of the product to persons who are exempt from regulatory requirements for use under these rules.~~ *Any person who desires to manufacture, process, or produce self-luminous products containing tritium, krypton-85, or promethium-147, or to transfer such products for use according to this paragraph, shall apply for a license which states that the product may be transferred by the licensee to persons exempt from the regulations in this paragraph.* The exemption in 39.4(3)"c"(2) does not apply to tritium, krypton-85, or promethium-147 used in products primarily for frivolous purposes or in toys or adornments.

ITEM 19. Amend subrule **39.4(3)**, paragraph "c," subparagraph (3), numbered paragraph "1," as follows:

1. Except for persons who manufacture, process, ~~or produce,~~ *or initially transfer for sale or distribution* gas and aerosol detectors containing radioactive material, any person is exempt from 641—Chapters 38, 39, 40, and 41 to the ex-

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tent that such person receives, possesses, uses, transfers, owns, or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards, ~~provided that detectors containing radioactive material shall have been and~~ *imported, or processed, produced, or initially* transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to Section 32.27 of 10 CFR Part 32; or a licensing state pursuant to 39.4(29)“c,” which authorizes the *initial* transfer of the detectors to persons who are exempt ~~from regulatory requirements~~ *product for use under this rule.*

ITEM 20. Amend subrule **39.4(3)**, paragraph “c,” subparagraph (3), by adopting **new** numbered paragraph “4” as follows:

4. Any person who desires to manufacture, process, or produce gas and aerosol detectors containing radioactive material, or to initially transfer such products for use pursuant to 39.4(3)“c”(3)“1,” shall apply for a license which states that the product may be initially transferred by the licensee to persons exempt from these rules, the regulations of the U.S. Nuclear Regulatory Commission, or equivalent rules of an agreement state.

ITEM 21. Amend subrule **39.4(3)**, paragraph “c,” subparagraph (4), as follows:

(4) Resins containing scandium-46 and designed for sand consolidation in oil wells. Any person is exempt from these rules to the extent that such person receives, possesses, uses, transfers, owns or acquires synthetic plastic resins containing scandium-46 which are designed for sand consolidation in oil wells. Such resins shall have been manufactured or ~~imported~~ *initially transferred for sale or distribution* in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or shall have been manufactured in accordance with the specifications contained in a specific license issued by the agency or any agreement state to the manufacturer of such resins pursuant to licensing requirements equivalent to those in Sections 32.16 and 32.17 of 10 CFR Part 32 of the regulations of the U.S. Nuclear Regulatory Commission. This exemption does not authorize the manufacture *or initial transfer for sale or distribution* of any resins containing scandium-46.

ITEM 22. Amend subrule **39.4(26)**, paragraph “g,” introductory paragraph, as follows:

g. Each person licensed under this chapter shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the license is ~~terminated by the agency~~ *released for unrestricted use. Before licensed activities are transferred or assigned to another licensee, the licensee shall transfer all records described in this subrule to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated.* If records of relevant information are kept for other purposes, reference to these records and their locations may be used. Information the agency considers important to decommissioning consists of:

ITEM 23. Rescind and reserve subrule **39.4(29)**, paragraph “b.”

ITEM 24. Rescind subrule **39.4(29)**, paragraph “c,” and adopt **new** paragraph “c” as follows:

c. Resins containing scandium-46 and designed for sand consolidation in oil wells: requirements for license to manufacture, or initially transfer for sale or distribution. An application for a specific license to manufacture, or initially

transfer for sale or distribution, synthetic plastic resins containing scandium-46 for use pursuant to 39.4(3)“c”(4) will be approved if the applicant satisfies the general requirements of 39.4(25) and the criteria of Section 32.16 of 10 CFR Part 32.

ITEM 25. Amend subrule **39.4(29)**, paragraph “h,” subparagraph (2), by rescinding numbered paragraph “2,” and renumbering paragraphs “3” to “8” as “2” to “7.”

ITEM 26. Amend subrule **39.4(29)**, paragraph “h,” subparagraph (4), numbered paragraph “1,” as follows:

1. This radioactive material may be received, acquired, possessed, and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or ~~of a state with which the Commission has entered into an agreement for the exercise of regulatory authority~~ *an agreement state.*

Name of manufacturer

ITEM 27. Rescind subrule **39.4(29)**, paragraph “h,” subparagraph (4), numbered paragraph “2.”

ITEM 28. Amend subrule **39.4(29)**, paragraph “i,” as follows:

i. Licensing the manufacture and distribution of ice detection devices. An application for a specific license to manufacture ~~and distribute~~ *or initially transfer* ice detection devices *containing strontium-90* to persons generally licensed under 39.4(22)“j” will be approved if the applicant satisfies the general requirements of 39.4(25) and the criteria of Sections 32.61, 32.62, and 32.103 of 10 CFR Part 32.

ITEM 29. Amend subrule **39.4(29)** by adopting **new** paragraphs “n” and “o” as follows:

n. Resins containing scandium-46 and designed for sand consolidation in oil wells: requirements for license to manufacture, or initially transfer for sale or distribution. An application for a specific license to manufacture, or initially transfer for sale or distribution, synthetic plastic resins containing scandium-46 for use pursuant to 39.4(3)“c”(4) will be approved if:

(1) The applicant satisfies the general requirements specified in 39.4(25);

(2) The applicant satisfies the requirements of 10 CFR 32.17 or their equivalent.

o. Acceptance sampling procedures under certain specific licenses. A random sample shall be taken from each inspection lot of devices licensed under 39.4(29) for which testing is required and meet the requirements pursuant to 10 CFR 32.110.

ITEM 30. Amend subrule **39.4(33)**, paragraph “h,” as follows:

h. Except as provided in 39.4(33)“i,” licensees shall complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than 24 months following the initiation of decommissioning. *When the decommissioning involves the entire site, the licensee shall request license termination as soon as practicable but no later than 24 months following the initiation of decommissioning.*

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ITEM 31. Amend subrule 40.1(5) as follows:

40.1(5) All references to Code of Federal Regulations (CFR) in this chapter are those in effect on or before ~~May 5, 2004~~ *May 4, 2005*.

ITEM 32. Amend subrule **40.2(2)**, definition of “derived air concentration (DAC),” as follows:

“Derived air concentration (DAC)” means the concentration of a given radionuclide in air which, if breathed by the reference person for a working year of 2,000 hours under conditions of light work (*inhalation rate 1.2 cubic meters of air per hour*), results in an intake of one ALI. ~~For purposes of these rules, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year.~~ DAC values are given in Table I, Column 3, of Appendix B.

ITEM 33. Amend subrule 40.17(1) as follows:

40.17(1) Licensees shall, when determining the dose from airborne radioactive material, include the contribution to the deep dose equivalent, ~~eye lens~~ dose equivalent, and shallow dose equivalent from external exposure to the radioactive cloud. See Appendix B, footnotes 1 and 2.

ITEM 34. Amend subrule **40.19(3)**, paragraph “b,” as follows:

b. Accept, as the record of lifetime cumulative radiation dose, ~~an up-to-date IDPH Form 588-2833 or equivalent a form signed by the individual and countersigned by an appropriate official of the most recent employer for work involving radiation exposure, or the individual’s current employer, if the individual is not employed by the licensee or registrant; and~~

ITEM 35. Amend subrule 40.19(4) as follows:

40.19(4)a. The licensee or registrant shall record the exposure history, as required by 40.37(136C), ~~on IDPH Form 588-2833 or other clear and legible record, of all the information required on that form.~~ The form or record shall show each period in which the individual received occupational exposure to radiation or radioactive material and shall be signed by the individual who received the exposure. For each period for which the licensee or registrant obtains reports, the licensee or registrant shall use the dose shown in the report in preparing ~~IDPH Form 588-2833 or equivalent the exposure history.~~ For any period in which the licensee or registrant does not obtain a report, the licensee or registrant shall place a notation on ~~IDPH Form 588-2833 or equivalent the report~~ indicating the periods of time for which data are not available.

b. Licensees or registrants are not required to reevaluate the separate external dose equivalents and internal committed dose equivalents or intakes of radionuclides assessed pursuant to the rules in this chapter in effect on or before January 1, 1994. Further, occupational exposure histories obtained and recorded ~~on IDPH Form 588-2833 or equivalent~~ on or before January 1, 1994, would not have included effective dose equivalent, but may be used in the absence of specific information on the intake of radionuclides by the individual.

ITEM 36. Amend subrule 40.19(6) as follows:

40.19(6) The licensee or registrant shall retain the records ~~on IDPH Form 588-2833 or equivalent in 641—40.19(136C)~~ until the Agency terminates each pertinent license or registration requiring this record. The licensee or registrant shall retain records used in preparing ~~IDPH Form 588-2833 or equivalent any record for this subrule~~ for three years after the record is made.

ITEM 37. Amend rule 641—40.21(136C) as follows:

641—40.21(136C) Occupational dose limits for minors. The annual occupational dose limits for minors are 10 percent of the annual ~~occupational~~ dose limits specified for adult workers in 40.15(136C).

ITEM 38. Amend subrule 40.22(4) as follows:

40.22(4) If by the time the woman declares pregnancy to the licensee or registrant, the dose equivalent to the embryo/fetus has exceeded ~~0.45 rem (4.5 mSv)~~ *0.5 rem (5 mSv)*, or is *within 0.05 rem (0.5 mSv) of this dose*, the licensee or registrant shall be deemed to be in compliance with 40.22(1) if the additional dose equivalent to the embryo/fetus does not exceed 0.05 rem (0.5 mSv) during the remainder of the pregnancy.

ITEM 39. Amend subrule 40.26(1) as follows:

40.26(1) Each licensee or registrant shall conduct operations so that:

a. The total effective dose equivalent to individual members of the public from the licensed or registered operation does not exceed 0.1 rem (1 millisievert) in a year, exclusive of the dose contributions from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with 641—subrule 41.2(27), from voluntary participation in medical research programs, and from the licensee’s or registrant’s disposal of radioactive material into sanitary sewerage ~~in accordance with under 641—40.72(136C); and~~

b. The dose in any unrestricted area from external sources, exclusive of the dose contributions from patients administered radioactive material and released ~~in accordance with under 641—subrule 41.2(27)~~, does not exceed 0.002 rem (0.02 millisievert) in any one hour.

ITEM 40. Amend subrule 40.27(1) as follows:

40.27(1) The licensee or registrant shall make or cause to be made, as appropriate, surveys of radiation levels in unrestricted *and controlled* areas and radioactive materials in effluents released to unrestricted *and controlled* areas to demonstrate compliance with the dose limits for individual members of the public in 40.26(136C).

ITEM 41. Amend subrule 40.28(1) as follows:

40.28(1) The criteria in this rule apply to the decommissioning of facilities licensed under 641—Chapter 39, *and to the release of part of a facility or site for unrestricted use*, as well as other facilities subject to the agency’s jurisdiction under Iowa Code chapter 136C.

ITEM 42. Amend subrule 40.28(3) as follows:

40.28(3) After a site has been decommissioned and the license terminated in accordance with the criteria in this chapter, *or after part of a facility or site has been released for unrestricted use in accordance with this chapter*, the agency will require additional cleanup only if, based on new information, it determines that the criteria of this chapter were not met and residual radioactivity remaining at the site could result in significant threat to public health and safety.

ITEM 43. Amend subrule 40.37(1) as follows:

40.37(1) Each licensee or registrant shall monitor occupational exposure to radiation and shall supply and require the use of individual monitoring devices by:

a. Adults likely to receive, in 1 year from sources external to the body, a dose in excess of 10 percent of the limits in 40.15(1); and

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b. Minors ~~and declared pregnant women~~ likely to receive, in 1 year from sources external to the body, a *deep dose equivalent* dose in excess of ~~10 percent of any of the applicable limits in 40.21(136C) or 40.22(136C)~~ *0.15 (1.5 mSv), or a shallow dose equivalent to the skin or to the extremities in excess of 0.5 rem (1 mSv); and*

c. Individuals entering a high or very high radiation area.;

d. Individuals working with medical fluoroscopic equipment. ; *and*

e. *Declared pregnant women likely to receive during the entire pregnancy, from radiation sources external to the body, a deep dose equivalent in excess of 0.1 rem (1 mSv).*

ITEM 44. Amend subrule 40.37(2) as follows:

40.37(2) Each licensee or registrant shall monitor, to determine compliance with 40.18(136C), the occupational intake of radioactive material by and assess the committed effective dose equivalent to:

a. Adults likely to receive, in 1 year, an intake in excess of 10 percent of the applicable ALI in Table I, Columns 1 and 2, of Appendix B; *and*

b. Minors ~~and declared pregnant women~~ likely to receive, in 1 year, a committed effective dose equivalent in excess of ~~0.05 rem (0.5 mSv); 0.1 rem (1 mSv); and~~

c. *Declared pregnant women likely to receive, during the entire pregnancy, a committed effective dose equivalent in excess of 0.1 rem (1 mSv).*

ITEM 45. Amend rule ~~641—40.55(136)~~, paragraph “a,” as follows:

a. The licensee or registrant shall secure licensed or registered radioactive material *that is stored in controlled or unrestricted areas* from unauthorized removal or access.

ITEM 46. Amend rule ~~641—40.55(136)~~ by adopting **new** paragraph “e” as follows:

e. Security requirements for portable gauges. Each portable gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

ITEM 47. Amend subrule 40.82(3) as follows:

40.82(3) Upon termination of the license or registration, the licensee or registrant shall permanently store records ~~on IDPH Form 588-2833 or 588-2834 or equivalent required in 641—40.82(136C)~~ or shall make provisions with the Agency for transfer to the Agency.

ITEM 48. Amend subrule 40.84(1) as follows:

40.84(1) The licensee or registrant shall retain the records of prior occupational dose and exposure history as specified in 40.19(136C) ~~on IDPH Form 588-2833 or equivalent~~ until the Agency terminates each pertinent license or registration requiring this record. The licensee or registrant shall retain records used in preparing ~~IDPH Form 588-2833 or equivalent~~ *the record required in 40.84(136C)* for three years after the record is made.

ITEM 49. Amend subrule 40.84(2) as follows:

40.84(2) Upon termination of the license or registration, the licensee or registrant shall permanently store records ~~on IDPH Form 588-2833 or equivalent required in 40.84(136C)~~ or shall make provisions with the Agency for transfer to the Agency.

ITEM 50. Amend subrule 40.85(3) as follows:

40.85(3) Upon termination of the license or registration, the licensee or registrant shall permanently store records ~~on IDPH Form 588-2833 or equivalent required in 40.85(136C)~~ or shall make provisions with the Agency for transfer to the Agency.

ITEM 51. Amend subrule 40.86(3) as follows:

40.86(3) Record-keeping format. The licensee or registrant shall maintain the records specified in 40.86(1) ~~on IDPH Form 588-2834, 588-2833, or equivalent in accordance with the instructions for IDPH Form 588-2834, 588-2833, or equivalent or in clear and legible records containing all the information required by IDPH Form 588-2834, 588-2833, or equivalent form.~~

ITEM 52. Amend subrule 40.86(6) as follows:

40.86(6) Retention after termination. Upon termination of the license or registration, the licensee or registrant shall permanently store records ~~on IDPH Form 588-2833, 588-2834, or equivalent required in 40.86(136C)~~ or shall make provision with the Agency for transfer to the Agency.

ITEM 53. Rescind subrule **40.95(1)**, paragraph “d.”

ITEM 54. Amend subrule **40.96(1)**, paragraph “a,” subparagraphs (2) and (3), as follows:

(2) ~~An eye A lens~~ dose equivalent of 75 rem (0.75 Sv) or more; or

(3) A shallow dose equivalent to the skin or extremities ~~or a total organ dose equivalent of 250 rad (2.5 Gy) or more; or~~

ITEM 55. Amend subrule **40.96(1)**, paragraph “b,” as follows:

b. The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake five times the ~~occupational ALI~~ *annual limit on intake*. This provision does not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures.

ITEM 56. Amend subrule **40.96(2)**, paragraph “a,” subparagraphs (2) and (3), as follows:

(2) ~~An eye A lens~~ dose equivalent exceeding 15 rem (0.15 Sv); or

(3) A shallow dose equivalent to the skin or extremities ~~or a total organ dose equivalent exceeding 50 rem (0.5 Sv); or~~

ITEM 57. Amend subrule **40.97(1)**, paragraph “b,” by adopting **new** subparagraph (6) as follows:

(6) The limits for an embryo/fetus of a declared pregnant woman in 40.22(136C).

ITEM 58. Amend subrule 40.97(3) as follows:

40.97(3) All licensees or registrants who make reports pursuant to 40.97(1) ~~shall submit the report in writing to the Agency~~ *shall also provide a copy of the report to the individual. Transmittal shall be at the same time as the transmittal to the Agency.*

ITEM 59. Amend subrule 40.100(2) as follows:

40.100(2) Each licensee or registrant in a category listed in 40.100(1) shall submit an annual report of the results of individual monitoring carried out by the licensee or registrant for each individual for whom monitoring was required by 40.36(136C) during that year. The licensee or registrant may include additional data for individuals for whom monitoring was provided but not required. ~~The licensee or registrant shall use IDPH Form 588-2834 or equivalent or electronic~~

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media containing all the information required by IDPH Form 588-2834.

ITEM 60. Amend subrule 40.110(4) as follows:

40.110(4) Agency documents posted pursuant to 40.110(1)“d” shall be posted within ~~five~~ *two* working days after receipt of the documents from the Agency; the licensee’s or registrant’s response, if any, shall be posted within ~~five~~ *two* working days after dispatch from the licensee or registrant. Such documents shall remain posted for a minimum of five working days or until action correcting the violation has been completed, whichever is later.

ITEM 61. Amend subrule **41.1(1)**, paragraph “b,” as follows:

b. All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~May 5, 2004~~ *May 4, 2005*.

ITEM 62. Amend subrule **41.1(3)**, paragraph “a,” subparagraph (1), as follows:

(1) An X-ray system which does not meet the provisions of these rules shall not be operated for diagnostic or therapeutic purposes unless so directed by the agency. *All position locking, holding, and centering devices on X-ray system components and systems shall function as intended. All X-ray systems shall be maintained in good mechanical repair and comply with all state and local electrical code requirements.*

ITEM 63. Amend subrule **41.1(3)**, paragraph “a,” subparagraph (7), introductory paragraph, as follows:

(7) Individuals shall not be exposed to the useful beam unless (1) the radiation exposure occurs in the context of a previously established professional relationship between a licensed practitioner of the healing arts or a licensed registered nurse who is registered as an advanced registered nurse practitioner pursuant to Iowa Code chapter 152 and a patient, which includes a physical examination by the practitioner of the patient unless such examination is not clinically indicated; and (2) such practitioner issues a written order for the radiation exposure. The written order shall be issued prior to the exposure unless the exposure results from care provided in an emergency or surgery setting. A verbal order may be issued provided the licensed practitioner is ~~directly~~ supervising the procedure and the order is documented in the patient’s record after the procedure is completed. This provision specifically prohibits deliberate exposure for the following purposes:

ITEM 64. Amend subrule **41.1(3)**, paragraph “f,” subparagraph (2), by adopting **new** numbered paragraph “3,” as follows:

3. All processing equipment shall be in good mechanical working order.

ITEM 65. Rescind subrule **41.1(4)**, paragraph “i.”

ITEM 66. Amend subrule **41.1(5)**, paragraph “c,” subparagraph (1), numbered paragraph “3,” as follows:

3. Compliance with the requirements of 41.1(5)“c” shall be determined as follows: ~~movable grids and compression devices shall be removed from the useful beam during the measurement;~~

ITEM 67. Amend subrule **41.2(11)**, paragraph “a,” subparagraph (5), as follows:

(5) Require that only those individuals specifically trained in accordance with 641—Chapter 42 *as a nuclear medicine technologist or a radiation therapist*, as applicable,

and designated by the authorized user, shall be permitted to administer radionuclides or radiation to patients or human research subjects. The individual’s permit to practice shall be posted in the immediate vicinity of the general work area and be visible to the public.

ITEM 68. Amend subrule **41.2(87)**, paragraph “a,” subparagraph (4), and adopt **new** subparagraph (7) as follows:

(4) For teletherapy, ~~particle accelerator or X-ray~~: the total dose, dose per fraction, number of fractions, treatment site, and overall treatment period;

(7) *For therapeutic use of radiation machines, see 41.3(14);*

ITEM 69. Amend subrule **41.3(6)** by adopting **new** paragraph “e” as follows:

e. Hold a master’s or doctor’s degree in physics, biophysics, radiological physics, or health physics, and have completed one year of full-time training in therapeutic radiological physics and also one year of full-time work experience under the supervision of a radiation therapy physicist at a medical institution. To meet this requirement, the individual shall have performed the tasks listed in 41.3(16)“a,” 41.3(17)“c” and “d,” and 41.3(18)“e” and “f” under the supervision of a radiation therapy physicist during the year of work experience.

ITEM 70. Rescind subrules 41.3(14) and 41.3(15) and adopt **new** subrules 41.3(14) and 41.3(15) as follows:

41.3(14) Written directives. Each registrant shall meet the following:

a. A written directive must be dated and signed by an authorized user prior to the administration of radiation.

(1) If, because of the patient’s condition, a delay in the order to provide a written revision to an existing directive would jeopardize the patient’s health, an oral revision to an existing written directive will be acceptable, provided that the oral revision is documented as soon as possible in writing in the patient’s record and a revised written directive is signed by an authorized user within 48 hours of the oral revision.

(2) The written directive must contain the patient or human research subject’s name, the type and energy of the beam, the total dose, dose per fraction, treatment site, and number of fractions.

(3) A written revision to an existing written directive may be made provided that the revision is dated and signed by an authorized user prior to the administration of the external beam dose, or the next fractional dose.

(4) The registrant shall retain a copy of the written directive for three years.

b. Procedures for administration. The registrant shall have written procedures that provide the following information:

(1) Prior to the administration of each course of radiation treatment, the patient’s or human research subject’s identity is verified by more than one method as the individual named in the written directive;

(2) Each administration is in accordance with the written directive;

(3) External beam radiation therapy final plans of treatment and related calculations are in accordance with the respective written directives by:

1. Checking both manual and computer-generated dose calculations to verify that they are correct and in accordance with the written directive; and

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2. Verifying that any computer-generated calculations are correctly transferred into the consoles of authorized therapeutic medical units;

(4) Any unintended deviation from the written directive is identified, evaluated and appropriate action is taken; and

(5) The registrant retains a copy of the procedures for administrations for the duration of the registration.

41.3(15) Reports and notifications of misadministrations.

a. A registrant shall report any event resulting from intervention of a patient or human research subject in which the administration of external beam radiation results, or will result, in unintended permanent functional damage to an organ or a physiological system as determined by a physician.

b. Other than events that result from intervention by a patient or human research subject, a registrant shall report any event in which the administration of an external beam radiation therapy dose results in:

(1) A dose that differs from the prescribed dose by more than 5 rem (0.05 sievert) effective dose equivalent, 50 rem (0.5 sievert) to an organ or tissue, or 50 rem (0.5 sievert) shallow dose equivalent to the skin, and either:

1. The total dose delivered differs from the prescribed dose by 20 percent or more; or

2. The fractionated dose delivered differs from the prescribed dose for a single fraction by 50 percent or more.

(2) A dose that exceeds 5 rem (0.05 sievert) effective dose equivalent, 50 rem (0.5 sievert) to an organ or tissue, or 50 rem (0.5 sievert) shallow dose equivalent to the skin from either of the following:

1. An administration of the wrong treatment modality;

2. An administration to the wrong individual or human research subject.

(3) A dose to the skin or an organ or tissue other than the treatment site that exceeds by 50 rem (0.5 sievert) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive.

c. The registrant shall notify the agency by telephone no later than the next calendar day after the discovery of a misadministration.

d. The registrant shall submit a written report to the agency within 15 days after the discovery of a misadministration. The written report shall include:

(1) The registrant's name;

(2) The name of the prescribing physician;

(3) A brief description of the event;

(4) Why the event occurred;

(5) The effect, if any, on the individual or individuals who received the misadministration;

(6) Actions, if any, that have been taken, or are planned, to prevent recurrence;

(7) Certification that the registrant notified the individual or the individual's responsible relative or guardian, and if not, why not.

e. The report to the agency shall not contain the individual's name or any other information that could lead to the identification of the individual.

f. The registrant shall provide notification of the event to the referring physician and also notify the individual who is the subject of the misadministration no later than 24 hours after its discovery, unless the referring physician personally informs the registrant either that the referring physician will inform the individual or that, based on medical judgment, the physician's telling the individual would be harmful. The registrant is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within 24 hours,

the registrant shall notify the individual as soon as possible thereafter. The registrant may not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the misadministration, because of any delay in notification. To meet the requirements of this paragraph, the notification of the individual who is the subject of the misadministration may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the registrant shall inform the individual, or appropriate responsible relative or guardian, that a written description of the event may be obtained from the registrant upon request. The registrant shall provide such a written description if requested.

g. Aside from the notification requirement, nothing in this subrule affects any rights or duties of registrants and physicians in relation to each other, to individuals affected by the misadministration, or to individuals' responsible relatives or guardians.

h. A copy of the record required in this subrule shall be provided to the referring physician, if other than the registrant, within 15 days after discovery of the misadministration.

i. Records of misadministrations. A registrant shall retain a record of misadministrations reported in this subrule for three years. The record must contain the following:

(1) The registrant's name and the names of the individuals involved;

(2) The social security number or other identification number, if one has been assigned, of the individual who is the subject of the misadministration;

(3) A brief description of the event; why it occurred; and the effect, if any, on the individual;

(4) The actions, if any, taken or planned to prevent recurrence; and

(5) Whether the registrant notified the individual or the individual's responsible relative or guardian, and, if not, whether such failure to notify was based on guidance from the referring physician.

ITEM 71. Amend subrule **41.6(2)**, paragraph "**b**," introductory paragraph and subparagraphs (1) and (8), as follows:

b. Each facility wishing to perform mammography shall apply for agency ~~authorization~~ *approval* by providing or verifying the following information for each mammography machine:

(1) The mammography unit meets the criteria for the ~~American College of Radiology (ACR) agency-approved mammography accreditation bodies. An evaluation report issued by the American College of Radiology meets this requirement.~~

(8) ~~Provisional authorization certification.~~ A new facility beginning operation after September 30, 1994, is eligible to apply for a provisional ~~authorization~~ *certification*. This will enable the facility to perform mammography and to obtain the clinical images needed to complete the accreditation process. To apply for and receive a provisional ~~authorization~~ *certification*, a facility must meet the requirements of 641—41.6(136C). ~~A provisional authorization~~ *Provisional certification* shall be effective for up to six months from the date of issuance and cannot be renewed. The facility may apply for a 90-day extension.

ITEM 72. Amend subrule **41.6(2)**, paragraph "**c**," as follows:

c. ~~Withdrawal or denial of mammography authorization certification.~~

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(1) Mammography ~~authorization certification~~ may be withdrawn with cause if any facility or machine does not meet one or more of the standards of these rules, will not permit inspections or provide access to records or information in a timely fashion, or has been guilty of misrepresentation in obtaining the ~~authorization certification~~.

(2) The facility shall have opportunity for a hearing in connection with a denial or withdrawal of mammography ~~authorization certification~~ in accordance with 641—Chapter 173.

(3) An emergency order withdrawing ~~authorization certification~~ may be issued in accordance with 641—173.31(17A) if the agency finds the radiation unit or facility violates rules that seriously affect the health, safety, and welfare of the public. An opportunity for hearing shall be held within five working days after the issuance of the order. The order shall be effective during the proceedings.

(4) If ~~authorization certification~~ is withdrawn, the radiation machine shall not be used for mammography until reinstated.

(5) If a facility's ~~authorization certification~~ is revoked, no person who owned or operated that facility at the time the act occurred may own or operate a mammography facility in Iowa within two years of the date of revocation.

ITEM 73. Amend subrule **41.6(2)**, paragraph “**d**,” catchwords, as follows:

d. Reinstatement of mammography ~~authorization certification~~.

ITEM 74. Amend subrule **41.6(2)**, paragraph “**e**,” as follows:

e. Inspections. The agency shall conduct an inspection of each radiation machine no later than 14 months after initial mammography ~~authorization certification~~ and at least annually thereafter.

ITEM 75. Amend subrule **41.6(2)**, paragraph “**f**,” subparagraph (1), numbered paragraphs “**1**” and “**2**,” as follows:

1. One mammography examination, including cranio-caudal and mediolateral oblique views of each breast, of a patient with *predominately fatty breasts breast tissue*,

2. One mammography examination, including cranio-caudal and mediolateral oblique views of each breast, of a patient with *at least 75 percent predominantly glandular breast tissue*, and

ITEM 76. Amend subrule **41.6(2)**, paragraph “**g**,” as follows:

g. Federal mammography regulations. All Iowa facilities performing mammography shall comply with the applicable regulations found in 21 CFR Parts 16 and Part 900 which *have has* an effective date of April 28, 1999. Persons ~~authorized certified~~ to perform mammography in Iowa shall be responsible for ensuring compliance with the appropriate CFR regulations or Iowa administrative rules, whichever are more stringent.

ITEM 77. Amend subrule **41.6(3)**, paragraph “**a**,” subparagraph (4), numbered paragraph “**1**,” the second bulleted paragraph, as follows:

- Interpret or multi-read a sufficient number of mammographic examinations, under the direct supervision of an interpreting physician, to bring the physician's total up to *at least* 960 examinations for the prior 24 months, whichever is less. The interpretations required under 41.6(3)“a”(4)“1” shall be done within the six months immediately prior to resuming independent interpretation. *Consecutive or back-to-*

back requalification of mammography personnel, due to failure to meet continuing education or experience requirements, will be allowed once without proof of extenuating circumstances. This agency will determine the validity of such proof and render a decision after review of all pertinent information. Those individuals who are denied requalification will be allowed to resubmit for requalification following a 90-day waiting period.

ITEM 78. Amend subrule **41.6(3)**, paragraph “**b**,” subparagraph (2), introductory paragraph, as follows:

(2) Mammography requirements. Prior to April 28, 1999, have qualified as a radiologic technologist under 41.6(3)“b” or have completed at least 40 contact hours of documented training specific to mammography under the supervision of a qualified instructor *after successful completion of at least a two-year radiography program*. The hours of documented training shall include, but not necessarily be limited to:

ITEM 79. Amend subrule **41.6(3)**, paragraph “**b**,” by adopting ~~new~~ subparagraph (5) as follows:

(5) Consecutive, or back-to-back requalification of mammography personnel, due to failure to meet continuing education or experience requirements, will be allowed once without proof of extenuating circumstances. This agency will determine the validity of such proof and render a decision after review of all pertinent information. Those individuals who are denied requalification will be allowed to resubmit for requalification following a 90-day waiting period.

ITEM 80. Amend subrule **41.6(5)**, paragraph “**e**,” subparagraph (8), as follows:

(8) Image quality. The minimum image quality achieved at a ~~mammographic~~ *mammography* facility shall be the ability to observe the image of *at least* four 0.75-mm fibriles, three 0.32-mm *specks speck groups*, and three 0.75-mm masses from an ACR FDA-approved phantom or equivalent on the standard mammographic film used at the facility. No mammograms shall be performed if this minimum is not met.

ITEM 81. Amend subrule **41.6(5)**, paragraph “**g**,” subparagraph (2), as follows:

(2) The monitoring results shall be compared routinely *by the facility staff* to the standards of image quality in ~~Appendix E. 41.6(5)“k.”~~ If the results fall outside the acceptable range, the test shall be repeated. If the results continue to be unacceptable, the source of the problem shall be identified and corrected before further examinations are conducted.

ITEM 82. Amend subrule **41.6(5)**, paragraph “**k**,” subparagraph (4), numbered paragraph “**3**,” as follows:

3. Compression device performance. A compression force of at least 25 pounds (111 newtons) for 15 seconds shall be provided. Effective October 28, 2002, the maximum compression force for the initial power drive shall be between 25 pounds (111 newtons) and ~~45 47~~ 47 pounds (~~200 209~~ newtons).

ITEM 83. Amend subrule **41.6(5)**, paragraph “**k**,” subparagraph (7), numbered paragraph “**2**,” as follows:

2. If the test results fall outside of the action limits, the source of the problem shall be identified, and corrective actions shall be taken:

- ~~Before before~~ any further examinations are performed or any films are processed using the component of the mammography system that failed the test, if the failed test was that described in 41.6(5)“k.” (1), (2), (4)“1” to (4)“3,” (5)“6,” and (6);

- ~~Within 30 days of the test date for all other tests described in 41.6(5)“k.”~~

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ITEM 84. Amend subrule **41.6(6)**, paragraph “**t**,” subparagraph (1), as follows:

(1) A phantom image shall be produced, processed, and evaluated after each relocation *and prior to examinations being conducted*.

ITEM 85. Amend **641—Chapter 41, Appendix C**, numbered paragraph “**4**,” as follows:

4. Description of the population to be examined in the screening program, i.e., age, sex, physical condition, and other appropriate information. *Any person conducting a screening program for cardiac scoring shall conduct screening only on either women over age 45 or men over age 50 who meet any two of the following criteria: family history, smoker, high blood pressure, high cholesterol, obesity (at least 20 pounds overweight), diabetes.*

ITEM 86. Amend subrule **42.1(2)** as follows:

Amend the following definition:

“Special category course” means those programs still related to health care but indirectly related to diagnostic radiography, nuclear medicine technology, or radiation therapy. Such programs are: venipuncture, CPR, educator’s programs, management programs, ~~tumor boards, equipment training,~~ personal improvement, for example.

Adopt the following **new** definition in alphabetical order:

“Radiologist assistant” means an advanced-level radiographer, other than a licensed practitioner, who works under the supervision of a radiologist to enhance patient care by assisting the radiologist in the diagnostic imaging environment. The radiologist assistant may exercise autonomy in decision making in the role of a primary caregiver with regard to patient assessment and patient management and in providing a broad range of radiology diagnostic and interventional services.

ITEM 87. Amend subrule 42.2(2) as follows:

42.2(2) Disciplinary grounds and actions. The procedures for administrative enforcement actions are found in 641—38.9(136C) and 38.10(136C). The following shall be grounds for disciplinary action involving possible probation, suspension, ~~or~~ revocation, *or denial* of certification, ~~or~~ levying of fines *or other sanctions*:

a. Operating as a diagnostic radiographer, *radiologist assistant*, nuclear medicine technologist, or radiation therapist without meeting the requirements of this chapter.

b. Allowing any individual excluding a licensed ~~physician practitioner as defined in 641—38.2(136C)~~ to operate as a diagnostic radiographer, *radiologist assistant*, nuclear medicine technologist, or radiation therapist if that individual cannot provide proof of certification by the ~~department~~ agency.

c. Failing to report to the ~~department~~ agency any individual whom the certificate holder knows is in violation of this rule.

d. Submitting false information in order to obtain certification or renewal certification as a diagnostic radiographer, *radiologist assistant*, nuclear medicine technologist, or radiation therapist.

e. Any action that the department determines may jeopardize the public, other staff, or certificate holder’s health and safety. These actions shall include but not be limited to:

(1) Any medical condition which may impair or limit the individual’s ability to perform radiography, nuclear medicine procedures, or radiation therapy;

(2) Activity related to illegal or improper use of drugs or other chemical substances;

(3) A misdemeanor or felony which may impair or limit the individual’s ability to perform radiography, nuclear medicine procedures, or radiation therapy;

(4) Any disciplinary action brought against the individual in connection with a certificate or license issued from a certifying or licensing entity;

(5) *Being found guilty of incompetence or negligence during the certificate holder’s performance as a certificate holder;*

(6) *Performing medical imaging, radiation therapy, or nuclear medicine procedures without either supervision or a written order of a licensed practitioner;*

(7) *Interpreting and rendering a diagnosis based on a diagnostic image for a physician, a patient, the patient’s family, or the public.*

f. Performing procedures not allowed under the individual’s current certification.

g. Failing to pay fees or costs required to meet the requirements of this chapter. ~~The penalty for working without the required permit will be \$100 and suspension from performing radiography until the permit is issued. Penalties for working without a permit will be considered on a case-by-case basis.~~

h. Failure to respond to an audit request or failure to provide proper documentation.

i. *Submitting false information to a facility that might place the facility in noncompliance with 641—Chapters 38 to 41.*

j. *Violating any of the rules of 641—Chapters 38 to 41.*

ITEM 88. Amend subrule **42.2(3)**, paragraph “**a**,” by adopting the following **new** subparagraph (8):

(8) Radiologist assistant: proof of 24.0 clock hours with at least 12.0 hours in the subjects in 42.6(1)“c.” The remaining hours may be in general radiography subjects.

ITEM 89. Amend subrule **42.2(3)**, paragraph “**b**,” as follows:

b. Continuing education course approval.

(1) ~~Thirty days prior to conducting a continuing education course, the sponsoring individual must submit the following:~~

~~1. The course objectives.~~

~~2. An outline of the course which sets forth the subject, the course content, and the length of the course in clock hours.~~

~~3. The instructor’s name and short résumé detailing qualifications.~~

(1) *Information must be submitted in writing and must provide sufficient detail to show that the course meets the relevancy requirements of these rules and the agency guidelines.*

(2) Following its review, the ~~department~~ agency may, in consultation with or under predetermined guidance of the technical advisory committee, approve, disapprove, or request additional information on the proposed course.

(3) The ~~department~~ agency may, from time to time, audit the continuing education course to verify the adequacy of program content and delivery.

(4) Courses must be at least one clock hour in length and if lasting more than one hour, will be assigned credit in half-hour increments to the closest half-hour.

(5) No continuing education credit is approved for passing a certification examination, *hands-on practice, or mandatory reporting, ultrasound or MRI courses that are less than 50 percent directly related to radiography.*

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ITEM 90. Amend subrule **42.3(3)**, paragraph “c,” as follows:

c. The ~~department~~ agency may accept, in lieu of its own examination, evidence of satisfactory performance in an examination given by an appropriate organization or testing service provided that the ~~department~~ agency finds the organization or service to be competent to examine applicants in the discipline of radiography. For purposes of this subrule, individuals who ~~are registered~~ *have passed as general diagnostic radiographers the general radiography examination with the American Registry of Radiologic Technologists or American Registry of Clinical Radiography Technologists meet the testing requirements of 42.3(3). Individuals who have passed the limited radiography examination with the American Registry of Chiropractic Radiography Technologists meet the testing requirements of 42.3(3) for limited radiography in spines and extremities.*

ITEM 91. Amend subrule 42.4(1) as follows:

42.4(1) Specific eligibility requirements.

a. Any individual who is registered in nuclear medicine technology with the ~~following organizations may meet American Registry of Radiologic Technologists meets~~ the education and testing requirements of this rule.

- (1) ~~American Registry of Radiologic Technologists.~~
- (2) ~~Nuclear Medicine Technology Certification Board.~~
- (3) ~~American Society of Clinical Pathologists.~~

b. ~~Any individual, other than a licensed physician, who has completed all educational requirements of this rule but has not yet successfully completed the required examination will be issued temporary certification valid for one year from completion of a training program approved by the department.~~

ITEM 92. Amend subrule **42.5(1)** by rescinding and reserving paragraph “b.”

ITEM 93. Amend 641—Chapter 42 by adopting the following **new** rule:

641—42.6(136C) Specific eligibility requirements for radiologist assistant.

42.6(1) In addition to the requirements of 641—42.3(136C), any person seeking certification as a radiologist assistant shall:

- a. Be eligible to be certified as a general radiographer in Iowa.
- b. Have five years of experience as a general diagnostic radiographer.
- c. Satisfactorily complete an advanced academic program approved by this agency. Approved training shall include appropriate coursework, training, and experience in performing procedures, including but not limited to fluoroscopy, modified barium swallow, needle localization, needle aspiration, thoracentesis, arthrography, nyelography, venography, angiography, and biopsy.
- d. Satisfactorily complete the Certification Board for Radiology Practitioner Assistants (CBRPA) certification examination.
- e. Upon completion of the above, apply for a permit to operate as a radiologist assistant.

42.6(2) Performance standards. A radiologist assistant:

- a. May not interpret images, make diagnoses, or prescribe medications or therapies.
- b. Shall:
 - (1) Provide a broad range of radiology health care services under the supervision of a licensed practitioner;

- (2) Assess and evaluate the physiologic and psychologic responsiveness of each patient;

- (3) Participate in patient management, including prescriptive powers for imaging procedures;

- (4) Administer intravenous medications or contrast media, under the supervision of a licensed physician and record documentation in medical records;

- (5) Perform fluoroscopic procedures, both dynamic and static;

- (6) Perform specialized imaging procedures, including invasive procedures, after demonstrating competency and under the supervision of a licensed practitioner;

- (7) Evaluate and screen medical images for normal versus abnormal and provide a technical report to the supervising licensed practitioner.

ITEM 94. Amend subrule **45.1(1)**, paragraph “b,” as follows:

b. All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~May 5, 2004~~ *May 4, 2005*.

ITEM 95. Amend the following definitions in subrule **45.1(2)**:

“Certifying entity” means an independent certifying organization meeting the requirements of Appendix A in 10 CFR Part 34 *or an agreement state meeting the requirements in Appendix A, Parts II and III of 10 CFR Part 34.*

“~~Platform Offshore platform radiography~~” means industrial radiography ~~performed on~~ *conducted from* an offshore platform ~~or other structure over a body of water.~~

“Radiographic operations” means all activities associated with the presence of radioactive sources *or radiation* in a radiographic exposure device during use of the device or transport (except when being transported by a common or contract transport), to include surveys to confirm the adequacy of boundaries, setting up equipment and any activity inside restricted area boundaries.

“Temporary job site” means any location where ~~industrial radiography is performed~~ *radiographic operations are conducted and where licensed material may be stored* other than the location(s) listed in a specific license or certificate of registration.

ITEM 96. Amend subrule 45.1(4) as follows:

45.1(4) Receipt, transfer, and disposal of sources of radiation. Each licensee and registrant shall maintain records showing the receipt, transfer, and disposal of sources of radiation. These records shall include the date, *the name of* the individual ~~made making~~ the record, the radionuclide, number of curies *or mass (for DU)*, and the make, model, and serial number of each source of radiation and device, as appropriate. Records shall be maintained for ~~agency inspection until disposal is authorized by the agency.~~ *three years after they are made.*

ITEM 97. Amend subrule **45.1(5)**, paragraph “b,” subparagraph (2), as follows:

(2) Such that accuracy within plus or minus 20 percent of *the calibration source* can be demonstrated *at each point checked*;

ITEM 98. Amend subrule **45.1(7)**, paragraph “a,” as follows:

a. Each licensee shall maintain ~~current~~ *utilization* logs of the use of each sealed source. The logs shall include:

- (1) A unique ~~identification~~ *description*, which includes the make, model, and serial number of each radiographic exposure device containing a sealed source, ~~and each sealed~~

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source or transport or storage container in which the sealed source is located;

(2) The identity and signature of the radiographer using the sealed source to whom the sealed source is assigned;

(3) Locations The plant or site where each sealed source is used; and

(4) The date(s) each sealed source is removed from storage and returned to storage.

ITEM 99. Amend subrule **45.1(8)**, paragraph “**b**,” as follows:

b. Each licensee or registrant shall *have written procedures and* conduct a program, at intervals not to exceed three months, or prior to the first use thereafter, of inspection and maintenance of radiation machines, radiographic exposure devices, transport and storage containers, source changers, survey instruments, and associated equipment to ensure proper functioning of components important to safety. All appropriate parts shall be maintained in accordance with manufacturer’s specifications. Replacement components shall meet design specifications. This program shall cover, as a minimum, the items in Appendix B of this chapter.

ITEM 100. Amend subrule **45.1(10)**, paragraph “**a**,” subparagraph (1), by adopting **new** numbered paragraphs “**5**” and “**6**” as follows:

5. And developed competence to use, under the personal supervision of the radiographer, the licensee’s or registrant’s radiographic exposure devices, sealed sources, associated equipment, and radiation survey instruments that the assistant will use;

6. And has demonstrated competence in the use of radiographic exposure devices, sources, survey instruments and associated equipment described in 45.1(10)“a”(1) by successful completion of a practical examination covering this material.

ITEM 101. Amend subrule **45.1(10)**, paragraph “**b**,” subparagraph (1), numbered paragraph “**3**,” as follows:

3. Has demonstrated competence in the use of sources of radiation, radiographic exposure devices, related handling tools, and radiation survey instruments which may be employed in industrial radiographic assignments *by successful completion of a practical examination covering this material*;

ITEM 102. Amend subrule **45.1(10)**, paragraph “**d**,” subparagraph (2), as follows:

(2) The RSO’s qualifications shall include:

1. No change.

2. Completion of the training and testing requirements of 45.1(10)“a”(1) and 45.1(10)“b”(1)“3,” (2), and (3); and

3. ~~Two years of documented radiation protection experience, including knowledge of industrial radiographic operations with at least 40 hours of active participation in industrial radiographic operations. 2000 hours of hands-on experience as a qualified radiographer in industrial radiographic operations; and~~

4. *Formal training in the establishment and maintenance of a radiation protection program.*

The agency will consider alternatives when the RSO has either appropriate training or experience, or both, in the field of ionizing radiation and, in addition, has adequate formal training with respect to the establishment and maintenance of a radiation safety protection program.

ITEM 103. Amend subrule **45.1(11)**, paragraph “**c**,” as follows:

c. The agency may consider alternatives in those situations where the individual serves as both radiographer and RSO. *In those operations where a single individual serves as both radiographer and RSO, and performs all radiography operations, an inspection program is not required.*

ITEM 104. Amend subrule **45.1(12)**, paragraph “**d**,” as follows:

d. Pocket dosimeters shall be checked for correct response to radiation at periods not to exceed one year. Acceptable dosimeters shall read within plus or minus 20 percent of the true radiation exposure. Records of this check shall be maintained for inspection by the agency for ~~two~~ *three* years from the date of the event.

ITEM 105. Amend subrule **45.1(12)**, paragraph “**e**,” as follows:

e. Reports received from the film badge, OSL device or TLD processor shall be kept for inspection by the agency until the agency ~~authorizes disposition~~ *terminates the license.*

ITEM 106. Amend subrule **45.1(12)**, paragraph “**f**,” subparagraph (4), as follows:

(4) Be calibrated at periods not to exceed one year for correct response to radiation: Acceptable ratemeters must alarm within plus or minus 20 percent of the true radiation dose rate. Records of the alarming ratemeter calibrations shall be maintained for ~~two~~ *three* years by the licensee or registrant for agency inspection.

ITEM 107. Amend subrule 45.1(13), introductory paragraph and paragraph “**c**,” as follows:

45.1(13) Supervision of radiographer’s assistant. Whenever a radiographer’s assistant uses radiographic exposure devices, sealed sources or ~~related source handling tools~~ *associated equipment* or conducts radiation surveys required by 45.2(5) or 45.3(7) to determine that the sealed source has returned to the shielded position after an exposure, the radiographer’s assistant shall be under the direct supervision of a radiographer instructor. The direct supervision must include:

c. The radiographer’s direct observation of the ~~trainee’s~~ *radiographer’s assistant’s* performance of the operations referred to in this subrule.

ITEM 108. Amend subrule 45.1(14) as follows:

45.1(14) Access control.

a. During each industrial radiographic operation, a radiographer or radiographer’s assistant shall maintain *continuous, direct* visual surveillance of the operation to protect against unauthorized entry into a restricted area, radiation area or high radiation area, except:

(1) ~~Where the high radiation area is equipped with a control device or an alarm system as described in 641—subrule 40.42(1); or~~

(2) ~~Where the high radiation area is at permanent radiographic installations where all entryways are locked to protect against unauthorized or accidental entry and the requirements of 45.1(9) are met.~~

b. Radiographic exposure devices shall not be left unattended except when in storage or physically secured against unauthorized removal.

ITEM 109. Amend subrule **45.3(2)**, paragraph “**a**,” as follows:

a. Each source of radiation shall be provided with a lock or lockable outer container designed to prevent unauthorized or accidental removal ~~or exposure of a~~ *of the* sealed source. ~~and shall~~ *Either the exposure device or its container must be* kept locked and, if applicable, the key removed, at all times

PUBLIC HEALTH DEPARTMENT[641](cont'd)

when not under the direct surveillance of a radiographer or a radiographer's assistant except when under the direct surveillance of a radiographer or radiographer's assistant, or as may be otherwise authorized pursuant to 45.3(6) at permanent radiographic installations as stated in 45.1(14). Each sealed source storage container and source changer likewise shall be provided with must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. and shall Storage containers and source changers must be kept locked (and if the lock is a keyed lock, with the key removed at all times) when containing sealed sources except when the container is under the direct surveillance of a radiographer or radiographer's assistant.

ITEM 110. Amend subrule 45.3(3) by rescinding paragraph "a" and adopting new paragraph "a" as follows:

a. Labeling, storage, and transportation.

(1) The licensee may not use a source changer or a container to store licensed material unless the source changer or the storage container has securely attached to it a durable, legible, and clearly visible label bearing the standard trefoil radiation caution symbol in conventional colors, i.e., magenta, purple or black on a yellow background, having a minimum diameter of 25 mm, and the wording: "CAUTION RADIOACTIVE MATERIAL, NOTIFY CIVIL AUTHORITIES (or name of company)," or "DANGER."

(2) The licensee may not transport licensed material unless the material is packaged, and the package is labeled, marked, and accompanied with appropriate shipping papers in accordance with 641—39.5(136C).

(3) Locked radiographic exposure devices and storage containers must be physically secured to prevent tampering or removal by unauthorized personnel. The licensee shall store licensed material in a manner which will minimize danger from explosion or fire.

(4) The licensee shall lock and physically secure the transport package containing licensed material in the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal of the licensed material from the vehicle.

ITEM 111. Amend subrule 45.3(4), paragraph "a," as follows:

a. Each radiographic exposure device, *source assembly* or *sealed source*, and all associated equipment must meet the requirements specified in American National Standard N432-1980 "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography" (published as NBS Handbook 136, issued January 1981). This publication has been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. This publication may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, and from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018, telephone (212) 642-4900. Copies of the document are available for inspection at the Iowa Department of Public Health, Bureau of Radiological Health, Lucas State Office Building, Des Moines, Iowa 50319.

ITEM 112. Amend subrule 45.3(4), paragraph "b," introductory paragraph, as follows:

b. In addition to the requirements specified in paragraph "a" of this subrule, the following requirements apply to radiographic exposure devices, *source changers*, *source assemblies*, *sealed sources*, and associated equipment.

ITEM 113. Amend subrule 45.3(4), paragraph "b," subparagraph (1), numbered paragraphs "2" to "4," as follows:

2. Activity and the date on which this activity was last measured;

3. Model number (or product code) and serial number of the sealed source;

4. ~~Manufacturer~~ *Manufacturer's identity* of the sealed source; and

ITEM 114. Amend subrule 45.3(4), paragraph "b," subparagraph (3), as follows:

(3) Modification of any *radiographic* exposure devices, *source changers*, and *source assemblies* and associated equipment is prohibited, unless the design of any replacement component, including source holder, source assembly, controls or guide tubes would not compromise the design safety features of the system.

ITEM 115. Amend subrule 45.3(4), paragraph "c," introductory paragraph, as follows:

c. In addition to the requirements specified in paragraphs "a" and "b" of this subrule, the following requirements apply to radiographic exposure devices, *source assemblies*, and associated equipment that allow the source to be moved out of the device for radiographic operation or source changing:

ITEM 116. Rescind subrule 45.3(5), paragraphs "b," "c," and "d," and adopt the following new paragraphs "b," "c," and "d," in lieu thereof:

b. Leak testing requirements.

(1) Each licensee that uses a sealed source shall have the source tested for leakage at intervals not to exceed 6 months. The leak testing of the source must be performed using a method approved by this agency. The wipe sample should be taken from the nearest accessible point to the sealed source where contamination might accumulate. The wipe sample must be analyzed for radioactive contamination. The analysis must be capable of detecting the presence of 0.005 microcuries (185 Bq) of radioactive material on the test sample and must be performed by a person specifically authorized by this agency to perform the analysis.

(2) The licensee shall maintain records of the leak tests results for sealed sources and devices containing depleted uranium (DU). The results must be stated in units of microcuries (becquerels). The licensee shall retain each record for three years after it is made or until the source in storage is removed.

(3) Unless a sealed source is accompanied by a certificate from the transferor that shows that it has been leak tested within 6 months before the transfer, it may not be used by the licensee until tested for leakage. Sealed sources that are in storage and not in use do not require leak testing, but must be tested before use or transfer to another person if the interval of storage exceeds 6 months.

c. Any test conducted under this subrule which reveals the presence of 0.005 microcuries (185 Bq) or more of removable radioactive material must be considered evidence that the sealed source is leaking. The licensee shall immediately withdraw from use the equipment involved and shall have it decontaminated and repaired or disposed of in accordance with agency rules. Within five days after obtaining the results of the test, the licensee shall file a report with the agency describing the equipment involved, the test results, and the corrective action taken.

d. Each exposure device using DU shielding and an "S" tube configuration must be tested for DU contamination at intervals not to exceed 12 months. The analysis must be capable of detecting the presence of 0.005 microcuries (185

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Bq) of radioactive material on the test sample and must be performed by a person specifically authorized by the agency to perform the analysis. Should such testing reveal the presence of 0.005 microcuries (185 Bq) or more of removable DU contamination, the exposure device must be removed from use until an evaluation of the wear on the S-tube has been made. Should the evaluation reveal that the S-tube is worn through, the device may not be used again. DU-shielded devices do not have to be tested for DU contamination while in storage and not in use. Before using or transferring such a device however, the device must be tested for DU contamination if the interval of storage exceeds 12 months.

ITEM 117. Amend subrule **45.3(6)**, paragraph “c,” as follows:

c. Whenever radiography is performed at a location other than a permanent radiographic installation, the radiographer must be accompanied by at least one other qualified ra-

diographer or a radiographer’s assistant. If one of the personnel is a radiographer’s assistant, the other shall be a radiographer trainer authorized by the license. The additional qualified individual shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. ~~Except for the situation of a radiographer trainer with a trainee, radiography~~ *Radiography* shall not be performed if only one qualified individual is present.

ITEM 118. Amend subrule **45.3(6)** by rescinding paragraph “e” and adopting **new** paragraph “e” as follows:

e. All radiographic operations conducted at locations of use authorized on the license must be conducted in a permanent radiographic installation, unless specifically authorized by the agency.

ITEM 119. Amend subrule **45.6(3)** by rescinding the definition of “field station.”

ITEM 120. Amend **641—Chapter 45, Appendix C**, as follows:

CHAPTER 45—APPENDIX C
TIME REQUIREMENTS FOR RECORD KEEPING

Specific Section	Name of Record	Time Interval Required for Record Keeping
45.1(4)	Receipt, transfer and disposal.	Until disposal is authorized by the agency. 3 years.
45.1(5)	Survey instrument calibrations.	3 years.
45.3(5)	Leak tests.	3 years.
45.1(6)	Quarterly inventory.	3 years.
45.1(7)	Utilization logs.	3 years.
45.1(8)	Quarterly inspection and maintenance.	3 years.
45.1(9)	High radiation area control devices or alarm systems.	Until disposal is authorized by the agency.
45.1(10)	Training and testing records.	3 years.
45.1(12)	Pocket dosimeter readings.	3 years.
	Pocket dosimeter calibrations.	2 years. 3 years.
	Film badge, OSL device, or TLD reports.	Until disposal is authorized by the agency. <i>Until the agency terminates the license.</i>
	Alarming ratemeter calibrations.	2 years. 3 years.
	Alarming ratemeter functions.	2 years. 3 years.
	<i>Estimates of overexposures.</i>	<i>Until the agency terminates the license.</i>
45.1(19)	Current operating and emergency procedures.	Until the license is terminated.
	Superseded material.	3 years after change.
40.81(1)	Internal audit program.	3 years.
45.1(11)	Radiographer audits.	3 years.
45.2(5) and		
45.3(7)	Radiation surveys.	2 years or until disposal is authorized by the agency if a survey was used to determine an individual’s exposure.
45.1(16)	Records at temporary job sites.	During temporary job site operations.
45.2(6) and		
45.3(8)	Annual evaluation of enclosed X-ray systems.	2 years.
45.3(5)	Leak tests.	3 years.
45.1(9)	Tests of Chapter 45 high radiation control devices and alarm systems.	Until disposal is authorized by the agency.
45.2(6)	Evaluation of certified cabinet X-ray systems.	2 years.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 121. Amend subrule **46.5(1)**, paragraph “c,” subparagraph (2), as follows:

(2) Information regarding potential negative health effects related to ultraviolet exposure, including:

1. ~~The increased risk of skin cancer later in life;~~
2. ~~The increased risk of skin thickening and premature aging;~~
3. ~~The possibility of burning or rashes, especially if using any of the potential photosensitizing drugs and agents. The consumer should consult a physician before using a tanning device if using medication, if there is a history of skin problems or if the consumer is especially sensitive to sunlight as shown in Appendix 3.~~

ITEM 122. Amend subrule **46.5(1)**, paragraph “c,” by adopting **new** subparagraph (6) as follows:

(6) The items in 46.5(1)“c”(1), (2) and (3) shall be posted in each tanning room.

ITEM 123. Amend subrule **46.5(8)** by adopting **new** paragraph “e” as follows:

e. A tanning facility operator shall instruct the consumer in the proper utilization of the protective eyewear required by this subrule.

ITEM 124. Amend subrule 46.6(3) as follows:

46.6(3) If the ~~director~~ *agency* finds that a person has violated, or is violating or threatening to violate, this chapter and that the violation creates an immediate threat to the health and safety of the public, the ~~director~~ *agency* may petition the district court for a temporary restraining order to restrain the violation or threat of violation.

If a person has violated, or is violating or threatening to violate, this chapter, the agency may petition the district court for an injunction to prohibit the person from continuing the violation or threat of violation.

ITEM 125. Amend subrule **46.6(5)**, paragraph “c,” as follows:

c. In cases where the permit holder fails to comply with conditions of the written notice, the ~~department~~ *agency* shall send a regulatory letter, via certified mail, advising the permit holder that unless action is taken within five days of receipt, the case shall be turned over to the *appropriate state/city/county attorney* for court action.

ITEM 126. Amend **641—Chapter 46** by adopting **new Appendix 3** as follows:

Appendix 3

POTENTIAL NEGATIVE HEALTH EFFECTS RELATED TO ULTRAVIOLET EXPOSURE

1. Increased risk of skin cancer later in life.
2. Increased risk of skin thickening and premature aging.
3. Possibility of burning or rash, especially if using any of the potential photosensitizing drugs and agents. The consumer should consult a physician before using a tanning device if using medications, if there is a history of skin problems or if the consumer is especially sensitive to sunlight.
4. Increased risk of eye damage unless proper eyewear is worn.

ARC 3950B

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 135.11(13) and 135.72, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 202, “Certificate of Need Program,” Iowa Administrative Code.

The proposed amendment allows a hospital which has deleted beds for the purpose of receiving designation as a Critical Access Hospital to reestablish the deleted beds at a later time without obtaining a certificate of need, provided the number of beds reestablished does not exceed the number of beds maintained prior to the deletion.

Any interested person may make written comments or suggestions on the proposed amendments on or before February 22, 2005. Such written comments should be directed to Barb Nervig, Certificate of Need Program, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. E-mail may be sent to bnervig@idph.state.ia.us.

The State Health Facilities Council reviewed this amendment at the scheduled meeting on December 9, 2004. The Council directed the Department to proceed with the rule making.

This amendment is intended to implement Iowa Code sections 135.61 to 135.83.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend subrule 202.1(9) as follows:

202.1(9) “Permanent change in bed capacity” of an institutional health facility means a change which is intended to be effective for one year or more and which redistributes the beds among the categories listed in the definition of “Bed capacity.”

a. A conversion of a long-term care hospital or a rehabilitation hospital as defined by federal regulations to a general acute hospital or to a different type of specialty hospital is a permanent change in bed capacity and requires a certificate of need.

b. *A hospital which has deleted beds pursuant to Iowa Code section 135.63(2)“g” for the purpose of receiving designation as a critical access hospital may reestablish the deleted beds at a later time without obtaining a certificate of need, provided that the number of beds reestablished does not exceed the number of beds maintained prior to the deletion as reported on the bed reduction form.*

ARC 3972B**REVENUE DEPARTMENT[701]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code chapter 17A and section 421.17(19), the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 86, “Inheritance Tax,” Iowa Administrative Code.

These amendments are proposed based on 2004 Iowa Acts, chapters 1015 and 1073.

Item 1 amends 701—subrule 86.2(1) by adding a new paragraph “c” to implement 2004 Iowa Acts, chapter 1073, sections 30, 32, 33, and 34. The new paragraph allows that estates that do not have an Iowa inheritance or estate tax due are not required to file an Iowa inheritance tax return if specific criteria are met.

Item 2 amends rule 701—86.9(450) to implement 2004 Iowa Acts, chapter 1073, section 31, which provides that, effective for estates with decedents dying on or after July 1, 2004, the time period in which the Department has to obtain an appraisal of real property is now 60 days instead of 30 days from the date the return is filed with the Department.

Item 3 amends 701—subrule 86.14(7) by adding new unnumbered paragraphs to implement 2004 Iowa Acts, chapter 1015, which implements new types and procedures for filing a disclaimer of interest in an estate for estates with decedents dying on or after July 1, 2004.

The amendments also update the implementation clauses.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than March 7, 2005, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before February 22, 2005. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue, at (515)281-8036 or at the Department of

Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by February 25, 2005.

These amendments are intended to implement Iowa Code sections 450.22, 450.37, 450.53, 450.58, 450.94, and 633.901 to 633.917.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 701—86.2(450) as follows:

Amend subrule **86.2(1)** by adding the following **new** paragraph “c”:

c. Who must file on or after July 1, 2004. Effective for estates with decedents dying on or after July 1, 2004, if an estate has no Iowa inheritance tax due and there is no obligation for the estate to file a federal estate tax return, then an Iowa inheritance tax return need not be filed if one of the following situations is applicable:

(1) All estate assets are held solely in joint tenancy with right of survivorship between husband and wife;

(2) All estate assets are held solely in joint tenancy with right of survivorship, and not as tenants in common between the decedent and individuals listed in Iowa Code section 450.9 as individuals that are entirely exempt from Iowa inheritance tax; or

(3) Assets are passing by beneficiary designation pursuant to a trust and are intended to pass the decedent’s property at death or through a nonprobate transfer solely to individuals who are statutorily exempt from Iowa inheritance tax on shares received from a decedent based on their relationship to the decedent. The entire amount of property, interest in property, and income passing to the surviving spouse, and to parents, grandparents, great-grandparents, and other lineal ascendants, to children including legally adopted children and biological children entitled to inherit under the laws of this state, stepchildren, and grandchildren, great-grandchildren, and other lineal descendants is exempt from tax.

However, an Iowa inheritance tax return must be filed if estate assets pass to both an individual listed in Iowa Code section 450.9 and that individual’s spouse.

If an inheritance tax return is not required because the estate meets the above criteria, the final settlement of account need not contain an inheritance tax receipt (clearance) issued by the department. Instead, the personal representative must file with the court, along with the settlement, an affidavit that an inheritance tax return is not required to be filed under the law. If a false affidavit is filed, then the affiant and personal representative will be held jointly and severally liable for any tax, penalty and interest due on the estate, and any statute of limitations regarding the assessment and collection of tax, penalty and interest does not apply.

If an Iowa inheritance tax return is not required to be filed, but the estate involves real property, then one of the persons succeeding to the interest in the real property must file an affidavit in the county in which the real property is located setting forth the legal description of the real property and the fact that an Iowa inheritance tax return is not required to be filed with the department. If a false affidavit is filed regarding real property in the estate, then the personal representative and the affiant are jointly and severally liable for any tax, penalty and interest that may be due, and any statute of limi-

REVENUE DEPARTMENT[701](cont'd)

tations shall not bar the department's assessment and collection of the tax, penalty and interest.

If a return is filed with the department and the return is not required to be filed, the department will not process the return. Instead, the return will be destroyed. The department will not issue clearances in estates in which returns are not required to be filed, unless the department receives a court order requesting that one be issued. If a court orders the department to determine whether an Iowa inheritance tax clearance is appropriate or if tax is due in an estate, the estate is then responsible for timely filing an Iowa inheritance tax return with all the required documentation and a copy of the court order requiring the department to make such a determination regarding the taxable status of the estate. The department will then process such a return under its normal inheritance tax return procedure.

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code sections 421.14, 450.4 as amended by 2001 Iowa Acts, Senate File 523, section 1, 450.5, 450.6, 450.9, 450.22, 450.44, 450.46, 450.47, 450.51, 450.52, 450.53, 450.58, 450.63, and 450.94.

ITEM 2. Amend rule 701—86.9(450), introductory paragraph, as follows:

701—86.9(450) Market value in the ordinary course of trade. Fair market value of real or personal property is established by agreement or the appraisal and appeal procedures set forth in Iowa Code section 450.37 and 701—subrules 86.9(1) and 86.9(2). If the value is established by agreement, the agreement may be to accept the values of such property as submitted on the Iowa inheritance tax return, to accept a negotiated value or to accept the values as finally determined for federal estate tax purposes. Values submitted on an inheritance tax return constitute an offer regarding the value of the property by the estate. An inheritance tax clearance that is issued based upon property values submitted on an inheritance tax return constitutes an acceptance of those values on that return. An agreement to accept negotiated values or accept values as finally determined for federal estate tax purposes must be an agreement between the department of revenue and finance, the personal representative, and the persons who have an interest in the property. If an agreement cannot be reached regarding the valuation of real property, then the department may request, within 30 days after the return is filed, an appraisal pursuant to Iowa Code sections 450.37 and 450.27 and 701—subrule 86.9(2). *Effective for estates with decedents dying on or after July 1, 2004, if an agreement cannot be reached regarding the valuation of real property, then the department may request, within 60 days after the return is filed with the department, an appraisal pursuant to Iowa Code sections 450.37 and 450.27 and 701—subrule 86.9(2).* If an appraisal is not requested within the required period, then the value listed on the return is the agreed value of the real property. If an agreement cannot be reached regarding the valuation of personal property, the personal representative or any person interested in the personal property may appeal for a revision of the department's value as set forth in Iowa Code section 450.37 and 701—subrule 86.9(2). Any inheritance tax clearance granted by the department may be subject to revision based on federal audit adjustments. Absent an agreement to the contrary, the six-month extension of the statute of limitations for assessing Iowa inheritance tax based on federal audit adjustments is limited to federal audit adjustments that directly affect Iowa inheritance tax and involve Iowa inheritance tax law that incorporates Internal Revenue Code provisions—see Iowa Code section 450.94(5)

and Kelly-Springfield Tire Co. v. Iowa State Board of Tax Review, 414 N.W.2d 113 (Iowa 1987).

ITEM 3. Amend subrule **86.14(7)** by adding the following **new** unnumbered paragraphs:

Effective for estates with decedents dying on or after July 1, 2004, disclaimers are to be filed in compliance with the Iowa uniform disclaimer Act. This Act sets forth new requirements for valid disclaimers. Criteria will be based on the type of property or the interest being disclaimed.

General criteria for disclaimers have not changed. To be valid, a disclaimer must be in writing or stored in electronic record or other medium that is retrievable, declare the disclaimer, describe the interest or power disclaimed, be signed by the person making the disclaimer, and be delivered or filed. A partial disclaimer may be expressed as a fraction, percentage, monetary amount, term of years, limitation of a power, or any other interest or estate in the property.

A disclaimer becomes irrevocable when it is delivered or filed or when it becomes effective, whichever occurs later. Delivery of a disclaimer may generally be made by personal delivery, first-class mail, or any other method likely to result in its receipt. However, specific interests being disclaimed require specific means of delivery. For explicit information regarding delivery of a disclaimer based on interest being disclaimed, see Iowa Code section 633.912.

ITEM 4. Amend rule **701—86.14(450)**, implementation clause, as follows:

This rule is intended to implement Iowa Code chapter 450 and sections 633.901 to 633.917.

ARC 3945B

SOIL CONSERVATION DIVISION[27]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 161A.4(1), the Division of Soil Conservation gives Notice of Intended Action to amend Chapter 40, “Coal Mining,” Iowa Administrative Code.

This Notice of Intended Action makes corrective changes mandated by the Division's federal oversight agency, the U.S. Office of Surface Mining, Reclamation and Enforcement. Amendments herein are corrective actions that are in response to an earlier rule making adopting revised federal regulations. The 2002 Code of Federal Regulations (CFR) is adopted by reference throughout the chapter and continues to serve as the baseline for the Iowa program rules. Iowa's Revegetation Success Standards and Statistically Valid Sampling Techniques are also adopted by reference. Incorporating these changes is necessary in order for the Division to maintain primacy for its coal regulatory and abandoned mine land programs.

It is the Division's intent that the suspensions at various regulations as explained in editorial notations within the CFR are adopted and incorporated by reference in this action as

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well as in Chapter 40. These amendments do not contain a waiver, but they are subject to the Division's general waiver.

Any interested person may make written suggestions or comments on the amendments proposed in this Notice of Intended Action. Such written materials should be directed to the Mines and Minerals Bureau, Division of Soil Conservation, Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. Comments may also be faxed to the Division at (515)281-6170 or E-mailed to Julia.Jeske@idals.state.ia.us. Comments and suggestions must be received by the Division no later than 4 p.m., Tuesday, February 22, 2005.

A public hearing will be held on Tuesday, February 22, 2005, at 1 p.m. in the west half of the First Floor Conference Room of the Wallace State Office Building, 502 E. 9th, Des Moines, Iowa. Comments presented at the hearing may be offered either orally or in writing.

These amendments are intended to implement Iowa Code chapter 207.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

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

40.1(1) Parts and sections of the federal regulations of the U.S. Office of Surface Mining Reclamation and Enforcement, U.S. Department of Interior, promulgated pursuant to the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87), are incorporated by reference as rules of the division as specified in this chapter, with exceptions as indicated. Rules incorporated by reference, as specified in each specific rule, are those from the Code of Federal Regulations (30 CFR), as in effect on July 1, 1992 2002.

ITEM 2. Amend subrule 40.1(4) as follows:

40.1(4) Delete "or qualified, registered, professional land surveyor" from 30 CFR 816.49(a)(2) (3) and 816.49(a)(4) (11)(ii).

ITEM 3. Amend the introductory paragraph of rule 27—40.3(207) as follows:

27—40.3(207) General. The following is incorporated by reference: 30 CFR Part 700, as in effect on July 1, 1992 2002, except for 30 CFR 700.1, 700.2, 700.3, 700.4, 700.10 and 700.12. The phrase "section 520 of the Act" is deleted from 30 CFR 700.13(a) and the words "Iowa Code section 207.17" are inserted in lieu thereof.

ITEM 4. Amend the introductory paragraph of rule 27—40.4(207) as follows:

27—40.4(207) Permanent regulatory program and exemption for coal extraction incidental to the extraction of other minerals. The following is incorporated by reference: 30 CFR Part 701 and 30 CFR Part 702, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 5. Amend subrules 40.4(2) and 40.4(3) as follows:

40.4(2) Delete from 30 CFR 701.5 the definitions "Agricultural activities or farming," "Alluvial valley floor," "Arid or semiarid area," "Essential hydrologic functions," "Farming," "Federal program," "Complete federal program," "Partial federal program," "Flood irrigation," "Materially damage the quantity or quality of waters," "Special bituminous coal mines," "Subirrigation," "Undeveloped rangeland," and "Upland areas."

40.4(3) Delete from the last sentence in the definition of "Permittee" in 30 CFR 701.5 the words "section 523 of the Act" and insert the words "Iowa Code section 207.20".

In 30 CFR 701.5(b)(2), delete from the definition of "Significant imminent environmental harm to land, air or water resources" at (b)(2), the words "section 521(a)(3) of the Act" and insert the words "Iowa Code section 207.14, subsection 2".

ITEM 6. Rescind and reserve subrule 40.4(9).

40.4(9) Reserved. Delete the definition for "Previously mined area" at 30 CFR 701.5 and insert in lieu thereof the following:

"Previously mined area" means the land affected by surface coal mining operations prior to August 3, 1977, that has not been reclaimed to the standards of 30 CFR chapter VII.

ITEM 7. Adopt the following **new** subrule:

40.4(11) Delete the definition for "Violation, failure or refusal" at 30 CFR 701.5 and insert in lieu thereof the following:

"Violation, failure, or refusal" means—

(1) A violation of a condition of an approved permit pursuant to the Iowa program or an enforcement action pursuant to Iowa Code section 207.14, or

(2) A failure or refusal to comply with any order issued under Iowa Code section 207.14 or any order incorporated in a final decision issued by the administrator, except an order incorporated in a decision issued under subrule 40.74(7) or rule 27—40.7(207).

ITEM 8. Amend the introductory paragraph of rule 27—40.5(207) as follows:

27—40.5(207) Restrictions on financial interests of State state employees. The general word substitutions used elsewhere in these rules do not apply to Iowa's incorporation of 30 CFR 705. The following is incorporated by reference: 30 CFR Part 705, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 9. Amend the introductory paragraph of rule 27—40.6(207) as follows:

27—40.6(207) Exemptions for coal extraction incidental to government-financed highway or other constructions. The following is incorporated by reference: 30 CFR Part 707, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 10. Rescind and reserve subrule 40.6(2).

40.6(2) Reserved. Delete from 30 CFR 707.12 the words "250 tons" and insert the words "50 tons".

ITEM 11. Amend the introductory paragraph of rule 27—40.7(207) as follows:

27—40.7(207) Protection of employees. The following is incorporated by reference: 30 CFR Part 865, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 12. Amend the introductory paragraph of rule 27—40.11(207) as follows:

27—40.11(207) Initial regulatory program. The following is incorporated by reference: 30 CFR Part 710, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 13. Amend the introductory paragraph of rule 27—40.12(207) as follows:

27—40.12(207) General performance standards—initial program. The following is incorporated by reference: 30 CFR Part 715, as in effect on July 1, 1992 2002, with the following exceptions:

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ITEM 14. Amend rule 27—40.13(207) as follows:

27—40.13(207) Special performance standards—initial program. The following is incorporated by reference: 30 CFR Part 716, as in effect on July 1, 1992 2002, with the following exception:

Delete 30 CFR 716.1(a), subparagraphs (1) through (5), 716.2, 716.3, 716.4, 716.5, 716.6, and 716.10.

ITEM 15. Amend the introductory paragraph of rule 27—40.21(207) as follows:

27—40.21(207) Areas designated by an Act of Congress. The following is incorporated by reference: 30 CFR Part 761, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 16. Amend subrules 40.21(4), 40.21(5) and 40.21(6) as follows:

40.21(4) Delete from 30 CFR 761.5(d) under the definition for “Valid existing rights” the words “section 522(e) of the Act” “30 U.S.C. 1272(e)” and insert the words “Iowa Code section 207.8”.

40.21(5) Delete 30 CFR 761.12(e) 761.13.

40.21(6) Delete from 30 CFR 761.12(g) 16 the words “section 522(e) of the Act” “30 U.S.C. 1272(e)” and insert the words “Iowa Code section 207.8”.

ITEM 17. Amend the introductory paragraph of rule 27—40.22(207) as follows:

27—40.22(207) Criteria for designating areas as unsuitable for surface coal mining operations. The following is incorporated by reference: 30 CFR Part 762, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 18. Amend subrule 40.22(2) as follows:

40.22(2) Delete from 30 CFR 762.14 15 the words “section 522 of the Act” and insert the words “Iowa Code section 207.8”.

ITEM 19. Amend the introductory paragraph of rule 27—40.23(207) as follows:

27—40.23(207) State procedures for designating areas unsuitable for surface coal mining operations. The following is incorporated by reference: 30 CFR Part 764, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 20. Amend the introductory paragraph of rule 27—40.30(207) as follows:

27—40.30(207) Requirements for coal exploration. The following is incorporated by reference: 30 CFR Part 772, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 21. Amend subrule 40.30(1) as follows:

40.30(1) Delete from 30 CFR 772.11 and 772.11(a) the words “250 tons” and insert the words “50 tons”.

ITEM 22. Amend subrule 40.30(4) as follows:

40.30(4) Delete from 30 CFR 772.12, 772.12(a), and 772.12(b)(7) the words “250 tons” and insert the words “50 tons”.

ITEM 23. Amend rule 27—40.31(207) as follows:

27—40.31(207) Requirements for permits and permit processing. The following is incorporated by reference: 30 CFR Part 773, as in effect on July 1, 1992 2002, with the following exceptions:

40.31(1) Delete the second sentence of 30 CFR 773.11(a) 773.4(a).

40.31(2) Add at the end of the last sentence of 30 CFR 773.13(a)(1)(ii) 773.6(a)(1)(ii) the words “and the scale of the map”, and the following paragraph:

“The legal description shall include popular township, county, township, range, section, and the United States Geological Survey map identification by property owners. Section lines shall be marked and the sections shall be identified on the map. The total acreage of the proposed permit area shall be given to the nearest acre.”

40.31(3) Delete from 30 CFR 773.15(a)(1) 773.7(a) the words “a reasonable time set by the regulatory authority” and insert the words “90 days following the completion of the adequacy review”.

40.31(4) Delete 30 CFR 773.10, 773.11(c) and (d) 773.3, 773.4(c) and (d).

40.31(5) Delete from 30 CFR 773.11(b)(2) 773.4(b)(2) the words “section 502 of the Act” and insert the words “Iowa Code section 207.4”.

40.31(6) Delete from 30 CFR 773.13(a)(3)(ii) 773.6(a)(3)(ii) the words “section 503(a)(6) or 504(h) of the Act” and insert the words “Iowa Code section 207.5”.

40.31(7) Delete the first sentence from 30 CFR 773.13(c)(2)(iv) 773.6(c)(2)(iv).

40.31(8) Delete from 30 CFR 773.13(d)(3)(ii) 773.6(d)(3)(ii) the words “section 508 of the Act” and insert the words “Iowa Code section 22.7, subsection 6”.

40.31(9) The general word substitution for “Act” at rule 27—40.1(207) does not apply to 30 CFR 773.15(b) 773.11(a).

40.31(10) and **40.31(11)** No change.

40.31(12) Add the following paragraph (h) to 30 CFR 773.17:

(h) ~~Shall~~ *The permittee shall ensure and the permit shall contain specific conditions requiring that, as a condition of the permit, the permittee shall not, except as permitted by law, willfully resist, prevent, impede, or interfere with the division or any of its agents in the performance of their duties.*

40.31(13) Delete from 30 CFR 773.13(b)(1) 773.6(b)(1) the words “a reasonable time established by the regulatory authority” and insert the words “60 days of the notification”.

40.31(14) Rescinded IAB-8/14/96, effective 10/1/96. *Reserved.*

40.31(15) Delete 773.21(e) 773.23(d) and insert in lieu thereof the following:

(c) Right to appeal. The permittee may file an appeal for administrative review of the notice of proposed suspension or rescission under Part 9 of these rules.

ITEM 24. Amend the introductory paragraph of rule 27—40.32(207) as follows:

27—40.32(207) Revision or amendment; renewal; and transfer, assignment, or sale of permit rights. The following is incorporated by reference: 30 CFR Part 774, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 25. Amend subrule 40.32(1) and the introductory paragraph of subrule 40.32(2) as follows:

40.32(1) 30 CFR 774.11(b) and (e) 774.10(b) and (c) are deleted.

40.32(2) 30 CFR 774.13 is deleted, with the exception that the notice, public participation, and notice of decision requirements of 30 CFR 773.13 773.6, 773.19(b), and 778.21 shall apply to all revisions.

ITEM 26. Amend subrule 40.32(4) as follows:

40.32(4) Delete 30 CFR 774.10 774.9 and 774.15(c)(3).

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ITEM 27. Amend the introductory paragraph of rule 27—40.33(207) as follows:

27—40.33(207) General content requirements for permit applications. The following is incorporated by reference: 30 CFR Part 777, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 28. Amend the introductory paragraph of rule 27—40.34(207) as follows:

27—40.34(207) Permit application—minimum requirements for legal, financial, compliance, and related information. The following is incorporated by reference: 30 CFR Part 778, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 29. Amend subrules 40.34(2) and 40.34(3) as follows:

40.34(2) Delete 30 CFR 778.10 778.8.

40.34(3) *Reserved.* The general word substitution for “Act” at rule 27—40.1(207) does not apply to 30 CFR 778.14(e).

ITEM 30. Amend the introductory paragraph of rule 27—40.35(207) as follows:

27—40.35(207) Surface mining permit applications—minimum requirements for information on environmental resources. The following is incorporated by reference: 30 CFR Part 779, as in effect on July 1, 1992 2002, except as modified by subrule 40.1(3) and with the following exceptions:

ITEM 31. Rescind and reserve subrule 40.35(3).

40.35(3) *Reserved.* Delete from 30 CFR 779.22(a)(1) the words “A map” and insert the words “A map at a scale of 1:2400 or larger or an aerial photo”.

ITEM 32. Amend the introductory paragraph of rule 27—40.36(207) as follows:

27—40.36(207) Surface mining permit applications—minimum requirements for reclamation and operation plan. The following is incorporated by reference: 30 CFR Part 780, as in effect on July 1, 1992 2002, except as modified by subrules 40.1(3) and 40.1(5) and with the following exceptions and clarifications:

ITEM 33. Amend the introductory paragraph of rule 27—40.37(207) as follows:

27—40.37(207) Underground mining permit applications—minimum requirements for information on environmental resources. The following is incorporated by reference: 30 CFR Part 783, as in effect on July 1, 1992 2002, except as modified by subrules 40.1(3) and 40.1(5) and with the following exceptions:

ITEM 34. Amend subrule 40.37(4) as follows:

40.37(4) Amend the first sentence in 30 CFR 783.25(a) to read: “The application shall include cross sections at a vertical exaggeration of 10:1:10 1:10, maps at a scale of 1:2400, and plans showing—”

ITEM 35. Amend the introductory paragraph of rule 27—40.38(207) as follows:

27—40.38(207) Underground mining permit applications—minimum requirements for reclamation and operation plan. The following is incorporated by reference: 30 CFR Part 784, as in effect on July 1, 1992 2002, except as modified by subrules 40.1(3) and 40.1(5) and with the following exceptions and clarifications:

ITEM 36. Amend subrules 40.38(2) and 40.38(3) as follows:

40.38(2) Delete from 30 CFR 784.20(d) (b)(4) the words “if any”.

40.38(3) Delete from 30 CFR 784.20(f) (b)(6) the words “if any”.

ITEM 37. Amend the introductory paragraph of rule 27—40.39(207) as follows:

27—40.39(207) Requirements for permits for special categories of mining. The following is incorporated by reference: 30 CFR Part 785, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 38. Amend the introductory paragraph of rule 27—40.41(207) as follows:

27—40.41(207) Permanent regulatory program—small operator assistance program. The following is adopted by reference: 30 CFR Part 795, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 39. Adopt the following new subrule:

40.41(3) Eligibility thresholds for annual production in tons at 30 CFR 795.6(a)(2) shall not apply until the same threshold at Iowa Code section 207.4(1)(d) has been amended from 100,000 tons to 300,000 tons.

ITEM 40. Amend the introductory paragraph of rule 27—40.51(207) as follows:

27—40.51(207) Bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs. The following is incorporated by reference: 30 CFR Part 800, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 41. Amend the introductory paragraph of rule 27—40.61(207) as follows:

27—40.61(207) Permanent program performance standards—general provisions. The following is incorporated by reference: 30 CFR Part 810, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 42. Amend subrule 40.61(4) as follows:

40.61(4) Delete the phrase “Parts 818 through 828” at 30 CFR 810.11 and substitute in lieu thereof “Parts 819, 823, and 827, and 828”.

ITEM 43. Amend the introductory paragraph of rule 27—40.62(207) as follows:

27—40.62(207) Permanent program performance standards—coal exploration. The following is incorporated by reference: 30 CFR Part 815, as in effect on July 1, 1992 2002.

ITEM 44. Amend the introductory paragraph of rule 27—40.63(207) as follows:

27—40.63(207) Permanent program performance standards—surface mining activities. The following is incorporated by reference: 30 CFR Part 816, as in effect on July 1, 1992 2002, except as modified by subrules 40.1(3), 40.1(4), and 40.1(5) and with the following exceptions:

ITEM 45. Adopt the following new subrule:

40.63(6) The following is incorporated by reference: “Re-vegetation Success Standards and Statistically Valid Sampling Techniques,” dated April 1999, as approved on December 27, 2001, and as amended December 27, 2004.

ITEM 46. Amend subrule 40.63(9) as follows:

40.63(9) Add at the end of 30 CFR 816.49(a)(4) (II)(i) the sentence “Yearly inspection of the impoundments shall be done in the second quarter of each calendar year, and the

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inspection report shall be submitted to the division with the second quarter water monitoring report.”

ITEM 47. Amend the introductory paragraph of rule 27—40.64(207) as follows:

27—40.64(207) Permanent program performance standards—underground mining activities. The following is incorporated by reference: 30 CFR Part 817, as in effect on July 1, 1992 2002, except as modified by subrules 40.1(3), 40.1(4), and 40.1(5) and with the following exceptions:

ITEM 48. Adopt the following **new** subrule:

40.64(4) The following is incorporated by reference: “Revegetation Success Standards and Statistically Valid Sampling Techniques,” dated April 1999, as approved on December 27, 2001, and as amended December 27, 2004.

ITEM 49. Rescind and reserve subrule 40.64(6).

40.64(6) Reserved. Delete from 30 CFR 817.121(e)(2) the phrase “To the extent required under applicable provisions of State law.”

ITEM 50. Amend the introductory paragraph of rule 27—40.65(207) as follows:

27—40.65(207) Special permanent program performance standards—auger mining. The following is incorporated by reference: 30 CFR Part 819, as in effect on July 1, 1992 2002.

ITEM 51. Amend rule 27—40.66(207) as follows:

27—40.66(207) Special permanent program performance standards—operations on prime farmland. The following is incorporated by reference: 30 CFR Part 823, as in effect on July 1, 1992 2002, except for 30 CFR 823.11(a) which is deleted.

ITEM 52. Amend the introductory paragraph of rule 27—40.67(207) as follows:

27—40.67(207) Permanent program performance standards—coal preparation plants not located within the permit area of a mine. The following is incorporated by reference: 30 CFR Part 827, as in effect on July 1, 1992 2002, except for the following:

ITEM 53. Amend the introductory paragraph of rule 27—40.71(207) as follows:

27—40.71(207) State regulatory authority—inspection and enforcement. The following is incorporated by reference: 30 CFR Part 840, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 54. Amend subrule **40.73(2)**, paragraph “g,” as follows:

g. Within 60 days after the issuance of a cessation order, the division shall notify in writing any person who has been identified under ~~27—40.31(207)~~ ~~27—40.32(207)~~, ~~30 CFR 773.17(i)~~ ~~30 CFR 774.12~~, and ~~27—40.34(207)~~, ~~30 CFR 778.13(c)~~ and ~~(d)~~ ~~30 CFR 778.11(c)~~ and ~~(d)~~, as owning or controlling the permittee, that the cessation order was issued and that the person has been identified as an owner or controller.

ITEM 55. Amend subrule **40.73(4)**, paragraph “d,” as follows:

d. Whenever a permittee fails to abate a violation contained in a notice of violation or cessation order within the abatement period set in the notice or order or as subsequently extended, the administrator shall review the permittee’s history of violations to determine whether a pattern of violations exists pursuant to this subrule, and shall issue an order to

show cause as appropriate pursuant to ~~rule 27—40.74(207)~~ ~~subrule 40.73(4)~~, paragraph “a,” subparagraph (1).

ITEM 56. Amend the introductory paragraph of rule 27—40.74(207) as follows:

27—40.74(207) Civil penalties. The following is incorporated by reference: 30 CFR Part 845, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 57. Add **new** subrule 40.74(9) as follows:

40.74(9) Delete 845.21.

ITEM 58. Amend the introductory paragraph of rule 27—40.75(207) as follows:

27—40.75(207) Individual civil penalties. The following is adopted by reference: 30 CFR Part 846, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 59. Rescind and reserve subrule 40.75(2).

40.75(2) Reserved. Delete the definition for “Violation, failure or refusal” at 30 CFR 846.5 and insert in lieu thereof the following:

“Violation, failure, or refusal” means—

(1) A violation of a condition of an approved permit pursuant to the Iowa program or an enforcement action pursuant to Iowa Code section 207.14, or

(2) A failure or refusal to comply with any order issued under Iowa Code section 207.14 or any order incorporated in a final decision issued by the administrator, except an order incorporated in a decision issued under subrule 40.74(7) or rule 27—40.7(207).

ITEM 60. Amend the introductory paragraph of rule 27—40.81(207) as follows:

27—40.81(207) Permanent regulatory program requirements—standards for certification of blasters. The following is incorporated by reference: 30 CFR Part 850, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 61. Amend the introductory paragraph of rule 27—40.82(207) as follows:

27—40.82(207) Certification of blasters. The following is incorporated by reference: 30 CFR Part 955, as in effect on July 1, 1992 2002, with the following exceptions:

ITEM 62. Amend subrule 40.92(8) as follows:

40.92(8) A request to conduct mining in areas where otherwise prohibited by Iowa Code section 207.8 and 30 CFR 761.11, revised July 1, 1992 2002.

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TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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

Pursuant to the authority of Iowa Code sections 307.10, 307.12, 321.449 and 321.450, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 520, “Regulations Applicable to Carriers,” Iowa Administrative Code.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States

TRANSPORTATION DEPARTMENT[761](cont'd)

Code, Title 49, and found in 49 Code of Federal Regulations (CFR), Parts 385 and 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180. To ensure the consistency required by statute, the Department annually adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the Federal HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

Proposed federal regulations are published in the FR to allow a period for public comment, and, after adoption, the final regulations are again published in the FR. Each year a revised edition of 49 CFR is published, incorporating all of the final regulations adopted during the year. Although revised editions of 49 CFR are usually dated October or November, the publication is not actually available in Iowa for several months after that date.

The amendments to the FMCSR and the Federal HMR that have become final and effective since the 2003 edition of the CFR are listed in the information below. The parts affected are followed by FR citations.

Amendments to the FMCSR and Federal HMR

Parts 171, 172, 173, 177 and 178 (FR Vol. 68, No. 193, Page 57629, 10-06-03)

This final rule corrects editorial errors, makes minor regulatory changes and improves the clarity of certain provisions in the Federal HMR.

Parts 390 and 398 (FR Vol. 68, No. 207, Page 61246, 10-27-03)

This rule contains an editorial correction on a date referenced in the regulations.

Parts 171, 173, 177 and 178 (FR Vol. 68, No. 210, Page 61906, 10-30-03)

This final rule clarifies the applicability of the Federal HMR to specific functions and activities, including hazardous materials loading and unloading operations and storage of hazardous materials during transportation.

Part 171 (FR Vol. 68, No. 232, Page 67746, 12-03-03)

The Research and Special Programs Administration (RSPA) is revising the incident reporting requirements of the Federal HMR and the hazardous materials incident report form, U.S. Department of Transportation (U.S. DOT) Form F 5800.1. These revisions will ensure an increase in the usefulness of data collected for risk analysis and management by government and industry.

Parts 171, 172, 173, 177, 178 and 180 (FR Vol. 68, No. 250, Page 75734, 12-31-03)

This final rule amends the Federal HMR to standardize the format used to cross-reference consensus standards published by nationally and internationally recognized standard-setting organizations and industry that are incorporated by reference into the Federal HMR. In addition, this rule adds missing cross references and removes unnecessary cross references in the Federal HMR. The amendments contained in

this rule are minor editorial changes and impose no new requirements.

Parts 171, 172, 173, 177 and 178 (FR Vol. 69, No. 16, Page 3632, 01-26-04)

This final rule amends the requirements in the Federal HMR pertaining to the transportation of radioactive materials based on changes contained in the International Atomic Energy Agency (IAEA) publication. The purpose of this rule-making initiative is to harmonize requirements of the Federal HMR with international standards for radioactive materials as well as to promulgate other U.S. DOT-initiated requirements.

Parts 107, 171 and 177 (FR Vol. 69, No. 27, Page 6195, 02-10-04)

This final rule revises the procedures for applying for an exemption from the Federal HMR, adopted in an interim final rule published May 5, 2003, to require certain applicants to certify compliance with provisions of the Safe Explosives Act. In addition, this final rule adopts, without change, provisions in the interim final rule that require motor carriers and vessel operators to comply with applicable licensing requirements for drivers and crewmen, respectively.

Part 391 (FR Vol. 69, No. 61, Page 16722, 03-30-04)

This final rule establishes standards for the operators of longer combination vehicles (LCVs) and requirements for the instructors who train these operators. This action is in response to the Intermodal Surface Transportation Efficiency Act of 1991, which directed that training for the operators of LCVs include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary of Transportation. The purpose of this final rule is to enhance the safety of commercial motor vehicle (CMV) operations on our nation's highways.

Parts 390 and 391 (FR Vol. 69, No. 61, Page 16684, 03-30-04)

The Federal Motor Carrier Safety Administration (FMCSA) amends the FMCSR to specify: The minimum driver safety performance history data that new or prospective employers are required to seek for applicants under consideration for employment as CMV drivers; where, and from whom, that information must be sought; and that previous employers must provide the minimum driver safety performance history information. This action will enable prospective motor carrier employers to make more sound hiring decisions of drivers to improve CMV safety on our nation's highways.

Part 172 (FR Vol. 69, No. 75, Page 20831, 04-19-04)

The RSPA is extending the compliance date of the recently adopted air eligibility marking requirement from October 1, 2004, to October 1, 2006.

Part 391 (FR Vol. 69, No. 97, Page 28846, 05-19-04)

The FMCSA published in the FR on March 30, 2004, a final rule concerning requirements for operators of longer combination vehicles and the instructors who train them. The requirements codified in 49 CFR Subpart 391.53 should have been designated 49 CFR Subpart 391.55. In addition, the authority citation for the rule failed to include the authorities listed in another FMCSA rule amending 49 CFR Part 391 that was published the same day. This document corrects these errors.

Part 171 (FR Vol. 69, No. 102, Page 30114, 05-26-04)

On December 3, 2003, the RSPA published a final rule to update and clarify requirements in the Federal HMR applicable to incident reporting requirements and the hazardous materials incident report U.S. DOT form. This final rule amends certain requirements and makes minor editorial corrections. This final rule was effective January 1, 2005.

TRANSPORTATION DEPARTMENT[761](cont'd)

Parts 171, 173, 177 and 178 (FR Vol. 69, No. 104, Page 30588, 05-28-04)

On October 30, 2003, the RSPA published a final rule to clarify the applicability of the Federal HMR to loading, unloading, and storage operations. The RSPA is delaying the effective date of the final rule from October 1, 2004, to January 1, 2005.

Part 393 (FR Vol. 69, No. 107, Page 31302, 06-03-04)

This rule revises the requirements concerning fuel tank fill rates for gasoline- and methanol-fueled light-duty vehicles contained in Subpart E of the FMCSR. This rule removes a conflict between the fuel tank fill rate requirements of the FMCSR and those of the Environmental Protection Agency for gasoline- and methanol-fueled vehicles up to 14,000 pounds gross vehicle weight rating, and makes permanent the terms of the exemptions previously granted to motor carriers operating certain gasoline-fueled CMVs manufactured by Ford Motor Company and by General Motors. This rule also incorporates into the FMCSR previously issued regulatory guidance concerning the applicability of the agency's fuel tank rules to vehicles subject to the National Highway Traffic Safety Administration fuel system integrity standard at the time of manufacture.

Parts 171, 172, 173 and 178 (FR Vol. 69, No. 119, Page 34604, 06-22-04)

This final rule amends certain requirements to a final rule issued on July 31, 2003, that made revisions to the Federal HMR to facilitate the transportation of hazardous materials in international commerce. This final rule also corrects errors in the July 31, 2003, final rule.

Parts 385 and 390 (FR Vol. 69, No. 125, Page 39350, 06-30-04)

The FMCSA is establishing a national safety permit program for motor carriers that transport certain hazardous materials in interstate or intrastate commerce. This rule making will require intrastate transporters of certain types and quantities of hazardous materials to obtain a U.S. DOT number as well as the safety permit. This final rule implements provisions of federal hazardous materials transportation law.

Part 172 (FR Vol. 69, No. 133, Page 41967, 07-13-04)

This final rule corrects errors in the 49 CFR 172.101 Hazardous Materials Table (HMT) made during the recent publication of 49 CFR Parts 100 to 185. In the most recent publication of 49 CFR Parts 100 to 185, a number of entries in the HMT were inadvertently removed.

Part 171 (FR Vol. 69, No. 169, Page 53352, 09-01-04)

This interim final rule extends the compliance date of the notification and record retention requirements for aircraft operators transporting hazardous materials from October 1, 2004, to April 1, 2005.

Parts 107, 171, 172, 173, 178 and 180 (FR Vol. 69, No. 172, Page 54042, 09-07-04)

This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the Federal HMR.

Parts 171, 172 and 173 (FR Vol. 69, No. 176, Page 55113, 09-13-04)

This final rule corrects errors in the docket published on January 26, 2004, that amended requirements in the Federal HMR pertaining to the transportation of radioactive materials based on changes in the IAEA publication entitled "IAEA Safety Standards Series: Regulations for the Safe Transport of Radioactive Material," 1996 Edition, No. TS-R-1.

The other amendment to this chapter adds a new subrule concerning compliance reviews.

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation's highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.

2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.

3. Indicate the general content of a requested oral presentation.

4. Be addressed to the Department of Transportation, Director's Staff Division, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: tracy.george@dot.iowa.gov.

5. Be received by the Director's Staff Division no later than February 22, 2005.

A meeting to hear requested oral presentations is scheduled for Thursday, February 24, 2005, at 10 a.m. in the DOT conference room at Park Fair Mall, 100 Euclid Avenue, Des Moines, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

The proposed amendments may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be received by the Director's Staff Division at the address listed in this Notice no later than March 7, 2005.

These amendments are intended to implement Iowa Code chapter 321.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

Proposed rule-making actions:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, 2003 2004).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, 2003 2004).

ITEM 3. Amend rule 761—520.5(321) as follows:

761—520.5(321) ~~New motor carrier safety audits~~ *Safety fitness.*

520.5(1) *New motor carrier safety audits.* Peace officers in the office of motor vehicle enforcement of the Iowa department of transportation shall perform safety audits of new motor carriers and shall have the authority to enter a motor carrier's place of business for the purpose of performing these audits. These audits shall be performed in compliance with 49 CFR Part 385 and shall be completed within 18 months from the day the motor carrier commences business.

TRANSPORTATION DEPARTMENT[761](cont'd)

520.5(2) *Motor carrier compliance reviews. Peace officers in the office of motor vehicle enforcement of the Iowa department of transportation shall perform compliance reviews of motor carriers and shall have the authority to enter a motor carrier's place of business for the purpose of performing these compliance reviews. These compliance reviews shall be performed in compliance with 49 CFR Part 385.*

This rule is intended to implement Iowa Code sections 321.449 and 321.450.

NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of

Banking has determined that the maximum lawful rate of interest shall be:

February 1, 2004 — February 29, 2004	6.25%
March 1, 2004 — March 31, 2004	6.25%
April 1, 2004 — April 30, 2004	6.00%
May 1, 2004 — May 31, 2004	5.75%
June 1, 2004 — June 30, 2004	6.25%
July 1, 2004 — July 31, 2004	6.75%
August 1, 2004 — August 31, 2004	6.75%
September 1, 2004 — September 30, 2004	6.50%
October 1, 2004 — October 31, 2004	6.25%
November 1, 2004 — November 30, 2004	6.25%
December 1, 2004 — December 31, 2004	6.00%
January 1, 2005 — January 31, 2005	6.25%
February 1, 2005 — February 28, 2005	6.25%

ARC 3968B

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 234.6(7), the Department of Human Services amends Chapter 65, "Food Assistance Program Administration," Iowa Administrative Code.

These amendments increase two of the deductions from household income used in determining Food Assistance eligibility and benefits. In anticipation of an increase in heating costs this season, the Department requested an analysis of Iowa Food Assistance utility allowances. The consultant has recommended the following increases:

- An increase in the standard utility allowance for households that are responsible for heating and cooling expenses of \$5 per month, from \$271 to \$276. This increase is based on estimated energy, water, and sewer bills for each Iowa county, weighted by the county's percentage of the total statewide population of persons whose income is below 125 percent of the federal poverty level. The analysis estimates that an allowance of \$276 will cover the utility expenses of 80 percent of low-income Iowa households.

- An increase in the standard telephone allowance of \$16 per month, from \$20 to \$36. This increase is based on the average monthly household expenditures on local telephone services (excluding long-distance services) cited in a statistical report published by the Federal Communications Commission in May 2004. Current federal line charges, interstate access charges, universal service charges, and average 911, disability access, and state and federal taxes cited in the report total \$17 per month, without considering any charge for local services.

These amendments are expected to increase Food Assistance benefits by an average of \$8 per month for 25,000 Iowa households. Food Assistance benefits are completely federally funded.

These amendments do not provide for waivers in specified situations because they benefit the households affected. Federal law does not allow the Department to waive limits on deductions used in the Food Assistance program.

The Department finds that notice and public participation on these amendments are contrary to the public interest because some low-income households are being deprived of the maximum shelter deductions allowed by law. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department finds that these amendments confer a benefit on the households affected and on the state of Iowa by increasing the funds available to low-income households to buy food. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments should be waived.

The Council on Human Services adopted these amendments on January 12, 2005.

These amendments are also published herein under Notice of Intended Action as **ARC 3966B** to allow for public comment.

These amendments are intended to implement Iowa Code section 234.6(7).

These amendments shall become effective on March 1, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend paragraphs **65.8(1)"a"** and **"b"** as follows:

a. The standard allowance for utilities which include heating or air-conditioning costs is a single utility standard. ~~This standard is \$202 \$276 effective August 1, 1994 March 1, 2005.~~

b. ~~Beginning October 1, 1992, this~~ *This* allowance shall change annually effective each October 1 using the percent increase reported in the consumer price index monthly periodical for January for fuels and other utilities for the average percent increases for the prior year for all urban consumers United States city average.

(1) Any numeral after the second digit following the decimal point will be dropped in this calculation.

(2) Any decimal amount of .49 or under will be rounded down. Any decimal of .50 or more will be rounded up to the nearest dollar.

(3) The cent amount will be included when calculating the next year's increase.

ITEM 2. Amend subrule 65.8(3) as follows:

65.8(3) Telephone standard. When a household is receiving telephone service for which it is required to pay and the household is not entitled or chooses not to receive a single standard utility allowance under subrule 65.8(1) or 65.8(5) or is solely responsible for telephone expenses, a standard allowance shall be allowed.

a. This standard shall be \$18 \$36 effective ~~August 1, 1994 March 1, 2005.~~

b. ~~Beginning October 1, 1992, this~~ *This* allowance shall change annually effective each October 1 using the percent increase reported in the consumer price index monthly periodical for January for telephone service for the average percent increases for the prior year for all urban consumers United States city average.

(1) Any numeral after the second digit following the decimal point will be dropped in this calculation.

(2) Any decimal amount of .49 or under will be rounded down. Any decimal of .50 or more will be rounded up to the nearest dollar.

(3) The cent amount will be included when calculating the next year's increase.

[Filed Emergency 1/13/05, effective 3/1/05]

[Published 2/2/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/2/05.

ARC 3967B

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, "Conditions of Eligibility," and Chapter 76, "Application and Investigation," Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments:

- Remove a requirement that a person who submits a faxed application for Medicaid benefits must provide the original application with an original signature before the Department can approve the application.

- Provide that the Department will treat a faxed Medicaid application or review form as an original form.

The requirement for an original signature is unique to the Medicaid rules and causes problems when an application is used for more than one program. Of particular concern is conforming Medicaid requirements to those of the HAWK-I program. HAWK-I applications that appear to indicate Medicaid eligibility are automatically referred to Medicaid, but under current rules must be sent back for an original signature before the application can be approved.

These amendments do not provide for waivers in specified situations because they remove a restriction on Medicaid applicants and recipients.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on December 8, 2004, as **ARC 3879B**. The Department received one comment in support of the amendments. These amendments are identical to those in the Notice of Intended Action.

The Council on Human Services adopted these amendments on January 12, 2005.

The Department finds that these amendments confer a benefit on applicants for Medicaid by removing the requirement for an original signature. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments shall be waived.

These amendments are intended to implement Iowa Code section 249A.3.

These amendments became effective on February 1, 2005. The following amendments are adopted.

ITEM 1. Amend paragraph **75.52(4)“b”** as follows:

b. The recipient shall complete Form 470-2881, Review/Recertification Eligibility Document (RRED), when requested by the ~~county office~~ *department* in accordance with

these rules. ~~The department shall supply the form shall be supplied as needed to the recipient by the department. as needed, or upon request, The department and~~ shall pay the cost of postage to return the form.

(1) When the form is issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the ~~county~~ *local* office by the fifth calendar day of the report month.

(2) When the form is not issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the ~~county~~ *local* office by the seventh day after the date it is mailed by the department. ~~The county office shall supply the recipient with a RRED upon request.~~

(3) Failure to return a completed form shall result in cancellation of assistance. A completed form is a form with all items answered, signed, dated no earlier than the first day of the budget month, and accompanied by verification as required in paragraphs 75.57(1)“f” and 75.57(2)“1.”

(4) *A copy of a form received by fax shall be given the same effect as the original form.*

ITEM 2. Amend subrule **76.1(2)** as follows:

Rescind paragraph “**d**” and adopt the following **new** paragraph “**d**” in lieu thereof:

d. A copy of an application received by fax at one of the places described above shall be given the same effect as the original application.

Amend paragraph “**f**” as follows:

f. If an authorized representative signed the application on behalf of an applicant, the ~~original~~ signature of the applicant or the responsible person must be on the application before the application can be approved. For FMAP and FMAP-related Medicaid, the ~~original~~ signature of each ~~and every~~ parent or stepparent in the home must be on the application before the application can be approved.

[Filed Emergency After Notice 1/13/05, effective 2/1/05]

[Published 2/2/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/2/05.

ARC 3977B**DENTAL EXAMINERS BOARD[650]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Dental Examiners hereby amends Chapter 12, "Dental and Dental Hygiene Examinations," Iowa Administrative Code.

This amendment requires a dental hygiene examinee who fails a clinical examination for licensure on the second attempt to submit proof of additional formal education or clinical experience that is a minimum of 40 hours in length and that is approved in advance by the Dental Hygiene Committee.

This amendment is subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 10, 2004, as **ARC 3778B**. A public hearing on the amendment was held on November 30, 2004. No written or oral comments on the amendment were received. This amendment is identical to that published under Notice.

This amendment was approved at the January 13, 2005, regular meeting of the Board of Dental Examiners. The Board ratified a recommendation of the Dental Hygiene Committee to make the proposed change.

This amendment is intended to implement Iowa Code chapters 17A, 147, 153, and 272C.

This amendment will become effective on March 9, 2005.

The following amendment is adopted.

Amend subrule 12.4(2) as follows:

12.4(2) Third examination. Prior to the third examination attempt, a dental hygiene examinee must submit proof of a *minimum of 40 hours of* additional formal education or a *minimum of 40 hours of* clinical experience that is approved in advance by the dental hygiene committee.

[Filed 1/14/05, effective 3/9/05]

[Published 2/2/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/2/05.

ARC 3948B**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135B.7, the Department of Inspections and Appeals hereby amends Chapter 51, "Hospitals," Iowa Administrative Code.

The adopted amendments update the Department's rules pertaining to Critical Access Hospitals (CAHs) to include changes made in the federal regulations governing CAHs participating in the Medicare program. Item 1 stipulates that CAHs that provide inpatient psychiatric or rehabilitation services in a distinct part unit shall provide no more than 10 beds in the distinct part unit. The 10 beds in the distinct part unit are not included in the 25-bed limitation imposed on CAHs by federal regulations. Item 2 updates the reference date for

the citation of the Medicare conditions of participation for a critical access hospital.

There is no fiscal impact associated with the amendments as they simply conform the Department's administrative rules governing critical access hospitals to the federal definitions and requirements for CAHs.

The amendments were presented to and approved by the Hospital Licensing Board at its October 27, 2004, meeting. The State Board of Health initially reviewed the amendments at its November 10, 2004, meeting and approved the amendments at its January 12, 2005, meeting.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 8, 2004, as **ARC 3847B**. No public comments were received on the amendments. The adopted amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 10A.104(5) and 135B.7.

These amendments will become effective March 9, 2005.

The following amendments are adopted.

ITEM 1. Amend subrule 51.53(4) as follows:

51.53(4) The hospital shall maintain no more than 25 acute care inpatient beds. *However, if the hospital provides inpatient psychiatric services in a distinct part unit or inpatient rehabilitation services in a distinct part unit, no more than 10 beds shall be maintained in the distinct part unit. The beds in the distinct part unit are excluded from the 25 inpatient-bed count limit specified in 42 CFR 485.620(a).*

ITEM 2. Amend subrule 51.53(5) as follows:

51.53(5) The hospital shall meet the Medicare conditions of participation as a critical access hospital as described in 42 CFR Part 485, Subpart F, as of October 1, 2003 2004.

[Filed 1/12/05, effective 3/9/05]

[Published 2/2/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/2/05.

ARC 3949B**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby rescinds Chapter 54, "Quality Award for Health Care Facilities," and adopts new Chapter 54, "Governor's Award for Quality Care," Iowa Administrative Code.

The adopted amendment rescinds the current chapter and replaces it with a new chapter that more clearly defines the administration, selection, and process by which long-term care facilities may be nominated for a Governor's Award for Quality Care. The amendment simplifies the process by eliminating definitions for the various facilities eligible for the award, changes the nomination and selection deadlines, and stipulates that the award will be presented annually during the Governor's Conference on Aging. The amendment also adds two new criteria used in the selection of a facility: specifically whether there are any outstanding complaints against the nominated facility and whether an annual fiscal audit indicated any irregularities in the residents' accounts at the nominated facility.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

The Department has determined that there is no fiscal impact associated with the adopted amendment. Also, the amendment contains no waiver provision, as participation in the Governor's Award for Quality Care program is voluntary on the part of long-term care facilities.

The amendment was initially reviewed by the State Board of Health at its November 10, 2004, meeting and approved by the Board at its January 12, 2005, meeting.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 8, 2004, as **ARC 3848B**. A public hearing was held on January 4, 2005. Comments were received from two individuals and fully considered by the Department, but no changes to the proposed amendment were made. Therefore, the adopted amendment is identical to the one published under Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 10A.104(5), 135C.14 and 135C.20B.

This amendment will become effective March 9, 2005.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 54] is being omitted. These rules are identical to those published under Notice as **ARC 3848B**, IAB 12/8/04.

[Filed 1/12/05, effective 3/9/05]
[Published 2/2/05]

[For replacement pages for IAC, see IAC Supplement 2/2/05.]

ARC 3943B**MANAGEMENT DEPARTMENT[541]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 8.6, the Department of Management hereby amends Chapter 1, "Organization and Operation," and Chapter 8, "Public Records and Fair Information Practices," Iowa Administrative Code.

The amendments rescind rules 541—1.7(8), "Access to official records and information," and 541—1.8(8), "Access to data in the personnel management information system," and address all access to records and data through amendments to Chapter 8. The amendments to Chapter 8 implement the Department's public records policy and clarify specifics. Amendments are as follows: expand definitions to clarify terminology; describe Department policy; detail the record retention requirements of the Department; describe the records that may be accessed and those to be withheld; specify record request procedures, requirements, and duties of both the Department and requester; establish fees and detail when such fees will apply; strike obsolete references to subrules that have been rescinded or are no longer valid.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 24, 2004, as **ARC 3811B**. A public hearing was held on December 16, 2004. No public comment was received on this rule making.

These amendments were adopted by the Department on January 3, 2005.

These amendments are intended to implement Iowa Code chapter 8.

These amendments shall become effective March 9, 2005.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the

Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [1.5, 1.7, 1.8, 8.1 to 8.3, 8.12(1), 8.13(3), 8.14] is being omitted. These amendments are identical to those published under Notice as **ARC 3811B**, IAB 11/24/04.

[Filed 1/3/05, effective 3/9/05]
[Published 2/2/05]

[For replacement pages for IAC, see IAC Supplement 2/2/05.]

ARC 3947B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Athletic Training Examiners amends Chapter 351, "Licensure of Athletic Trainers," Chapter 352, "Continuing Education for Athletic Trainers," and Chapter 354, "Fees," Iowa Administrative Code.

These amendments resulting from legislative changes relate to definitions, mandatory licensure and the ability to obtain a temporary license to practice for a transition period between July 1, 2004, and July 1, 2007. In addition, the language relating to the national certification association and service standards is updated.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 24, 2004, as **ARC 3814B**. A public hearing was held on December 15, 2004, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. The Board received public comments on Item 1, regarding the use of the term "rehabilitation" in the definition of "physical reconditioning"; on Item 4, regarding the removal of proof of completion of specific courses; on Item 10, regarding the proposed rescission of standards for athletic training service programs; and on Item 3, requesting additional language to subrule 351.2(8) to clarify the information needed for a temporary license.

In response to public comment, changes were made in subrule 351.2(8), paragraphs "a" and "b," to clarify information requested prior to issuance of a temporary license.

Adopted subrule 351.2(8) reads as follows:

"**351.2(8)** An applicant for licensure who has not successfully completed the BOC examination by July 1, 2004, but who complies with subrules 351.2(1) through 351.2(4) shall be issued a temporary license to practice athletic training for a period not to extend beyond July 1, 2007, provided that the applicant satisfies all of the following requirements:

"a. Submits to the board a letter of recommendation from the applicant's most recent employer when the applicant was employed as an athletic trainer. The letter shall include the dates of employment and the employee's job description and shall provide the name of the physician or physician assistant responsible for direction of the care.

"b. Submits to the board a letter of recommendation from two licensed physicians who were responsible for the direction of care provided by the applicant attesting to the competency of the applicant. The letters of recommendation shall include the dates the physician was responsible for the direction of the care provided by the applicant and the athletic training service plan. The letter shall also include the name of the employer at the time the physician was responsible for direction of care.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

"c. Submits to the board satisfactory evidence of current cardiopulmonary resuscitation and first-aid certification.

"d. Official academic transcripts sent directly from the school are received by the board showing applicant possesses a baccalaureate degree from an accredited college or university."

These amendments were adopted by the Board of Athletic Training Examiners on January 10, 2005.

These amendments will become effective March 9, 2005.

These amendments are intended to implement Iowa Code chapters 21, 147, 152D and 272C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [351.1, 351.2(5), 351.2(8) to 351.2(11), 351.3(1), 351.3(2)"d," 351.4(1), 351.4(2), 351.5, 351.6, 351.7"6," 352.1, 352.2(2), 352.3(2)"a," 352.5(1)"f," 352.6"6," 352.10(5)"a," 354.1(2) to 354.1(10)] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 3814B**, IAB 11/24/04.

[Filed 1/12/05, effective 3/9/05]
[Published 2/2/05]

[For replacement pages for IAC, see IAC Supplement 2/2/05.]

ARC 3963B**PUBLIC HEALTH
DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 139A.4, the Department of Public Health hereby amends Chapter 1, "Notification and Surveillance of Reportable Communicable and Infectious Diseases, Poisonings and Conditions," Iowa Administrative Code.

This amendment provides a model rule for quarantine and isolation that may be adopted by local boards of health. The amendment is a result of multiple requests from local public health agencies. The Department will make the model rule available to all local boards of health.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 24, 2004, as **ARC 3839B**. The Department received comments from the Iowa Department of Agriculture and Land Stewardship (IDALS) and from Johnson County Public Health. The following changes have been made from the Notice:

1. A new paragraph 1.12(3)"c" was added as follows:

"c. The local board of health shall notify, consult and work cooperatively with the Iowa department of agriculture and land stewardship and the state veterinarian office on issues relating to isolation and quarantine of animals."

2. Paragraph 1.12(9)"a" was amended to read as follows:

"a. The number of individuals involved or to be affected is large enough that consolidation would be the best use of resources."

The State Board of Health adopted this rule on January 12, 2005.

This rule will become effective on March 9, 2005.

This rule is intended to implement Iowa Code section 139A.4.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this rule [1.12] is being omitted. With the exception of the changes noted above, this rule is identical to the one published under Notice as **ARC 3839B**, IAB 11/24/04.

[Filed 1/13/05, effective 3/9/05]
[Published 2/2/05]

[For replacement pages for IAC, see IAC Supplement 2/2/05.]

ARC 3969B**PUBLIC HEALTH
DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby rescinds Chapter 131, "Emergency Medical Services Provider Education/Training/Certification," Iowa Administrative Code, and adopts a new Chapter 131 with the same title.

The rules in Chapter 131 describe the standards for the education, training, and certification of emergency medical care providers and establish a standard of conduct for training programs, students, and providers. This chapter standardizes and updates references to documents and definition language in 641—Chapters 131 through 141.

The major changes from existing Chapter 131 are as follows:

1. Allow out-of-state students to participate in clinical and field experience in the state of Iowa.
2. Lengthen time period for testing to two years following training classes.
3. Increase certification fees for endorsements and for paramedic specialists.
4. With extensive clarifications, bring discipline in line with other professions.

Notice of Intended Action regarding this amendment was published in the Iowa Administrative Bulletin on November 24, 2004, as **ARC 3838B**. A public hearing was held over the Iowa Communications Network (ICN) on December 14, 2004. No comments, oral or written, were received.

The following nonsubstantive, technical changes have been made from the Notice:

1. In subparagraph 131.3(1)"b"(3), last sentence, in the phrase "emergency medical care personnel," the word "personnel" has been changed to "provider" for consistency.
2. In paragraph 131.4(1)"h," the phrase "certifying written examination" has been changed to "written certification examination" for consistency.
3. In subrule 131.4(5), for consistency in phrasing, the introductory sentence has become paragraph "a"; paragraphs "a" to "c" have become subparagraphs (1) to (3); and paragraphs "d" and "e" have become paragraphs "b" and "c."
4. In subrule 131.4(6), introductory sentence, a grammatical change has been made. The phrase "when approving" has been changed to "for approval of."
5. In subrule 131.5(4), paragraph "c," the parentheses have been removed from the word "instructor(s)" so that the word can be considered plural in the context.
6. In subparagraphs 131.5(10)"a"(1) and (7), the following changes have been made:

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• In (1), the phrase “Names of” has been added so that the phrase reads “Names of appropriate officials of the applicant.”

• In (7), the preposition “of” has been added before the word “patients” and the comma deleted so that the sentence now reads as follows: “Practices followed in safeguarding the health and well-being of trainees and of patients receiving emergency medical care within the scope of the training program.”

7. In paragraph 131.5(10)“h,” the word “reports” has been changed to “report” in the phrase “department of inspection report.”

8. In subparagraph 131.5(11)“b”(6), the preposition “of” has been added before the word “patients” and the comma deleted so that the sentence now reads as follows: “Practices followed in safeguarding the health and well-being of trainees and of patients receiving emergency medical care within the scope of the training program.”

9. In subrule 131.12(8), a grammatical change has been made in the first sentence, which now reads as follows: “Upon receipt of a request for hearing, the public health department shall forward the request within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases.”

The State Board of Health adopted this chapter on January 12, 2005

These rules will become effective March 9, 2005.

These rules are intended to implement Iowa Code chapter 147A.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 131] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 3838B**, IAB 11/24/04.

[Filed 1/13/05, effective 3/9/05]
[Published 2/2/05]

[For replacement pages for IAC, see IAC Supplement 2/2/05.]

ARC 3962B**PUBLIC HEALTH
DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health amends Chapter 132, “Emergency Medical Services—Service Program Authorization,” Iowa Administrative Code.

These amendments update and standardize definition and rule language in 641—Chapters 131 through 141, define scope of practice for providers, add paramedic specialist service level designation, and update references to documents.

Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on November 24, 2004, as **ARC 3837B**. A public hearing was held over the Iowa Communications Network (ICN) on December 14, 2004. No comments, oral or written, were received. These amendments are identical to the amendments published under Notice of Intended Action.

The State Board of Health adopted these amendments on January 12, 2005.

These amendments will become effective March 9, 2005.

These amendments are intended to implement Iowa Code chapter 147A.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 132] is being omitted. These amendments are identical to those published under Notice as **ARC 3837B**, IAB 11/24/04.

[Filed 1/13/05, effective 3/9/05]
[Published 2/2/05]

[For replacement pages for IAC, see IAC Supplement 2/2/05.]

ARC 3961B**PUBLIC HEALTH
DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 133, “White Flashing Light Authorization,” Iowa Administrative Code.

These amendments standardize definition language in 641—Chapters 131 through 141.

Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on November 24, 2004, as **ARC 3836B**. A public hearing was held over the Iowa Communications Network (ICN) on December 14, 2004. No comments, oral or written, were received. These amendments are identical to the amendments published under Notice of Intended Action.

The State Board of Health adopted these amendments on January 12, 2005.

These amendments will become effective March 9, 2005.

These amendments are intended to implement Iowa Code chapter 147A.

The following amendments are adopted.

ITEM 1. Amend rule **641—133.1(321)** as follows:

Amend the following definitions:

“Emergency medical care provider” means ~~any~~ *an* individual ~~currently certified by the department pursuant to Iowa Code section 147A.6 or other member of an ambulance or nontransport service who actively participates in the rendering of emergency medical care who has been trained to provide emergency and nonemergency medical care at the first responder, EMT-basic, EMT-intermediate, EMT-paramedic, paramedic specialist or other certification levels recognized by the department before 1984 and who has been issued a certificate by the department.~~

“Medical director” means any physician licensed under Iowa Code chapter 148, 150, or 150A who ~~is~~ *shall be* responsible for overall medical direction of the service program *and who has completed a medical director workshop, sponsored by the department, within one year of the physician’s assuming duties.*

“Service program” or “service” means any ~~emergency~~ *medical care ambulance service* or nontransport service

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based in this state that has received authorization by the department.

ITEM 2. Amend subrule 133.4(3) as follows:

133.4(3) An emergency medical care provider or service director who has knowledge of any emergency medical care provider or service program that has violated Iowa Code chapter 147A, Iowa Administrative Code 641—Chapter 132 or these rules shall, *within 30 days*, report that information to the department.

[Filed 1/13/05, effective 3/9/05]

[Published 2/2/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/2/05.

ARC 3960B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 134, "Trauma Care Facility Categorization and Verification," Iowa Administrative Code.

These amendments standardize definition language in 641—Chapters 131 through 141 and update trauma care facility categorization level terminology.

Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on November 24, 2004, as **ARC 3835B**. A public hearing was held over the Iowa Communications Network (ICN) on December 14, 2004. No comments, oral or written, were received. The following change from the Notice of Intended Action was made: In subrule 134.2(3), all categorization criteria documents were updated from the November 2001 document to the November 2004 document.

The State Board of Health adopted these amendments on January 12, 2005.

These amendments will become effective March 9, 2005.

These amendments are intended to implement Iowa Code chapter 147A.

The following amendments are adopted.

ITEM 1. Amend rule ~~641—134.1(147A)~~ as follows:

Amend the following definitions:

"Hospital" means ~~a facility~~ *any hospital* licensed under Iowa Code chapter 135B, ~~or comparable emergency care facility located and licensed in another state.~~

"Trauma care facility" means a hospital or emergency care facility which provides trauma care and has been verified by the department as having *Resource (Level I), Regional (Level II), Area (Level III) or Community (Level IV)* care capabilities and has been issued a certificate of verification pursuant to Iowa Code section 147A.23, subsection 2, paragraph "c."

"Verification" means a process by which the department certifies a hospital or emergency care facility's capacity to provide trauma care in accordance with criteria established for *Resource (Level I), Regional (Level II), Area (Level III) and or Community (Level IV)* trauma care facilities and these rules.

Rescind the definition of "EMS provider."

Adopt the following **new** definition:

"Emergency medical care provider" means an individual who has been trained to provide emergency and non-emergency medical care at the first responder, EMT-basic, EMT-intermediate, EMT-paramedic, paramedic specialist or other certification levels recognized by the department before 1984 and who has been issued a certificate by the department.

ITEM 2. Amend subrule **134.2(1)**, paragraph "**b**," as follows:

b. Categorization applications shall be submitted by all hospitals ~~and emergency care facilities~~. New hospitals shall submit a categorization application no later than 90 days after licensing by the department of inspections and appeals, health ~~facility~~ *facilities* division. *Categorization applications may be submitted by emergency care facilities*. New emergency care facilities ~~shall~~ *may* submit a categorization application no later than 90 days after opening or reopening.

ITEM 3. Amend subrule 134.2(2) as follows.

134.2(2) Categorization levels for trauma care facilities shall be identified as:

- a. *Resource (Level I)*.
- b. *Regional (Level II)*.
- c. *Area (Level III)*.
- d. *Community (Level IV)*.

ITEM 4. Amend subrule 134.2(3) as follows.

134.2(3) Adoption by reference.

a. "Iowa Trauma System *Resource (Level I) & Regional (Level II) Hospital and Emergency Care Facility Categorization Criteria*" (November 2001 2004) is incorporated and adopted by reference for *Resource (Level I) and Regional (Level II) hospital and emergency care facility categorization criteria*, and the "Iowa Trauma System *Area (Level III) & Community (Level IV) Hospital and Emergency Care Facility Categorization Criteria*" (November 2001 2004) is incorporated by reference and adopted for *Area (Level III) and Community (Level IV) hospital and emergency care facility categorization criteria*. For any differences which may occur between the adopted references and these administrative rules, the administrative rules shall prevail.

b. "Iowa Trauma System ~~Level I Resource & II Regional~~ Hospital and Emergency Care Facility Categorization Criteria" (November 2001 2004) and the "Iowa Trauma System ~~Level III Area & IV Community~~ Hospital and Emergency Care Facility Categorization Criteria" (November 2001 2004) are available through the Iowa Department of Public Health, Bureau of Emergency Medical Services, 401 SW Seventh Street, Suite D Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems).

ITEM 5. Amend subrule 134.2(7) as follows:

134.2(7) The department shall conduct a verification survey for categorized hospitals or emergency care facilities.

a. to g. No change.

h. Trauma care facilities that are unable to maintain their categorization or verification, or both, shall notify the department ~~immediately~~ *within 48 hours*.

i. ~~All hospitals and emergency care facilities shall comply with these rules prior to January 1, 2001.~~ The director, pursuant to rule, may grant a variance from the requirements of rules adopted under this chapter for any hospital or emergency care facility provided that the variance is related to un-

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due hardships in complying with this chapter or the rules adopted pursuant to this chapter.

j. No change.

[Filed 1/13/05, effective 3/9/05]

[Published 2/2/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/2/05.

ARC 3959B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 135, "Trauma Triage and Transfer Protocols," Iowa Administrative Code.

These amendments standardize definition language in 641—Chapters 131 through 141 and update trauma care facility categorization level terminology and protocol terminology and references.

Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on November 24, 2004, as **ARC 3834B**. A public hearing was held over the Iowa Communications Network (ICN) on December 14, 2004. No comments, oral or written, were received. These amendments are identical to the amendments published under Notice of Intended Action.

The State Board of Health adopted these amendments on January 12, 2005.

These amendments will become effective March 9, 2005.

These amendments are intended to implement Iowa Code chapter 147A.

The following amendments are adopted.

ITEM 1. Amend rule **641—135.1(147A)** as follows:

Amend the following definitions:

"Service program" or "service" means any ~~24-hour emergency~~ medical care ambulance service or nontransport service program that has received authorization by the department.

"Trauma care facility" means a hospital or emergency care facility which provides trauma care and has been verified by the department as having *Resource (Level I)*, *Regional (Level II)*, *Area (Level III)* or *Community (Level IV)* care capabilities and has been issued a certificate of verification pursuant to Iowa Code section 147A.23, subsection 2, paragraph "c."

Adopt the following **new** definitions in alphabetical sequence:

"Department" means the Iowa department of public health.

"Director" means the director of the Iowa department of public health.

ITEM 2. Amend subrule 135.2(1) as follows:

135.2(1) Trauma triage and transfer protocols, approved by the department, shall be utilized to assist personnel from each service program and trauma care facility. This requirement shall not preclude service programs or trauma care facilities from making emergency revisions of the approved triage and transfer protocols when an incident overburdens

medical care resources causing unnecessary delay in patient care.

a. Adoption by reference. The "Out-of-Hospital Trauma Triage Destination Decision Protocol" (*Adult and Pediatric*, November 2001) and the "Inter-Trauma Care Facility Triage and Transfer Protocol" (August 1996) are incorporated by reference and adopted as the out-of-hospital trauma triage destination decision and the intertrauma care facility triage and transfer protocols. For any differences which may occur between the adopted references and these administrative rules, the administrative rules shall prevail.

b. The out-of-hospital trauma triage destination decision protocol (*Adult and Pediatric*) and the intertrauma care facility triage and transfer protocol are available through the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems).

c. No change.

d. ~~All hospitals, emergency care facilities, and service programs shall comply with these rules prior to January 1, 2001.~~ The director, pursuant to rule, may grant a variance from the requirements of rules adopted under this chapter for any hospital, emergency care facility, or service program provided that the variance is related to undue hardships in complying with this chapter or the rules adopted pursuant to this chapter.

[Filed 1/13/05, effective 3/9/05]

[Published 2/2/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/2/05.

ARC 3958B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 136, "Trauma Registry," Iowa Administrative Code.

These amendments standardize definition language in 641—Chapters 131 through 141 and update trauma care facility categorization level terminology and trauma data references.

Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on November 24, 2004, as **ARC 3833B**. A public hearing was held over the Iowa Communications Network (ICN) on December 14, 2004. No comments, oral or written, were received. The following change from the Notice of Intended Action was made: The phrase "to the department" was added to the end of the first sentence in paragraph "a" of new subrule 136.2(2). Paragraph "a" now reads as follows:

"a. Submit reportable patient data identified in 136.2(1) via electronic transfer or in writing to the department. Data shall be submitted in a format approved by the department."

These amendments are intended to implement Iowa Code chapter 147A.

The State Board of Health adopted these amendments on January 12, 2005.

These amendments will become effective March 9, 2005.

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These amendments are intended to implement Iowa Code chapter 147A.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [136.1, 136.2(1), 136.2(2), 136.2(3), 136.2(5)“b”(3), 136.2(7)“c”] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 3833B**, IAB 11/24/04.

[Filed 1/13/05, effective 3/9/05]
[Published 2/2/05]

[For replacement pages for IAC, see IAC Supplement 2/2/05.]

ARC 3957B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 137, “Trauma Education and Training,” Iowa Administrative Code.

These amendments standardize definition language in 641—Chapters 131 through 141 and update trauma care facility categorization levels and emergency medical personnel terminology and training requirements.

Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on November 24, 2004, as **ARC 3832B**. No comments, oral or written, were received. Upon formal action by the Trauma System Advisory Council, the following changes were made from the Notice of Intended Action:

In Item 1, a new definition for “RTTDC” was added.

In Item 2, Table 1 is amended, and in Item 5, Table 2 (formerly Table 3) is amended.

The State Board of Health adopted these amendments on January 12, 2005.

These amendments will become effective March 9, 2005.

These amendments are intended to implement Iowa Code chapter 147A.

The following amendments are adopted.

ITEM 1. Amend rule **641—137.1(147A)** as follows:

Amend the following definitions:

“Emergency medical care provider” means an individual *who has been trained to provide emergency and nonemergency medical care at the first responder, EMT-basic, EMT-intermediate, EMT-paramedic level, paramedic specialist or other certification levels adopted by rule by the department recognized by the department before 1984 and who has been issued a certificate by the department.*

“Service program” or “service” means any ~~24-hour emergency~~ medical care ambulance service or nontransport service program that has received authorization by the department.

“Trauma care facility” means a hospital or emergency care facility which provides trauma care and has been verified by the department as having *Resource (Level I), Regional (Level II), Area (Level III) or Community (Level IV) care capabilities*

and has been issued a certificate of verification pursuant to Iowa Code section 147A.23, subsection 2, paragraph “c.”

“Verification” means a process by which the department certifies a hospital or emergency care facility’s capacity to provide trauma care in accordance with criteria established for *Resource (Level I), Regional (Level II), Area (Level III) and or Community (Level IV) trauma care facilities and these rules.*

Adopt the following **new** definitions in alphabetical sequence:

“PS” means paramedic specialist.

“RTTDC” means rural trauma team development course.

ITEM 2. Amend rule **641—137.2(147A)**, Table 1, as follows:

In the Physician PA/ARNP row, under the Community (Level IV) TCF column, amend entry “1” as follows:

1. ATLS *or RTTDC*

ITEM 3. Amend subrule **137.2(1)**, paragraph “c,” as follows:

c. Trauma nursing course objectives are available from the Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075, *or the bureau of EMS Web site (www.idph.state.ia.us/ems).*

ITEM 4. Rescind and reserve subrule **137.2(2)**.

ITEM 5. Amend rule **641—137.3(147A)** by renumbering Table 3 as Table 2 and amending the table as follows:

In the Physician PA/ARNP row, under the Community (Level IV) TCF column, amend the entry as follows:

24 hours of continuing trauma education:

8 hours formal (ATLS refresher course *or RTTDC* required),

16 hours informal.

ITEM 6. Rescind subrule 137.3(3) and adopt the following **new** subrule in lieu thereof:

137.3(3) Continuing trauma education is required of certified emergency medical care providers every two years as follows:

- FR or FR-D: 2 continuing education hours.
- EMT-A, B, D: 4 continuing education hours.
- EMT-I: 4 continuing education hours.
- EMT-P: 6 continuing education hours.

[Filed 1/13/05, effective 3/9/05]

[Published 2/2/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/2/05.

ARC 3954B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 138, “Trauma System Evaluation Quality Improvement Committee,” Iowa Administrative Code.

These amendments standardize definition language in 641—Chapters 131 through 141.

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Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on November 24, 2004, as **ARC 3831B**. A public hearing was held over the Iowa Communications Network (ICN) on December 14, 2004. No comments, oral or written, were received. These amendments are identical to the amendments published under Notice of Intended Action.

The State Board of Health adopted these amendments on January 12, 2005.

These amendments will become effective March 9, 2005.

These amendments are intended to implement Iowa Code chapter 147A.

The following amendments are adopted.

Amend rule **641—138.1(147A)** as follows:

Rescind the definition of “EMS provider.”

Adopt the following **new** definition:

“Emergency medical care provider” means an individual who has been trained to provide emergency and non-emergency medical care at the first responder, EMT-basic, EMT-intermediate, EMT-paramedic, paramedic specialist or other certification levels recognized by the department before 1984 and who has been issued a certificate by the department.

[Filed 1/13/05, effective 3/9/05]

[Published 2/2/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/2/05.

ARC 3956B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 139, “Iowa Law Enforcement Emergency Care Provider,” Iowa Administrative Code.

These amendments standardize definition language in 641—Chapters 131 through 141, update law enforcement training program references and eliminate any references to the public access defibrillation (PAD) program.

Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on November 24, 2004, as **ARC 3830B**. A public hearing was held over the Iowa Communications Network (ICN) on December 14, 2004. No comments, oral or written, were received. These amendments are identical to the amendments published under Notice of Intended Action.

The State Board of Health adopted these amendments on January 12, 2005.

These amendments will become effective March 9, 2005.

These amendments are intended to implement Iowa Code chapter 147A.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [139.1, 139.3, 139.5, 139.6(2)] is being

omitted. These amendments are identical to those published under Notice as **ARC 3830B**, IAB 11/24/04.

[Filed 1/13/05, effective 3/9/05]

[Published 2/2/05]

[For replacement pages for IAC, see IAC Supplement 2/2/05.]

ARC 3953B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 140, “Emergency Medical Services System Development Grants Fund,” Iowa Administrative Code.

These amendments standardize definition language in 641—Chapters 131 through 141, add definitions that further clarify the funding and eliminate unnecessary rule language.

Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on November 24, 2004, as **ARC 3829B**. A public hearing was held over the Iowa Communications Network (ICN) on December 14, 2004. No comments, oral or written, were received. These amendments are identical to the amendments published under Notice of Intended Action.

The State Board of Health adopted these amendments on January 12, 2005.

These amendments will become effective March 9, 2005.

These amendments are intended to implement Iowa Code chapter 147A.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [140.1, 140.4 to 140.6] is being omitted. These amendments are identical to those published under Notice as **ARC 3829B**, IAB 11/24/04.

[Filed 1/13/05, effective 3/9/05]

[Published 2/2/05]

[For replacement pages for IAC, see IAC Supplement 2/2/05.]

ARC 3952B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 141, “Love Our Kids Grant,” Iowa Administrative Code.

This amendment standardizes definition language in 641—Chapters 131 through 141.

Notice of Intended Action regarding this amendment was published in the Iowa Administrative Bulletin on November 24, 2004, as **ARC 3840B**. A public hearing was held over the Iowa Communications Network (ICN) on December 14, 2004. No comments, oral or written, were received. This

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amendment is identical to the amendment published under Notice of Intended Action.

The State Board of Health adopted this amendment on January 12, 2005.

This amendment will become effective March 9, 2005.

This amendment is intended to implement Iowa Code chapter 147A.

The following amendment is adopted.

Amend rule **641—141.1(321)**, definition of “service program,” as follows:

“Service program” or “service” means any ~~24-hour~~ emergency medical care ambulance service, or nontransport service that has received authorization by the department.

[Filed 1/13/05, effective 3/9/05]

[Published 2/2/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/2/05.

ARC 3955B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 135.26 and 147A.4, the Department of Public Health adopts new Chapter 143, “Automated External Defibrillator Grant Program,” Iowa Administrative Code.

The adoption of Chapter 143 implements 2004 Iowa Acts, chapter 1034, which establishes an automated external defibrillator grant program to provide matching funds to local boards of health, community organizations, or cities.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 8, 2004, as **ARC 3850B**. No public comment was received on these rules. In addition, these rules were simultaneously Adopted and Filed Emergency as **ARC 3849B**. These rules are identical to the rules published under the Notice of Intended Action and Adopted and Filed Emergency.

The State Board of Health adopted this chapter on January 12, 2005.

These rules shall become effective March 9, 2005, at which time the Adopted and Filed Emergency rules are hereby rescinded.

These rules are intended to implement Iowa Code section 135.26.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 143] is being omitted. These rules are identical to those published under Notice as **ARC 3850B** and Adopted and Filed Emergency as **ARC 3849B**, IAB 12/8/04.

[Filed 1/13/05, effective 3/9/05]

[Published 2/2/05]

[For replacement pages for IAC, see IAC Supplement 2/2/05.]

ARC 3951B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 135.11(13) and 135.72, the Department of Public Health hereby amends Chapter 202, “Certificate of Need Program,” Iowa Administrative Code.

The adopted amendments recognize long-term care hospitals and rehabilitation hospitals as defined by federal regulations. The amendments also provide clarification that the conversion of a long-term care hospital or a rehabilitation hospital to a general acute care hospital or to a different type of specialty hospital is a permanent change in bed capacity and requires a Certificate of Need.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 8, 2004, as **ARC 3842B**. No public comment was received on these amendments. These amendments are identical to the amendments published under Notice of Intended Action.

These amendments were adopted by the State Board of Health on January 12, 2005.

These amendments shall become effective March 9, 2005.

These amendments are intended to implement Iowa Code sections 135.61 to 135.83.

The following amendments are adopted.

ITEM 1. Amend subrule 202.1(9) as follows:

202.1(9) “Permanent change in bed capacity” of an institutional health facility means a change which is intended to be effective for one year or more and which redistributes the beds among the categories listed in the definition of “Bed capacity.” *A conversion of a long-term acute care hospital or a rehabilitation hospital as defined by federal regulations to a general acute care hospital or to a different type of specialty hospital is a permanent change in bed capacity and requires a Certificate of Need.*

ITEM 2. Amend 641—202.1(135) by adding the following **new** subrules:

202.1(13) “Long-term (acute) care hospital,” for purposes of these rules, means a hospital that has been approved to participate in the Title XVIII (Medicare) program as a long-term care hospital-prospective payment system hospital (LTCH-PPS) in accordance with 42 CFR Part 412.

202.1(14) “Rehabilitation hospital,” for the purposes of these rules, means a hospital that has been approved to participate in the Title XVIII (Medicare) program as an inpatient rehabilitation facility-prospective payment system hospital (IRF-PPS) in accordance with 42 CFR Part 412.23(b), 412.25 or 412.29.

[Filed 1/13/05, effective 3/9/05]

[Published 2/2/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/2/05.

ARC 3971B

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 42, "Adjustments to Computed Tax," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXVII: No. 12, p. 831, on December 8, 2004, as **ARC 3882B**.

Item 1 rescinds subrule 42.2(10) and replaces it with a new subrule. The new subrule reorganizes the information contained in the current subrule regarding the investment tax credit for individual income tax, and also provides that certain lease payments are now eligible in the computation of the investment tax credit. In addition, this subrule provides that all incentives provided under the enterprise zone program and new jobs and income program may be subject to repayment if the taxpayer does not meet the requirements of these programs.

Item 2 amends the implementation clause for rule 701—42.2(422).

Item 3 amends rule 701—42.17(15E) to provide, for individual income tax, that the eligible development business must be approved by the Iowa Department of Economic Development before March 17, 2004, since the eligible development business program was repealed as of March 17, 2004.

Item 4 amends subrule 42.19(2) and the implementation clause for rule 701—42.19(15) to provide that certain lease payments are eligible for the investment tax credit under the new capital investment program for individual income tax.

Item 5 amends subrule 52.10(2) to provide that certain lease payments are eligible in the computation of the investment tax credit. In addition, this subrule provides, for corporation income tax, that all incentives provided under the new jobs and income program may be subject to repayment if the taxpayer does not meet the requirements of the program.

Item 6 adopts new subrule 52.10(5) and amends the implementation clause for rule 701—52.10(15) to provide for a corporate tax credit for eligible businesses approved under the new jobs and income program for certain sales taxes paid by a third-party developer.

Item 7 amends rule 701—52.14(422) to provide that the corporate tax credit for certain sales taxes paid by a third-party developer does not apply to the enterprise zone program.

Item 8 amends rule 701—52.20(15E) to provide, for corporation income tax, that the eligible development business must be approved by the Iowa Department of Economic Development before March 17, 2004, since the eligible development business program was repealed as of March 17, 2004. This is similar to the change in Item 3.

Item 9 amends subrule 52.22(2) to provide that certain lease payments are eligible for the investment tax credit under the new capital investment program for corporation income tax. This is similar to the change in Item 4.

Item 10 adopts new subrule 52.22(3) and amends the implementation clause for rule 701—52.22(15) to provide for a corporate tax credit for eligible businesses approved under

the new capital investment program for certain sales taxes paid by a third-party developer.

Item 11 amends rule 701—58.9(15E) to provide, for franchise tax, that the eligible development business must be approved by the Iowa Department of Economic Development before March 17, 2004, since the eligible development business program was repealed as of March 17, 2004. This is similar to the change in Items 3 and 8.

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

These amendments will become effective March 9, 2005, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapters 15 and 15E.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 42, 52, 58] is being omitted. These amendments are identical to those published under Notice as **ARC 3882B**, IAB 12/8/04.

[Filed 1/14/05, effective 3/9/05]

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[For replacement pages for IAC, see IAC Supplement 2/2/05.]

ARC 3946B

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10, 307.12 and 321.180B, the Department of Transportation, on January 12, 2005, adopted amendments to Chapter 635, "Motorcycle Rider Education," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the December 8, 2004, Iowa Administrative Bulletin as **ARC 3846B**.

The purpose of this rule making is to allow equitable distribution of available funds for motorcycle rider education providers. These amendments make the following changes:

- The per pupil reimbursement will be based on the amount of money available in the Motorcycle Rider Education Fund, less the administrative and instructor training costs, and will be distributed to sponsors based on the total number of students who complete the approved course.
- Claims for course development will be paid after the per pupil reimbursement claims are paid.
- The Department shall sponsor and fund instructor updates that are held in Iowa.
- The Department may approve funding assistance for additional motorcycle rider education trainers if the Department determines there is a need for additional trainers.
- Sponsors will no longer be able to apply for 50 percent matching funds to replace motorcycles used for training that are no longer fit for service.
- Instructors will no longer be able to apply for reimbursement for attending professional development seminars sponsored by other groups.
- Sponsors will no longer need to furnish the Department an audited statement, including supporting documenta-

TRANSPORTATION DEPARTMENT[761](cont'd)

tion, of eligible expenses incurred in providing the approved motorcycle rider education course.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

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

These amendments are intended to implement Iowa Code chapter 321.

These amendments will become effective March 9, 2005.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [635.3(2)"f," 635.3(3)"c," 635.4(1)"e," 635.5] is being omitted. These amendments are identical to those published under Notice as **ARC 3846B**, IAB 12/8/04.

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