



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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

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

| | |
|-----------------------|----------------|
| 441 IAC 79 | (Chapter) |
| 441 IAC 79.1 | (Rule) |
| 441 IAC 79.1(1) | (Subrule) |
| 441 IAC 79.1(1)“a” | (Paragraph) |
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The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

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

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

Schedule for Rule Making 2009

| NOTICE SUBMISSION DEADLINE | NOTICE PUB. DATE | HEARING OR COMMENTS 20 DAYS | FIRST POSSIBLE ADOPTION DATE 35 DAYS | ADOPTED FILING DEADLINE | ADOPTED PUB. DATE | FIRST POSSIBLE EFFECTIVE DATE | POSSIBLE EXPIRATION OF NOTICE 180 DAYS |
|----------------------------------|------------------------|--------------------------------------|--|-------------------------------|-------------------------|--|---|
| *Dec. 24 '08* | Jan. 14 '09 | Feb. 3 '09 | Feb. 18 '09 | Feb. 20 '09 | Mar. 11 '09 | Apr. 15 '09 | July 13 '09 |
| Jan. 9 | Jan. 28 | Feb. 17 | Mar. 4 | Mar. 6 | Mar. 25 | Apr. 29 | July 27 |
| Jan. 23 | Feb. 11 | Mar. 3 | Mar. 18 | Mar. 20 | Apr. 8 | May 13 | Aug. 10 |
| Feb. 6 | Feb. 25 | Mar. 17 | Apr. 1 | Apr. 3 | Apr. 22 | May 27 | Aug. 24 |
| Feb. 20 | Mar. 11 | Mar. 31 | Apr. 15 | Apr. 17 | May 6 | June 10 | Sep. 7 |
| Mar. 6 | Mar. 25 | Apr. 14 | Apr. 29 | May 1 | May 20 | June 24 | Sep. 21 |
| Mar. 20 | Apr. 8 | Apr. 28 | May 13 | ***May 13*** | June 3 | July 8 | Oct. 5 |
| Apr. 3 | Apr. 22 | May 12 | May 27 | May 29 | June 17 | July 22 | Oct. 19 |
| Apr. 17 | May 6 | May 26 | June 10 | June 12 | July 1 | Aug. 5 | Nov. 2 |
| May 1 | May 20 | June 9 | June 24 | ***June 24*** | July 15 | Aug. 19 | Nov. 16 |
| ***May 13*** | June 3 | June 23 | July 8 | July 10 | July 29 | Sep. 2 | Nov. 30 |
| May 29 | June 17 | July 7 | July 22 | July 24 | Aug. 12 | Sep. 16 | Dec. 14 |
| June 12 | July 1 | July 21 | Aug. 5 | Aug. 7 | Aug. 26 | Sep. 30 | Dec. 28 |
| ***June 24*** | July 15 | Aug. 4 | Aug. 19 | ***Aug. 19*** | Sep. 9 | Oct. 14 | Jan. 11 '10 |
| July 10 | July 29 | Aug. 18 | Sep. 2 | Sep. 4 | Sep. 23 | Oct. 28 | Jan. 25 '10 |
| July 24 | Aug. 12 | Sep. 1 | Sep. 16 | Sep. 18 | Oct. 7 | Nov. 11 | Feb. 8 '10 |
| Aug. 7 | Aug. 26 | Sep. 15 | Sep. 30 | Oct. 2 | Oct. 21 | Nov. 25 | Feb. 22 '10 |
| ***Aug. 19*** | Sep. 9 | Sep. 29 | Oct. 14 | Oct. 16 | Nov. 4 | Dec. 9 | Mar. 8 '10 |
| Sep. 4 | Sep. 23 | Oct. 13 | Oct. 28 | ***Oct. 28*** | Nov. 18 | Dec. 23 | Mar. 22 '10 |
| Sep. 18 | Oct. 7 | Oct. 27 | Nov. 11 | ***Nov. 12*** | Dec. 2 | Jan. 6 '10 | Apr. 5 '10 |
| Oct. 2 | Oct. 21 | Nov. 10 | Nov. 25 | ***Nov. 25*** | Dec. 16 | Jan. 20 '10 | Apr. 19 '10 |
| Oct. 16 | Nov. 4 | Nov. 24 | Dec. 9 | ***Dec. 9*** | Dec. 30 | Feb. 3 '10 | May 3 '10 |
| ***Oct. 28*** | Nov. 18 | Dec. 8 | Dec. 23 | ***Dec. 23*** | Jan. 13 '10 | Feb. 17 '10 | May 17 '10 |
| ***Nov. 12*** | Dec. 2 | Dec. 22 | Jan. 6 '10 | Jan. 8 '10 | Jan. 27 '10 | Mar. 3 '10 | May 31 '10 |
| ***Nov. 25*** | Dec. 16 | Jan. 5 '10 | Jan. 20 '10 | Jan. 22 '10 | Feb. 10 '10 | Mar. 17 '10 | June 14 '10 |
| ***Dec. 9*** | Dec. 30 | Jan. 19 '10 | Feb. 3 '10 | Feb. 5 '10 | Feb. 24 '10 | Mar. 31 '10 | June 28 '10 |
| ***Dec. 23*** | Jan. 13 '10 | Feb. 2 '10 | Feb. 17 '10 | Feb. 19 '10 | Mar. 10 '10 | Apr. 14 '10 | July 12 '10 |

PRINTING SCHEDULE FOR IAB

| <u>ISSUE NUMBER</u> | <u>SUBMISSION DEADLINE</u> | <u>ISSUE DATE</u> |
|---------------------|----------------------------|-------------------|
| 19 | Friday, February 20, 2009 | March 11, 2009 |
| 20 | Friday, March 6, 2009 | March 25, 2009 |
| 21 | Friday, March 20, 2009 | April 8, 2009 |

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*****

| AGENCY | HEARING LOCATION | DATE AND TIME |
|--|---|------------------------------------|
| CORRECTIONS DEPARTMENT[201] | | |
| General administration; personnel; supervision under interstate compact, rescind chs 4, 6, 46 IAB 2/11/09 ARC 7560B | Department of Corrections 510 E. 12th St. Des Moines, Iowa | March 3, 2009 11 a.m. to 1 p.m. |
| DENTAL BOARD[650] | | |
| Placement of provisional appliances by dental hygienists, 10.3, 10.5(3)“b” IAB 2/11/09 ARC 7568B | Board Conference Room, Suite D 400 SW 8th St. Des Moines, Iowa | March 3, 2009 10 a.m. |
| Public health supervision—interval for dental examination, 10.5(3)“a”(3) IAB 2/11/09 ARC 7555B | Board Conference Room, Suite D 400 SW 8th St. Des Moines, Iowa | March 3, 2009 10 a.m. |
| Dental and dental hygiene examinations, 11.5(2)“e,” 12.3, 12.4 IAB 2/11/09 ARC 7567B | Board Conference Room, Suite D 400 SW 8th St. Des Moines, Iowa | March 3, 2009 10 a.m. |
| Appeal procedure for denial of licensure and registration, 11.10, 20.8 IAB 2/11/09 ARC 7575B | Board Conference Room, Suite D 400 SW 8th St. Des Moines, Iowa | March 3, 2009 10 a.m. |
| ENVIRONMENTAL PROTECTION COMMISSION[567] | | |
| Iowa antidegradation implementation procedure, 61.2(2) IAB 2/11/09 ARC 7571B | Falcon Civic Center 1305 5th Ave. NE Independence, Iowa | March 3, 2009 10 a.m. |
| Animal feeding operations—surface application of manure on frozen or snow-covered ground, 65.1, 65.3, 65.17(3)“e,” 65.100, 65.101, 65.112(8) IAB 2/11/09 ARC 7570B | Northeast Iowa Community College Suite 102, Waukon Wellness Center 1220 3rd Ave. NW Waukon, Iowa | March 3, 2009 6 p.m. |
| Auditorium Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa | March 16, 2009 9 a.m. | |
| Washington County Conservation Board Education Center, Marr Park 2943 Highway 92 Ainsworth, Iowa | March 16, 2009 6 p.m. | |
| American Legion Hall 302 Main St. Dedham, Iowa | March 18, 2009 6 p.m. | |
| Northeast Iowa Community College Room 115, Dairy Center 1527 Highway 150 South Calmar, Iowa | March 20, 2009 1 p.m. | |

| AGENCY | HEARING LOCATION | DATE AND TIME |
|--|---|---|
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| Animal feeding operations—update of references, 65.1, 65.3(3), 65.17(6), 65.100, 65.101(6), 65.104(7), 65.105(3), 65.112 IAB 2/11/09 ARC 7564B | City Hall 125 Central Ave. SE Orange City, Iowa Lime Creek Nature Center 3501 Lime Creek Rd. Mason City, Iowa Iowa Lakes Community College Room 108, Gateway North 1900 N. Grand Ave. Spencer, Iowa | March 23, 2009 6 p.m. March 24, 2009 6 p.m. March 3, 2009 7 p.m. |
| | Department of Natural Resources Conference Room, Field Office 4 1401 Sunnyside Lane Atlantic, Iowa Room 123 Kirkwood Ctr. for Continuing Education 7725 Kirkwood Blvd. Cedar Rapids, Iowa Fifth Floor Conference Room Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa | March 4, 2009 9 a.m. March 4, 2009 3 p.m. March 5, 2009 2 p.m. |
| HUMAN SERVICES DEPARTMENT[441] | | |
| Family-centered child welfare and foster group care services, amend chs 75, 77, 83, 133, 150, 156; rescind chs 152, 157, 182, 183, 185; adopt ch 152 IAB 1/28/09 ARC 7526B | Auditorium Wallace State Office Bldg. Des Moines, Iowa | February 20, 2009 9 a.m. to noon |
| INSURANCE DIVISION[191] | | |
| Clarification of “CE term,” 11.2 IAB 1/28/09 ARC 7536B | 330 Maple St. Des Moines, Iowa | February 17, 2009 10:30 a.m. |
| Producers and nonadmitted insurers—duties and procedures, 21.1 to 21.6, 21.9 IAB 1/28/09 ARC 7537B | 330 Maple St. Des Moines, Iowa | February 17, 2009 10 a.m. |
| Credentialing—retrospective payment of clean claims, 70.10 IAB 1/28/09 ARC 7525B | 330 Maple St. Des Moines, Iowa | February 20, 2009 10 a.m. |
| LABOR SERVICES DIVISION[875] | | |
| Adoption by reference of federal OSHA regulations, 10.20, 26.1 IAB 2/11/09 ARC 7541B | Stanley Room 1000 E. Grand Ave. Des Moines, Iowa | March 4, 2009 10:30 a.m. |

| AGENCY | HEARING LOCATION | DATE AND TIME |
|---|--|----------------------------------|
| NATURAL RESOURCE COMMISSION[571] | | |
| State parks and recreation areas—cabin rental, 61.4(1), 61.5(1) IAB 1/28/09 ARC 7539B | Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa | February 17, 2009 10 a.m. |
| PUBLIC HEALTH DEPARTMENT[641] | | |
| Practice of tattooing, ch 22 IAB 1/28/09 ARC 7530B (ICN Network) | ICN Room, Sixth Floor Lucas State Office Bldg. Des Moines, Iowa | February 18, 2009 2 to 4 p.m. |
| | Fourth Floor Trospar-Hoyt County Services Bldg. 822 Douglas St. Sioux City, Iowa | February 18, 2009 2 to 4 p.m. |
| | Loess Hills AEA 24997 Hwy 92 Council Bluffs, Iowa | February 18, 2009 2 to 4 p.m. |
| | Room 110, Tama Hall Hawkeye Community College 1 1501 E. Orange Rd. Waterloo, Iowa | February 18, 2009 2 to 4 p.m. |
| | Videoconferencing & Training Center Indian Hills Community College 5 651 Indian Hills Dr. Ottumwa, Iowa | February 18, 2009 2 to 4 p.m. |
| | Rm. 118, Iowa Lakes Comm. College 1900 N. Grand Ave. Spencer, Iowa | February 18, 2009 2 to 4 p.m. |
| | Room 204, Prairie Lakes AEA 8 330 Avenue M Fort Dodge, Iowa | February 18, 2009 2 to 4 p.m. |
| | Turner Room, Green Valley AEA 1405 N. Lincoln Creston, Iowa | February 18, 2009 2 to 4 p.m. |
| | Kirkendall Public Library 1210 NW Prairie Ridge Dr. Ankeny, Iowa | February 18, 2009 2 to 4 p.m. |
| | Public Library 321 Main Davenport, Iowa | February 18, 2009 2 to 4 p.m. |
| | Burlington National Guard Armory 2500 Summer St. Burlington, Iowa | February 18, 2009 2 to 4 p.m. |
| | Room 2, Keystone AEA 1 2310 Chaney Rd. Dubuque, Iowa | February 18, 2009 2 to 4 p.m. |
| | Orchard Place 925 Porter Ave. Des Moines, Iowa | February 18, 2009 2 to 4 p.m. |
| | Newman Catholic High School 2445 19th St. SW Mason City, Iowa | February 18, 2009 2 to 4 p.m. |

| AGENCY | HEARING LOCATION | DATE AND TIME |
|--|--|----------------------------------|
| PUBLIC HEALTH DEPARTMENT[641] (Cont'd) | | |
| | Decorah High School 100 E. Claiborne Dr. Decorah, Iowa | February 18, 2009 2 to 4 p.m. |
| | Jefferson High School 1243 20th St. SW Cedar Rapids, Iowa | February 18, 2009 2 to 4 p.m. |
| PUBLIC SAFETY DEPARTMENT[661] | | |
| Ignition interlock devices, rescind ch 7; adopt ch 158 IAB 2/11/09 ARC 7566B | First Floor Public Conference Room Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa | March 10, 2009 8:30 a.m. |
| Closed circuit surveillance systems, 141.1 to 141.3, 141.5(9), 141.6(9), 141.10 IAB 2/11/09 ARC 7563B | First Floor Public Conference Room Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa | March 10, 2009 8 a.m. |
| RACING AND GAMING COMMISSION[491] | | |
| Harness racing; thoroughbred and quarter horse racing; gambling games, 9.7(1)“d”(3), 10.5, 10.6(2), 10.7(1)“d”(3), 11.1, 11.12(8)“a” IAB 2/11/09 ARC 7554B | Suite B 717 E. Court Des Moines, Iowa | March 3, 2009 9 a.m. |

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].

The following list will be updated as changes occur:

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ARC 7543B**ARCHITECTURAL EXAMINING BOARD[193B]****Notice of Termination**

Pursuant to the authority of Iowa Code section 544A.29, the Architectural Examining Board terminates the rule making initiated by its Notice of Intended Action to amend Chapter 2, "Registration," Iowa Administrative Code, published in the Iowa Administrative Bulletin on January 14, 2009, as **ARC 7486B**.

The Notice was filed in error and a new Notice of Intended Action is published herein as **ARC 7545B**.

ARC 7545B**ARCHITECTURAL EXAMINING BOARD[193B]****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 544A.29, the Architectural Examining Board hereby gives Notice of Intended Action to amend Chapter 2, "Registration," Iowa Administrative Code.

The amendment to Chapter 2 reflects a statutory change which came about through enactment of 2008 Iowa Acts, chapter 1059, effective July 1, 2008. The amendment allows that a person seeking an architectural commission in this state may be admitted to this state for the purpose of offering to provide architectural services, and for that purpose only, without first being registered if the person seeking the commission provides certain information to the Board. The amendment is subject to waiver or variance pursuant to 193—Chapter 5.

Consideration will be given to all written suggestions or comments on the proposed amendment received on or before March 3, 2009. Comments should be addressed to Glenda Loving, Architectural Examining Board, 1920 S.E. Hulsizer Road, Ankeny, Iowa 50021, or faxed to (515)281-7411. E-mail may be sent to glenda.loving@iowa.gov.

This amendment is intended to implement Iowa Code chapter 544A as amended by 2008 Iowa Acts, chapter 1059.

The following amendment is proposed.

Rescind rule 193B—2.2(544A,17A) and adopt the following **new** rule in lieu thereof:

193B—2.2(544A,17A) Application by reciprocity. Applicants for registration are required to make application to the National Council of Architectural Registration Boards (NCARB) for a certificate. A completed state application form (available on the board's Web site) and a completed NCARB certificate shall be filed in the board office before an application will be considered by the board.

2.2(1) Registration requirements. The board or its executive officer may waive examination requirements for applicants who, at the time of application, are registered as architects in a different jurisdiction, where the applicant's qualifications for registration are substantially equivalent to those required of applicants for initial registration in this state. All such applicants who hold an active NCARB certificate shall be deemed to possess qualifications that are substantially equivalent to those required of applicants for initial registration in this state.

2.2(2) Applicants seeking architectural commission in Iowa. A person seeking an architectural commission in this state may be admitted to this state for the purpose of offering to provide architectural services, and for that purpose only, without first being registered in this state if:

- a. The person holds an NCARB certificate; and

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

- b. The person holds a current and valid registration issued by a registration authority recognized by this state; and
 - c. The person notifies the board in writing on a form provided by the board that the person:
 - (1) Holds an NCARB certificate and a current and valid registration issued by a registration authority recognized by this state,
 - (2) Is not currently registered in this state but will be present in this state for the purpose of offering to provide architectural services on a temporary basis, and
 - (3) Has no previous or current disciplinary action pending by any registration authority; and
 - d. The person delivers a copy of the notice referred to in paragraph "c" to every potential client to whom the person offers to provide architectural services; and
 - e. The person provides the board with a sworn statement of intent to apply immediately to the board for registration if selected as the architect for a project in this state.
- The person is prohibited from actually providing architectural services until the person has been issued a valid registration in this state.

2.2(3) Board refusal to issue registration. The board may refuse to issue a certificate of registration to any person otherwise qualified upon any of the grounds for which a certificate of registration may be revoked or suspended or may otherwise discipline a registrant based upon a suspension, revocation, or other disciplinary action taken by a licensing authority in this or another jurisdiction. For purposes of this subrule, "disciplinary action" includes the voluntary surrender of a registration to resolve a pending disciplinary investigation or proceeding. A certified copy of the record or order of suspension, revocation, voluntary surrender, or other disciplinary action is prima facie evidence of such fact.

ARC 7574B**COLLEGE STUDENT AID COMMISSION[283]****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 261.3, the College Student Aid Commission hereby proposes to amend Chapter 9, "All Iowa Opportunity Foster Care Grant Program," Iowa Administrative Code.

The purpose of this amendment is to expand the definition of "Iowa resident" to include individuals for whom the Iowa Department of Human Services had placement and care responsibilities as mandated by the Iowa juvenile court system.

Interested persons may submit comments orally or in writing by 4:30 p.m. on March 3, 2009, to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515)725-3400.

This amendment is intended to implement Iowa Code chapter 261.

The following amendment is proposed.

Amend rule **283—9.2(261)**, definition of "Iowa resident," as follows:

"Iowa resident" means an individual who meets the criteria used by the state board of regents to determine residency for tuition purposes as described in 681—1.4(262) or an individual for whom the Iowa department of human services had placement and care responsibilities as mandated by the Iowa juvenile court system.

ARC 7560B**CORRECTIONS DEPARTMENT[201]****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 904.108, the Iowa Department of Corrections hereby gives Notice of Intended Action to rescind Chapter 4, "General Administration," Chapter 6, "Personnel," and Chapter 46, "Supervision Under Interstate Compact," Iowa Administrative Code.

The Department has conducted a thorough review of its administrative rules to determine if outdated or unnecessary rules are in place and has determined that Chapter 4, "General Administration," Chapter 6, "Personnel," and Chapter 46, "Supervision Under Interstate Compact," Iowa Administrative Code, are not statutorily required.

With regard to Chapter 4, the Department is following State of Iowa contract and purchasing standards pursuant to standards developed by the Department of Administrative Services[11] in Chapter 105, "Procurement of Goods and Services of General Use," Chapter 106, "Purchasing Standards for Service Contracts," and Chapter 107, "Uniform Terms and Conditions for Service Contracts," Iowa Administrative Code.

With regard to Chapter 6, the Department of Administrative Services covers the subject of background investigations currently contained in Chapter 6 under 11—Chapter 54, "Recruitment, Application and Examination," Iowa Administrative Code.

With regard to Chapter 46, the subject of supervision under interstate compact is addressed in Iowa Code chapter 907B, "Interstate Compact for Adult Offender Supervision," and there exists in Iowa a State Council for Interstate Adult Offender Supervision that is statutorily required to develop, and that has developed, policies concerning operations and procedures for the compact in Iowa. Therefore, administrative rules are not needed or statutorily required.

Any interested person may make written comments on the proposed amendments on or before March 3, 2009. Written comments may be sent to Michael Savala, Iowa Department of Corrections, 510 E. 12th Street, Des Moines, Iowa 50319. Comments may also be submitted electronically to Michael.Savala@iowa.gov or via facsimile to (515)725-5799.

A public hearing on the proposed amendments will be held at the office of the Iowa Department of Corrections from 11 a.m. to 1 p.m. on March 3, 2009. The Department is located at 510 E. 12th Street, Des Moines, Iowa. At the hearing, individuals will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any individuals who plan to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Corrections and advise of specific needs.

These amendments are intended to implement Iowa Code chapters 907B and 913 and Iowa Code sections 904.108 and 906.13.

Rescind and reserve 201—Chapter 4, Chapter 6 and Chapter 46.

ARC 7568B**DENTAL 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 Iowa Dental Board hereby gives Notice of Intended Action to amend Chapter 10, "General Requirements," Iowa Administrative Code.

The amendments specify that a dental hygienist may, under the direct supervision of a dentist, place provisional appliances.

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 March 3, 2009. Such written comments should be directed to Jennifer Hart, Executive Officer, Iowa Dental Board, 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 March 3, 2009, 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 15, 2009, regular meeting of the Iowa Dental Board.

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

The following amendments are proposed.

ITEM 1. Amend paragraph **10.3(1)"b"** as follows:

b. Therapeutic. Identifying and evaluating factors which indicate the need for and performing (1) oral prophylaxis, which includes supragingival and subgingival debridement of plaque, and detection and removal of calculus with instruments or any other devices; (2) periodontal scaling and root planing; (3) removing and polishing hardened excess restorative material; (4) administering local anesthesia with the proper permit; (5) administering nitrous oxide inhalation analgesia in accordance with 650—subrules 29.6(4) and 29.6(5); (6) applying or administering medicaments prescribed by a dentist, including chemotherapeutic agents and medicaments or therapies for the treatment of periodontal disease and caries; (7) placing provisional appliances under the direct supervision of a dentist.

ITEM 2. Amend subrule 10.3(4) as follows:

10.3(4) The administration of local anesthesia or nitrous oxide inhalation analgesia or the placement of provisional appliances shall only be provided under the direct supervision of a dentist.

ITEM 3. Amend paragraph **10.5(3)"b,"** introductory paragraph, as follows:

b. A dental hygienist providing services under public health supervision may provide assessments; screenings; data collection; and educational, therapeutic, preventive, and diagnostic services as defined in rule 10.3(153), except for the administration of local anesthesia or nitrous oxide inhalation analgesia or the placement of provisional appliances, and must:

ARC 7555B**DENTAL 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 Iowa Dental Board hereby gives Notice of Intended Action to amend Chapter 10, "General Requirements," Iowa Administrative Code.

The amendment modifies licensee responsibilities under public health supervision by eliminating the provision that a public health supervision agreement must specify a period of time, no more than 12 months, in which an examination by a dentist must occur prior to provision of further hygiene services by the hygienist. The amendment is proposed in response to a petition for rule making filed by the Iowa Dental Hygienists' Association seeking to remove barriers to access to dental care. The amendment allows the dentist and hygienist to determine the appropriate interval for a dental examination based on the needs of the patients in a public health setting.

This amendment is 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 amendment on or before March 3, 2009. Such written comments should be directed to Jennifer Hart, Executive Officer, Iowa Dental Board, 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 March 3, 2009, 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 amendment. 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.

This amendment was approved at the January 15, 2009, regular meeting of the Iowa Dental Board.

This amendment is intended to implement Iowa Code section 153.15.

The following amendment is proposed.

Amend subparagraph **10.5(3)"a"(3)** as follows:

(3) Specify a period of time, ~~no more than 12 months~~, in which an examination by a dentist must occur prior to providing further hygiene services. However, this examination requirement does not apply to educational services, assessments, screenings, and fluoride if specified in the supervision agreement; and

ARC 7567B**DENTAL 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 Iowa Dental Board hereby gives Notice of Intended Action to amend Chapter 11, "Licensure to Practice Dentistry or Dental Hygiene," and Chapter 12, "Dental and Dental Hygiene Examinations," Iowa Administrative Code.

The purpose of the amendments is to remove the examination administered by the American Board of Dental Examiners, Inc. (ADEX) from the list of examinations that dental hygiene applicants may complete to qualify for licensure by examination. The ADEX examination is no longer administered by the Central Regional Dental Testing Service, Inc. (CRDTS), of which Iowa is a member. Applicants for dental hygiene licensure by examination may take either the CRDTS examination or the Western Regional Examining Board, Inc. (WREB) to qualify for licensure.

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 March 3, 2009. Such written comments should be directed to Jennifer Hart, Executive Officer, Iowa Dental Board, 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 March 3, 2009, 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 15, 2009, regular meeting of the Iowa Dental Board. The Iowa Dental Board ratified the recommendation of the Dental Hygiene Committee of the Board regarding the proposed changes for the dental hygiene examination for licensure.

These amendments are intended to implement Iowa Code sections 153.33 and 153.34.

The following amendments are proposed.

ITEM 1. Amend paragraph **11.5(2)"e"** as follows:

e. Evidence of successful completion of the examination taken in the last five years, with resulting scores, administered by ~~the American Board of Dental Examiners, Inc.,~~ the Central Regional Dental Testing Service, Inc., or the Western Regional Examining Board, Inc.

ITEM 2. Amend rule 650—12.3(147,153) as follows:

650—12.3(147,153) Clinical examination procedure for dental hygiene.

12.3(1) To meet the requirements for dental hygiene licensure by examination, applicants shall complete the examination administered by either ~~the American Board of Dental Examiners, Inc. (ADEX),~~ the Central Regional Dental Testing Service, Inc. (CRDTS), or the Western Regional Examining Board, Inc. (WREB).

12.3(2) Examinees shall meet the requirements for testing and follow the procedures established by either ~~the American Board of Dental Examiners, Inc.,~~ the Central Regional Dental Testing Service, Inc., or the Western Regional Examining Board, Inc.

DENTAL BOARD[650](cont'd)

12.3(3) Prior to December 31, 2003, the examinee must attain an average grade of 70 percent on the examination. Effective January 1, 2004, the examinee must attain a comprehensive score that meets the standard for passing established by ADEX, CRDTS, or WREB.

12.3(4) Each examinee shall be required to perform such practical demonstrations as may be required by the ~~American Board of Dental Examiners, Inc.~~, the Central Regional Dental Testing Service, Inc., or the Western Regional Examining Board, Inc., for the purpose of sufficiently evaluating and testing the fitness of the examinee to practice dental hygiene.

ITEM 3. Amend paragraph **12.4(1)“a”** as follows:

a. For the purposes of counting examination failures, the board shall utilize the policies adopted by CRDTS or WREB.

ITEM 4. Amend subrule 12.4(5) as follows:

12.4(5) Failures of other examinations. If a dental hygiene examinee applies for the ~~American Board of Dental Examiners, Inc.~~, the Central Regional Dental Testing Service, Inc., or the Western Regional Examining Board, Inc., examination after having failed any other state or regional examination, the failures shall be considered ~~ADEX, CRDTS, or WREB~~ failures for the purposes of retakes.

ARC 7575B

DENTAL 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 Iowa Dental Board hereby gives Notice of Intended Action to amend Chapter 11, “Licensure to Practice Dentistry or Dental Hygiene,” and Chapter 20, “Dental Assistants,” Iowa Administrative Code.

These amendments specify the appeal procedure for denial of licensure or registration.

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 March 3, 2009. Such written comments should be directed to Jennifer Hart, Executive Officer, Iowa Dental Board, 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 March 3, 2009, 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 15, 2009, regular meeting of the Iowa Dental Board.

These amendments are intended to implement Iowa Code sections 147.3, 147.4 and 147.29.

The following amendments are proposed.

ITEM 1. Amend rule 650—11.10(147) as follows:

650—11.10(147) ~~Licensure denied~~ Denial of licensure—appeal procedure. ~~An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of the appeal and request for hearing upon the executive director not more than 30 days following the date of the mailing of the notification of licensure denial to the applicant or not more than 30 days following the date upon which the applicant was served notice if notification~~

DENTAL BOARD[650](cont'd)

~~was made in the manner of service of an original notice. The hearing and subsequent procedures shall be considered a contested case hearing and shall be governed by the procedures outlined in 650—Chapter 51.~~

11.10(1) Preliminary notice of denial. Prior to the denial of licensure to an applicant, the board shall issue a preliminary notice of denial that shall be sent to the applicant by regular, first-class mail. The preliminary notice of denial is a public record and shall cite the factual and legal basis for denying the application, notify the applicant of the appeal process, and specify the date upon which the denial will become final if it is not appealed.

11.10(2) Appeal procedure. An applicant who has received a preliminary notice of denial may appeal the notice and request a hearing on the issues related to the preliminary notice of denial by serving a request for hearing upon the executive director not more than 30 calendar days following the date when the preliminary notice of denial was mailed. The request is deemed filed on the date it is received in the board office. The request shall provide the applicant's current address, specify the factual or legal errors in the preliminary notice of denial, indicate if the applicant wants an evidentiary hearing, and provide any additional written information or documents in support of licensure.

11.10(3) Hearing. If an applicant appeals the preliminary notice of denial and requests a hearing, the hearing shall be a contested case and subsequent proceedings shall be conducted in accordance with 650—51.20(17A). License denial hearings are open to the public. Either party may request issuance of a protective order in the event privileged or confidential information is submitted into evidence.

a. The applicant shall have the ultimate burden of persuasion as to the applicant's qualification for licensure.

b. The board, after a hearing on license denial, may grant the license, grant the license with restrictions, or deny the license. The board shall state the reasons for its final decision, which is a public record.

c. Judicial review of a final order of the board to deny a license, or to issue a license with restrictions, may be sought in accordance with the provisions of Iowa Code section 17A.19.

11.10(4) Finality. If an applicant does not appeal a preliminary notice of denial, the preliminary notice of denial automatically becomes final and a notice of denial will be issued. The final notice of denial is a public record.

11.10(5) Failure to pursue appeal. If an applicant appeals a preliminary notice of denial in accordance with 11.10(2), but the applicant fails to pursue that appeal to a final decision within six months from the date of the preliminary notice of denial, the board may dismiss the appeal. The appeal may be dismissed after the board sends a written notice by first-class mail to the applicant at the applicant's last-known address. The notice shall state that the appeal will be dismissed and the preliminary notice of denial will become final if the applicant does not contact the board to schedule the appeal hearing within 14 days after the written notice is sent. Upon dismissal of an appeal, the preliminary notice of denial becomes final.

This rule is intended to implement Iowa Code sections 147.3, 147.4 and 147.29.

ITEM 2. Amend rule 650—20.8(147,153) as follows:

~~650—20.8(147,153) Registration denied~~ **Denial of registration—appeal procedure.** An applicant who has been denied registration by the board may appeal the denial and request a hearing on the issues related to the registration denial by serving a notice of the appeal and request for hearing upon the executive director not more than 30 days following the date of the mailing of the notification of registration denial to the applicant or not more than 30 days following the date upon which the applicant was served notice if notification was made in the manner of service of an original notice. The hearing and subsequent procedures shall be considered a contested case hearing and shall be governed by the procedures outlined in 650—Chapter 51. The board shall follow the procedures specified in 650—11.10(147) if the board proposes to deny registration to a dental assistant applicant.

This rule is intended to implement Iowa Code sections 147.3, 147.4 and 147.29.

ARC 7573B**ENERGY INDEPENDENCE, OFFICE OF[350]****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 469.3 and 2008 Iowa Acts, chapter 1144, the Director of the Office of Energy Independence hereby gives Notice of Intended Action to amend Chapter 3, "Iowa Power Fund Board and Due Diligence Committee," and Chapter 4, "Iowa Power Fund Financial Assistance," Iowa Administrative Code.

The proposed amendments clarify the electronic recording of board and committee proceedings; amend the percentage of the fund available for administrative costs, in accordance with Iowa Code section 469.10(2); and establish a process for considering requests to keep information confidential, in accordance with Iowa Code section 469.9(6).

Any interested person may make written suggestions or comments on these proposed amendments on or before March 3, 2009. Such written materials should be directed to Sean Bagniewski, Office of Energy Independence, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319; fax (515)281-4225; or by electronic mail to sean.bagniewski@iowa.gov.

These proposed amendments which do not impose statutory requirements are subject to a petition for waiver or variance under Iowa Code section 17A.9A and 350—Chapter 55.

These amendments are intended to implement 2008 Iowa Acts, chapter 1144.

The following amendments are proposed.

ITEM 1. Amend paragraph **3.3(2)"c"** as follows:

c. Open-session ~~and closed-session~~ proceedings ~~shall~~ may be electronically recorded. Minutes of open meetings shall be available for viewing at the office or through the office's Web site.

ITEM 2. Amend subrule 4.4(3) as follows:

4.4(3) The office shall utilize up to ~~4-5/10~~ 3 5/10 percent of the amount appropriated from the fund for a fiscal year for administrative costs.

ITEM 3. Renumber rules **350—4.9(469)** to **350—4.11(469)** as **350—4.10(469)** to **350—4.12(469)**.

ITEM 4. Adopt the following new rule 350—4.9(469):

350—4.9(469) Confidentiality.

4.9(1) *Period of confidentiality.* All information contained in an application for financial assistance submitted to the board shall remain confidential while the board is reviewing the application, processing requests for confidentiality, negotiating with the applicant, and preparing the application for consideration by the board.

4.9(2) *Release of information for technical review.* The board may release certain information in an application for financial assistance to a third party for technical review. If the board releases such information, the board shall ensure that the third party protects such information from public disclosure.

4.9(3) *Applicant request for confidentiality.* An applicant may make a written request to the board to keep confidential certain details of an application, contract, or the material submitted in support of an application or a contract. If the request includes a sufficient explanation as to why the public disclosure of such details would give an unfair advantage to competitors, the board shall keep such details confidential.

4.9(4) *Criteria for determining confidential treatment.* In determining whether to grant a request for confidential treatment of applicant information, the board must appropriately balance an applicant's need

ENERGY INDEPENDENCE, OFFICE OF[350](cont'd)

for confidentiality against the public's right to information about the board's activities. The board may consider the following:

- a. The nature and extent of competition in the applicant's industry sector.
- b. The likelihood of adverse financial impact to the applicant if the information were to be released.
- c. The risk that the applicant would locate in another state if the request is denied.
- d. Any other factors the board may reasonably consider relevant.

4.9(5) Confidentiality decision. The board shall notify an applicant in writing of its decision regarding the confidentiality of an application, contract, or supporting materials. Once the board has notified the applicant of its decision, any information not deemed confidential by the board shall be made publicly available. Any information deemed confidential by the board shall be kept confidential by the office and board during and following the administration of a contract executed pursuant to a successful application.

4.9(6) Withdrawal of application. If the board denies an applicant's request for confidentiality, the applicant may withdraw an application and any supporting materials. The board shall not retain any copies of the application and supporting materials. Upon notice that an application has been withdrawn, the board shall not release a copy in response to a request for records pursuant to Iowa Code chapter 22.

ARC 7542B

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Notice of Termination

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin as **ARC 7435B** on December 17, 2008.

The Notice of Intended Action was published to solicit comments on the adoption of amendments to the minimum standards for land surveying regarding the monumentation of retracement surveys. The Board received numerous comments regarding these amendments and voted at its regular meeting on January 8, 2009, to withdraw the proposed amendments in order to further consider and address the comments and concerns of the land surveying community.

ARC 7571B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Amended Notice of Intended Action

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission gives notice that the comment period for the Notice of Intended Action published in the November 19, 2008, Iowa Administrative Bulletin as **ARC 7368B** has been extended. Due to weather conditions, two public hearings regarding Notice **ARC 7368B** were canceled. Notice is hereby given that public hearings will be held on Tuesday, March 3, 2009, at 10 a.m. in the Falcon Civic Center, 1305 5th Avenue NE, Independence, Iowa, and at 6 p.m. at the Northeast Iowa Community College/Waukon Wellness Center, 1220 Third Avenue NW, Suite 102, Waukon, Iowa. Persons are invited to present oral or written comments at the rescheduled public hearings.

Additional information on Iowa's water quality standards and the Department's rules can be found on the Department's Web site at <http://www.iowadnr.com/water/standards/index.html>.

Any person may submit written suggestions or comments on the proposed amendments through March 4, 2009. Such written material should be submitted to Adam Schnieders, Iowa Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-8895; or by E-mail to adam.schnieders@dnr.iowa.gov. Persons who have questions may contact Adam Schnieders at (515)281-7409.

ARC 7570B

ENVIRONMENTAL PROTECTION COMMISSION[567]

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 459.103 and 459A.104, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 65, "Animal Feeding Operations," Iowa Administrative Code.

The proposed amendments prohibit the surface application of manure on frozen or snow-covered ground under specified circumstances for confinement feeding operations or open feedlot operations that are required to submit manure/nutrient management plans or that are subject to enforcement actions for specified violations. Generally, the scope of the prohibition varies depending upon the slope of the land where manure will be applied and whether the manure is solid or liquid. In addition, the proposed amendments require that a map showing the areas where manure application is prohibited or limited be provided to the person applying manure and that the map be maintained as part of the manure/nutrient management plan.

Any interested person may make written suggestions or comments on the proposed amendments on or before March 27, 2009. Written comments should be directed to Claire Hruby, Iowa Department of Natural Resources, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-8895; E-mail Claire.Hruby@dnr.iowa.gov.

Also, there will be public hearings as follows, at which time persons may present their views either orally or in writing:

| | | |
|----------------|--------|---|
| March 16, 2009 | 9 a.m. | Wallace State Office Building Auditorium 502 E. 9th Street Des Moines |
| March 16, 2009 | 6 p.m. | Washington County Conservation Board Education Center, Marr Park 2943 Highway 92 Ainsworth |
| March 18, 2009 | 6 p.m. | Dedham American Legion Hall 302 Main Street Dedham |
| March 20, 2009 | 1 p.m. | Northeast Iowa Community College Dairy Center, Room 115 1527 Highway 150 South Calmar |
| March 23, 2009 | 6 p.m. | Orange City-City Hall 125 Central Avenue SE Orange City |
| March 24, 2009 | 6 p.m. | Lime Creek Nature Center 3501 Lime Creek Road Mason City |

At the hearings, people will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code sections 459.103, 459.311, 459A.104 and 459A.410.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions in rule **567—65.1(455B)**:

“*Active melt event*” means an event in which snow or ice is actively melting and water is flowing off the field.

“*Frozen ground*” means ground that is impenetrable due to frozen soil moisture. Ephemeral frost, where the ground is frozen in the first 2 inches or less below the surface, is not considered frozen ground.

“*Liquid manure*” means manure or process wastewater generated by an animal feeding operation that can be pumped through conventional liquid manure handling or land application equipment. In any other situation, manure that contains less than 20 percent solids is considered liquid manure.

“*Snow-covered ground*” means an area with 1 inch or more of snow covering the ground or an area of continuous ice coverage.

“*Solid manure*” means manure generated by an animal feeding operation that cannot be pumped through conventional liquid manure handling or land application equipment. In any other situation, manure that contains 20 percent solids or greater is considered solid manure.

“*Surface application*” means any method of applying manure or process wastewater that does not involve injection or incorporation within 24 hours of application.

ITEM 2. Amend rule 567—65.3(455B) as follows:

567—65.3(455B) Requirements and recommended practices for land application of manure.

65.3(1) *Application rate based on crop nitrogen use.* A confinement feeding operation that is required to submit a manure management plan to the department under rule 65.16(455B) shall not apply manure in excess of the nitrogen use levels necessary to obtain optimum crop yields. Calculations to determine the maximum manure application rate allowed under this subrule shall be performed pursuant to rule 65.17(455B).

65.3(2) *General requirements for application rates and practices.*

a. For confinement feeding operations required to submit a manure management plan to the department under rule 65.16(455B), application rates and practices shall be determined pursuant to rule 65.17(455B).

b. For manure originating from an anaerobic lagoon or aerobic structure, application rates and practices shall be used to minimize groundwater or surface water pollution resulting from application, including pollution caused by runoff or other manure flow resulting from precipitation events. In determining appropriate application rates and practices, the person land-applying the manure shall consider the site conditions at the time of application including anticipated precipitation and other weather factors, field residue and tillage, site topography, the existence and depth of known or suspected tile lines in the application field, and crop and soil conditions, including a good-faith estimate of the available water holding capacity given precipitation events, the predominant soil types in the application field, and planned manure application rate.

c. Spray irrigation equipment shall be operated in a manner and with an application rate and timing that does not cause runoff of the manure onto the property adjoining the property where the spray irrigation equipment is being operated.

d. For manure from an earthen waste slurry storage basin, earthen manure storage basin, or formed manure storage structure, restricted spray irrigation equipment shall not be used unless the manure has been diluted with surface water or groundwater to a ratio of at least 15 parts water to 1 part manure.

Emergency use of spray irrigation equipment without dilution shall be allowed to minimize the impact of a release as approved by the department.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

65.3(3) *Separation distance requirements for land application of manure.* Land application of manure shall be separated from objects and locations as specified in this subrule.

a. For liquid manure from a confinement feeding operation, the required separation distance from a residence not owned by the titleholder of the land, a business, a church, a school, or a public use area is 750 feet, as specified in Iowa Code section 455B.162. The separation distance for application of manure by spray irrigation equipment shall be measured from the actual wetted perimeter and the closest point of the residence, business, church, school, or public use area.

b. The separation distance specified in paragraph 65.3(3) “*a*” shall not apply if any of the following apply:

(1) The liquid manure is injected into the soil or incorporated within the soil not later than 24 hours after the original application.

(2) The titleholder of the land benefitting from the separation distance requirement executes a written waiver with the titleholder of the land where the manure is applied.

(3) The liquid manure originates from a small animal feeding operation.

(4) The liquid manure is applied by low-pressure spray irrigation equipment pursuant to paragraph 65.3(3) “*d*.”

c. Separation distance for spray irrigation from property boundary line. Spray irrigation equipment shall be set up to provide for a minimum distance of 100 feet between the wetted perimeter as specified in the spray irrigation equipment manufacturer’s specifications and the boundary line of the property where the equipment is being operated. The actual wetted perimeter, as determined by wind speed and direction and other operating conditions, shall not exceed the boundary line of the property where the equipment is being operated. For property which includes a road right-of-way, railroad right-of-way or an access easement, the property boundary line shall be the boundary line of the right-of-way or easement.

d. Distance from structures for low-pressure irrigation systems. Low-pressure irrigation systems shall have a minimum separation distance of 250 feet between the actual wetted perimeter and the closest point of a residence, a business, church, school or public use area.

e. Variances. Variances to paragraph “*c*” of this subrule may be granted by the department if sufficient and proposed alternative information is provided to substantiate the need and propriety for such action. Variances may be granted on a temporary or permanent basis. The request for a variance shall be in writing and include information regarding:

(1) The type of manure storage structure from which the manure will be applied by spray irrigation equipment.

(2) The spray irrigation equipment to be used in the application of manure.

(3) Other information as the department may request.

f. Agricultural drainage wells. Manure shall not be applied by spray irrigation equipment on land located within an agricultural drainage well area.

g. Designated areas. A person shall not apply manure on land within 200 feet from a designated area, or in the case of a high quality water resource, within 800 feet, unless one of the following applies:

(1) The manure is land-applied by injection or incorporation on the same date as the manure was land-applied.

(2) An area of permanent vegetation cover, including filter strips and riparian forest buffers, exists for 50 feet surrounding the designated area other than an unplugged agricultural drainage well or surface intake to an unplugged agricultural drainage well, and the area of permanent vegetation cover is not subject to manure application. This exemption is not applicable when manure is surface-applied to frozen or snow-covered ground. In that event, the requirements of 65.3(4) shall be followed.

65.3(4) *Surface application on frozen or snow-covered ground.*

a. Effective October 1, 2009, the practices set forth in paragraphs “*b*,” “*c*,” “*d*,” “*e*” and “*f*” of this subrule are recommended for all confinement feeding operations and are required for each confinement feeding operation under any of the following circumstances:

(1) The operation is required to submit a manure management plan.

(2) The operation is required to submit a nutrient management plan.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(3) The operation is subject to an enforcement action for a water quality violation caused by runoff from manure application. This operation will be given one year from the date the enforcement action is initiated to begin complying with this subrule.

b. Manure shall not be surface-applied to snow-covered or frozen ground within 200 feet of and draining to a terrace tile inlet or surface tile inlet unless the inlet is plugged or sleeved sufficiently to prevent runoff from entering the inlet until snow or ice or both snow and ice are melted and the ground is thawed to a depth of at least 8 inches.

c. Manure shall not be surface-applied to snow-covered or frozen ground during any of the following:

(1) An active melt event or when there are 1 or more inches of snow on the ground and maximum temperatures exceed 40 degrees Fahrenheit or are predicted by the National Weather Service to exceed 40 degrees Fahrenheit within 48 hours.

(2) When rainfall exceeding 0.25 inches within 48 hours after the end of the application period is more than a 50 percent probability as predicted by the National Weather Service.

(3) Between February 15 and April 15. This restriction does not apply to the surface application of solid manure originating from deep-bedded beef confinement buildings until October 1, 2010.

d. Liquid manure shall not be surface-applied to any of the following:

(1) Snow-covered ground.

(2) Frozen ground with slopes of 2 percent or greater unless soil conservation practices are in place and the P-Index rating is 2 or less.

(3) Frozen ground with slopes of 5 percent or greater.

e. Solid manure shall not be surface-applied to any of the following:

(1) Snow-covered ground with slopes of 5 percent or greater.

(2) Frozen ground with slopes of 9 percent or greater unless soil conservation practices are in place and the P-Index rating is 2 or less.

(3) Frozen ground with slopes of 14 percent or greater.

f. Restrictions identified for all fields. Prior to application of manure on frozen or snow-covered ground, the commercial manure service representative or person who will be applying manure must be provided maps that clearly show areas where surface application of manure is limited or prohibited according to 65.3(3)“g” or 65.3(4)“b,” “d,” or “e.” These maps must be maintained as part of the current manure management plan or nutrient management plan as required in 65.17(12).

~~65.3(4)~~ **65.3(5)** *Recommended practices.* Except as required by rule in this chapter, the following practices are recommended:

a. Nitrogen application rates. To minimize the potential for leaching to groundwater or runoff to surface waters, nitrogen application from all sources, including manure, legumes, and commercial fertilizers, should not be in excess of the nitrogen use levels necessary to obtain optimum crop yields for the crop being grown.

b. Phosphorous application rates. To minimize phosphorous movement to surface waters, manure should be applied at rates equivalent to crop uptake when soil tests indicate adequate phosphorous levels. Phosphorous application, more than crop removal, can be used to obtain maximum crop production when soil tests indicate very low or low phosphorous levels.

~~*e. Manure application on frozen or snow covered cropland.*~~ ~~Manure application on frozen or snow covered cropland should be avoided where possible. If manure is spread on frozen or snow covered cropland, application should be limited to areas on which:~~

~~(1) Land slopes are 4 percent or less, or~~

~~(2) Adequate erosion control practices exist. Adequate erosion control practices may include such practices as terraces, conservation tillage, cover crops, contour farming or similar practices.~~

~~*d. c.*~~ *Manure application on cropland subject to flooding.* Manure application on cropland subject to flooding more than once every ten years should be injected during application or incorporated into the soil after application. Manure should not be spread on such areas during frozen or snow-covered conditions.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

e. d. *Manure application on land adjacent to water bodies.* Unless adequate erosion controls exist on the land and manure is injected or incorporated into the soil, manure application should not be done on land areas located within 200 feet of and draining into a stream or surface intake for a tile line or other buried conduit. No manure should be spread on waterways except for the purpose of establishing seedings.

f. e. *Manure application on steeply sloping cropland.* Manure application on tilled cropland with ~~greater than 10~~ 9 percent slopes or greater should be limited to areas where adequate soil erosion control practices exist. Injection or soil incorporation of manure is recommended where consistent with the established soil erosion control practices.

ITEM 3. Amend paragraph **65.17(3)“e”** as follows:

e. The location of manure application, including information regarding the surface application of manure on frozen or snow-covered ground as required in 65.3(4)“f.”

ITEM 4. Adopt the following new definitions in rule **567—65.100(455B,459,459A)**:

“*Active melt event*” means an event in which snow or ice is actively melting and water is flowing off the field.

“*Frozen ground*” means ground that is impenetrable due to frozen soil moisture. Ephemeral frost, where the ground is frozen in the first 2 inches or less below the surface, is not considered frozen ground.

“*Snow-covered ground*” means an area with 1 inch or more of snow covering the ground or an area of continuous ice coverage.

“*Surface application*” means any method of applying manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent that does not involve injection or incorporation within 24 hours of application.

ITEM 5. Amend paragraph **65.101(6)“b”** as follows:

b. Designated areas. A person shall not apply manure on land within 200 feet from a designated area or, in the case of a high quality water resource, within 800 feet, unless one of the following applies:

(1) The manure is land-applied by injection or incorporation on the same date as the manure was land-applied.

(2) An area of permanent vegetation cover, including filter strips and riparian forest buffers, exists for 50 feet surrounding the designated area other than an unplugged agricultural drainage well or surface intake to an unplugged agricultural drainage well, and the area of permanent vegetation cover is not subject to manure application. This exemption is not applicable when manure is surface-applied to frozen or snow-covered ground. In that event, the requirements of 65.101(7) shall be followed.

ITEM 6. Renumber subrules **65.101(7)** to **65.101(9)** as **65.101(8)** to **65.101(10)**.

ITEM 7. Adopt the following new subrule 65.101(7):

65.101(7) Surface application on frozen or snow-covered ground.

a. Effective October 1, 2009, the practices set forth in paragraphs “*b*,” “*c*,” “*d*,” “*e*” and “*f*” of this subrule are recommended for all open feedlot operations and are required for each open feedlot operation under either of the following circumstances:

(1) The operation is required to submit a nutrient management plan.

(2) The operation is subject to an enforcement action for a water quality violation caused by runoff from the application of manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent. These operations will be given one year from the date the enforcement action is initiated to begin complying with this subrule.

The practices set forth in paragraphs “*b*,” “*c*,” “*d*,” “*e*” and “*f*” of this subrule do not apply to snow and ice scraped from open feedlots including incidental manure.

b. Manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent shall not be surface-applied to snow-covered or frozen ground within 200 feet of and draining to a terrace tile inlet or surface tile inlet unless the inlet is plugged or sleeved sufficiently to prevent runoff from entering the inlet until snow or ice or both snow and ice are melted and the ground is thawed to a depth of at least 8 inches.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

c. Manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent shall not be surface-applied to snow-covered or frozen ground during any of the following:

(1) An active melt event or when there are 1 or more inches of snow on the ground and maximum temperatures exceed 40 degrees Fahrenheit or are predicted by the National Weather Service to exceed 40 degrees Fahrenheit within 24 hours.

(2) When rainfall exceeding 0.25 inches within 48 hours after the end of the application period is more than a 50 percent probability as predicted by the National Weather Service.

(3) Between February 15 and April 15.

d. Liquid application. Process wastewater, settled open feedlot effluent or open feedlot effluent that can be pumped through conventional liquid manure handling or land application equipment, including any such mixture with less than 15 percent solids, shall not be surface-applied to any of the following:

(1) Snow-covered ground.

(2) Frozen ground with slopes of 2 percent or greater unless soil conservation practices are in place and the P-Index rating is 2 or less.

(3) Frozen ground with slopes of 5 percent or greater.

e. Solid application. Scraped manure or settleable solids shall not be surface-applied to any of the following:

(1) Snow-covered ground with slopes of 5 percent or greater.

(2) Frozen ground with slopes of 9 percent or greater unless soil conservation practices are in place and the P-Index rating is 2 or less.

(3) Frozen ground with slopes of 14 percent or greater.

f. Restrictions identified for all fields. Prior to application of manure on frozen or snow-covered ground, the commercial manure service representative or person who will be applying manure must be provided maps that clearly show areas where surface application of manure is limited or prohibited according to 65.3(3) "g" or 65.3(4) "b," "d," or "e." These maps must be maintained as part of the current manure management plan or nutrient management plan as required in 65.17(12).

ITEM 8. Amend paragraph **65.101(8)"a"** as follows:

a. Stockpiles must be land-applied in accordance with 65.101(6) and 65.101(7) as soon as possible but not later than six months after they are established.

ITEM 9. Amend subparagraph **65.112(8)"b"(2)** as follows:

(2) Application methods, the timing of the application, and the location of the land where the application occurs. In addition, information regarding the surface application of manure, process wastewater, settled open feedlot effluent, settleable solids and open feedlot effluent on frozen or snow-covered ground as required in 65.101(7) "f" shall be provided.

ARC 7564B

ENVIRONMENTAL PROTECTION COMMISSION[567]

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 459.103 and 459A.104, the Environmental Protection Commission proposes to amend Chapter 65, "Animal Feeding Operations," Iowa Administrative Code.

The proposed amendments are corrections to definitions and requirements related to animal feeding operations that are needed to make Chapter 65 consistent with statutory amendments adopted during the

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

2008 legislative session. Additional changes are proposed to bring administrative rules into compliance with federal regulations related to the NPDES permit program and to address outdated references.

Any interested person may make written suggestions or comments on the proposed amendments on or before March 6, 2009. Written comments should be directed to Gene Tinker, Iowa Department of Natural Resources, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-8895; E-mail gene.tinker@dnr.iowa.gov.

Also, there will be public hearings as follows, at which time persons may present their views either orally or in writing:

| | | |
|---------------|--------|--|
| March 3, 2009 | 7 p.m. | Iowa Lakes Community College Gateway North, Room 108B 1900 North Grand Avenue Spencer |
| March 4, 2009 | 9 a.m. | Department of Natural Resources Field Office #4, Conference Room 1401 Sunnyside Lane Atlantic |
| March 4, 2009 | 3 p.m. | Kirkwood Center for Continuing Education 7725 Kirkwood Blvd., Room 123 Cedar Rapids |
| March 5, 2009 | 2 p.m. | Wallace State Office Building Fifth Floor Conference Room 502 E. 9th Street Des Moines |

At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code sections 459.103, 459.312, 459.314, 459A.104, 459A.208 and 459A.303 and 2008 Iowa Acts, chapter 1191, sections 143 through 148.

The following amendments are proposed.

ITEM 1. Amend rule **567—65.1(455B)**, definition of “Animal feeding operation,” as follows:

“*Animal feeding operation*” means a lot, yard, corral, building, or other area in which animals are confined and fed and maintained for 45 days or more in any 12-month period, and all structures used for the storage of manure from animals in the operation. ~~As~~ Except as required for an NPDES permit required pursuant to the federal Water Pollution Control Act, 33 U.S.C. Chapter 26, as amended, an animal feeding operation does not include a livestock market. Open feedlots and confinement feeding operations are considered to be separate animal feeding operations.

1. and 2. No change.

ITEM 2. Adopt the following **new** definition in rule **567—65.1(455B)**:

“*NPDES permit*” means a written permit of the department, pursuant to the National Pollutant Discharge Elimination System (NPDES) program, to authorize and regulate the operation of a CAFO. “CAFO” means the same as defined in 567—65.100(455B).

ITEM 3. Amend subparagraph **65.3(3)“g”(1)** as follows:

(1) The manure is land-applied by injection or incorporation on the same date as the manure was land-applied. For purposes of the NPDES permit program if applicable, the person must also demonstrate that a setback or buffer is not necessary because implementation of alternative conservation practices or field-specific conditions will provide pollutant reductions equivalent to or better than the reductions that would be achieved by the 200- or 800-foot setbacks.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 4. Amend paragraph **65.17(6)“b”** as follows:

b. Crop schedule. Crop schedules shall include the name and total acres of the planned crop on a field-by-field or farm-by-farm basis where manure application will be made. A map may be used to indicate crop schedules by field or farm. The planned crop schedule shall name the crop(s) planned to be grown for the length of the crop rotation beginning with the crop planned or actually grown during the year this plan is submitted or the first year manure will be applied. ~~The confinement feeding operation owner shall not be penalized for exceeding the nitrogen or phosphorus application rate for an unplanned crop, if crop schedules are altered because of weather, farm program changes, market factor changes, or other unforeseeable circumstances.~~

ITEM 5. Amend rule **567—65.100(455B,459,459A)**, definitions of “Animal feeding operation” or “AFO,” “Animal unit capacity” and “Production area,” as follows:

“Animal feeding operation” or “AFO” means a lot, yard, corral, building, or other area in which animals are confined and fed and maintained for 45 days or more in any 12-month period, and all structures used for the storage of manure from animals in the operation. ~~At~~ Except as required for an NPDES permit required pursuant to the federal Water Pollution Control Act, 33 U.S.C. Chapter 26, as amended, an animal feeding operation does not include a livestock market.

~~Pursuant to federal regulations, a livestock market could satisfy the definitions of an AFO and a CAFO and thus be subject to NPDES permit requirements. In order to implement the federal NPDES permit program, the commission must adopt rules which are no less stringent than federal regulations. Therefore, for the purposes of the NPDES permit program, an AFO can include a livestock market.~~

“Animal unit capacity” means a measurement used to determine the maximum number of animal units that may be maintained as part of an open feedlot operation. Only for purposes of determining whether an open feedlot operation must obtain an operating permit, the animal unit capacity of the animal feeding operation shall include the animal unit capacities of both the open feedlot operation and the confinement feeding operation if all of the following occur:

1. The animals in the open feedlot operation and the confinement feeding operation are all in the same category of animals as used in the definitions of “large CAFO” and “medium CAFO” in 40 CFR Part 122.

2. The closest open feedlot operation structure is separated by less than 1,250 feet from the closest confinement feeding operation structure.

3. The open feedlot operation and the confinement feeding operation are under common ownership or management.

“Production area” means that part of an AFO that includes the area in which animals are confined, the manure storage area, the raw materials storage area, egg washing and egg processing facilities, and the waste containment areas. The area in which animals are confined includes, but is not limited to, open lots, housed lots, feedlots, stall barns, free stall barns, milk rooms, milking centers, cow yards, barnyards, medication pens, walkers, animal walkways, confinement houses, and stables. The manure storage area includes, but is not limited to, lagoons, solids settling facilities, settled open feedlot effluent basins, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes, but is not limited to, feed silos, silage bunkers, and bedding materials. The waste containment area includes, but is not limited to, settling basins and areas within berms and diversions which separate uncontaminated storm water. Also included in the definition of production area is any area used in the storage, handling, treatment, or disposal of mortalities.

ITEM 6. Amend subparagraph **65.101(6)“b”(1)** as follows:

(1) The manure is land-applied by injection or incorporation on the same date as the manure was land-applied. For purposes of the NPDES permit program if applicable, the person must also demonstrate that a setback or buffer is not necessary because implementation of alternative conservation practices or field-specific conditions will provide pollutant reductions equivalent to or better than the reductions that would be achieved by the 200- or 800-foot setbacks.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 7. Amend subrule 65.104(7) as follows:

65.104(7) *Application forms and requirements.* An application for an NPDES permit shall be made on a form provided by the department. The application shall be complete and shall contain information required by the department. Applications ~~submitted after September 30, 2006,~~ shall include a nutrient management plan as required in rule 65.112(459A). Applications involving AT systems shall include results of predictive computer modeling as required by 65.110(6)“a.” The application shall be signed by the person who is legally responsible for the animal feeding operation and its associated manure or process wastewater control system.

ITEM 8. Amend paragraph **65.105(3)“a”** as follows:

a. ~~For an open feedlot operation submitting an application for a construction permit on or after September 30, 2006, a~~ A nutrient management plan as provided in rule 65.112(459A).

ITEM 9. Amend subrule 65.112(1) as follows:

65.112(1) The owner of an open feedlot operation which has an animal unit capacity of 1,000 animal units or more or which is required to be issued an NPDES permit shall develop and implement a nutrient management plan meeting the requirements of this rule ~~by December 31, 2006.~~ The owner of an open feedlot operation that seeks to obtain or is required to be issued an NPDES permit after December 31, 2006, shall develop and implement a nutrient management plan meeting the requirements of this rule no later than the date on which the NPDES permit becomes effective. For the purpose of this rule, requirements pertaining to open feedlot effluent also apply to settled open feedlot effluent and settleable solids.

ITEM 10. Amend subrule 65.112(2) as follows:

65.112(2) Not more than one open feedlot operation shall be covered by a single nutrient management plan. For an open feedlot operation that is required to have an NPDES permit and the animal feeding operation includes an open feedlot operation and a confinement feeding operation, the nutrient management plan must include both the open feedlot operation and the confinement feeding operation if the confinement feeding operation does not have a manure management plan. If the confinement feeding operation portion of the animal feeding operation does have a manure management plan as required in 65.16(455B) and 65.17(455B), the confinement feeding operation portion shall not be included in the nutrient management plan; however, in that event, the manure management plan must be amended to include the information specified in 65.112(8)“e.”

ITEM 11. Amend subparagraph **65.112(8)“a”(1)** as follows:

(1) A phosphorus index of each field in the nutrient management plan, as ~~defined~~ required in 65.17(17)“*a*,”₂ including the factors used in the calculation. A copy of the NRCS phosphorus index detailed report shall satisfy the requirement to include the factors used in the calculation. In addition, total phosphorus (as P₂O₅) available to be applied from the open feedlot operation shall be included.

ITEM 12. Renumber subparagraph **65.112(8)“e”(7)** as **65.112(8)“e”(10)**.

ITEM 13. Adopt the following new subparagraphs **65.112(8)“e”(7)**, **(8)** and **(9)**:

(7) Appropriate site-specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters of the United States.

(8) Protocols for appropriate testing of manure, process wastewater, open feedlot effluent and soil.

(9) Protocols to land-apply manure, process wastewater or open feedlot effluent in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, process wastewater or open feedlot effluent.

ARC 7541B**LABOR SERVICES DIVISION[875]****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 88.5, the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 10, "General Industry Safety and Health Rules," and Chapter 26, "Construction Safety and Health Rules," Iowa Administrative Code.

The proposed amendments adopt by reference changes to federal occupational safety and health regulations. The changes are designed to clarify that a standard requiring training or personal protective equipment (PPE) requires that the training or PPE be provided to each and every employee covered by the standard and that noncompliance may expose the employer to liability on a per-employee basis. Employers are not required to provide any new type of PPE or training, to provide PPE or training to any employee not already covered by the existing requirements, or to provide PPE or training in a different manner than is already required. The amendments simply clarify that the standards apply to each employee.

The principal reasons for adoption of these amendments are to implement Iowa Code chapter 88, to protect the safety and health of Iowa's workers, and to make Iowa's occupational safety and health regulations more current and consistent with federal regulations.

Pursuant to Iowa Code subsection 88.5(1)"a," Iowa must adopt the federal standards.

Written data, views, or arguments to be considered in adoption shall be submitted no later than March 4, 2009, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@iwd.iowa.gov.

A public hearing will be held on March 4, 2009, at 10:30 a.m. in the Stanley Room at the Iowa Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa. The public will be given the opportunity to make oral statements and submit documents. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should telephone (515)242-5869 in advance to arrange access or other needed services.

These amendments are intended to implement Iowa Code section 88.5.

The following amendments are proposed.

ITEM 1. Amend rule **875—10.20(88)** by inserting the following at the end thereof:
73 Fed. Reg. 75583 (December 12, 2008)

ITEM 2. Amend rule **875—26.1(88)** by inserting the following at the end thereof:
73 Fed. Reg. 75583 (December 12, 2008)

ARC 7552B**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Termination**

Pursuant to the authority of Iowa Code section 147.76, the Board of Podiatry hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on November 5, 2008, as **ARC 7325B**, amending Chapter 220, "Licensure of Podiatrists," Iowa Administrative Code.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

The Notice proposed to amend Chapter 220 by updating Board rules in response to changes for residency programs made by the American Podiatric Medical Association's Council on Podiatric Medical Education, which became effective January 9, 2009.

The Board is terminating the rule making commenced in **ARC 7325B** and will renounce the proposed amendments to incorporate further changes and clarifications to requirements under this chapter.

ARC 7566B**PUBLIC SAFETY DEPARTMENT[661]****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 17A.3 and 321.4, the Department of Public Safety hereby gives Notice of Intended Action to rescind Chapter 7, "Ignition Interlock Devices," and to adopt new Chapter 158, "Ignition Interlock Devices," Iowa Administrative Code.

Iowa Code chapter 321J provides for the use of ignition interlock devices to regulate the driving behavior of certain persons who have previously been sanctioned for operating while intoxicated, or drunk driving. The provisions which trigger the use of ignition interlock devices require that the devices that are going to be used be approved by the Commissioner of Public Safety. At present, the Department's provisions are found in rule 661—7.8(321J), which delineates the requirements and procedures for approval of ignition interlock devices. However, the technology embedded in these devices has been changing. The rules proposed herein have been written to address those technological advances. Additionally, the Department believes that the placement of these requirements and procedures for approval of the devices in a separate, new chapter will facilitate easier access to these provisions by persons affected by these rules.

Any person who wishes to do so may submit comments on these proposed rules to the Agency Rules Administrator, Iowa Department of Public Safety, 215 East 7th Street, Des Moines, Iowa 50319, by mail; by fax to (515)725-6195 (Attention: Agency Rules Administrator); or by E-mail to admrule@dps.state.ia.us. Comments should be submitted by 4:30 p.m. on March 10, 2009.

A public hearing on these proposed rules will be held on March 10, 2009, at 8:30 a.m. in the First Floor Public Conference Room, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The conference room is fully accessible.

The rules proposed herein would be subject to the general waiver provisions for administrative rules of the Department of Public Safety, which are found in 661—Chapter 10.

These amendments are intended to implement Iowa Code chapter 321J.

The following amendments are proposed.

- ITEM 1. Rescind and reserve **661—Chapter 7**.
- ITEM 2. Adopt the following **new** 661—Chapter 158:

CHAPTER 158
IGNITION INTERLOCK DEVICES

661—158.1(321J) Scope and authority.

158.1(1) The rules in this chapter establish standards and requirements that apply to ignition interlock devices installed in motor vehicles pursuant to court orders or administrative orders issued by the department of transportation pursuant to Iowa Code chapter 321J.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

158.1(2) Iowa Code sections 321J.2, 321J.4, 321J.4B, 321J.9, 321J.12, 321J.17, and 321J.20 require drivers who have been convicted of violating or administratively adjudged to have violated certain provisions of Iowa Code chapter 321J to install ignition interlock devices “of a type approved by the commissioner of public safety.” The rules in this chapter provide the standards for such approval.

661—158.2(321J) Definitions. The following definitions apply to rules 661—158.1(321J) through 661—158.9(321J):

“*Alcohol*” means any member of the class of organic compounds known as alcohols and, specifically, ethyl alcohol.

“*Authorized service provider*” or “*ASP*” means a person or company meeting all qualifications outlined in this chapter and approved and trained by the manufacturer to service, install, monitor or calibrate IIDs approved pursuant to this chapter.

“*Breath alcohol concentration*” or “*BrAC*” means the amount of alcohol determined by chemical analysis of the individual’s breath measured in grams of alcohol per 210 liters of breath.

“*Bypassing*” or “*tampering*” means the attempted or successful circumvention of the proper functioning of an IID including, but not limited to, the push start of a vehicle equipped with an IID, disabling, disconnecting or altering an IID, or introduction of a breath sample into an IID other than a nonfiltered direct breath sample from the driver of the vehicle in order to defeat the intended purpose of the IID.

“*DCI*” means the Iowa division of criminal investigation.

“*DOT*” means Iowa department of transportation, office of driver services.

“*Fail level*” means a BrAC equal to or greater than 0.025 grams per 210 liters of breath, at which level the IID will prevent the vehicle from starting or will indicate a violation once the vehicle is running.

“*Ignition interlock device*” or “*IID*” means an electronic device that is installed in a vehicle and that requires the completion of a breath sample test prior to starting the vehicle and at periodic intervals after the vehicle has been started. If the IID detects an alcohol concentration of 0.025 grams or greater per 210 liters of breath, the vehicle shall be prevented from starting.

“*Laboratory*” means the division of criminal investigation criminalistics laboratory.

“*Lessee*” means a person who has entered into an agreement with a manufacturer or an ASP to lease an IID.

“*Lockout condition*” means a situation in which a proper breath sample was not provided to an IID when required, or when a random retest results in an alcohol concentration equal to or greater than 0.025 BrAC. Once a lockout condition occurs, the IID shall be reset by the manufacturer or the ASP within five days, or the IID shall render the vehicle ignition incapable of starting the vehicle.

“*Manufacturer*” means the person, company, or corporation that produced the IID.

“*Random retest*” means a breath sample that is collected in a nonscheduled, random manner after the vehicle has been started.

“*User*” means a person whose driving privileges are conditioned on the use of an IID.

“*Violation*” means a condition caused either by failure to provide a proper breath sample to the IID during a random retest or by the IID indicating a concentration equal to or greater than 0.025 BrAC during a random retest.

661—158.3(321J) Approval. To be approved, an IID shall meet or exceed performance standards contained in the Model Specifications for Breath Alcohol Ignition Interlock Devices, as published in the Federal Register, April 7, 1992, pages 11772-11787. Only a notarized statement from a laboratory capable of performing the tests specified will be accepted as proof of meeting or exceeding the standards.

158.3(1) In addition to the federal standards, the DCI criminalistics laboratory shall apply scientific tests or methods to a particular IID to determine whether it meets an acceptable standard for accuracy.

158.3(2) At the discretion of the laboratory administrator, the laboratory may accept test results from other public laboratories or authorities.

158.3(3) The laboratory shall maintain a list of IIDs approved by the commissioner of public safety. The list is available without cost by writing to the Iowa Department of Public Safety, Division

PUBLIC SAFETY DEPARTMENT[661](cont'd)

of Criminal Investigation, Criminalistics Laboratory, 2240 South Ankeny Blvd., Ankeny, Iowa 50023; by telephoning (515)725-1500; or by accessing the list on the laboratory's Web site.

NOTE: As of [insert the filing date of these rules], the Web site of the laboratory is http://www.dps.state.ia.us/DCI/Crime_Lab/index.shtml.

158.3(4) On or after January 1, 2010, any IID installed in a vehicle in Iowa pursuant to this chapter, including a replacement for a device previously installed, shall utilize fuel cell technology. Any device installed prior to January 1, 2010, may continue to be used until the expiration of the order that resulted in its use or until it is replaced, whichever occurs earlier.

661—158.4(321J) Revocation of approval. The approval of an IID shall remain valid until either voluntarily surrendered by the manufacturer or until the approval of the IID has been revoked by the commissioner of public safety for cause. Reasons for revocation include but are not limited to the following.

158.4(1) Evidence of repeated IID failures due to defects in design, materials, or workmanship during manufacture, installation, monitoring, or calibration of the IID such that the accuracy of the IID or the reliability of the IID as approved is not being met as determined by the laboratory.

158.4(2) A pattern of evidence that the mandatory operational features of the IID as described in rule 661—158.6(321J) are not functioning properly.

158.4(3) A pattern of evidence indicating that the IID may be easily tampered with or bypassed.

158.4(4) Any violation on the part of the manufacturer of the IID of any laws or regulations related to the installation, servicing, monitoring, and calibration of IIDs, or failure of a manufacturer to address repeated violations by an ASP.

158.4(5) Cancellation of the manufacturer's required liability insurance coverage.

158.4(6) Cessation of business operations by the manufacturer.

158.4(7) Failure to notify the laboratory in writing of any material modifications or alterations to the components or the design of the approved IID.

158.4(8) Evidence that any of the following is being or has been performed by the manufacturer or ASP(s) or its owners, employees, or agents:

a. Any act of theft or fraud including, but not limited to, violation of Iowa Code chapter 714, or any act of deception or material omission of fact related to the distribution, installation, or operation of any IID subject to this chapter.

b. Any violation of Iowa Code chapter 321J that relates directly to the operation of the business of the manufacturer or the ASP or the integrity thereof.

c. Any violation of this chapter or 661—Chapter 157.

d. Any act of moral turpitude. For purposes of this rule, "moral turpitude" is an act of baseness, vileness, or depravity or conduct which is contrary to justice, honesty, or good morals.

158.4(9) A revocation shall be effective 30 days from the date of the letter sent to the manufacturer via certified mail, return receipt requested, unless otherwise specified by the commissioner. A copy of each notice of revocation shall be provided to the director of the Iowa department of transportation.

158.4(10) Upon voluntary surrender or revocation, all IIDs subject to the surrender or revocation shall be removed and replaced by an approved IID within 60 days of the effective date of such surrender or revocation. The manufacturer or the ASP must notify all affected lessees of the surrender or revocation and the requirement that a new IID must be installed by an existing ASP within the time frame specified in this subrule.

158.4(11) A revocation of a previously approved IID may be appealed to the department of public safety by the filing of an appeal in accordance with the procedures specified in rule 661—10.101(17A) within ten days of the issuance of the notice of revocation.

661—158.5(321J) Modifications to an approved IID. The manufacturer shall inform the laboratory in writing of any modifications that will affect the accuracy, reliability, ease of use, or general function of the approved IID. The notification shall include, but not be limited to, a listing of those modifications that were made, those components that were redesigned or replaced, and any additional alterations. Each of

PUBLIC SAFETY DEPARTMENT[661](cont'd)

these changes should also include a narrative explaining how the modifications or alterations will affect the accuracy, reliability, ease of use, or general function of the IID. The laboratory reserves the right to test the IID to determine if the IID meets or exceeds the requirements established in this chapter.

661—158.6(321J) Mandatory operational features. In addition to any requirements established elsewhere in this chapter, an approved IID shall comply with the following.

158.6(1) The IID shall be designed and constructed to measure a person's breath alcohol concentration by utilizing a sample of the person's breath delivered directly into the IID.

158.6(2) The IID shall be designed and constructed so that the ignition system of the vehicle in which it is installed will not be activated if the breath alcohol concentration of the person using the IID exceeds 0.025 BrAC.

158.6(3) The IID shall prevent engine ignition if the IID has not been calibrated within 67 days subsequent to the last calibration, unless the IID utilizes fuel cell technology, in which case the IID shall prevent engine ignition if the IID has not been calibrated within 97 days subsequent to the last calibration. Calibration may be required more frequently at the discretion of the manufacturer or the ASP.

EXCEPTION: The laboratory administrator may approve a device using fuel cell technology to be recalibrated within 187 days of the previous calibration provided that the device passes specific precision and functionality testing approved by the laboratory administrator and carried out by the laboratory or an independent laboratory acceptable to the laboratory administrator.

158.6(4) The IID shall record every instance when the vehicle is started, the results of the breath sample test, how long the vehicle was operated, and any indications that the IID may have been tampered with or bypassed.

158.6(5) The IID shall require the operator to submit to a random retest within 10 minutes of starting the vehicle. Two additional random retests shall occur within 60 minutes of starting the vehicle, and one random retest shall occur every 60 minutes thereafter. Random retests may be achieved during operation of the vehicle. The IID shall enter a lockout condition within five days if a random retest is not performed or if the result of a random retest exceeds the maximum allowable alcohol concentration of 0.025 BrAC.

158.6(6) The IID shall permit a sample-free restart for a maximum period of two minutes unless the IID has initiated a random retest, in which case the operator must successfully perform a breath sample test before the vehicle may be restarted.

158.6(7) The IID shall automatically and completely purge residual alcohol before allowing subsequent tests.

158.6(8) The IID shall be installed in such a manner that it will not interfere with the normal operation of the vehicle after the vehicle has been started.

158.6(9) The IID shall be equipped with a method of immediately notifying peace officers if the retest required by subrule 158.6(5) is not performed or if the result of a random retest exceeds the alcohol concentration of 0.025 BrAC. Examples of acceptable forms of notification are repeated honking of the vehicle's horn and repeated flashing of the vehicle's headlights. Such notification may be disabled only by switching the engine off or by achievement of a retest at a level below 0.025 BrAC.

158.6(10) Each IID shall be uniquely identified by a serial number. Along with any other information required by the DOT or by an originating court, all reports to the DOT or to an originating court concerning a particular IID shall include the name, address, and driver's license number of the lessee and the unique serial number of the IID. The name, address, telephone number, and contact person of the manufacturer or the ASP furnishing the report shall also be included as part of the report.

661—158.7(321J) IID security. The manufacturer and its ASPs shall take all reasonable steps necessary to prevent tampering with or physical circumvention of the IID. These steps shall include the following.

158.7(1) ASP shall use special locks, seals, installation procedures, or design characteristics that prevent or record evidence of tampering or circumvention attempts.

158.7(2) The manufacturer or the ASP shall affix a label to the IID indicating that attempts to tamper with or circumvent the IID may subject a person to criminal prosecution or administrative sanctions.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

158.7(3) No owner or employee of a manufacturer or an ASP may authorize or assist with the disconnection of an IID or enable the use of any emergency bypass mechanism or any other bypass procedure that allows a person restricted to the use of a vehicle equipped with a functioning IID to start or operate a vehicle without providing all required breath samples. Authorizing or assisting with the disconnection of an IID may subject the owner or employee of a manufacturer or an ASP to criminal prosecution or administrative sanctions.

661—158.8(321J) IID maintenance and reports.

158.8(1) An IID utilized in accordance with the provisions of this chapter shall have the calibration checked and shall be recalibrated at least once every 60 days using either a wet bath simulator or dry gas standard. Calibration shall be completed by the manufacturer or the ASP. In lieu of calibration of an installed IID, an installed IID may be exchanged for another calibrated IID. However, an IID that employs fuel cell technology installed pursuant to this chapter may be used for up to 90 days from the date of the previous calibration. The laboratory administrator may approve a device that employs fuel cell technology to be used for up to 180 days from the date of the previous calibration, provided that the device passes specific precision and functionality testing approved by the laboratory administrator and carried out by the laboratory or an independent laboratory acceptable to the laboratory administrator. An IID shall automatically enter a lockout condition if the IID has not been calibrated within 7 days after the deadlines established in this subrule.

158.8(2) The calibration record for the IID currently installed in a vehicle pursuant to Iowa Code section 321J.4 and this chapter and for any other IID installed in the same vehicle shall be maintained by the manufacturer or the ASP. The record shall include the following:

- a. Name of the person performing the calibration;
- b. Date;
- c. Value and type of standard used;
- d. Batch or lot number of standard;
- e. Unit type and identification number of the IID; and
- f. Description of the vehicle in which the IID is installed, including:
 - (1) Registration plate number and state;
 - (2) Make;
 - (3) Model;
 - (4) Vehicle identification number;
 - (5) Year; and
 - (6) Color.

158.8(3) The IID must be calibrated for accuracy according to the manufacturer's procedures. All data contained in the IID's memory must be downloaded, and the manufacturer or the ASP shall make a hard copy or the electronic equivalent of a hard copy of client data and results of each examination.

158.8(4) All information obtained as a result of each inspection shall be retained by the manufacturer or the ASP for two years from the date the IID is removed from the vehicle.

158.8(5) The manufacturer or the ASP shall inform the DOT and the county attorney of the county of residence of the lessee of either of the following:

- a. Evidence of tampering with or attempting to bypass an IID; or
- b. A random retest resulting in a lockout condition.

158.8(6) The manufacturer or the ASP must provide, upon request, additional reports in a format acceptable to, and at no cost to, the DOT and the DCI.

661—158.9(321J) Other provisions. In addition to any other applicable provisions of this chapter, each manufacturer of an approved IID, either on its own or through its ASPs, shall comply with the following provisions.

158.9(1) Each manufacturer and ASP of IIDs approved for use in Iowa pursuant to this chapter shall maintain general liability insurance coverage that is effective in Iowa and that has been issued by an insurance carrier authorized to operate in Iowa by the Iowa division of insurance in an amount of not

PUBLIC SAFETY DEPARTMENT[661](cont'd)

less than \$1 million per occurrence and \$3 million in the aggregate. Each manufacturer and ASP shall furnish the DCI with proof of this insurance coverage in the form of a certificate of insurance from the insurance company issuing the policy. All insurance policies required by this subrule shall carry an endorsement requiring that the DCI be provided with written notice of cancellation of insurance coverage required by this subrule at least ten days prior to the effective date of cancellation.

158.9(2) Each manufacturer and ASP of IIDs approved for use in Iowa shall maintain an E-mail address and a telephone number that are available 24 hours a day, 365 days a year, for lessees to contact the manufacturer or the ASP if lessees have problems with the IID leased from the manufacturer or the ASP.

158.9(3) Each manufacturer and ASP of IIDs approved for use in Iowa shall provide the lessee with instructions on how to properly use the IID. The instructions shall include recommending a 15-minute waiting period between the last drink of an alcoholic beverage and the time of breath sample delivery into the IID.

158.9(4) An IID utilized under these rules shall be installed and removed by the manufacturer or the ASP in conformance with the prescribed procedures of the manufacturer.

158.9(5) The department of public safety reserves the right to inspect any IID, manufacturer, or ASP at any time at the department's discretion. All records of IIDs installed, results of calibrations, violations, data logs, and results of known alcohol standards shall be made available for inspection upon request to any representatives of the department of public safety, the department of transportation, or any peace officer.

These rules are intended to implement Iowa Code chapter 321J.

ARC 7563B

PUBLIC SAFETY DEPARTMENT[661]

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 99F.4, the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 141, "Closed Circuit Surveillance Systems," Iowa Administrative Code.

Iowa Code section 99F.4, subsection 18, and administrative rules of the Iowa Racing and Gaming Commission authorize the Department of Public Safety to adopt administrative rules establishing requirements for video surveillance systems in gaming establishments licensed by the Commission. These rules have been in effect for nearly two decades and have been updated from time to time to reflect changing requirements and technological advances. During 2008, changes that were proposed and adopted became controversial, and the implementation of those changes was delayed by action of the Administrative Rules Review Committee. After further consultation with representatives of the gaming industry, the Iowa Racing and Gaming Commission, and legal counsel, it was determined that further changes in the rules regarding video surveillance were needed. The amendments proposed here are intended to make these rules more consistent with rules of the Iowa Racing and Gaming Commission and more consistent with the statutory authority afforded the Department of Public Safety in Iowa Code section 99F.4.

Any person may submit comments regarding these proposed amendments by mail to the Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319; fax to (515)725-6195; or E-mail to admrule@dps.state.ia.us. Comments should be submitted by 4:30 p.m. on March 10, 2009.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

A public hearing on these proposed amendments will be held at the State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa, in the First Floor Public Conference Room on March 10, 2009, at 8 a.m. The hearing room is fully accessible.

These rules are subject to the general waiver provisions for administrative rules of the Department of Public Safety, which are found in 661—Chapter 10.

These amendments are intended to implement Iowa Code section 99F.4.

The following amendments are proposed.

ITEM 1. Rescind the definition of “Casino” in rule **661—141.1(99F)**.

ITEM 2. Rescind the definition of “Casino surveillance” in rule **661—141.1(99F)** and adopt the following **new** definition in lieu thereof:

“*Casino surveillance*” means the observation of gambling activities in a gaming facility licensed by the commission. The purpose of a surveillance system is to safeguard the licensee’s assets, to protect both the public and the licensee’s employees, and to promote public confidence that licensed gambling activities are conducted honestly and free of criminal elements and activities. It is the responsibility of the licensee to ensure that casino surveillance is used to accomplish the stated purpose and is not used in an improper manner which would bring discredit to the industry.

ITEM 3. Rescind the definition of “Closed network” or “closed circuit” in rule **661—141.1(99F)** and adopt the following **new** definition in lieu thereof:

“*Closed network*” or “*closed circuit*” means all digital recording equipment and all other associated surveillance equipment which shall be designed, configured, and maintained on a separate and exclusive network system located on the same premises as the casino, or on property adjacent to the casino which has been approved by the DCI for the location of surveillance equipment pursuant to subrule 141.10(1). This closed network system shall not be touched by, connected to, or partitioned from any other network, unless approval has been received from the assistant director for gaming operations of the DCI. Approval or disapproval of such a request by the assistant director is subject to review by the director of the DCI or the commissioner of public safety.

ITEM 4. Adopt the following **new** definition in rule **661—141.1(99F)**:

“*Gambling activities*” means participating in or wagering on gambling games on the gaming floor; the movement, storage, and handling of uncounted gambling revenues; the manual exchange of moneys for forms of wagering credit on the gaming floor; public entrance into and egress from the gaming floor, except that egress through emergency exits that are actively alarmed is not included; and any other activities so defined by the commission.

ITEM 5. Rescind and reserve rule **661—141.2(99F)**.

ITEM 6. Rescind and reserve rule **661—141.3(99F)**.

ITEM 7. Rescind paragraph **141.5(9)“d”** and adopt the following **new** paragraph in lieu thereof:

d. If the licensee chooses to use a network for the digital recording equipment, it must be a closed network with limited access located on the same premises as the casino or, with the approval of the DCI, on a property adjacent to the casino. Nothing in this paragraph shall be interpreted to prevent the commission from utilizing or transmitting for regulatory purposes images recorded by a video surveillance system.

ITEM 8. Rescind and reserve subrule **141.6(9)**.

ITEM 9. Rescind rule 661—141.10(99F) and adopt the following **new** rule in lieu thereof:

661—141.10(99F) Surveillance room. There shall be provided in each gambling facility or gambling structure a room specifically utilized to monitor and record gambling activities. This room shall have a trained surveillance person present at all times during casino operation hours. In addition, an excursion gambling boat, racetrack enclosure, or gambling structure may have satellite monitoring equipment. The following are requirements for the operation of equipment in the surveillance room and of satellite monitoring equipment:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

141.10(1) *Surveillance equipment location.* All equipment that may be utilized to monitor or record views obtained by a casino surveillance system must remain in a room located on the same premises as the casino or, with the approval of the DCI, on property adjacent to the casino. The room must be used exclusively for casino surveillance security purposes. The satellite monitoring equipment must be capable of being disabled from the casino surveillance room when not in use. The entrance to the casino surveillance room must be locked or secured at all times.

141.10(2) *Override capability.* Casino surveillance equipment must have total override capability over any other satellite monitoring equipment in other casino offices, with the exception of the DCI rooms.

141.10(3) *Access.* DCI and commission employees shall at all times be provided immediate access to the casino surveillance room and satellite monitoring equipment. Also, all DCI and commission employees shall have access to all records and areas of such rooms.

141.10(4) *Surveillance logs.* Entries in the log shall be required when specific surveillance is requested by the DCI or the commission, or whenever any activity that appears unusual, irregular, illegal or in violation of commission rules is observed. Also, all communications received or sent from the surveillance room in regard to surveillance activities or casino operations shall be logged.

141.10(5) *Blueprints.* A copy of the configuration of the casino floor shall be posted and updated immediately upon any approved change. The location of any change and the location of surveillance cameras, gaming tables and slot machines by assigned numbers shall also be included. Copies of the blueprints shall be made available immediately to the DCI and commission.

141.10(6) *Storage and retrieval.* Surveillance personnel shall label and file all recordings. The date and time of the recording shall be recorded. Recordings of admission entrances, exits, and casino cashier cages where check-cashing activities occur shall be retained for 21 days unless a longer period is required by the DCI, the commission, or court order. All other recordings shall be retained for at least 7 days after recording unless a longer period is required by the DCI, the commission, or court order. Original audio, video, and digital recordings shall be released to the DCI or commission upon demand.

141.10(7) *Malfunctions.* Each malfunction of surveillance equipment must be repaired within 24 hours of the malfunction. If, after 24 hours, activity in the affected area cannot be monitored, the game or machine shall be closed until such coverage can be provided. A record of all malfunctions shall be kept and reported to the DCI each day. In the event of a dedicated coverage malfunction, the licensee must immediately provide alternative camera coverage or other security measures that will protect the subject activity. If other security measures are taken, the licensee must immediately notify the DCI. The DCI, in its discretion, will determine whether the other security measures are adequate.

141.10(8) *Security.* Entry to the surveillance room and access to satellite monitoring equipment shall be limited to persons approved by the DCI or the commission. A log of personnel entering and exiting the surveillance room and accessing satellite monitoring equipment shall be maintained and submitted to the DCI or the commission upon request.

141.10(9) *Playback station.* Within the DCI room, there shall be an area that includes, but is not limited to, a monitor and a recorder with the capability of producing first-generation copies.

141.10(10) *Additional requirements.*

a. Audio and video or digital monitoring and recording shall be continuous in the detention areas when someone is being detained. These recordings must be retained for 30 days after the recorded event, unless directed otherwise by the administrator, DCI or court order.

b. The commission, its employees, and DCI agents shall, at all times, be provided immediate access to the surveillance room and all areas of the casino.

141.10(11) *Written plans and alterations.*

a. Every operator or applicant for licensing shall submit to the commission for approval by the administrator and to the DCI for approval a written casino surveillance system plan no later than 60 days prior to the start of gaming operations.

b. A written casino surveillance system plan must include a casino floor plan that shows the placement of the surveillance room and all casino surveillance equipment in relation to the locations required to be covered and a detailed description of the casino surveillance system and its equipment.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

In addition, the plan may include other information that evidences compliance with these rules by the licensee, operator or applicant.

c. The operator may change the location of the surveillance room, table games, slot machines, and other gaming devices. The surveillance system must also be adjusted, if necessary, to provide the coverage required by these rules. A DCI agent must approve the change in the surveillance system before the relocated surveillance room, table games, slot machines, or other gaming devices may be placed into operation.

EXCEPTION: A commission representative may allow a gambling game to be placed in operation pending approval by a DCI agent.

ARC 7554B

RACING AND GAMING COMMISSION[491]

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 99D.7 and 99F.4, the Iowa Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 9, "Harness Racing," Chapter 10, "Thoroughbred and Quarter Horse Racing," and Chapter 11, "Gambling Games," Iowa Administrative Code.

Items 1 through 6 implement changes to conform the rules to industry standards.

Items 7 and 8 clarify existing rules.

Any person may make written suggestions or comments on the proposed amendments on or before March 3, 2009. Written material should be directed to the Racing and Gaming Commission, 717 E. Court, Suite B, Des Moines, Iowa 50309. Persons who wish to convey their views orally should contact the Commission office at (515)281-7352.

Also, there will be a public hearing on March 3, 2009, at 9 a.m. in the office of the Racing and Gaming Commission, 717 E. Court, Suite B, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

These amendments are intended to implement Iowa Code chapters 99D and 99F.

The following amendments are proposed.

ITEM 1. Amend subparagraph **9.7(1)"d"(3)** as follows:

(3) No veterinarian or any other person shall have in their possession or administer to any horse within any racetrack enclosure any chemical or biological substance which:

1. and 2. No change.

ITEM 2. Rescind and reserve paragraph **10.5(2)"d."**

ITEM 3. Amend paragraph **10.5(4)"b"** as follows:

b. Prohibited areas. A jockey agent is prohibited from entering the jockey room, winner's circle, racing strip, paddock, or saddling enclosure during the hours of racing, ~~unless permitted by the stewards.~~

ITEM 4. Amend paragraph **10.6(2)"l"** as follows:

l. *Naming/engaging of riders.* Riders must be named at the time of entry. Before naming any rider, the trainer, owner, or other person authorized must first engage the services of the rider and state on the entry or to the person taking the entry whether it is a first or second call, excluding trial races. Riders properly engaged must fulfill their engagements as required in 10.5(2) "l."

RACING AND GAMING COMMISSION[491](cont'd)

ITEM 5. Adopt the following new paragraph **10.6(2)“m”**:

m. More than one race. No horse may be entered in more than one race, with the exception of stakes races, to be run on the same day on which pari-mutuel wagering is conducted.

ITEM 6. Amend subparagraph **10.7(1)“d”(3)** as follows:

(3) No veterinarian or any other person shall have in their possession or administer to any horse within any racetrack enclosure any chemical or biological substance which:

1. and 2. No change.

ITEM 7. Amend rule **491—11.1(99F)**, definition of “Distributor’s license,” as follows:

“*Distributor’s license*” means a license issued by the administrator to any entity that sells, leases, or otherwise distributes gambling games or implements of gambling to any entity licensed to conduct gambling games pursuant to Iowa Code chapter 99F.

ITEM 8. Amend paragraph **11.12(8)“a”** as follows:

a. The method of communication over the multilink must consist of dedicated on-line communication lines (direct connect) or equivalent as determined by the administrator, dial-tone lines, or wireless communication which may be subject to certain restrictions imposed by the administrator.

ARC 7556B**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 206.5(2) and 206.6(5) as amended by 2008 Iowa Acts, House File 2551, the Department of Agriculture and Land Stewardship amends Chapter 45, "Pesticides," Iowa Administrative Code.

The amendments outline the requirements for the supervision of aerial pesticide applicators, the qualifications and duties of the aerial applicator consultant, and the procedures for aerial application. The amendments also outline the license, certification, and continuing instruction requirements for aerial applicators operating in Iowa.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 19, 2008, as **ARC 7339B**. After the Notice was published and comments were received, the Department revised the definition of "resident of Iowa" by eliminating the voter registration requirement and by modifying the place of business requirement to be physical, not principal. The Department changed the term used to describe the person responsible for coordinating pesticide applications from "aerial applicator supervisor" to "aerial applicator consultant." The requirements for listing the GPS coordinates on field maps were changed to permit other descriptions of field locations.

The Department adopted the amendments on January 21, 2009.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and the amendments should be made effective on February 1, 2009, so as to provide clarification, guidance and appropriate training for applicators who must comply with the provisions.

No waiver provision is included in these amendments; however, the Department's general waiver rule applies.

These amendments are intended to implement Iowa Code chapter 206 as amended by 2008 Iowa Acts, House File 2551.

These amendments became effective on February 1, 2009.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions in subrule **45.1(1)**:

"Aerial applicator" means a licensed commercial applicator, certified in category #11, Aerial Application, who applies pesticides by using aircraft in compliance with Federal Aviation Administration regulations under Title 14 CFR Part 137 (1-1-08 Edition).

"Aerial applicator consultant" means a person who is a resident of Iowa and holds a valid applicator certification in category #11, Aerial Application, and either an Iowa commercial applicator license or pesticide dealer license, who coordinates the commercial application of pesticides by aerial applicators.

"Resident of Iowa," for purposes of subrule 45.22(17), means a person who meets the following qualifications:

1. The person is an owner or employee of a corporation, association, partnership, company, or firm that maintains a physical place of business located within Iowa.
2. Agricultural aircraft owned and operated by the person are registered with the Iowa department of transportation.

ITEM 2. Adopt the following **new** implementation sentence in rule **21—45.1(206)**:

This rule is intended to implement Iowa Code section 206.5 and section 206.6 as amended by 2008 Iowa Acts, House File 2551.

ITEM 3. Adopt the following **new** subrule 45.22(17):

45.22(17) Requirements for commercial aerial applicator and aerial applicator consultant.

a. *Commercial aerial applicator license.* The licensed aerial applicator applying pesticides to agricultural land shall operate in Iowa in consultation with an aerial applicator consultant. The application form for a commercial aerial applicator license shall be provided by the pesticide bureau.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

The completed application form, together with supporting documentation, will verify compliance with Iowa Code chapter 206 and the rules of this chapter. An aerial applicator license may be issued when the applicant has provided the name and license number of the aerial applicator consultant and other required information on the application form, passed the required certification examinations, and paid the commercial applicator license and certification fees in compliance with Iowa Code sections 206.5 and 206.6.

b. Aerial applicator consultant duties. An aerial applicator consultant shall:

(1) Complete requirements for a category #11 aerial applicator certification and either a commercial pesticide applicator license or pesticide dealer license.

(2) Register with the pesticide bureau on forms provided by the pesticide bureau.

(3) Meet with each aerial applicator under the consultant's consultation prior to application of pesticides and verify compliance with Iowa's pesticide rules, the requirements of the Federal Aviation Administration, and the requirements of the Iowa department of transportation using a checklist provided by the pesticide bureau. A copy of the completed checklist shall be maintained on file for three years with the aerial applicator consultant.

(4) Provide detailed aerial maps for the intended application location which clearly depict field boundaries, roads, dwellings, adjacent fields, water bodies, and other pertinent information, as well as county, township and section and latitude/longitude if available.

(5) Maintain daily communication with the aerial applicator when pesticide applications are performed with a minimum of one meeting in person each day to emphasize safe pesticide application and handling procedures.

(6) Maintain daily oversight of pesticide handlers who supply or mix pesticides for the aerial applicator under the consultant's consultation to ensure required personal protection equipment is utilized.

(7) Provide information to the aerial applicator regarding sensitive areas listed on the department's sensitive crop registry and arrange for proper protection of registered apiaries. The aerial applicator consultant shall identify nearby sensitive areas including the location of endangered species as identified by the U.S. Environmental Protection Agency (EPA) and listed on the pesticide bureau's Web site, water bodies in or adjoining the field of application, roads adjoining the field of application, and places adjoining the field of application which may be occupied by people, including farmworkers.

(8) Provide instructions for proper emergency response procedures for the aerial applicator and pesticide handlers in the case of a pesticide spill or accident. Require that while in the air all pilots have an electronic communication device capable of communicating with a consultant.

(9) Provide information immediately upon request to regulatory officials regarding the identification of a pesticide applied to an area of concern and the name and license number of the applicator working under the consultant's consultation.

(10) Notify the aerial applicator in person and in writing upon termination of consultation services. The aerial applicator shall notify the pesticide bureau when the aerial applicator begins working with a new aerial applicator consultant.

c. Procedures for aerial application. The aerial applicator consultant shall provide the licensed aerial applicator the following:

(1) Name and telephone number where the consultant may be reached during hours of operation.

(2) Name and address or location of the property where the pesticide will be applied including detailed maps of fields which clearly depict the field boundaries, roads, dwellings, adjacent fields, water bodies, and other pertinent information, as well as county, township and section and latitude/longitude if available.

(3) Name of the pesticide(s) to be applied and copies of each label along with instructions necessary to comply with Iowa's pesticide rules. The aerial applicator consultant shall verify that the aerial applicator has read and understands the label instructions.

(4) Maps of the intended location for each pesticide application reviewed and approved by the aerial applicator consultant. The aerial applicator consultant shall provide information to the aerial applicator

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

regarding sensitive areas listed on the department's sensitive crop registry and shall arrange for proper safety precautions to protect registered apiaries.

(5) The identification of nearby sensitive areas including the location of endangered species as identified by EPA and listed on the pesticide bureau's Web site, water bodies in or adjoining the field of application, roads adjoining the field of application, and places adjoining the field of application which may be occupied by people, including farmworkers.

d. Responsibility. The aerial applicator is responsible for applying pesticides in compliance with label directions and Iowa's pesticide rules. The aerial applicator consultant supplying a pesticide for application by the aerial applicator is responsible for handling and mixing the pesticides according to label directions and Iowa's pesticide rules.

e. Aerial applicator certification and continuing instruction. An aerial applicator and aerial applicator consultant shall pass an examination for initial certification. An aerial applicator from a state with an approved reciprocal certification agreement will be eligible for reciprocal certification. Each certified aerial applicator and aerial applicator consultant shall participate in a program of continuing instruction which shall consist of either an examination or educational program approved by the department. The continuing instruction program shall include information regarding the safe application and handling of pesticides and responsible operation of aircraft spray equipment.

ITEM 4. Amend rule ~~21—45.22(206)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 206.2, 206.4, 206.5, 206.7, and 206.31 and Iowa Code Supplement section 206.5 and Iowa Code section 206.6 as amended by 2008 Iowa Acts, House File 2551.

[Filed Emergency After Notice 1/21/09, effective 2/1/09]

[Published 2/11/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/11/09.

ARC 7572B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 206.19, the Iowa Department of Agriculture and Land Stewardship hereby amends Chapter 45, "Pesticides," Iowa Administrative Code.

This rule making rewrites the existing rule related to the application of pesticides near bees. Commercial pesticide applicators spraying within one mile of a registered apiary shall not spray between 8 a.m. and 6 p.m. Commercial pesticide applicators will need to keep records of the time pesticide application began and ended.

Notice of Intended Action was published in the December 17, 2008, Iowa Administrative Bulletin as **ARC 7432B**. A public hearing was held on January 7, 2009. A full spectrum of comments was received. Applicators objected to restrictions on spraying, and beekeepers wanted additional restrictions. No changes from the Notice have been made.

The Department adopted these amendments on January 22, 2009.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and the amendments should be made effective on January 22, 2009, so as to provide clarification, guidance or appropriate training to applicators and beekeepers who must comply with the provisions.

No waiver provision is included in these amendments. However, the Department's general waiver provisions, found at 21—Chapter 8, apply.

These amendments are intended to implement Iowa Code sections 206.6 and 206.19.

These amendments became effective January 22, 2009.

The following amendments are adopted.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

ITEM 1. Adopt the following **new** paragraph **45.26(3)“i”**:

i. Time pesticide application begins and ends.

ITEM 2. Rescind rule 21—45.31(206) and adopt the following **new** rule in lieu thereof:

21—45.31(206) Application of pesticides toxic to bees.

45.31(1) Owners of apiaries, in order to protect their bees from pesticide applications, shall register the location of their apiaries with the state apiarist. Registration shall be on forms provided by the department. The registration expires December 31 each year and may be renewed the following year.

45.31(2) Between 8 a.m. and 6 p.m., a commercial applicator shall not apply to blooming crops pesticides labeled as toxic to bees when the commercial applicator is located within one mile of a registered apiary. A commercial applicator shall be responsible for maintaining the one-mile distance from apiaries that are registered and listed on the sensitive crop registry on the first day of each month.

This rule is intended to implement Iowa Code sections 206.6(5)“a”(3) and 206.19(2).

[Filed Emergency After Notice 1/22/09, effective 1/22/09]

[Published 2/11/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/11/09.

ARC 7544B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 76, “Application and Investigation,” and adopts new Chapter 87, “State-Funded Family Planning Program,” Iowa Administrative Code.

These amendments implement a new state-funded family planning program for women whose income does not exceed 200 percent of the federal poverty level but who are not eligible for coverage under the Iowa Family Planning Network. The program will provide pregnancy prevention and related reproductive health services (not including abortion). Services under the program will be limited by the amount of available funding.

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

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on November 19, 2008, as **ARC 7367B**. The Department received four comments on the Notice of Intended Action. In response to these comments and to developments in the request-for-proposal process, the Department has made the following changes to the amendments as published under Notice of Intended Action:

- Struck the words “clinic or any delegate” from paragraph 76.1(2)“d” to conform to the definitions in Chapter 87.
- Changed the definition of “family planning agency” in rule 441—87.1(82GA,ch1187) and deleted the definition of “delegate agency.”
- Added new subparagraph 87.2(1)“f”(3) as another eligibility requirement for coverage under the Iowa Family Planning Network that does not apply to this group.
- Added rule 441—87.7(82GA,ch1187) to provide for the allocation of available funding among participating family planning agencies and renumbered subsequent rules accordingly.
- Added the words “or authorized by” to the first sentence in renumbered rule 441—87.8(82GA,ch1187) to reflect the fact that some covered services, such as sterilizations, may not be performed directly by the family planning agency, and deleted the second sentence to remove prior authorization requirements for these services.
- Added a subrule to renumbered rule 441—87.8(82GA,ch1187) to clarify that sterilization is a covered service, subject to the limitations in effect for the Medicaid program.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- Clarified in renumbered rule 441—87.9(82GA,ch1187) that only family planning agencies may receive payment through the program and added language in subrule 87.9(2) limiting the total amount of reimbursement for a particular service.

- Removed reference to the Department's contracted claims processor from renumbered rule 441—87.10(82GA,ch1187) since the Department received no bids on this contract, and added instructions for direct billing to the Department instead.

The Council on Human Services adopted these amendments on January 14, 2009.

The Department finds that these amendments confer a benefit on women seeking family planning benefits by providing state funding to a group that was previously ineligible for coverage. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement 2008 Iowa Acts, chapter 1187, section 29.

These amendments became effective on January 14, 2009.

The following amendments are adopted.

ITEM 1. Amend paragraph **76.1(2)“d”** as follows:

d. Women applying for medical assistance for family planning services under 441—subrule 75.1(41) or 441—Chapter 87 may also apply at any Iowa Title X family planning clinic or any delegate agency as defined in rule 441—173.1(234) that provided family planning services as of July 1, 2004, or later 441—87.1(82GA,ch1187).

ITEM 2. Adopt the following **new** 441—Chapter 87:

CHAPTER 87
STATE-FUNDED FAMILY PLANNING PROGRAM

PREAMBLE

This chapter defines and structures the state-funded family planning program administered by the department pursuant to 2008 Iowa Acts, chapter 1187. The purpose of this program is to provide family-planning-related services to women who are ineligible for medical assistance under 441—subrule 75.1(41). The department is not receiving federal financial participation for state expenditures under the state-funded family planning program. Therefore, this chapter shall remain in effect only as long as state funding is available.

441—87.1(82GA,ch1187) Definitions.

“*Applicant*” means a person who applies for medical assistance under the state-funded family planning program described in this chapter.

“*Department*” means the Iowa department of human services.

“*Family planning agency*” means any Iowa Title X family planning agency or any family planning agency that was under contract with the department for the social services block grant family planning program as of July 1, 2004.

“*Family planning services*” means pregnancy prevention and related reproductive health services. These services shall not include abortion services.

441—87.2(82GA,ch1187) Eligibility. Eligibility for the state-funded family planning program shall be determined according to the provisions of this rule.

87.2(1) Persons covered. Subject to funding as described in subrule 87.2(3), medical assistance for family planning services shall be available to a woman who:

- a.* Is seeking pregnancy prevention services;
- b.* Is capable of bearing children but is not pregnant;
- c.* Is a resident of Iowa as defined in rule 441—75.10(249A);
- d.* Has income that does not exceed 200 percent of the federal poverty level as determined according to 441—paragraph 75.1(41)“c”;

HUMAN SERVICES DEPARTMENT[441](cont'd)

e. Has been determined ineligible for medical assistance under 441—subrule 75.1(41) after having cooperated with the application process; and

f. Is eligible under 441—subrule 75.1(41) except for:

(1) Documentation of citizenship and identity pursuant to 441—paragraph 75.11(2) “*c*,” “*d*,” or “*e*”;

(2) Enrollment in credible health insurance coverage; or

(3) Age.

87.2(2) *Citizenship.* To be eligible for state-funded family planning assistance, a woman must declare that she meets the requirements in 441—paragraph 75.11(2) “*a*.” A woman who claims a qualified alien status shall provide documentation of this status.

87.2(3) *Funding contingency.* Initial and continuing eligibility for family planning services under this program is subject to the availability of funding appropriated for this purpose.

a. When appropriated funding is exhausted, ongoing eligibility shall be terminated and new applications shall be denied.

b. When appropriated funding becomes available, applications submitted thereafter will be considered on a first-come, first-served basis, based on the date of approval.

441—87.3(82GA,ch1187) Application. A woman who requests assistance for family planning services shall file an application for medical assistance as required in rule 441—76.1(249A). An application that is denied for medical assistance under 441—subrule 75.1(41) shall be considered an application for this coverage group.

87.3(1) *Place of filing.* An application may be filed at any family planning agency.

87.3(2) *Time limit for decision.* An application shall be investigated by the family planning agency with which the application was filed. A determination shall be made as defined in rule 441—76.3(249A).

87.3(3) *Notice of decision.* The applicant shall be notified in writing of the decision regarding the applicant’s eligibility for the state-funded family planning program.

441—87.4(82GA,ch1187) Effective date. Subject to the availability of funding appropriated for this purpose, assistance for family planning services under this program shall be effective on the first day of the month of application or the first day of the month in which all eligibility requirements are met, whichever is later. Assistance shall not be available under this program for any months preceding the month of application.

441—87.5(82GA,ch1187) Period of eligibility and reapplication. Eligibility for family planning services under this program shall be limited to a period of 12 months from the effective date of eligibility, or the duration of appropriated funding, whichever is less. A new application shall be required for benefits to continue beyond this date.

441—87.6(82GA,ch1187) Reporting changes.

87.6(1) *Required report.* A woman applying for or receiving family planning services under this program shall report to the family planning agency when she:

a. Has a change in health insurance coverage;

b. Is no longer a resident of Iowa;

c. Is no longer seeking services that prevent pregnancy; or

d. Is no longer capable of bearing children.

87.6(2) *Timeliness.* Reports shall be considered timely when received by the family planning agency within ten days from the date the change is known to the woman. When these changes are not timely reported, any program expenditures made in error shall be subject to recovery from the woman.

441—87.7(82GA,ch1187) Allocation of funds.

87.7(1) Family planning agencies that wish to participate in this program shall send a letter of application to the department’s bureau of health supports:

a. By January 15, 2009, for state fiscal year 2009; and

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. By June 1 of the preceding state fiscal year for subsequent fiscal years.

87.7(2) Family planning agencies participating in the state-funded family planning program shall receive no more than a proportionate share of the available funding during any state fiscal year, based on the number of applications filed at the agencies and approved pursuant to 441—subrule 75.1(41) during the preceding state fiscal year.

87.7(3) If a participating agency's allocation is not spent by June 1, the department shall reallocate unspent funds in proportion to the dollar amount of claims submitted under this program by that date in the state fiscal year.

441—87.8(82GA,ch1187) Availability of services. Family planning services are payable for a woman enrolled in this program only when care is received at or authorized by a family planning agency.

87.8(1) Sterilization is a covered service subject to the limitations in 441—paragraphs 78.1(16) “a” through “i.”

87.8(2) Covered services shall not include abortion services.

441—87.9(82GA,ch1187) Payment of covered services. Payment for family planning services covered under this chapter, including services authorized but not provided by a participating family planning agency, shall be made only to participating family planning agencies on a fee schedule determined by the department.

87.9(1) *Fee schedule.* The fee schedule shall include the amount of payment for each service and any limits on the service (e.g., a routine Pap smear is payable once annually).

87.9(2) *Third-party payments.* This program is the payer of last resort for services covered in this chapter. Any third-party payment received by the family planning agency or other provider of services plus any payments under this program cannot exceed the fee schedule allowance.

87.9(3) *Supplementation.* Payment made under this program shall be considered payment in full.

441—87.10(82GA,ch1187) Submission of claims. Family planning agencies that participate in the program shall submit claims to the department for services rendered no later than 45 days from the last day of the month in which services were provided.

87.10(1) Claims shall be submitted to the department's bureau of health supports on Form 470-4675, State Family Planning Program Claim.

87.10(2) Following a successful review of the claim, the department shall make payments to the family planning agency subject to the availability of funding and the allocation of available funds under rule 441—87.7(82GA,ch1187).

These rules are intended to implement 2008 Iowa Acts, chapter 1187, section 29.

[Filed Emergency After Notice 1/14/09, effective 1/14/09]

[Published 2/11/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/11/09.

ARC 7553B**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 159.5, 203.2 and 203C.5, the Department of Agriculture and Land Stewardship hereby amends Chapter 90, "State Licensed Warehouses and Warehouse Operators," and Chapter 91, "Licensed Grain Dealers," Iowa Administrative Code.

The amendments are intended to develop practices and procedures for the issuance and handling of paperless electronic warehouse receipts and credit-sale contracts, which are presently required to be in written form. The amendments also delete the provisions for posting of annual renewal fee receipts since the requisite information is now printed directly on the license certificates by the Department.

Notice of Intended Action was published in the November 19, 2008, Iowa Administrative Bulletin as **ARC 7338B**. No changes have been made since publication of the Notice.

The Department adopted these amendments on January 15, 2009.

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

These amendments are intended to implement Iowa Code chapters 203 and 203C and 2008 Iowa Acts, House File 2606.

These amendments will become effective March 18, 2009.

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 90, 91] is being omitted. These amendments are identical to those published under Notice as **ARC 7338B**, IAB 11/19/08.

[Filed 1/15/09, effective 3/18/09]

[Published 2/11/09]

[For replacement pages for IAC, see IAC Supplement 2/11/09.]

ARC 7557B**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby amends Chapter 68, "High Quality Job Creation (HQJC) Program," Chapter 174, "Wage, Benefit, and Investment Requirements," and Chapter 175, "Application Review and Approval Procedures," Iowa Administrative Code.

These amendments update the rules that govern requests for wage waivers under the HQJC program, the IVF (2005) funding source, and the CEBA program. The amendments allow an applicant, under certain limited conditions, to request that the Iowa Economic Development Board waive wage and nonstatutory CEBA program requirements for businesses that have sustained substantial physical damage as a result of a natural disaster in a presidentially declared disaster area. The amendments update the HQJC program rules by rescinding references to the Board's ability to waive other eligibility requirements because the statutory section that authorized the waiver of other eligibility requirements, Iowa Code section 15.337, has been repealed.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 5, 2008, as **ARC 7315B**. In addition, these amendments were simultaneously Adopted and Filed Emergency, effective October 16, 2008, as **ARC 7316B**.

The Department held a public hearing on Thursday, December 4, 2008, to receive comments on the amendments. There were no comments received. The final amendments are identical to those published under Notice and Adopted and Filed Emergency.

The Iowa Economic Development Board adopted these amendments on January 15, 2009.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

These amendments will become effective on March 18, 2009, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

These amendments are intended to implement Iowa Code chapters 15, 15E and 15G.

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 [68.2(6), 68.4(7)“a”(1), 174.4, 175.4] is being omitted. These amendments are identical to those published under Notice as **ARC 7315B** and Adopted and Filed Emergency as **ARC 7316B**, IAB 11/5/08.

[Filed 1/16/09, effective 3/18/09]

[Published 2/11/09]

[For replacement pages for IAC, see IAC Supplement 2/11/09.]

ARC 7561B**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby amends Chapter 71, “Targeted Jobs Withholding Tax Credit Program,” Iowa Administrative Code.

These amendments establish a limit on the total amount of withholding tax credits awarded based upon the total amount of land and site preparation costs and depreciable assets in the project; define matching funds to be provided by the business and the local community; and require all applications to be presented to the Iowa Economic Development Board for comment prior to the Department’s approval.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 8, 2008, as **ARC 7249B**.

A public hearing was held on October 29, 2008, to receive public comment on the proposed amendments. The Department received three comments that opposed limiting the total award amount of withholding tax credits based upon the total amount of depreciable assets in a project. As a result of these comments, the Department has further amended subrule 71.4(2) to establish a limit on the total amount of withholding tax credits awarded based upon the total amount of land and site preparation costs and depreciable assets in a project.

Additionally, the Department received nine comments that opposed requiring a pilot project city to provide local financial support for projects and that contended that the proposed amendment to subrule 71.4(7) would create unintended consequences based upon the original legislation and would cause undue hardship on pilot project cities. The Department contends the amendment requiring pilot project cities to provide local financial support to projects is appropriate. Historically, the Department has encouraged cities or counties to provide financial assistance to local projects. Hence, city or county support should apply to this program as well.

The Iowa Economic Development Board adopted these amendments on January 15, 2009.

These amendments will become effective on March 18, 2009.

These amendments are intended to implement Iowa Code section 403.19A.

The following amendments are adopted.

ITEM 1. Strike “81GA,HF2731” wherever it appears in **261—Chapter 71** and insert “403” in lieu thereof.

ITEM 2. Amend rule **261—71.1(403)**, definition of “Act,” as follows:

“Act” means ~~2006 Iowa Acts, House File 2731~~ Iowa Code section 403.19A.

ITEM 3. Amend subrule 71.4(2) as follows:

71.4(2) Entering into an agreement. A pilot project city may enter into a withholding agreement with a business locating to the community from another state that is creating or retaining targeted jobs

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

in an urban renewal area. The pilot project city may enter into a withholding agreement with a business currently located in Iowa only if the business is creating at least ten new jobs or making a qualifying investment of at least \$500,000 within the urban renewal area. The total award amount of withholding tax credits cannot exceed the total amount of land and site preparation costs and capital investment of depreciable assets in the project. A business shall not be obligated to enter into a withholding agreement with a pilot project city. A pilot project city shall not enter into a withholding agreement with a business after June 30, 2010.

ITEM 4. Amend subrule 71.4(7) as follows:

71.4(7) Local match requirement. A pilot project city entering into a withholding agreement shall arrange for a match of at least one dollar for each withholding dollar received by the city. The local match may come from the pilot project city, a private donor, or the employer or a combination of the three. Local matches may be in the form of cash or in-kind contributions to be used for the project. Additionally, the pilot project city is required to provide local financial support to the project in one of the two following forms or their equivalent values:

a. Tax abatement for the project, as provided under Iowa Code chapter 427B.

b. Local participation in the form of a cash grant or in-kind grant that is equal to the value of tax abatement under Iowa Code chapter 427B, under the established five-year sliding scale, or 10 percent of the total award amount of withholding tax credits, whichever is less.

ITEM 5. Amend paragraph **71.5(1)“b”** as follows:

b. Applications for project approval for the targeted jobs withholding tax credit program may be submitted at any time. The department will review applications for projects in as timely a manner as possible. All applications will be presented to the IDED board for comment prior to the department’s approval. A pilot project city will be notified in writing of the department’s decision regarding the project.

ITEM 6. Amend subrule 71.6(2) as follows:

71.6(2) Annual report. The department shall prepare an annual report for the governor, the general assembly, and the legislative services agency on the targeted jobs withholding tax credit program. This report shall be due on ~~July 31~~ January 31 of each year. The report shall include but not be limited to the following:

a. to d. No change.

ITEM 7. Amend **261—Chapter 71**, implementation sentence, as follows:

These rules are intended to implement ~~2006 Iowa Acts, House File 2731~~ Iowa Code section 403.19A.

[Filed 1/20/09, effective 3/18/09]

[Published 2/11/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/11/09.

ARC 7558B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts new Chapter 78, “Small Business Disaster Recovery Financial Assistance Program,” Iowa Administrative Code.

These rules implement a new program to provide financial assistance to businesses that sustained physical damage or economic loss due to the 2008 natural disasters. The rules establish eligibility requirements, describe the application process, and identify the types and amounts of assistance available.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 8, 2008, as **ARC 7236B**. The rules were also Adopted and Filed Emergency and published as **ARC 7235B** on the same date.

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A public hearing was held on October 28, 2008, to receive comments on the proposed rules. In response to public comments, the IDED Board filed Adopted and Filed Emergency amendments to the proposed rules. The rules herein incorporate the changes published in the October 22, 2008, Iowa Administrative Bulletin as **ARC 7273B**, including:

1. Adopting a definition of “business” to clarify that both for-profit and nonprofit businesses are eligible to apply for assistance and that a “business” includes a commercial landlord.
2. Adopting a definition of “eligible lender” to expand the list of allowable lenders to include a rural electric or telephone cooperative with an established Economic Development Administration (EDA)-based or U.S. Department of Agriculture (USDA)-based revolving loan fund program or intermediary relending program.
3. Increasing the maximum amount available to an eligible business from \$50,000 to \$55,000. Of this total amount, a maximum amount of \$5,000 is available for energy-efficient purchases and installation.
4. Clarifying that the amount eligible for reimbursement for energy-efficient purchases is the purchase price less any utility rebates received and that the allowable reimbursement amount includes installation costs.
5. Requiring that an eligible business must have executed loan documents from an eligible lender in order to qualify for assistance from this program.
6. Making minor technical corrections.

The Iowa Economic Development Board adopted these rules on January 15, 2009.

These rules will become effective on March 18, 2009, at which time the Adopted and Filed Emergency rules published as **ARC 7235B** on October 8, 2008, and as **ARC 7273B** on October 22, 2008, are hereby rescinded.

These rules are intended to implement Iowa Code section 15.109.

The following amendment is adopted.

Adopt the following **new** 261—Chapter 78:

CHAPTER 78

SMALL BUSINESS DISASTER RECOVERY FINANCIAL ASSISTANCE PROGRAM

261—78.1(15) Purpose. The purpose of the small business disaster recovery financial assistance program is to provide financial assistance to businesses that sustained physical damage or economic loss due to the 2008 natural disasters. Financial assistance in the form of working capital to help ensure businesses’ survival and capital for acquisition of energy-efficient equipment is available to businesses that suffered physical damage or economic loss due to the 2008 natural disasters.

261—78.2(15) Definitions.

“*Administrative entity*” means (1) selected cities that administer local disaster recovery programs, and (2) councils of government (COGs) established by Iowa Code chapter 28H.

“*Business*” means a corporation, a professional corporation, a limited liability company, a partnership, a sole proprietor or a nonprofit corporation. “Business” includes a commercial landlord.

“*Department*” or “*IDED*” means the Iowa department of economic development.

“*Eligible lender*” means any of the following entities that provide disaster recovery loans to businesses: the SBA; a financial institution; an economic development organization; a rural electric or telephone cooperative with an established Economic Development Administration (EDA)-based or U.S. Department of Agriculture (USDA)-based revolving loan fund program or intermediary relending program.

“*Financial institution*” means a state bank as defined in Iowa Code section 524.103, subsection 33; a state bank chartered under the laws of any other state; a national banking association; a trust company; a federally chartered savings and loan association; an out-of-state, state-chartered savings bank; a financial institution chartered by the federal home loan bank board; a non-Iowa chartered savings and loan association; an association incorporated or authorized to do business under Iowa Code chapter

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534; a production credit association; a credit union; or such other financial institution as defined by the department for purposes of this chapter.

“SBA” means the U.S. Small Business Administration.

261—78.3(15) Distribution of funds to administrative entities.

78.3(1) Allocation of funds. IDED will disburse funds in the form of a grant to administrative entities. The grant shall be used to provide financial assistance to eligible businesses in the form of forgivable loans and reimbursement for acquisition of energy-efficient equipment. Funds will be allocated to administrative entities on the basis of the percentage of SBA disaster loans awarded to businesses located within the city’s jurisdiction or the disaster recovery area as defined by IDED.

78.3(2) Application process. To apply for funding, an administrative entity shall submit a letter to IDED stating its interest in receiving an allocation from the small business disaster recovery financial assistance program. Letters shall be sent to: Business Finance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309.

78.3(3) Redistribution of unobligated funds. By April 30, 2009, if a local administrative entity has not obligated funds to eligible businesses for allowable activities, the department will reallocate funds to administrative entities that have demonstrated additional unmet need for financial assistance. Funds for this program shall be available through June 30, 2009.

261—78.4(15) Eligible business. An eligible business is one that meets the following requirements:

78.4(1) The business has sustained physical damage or economic loss due to the 2008 natural disasters, and

78.4(2) The business has executed loan documents for a disaster loan from an eligible lender.

261—78.5(15) Eligible program activities; maximum amount of assistance.

78.5(1) Program funds available for working capital. An eligible business may apply for funding for working capital to ensure the business’s survival. The maximum amount of program funds available for working capital to ensure the business’s survival is 25 percent of the business’s loan from an eligible lender up to a maximum of \$50,000.

78.5(2) Program funds available for energy-efficient purchases.

a. Up to \$5,000 additional assistance. Up to \$5,000 of additional assistance is available for energy-efficient purchases and installation. In addition to the assistance available under subrule 78.5(1), the amount of \$5,000 per eligible business is available to reimburse the business for the full cost of purchasing energy-efficient equipment including, but not limited to, furnaces and boilers, appliances, air conditioners, hot water heaters, windows, and insulation. The cost that is eligible for reimbursement is the amount of the purchase price and installation less any utility rebates received.

b. OEI standards. To receive reimbursement, the eligible business shall provide documentation to verify that the energy-efficient equipment meets the standards established by the Iowa office of energy independence (OEI).

78.5(3) Total program assistance capped at \$55,000. An eligible business shall not receive more than \$55,000, including the program funds available for energy-efficient purchases (maximum of \$5,000) through this small business disaster recovery financial assistance program.

261—78.6(15) Allowable types of assistance to eligible businesses. An administrative entity shall provide financial assistance from this program to eligible businesses in compliance with the terms and conditions described in this rule. An administrative entity may award funds in the form of a forgivable loan to businesses that have received a disaster loan from an eligible lender. A forgivable loan is a loan that will be forgiven if the business reopens within 12 months of the award date and, if applicable, upon receipt of documentation that the business has purchased and installed the energy-efficient equipment.

261—78.7(15) Program administration and reporting. Each local administrative entity shall enter into a contract with an eligible business to provide assistance under this program. The contract shall include terms and conditions that meet the requirements of these rules as well as provisions to require

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repayment if funds are not used in compliance with the program. Each local administrative entity shall provide oversight and contract administration to ensure that the recipients of program funds are meeting contract requirements. Each local administrative entity shall collect data and submit reports to IDED about the program in the form and content required by IDED.

These rules are intended to implement Iowa Code section 15.109.

[Filed 1/16/09, effective 3/18/09]

[Published 2/11/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/11/09.

ARC 7565B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 22, "Controlling Pollution," and Chapter 23, "Emission Standards for Contaminants," Iowa Administrative Code.

The primary purpose of the rule making is to adopt new federal regulations affecting stationary internal combustion engines, gasoline distribution facilities and surface coating operations and also to amend the state air construction permitting requirements to better accommodate the new federal regulations. The amendments adopt by reference additional, minor amendments to federal regulations.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 5, 2008, as **ARC 7306B**. A public hearing was held on December 8, 2008. The Department did not receive any oral or written comments at the public hearing. The Department received two sets of written comments before the public comment period closed on December 9, 2008.

The public comments submitted pertain to Item 1 and Item 7 and are described below for the respective items. Additionally, the submitted comments and the Department's response to those comments are summarized in more detail in a responsiveness summary available from the Department. The Department did not make any changes to the amendments that were published under Notice.

Over the last year, the U.S. Environmental Protection Agency (EPA) finalized several new air quality regulations under two programs authorized by the federal Clean Air Act (CAA), the New Source Performance Standards (NSPS) program and the National Emission Standards for Hazardous Air Pollutants (NESHAP) program. These programs require new and existing facilities in a particular industry sector that construct and operate specific equipment to meet uniform standards for air pollutant emissions. The NSPS program typically addresses "criteria pollutants," such as fine particulate, sulfur dioxide (SO₂), or nitrogen oxides (NO_x), whereas the NESHAP program addresses hazardous air pollutants (HAP), sometimes called air toxics. NSPS and NESHAP requirements vary depending on the processes, activities or equipment being regulated, and whether the equipment, processes, or activities are considered to be new or existing.

This rule making includes adoption of new federal NSPS and NESHAP requirements potentially impacting facilities or businesses that previously had few, if any, air quality requirements. Because of the potential impacts to small businesses and previously unregulated facilities, the Department is developing implementation strategies in conjunction with the rule making. The strategies include cooperative efforts with the University of Northern Iowa – Iowa Air Emissions Assistance Program (UNI), the Iowa Department of Economic Development (IDED), the Linn and Polk County local air quality programs, and other interested associations and organizations to provide outreach, education and compliance assistance to stakeholders.

The Department's outreach efforts began earlier this year, continued during the rule-making process, and will go on after the new rules are adopted. The implementation strategies will depend on the specific rule requirements and on stakeholder needs and will include informational meetings, workshops, training, fact sheets, guides, and Web-based compliance tools.

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It is hoped that this rule making, in conjunction with the Department's outreach efforts, will result in reductions in air toxic and other air pollutant emissions while minimizing the regulatory burden to small businesses and other affected facilities.

Item 1 amends paragraph 22.1(2)“r,” the construction permit exemption for internal combustion engines with a brake horsepower rating of less than 400. The Department is amending this exemption because of the new NSPS and NESHAP requirements for stationary internal combustion engines. At the time this exemption was first adopted in the mid-1990s, there were no federal air quality requirements applicable to these smaller engines. The new NSPS and NESHAP regulations for engines are rather complex and lengthy and require all sizes of new, modified and reconstructed stationary internal combustion engines to meet certain emissions requirements. To address federal changes, the Department is amending the construction permit exemption to require submittal of a registration certifying NSPS and NESHAP compliance prior to installation of the engine. The registration form will provide the owners and operators of affected facilities a series of questions to ensure that the engine they order and install complies with the NSPS and NESHAP, while still allowing the owner or operator to be exempt from the requirement to obtain a construction permit. The registration will also assist the Department air quality and field office staff in ensuring that affected facilities are in compliance.

The Department received written comments from John Deere Waterloo Works regarding this amendment. In summary, the commenter stated that requiring registration of these engines would not be a benefit to the regulated community and would not lead to better compliance with the NSPS or NESHAP requirements.

The Department disagrees with these comments. Although facilities such as John Deere may be well-versed in the NSPS and NESHAP requirements for engines and may easily be able to ensure purchase of manufacturer certified engines, this may not be the case with other facilities. Based on feedback received from stakeholders and the Department's small business assistance partners, the Department maintains that the registration forms will provide compliance assistance to many owners and operators of small engines, and that completion and submittal of the registration forms will result in better NSPS and NESHAP compliance.

Item 2 amends subrule 22.8(1), the permit by rule for spray booths (PBR). The Department is amending the PBR provisions to reflect new NESHAP requirements for surface coating operations. At the time the PBR was first adopted, small spray operations were not subject to any federal air quality regulations. Under new NESHAP requirements, the owner or operator of any size of facility that spray applies materials containing any of the “target HAP” specified under the NESHAP must comply with numerous requirements. Additionally, owners and operators that spray coat motor vehicles and mobile equipment and choose not to use materials containing the “target HAP” must still petition for an exemption from the NESHAP requirements.

Currently, owners and operators of facilities that spray apply three gallons or less of materials per day are eligible to use the PBR. The owners or operators of PBR-eligible facilities simply complete a notification letter certifying that they meet the PBR requirements. To accommodate the new federal requirements, the Department is amending the PBR requirements and the Department's accompanying form to require that an owner or operator certify that the facility is in compliance with or otherwise exempt from the NESHAP. The revised PBR form will provide owners and operators a series of questions that will assist them in complying with the NESHAP. Owners and operators of existing facilities that choose to continue using the target HAP will need to reapply for the PBR to certify compliance prior to the NESHAP compliance date. The amendment to subrule 22.8(1) will assist the Department air quality and field office staff in ensuring NESHAP compliance, while still allowing smaller spray operations to use a streamlined permit.

Item 3 amends the introductory paragraph of subrule 23.1(2), the provisions adopting by reference the federal New Source Performance Standards (NSPS) contained in 40 CFR Part 60. The specific NSPS requirements being adopted are described in Item 4. EPA also took final action regarding an existing NSPS for equipment leaks of volatile organic compounds (VOC) in the synthetic organic chemicals manufacturing industry (SOCMI) and at petroleum refineries. EPA extended the stay of certain compliance requirements in the federal regulations.

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Item 4 amends subrule 23.1(2) by adding new paragraph “zzz” to adopt the new NSPS for stationary spark ignition internal combustion engines (SI engines). SI engines are typically gasoline fueled, but also include engines with spark plugs that burn other fuels. SI engines are used at power plants, industrial sources and other facilities to generate electricity and to power pumps and compressors.

The new standards for SI engines will limit emissions of NO_x, carbon monoxide (CO) and volatile organic compounds (VOC). The standards apply to larger SI engines (500 horsepower or greater) manufactured or ordered after July 1, 2007, to smaller SI engines manufactured or ordered after July 1, 2008, and to any size of SI engine modified or reconstructed after June 12, 2006. The NSPS phases in more stringent emissions requirements for engines with later manufacture dates. This NSPS is similar to the NSPS for stationary compression ignition (CI) engines. CI engines are typically diesel fueled. The Department adopted the NSPS for CI engines in February 2007.

Item 5 amends subrule 23.1(4), the emission standards for hazardous air pollutants for source categories, also known as National Emission Standards for Hazardous Air Pollutants or NESHAP, to adopt recent amendments that EPA made to 40 CFR Part 63. The specific NESHAP requirements being newly adopted or amended are described in Items 6 and 7. EPA also issued final amendments to existing NESHAP as follows:

- EPA issued amendments to the NESHAP for dry cleaning facilities (Subpart M). These amendments add clarity to, and better explanations of, the types of equipment included in the standards, the testing and monitoring requirements, and the reporting and record-keeping requirements. The amendments also correct typographical errors.

- EPA issued amendments to the NESHAP for semiconductor manufacturing (Subpart BBBBB). The Department is not aware of any facilities in Iowa currently subject to this NESHAP. These amendments establish a new maximum achievable control technology floor level of control for existing and new combined process vent streams containing inorganic and organic HAP. The amendments also clarify the emission requirements for process vents by adding definitions for organic, inorganic, and combined process vent streams that contain both organic and inorganic HAP.

- EPA issued final amendments to the NESHAP for organic liquids distribution (non-gasoline) (Subpart EEEE). The amendments clarify, add flexibility to, and extend some of the compliance dates for storage tanks. The amendments also clarify the requirements for monitoring of storage tank pressure relief devices.

Item 6 amends paragraph 23.1(4)“cz,” the NESHAP for stationary reciprocating internal combustion engines (RICE) (Subpart ZZZZ). The amendments include standards to limit HAP from new and reconstructed engines located at area sources. The amendments also include standards to regulate HAP from smaller-size engines located at major sources.

Area sources are usually smaller commercial or industrial operations that typically release less HAP. Specifically, area sources have potential emissions less than 10 tpy (tons per year) of any single HAP and less than 25 tpy of any combination of HAP. Facilities that have potential HAP emissions greater than or equal to these levels are classified as major sources for HAP.

Generally, the RICE NESHAP requires new and reconstructed engines to meet the NSPS requirements for CI or SI engines. Existing engines located at area sources are not covered under these new regulations. However, EPA has published a notice in the Federal Register stating that EPA plans to issue standards in the future for existing engines located at area sources.

Item 7 amends subrule 23.1(4) by adopting new paragraphs “eb,” “ec,” and “eh.” This amendment adopts by reference three new NESHAP for new and existing area sources for the following source categories: (1) bulk gasoline facilities such as bulk plants, bulk terminals, and pipeline breakout stations (Subpart BBBBBB); (2) gasoline dispensing facilities (GDF) such as gas stations (Subpart CCCCCC); and (3) paint stripping and miscellaneous surface coating operations (Subpart HHHHHH).

The area source NESHAP for bulk gasoline distribution will reduce VOC and HAP from gasoline vapors, including benzene emissions. Bulk terminals and pipeline breakout stations typically have higher monthly gasoline throughputs, and the owners and operators are required to control emissions through submerged filling at tanks and loading racks and controls on gasoline storage tanks. Owners and operators of larger terminals must capture and control gasoline vapors at the loading rack. The

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Department has received initial notification from approximately 20 existing facilities that will be subject to the NESHAP. Existing facilities will need to comply with the NESHAP by January 2011.

Bulk gasoline plants have lower monthly gasoline throughputs than terminals or breakout stations. Owners and operators of bulk plants are required to control gasoline vapors by using submerged filling at tanks and loading racks. The Department estimates that there may be 100 to 200 bulk plants affected by the NESHAP. However, owners and operators of bulk plants are already required to use submerged filling at tanks under existing state rules for underground storage tanks (UST) and for flammable liquids. The Department is working with the Petroleum Marketers and Convenience Stores of Iowa (PMCI), EPA and industry consultants to assist affected facilities with the new NESHAP requirements. The Department met with PMCI and other bulk plant stakeholders on August 21, 2008, and plans to continue working closely with stakeholders.

The second area source NESHAP being adopted by reference affects gasoline dispensing facilities (GDF) such as gas stations. Like the NESHAP for bulk facilities, this NESHAP will reduce VOC and HAP, including benzene emissions, from gasoline vapors. These standards apply to gasoline cargo tanks (trucks) and each storage tank. The NESHAP does not apply to equipment, such as gasoline pumps, used for refueling motor vehicles.

The gasoline dispensing NESHAP requirements are based on the actual, monthly throughput of gasoline at the facility. Under the NESHAP, owners and operators of smaller facilities are required to follow specified good management practices (GMP) to minimize gasoline evaporation. Owners and operators of medium-size facilities are required to follow GMP and use submerged filling of gasoline tanks. Owners and operators of large facilities (greater than or equal to 100,000 gallons/month gasoline throughput) must employ GMP, submerged fill, and a vapor balance system during storage tank loadings.

Owners and operators of GDF are already required to implement GMP and submerged fill under existing administrative rules for UST and for flammable liquids. Vapor balancing is not required under existing administrative rules. The Department estimates that the owners and operators of approximately 250 large GDF will need to implement vapor balancing. However, approximately 50 of these facilities already use vapor balancing, and nearly all of the remaining 200 facilities will have until January 2011 to comply with the NESHAP requirements.

On June 25, 2008, EPA amended the NESHAP provisions affecting new, large GDF. EPA amended the pressure and vacuum vent valve cracking pressure and leak rate requirements for vapor balance systems used to control emissions from gasoline storage tanks at gasoline dispensing facilities. Newly constructed or reconstructed gasoline dispensing facilities must comply with the requirements of these amendments by the effective date of the EPA amendments (September 23, 2008), or upon start-up, whichever is later.

The Department has been corresponding regularly with EPA, PMCI and a number of affected facilities regarding the new requirements. The Department met with PMCI and other stakeholders on August 21, 2008, to formulate an outreach and compliance assistance strategy, and plans to continue working closely with stakeholders.

At the August 21, 2008, meeting, the Department learned that a number of new, large GDF would be unable to retrofit their equipment with vapor balance systems in time to comply with the NESHAP compliance date. Originally, the Department believed that the federal rules allowed these facilities to request formal compliance extensions. Upon further review of the NESHAP regulations and discussions with EPA Region VII, the Department now realizes that formal compliance extensions are only available for facilities considered "existing" under the NESHAP, and not those considered "new" or "reconstructed." EPA Region VII submitted written comments requesting that the Department clarify this point in the preamble of the final rule making. The Department is making this clarification.

In the absence of providing formal compliance extensions, the Department is working with new GDF that have not met the NESHAP deadlines to ensure that these facilities install the required vapor balance systems as expeditiously as possible.

The third area source NESHAP being adopted by reference affects paint stripping and certain surface coating operations, including spray coating of motor vehicles and mobile equipment. Currently, the

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Department is aware of only one Iowa facility that may be affected by the paint stripping provisions of this NESHAP.

The requirements for miscellaneous surface coating, which includes spray application of coatings to motor vehicles or mobile equipment, require owners and operators of facilities that spray apply coatings containing certain “target HAP” to control HAP through a variety of means. In brief, affected facility owners and operators must enclose spray areas, use high efficiency paint guns, capture 98 percent of overspray, capture paint and solvent when cleaning, and train and certify paint operators. Owners and operators of existing facilities will have until January 2011 to either switch to coatings that do not contain the “target HAP” or to comply with the NESHAP requirements. The Department estimates that 1,000 minor source facilities may be subject to the NESHAP, but that many of the facility owners and operators will choose to stop using the “target HAP” prior to the NESHAP compliance date.

The Department, in cooperation with UNI, IDED, and Linn and Polk County local air quality programs, hosted the first stakeholder meeting on July 15, 2008. The 30 participants received a presentation on the NESHAP and air permitting requirements, a draft guide and other outreach materials. The participants provided valuable input at this initial meeting, and the Department will be offering additional meetings and compliance assistance tools over the next 18 months.

This NESHAP will also impact approximately 15 Title V facilities that are currently considered to be area sources for HAP. The Department will be working directly with owners and operators of these facilities regarding the new NESHAP requirements.

These amendments are intended to implement Iowa Code section 455B.133.

These amendments will become effective on March 18, 2009.

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 [22.1(2)“r,” 22.8(1), 23.1] is being omitted. These amendments are identical to those published under Notice as **ARC 7306B**, IAB 11/5/08.

[Filed 1/22/09, effective 3/18/09]

[Published 2/11/09]

[For replacement pages for IAC, see IAC Supplement 2/11/09.]

ARC 7569B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455B.173 and 455B.197, the Environmental Protection Commission hereby adopts an amendment to Chapter 64, “Wastewater Construction and Operation Permits,” rescinds Chapter 69, “Onsite Wastewater Treatment and Disposal Systems,” and adopts new Chapter 69, “Private Sewage Disposal Systems,” Iowa Administrative Code.

Pursuant to Iowa Code section 455B.173(3), the Commission is required to establish, modify, or repeal rules relating to the location, construction, operation, and maintenance of private sewage disposal systems.

In addition, Iowa Code section 455B.173(11) requires the Commission to adopt rules for the issuance of a single general permit, after notice and opportunity for a public hearing. The single general permit shall cover numerous facilities to the extent that they are representative of a class of facilities which can be identified and conditioned by a single permit. New Chapter 69 fulfills the Commission’s and the Department’s requirements pursuant to Iowa Code sections 455B.173(3) and 455B.173(11).

The new Chapter 69 begins with a title change to be consistent with Iowa Code chapter 455B, division III, part 1. Several definitions have also been changed to be consistent with statute. Definitions were added for new technologies. Definitions were removed for terms repeated in NPDES General Permit No. 4 as well as for terms not used in new Chapter 69.

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Several terminology changes have been made to be consistent with the latest national onsite wastewater standards, the Consortium for Decentralized Wastewater Treatment's glossary of terms, and other Iowa Administrative Code rules.

Provisions have been added for tank abandonment, grease interceptors, and permits by rule. The permit by rule is intended to act as an operation permit for discharging systems that do not require General Permit No. 4.

A new rule has been added that pertains to inspection of septic systems at the time of transfer of property. This rule is needed to implement 2008 Iowa Acts, Senate File 261, which modifies Iowa Code section 455B.172 to require that a property's septic system be inspected before the sale or transfer of the property is finalized. 2008 Iowa Acts, Senate File 261, also requires the establishment of a certified "time of transfer" inspector program. Requirements for the certified inspector program are included in this new rule.

New provisions have also been added that require a final inspection on a new system installation and that require counties to enter basic information about that system into the state onsite wastewater database system. New Chapter 69 also includes technologies that have been in use but were not included in the rescinded chapter. These technologies include peat filters, textile filters, expanded polystyrene aggregate, filtered pump vaults, and at-grade soil absorption systems. These are all proven technologies in Iowa and nationally. The subrules pertaining to peat moss biofilter systems and recirculating textile filter systems include maintenance requirements since these systems normally are discharging systems.

The requirements for NPDES General Permit No. 4 have been changed. Systems that discharge to designated waters of the state or subsurface drainage tiles will still require a permit with increased effluent testing and monitoring. Discharging systems that do not discharge to designated waters of the state or subsurface drainage tiles and whose effluent is not expected to reach designated waters of the state or subsurface drainage tiles will not require a General Permit No. 4. However, these systems will require annual inspection and record keeping. The records of the inspections and maintenance must be provided to the administrative authority upon request. This requirement applies to all discharging systems. The permit requirements have been removed from the body of Chapter 69. Discharging system rules refer to General Permit No. 4 for testing and maintenance requirements. A separate rationale for General Permit No. 4 is available from the Department.

Septic tank sizing and lid configurations have been changed. The sizing chart increases each tank's capacity by 250 gallons, eliminating the need for the former requirement to add capacity for appliances that have high water use. The minimum tank capacity will be 1,250 gallons. Most septic tanks in the field will not be affected by this change. Effluent screens will be required in the outlet of septic tanks. These devices prevent suspended solids from leaving the tank and fouling the secondary treatment system. Since effluent screens require regular maintenance, the configuration of openings on the septic tank lid will change to facilitate cleaning of the screens. Another requirement that will make maintenance easier is that risers on septic tanks come to the ground surface. This change will encourage pumping and maintenance of septic tanks. Tanks and risers will also be required to be watertight.

Soil absorption system sizing charts will now enable users to size systems based on soil loading rates determined from soil analysis. Soil analysis is now the recommended method for determining a soil's capability to accept water. Percolation tests will still be permitted but must be correlated to a soil loading rate for sizing. This change is an educational attempt to slowly move toward soil analysis exclusively in the future. Additional charts have been added to correlate percolation test results and soil loading rates. Sizing charts are given for 2- and 3-foot-wide trenches. The various trench technologies are sized accordingly based upon trench bottom square footage and the type of technology. This method is the nationally accepted method for soil absorption systems.

Provisions for use of a free access sand filter following a septic tank have been removed. Free access sand filters are sized considerably smaller than buried sand filters based upon their ability to be raked and maintained. In practice, the Department has found that these systems do not receive the maintenance needed. Buried sand filters are preferred and can be installed in most cases where a free access sand filter was proposed. There are also other alternatives to free access sand filters. The use of free access sand filters will still be permitted following an aerobic treatment unit since the effluent is of better quality.

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Provisions for use of waste stabilization ponds for single-family homes have also been removed. The majority of these systems are not installed according to code requirements and, therefore, do not protect groundwater or the environment. Use of waste stabilization ponds will still be permitted for commercial establishments provided that the ponds are designed by an engineer. Requiring that waste stabilization ponds be professionally designed is intended to improve their construction and maintenance. The rule concerning chemical toilets, which are rarely used in Iowa, has been removed.

Provisions have been added to require that a 500-gallon trash tank now precede an aerobic treatment unit if one is not already incorporated in the unit's design and to require that the aerobic treatment unit be followed by a free access sand filter or other system at a size prescribed in these rules. Aerobic treatment units are maintenance intensive, and these changes are needed to ensure that the units do not discharge poor quality effluent between service visits or when improperly operated.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on November 5, 2008, as **ARC 7308B**. Comments regarding the amendments were received during the comment period and at three public hearings on December 2, 3, and 4, 2008, in Des Moines, Iowa City, and Ft. Dodge, respectively. The comments and the Department's response are contained within a responsiveness summary available from the Department. Following is a summary of the changes that have been made to Chapter 69 since publication of the Notice of Intended Action and receipt of public comment:

Language relating to disciplinary action for time of transfer inspectors, which was initially taken from Chapter 82, "Water Well Contractor Certification," was replaced with the more up-to-date language used in Chapter 81, "Water and Wastewater Operator Certification."

The effective date of time of transfer inspections, July 1, 2009, was added since that date is later than the effective date of these amendments.

The dates used for continuing education requirements for time of transfer inspectors were slightly modified to coincide with other similar dates used in the operator certification database.

Language was added to the subrule concerning continuing education for time of transfer inspectors to exempt newly certified inspectors from having to earn continuing education credits in a shorter period than two years.

A subrule pertaining to noncompliance with a child support order was added to the time of transfer inspector certification rule.

Changes to the length requirements for chambers were not adopted, and the current sizing requirements were retained. Expanded polystyrene aggregate is to be sized similarly.

Chamber height requirements were changed to ensure that chambers of sufficient height are used to approximate a conventional soil absorption trench.

The definition of "drainage ditch" was removed.

The definition of "expanded polystyrene aggregate" was changed to exclude a proprietary manufacturing process.

A subparagraph about soils and vegetative cover was added to the subrule pertaining to at-grade soil absorption systems. A requirement to divert surface water was also added to the subrule.

The words "if applicable" were added to each type of discharging system's subrule on effluent sampling to clarify which systems require sampling.

These amendments will become effective March 18, 2009.

These amendments are intended to implement Iowa Code chapter 455B, division III, part 1.

The following amendments are adopted.

ITEM 1. Amend subrule 64.15(4) as follows:

64.15(4) "Discharge from ~~Onsite Wastewater Treatment and Private Sewage Disposal Systems,~~ NPDES General Permit No. 4, effective ~~January 1, 2004~~ March 18, 2009, to ~~December 31, 2008~~ March 17, 2011.

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ITEM 2. Rescind 567—Chapter 69 and adopt the following **new** chapter in lieu thereof:

CHAPTER 69
PRIVATE SEWAGE DISPOSAL SYSTEMS

567—69.1(455B) General.

69.1(1) Applicability. These rules are applicable only to private sewage disposal systems.

69.1(2) Definitions.

“*Administrative authority*” means the department and the local board of health as authorized by Iowa Code section 455B.172 and Iowa Code chapter 137.

“*Aerobic treatment unit*” means a disposal system employing bacterial action which is maintained by the utilization of air or oxygen and includes the aeration plant and equipment and the method of final effluent disposal.

“*Approved*” means accepted or acceptable under an applicable specification stated or cited in these rules or accepted by the administrative authority as suitable for the proposed use.

“*Area drain*” means a drain installed to collect surface or storm water from an open area of a building or property.

“*Building drain*” means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of any building and conveys the same to the building sewer.

“*Building sewer*” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of a private sewage disposal system conveying the drainage of a building site.

“*Chamber system*” means a buried structure, typically with a domed or arched top, providing at least a 6-inch height of sidewall soil exposure below the invert of the inlet and creating a covered open space above a buried soil infiltrative surface.

“*Conventional,*” when used in reference to sewage treatment, means a soil absorption system involving a series of 2- to 3-foot-wide trenches filled with gravel 1 foot deep, containing a 4-inch-diameter rigid pipe or other alternative trench technologies to convey the sewage effluent.

“*Distribution box*” means a structure designed to accomplish the equal distribution of wastewater to two or more soil absorption trenches.

“*Domestic sewage*” or “*domestic wastewater*” means the water-carried waste products from residences, public buildings, institutions, or other buildings, including bodily discharges from human beings together with groundwater infiltration and surface water as may be present.

“*Drip irrigation*” means a form of subsurface soil absorption using shallow pressure distribution with low-pressure drip emitters.

“*Drop box*” means a structure used to divert wastewater flow into a soil absorption trench. When the trench is filled to a set level, the drop box then allows any additional wastewater not absorbed by that trench to flow to the next drop box or soil absorption trench.

“*Dwelling*” means any house or place used or intended to be used by humans as a place of residence.

“*Expanded polystyrene (EPS) aggregate systems*” means cylinders comprised of expanded polystyrene (EPS) synthetic aggregate contained in high-strength polyethylene netting. The cylinders are 12 inches in diameter and are produced both with and without a distribution pipe. Cylinders may be configured in a trench, bed, at-grade and mound applications to obtain the desired width, height and length. Cylinders containing a distribution pipe shall be connected end-to-end with an internal coupling device.

“*Fill soil*” means clean soil, free of debris or large organic material, which has been mechanically moved onto a site and has been in place for less than one year.

“*Foundation drain*” means that portion of a building drainage system which is provided to drain groundwater, not including any wastewater, from the outside of the foundation or over or under the basement floor and which is not connected to the building drain.

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“Free access filter” means an intermittent sand filter constructed within the natural soil or above the ground surface, with access to the distributor pipes and top of the filter media for maintenance and media replacement.

“Gravel” means stone screened from river sand or quarried and washed free of clay and clay coatings. Concrete aggregate designated as Class II by the department of transportation is acceptable.

“Gravelless pipe system” means a soil absorption system comprised of 10-inch-diameter corrugated plastic pipe, perforated with holes on a 120-degree arc centered on the bottom, wrapped in a sheath of geotextile filter wrap, and installed level in a trench without gravel bedding or cover.

“Grease interceptor” means a watertight device designed to intercept and retain or remove grease and fatty substances. The device may be located inside (grease separator) or outside (grease tank or grease trap) a facility.

“Intermittent sand filter” means a bed of granular materials 24 to 36 inches deep underlain by graded gravel and collecting tile. Wastewater is applied intermittently to the surface of the bed through distribution pipes, and the bed is underdrained to collect and discharge the final effluent. Uniform distribution is normally obtained by dosing so as to utilize the entire surface of the bed. Filters may be designed to provide free access (open filters) or may be buried in the ground (buried filters or subsurface sand filters).

“Lake” means a natural or man-made impoundment of water with more than one acre of water surface area at the high water level.

“Limiting layer” means bedrock, seasonally high groundwater level, or any layer of soil with a stabilized percolation rate exceeding 60 minutes for the water to fall one inch.

“Mound system” means an aboveground soil absorption system used to disperse effluent from septic tanks in cases in which a seasonally high water table, high bedrock conditions, slowly permeable soils, or limited land areas prevent conventional subsurface soil absorption systems.

“Packed bed media filter” means a watertight structure filled with uniformly sized media that is normally placed over an underdrain system. The wastewater is dosed onto the surface of the media through a distribution network and is allowed to percolate through the media to the underdrain system. The underdrain collects the filtrate and discharges the final effluent.

“Percolation test” means a falling water level procedure used to determine the ability of soils to absorb primary treated wastewater. (See Appendix B.)

“Pond” means a natural or man-made impoundment of water with a water surface area of one acre or less at the high water level.

“Pretreated effluent” means septic tank effluent treated through aeration or other methods that, upon laboratory analysis, meets or exceeds a monthly average for biochemical oxygen demand (BOD) of 30 mg/L and total suspended solids (TSS) of 30 mg/L.

“Primary treatment unit” means a unit or system used to separate the floating and settleable solids from the wastewater before the partially treated effluent is discharged for secondary treatment.

“Private sewage disposal system” means a system which provides for the treatment or disposal of domestic sewage from four or fewer dwelling units or the equivalent of less than 16 individuals on a continuing basis. This includes domestic waste, whether residential or nonresidential, but does not include industrial waste of any flow rate.

“Professional soil analysis” means an alternative to the percolation test which depends upon a knowledgeable person evaluating the soil characteristics, such as color, texture, and structure, in order to determine an equivalent percolation or loading rate. A person performing a professional soil analysis shall demonstrate training and experience in soil morphology, such as testing absorption qualities of soil by the physical examination of the soil’s color, mottling, texture, structure, topography, and hillslope position.

“Qualified sampler,” for the purposes of collecting compliance effluent samples required under NPDES General Permit No. 4, means one of the following persons: a city or county environmental health staff person; an Iowa-certified wastewater treatment operator; or an individual who has received training approved by the department to conduct effluent sampling.

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“*Roof drain*” means a drain installed to receive water collecting on the surface of a roof and discharging into an area or storm drain system.

“*Secondary treatment system*” means a system which provides biological treatment of the effluent from septic tanks or other primary treatment units to meet minimum effluent standards as required in these rules and NPDES General Permit No. 4. Examples include soil absorption systems, media filters, aerobic treatment units, or other systems providing equivalent treatment.

“*Septage*” means the liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or from a holding tank, when the system is cleaned or maintained.

“*Septic tank*” means a watertight structure into which wastewater is discharged for solids separation and digestion (referred to as part of the closed portion of the treatment system).

“*Sewage sludge*” means any solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. “Sewage sludge” includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum septage, portable toilet pumpings, Type III marine device pumpings as defined in 33 CFR Part 159, and sewage sludge products. “Sewage sludge” does not include grit, screenings, or ash generated during the incineration of sewage sludge.

“*Stream*” means any watercourse listed as a “designated use segment” in rule 567—61.3(455B) which includes any watercourse that maintains flow throughout the year or contains sufficient pooled areas during intermittent flow periods to maintain a viable aquatic community.

“*Subsurface sand filter*” means a system in which the effluent from the primary treatment unit is discharged into perforated pipes, filtered through a layer of sand, and collected by lower perforated pipes for discharge to the surface or to a subsurface soil absorption system. A subsurface sand filter is an intermittent sand filter that is placed within the ground and provided with a natural topsoil cover over the crown of the distribution pipes.

“*Subsurface soil absorption system*” means a system of perforated conduits connected to a distribution system, forming a series of subsurface, water-carrying channels into which the primary treated effluent is discharged for direct absorption into the soil (referred to as part of the open portion of the treatment system).

69.1(3) General regulations.

a. Connections to approved sewer system.

(1) No private sewage disposal system shall be installed, repaired, or rehabilitated where a publicly owned treatment works (POTW) is available or where a local ordinance requires connection to a POTW. The POTW may be considered as unavailable when such POTW, or any building or any exterior drainage facility connected thereto, is located more than 200 feet from any proposed building or exterior drainage facility on any lot or premises which abuts and is served by such POTW. Final determination of availability shall be made by the administrative authority.

(2) When a POTW becomes available within 200 feet, any building then served by a private sewage disposal system shall be connected to said POTW within a time frame or under conditions set by the administrative authority.

(3) When a POTW is not available, every building wherein persons reside, congregate, or are employed shall be provided with an approved private sewage disposal system.

(4) If a building is to be connected to an existing private sewage disposal system, that existing system shall meet the standards of these rules and be appropriately sized.

b. Discharge restrictions. It is prohibited to discharge any wastewater from private sewage disposal systems (except as permitted in this chapter) to any ditch, stream, pond, lake, natural or artificial waterway, county drain tile, surface water drain tile, or land drain tile, to the groundwater, or to the surface of the ground. Under no conditions shall effluent from private sewage disposal systems be discharged to any abandoned well, agricultural drainage well or sinkhole. Existing discharges to any of the above-listed locations or structures shall be eliminated by the construction of a system in compliance with the requirements of these rules.

c. Construction or alteration. All private sewage disposal systems constructed or altered after March 18, 2009, shall comply with this chapter. Alteration includes any changes that affect the treatment

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or disposal of the waste. Repair of existing components that does not change the treatment or disposal of the waste is exempt. However, the discharge restrictions in paragraph “b” above apply.

d. Abandonment. Private sewage disposal systems that are abandoned shall have the septic tank pumped, the tank lid crushed into the tank, and the tank filled with sand or soil.

69.1(4) Construction permit required. No private sewage disposal system shall be installed or altered as described in paragraph 69.1(3) “c” unless a construction permit issued by the administrative authority has been obtained. The installation shall be in accordance with these rules.

69.1(5) Permit by rule. This chapter is intended to act as a permit by rule for private sewage disposal systems. Activities in compliance with this chapter are permitted by the director for purposes of compliance with sections 455B.183 and 455B.186 of the Code of Iowa.

567—69.2(455B) Time of transfer inspections.

69.2(1) Inspections required. Beginning July 1, 2009, prior to any transfer of ownership of a building where a person resides, congregates, or is employed that is served by a private sewage disposal system, the sewage disposal system serving the building shall be inspected. A building that will be demolished without being occupied does not require an inspection. A legally binding document verifying that the building will be demolished shall be provided to the county and to the department for record. In the event that weather or other temporary physical conditions prevent the certified inspection from being conducted, the buyer shall execute and submit a binding acknowledgment with the county board of health to conduct a certified inspection of the private sewage disposal system at the earliest practicable time and to be responsible for any required modifications to the private sewage disposal system as identified by the certified inspection. Title abstracts to property with private sewage disposal systems shall include documentation of compliance with the requirements in this rule.

a. Inspection criteria. If a private sewage disposal system is failing to ensure effective wastewater treatment or is otherwise improperly functioning, the private sewage disposal system shall be renovated to meet current construction standards, as adopted by the department, either by the seller or, by agreement, within a reasonable time period as determined by the county or the department, by the buyer. If the private sewage disposal system is properly treating the wastewater and not creating an unsanitary condition in the environment at the time of inspection, the system is not required to meet current construction standards.

b. Inspection validity. An inspection is valid for a period of two years for any ownership transfers during that period.

69.2(2) Certified time of transfer inspectors. Inspections shall be conducted by an inspector certified by the department. In order to be a certified time of transfer inspector, an individual shall have met the experience requirements, have successfully completed the inspection course and examination, and have been issued a current certificate by the department in accordance with this rule.

a. Experience requirements. In order to be certified by taking the inspection course and examination only, an individual must have at least two years’ experience in the operation, installation, inspection, design or maintenance of private sewage disposal systems. Individuals lacking this experience must complete additional coursework before attending the inspection course with testing. The additional courses shall include, but not be limited to, “Onsite Basics 101” and “Alternative Systems” offered by the Onsite Wastewater Training Center of Iowa or courses determined by the department to be equivalent.

b. Examination application. A person wishing to take the examination necessary to become a certified inspector shall complete the Certified Time of Transfer Inspector Application, Form 542-0192. A listing of dates and locations of examinations is available from the department upon request. The application form requires the applicant to indicate pertinent educational background, training and past experience in providing private sewage disposal services. The completed application and the application fee shall be sent to Time of Transfer Inspector Certification, Iowa Department of Natural Resources, 502 E. 9th Street, Des Moines, Iowa 50319-0034. An application for examination must be received by the department at least 60 days prior to the date of the examination.

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c. Application evaluation. The director may designate department personnel or an experience review committee to evaluate all applications for examination. A notification of the application review decision will be sent to the applicant prior to the examination date. The applicant shall have the right to dispute the application evaluation.

d. Certification. Applicants who successfully meet the department's requirements will receive a written certification from the department. The department shall maintain a current listing of certified time of transfer inspectors. The list shall be available on the department's Web site and shall be provided to county boards of health and other interested parties.

e. Fees. The following nonrefundable fees apply:

- (1) Examination fee. The fee for each examination shall be \$50.
- (2) Certification fee. The fee for inspector certification shall be \$75 for each one-half year of a two-year period from the date of issuance of the certification to June 30 of the next even-numbered year.
- (3) Certification renewal fee. The fee for certification renewal shall be \$300 for the two-year period.
- (4) Penalty fee. The penalty fee shall be \$100 for each 30 days in delinquency. The penalty fee is for late payment of the initial certification fee or renewal fee or for incomplete application forms.

f. Renewal period. All certificates shall expire on June 30 of even-numbered years and must be renewed every two years in order to maintain certification.

69.2(3) Continuing education.

a. CEU requirements. Continuing education units (CEUs) must be earned during each two-year period from April 1 of the even-numbered year until March 30 of the next even-numbered year. A certified inspector must earn 1.2 CEUs or 12 contact hours during each two-year period. Newly certified time of transfer inspectors (previously uncertified) who become certified after April 1 of a two-year period will not be required to earn CEUs until the next two-year period.

b. CEU approval. All activities for which CEU credit will be granted must be approved by an accredited college or university, an issuing agency, or the department and shall be related to private sewage disposal systems.

c. CEU reporting. It is the personal responsibility of the certified inspector to maintain a written record of and to notify the department of the CEUs earned during the period. The CEUs earned during the period shall be shown on the application for renewal.

69.2(4) Certificate renewal.

a. Certification period. All certificates shall expire on June 30 of even-numbered years and must be renewed every two years in order to stay effective.

b. Application for renewal. Renewal applications shall be submitted on DNR Form 542-0192 60 days before the expiration date of the current certificate. Late applications or incomplete applications may lead to revocation of the certificate. Renewal of certificates will only be granted to inspectors in good standing.

c. CEUs. Only those certified inspectors fulfilling the continuing education requirements before the end of each two-year period (June 30) will be allowed to renew their certificates. The certificates of inspectors not fulfilling the continuing education requirements shall expire on June 30 of the even-numbered year.

d. Renewal fee. A renewal fee in the amount of \$300 must accompany the renewal application in order for the certificate to be renewed. Failure to submit the renewal fee on time may lead to revocation of the certificate in addition to a penalty fee.

69.2(5) Obligations of certified inspectors.

a. Certified inspectors shall conduct time of transfer inspections according to this rule.

b. Following an inspection, the inspection form and any related reports shall be provided to the county environmental health department for enforcement of any follow-up mandatory improvements to the system, to the department for record, and to the county recorder's office.

69.2(6) Disciplinary action.

a. Reasons for disciplinary action. Disciplinary action may be taken against a certified time of transfer inspector on any of the grounds specified in Iowa Code section 455B.219 and the following more specific grounds.

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- (1) Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified inspector.
 - (2) Failure to submit required records of inspection or other reports required under applicable permits or rules of the department, including failure to submit complete records or reports.
 - (3) Knowingly making any false statement, representation, or certification on any application, record, report or document required to be maintained or submitted under any applicable permit or rule of the department.
 - (4) Fraud in procuring a certificate.
 - (5) Professional incompetence.
 - (6) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the certified inspector's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
 - (7) Habitual intoxication or addiction to the use of drugs.
 - (8) Conviction of a felony related to the profession or occupation of the certified inspector. A copy of the record of conviction or plea of guilty shall be conclusive evidence.
 - (9) Fraud in representations as to skill or ability.
 - (10) Use of untruthful or improbable statements in advertisements.
 - (11) Willful or repeated violations of the provisions of Iowa Code chapter 455B, division III.
- b. Disciplinary sanctions.* Disciplinary sanctions may include the following:
- (1) Revocation of a certificate. Revocation may be permanent without chance of recertification or for a specified period of time.
 - (2) Partial revocation or suspension. Revocation or suspension of the practice of a particular aspect of the inspection of private sewage disposal systems may be imposed.
 - (3) Probation. Probation under specified conditions relevant to the specific grounds for disciplinary action may be imposed.
 - (4) Additional education, training, and examination requirements. Additional education, training, and reexamination may be required as a condition of reinstatement.
 - (5) Penalties. Civil penalties not to exceed \$1,000 may be assessed for causes identified in paragraph 69.2(6) "a" through the issuance of an administrative order.
- c. Procedure.*
- (1) Initiation of disciplinary action. The department staff shall initiate a disciplinary action by conducting such lawful investigation as is necessary to establish a legal and factual basis for action. Written notice shall be given to a certified inspector against whom disciplinary action is being considered. The notice shall provide the certified inspector with 20 days to present any relevant facts and to indicate the certified inspector's position in the matter.
 - (2) A certified inspector's failure to communicate facts and positions relevant to the disciplinary investigation by the required date may be considered by the department when determining appropriate disciplinary action.
 - (3) If an agreement as to appropriate disciplinary action, if any, can be reached between the department and the certified inspector, a written stipulation and settlement shall be entered into. The stipulation and settlement shall recite the basic facts and violations alleged, any facts established by the certified inspector, and the reasons for the particular sanction imposed.
 - (4) If an agreement as to appropriate disciplinary action cannot be reached, the department may initiate formal disciplinary procedures through the issuance of a letter imposing such disciplinary sanction as the department has deemed appropriate. Service shall be provided by certified mail.
 - (5) A certified inspector may appeal any disciplinary sanction imposed by the department by filing a notice of appeal with the director within 30 days of receipt of the letter imposing disciplinary sanction. If an appeal is filed by the certified inspector, contested case proceedings shall be initiated by the department in accordance with 567—Chapter 7 and Iowa Code chapter 17A.
 - (6) Reinstatement of revoked certificates. Upon revocation of a certificate, application for certification may be allowed after two years from the date of revocation unless otherwise specified in accordance with paragraph 69.2(6) "b." Any such applicant must meet all eligibility requirements

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pursuant to subrule 69.2(2) and successfully complete an examination and be certified in the same manner as a new applicant.

69.2(7) Procedures for noncompliance with child support order. Upon receipt of a certification of noncompliance with a child support obligation as provided in Iowa Code section 252J.7, the department will initiate procedures to deny an application for certification or renewal or to suspend a certification in accordance with Iowa Code section 252J.8(4). The department shall issue to the person by restricted, certified mail a notice of its intent to deny or suspend inspector certification based on receipt of a certificate of noncompliance. The suspension or denial shall be effective 30 days after receipt of the notice unless the person provides the department with a withdrawal of the certificate of noncompliance from the child support recovery unit as provided in Iowa Code section 252J.8(4) "c." Pursuant to Iowa Code section 252J.8(4), the person does not have a right to a hearing before the department to contest the denial or suspension action under this subrule but may seek a hearing in district court in accordance with Iowa Code section 252J.9.

69.2(8) Inspection procedures. Inspections shall be conducted as follows:

a. Inspection form. The inspection shall be conducted using DNR Form 542-0191, Time of Transfer Inspection Report.

b. Record search. Prior to an inspection, the certified inspector shall contact the administrative authority to obtain any permits, as-built drawings or other information that may be available concerning the system being inspected. Information may also be obtained from service providers or the homeowner. If an as-built drawing is available, the system inspection shall verify that drawing. If no as-built drawing is available, the inspector shall develop an as-built drawing as part of the inspection.

c. Septic tank. At the time of inspection, any septic tank(s) existing as part of the sewage disposal system shall be opened and have the contents pumped out and disposed of according to 567—Chapter 68. In the alternative, the owner may provide evidence of the septic tank's being properly pumped out within three years prior to the inspection by a commercial septic tank cleaner licensed by the department which shall include documentation of the size and condition of the tank and its components at the time of such occurrence. If the septic tank(s) is opened, the condition of the tank and its components shall be documented and included in the final report.

d. Pumps and pump chambers. Pump chambers or vaults shall be opened for inspection, and the pump shall be tested to ensure proper operation.

e. Secondary treatment. Proof that a secondary treatment system is in place must be provided. This proof may include, but is not limited to:

(1) Opening a distribution box or uncovering a header pipe for a soil absorption system. Existing distribution boxes shall be opened for inspection.

(2) Verification of the existence of a sand filter by locating the vents and discharge pipe.

(3) Locating and opening the lid(s) of an advanced treatment unit.

(4) Absorption fields shall be probed to determine their condition. The condition of the fields shall be noted on the inspection report. The condition of the absorption field may also be determined with a hydraulic loading test.

f. Discharging systems. An effluent test shall be performed on any legally discharging private sewage disposal system. The effluent shall be tested to determine if it meets the requirements of NPDES General Permit No. 4, and the test results shall be included in the inspection report.

(1) The certified inspector shall ensure that a legally discharging private sewage disposal system has an NPDES General Permit No. 4, if applicable.

(2) The certified inspector shall ensure that a Notice of Intent to discharge is submitted to the department for coverage under NPDES General Permit No. 4.

g. Packaged treatment units. An advanced treatment unit, such as an aerobic treatment unit, textile filter, peat filter or fixed activated sludge treatment system, shall be inspected according to the manufacturer's recommendations.

h. Other systems and system components. Private sewage disposal systems not mentioned above shall be inspected for code compliance, and an effluent sample shall be taken if applicable. Any components of the private sewage disposal system not mentioned above shall be inspected for proper

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function. Examples of other components include, but are not limited to, effluent screens, tertiary treatment systems, disinfection devices, alarms, control boxes and timers.

i. Inspection reports. Following an inspection, the inspection form and a narrative report describing the condition of the private sewage disposal system at the time of the inspection shall be provided to the county environmental health department, to the department for record, and to the county recorder in the county where the inspection occurred.

567—69.3(455B) Site analysis.

69.3(1) Site evaluation. A site evaluation shall be conducted prior to issuance of a construction permit. Consideration shall be given to, but not be limited to, the impact of the following: topography; drainage ways; terraces; floodplain; percent of land slope; location of property lines; location of easements; buried utilities; existing and proposed tile lines; existing, proposed and abandoned water wells; amount of available area for the installation of the system; evidence of unstable ground; alteration (cutting, filling, compacting) of existing soil profile; and soil characteristics determined from a soil analysis, percolation tests, and soil survey maps if available.

a. Soil survey reports. During a site analysis and investigation, maximum use should be made of soil survey reports, which are available from USDA Natural Resources Conservation Service. A general identification of the percolation potential can be made from soil map units in Iowa. Verification of the soil permeability of the specific site must be performed.

b. Final inspections. All newly constructed private sewage disposal systems shall be inspected by the administrative authority before the system is backfilled or at a time prescribed by the administrative authority. A final as-built drawing shall be made as part of the final inspection.

c. Onsite wastewater tracking system. All pertinent information including, but not limited to, the site address, owner, type, date of installation, and as-built drawing of the private sewage disposal system shall be entered into the department's Web-based onsite wastewater tracking system.

69.3(2) Minimum distances. All private sewage disposal systems shall be located in accordance with the minimum distances shown in Table I.

Table I

| Minimum Distance in Feet From | Closed Portion of Treatment System ⁽¹⁾ | Open Portion of Treatment System ⁽²⁾ |
|--|--|--|
| Private water supply well | 50 | 100 |
| Public water supply well | 200 | 200 |
| Groundwater heat pump borehole | 50 | 100 |
| Lake or reservoir | 50 | 100 |
| Stream or pond | 25 | 25 |
| Edge of drainage ditch | 10 | 10 |
| Dwelling or other structure | 10 | 10 |
| Property lines (unless a mutual easement is signed and recorded) | 10 | 10 |
| Other type of subsurface treatment system | 5 | 10 |
| Water lines continually under pressure | 10 | 10 |
| Suction water lines | 50 | 100 |
| Foundation drains or subsurface tiles | 10 | 10 |

⁽¹⁾ Includes septic tanks, aerobic treatment units, fully contained media filters and impervious vault toilets.

⁽²⁾ Includes subsurface absorption systems, mound systems, intermittent sand filters, constructed wetlands, open bottom media filters and waste stabilization ponds.

567—69.4(455B) Requirements when effluent is discharged into surface water. All discharges from private sewage disposal systems which are discharged into, or have the potential to reach, any designated waters of the state or subsurface drainage tile shall be treated in a manner that will conform with the requirements of NPDES General Permit No. 4 issued by the department of natural resources, as referenced in 567—Chapter 64. Prior to the use of any system discharging to designated waters of the

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state or a subsurface drainage tile, a Notice of Intent to be covered by NPDES General Permit No. 4 shall be submitted to the department. Systems covered by this permit must meet all applicable requirements listed in the permit, including effluent sampling and monitoring.

567—69.5(455B) Requirements when effluent is discharged above the ground surface.

69.5(1) All private sewage disposal systems that discharge above the ground surface shall be annually inspected to ensure proper operation.

69.5(2) Private sewage disposal systems that require a maintenance contract shall be inspected by a manufacturer’s certified technician or person demonstrating knowledge of the system in accordance with the manufacturer’s standards.

69.5(3) Private sewage disposal systems that do not require a maintenance contract shall be visually inspected by a person with knowledge of the system for any malfunction and shall have the septic tank opened, inspected, and pumped if needed. A record of the inspection and any tank pumping shall be maintained and be made available to the administrative authority upon request.

567—69.6(455B) Requirements when effluent is discharged into the soil. No septage or wastewater shall be discharged into the soil except in compliance with the requirements contained in this chapter.

567—69.7(455B) Building sewers.

69.7(1) Location and construction.

a. The types of construction and distances as shown in Table II shall be maintained for the protection of water supplies. The distances shall be considered minimum distances and shall be increased where possible to provide better protection.

Table II

| Sewer Construction | Distance in Feet From Well Water Supply | |
|--|---|--------|
| | Private | Public |
| 1. Schedule 40 plastic pipe (or SDR 26 or stronger) with approved-type joints or cast-iron soil pipe (extra heavy or centrifugally cast) with joints of preformed gaskets. | 10 | 25 |
| 2. Sewer pipe installed to remain watertight and root-proof. | 50 | 75 |

b. Under no circumstances shall a well suction line pass under a building sewer line.

69.7(2) Requirements for building sewers.

a. Type. Building sewers used to conduct wastewater from a building to the primary treatment unit of a private sewage disposal system shall be constructed of Schedule 40 plastic pipe (or SDR 26 or stronger) with solvent-weld or bell-and-gasket-type joints or shall be constructed of cast iron with integral bell-and-gasket-type joints.

b. Size. Such building sewers shall not be less than 4 inches in diameter.

c. Grade. Such building sewers shall be laid to the following minimum grades:

- 4-inch sewer 12 inches per 100 feet
- 6-inch sewer 8 inches per 100 feet

69.7(3) Cleanouts.

a. Spacing. A cleanout shall be provided where the building sewer leaves the house and at least every 100 feet downstream to allow for rodding.

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b. Change of direction or grade. An accessible cleanout shall be provided at each change of direction or grade if the change exceeds 45 degrees.

69.7(4) Grease interceptors.

a. Applicability. Grease interceptors shall be provided for kitchen flows at restaurants, nursing homes, schools, hospitals and other facilities from which grease can be expected to be discharged.

b. Installation. Grease interceptors shall be installed on a separate building sewer serving kitchen flows into which the grease will be discharged. The discharge from the grease interceptor must flow to a properly designed septic tank or to a building sewer and then to the septic tank.

567—69.8(455B) Primary treatment—septic tanks.

69.8(1) General requirements.

a. Septic tank required. Every private sewage disposal system shall have as a primary treatment unit a septic tank as described in this rule. All wastewater from the facility serviced shall discharge into the septic tank (except as noted in paragraph “d” below).

b. Easements. No septic tank shall be located upon property under ownership different from the ownership of that property or lot upon which the wastewater originates unless easements to that effect are legally recorded and approved by the proper administrative authority.

c. Effluent discharge requirements. All septic tank effluent shall discharge into a secondary treatment system in compliance with this chapter or into another system approved by the administrative authority according to rule 69.21(455B).

d. Prohibited wastes. Septic tanks shall not be used for the disposal of chemical wastes or grease in quantities which might be detrimental to the bacterial action in the tank or for the disposal of drainage from roof drains, foundation drains, or area drains.

69.8(2) Capacity.

a. Minimum capacity. The minimum liquid-holding capacity shall be as specified in the following table (capacity may be obtained by using one or more tanks):

| | |
|-------------------------------------|------------|
| Up to and including 3-bedroom homes | 1,250 gal. |
| 4-bedroom homes | 1,500 gal. |
| 5-bedroom homes | 1,750 gal. |
| 6-bedroom homes | 2,000 gal. |

b. Other domestic waste systems. In the event that an installation serves more than a 6-bedroom home or its equivalent, or serves a facility other than a house and serves the equivalent of fewer than 16 individuals on a continuing basis, approval of septic tank capacity and design must be obtained from the administrative authority. Minimum septic tank liquid-holding capacity shall be two times the estimated daily sewage flow.

c. Determination of flow rates. For wastewater flow rates for nonresidential and commercial domestic waste applications serving the equivalent of fewer than 16 individuals on a continuing basis, refer to Appendix A.

d. Minimum depth. The minimum liquid-holding depth in any compartment shall be 40 inches.

e. Maximum depth. The maximum liquid-holding depth for calculating capacity of the tank shall not exceed 6½ feet.

f. Dimensions. The interior length of a septic tank should not be less than 5 feet and shall be at least 1½ times the width (larger length-to-width ratios are preferred). No tank or compartment shall have an inside width of less than 2 feet. The minimum inside diameter of a vertical cylindrical septic tank shall be 5 feet.

69.8(3) Construction details.

a. Fill soil. Any septic tank placed in fill soil shall be placed upon a level, stable base that will not settle.

b. Compartmentalization. Every septic tank shall be divided into two compartments (compartmentalization may be obtained by using more than one tank) as follows:

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(1) The capacity of the influent compartment shall not be less than one-half or more than two-thirds of the total tank capacity.

(2) The capacity of the effluent compartment shall not be less than one-third or more than one-half of the total tank capacity.

c. Inlet/outlet. The invert of the inlet pipe shall be a minimum of 2 inches and a maximum of 4 inches higher than the invert of the outlet pipe.

d. Baffles.

(1) Four-inch-diameter Schedule 40 plastic pipe tees shall be used as inlet and outlet baffles. Inlet tees shall extend at least 6 inches above and 8 inches below the liquid level of the tank. The inlet tee shall extend below the liquid level no more than 20 percent of the liquid depth. The outlet tee shall extend above the liquid level a distance of at least 6 inches and below the liquid level a distance of at least 15 inches but no more than 30 percent of the liquid depth. A minimum 2-inch clearance between the top of the inlet and outlet tees and the bottom of the tank lid shall be provided. A horizontal separation of at least 36 inches shall be provided between the inlet baffle and the outlet baffle in each compartment. Outlet baffles shall be fitted with an effluent screen. All effluent screens shall be certified by an ANSI-accredited third-party certifier to meet National Sanitation Foundation Standard 46, including appendices, or other equivalent testing as determined by the department. Effluent screens require periodic inspection and cleaning to ensure their continued proper operation.

(2) A horizontal slot 4 inches by 6 inches, or two suitably spaced 4-inch-diameter holes in the tank partition, may be used instead of a tee or baffle. The top of the slot or holes shall be located below the water level a distance of one-third the liquid depth. A ventilation hole or slot, located at least 8 inches above the liquid level, shall be provided in the partition.

e. Access.

(1) Access necessary for adequate inspection, operation, and maintenance must be provided to all parts of septic tanks.

(2) An access opening shall be provided at each end of the tank over the inlet and outlet. These openings shall be at least 18 inches in the smallest dimension.

(3) Watertight risers shall be installed to bring the access openings to the ground surface. Risers shall be secured using stainless steel fasteners of sufficient complexity, locking devices, concrete lids of sufficient weight, or another device approved by the administrative authority to deter tampering.

69.8(4) Construction.

a. Materials. Tanks shall be constructed of watertight poured concrete, fiberglass or plastic resistant to corrosion or decay and shall be designed so that the tanks, whether full or empty, will not collapse or rupture when subjected to anticipated earth and hydrostatic pressures. Metal tanks are prohibited.

b. Watertight tanks. Tanks shall be watertight. Prior to approving a tank, the administrative authority may ask for proof that a tank is watertight.

c. Dividers. Tank divider walls and divider wall supports shall be constructed of heavy, durable plastic, fiberglass, concrete or other similar corrosion-resistant materials approved by the administrative authority.

d. Inlet and outlet ports. Inlet and outlet ports of pipe shall be constructed of heavy, durable Schedule 40 PVC plastic sanitary tees or other similar approved corrosion-resistant material.

69.8(5) Wall thickness. Minimum wall thickness for tanks shall conform to the following specifications:

| | |
|---|------------------|
| Poured concrete | 6 inches thick |
| Poured concrete, reinforced | 4 inches thick |
| Special concrete mix, vibrated and reinforced | 2.5 inches thick |
| Fiberglass or plastic | .25 inches thick |

69.8(6) Concrete specifications. Concrete used in precast septic tank construction shall have a maximum water-to-cement ratio of 0.45. Cement content shall be at least 650 pounds per cubic yard.

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Minimum compressive strength (f_c) shall be 4,000 psi (28 Mpa) at 28 days of age. The use of ASTM C150 Type II cement or the addition of silica fume or Class F fly ash is recommended.

69.8(7) Tank bottoms. Septic tank bottoms shall conform to the specifications set forth in subrule 69.8(5) for septic tank walls, except that special mix concrete shall be at least 3 inches thick.

69.8(8) Tank tops. Concrete or masonry septic tank tops shall be a minimum of 4 inches in thickness and shall be reinforced with $\frac{3}{8}$ -inch reinforcing rods in a 6-inch grid or equivalent. Fiberglass or plastic tank tops shall be a minimum of $\frac{1}{4}$ inch in thickness and shall have reinforcing and be of ribbed construction.

69.8(9) Reinforcing steel placement. The concrete cover for reinforcing bars, mats, or fabric shall not be less than 1 inch.

69.8(10) Bedding. Fiberglass or plastic tanks shall be bedded according to the manufacturer's specifications. Provisions should be made to prevent flotation of the tanks when they are empty.

69.8(11) Connecting pipes.

a. Minimum diameter. The pipes connecting septic tanks installed in series and at least the first 5 feet of pipe on the effluent side of the last tank shall be a minimum of 4-inch-diameter Schedule 40 plastic.

b. Tank connections. All inlet and outlet connections at the septic tanks shall be made by self-sealing gaskets cast into the concrete or formed into the plastic or fiberglass.

c. Joints. All joints in connecting Schedule 40 plastic pipe shall be approved plastic pipe connections such as solvent-welded or compression-type gaskets.

d. Pipe in unstable ground. Schedule 40 plastic pipe shall be used extending across excavations or unstable ground to at least 2 feet beyond the point where the original ground has not been disturbed in septic tank installations. If the excavation spanned is more than 2 feet wide, it must be filled with sand or compacted fill to provide a firm bed for the pipe. The first 12 inches of backfill over the pipe shall be applied in thin layers, using material free from stones, boulders, large frozen chunks of earth or any similar material that would damage or break the pipe.

567—69.9(455B) Secondary treatment—subsurface soil absorption systems. Subsurface soil absorption systems are the best available treatment technology and shall always be used where possible.

69.9(1) General requirements.

a. Locations. All subsurface soil absorption systems shall be located on the property to maximize the vertical separation distance from the bottom of the absorption trench to the seasonal high groundwater level, bedrock, hardpan or other confining layer, but under no circumstances shall this vertical separation be less than 3 feet.

b. Soil evaluation. A percolation test or professional soil analysis is required before any soil absorption system is installed.

(1) *Percolation test.* The percolation test procedure is outlined in Appendix B.

(2) *Alternative analysis.* If a professional soil analysis is performed, soil characteristics such as soil content, color, texture, and structure shall be used to determine a loading rate.

(3) *Acceptable percolation rate.* An area is deemed suitable for conventional soil absorption if the average percolation rate is 60 minutes per inch or less and greater than 1 minute per inch. However, if an alternative soil absorption system is proposed (e.g., mound system), then the percolation test should be extended to determine whether a percolation rate of 120 minutes per inch is achieved.

(4) *Confining layer determination.* An additional test hole 6 feet in depth or to rock, whichever occurs first, shall be provided in the center of the proposed absorption area to determine the location of groundwater, rock formations or other confining layers. This 6-foot test hole may be augered the same size as the percolation test holes or may be made with a soil probe.

c. Groundwater. If the seasonal high groundwater level is present within 3 feet of the trench bottom final grade and cannot be successfully lowered by subsurface tile drainage, the area shall be classified as unsuitable for the installation of a standard subsurface soil absorption system. The administrative authority shall be consulted to determine an acceptable alternative method of wastewater treatment.

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d. Site limitations. In situations where specific location or site characteristics would appear to prohibit installation of a soil absorption system, design modifications which could overcome such limitations may be approved by the administrative authority. Examples of such modifications could be the installation of subsurface drainage, use of shallow or at-grade trenches, drip irrigation, or mound systems or use of pretreated effluent.

e. Prohibited drainage. Roof, foundation and storm drains shall not discharge into or upon subsurface absorption systems. Nothing shall enter the subsurface absorption system which does not first pass through the septic tank.

f. Prohibited construction. There shall be no construction of any kind, including driveways, covering the septic tank, distribution box or absorption field of a private sewage disposal system. Vehicle access should be infrequent, primarily limited to vegetation maintenance.

g. Driveway crossings. Connecting lines under driveways shall be constructed of Schedule 40 plastic pipe or equivalent and shall be protected from freezing.

h. Easements. No wastewater shall be discharged upon any property under ownership different from the ownership of the property or lot upon which the wastewater originates unless easements to that effect are legally recorded and approved by the administrative authority.

69.9(2) Sizing requirements.

a. Percolation and soil loading charts. Table IIIa provides a correlation between percolation rates and soil loading rates. Table IIIb provides soil loading rates based upon soil texture and structure. Table IIIa and Table IIIb shall be used to determine the appropriate soil loading rate. Table IIIc specifies linear feet of lateral trenches required based upon the soil loading rate, wastewater flow rate, and trench width. Table IIId provides a method to determine the size of an absorption bed. Absorption beds (Table IIId) shall not be used except when the lot size limitations preclude the installation of a lateral trench system. Further details concerning limitations of this alternative shall be obtained from the administrative authority before authorization for installation is requested.

b. Unsuitable absorption. Conventional subsurface soil absorption trenches shall not be installed in soils that have a percolation rate less than 1 minute per inch or greater than 60 minutes per inch. Plans for an alternative method of wastewater treatment shall be submitted to the administrative authority for approval prior to construction.

Table IIIa
Maximum Soil Application Rates Based Upon Percolation Rates

| Percolation Rate (minutes per inch) | Monthly Averages | |
|--|---|--|
| | Septic Tank Effluent ⁽¹⁾ BOD ₅ 30 mg/L - 220 mg/L TSS 30 mg/L - 150 mg/L (gals/sq ft/day) ⁽²⁾ | Pretreated Effluent BOD ₅ ≤ 30 mg/L TSS ≤ 30 mg/L (gals/sq ft/day) |
| 0 to 5 | 1.2 | 1.6 |
| Fine sands | 0.5 | 0.9 |
| 6 to 10 | 0.8 – 0.6 | 1.2 |
| 11 to 29 | 0.6 – 0.5 | 0.9 |
| 30 to 45 | 0.5 – 0.4 | 0.7 |
| 46 to 60 | 0.4 – 0.2 | 0.5 |
| 61 to 120 | 0.0 | 0.3 |
| Greater than 120 | 0.0 | 0.0 |

NOTE: "BOD" means biochemical oxygen demand. "TSS" means total suspended solids.

⁽¹⁾ Typical waste strengths for domestic waste. Pretreatment should be considered for waste of higher strength.

⁽²⁾ Percolation rates and soil loading rates do not precisely correlate; therefore, a range is provided.

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Table IIIb**Maximum Soil Loading Rates Based Upon Soil Evaluations in Gallons per Square Foot per Day (gal/ft²/day) for Septic Tank Effluent. Values in () are for secondary treated effluent.**

| Soil Texture | Single Grain | Massive | Structure Granular, Blocky, or Prismatic | | | Platy | |
|------------------------|--------------|--------------|---|---------------|---------------|--------------|--------------------|
| | | | Weak | Moderate | Strong | Weak | Moderate to Strong |
| Coarse sand and gravel | 1.2 (1.6) | X | 1.2 (1.6) | X | X | 1.2 (1.6) | X |
| Medium sands | 0.7 (1.4) | X | 0.7 (1.4) | X | X | 0.7 (1.4) | X |
| Fine sands | 0.5 (0.9) | X | 0.5 (0.9) | X | X | 0.5 (0.9) | X |
| Very fine sands* | 0.3 (0.5) | X | 0.3 (0.5) | X | X | 0.3 (0.5) | X |
| Sandy loam | X | 0.3 (0.5) | 0.45 (0.7) | 0.6 (1.1) | 0.65 (1.2) | 0.4 (0.6) | 0.3 (0.5) |
| Loam | X | 0.4 (0.6) | 0.45 (0.7) | 0.5 (0.8) | 0.55 (0.8) | 0.4 (0.6) | 0.3 (0.5) |
| Silty loam | X | NS | 0.4 (0.6) | 0.5 (0.8) | 0.5 (0.8) | 0.3 (0.5) | 0.2 (0.3) |
| Clay loam | X | NS | 0.2 (0.3) | 0.45 (0.7) | 0.45 (0.7) | 0.1 (0.2) | 0.1 (0.2) |
| Silty clay loam | X | NS | 0.2 (0.3) | 0.45 (0.7) | 0.45 (0.7) | NS | NS |

NOTE: "X" means not found in nature. "NS" means not suitable for soil absorption.

* Flow rates are difficult to determine for some very fine sands; experience may provide better information and flow rates.

Table IIIc**Minimum Length of Absorption Trenches in Feet**

| | 2 bedroom 300 gal. | | 3 bedroom 450 gal. | | 4 bedroom 600 gal. | | 5 bedroom 750 gal. | | 6 bedroom 900 gal. | |
|---------------------------------------|---|-----|-----------------------|-----|-----------------------|-------|-----------------------|-------|-----------------------|-------|
| | 2' | 3' | 2' | 3' | 2' | 3' | 2' | 3' | 2' | 3' |
| Width of trench in feet | 2' | 3' | 2' | 3' | 2' | 3' | 2' | 3' | 2' | 3' |
| Soil loading rate gal/ft ² | | | | | | | | | | |
| 0.1 | Not suitable for soil absorption trenches | | | | | | | | | |
| 0.2 | 750 | 500 | 1125* | 750 | 1500* | 1000* | 1875* | 1250* | 2250* | 1500* |
| 0.3 | 500 | 333 | 750 | 500 | 1000* | 666 | 1250* | 833* | 1500* | 1000* |
| 0.4 | 375 | 250 | 562 | 375 | 750 | 500 | 938* | 625 | 1125* | 750 |
| 0.5 | 300 | 200 | 450 | 300 | 600 | 400 | 750 | 500 | 900* | 600 |
| 0.6 | 250 | 167 | 375 | 250 | 500 | 333 | 625 | 417 | 750 | 500 |
| 0.7 | 214 | 143 | 321 | 214 | 428 | 286 | 536 | 357 | 643 | 429 |
| 0.8 | 188 | 125 | 281 | 188 | 375 | 250 | 469 | 312 | 562 | 375 |
| 0.9 | 167 | 111 | 250 | 167 | 333 | 222 | 417 | 278 | 500 | 333 |
| 1.0 | 150 | 100 | 225 | 150 | 300 | 200 | 375 | 250 | 450 | 300 |
| 1.1 | 136 | 91 | 205 | 136 | 273 | 182 | 341 | 227 | 409 | 273 |
| 1.2 | 125 | 84 | 188 | 125 | 250 | 167 | 313 | 208 | 375 | 250 |

* Requires pressure distribution (pump)

Table III d
Alternative Option for Use of Absorption Bed*

| Percolation Rate min./inch | Absorption Area/Bedroom sq. ft. | Loading Rate/Day gal./sq. ft. |
|-------------------------------|------------------------------------|----------------------------------|
| 1 – 5 | 300 | .5 |
| 6 – 15 | 400 | .375 |
| 16 – 30 | 600 | .25 |

*Absorption beds may only be used when site space restrictions require and shall not be used when the soil percolation rate exceeds 30 min./inch.

69.9(3) Construction details for all soil absorption trenches.

a. Depth. Soil absorption trenches shall not exceed 36 inches in depth unless authorized by the administrative authority, but a shallower trench bottom depth of 18 to 24 inches is recommended. Not less than 6 inches of porous soil shall be provided over the laterals. The minimum separation between trench bottom and groundwater, rock formation or other confining layers shall be 36 inches even if extra rock is used under the pipe.

b. Length. No soil absorption trench shall be greater than 100 feet long.

c. Separation distance. At least 6 feet of undisturbed soil shall be left between each trench edge on level sites. The steeper the slope of the ground, the greater the separation distance should be. Two feet of separation distance should be added for each 5 percent increase in slope from level.

d. Grade. The trench bottom should be constructed level from end to end. On sloping ground, the trench shall follow a uniform land contour to maintain a minimum soil cover of 6 inches and a level trench bottom.

e. Compaction. There shall be minimum use or traffic of heavy equipment on the area proposed for soil absorption. In addition, it is prohibited to use heavy equipment on the bottom of the trenches in the absorption area.

f. Fill soil. Soil absorption systems shall not be installed in fill soil. Disturbed soils which have stabilized for at least one year shall require a recent percolation test or soil analysis.

g. Bearing strength. Soil absorption systems shall be designed to carry loadings to meet AASHTO H-10 standards.

h. Soil smearing. Soils with significant clay content should not be worked when wet. If soil moisture causes sidewall smearing, the installation should be discontinued until conditions improve.

69.9(4) Gravel systems.

a. Gravel. A minimum of 6 inches of clean, washed river gravel, free of clay and clay coatings, shall be laid below the distribution pipe, and enough gravel shall be used to cover the pipe. This gravel shall be of such a size that 100 percent of the gravel will pass a 2½-inch screen and 100 percent will be retained on a ¾-inch screen. Limestone or crushed rock is not recommended for soil absorption systems; however, if used, it shall meet the following criteria:

(1) *Abrasion loss.* The percent wear, as determined in accordance with the AASHTO T 96, Grading C, shall not exceed 40 percent.

(2) *Freeze and thaw loss.* When gravel is subjected to the freezing and thawing test, Iowa DOT Materials Laboratory Test Method 211, Method A, the percentage loss shall not exceed 10 percent.

(3) *Absorption.* The percent absorption, determined in accordance with Iowa DOT Materials Laboratory Test Method 202, shall not exceed 3 percent.

b. Trench width. Soil absorption trenches for gravel systems shall be a minimum of 24 inches and a maximum of 36 inches in width at the bottom of the trench.

c. Grade. The distribution pipes shall be laid with a minimum grade of 2 inches per 100 feet of run and a maximum grade of 6 inches per 100 feet of run, with a preference given to the lesser slope.

d. Pipe. Distribution pipe shall be PVC rigid plastic meeting ASTM Standard 2729 or other suitable material approved by the administrative authority. The inside diameter shall be not less than 4 inches, with perforations at least ½ inch and no more than ¾ inch in diameter, spaced no more than 40

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inches apart. Two rows of perforations shall be provided located 120 degrees apart along the bottom half of the tubing (each 60 degrees up from the bottom centerline). The end of the pipe in each trench shall be sealed with a watertight cap unless, on a level site, a footer is installed connecting the trenches together. Coiled perforated plastic pipe shall not be used.

e. Gravel cover. Unbacked, rolled, 3½-inch-thick fiberglass insulation, untreated building paper, synthetic drainage fabric, or other approved material shall be laid so as to separate the gravel from the soil backfill.

69.9(5) Gravelless pipe systems.

a. Application. Gravelless subsurface soil absorption systems may be used as an alternative to conventional 4-inch pipe placed in gravel-filled trenches. However, these systems shall not be used in areas where conventional systems would not be allowed due to poor permeability, high groundwater, or insufficient depth to bedrock.

b. Installation. The manufacturer's specifications and installation procedures shall be adhered to.

c. Material. The 10-inch I.D. corrugated polyethylene tubing used in gravelless systems shall meet the requirements of ASTM F667, Standard Specification for Large Diameter Corrugated Polyethylene Tubing.

d. Perforations. Two rows of perforations shall be located 120 degrees apart along the bottom half of the tubing (each 60 degrees up from the bottom centerline). Perforations shall be cleanly cut into each inner corrugation along the length of the tubing and should be staggered so that there is only one hole in each corrugation.

e. Top marking. The tubing should be visibly marked to indicate the top of the pipe.

f. Filter wrap. All gravelless drainfield pipe shall be encased, at the point of manufacture, with a geotextile filter wrap specific to this purpose.

g. Trench width. The trench width for the gravelless system shall be 24 inches.

h. Length of trench. The total length of absorption trench for a 10-inch gravelless pipe installation shall be the same as given in Table IIIc for a 2-foot-wide conventional soil absorption trench.

69.9(6) Chamber systems.

a. Application. Chamber systems may be used as an alternative to conventional 4-inch pipe placed in gravel-filled trenches. However, chamber systems shall not be used in areas where conventional systems would not be allowed due to poor permeability, high groundwater, or insufficient depth to bedrock.

b. Installation. The manufacturer's specifications and installation procedures shall be adhered to.

c. Length of trench. The total length of soil absorption trench for chambers 15 to 22 inches wide shall be the same as given in Table IIIc for a 2-foot-wide conventional soil absorption trench. Chambers 33 inches wide or greater shall be sized as given in Table IIIc for a 3-foot-wide conventional soil absorption trench.

d. Sidewall. The chambers shall have at least 6 inches of sidewall effluent soil exposure height below the invert of the inlet.

69.9(7) Expanded polystyrene (EPS) aggregate system.

a. Application. EPS aggregate systems may be used as an alternative to conventional 4-inch pipe placed in gravel-filled trenches. However, EPS aggregate systems shall not be used in areas where conventional systems would not be allowed due to poor permeability, high groundwater, or insufficient depth to bedrock.

b. Installation. The manufacturer's specifications and installation procedures shall be adhered to.

c. Length of trench. The total length of soil absorption trench for 12-inch EPS aggregate bundles shall be the same as given in Table IIIc for a 2-foot-wide conventional soil absorption trench. Twelve-inch EPS aggregate bundles 33 inches wide or greater shall be sized as given in Table IIIc for a 3-foot-wide conventional soil absorption trench.

d. Gravel cover. Unbacked, rolled, 3½-inch-thick fiberglass insulation, untreated building paper, synthetic drainage fabric, or other approved material shall be laid so as to separate the EPS aggregate from the soil backfill.

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69.9(8) Gravity distribution. Dosing is always recommended and preferred to improve distribution, improve treatment and extend the life of the system.

a. On a hillside, septic tank effluent may be serially loaded to the soil absorption trenches by drop boxes or overflow piping (rigid sewer pipe). Otherwise, effluent shall be distributed evenly to all trenches by use of a distribution box or commercial distribution regulator approved by the administrative authority.

b. Design. When a distribution box is used, it shall be of proper design and installed with separate watertight headers leading from the distribution box to each lateral. Header pipes shall be rigid PVC plastic pipe meeting ASTM Standard 2729 or equivalent.

c. Height of outlets. The distribution box shall have outlets at the same level at least 4 inches above the bottom of the box to provide a minimum of 4 inches of water retention in the box.

d. Baffles. There shall be a pipe tee or baffle at the inlet to break the water flow.

e. Unused outlets. All unused outlet holes in the box shall be securely closed.

f. Materials. All distribution boxes shall be constructed of corrosion-resistant rigid plastic materials.

g. Level outlets. All outlets of the distribution box shall be made level. A 4-inch cap with an offset hole approximately 2½ inches in diameter shall be installed on each outlet pipe. These caps shall be rotated until all outlets discharge at the same elevation. Equivalent leveling devices may be approved by the county board of health.

h. Equal length required. The soil absorption area serviced by each outlet of the distribution box shall be equal.

69.9(9) Dosing systems.

a. Pump systems.

(1) Pump and pit requirements. In the event the effluent from the septic tank outlet cannot be discharged by gravity and the proper lateral depths still maintained, the effluent shall discharge into a watertight pump pit with an inside diameter of not less than 24 inches, equipped with a tight-fitting manhole cover at grade level. The pump shall be of a submersible type of corrosion-resistant material.

(2) Pump setting. The pump shall be installed in the pump pit in a manner that ensures ease of service and protection from frost and settled sludge. The pump shall be set to provide a dosing frequency of approximately four times a day based on the maximum design flow. No onsite electrical connections shall be located in the pump pit. These connections shall be located in an exterior weatherproof box.

(3) Pressure line size. The pressure line from the pump to the point of discharge shall not be smaller than the outlet of the pump it serves.

(4) Drainage. Pressure lines shall be installed to provide total drainage between dosing to prevent freezing or shall be buried below frost level up to the distribution box.

(5) High water alarm. Pump pits shall be equipped with a sensor set to detect if the water level rises above the design high water level when the pump fails. This sensor shall activate an auditory or visual alarm to alert the homeowner that repairs are required.

(6) Discharge point. The effluent shall discharge under pressure into a distribution box or may be distributed by small-diameter pipes throughout the entire absorption field.

b. Dosing siphons. Dosing siphons may also be used. The manufacturer's specifications shall be adhered to for installation. Similar dosing volumes and frequencies are recommended. Dosing siphons require periodic cleaning to ensure their continued proper operation.

c. Filtered pump vaults. A filtered pump vault is a device that is installed in a septic tank and houses a pump and screens effluent until it is pumped. Filtered pump vaults may be used when dosing volume is less than 50 gallons. Filtered pump vaults require periodic inspection and cleaning to ensure their continued proper operation.

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567—69.10(455B) Mound systems.**69.10(1) General requirements.**

a. Mound systems shall be permitted only after a thorough site evaluation has been made and landscaping, dwelling placement, effect on surface drainage, and general topography have been considered.

b. Mound systems shall not be utilized on sites subject to flooding with a ten-year or greater frequency.

c. Mound systems shall not be utilized on soils where the high groundwater level, impermeable bedrock or soil strata having a percolation rate exceeding 120 minutes per inch occur within 12 inches of natural grade or where creviced bedrock occurs within 20 inches of natural grade.

d. Mound systems shall be constructed only upon undisturbed naturally occurring soils or where a soil analysis has determined the site is suitable.

e. Mound systems shall be located in accordance with the distances specified in Table I as measured from the outer edge of the sand in the mound.

f. No buildings, driveways or other surface or subsurface obstructions shall be permitted within 50 feet on the down-gradient side of the mound when the mound is constructed on a slope greater than 5 percent. No future construction shall be permitted in this effluent disposal area as long as the mound is in use.

g. Specifications given in these rules for mounds are minimal and may not be sufficient for all applications. Technical specifications are changing with experience and research. Other design information beyond the scope of these rules may be necessary to properly design a mound system.

69.10(2) Material for mound fill.

a. The mound shall be constructed using clean, medium-textured sand, sometimes referred to as concrete sand. The sand size shall be such that at least 25 percent by weight shall have a diameter between 2.0 and 0.25 mm; less than 35 percent by weight, a diameter between 0.25 and 0.05 mm; and less than 5 percent by weight, a diameter between 0.05 and 0.002 mm.

b. Rock fragments larger than 1/16 inch (2.0 mm) shall not exceed 15 percent by weight of the material used for mound fill.

69.10(3) Construction details.

a. There shall be a minimum of 3 feet of fill material and undisturbed naturally occurring soils between the bottom of the washed gravel and the highest elevation of the limiting conditions defined in paragraph 69.10(1) "c."

b. Gravel shall meet the requirements specified in paragraph 69.9(4) "a."

c. From 1 to 2 feet of medium-textured sand (depending upon the underlying soil depth, see paragraph 69.10(3) "a") must be placed between the bottom of the gravel and the top of the plowed surface of the naturally occurring soil.

d. Mound systems shall utilize an absorption bed distribution piping design. The bed shall be installed with the long dimension parallel to the land contour. Systems on steep slopes with slowly permeable soils should be narrow to reduce the possibility of toe seepage.

e. Minimum spacing between distribution pipes shall be 4 feet, and a minimum of 3 feet shall be maintained between any trench and the sidewall of the mound.

f. No soil under or up to 50 feet down gradient of the mound may be removed or disturbed except as specified herein.

g. Construction equipment which would cause undesirable compaction of the soil shall be kept off the base area. Construction or plowing shall not be initiated when the soil moisture content is high. If a sample of soil from approximately 9 inches below the surface can be easily rolled into a 1/8- to 1/4-inch-diameter wire 1 1/2 inches long or more, the soil moisture content is too high for construction purposes.

h. Aboveground vegetation shall be closely cut and removed from the ground surface throughout the area to be utilized for the placement of the fill material.

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- i.* The area shall be plowed to a depth of 7 to 8 inches, parallel to the land contour, with the plow throwing the soil up slope to provide a proper interface between the fill and the natural soil. Tree stumps should be cut flush with the surface of the ground, and roots should not be pulled.
- j.* The base absorption area of the mound is to be calculated based on the results of the percolation rate test or soil analysis as indicated in Table IIIa or IIIb and the flow rate. The maximum width of the mound shall be 12 feet.
- k.* The area of the fill material shall be sufficient to extend 3 feet beyond the edge of the gravel area before the sides are shaped to at least a 4:1 slope (preferably 5:1).
- l.* Distribution system.
- (1) The distribution pipe shall be rigid plastic pipe, Schedule 40 or 80, with a 1-inch nominal diameter or equivalent design that ensures proper distribution.
- (2) The distribution pipe shall be provided with a single row of ¼-inch perforations in a straight line 30 inches on center along the length of the pipe or an equivalent design that ensures uniform distribution. All joints and connections shall be solvent-cemented.
- (3) The distribution pipe shall be placed in the clean, washed gravel (or crushed limestone as described in paragraph 69.9(4) "a"), with holes downward. The gravel shall be a minimum of 9 inches in depth below the pipe and 3 inches in depth above the pipe.
- (4) No perforations shall be permitted within 3 inches of the outer ends of any distribution pipe.
- (5) The outer ends of all pressure distribution lines shall be turned up, with a long 90-degree elbow or two 45-degree elbows to allow for cleaning. The outer ends will have a screw-on cap and cover. The cover shall be accessible from the ground surface without excavation.
- (6) The central pressure manifold should consist of 1½- or 2-inch solid plastic pipe using a tee for connecting the distribution lines or an equivalent design that ensures uniform distribution.
- m.* Construction should be initiated immediately after preparation of the soil interface by placing all of the sand fill material needed for the mound (to the top of the trench) to a minimum depth of 21 inches above the plowed surface. This depth will permit excavation of the trenches to accommodate the 9 inches of washed gravel or crushed stone necessary for the distribution piping.
- n.* The absorption trench or trenches shall be hand-excavated to a depth of 9 inches. The bottoms of the trenches shall be level.
- o.* Nine inches of gravel shall be placed in the trench and leveled. After the distribution pipe is placed, the pipe shall be covered with 3 inches of gravel.
- p.* The top of the gravel shall be covered with synthetic drainage fabric. Unbacked, rolled, 3½-inch-thick fiberglass insulation, untreated building paper, or other suitable material may be used with approval of the administrative authority. Plastic or treated building paper shall not be used.
- q.* After installation of the distribution system, the distribution system shall be pressure-tested before it is covered with gravel. The entire mound is to be covered with topsoil native to the site or of similar characteristics to support vegetation found in the area. The entire mound shall be crowned by providing 12 inches of topsoil on the side slopes, with a minimum of 18 inches of topsoil over the center of the mound. The entire mound shall be seeded, sodded or otherwise provided with a grass cover to ensure stability of the installation.
- r.* The area surrounding the mound shall be graded to provide for diversion of surface runoff water.
- 69.10(4) Dosing.**
- a.* Pump dosing shall be required for mound systems.
- b.* The dosing volume shall be three to ten times the distribution piping network volume, but not more than 25 percent of the design flow shall be applied to the soil in one dose.
- c.* The dosing pump shall be capable of maintaining a squirt height of 3 feet above the pipe at the outer ends of the distribution lines. All lines shall have an equal squirt height above the pipe to maintain equal distribution.

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567—69.11(455B) At-grade systems.**69.11(1) General requirements.**

- a. At-grade systems shall be permitted only after a thorough site evaluation has been made and landscaping, dwelling placement, effect on surface drainage, and general topography have been considered.
- b. At-grade systems shall not be utilized on sites subject to flooding with a ten-year or greater frequency.
- c. At-grade systems shall not be utilized on soils where the high groundwater level, impermeable bedrock or soil strata having a percolation rate exceeding 60 minutes per inch occur within 36 inches of natural grade.
- d. At-grade systems shall be constructed only upon undisturbed naturally occurring soils or where a soil analysis has determined the site is suitable.
- e. At-grade systems shall be located in accordance with the distances specified in Table I as measured from the outer edge of the gravel in the system.
- f. No buildings, driveways or other surface or subsurface obstructions shall be permitted within 25 feet on the down-gradient side of the at-grade system when the at-grade system is constructed on a slope greater than 5 percent. No future construction shall be permitted in this effluent disposal area as long as the at-grade system is in use.
- g. Specifications given in these rules for at-grade systems are minimal and may not be sufficient for all applications. Technical specifications are changing with experience and research. Other design information beyond the scope of these rules may be necessary to properly design an at-grade system.

69.11(2) Construction details.

- a. There shall be a minimum of 3 feet of undisturbed naturally occurring soils between the bottom of the gravel in the at-grade system and the highest elevation of the limiting conditions defined in paragraph 69.11(1) "c."
- b. An at-grade system may be installed up to 12 inches deep.
- c. Gravel shall meet the requirements specified in paragraph 69.9(4) "a." EPS aggregate or chambers are acceptable alternatives to gravel.
- d. At-grade systems shall utilize an absorption bed distribution piping design. The bed shall be installed with the long dimension parallel to the land contour. Systems on steep slopes with slowly permeable soils should be narrow to reduce the possibility of toe seepage.
- e. No soils under or within 15 feet of any at-grade system may be disturbed. On sloping sites, no soils shall be disturbed within 10 feet uphill of the system and within 15 feet downhill of the system plus an additional 5 feet for every 5 percent slope downhill.
- f. Construction equipment which would cause undesirable compaction of the soil shall be kept off the base area. Construction or plowing shall not be initiated when the soil moisture content is high. If a sample of soil from approximately 9 inches below the surface can be easily rolled into a 1/8-inch diameter wire 1½ inches long, the soil moisture content is too high for construction purposes.
- g. Aboveground vegetation shall be closely cut and removed from the ground surface throughout the area to be utilized for the placement of the fill material.
- h. The area shall be plowed to a minimum depth of 7 to 9 inches, parallel to the land contour, with the plow throwing the soil up slope to provide a proper interface between the fill and the natural soil. Chisel teeth on a backhoe bucket shall be at least as long as the depth of plowing. Tree stumps should be cut flush with the surface of the ground, and roots should not be pulled. All work shall be done from the uphill side of the at-grade system.
- i. The gravel bed absorption area of the at-grade system is to be calculated based on the results of the percolation rate test or soil analysis as indicated in Table IIIa or IIIb and the flow rate. The maximum width of the at-grade system shall be 8 feet.
- j. One foot of loamy cover material shall be installed over the rock bed. Cover shall extend at least 5 feet from the ends of the rock bed and be sloped to divert surface water. Side slopes shall not be steeper than 4:1. The upper 6 inches of the loamy soil cover must be topsoil borrow. Topsoil borrow must be of a quality that provides a good vegetative cover on the at-grade system.

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k. Distribution system.

(1) The distribution pipe shall be rigid plastic pipe, Schedule 40 or 80 with a 1-inch nominal diameter or equivalent design that ensures proper distribution.

(2) The distribution pipe shall be provided with a single row of ¼-inch perforations in a straight line 30 inches on center along the length of the pipe or an equivalent design that ensures uniform distribution. All joints and connections shall be solvent-cemented.

(3) The distribution pipe shall be placed in the clean, washed gravel (or crushed limestone as described in paragraph 69.9(4) "a"), with holes downward. The gravel shall be a minimum of 10 inches in depth below the pipe and 2 inches in depth above the pipe.

(4) Distribution pipe shall be installed in the center of the gravel bed on slopes less than 1 percent and on the upslope edge at the gravel bed absorption width on slopes 1 percent or greater.

(5) No perforations shall be permitted within 3 inches of the outer ends of any distribution pipe.

(6) The outer ends of all pressure distribution lines shall be turned up, with a long 90-degree elbow or two 45-degree elbows to allow for cleaning. The outer ends will have a screw-on cap and cover. The cover shall be accessible from the ground surface without excavation.

(7) The central pressure manifold should consist of 1½- or 2-inch solid plastic pipe using a tee for connecting the distribution lines or an equivalent design that ensures uniform distribution.

(8) The top of the gravel shall be covered with synthetic drainage fabric. Unbacked, rolled, 3½-inch-thick fiberglass insulation, untreated building paper, or other suitable material may be used with approval of the administrative authority. Plastic or treated building paper shall not be used.

(9) After installation of the distribution system, the distribution system shall be pressure-tested before it is covered with gravel. The entire at-grade system is to be covered with topsoil native to the site or of similar characteristics to support vegetation found in the area. The entire at-grade system shall be crowned by providing 12 inches of topsoil on the side slopes, with a minimum of 18 inches of topsoil over the center of the at-grade system. The entire at-grade system shall be seeded, sodded or otherwise provided with a grass cover to ensure stability of the installation.

(10) The area surrounding the at-grade system shall be graded to provide for diversion of surface runoff water.

69.11(3) Dosing.

a. Pump dosing shall be required for at-grade systems.

b. The dosing volume shall be three to ten times the distribution piping network volume, but not more than 25 percent of the design flow shall be applied to the soil in one dose.

c. The dosing pump shall be capable of maintaining a squirt height of 3 feet above the pipe at the outer ends of the distribution lines. All lines shall have an equal squirt height above the pipe to maintain equal distribution.

567—69.12(455B) Drip irrigation.**69.12(1) General design.**

a. Pretreatment required. Drip irrigation systems must be preceded by a secondary treatment system discharging a treated, filtered effluent with BOD and TSS values less than 30 mg/L.

b. Separation from groundwater. Drip irrigation systems shall have a minimum vertical separation distance to high groundwater level or bedrock of 20 inches.

c. Maximum hillside slope. Drip irrigation systems shall not be installed on slopes of more than 25 percent.

d. Additional specifications. Specifications given in these rules for drip irrigation are minimal and may not be sufficient for all applications. Technical specifications are changing with experience and research. Other design information beyond the scope of these rules may be necessary to properly design a drip irrigation system.

69.12(2) Emitter layout.

a. Discharge rate. Systems shall be designed so that emitters discharge approximately 1 gpm at 12 psi or other rates suggested by the manufacturer and approved by the administrative authority.

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b. Grid size. Drip lines shall be run in parallel lines 2 feet apart. Emitters shall be placed in the drip lines at 2-foot intervals, with emitters offset 1 foot between adjacent lines. Each emitter shall cover 4 square feet of absorption area.

c. Field size. The field shall be sized according to the application rate given in Table IV.

d. Depth of drip lines. Drip lines shall be laid on the contour, 6 to 12 inches deep, with a maximum line length of 100 feet. Lines may be of unequal length.

e. Interconnection.

(1) All drip lines shall be connected to supply and return headers such that the entire system will automatically drain back to the dosing tank or pump pit upon completion of the pumping cycle. Vacuum breakers shall be positioned at the high point of the supply and return headers.

(2) The dosing tank shall have a high water audio/visual alarm.

Table IV
Length of Drip Line Required per Bedroom

| Percolation Rate min./in. | Design Hyd. Loading gpd/sq. ft. | Length of Drip Line feet/bedroom |
|------------------------------|------------------------------------|-------------------------------------|
| 1 – 5 | 2.0 | 40 |
| 6 – 15 | 1.3 | 60 |
| 16 – 30 | 0.9 | 90 |
| 31 – 45 | 0.6 | 150 |
| 46 – 60 | 0.4 | 200 |
| 61 – 90 | 0.2 | 400 |
| 91 – 120 | 0.1 | 800 |

567—69.13(455B) Packed bed media filters.

69.13(1) Intermittent sand filters. The general requirements for intermittent sand filters are as follows:

a. Use. Intermittent sand filters may be used when the administrative authority determines the site is unacceptable for a soil absorption system.

b. Location. Intermittent sand filters shall be located in accordance with the distances specified in Table I.

c. Sampling port. A sampling port shall be available at the discharge point of the filter or shall be installed in the discharge line.

d. Effluent sampling. All intermittent sand filters having an open discharge shall be sampled in accordance with the requirements of NPDES General Permit No. 4 if applicable.

e. Prohibited construction. There shall be no construction, such as buildings or concrete driveways, covering any part of an intermittent sand filter.

69.13(2) Construction.

a. Number. An intermittent sand filter shall consist of one filtering bed or two or more filtering beds connected in series and separated by a minimum of 6 feet of undisturbed earth.

b. Pipelines. Each bed shall contain a horizontal set of collector lines. The collector lines shall be equivalent to SDR 35 PVC pipe, 10-inch-diameter gravelless drainpipe, EPS aggregate or other suitable materials.

(1) One collector line shall be provided for each 6 feet of width or fraction thereof. A minimum of two collector lines shall be provided.

(2) The collector lines shall be laid to a grade of 1 inch in 10 feet (or 0.5 to 1.0 percent).

(3) Each collector line shall be vented or connected to a common vent. Vents shall extend at least 12 inches above the ground surface with the outlet screened or provided with a perforated cap.

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(4) Gravelless drainfield pipe with fiber wrap may be used for the collector lines. If fiber wrap is used, no gravel or pea gravel is required to cover the collector lines and the pipe shall be bedded in filter sand.

(5) If 4-inch plastic pipe with perforations is used for the collector lines, the lines shall be covered as follows:

1. Gravel $\frac{3}{4}$ inch to $2\frac{1}{2}$ inches in size shall be placed around and over the lower collector lines until there is a minimum of 4 inches of gravel over the pipes.

2. The gravel shall be overlaid with a minimum of 3 inches of washed pea gravel $\frac{1}{8}$ -inch to $\frac{3}{8}$ -inch in size interfacing with the filter media. A layer of fabric filter may be used in place of the pea gravel. Fabric filters must be 30 by 50 mesh with a percolation rate of at least 5 gal/sq. ft.

(6) A minimum of 24 inches of coarse washed sand shall be placed over the pea gravel or above the gravelless drainfield pipe. The sand shall meet the Iowa DOT standards for concrete sand: 100 percent of the sand shall pass a 9.5 mm screen, 90 to 100 percent shall pass a 4.75 mm screen, 70 to 100 percent shall pass a 2.36 mm screen, 10 to 60 percent shall pass a 600 Tm screen, and 0 to 1.5 percent shall pass a 75 Tm screen.

(7) The discharge pipe that extends from the collection system shall be SDR 35 PVC pipe at a minimum.

69.13(3) Subsurface sand filters.

a. Distribution system and cover.

(1) Gravel base. Six inches of gravel $\frac{3}{4}$ inch to $2\frac{1}{2}$ inches in size shall be placed upon the sand in the bed.

(2) Distribution lines. Distribution lines shall be level and shall be horizontally spaced a maximum of 3 feet apart, center to center. Distribution lines shall be rigid perforated PVC pipe.

(3) Venting. Venting shall be placed on the downstream end of the distribution lines, with each distribution line being vented or connected to a common vent. Vents shall extend at least 12 inches above the ground surface with the outlet screened or provided with a perforated cap.

(4) Gravel cover. Enough gravel shall be carefully placed to cover the distributors.

(5) Separation layer. A layer of material such as unbacked, rolled, $3\frac{1}{2}$ -inch-thick fiberglass insulation, untreated building paper of 40- to 60-pound weight or synthetic drainage fabric shall be placed upon the top of the upper layer of gravel.

(6) Soil cover. A minimum of 12 inches of soil backfill shall be provided over the beds.

(7) Distribution boxes. A distribution box shall be provided for each filter bed where gravity distribution is used. The distribution boxes shall be placed upon undisturbed earth outside the filter bed. Separate watertight lines shall be provided leading from the distribution boxes to each of the distributor lines in the beds.

(8) As an alternative to gravel and rigid PVC pipe, EPS aggregate may be used for the distribution system. The EPS aggregate shall cover the entire surface of the sand filter, and a 3-foot separation between distribution pipes shall be maintained.

(9) Pressure distribution. Pressure dosing is recommended to improve effluent distribution across the surface of the filter. Pressure distribution systems may use conventional rock and PVC pipe, chambers with small-diameter pipe, or EPS aggregate with small-diameter pipe.

b. Sizing of subsurface sand filters.

(1) Gravity flow. For residential systems, subsurface sand filters shall be sized at a rate of 240 square feet of surface area per bedroom.

(2) Siphon-dosed. For residential systems, subsurface sand filters dosed by a dosing siphon shall be sized at a rate of 180 square feet of surface area per bedroom.

(3) Pressure-dosed. For residential systems, subsurface sand filters dosed by a pump shall be sized at a rate of 150 square feet of surface area per bedroom.

(4) Nonhousehold. Effluent application rates for commercial systems treating domestic waste shall not exceed the following:

1. 1.0 gallon/square feet/day for single bed sand filters.

2. The total surface area for any subsurface sand filter system shall not be less than 200 square feet.

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69.13(4) Free access sand filters.

a. Pretreatment required. These systems must be preceded by a secondary treatment system discharging a treated effluent with BOD and TSS values less than 30 mg/L.

b. Description. Media characteristics and underdrain systems for free access filters are similar to those for subsurface filters. Dosing of the filter should provide uniform distribution across the entire surface of the bed. Dosing frequency is usually greater than four times per day. For coarser media (greater than 0.5 mm), a dosing frequency greater than six times per day is desirable. Higher acceptable loadings on these filters as compared to subsurface filters relate primarily to the accessibility of the filter surface for maintenance. Gravel is not used on top of the sand media, and the distribution pipes are exposed above the surface.

c. Distribution. Distribution to the filter may be by perforated pipe laid on the surface, by pipelines discharging to splash plates located at the center or corners of the filter, or by spray distributors. Care must be taken to ensure that lines discharging directly to the filter surface do not erode the sand surface. The use of curbs around the splash plates or large stones placed around the periphery of the plates will reduce the scour. A layer of washed pea gravel placed over the filter media may also be employed to avoid surface erosion. This practice will create maintenance difficulties, however, when it is time to rake or remove a portion of the media surface.

d. Covers. Free access filters shall be covered to protect against severe weather conditions and to avoid encroachment of weeds or animals. The cover also serves to reduce odors. Covers may be constructed of treated wooden planks, galvanized metal, or other suitable material. Screens or hardware cloth mounted on wooden frames may also serve to protect filter surfaces. Where weather conditions dictate, covers should be insulated. A space of 12 to 24 inches should be allowed between the insulated cover and sand surface. Free access filters may not be buried by soil or sod.

e. Loading. The hydraulic loading for free access sand filters shall be 5.0 gpd/sq. ft.

69.13(5) Dosing. Dosing for sand filters is strongly advised. Without dosing, the entire area of the sand filter is never effectively used. Dosing not only improves treatment effectiveness but also decreases the chance of premature failure.

a. Pumps. A pump shall be installed when adequate elevation is not available for the system to operate by gravity.

(1) The pump shall be of corrosion-resistant material.

(2) The pump shall be installed in a watertight pit.

(3) The dosing system shall be designed to flood the entire filter during the dosing cycle. A dosing frequency of greater than two times per day is recommended.

(4) A high water alarm shall be installed.

b. Dosing siphons. When a dosing siphon is used where elevations permit, such siphon shall be installed as follows:

(1) Dosing siphons shall be installed between the septic tank and the sand filter bed.

(2) Dosing siphons shall be installed with strict adherence to the manufacturer's instructions.

c. Dosing tanks. The dosing tank shall be of such size that the siphon will distribute effluent over the entire filter during the dosing cycle. Smaller, more frequent doses are recommended.

d. Effluent sampling. A sampling port shall be available at the discharge point of the filter or shall be installed in the discharge line. All free access sand filters having an open discharge shall be sampled in accordance with the requirements of NPDES General Permit No. 4 if applicable.

69.13(6) Peat moss biofilter systems. General requirements for individual peat moss biofilter systems are as follows:

a. Use. Peat moss biofilter systems may be used when the administrative authority determines the site is unacceptable for a soil absorption system.

b. Certification. All peat moss biofilter systems shall be certified by an ANSI-accredited third-party certifier to meet National Sanitation Foundation Standard 40, Class I, including appendices (March 2008), or equivalent testing as determined by the department.

c. Installation and operation. All peat moss biofilter systems shall be preceded by a septic tank and installed, operated and maintained in accordance with the manufacturer's instructions and the

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requirements of the administrative authority. The septic tank shall be sized as specified in paragraph 69.8(2) "a" or larger if recommended by the manufacturer. Sizing of the system should be based on the manufacturer's specifications.

d. Maintenance contract. A maintenance contract for the proper monitoring and servicing of the entire treatment system shall be established between the owner and a certified technician for the life of the system. All monitoring and servicing shall be performed by a manufacturer's certified technician or person demonstrating knowledge of the system in accordance with the manufacturer's standards. Manufacturers are responsible for ensuring that an adequate number of maintenance providers are available to service all peat moss biofilters at the specified intervals. Maintenance contracts and responsibility waivers shall be recorded with the county recorder and in the abstract of title for the premises on which the system is installed. The maintenance provider shall perform the required maintenance and reporting to the owner and to the administrative authority. The maintenance provider shall also report any discontinuance of maintenance of the peat moss biofilter system to the administrative authority. Peat moss biofilter systems shall be inspected annually by the maintenance provider. A copy of the maintenance contract shall be on file in the office of the administrative authority.

e. Effluent sampling. A sampling port shall be available at the discharge point of the filter or shall be installed in the discharge line. All peat moss biofilter systems having an open discharge shall be sampled in accordance with the requirements of NPDES General Permit No. 4 if applicable.

69.13(7) Recirculating textile filter systems. General requirements for recirculating textile filter systems are as follows:

a. Use. Recirculating textile filter systems may be used when the administrative authority determines the site is unacceptable for a soil absorption system.

b. Certification. All recirculating textile filter systems shall be certified by an ANSI-accredited third-party certifier to meet National Sanitation Foundation Standard 40, Class I, including appendices (March 2008), or equivalent testing as determined by the department.

c. Design. Recirculating textile filter systems shall be designed to prevent the passage of untreated waste during an equipment malfunction or power outage.

d. Installation and operation. Recirculating textile filter systems shall be preceded by a septic tank and installed, operated and maintained in accordance with the manufacturer's instructions and the requirements of the administrative authority. The septic tank shall be sized as specified in paragraph 69.8(2) "a" or larger if recommended by the manufacturer. Sizing of the system should be based on the manufacturer's specifications.

e. Maintenance contract. A maintenance contract for the proper monitoring and servicing of the entire treatment system shall be established between the owner and a certified technician for the life of the system. All monitoring and servicing shall be performed by a manufacturer's certified technician or person demonstrating knowledge of the system in accordance with the manufacturer's standards. Manufacturers are responsible for ensuring that an adequate number of maintenance providers are available to service all recirculating textile filters at the specified intervals. Maintenance contracts and responsibility waivers shall be recorded with the county recorder and in the abstract of title for the premises on which the system is installed. The maintenance provider shall perform the required maintenance and reporting to the owner and to the administrative authority. The maintenance provider shall also report any discontinuance of maintenance of the system to the administrative authority. Recirculating textile filter systems shall be inspected, at minimum, annually by the maintenance provider. A copy of the maintenance contract shall be on file in the office of the administrative authority.

f. Effluent sampling. A sampling port shall be available at the discharge point of the filter or shall be installed in the discharge line. All recirculating textile filter systems having an open discharge shall be sampled in accordance with the requirements of NPDES General Permit No. 4 if applicable.

567—69.14(455B) Aerobic treatment units. General requirements for aerobic treatment units are as follows:

69.14(1) Use. Aerobic treatment units may be used only when the administrative authority determines that the site is unacceptable for a soil absorption system. Because of the higher maintenance

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requirements of aerobic treatment units, preference should be given to packed bed media filters, where conditions allow.

69.14(2) Certification. All aerobic treatment units shall be certified by an ANSI-accredited third-party certifier to meet National Sanitation Foundation Standard 40, Class I, including appendices (March 2008), or equivalent testing as determined by the department.

69.14(3) Installation and operation. All aerobic treatment units shall be installed, operated and maintained in accordance with the manufacturer's instructions and the requirements of the administrative authority. The aerobic treatment units shall have a minimum treatment capacity of 150 gallons per bedroom per day or 500 gallons, whichever is greater.

69.14(4) Pre-tank required. All aerobic treatment units shall be preceded by a septic or trash tank with a minimum capacity of 500 gallons. The trash tank may be a single-compartment tank. A trash tank built in as part of the aerobic treatment unit's design satisfies this requirement.

69.14(5) Effluent treatment. The effluent from aerobic treatment units shall receive additional treatment through the use of intermittent sand filters or soil absorption systems of a magnitude prescribed in subrule 69.9(2) for pretreated effluent.

69.14(6) Maintenance contract. A maintenance contract with a manufacturer-certified technician or equivalent, as determined by the department, shall be maintained at all times. The maintenance contract shall include the aerobic treatment unit and effluent disposal system. Manufacturers are responsible for ensuring that an adequate number of maintenance providers are available to service all aerobic treatment units at the specified intervals. Maintenance agreements and responsibility waivers shall be recorded with the county recorder and in the abstract of title for the premises on which an aerobic treatment unit is installed. Aerobic treatment units shall be inspected for proper operation at least twice a year at six-month intervals.

69.14(7) Effluent sampling. All aerobic treatment unit systems having an open discharge shall be sampled in accordance with the requirements of NPDES General Permit No. 4 if applicable.

567—69.15(455B) Constructed wetlands.**69.15(1) General site design.**

a. Application. Constructed wetlands shall only be used where soil percolation rates at the site exceed 120 minutes per inch. Because of the higher maintenance requirements of constructed wetland systems, preference should be given to packed bed media filters, where conditions allow.

b. Effluent treatment. The effluent from a constructed wetland shall receive additional treatment through the use of intermittent sand filters of a magnitude prescribed in subrule 69.9(2) for pretreated effluent.

c. Effluent sampling. All constructed wetland systems having an open discharge shall be sampled in accordance with the requirements of NPDES General Permit No. 4 if applicable.

d. Additional specifications. Specifications given in this rule for constructed wetlands are minimal and may not be sufficient for all applications. Technical specifications are changing with experience and research. Other design information beyond the scope of this rule may be necessary to properly design a constructed wetland system.

69.15(2) Wetland design.

a. Depth. The wetland shall be of a subsurface flow construction with a rock depth of 18 inches and a liquid depth of 12 inches.

b. Materials. Substrate shall be washed river gravel with a diameter of $\frac{3}{4}$ inch to $2\frac{1}{2}$ inches. If crushed quarried stone is used, it must meet the criteria listed in paragraph 69.9(4) "a."

c. Sizing and configuration. Detention time shall be a minimum of seven days.

(1) Dimensions. Detention time may be accomplished with trenches 16 to 18 inches deep (12 inches of liquid), 3 feet wide, with 100 feet of length per bedroom. Detention time may also be done with beds 16 to 18 inches deep, with at least 300 square feet of surface area per bedroom. The bottom of each trench or bed must be level within $\pm\frac{1}{2}$ inch.

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(2) Configuration. Multiple trenches or beds in series should be used. Beds or trenches in series may be stepped down in elevation to fit a hillside application. If the system is on one elevation, it should still be divided into units by earthen berms at about 50 and 75 percent of the total length.

(3) Unit connections. Each subunit shall be connected to the next subunit with an overflow pipe (rigid sewer pipe) that maintains the water level in the first section. Protection from freezing may be necessary.

d. Liner. Wetlands shall be lined with a synthetic PVC or PE plastic liner 20 to 30 mils thick.

e. Inlet pipe. Effluent shall enter the wetland by a 4-inch pipe sealed into the liner. With beds, a header pipe shall be installed along the inlet side to distribute the waste.

f. Protective berms. Wetland system sites shall be bermed to prevent surface water from entering the trenches or beds.

69.15(3) Vegetation.

a. Setting plants. Vegetation shall be established on the wetlands at the time of construction. Twelve inches of rock shall be placed in each unit, the plants set, and then the final 4 to 6 inches of rock placed.

b. Plant species. Only indigenous plant species, preferably collected within a 100-mile radius of the site, shall be set. Multiple species in each system are recommended. Preferred species include, but are not limited to:

- (1) *Typha latifolia* – common cattail.
- (2) *Typha angustifolia* – narrow leaf cattail.
- (3) *Scirpus* spp. – bullrush.
- (4) *Phragmites communis* – reed.

c. Plant establishment. Transplantation is the recommended method of vegetation establishment. For transplanting, the propagule should be transplanted, at a minimum, on a 2-foot grid. The transplants should be fertilized, preferably with a controlled-release fertilizer such as Osmocote 18-5-11 for fall and winter planting, 18-6-12 for spring planting, and 19-6-12 for summer planting. Trenches or beds should be filled with fresh water immediately.

d. Plant management. In the late fall, the vegetation shall be mowed and the detritus left on the wetland surface as a temperature mulch. In the early spring, the mulch shall be removed and disposed of to allow for adequate bed aeration.

567—69.16(455B) Waste stabilization ponds.

69.16(1) General requirements. Waste stabilization ponds shall only be used for nonresidential applications and shall be designed by an Iowa-licensed engineer. Waste stabilization ponds may be used if designed and constructed in accordance with the following criteria and provided the effluent is discharged in accordance with the requirements of the NPDES general permit listed in rule 69.4(455B). A septic tank sized according to rule 69.8(455B) shall precede a waste stabilization pond.

69.16(2) Location. Waste stabilization ponds must meet the following separation distances:

a. 1,000 feet from the nearest inhabitable residence, commercial building, or other inhabitable structure. If the inhabitable or commercial building is the property of the owner of the proposed treatment facility or there is written agreement with the owner of the building, this separation criterion shall not apply. Any such written agreement shall be filed with the county recorder and recorded for abstract of title purposes, and a copy submitted to the department.

b. 1,000 feet from public shallow wells.

c. 400 feet from public deep wells.

d. 400 feet from private wells.

e. 400 feet from lakes and public impoundments.

f. 25 feet from property lines and rights-of-way.

69.16(3) Size.

a. Dimensions. Ponds shall have a length not exceeding three times the width.

b. Capacity. When domestic sewage from a septic tank is to be discharged to a waste stabilization pond, the capacity of the pond shall be equivalent to 180 times the average daily design flow.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

c. Depth. The wastewater depth for a waste stabilization pond shall be 3 feet to 5 feet and shall be uniform.

d. Freeboard. A minimum freeboard of 2 feet shall be maintained at all times.

69.16(4) Embankments.

a. Seal. Embankments shall be constructed of impermeable materials and shall be compacted. The bottom of the waste stabilization pond shall be cleared and leveled to the required elevation and shall be lined with an impermeable natural or man-made material. Seepage loss through the sides and bottom shall be less than 1/16 inch per day.

b. Slopes. The ratio of inside embankment slopes shall be 3 horizontal to 1 vertical. The outside embankment slope ratio shall be at least 3:1.

c. Berm top. Berm tops shall be at least 4 feet wide.

d. Cover. Embankments shall be seeded from the outside toe to the inside high water line. From the high water line down the embankment diagonally, about 5 feet shall be riprapped for erosion and vegetation control.

69.16(5) Inlet and outlet structures.

a. Inlet. The inlet shall be placed no higher than 12 inches above the bottom of the pond. It shall discharge near the middle of the pond at a point opposite the overflow structure and onto a concrete splash plate at least 2 feet square.

b. Outlet. The outlet pipe shall withdraw water from a submerged depth of at least 1 foot. The intake for the outlet pipe shall be 3 to 5 feet from the embankment.

c. Separation. The inlet and outlet should be separated to the maximum extent possible, ideally by a berm or baffle constructed in the lagoon to prevent short-circuiting.

69.16(6) Drainage. All surface water shall be diverted away from the waste stabilization pond.

69.16(7) Effluent sampling. All waste stabilization ponds having an open discharge shall be sampled in accordance with the requirements of NPDES General Permit No. 4 if applicable.

69.16(8) Maintenance.

a. Fencing. All waste stabilization ponds are to be fenced adequately to prevent entrance of livestock and to discourage entrance by people into the area. Signs shall be posted warning of possible health and safety hazards.

b. Vegetation. Vegetation on the top and sides of the berm shall be mowed and the length maintained. No trees shall be allowed to become established.

567—69.17(455B) Requirements for impervious vault toilets. All impervious vault toilets shall comply with the following requirements:

69.17(1) Location. Impervious vault toilets shall be located in accordance with the distances given in Table I in rule 69.3(455B) for the closed portion of the treatment system.

69.17(2) Construction. The vault shall be constructed of reinforced, impervious concrete at least 4 inches thick. The superstructure including floor slab, seat, seat cover, riser and building shall comply with good design and construction practices to provide permanent, safe, sanitary facilities. The vault shall be provided with a cleanout opening fitted with a fly-tight cover.

69.17(3) Wastewater disposal. Wastewater from impervious vault toilets shall be disposed of at a public sewage treatment facility.

567—69.18(455B) Requirements for portable toilets. All portable toilets shall be designed to receive and retain the wastes deposited in them and shall be located and maintained in a manner that will prevent the creation of any nuisance condition. Wastewater from portable toilets shall be disposed of at a public sewage treatment facility.

567—69.19(455B) Other methods of wastewater disposal. Other methods or types of private wastewater treatment and disposal systems shall be installed only after plans and specifications for each project have been approved by the administrative authority.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

567—69.20(455B) Disposal of septage from private sewage disposal systems.

69.20(1) The collection, storage, transportation and disposal of all septage shall be carried out in accordance with the requirements in 567—Chapter 68.

69.20(2) Commercial septic tank cleaners. Individual administrative authorities shall enforce the licensing program for commercial septic tank cleaners in accordance with the requirements of 567—Chapter 68.

567—69.21(455B) Experimental private sewage disposal systems.

69.21(1) Design requirements. Experimental systems are to be designed and operated in accordance with approved standards and operating procedures established by individual administrative authorities.

a. Plans and specifications, meeting all applicable rule requirements, should be prepared and submitted to the administrative authorities by a licensed professional engineer. Included with the engineering submittal should be adequate supporting data relating to the effectiveness of the proposed system.

b. For systems designed to discharge treated effluent into waters of the state, a Notice of Intent to be covered under the requirements of NPDES General Permit No. 4 shall be obtained. The administrative authority is responsible for determining that the requirements of the permit, including the monitoring program, are met.

c. Administrative authorities should prepare for signature an enforceable agreement to be placed on record which would require that present and future system owners meet all applicable rule requirements. In the event of noncompliance, the administrative authority shall require that adequate steps be taken by the system owner to bring the system into compliance or that the system owner replace the system with a system prescribed in these rules.

69.21(2) Reserved.

567—69.22(455B) Variances. Variances to these rules may be granted by the department of natural resources or the administrative authority provided sufficient information is submitted to substantiate the need for and propriety of such action. Applications for variances and justification shall be in writing and copies filed with the department.

These rules are intended to implement Iowa Code chapter 455B, division III, part 1.

Appendix A
Estimates of Nonhousehold Domestic Sewage Flow Rates

| Source of use for sewage unit | (units) | Gallons per day per unit |
|----------------------------------|---------------------------------|--------------------------|
| Dwelling Units | | |
| Hotels or luxury motels | (Each guest) | 60 |
| | (Add per employee) | 13 |
| or | (Per square foot) | 0.3 |
| Discount motels | (Each guest) | 40 |
| | (Add per employee) | 13 |
| or | (Per square foot) | 0.46 |
| Rooming house | (Each resident) | 50 |
| | (Add per nonresident meal) | 4.0 |
| Commercial/Industrial | | |
| Retail stores | (Per square foot of sales area) | 0.15 |
| or | (Each customer) | 5 |
| | (Plus each employee) | 15 |

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

| Source of use for sewage unit | (units) | Gallons per day per unit |
|---|--|--------------------------|
| or | (Each toilet room) | 630 |
| Offices | (Each employee) | 18 |
| or | (Per square foot) | 0.25 |
| Medical offices | (Per square foot) | 1.6 |
| Industrial buildings | (Each employee) | 20 |
| | (Does not include process ware or cafeteria) | |
| Construction camp | (Each employee) | 20 |
| Visitor center | (Each visitor) | 20 |
| Laundromat | (Each machine) | 690 |
| or | (Each load) | 50 |
| or | (Per square foot) | 2.9 |
| Barber shops | (Per chair) | 80 |
| Beauty shops | (Per station) | 300 |
| Car washes | (Per inside square foot) | 10 |
| | (Does not include car wash water) | |
| Eating and Drinking Establishments | | |
| Restaurant | (Per meal) | 4.0 |
| | (Does not include bar or lounge) | |
| or | (Each seat) | 40 |
| | (Plus add for each employee) | 13 |
| Dining hall | (Per meal) | 4.0 |
| Coffee shop | (Each customer) | 2.5 |
| | (Add per employee) | 13 |
| Cafeteria | (Each customer) | 2.5 |
| | (Add per employee) | 13 |
| Drive-in | (Per car stall) | 145 |
| Bar or lounge | (Each customer) | 5.5 |
| | (Add per employee) | 16 |
| or | (Per seat) | 40 |
| Country clubs | (Per member) (No meals) | 22 |
| or | (Per member) (Meals and showers) | 130 |
| or | (Per member in residence) | 100 |
| Resorts | | |
| Housekeeping cabin | (Per person) | 50 |
| Lodge | (Per person) | 74 |
| Parks/swimming pools | (Per guest) | 13 |
| Picnic parks with toilet only | (Per guest) | 10 |
| Movie theaters | (Per guest) | 4.0 |
| Drive-in theaters | (Per space) | 5 |
| Skating rink/dance hall | (Per customer) | 10 |
| Bowling lanes | (Per lane) | 200 |
| Transportation | | |

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

| Source of use for sewage unit | (units) | Gallons per day per unit |
|----------------------------------|---|--------------------------|
| Airport, bus or rail depot | (Per passenger) | 4 |
| or | (Per square foot) | 6.5 |
| or | (Per public restroom) | 630 |
| Auto service station | (Each vehicle served) | 13 |
| | (Add per employee) | 16 |
| or | (Per inside square foot) | 0.6 |
| or | (Per public restroom) | 630 |
| Institutional | | |
| Hospitals | (Each medical bed) | 250 |
| | (Add per employee) | 16 |
| Mental institution | (Each bed) | 175 |
| | (Add per employee) | 16 |
| Prison or jail | (Each inmate) | 160 |
| | (Add per employee) | 16 |
| Nursing home | (Each resident) | 145 |
| | (Add per employee) | 16 |
| Schools and Churches | | |
| School | (Per student) (No gym, cafeteria or showers) | 17 |
| | (Per student) (Cafeteria only) | 17 |
| | (Per student) (Cafeteria, gym & showers) | 30 |
| Boarding school | (Per student) | 115 |
| Churches | (Per member) | 2 |
| | (Per member with kitchen) | 5 |
| Recreational | | |
| Campground/with hookups | (Per person) | 40 |
| or | (Per site with central bath) | 100 |
| | (Per site) | 75 |
| | (Add for dump station w/ hookup) | 16 |
| Day camp (no meals) | (Per person) | 16 |
| Weekly overnight camp | (Per member) | 33 |

Appendix B
Percolation Test Procedure

1. At least three test holes distributed evenly over the proposed lateral field are required.
2. Percolation test holes shall be 4 to 12 inches in diameter and to the same depth as the proposed absorption trenches (not to exceed 36 inches in depth).
3. Sides and bottoms of the test holes shall be scratched or roughened to provide a natural surface. All loose material shall be removed from each hole.
4. The bottoms of the test holes shall be covered with approximately 2 inches of rock to protect the bottom from scouring action when the water is added.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

5. The hole shall be filled with at least 12 inches of clean water, and this depth shall be maintained for at least 4 hours and preferably overnight if clay soils are present. It is important that the soil be allowed to soak for a sufficiently long period of time to allow the soil to swell if accurate results are to be obtained. Failure to perform the presoak when required will invalidate the percolation test results.

6. In sandy soils with little or no clay, soaking is not necessary. If, after the hole has been filled twice with 12 inches of water, the water seeps completely away in less than 10 minutes, the test can proceed immediately.

7. Except for sandy soils, percolation rate measurements should be made at least 4 hours but no more than 24 hours after the soaking period began. Any soil that sloughed into the hole during the soaking period is removed, and the water level is adjusted to 6 inches above the gravel (or 8 inches above the bottom of the hole). At no time during the test is the water level allowed to rise more than 6 inches above the gravel.

8. Immediately after adjustment, the water level is measured from a fixed reference point to the nearest $\frac{1}{8}$ inch at 30-minute intervals. The test is continued until two successive water level drops do not vary by more than $\frac{1}{8}$ inch. At least three measurements are made.

9. After each measurement, the water level is readjusted to the 6-inch level. The last water level drop is used to calculate the percolation rate.

10. In sandy soils or soils in which the first 6 inches of water added after the soaking period seep away in less than 30 minutes, water level measurements are made at 10-minute intervals for a 1-hour period. The last water level drop is used to calculate the percolation rate.

11. The percolation rate is calculated for each test hole by dividing the time interval used between measurements by the magnitude of the last water level drop. This calculation results in a percolation rate in terms of minutes per inch. To determine the percolation rate for the area, the rates obtained from each hole are averaged. (If tests in the area vary by more than 20 minutes per inch, variations in soil type are indicated. Under these circumstances, percolation rates should not be averaged.) EXAMPLE: If the last measured drop in water level after 30 minutes is $\frac{5}{8}$ inch, the percolation rate = (30 minutes)/($\frac{5}{8}$ inch) = 48 minutes/inch.

[Filed 1/22/09, effective 3/18/09]

[Published 2/11/09]

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ARC 7546B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.3, the Department of Human Services amends Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

These amendments change Medicaid eligibility requirements related to assignment of rights to medical payments from third parties. Federal regulations at 42 CFR 433.146 require that assignment of rights to medical payments be a condition of Medicaid eligibility. 2008 Iowa Acts, Senate File 249, amended Iowa Code section 249A.6 to require the assignment of rights to medical payments as a condition of Medicaid eligibility and require cooperation in obtaining medical payments.

Under these amendments, a client's signature on any Medicaid application or review form shall constitute agreement for assignment of third-party medical benefits to the Department of Human Services.

These amendments do not provide for waivers in specified situations because federal regulations and Department rules require that Medicaid pay only claims that are not the responsibility of any other entity.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on November 19, 2008, as **ARC 7356B**. The Department received two comments on the Notice of Intended

HUMAN SERVICES DEPARTMENT[441](cont'd)

Action. In response to those comments, the Department has added the phrase “to the extent that payment has been made under the medical assistance program” to the first sentence of paragraph 75.2(2)“a.”

The Council on Human Services adopted these amendments on January 14, 2009.

These amendments are intended to implement Iowa Code section 249A.6 as amended by 2008 Iowa Acts, Senate File 249, section 2.

These amendments shall become effective on April 1, 2009.

The following amendments are adopted.

ITEM 1. Amend subrule 75.2(2) as follows:

75.2(2) When a medical resource may be obtained by filing a claim or an application and cooperating in the processing of that claim or application, that resource shall be considered to be reasonably available, unless good cause for failure to obtain that resource is determined to exist. As a condition of eligibility for medical assistance, a person who has the legal capacity to execute an assignment shall do all of the following:

a. The member, or one acting on the member’s behalf, shall file a claim or submit an application for any reasonably available medical resource, and shall also cooperate in the processing of the claim or application. Failure to do so without good cause shall result in the termination of medical assistance benefits. Assign to the department any rights to payments of medical care from any third party to the extent that payment has been made under the medical assistance program. The applicant’s signature on any form listed in 441—subrule 76.1(1) shall constitute agreement to the assignment. The assignment shall be effective for the entire period for which medical assistance is paid.

b. The medical assistance benefits of a minor or a legally incompetent adult member shall not be terminated for failure to cooperate in reporting medical resources. When a parent or payee acting on behalf of a minor or legally incompetent adult member fails to file a claim or application for reasonably available medical resources or fails to cooperate in the processing of a claim or application without good cause, the medical assistance benefits of the parent or payee shall be terminated. Cooperate with the department in obtaining third-party payments. The member or one acting on the member’s behalf shall:

(1) File a claim or submit an application for any reasonably available medical resource, and

(2) Cooperate in the processing of the claim or application.

c. Cooperate with the department in identifying and providing information to assist the department in pursuing any third party who may be liable to pay for medical care and services available under the medical assistance program.

ITEM 2. Amend subrule 75.2(4) as follows:

75.2(4) Failure to cooperate as required in subrule 75.2(2) without good cause as defined in subrule 75.2(3) shall result in the termination of medical assistance benefits. The department shall make the determination of good cause based on information and evidence provided by the member, or by one acting on the member’s behalf.

a. The medical assistance benefits of a minor or a legally incompetent adult member shall not be terminated for failure to cooperate in reporting medical resources.

b. When a parent or payee acting on behalf of a minor or legally incompetent adult member fails to file a claim or application for reasonably available medical resources or fails to cooperate in the processing of a claim or application without good cause, the medical assistance benefits of the parent or payee shall be terminated.

[Filed 1/14/09, effective 4/1/09]

[Published 2/11/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/11/09.

ARC 7547B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4 and 2008 Iowa Acts, Senate File 2425, section 124, the Department of Human Services amends Chapter 76, "Application and Investigation," and Chapter 80, "Procedure and Method of Payment," Iowa Administrative Code.

These amendments:

- Expand the applicability of Medicaid's health care data match program,
- Expand and clarify the obligations of third parties legally responsible to pay for health care for a Medicaid member, and
- Group provisions regarding payment by third parties into one rule.

The amendments conform Medicaid rules to statutory changes enacted in 2008 Iowa Acts, Senate File 2425, section 124. This legislation sets standards for providing coverage information to the state, accepting the state's right of recovery, responding to the state's inquiry about claims, and making decisions on claims.

These amendments do not provide for waivers in specified situations because the Department does not have the authority to waive statutory requirements.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on November 19, 2008, as **ARC 7355B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on January 14, 2009.

These amendments are intended to implement Iowa Code chapter 249A as amended by 2008 Iowa Acts, Senate File 2425, section 124.

These amendments shall become effective on March 18, 2009.

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 [76.13, 80.3, 80.5(2)] is being omitted. These amendments are identical to those published under Notice as **ARC 7355B**, IAB 11/19/08.

[Filed 1/14/09, effective 3/18/09]

[Published 2/11/09]

[For replacement pages for IAC, see IAC Supplement 2/11/09.]

ARC 7548B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Iowa Administrative Code.

These amendments limit coverage of blood glucose monitors and test strips to those produced by manufacturers who have contracted with the Department to provide a rebate for monitors and test strips provided through the Medicaid program. The Department is directed to collect supplemental rebates for diabetic supplies by 2008 Iowa Acts, Senate File 2425, section 9(18). Prior authorization is required for Medicaid members for whom a monitor or test strips from another manufacturer are medically necessary.

The amendments also make numerous technical changes to update Medicaid terminology.

The restriction on the choice of equipment and supplies may be waived with prior authorization from the Iowa Medicaid Enterprise.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on November 19, 2008, as **ARC 7369B**.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The Department received three comments on the Notice of Intended Action. Commenters were concerned that the rules would limit access to equipment that was most appropriate to members' individual needs, and that treatment of diabetes patients would suffer if patients were required to change to different equipment. The Department believes that the variety of equipment that will be available will meet most members' needs and that the prior authorization process will serve to address needs that are not met by the selected brands and models.

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

The Council on Human Services adopted these amendments on January 14, 2009.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments shall become effective on April 1, 2009.

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 [78.6, 78.9, 78.10, 78.28] is being omitted. These amendments are identical to those published under Notice as **ARC 7369B**, IAB 11/19/08.

[Filed 1/14/09, effective 4/1/09]

[Published 2/11/09]

[For replacement pages for IAC, see IAC Supplement 2/11/09.]

ARC 7549B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 177, "In-Home Health Related Care," Iowa Administrative Code.

These amendments change the requirements for Department service workers' involvement with clients who are receiving state supplementation to meet the costs of nursing and personal care provided in the client's home. The amendments:

- Extend the requirements for social worker review of the entire care plan from every three months to every six months.
- Eliminate the requirement for Department social workers to provide for guardianship, commitment, or protective placement when in-home health related care services are terminated for a client who is unable to protect the client's own interests.
- Clarify the requirements for case plan approval.

Review of a case at six-month intervals is consistent with the requirements for other service programs. The 60-day reviews required of the physician and the supervising nurse serve to monitor the client's service needs. Service workers assist clients in finding whatever alternative protective services are available, which are not necessarily the specific services listed in the current rule. Having a list of alternatives in the rules is not necessary.

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

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on November 19, 2008, as **ARC 7371B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on January 14, 2009.

These amendments are intended to implement Iowa Code section 249.3(2)"a"(2).

These amendments shall become effective on April 1, 2009.

The following amendments are adopted.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Amend subrule 177.4(5) as follows:

177.4(5) Certification procedure. The approval ~~by the area office of the department of human services~~ of the case plan by the service area manager or designee shall constitute certification and approval for payment.

ITEM 2. Amend subrule 177.6(3) as follows:

177.6(3) Review. The continuing need for in-home health care services shall be reviewed:

a. At a minimum of every 60 days by the physician, including a written recertification of continuing appropriateness of the plan;

b. At a minimum of every ~~three~~ six months by the service worker, including a review of the total care plan; ~~and~~

c. At a minimum of every 60 days by the nurse who shall review the nursing plan; ~~or~~

d. More frequent reviews may be frequently if required by the physician, the service worker, or the nurse.

ITEM 3. Amend subrule 177.11(1) as follows:

177.11(1) Request. Upon the request of the client or legal representative. ~~When termination of the program would result in an individual being unable to protect the individual's own interests, arrangements for guardianship, commitment, or protective placements shall be provided.~~

[Filed 1/14/09, effective 4/1/09]

[Published 2/11/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/11/09.

ARC 7576B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Nursing Home Administrators hereby rescinds Chapter 140, "Administrative and Regulatory Authority for the Board of Examiners for Nursing Home Administrators," amends Chapter 141, "Licensure of Nursing Home Administrators," Chapter 143, "Continuing Education for Nursing Home Administration," and Chapter 144, "Discipline for Nursing Home Administrators," and rescinds Chapter 145, "Fees," Iowa Administrative Code.

These amendments add Iowa Code chapter 147 to the citations of board authority, where applicable, to be consistent with the addition of the profession to Iowa Code chapter 147; rescind chapters and rules that duplicate existing rules in 645—Chapters 4 and 5; revise the grounds for discipline to be consistent with changes in Iowa Code chapter 147; and provide for Web-based reporting of name and address changes by licensees.

These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on October 22, 2008, as **ARC 7285B**.

A public hearing was held on November 13, 2008, from 10 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received.

These amendments are intended to implement Iowa Code chapters 21, 147, 155 and 272C.

These amendments will become effective March 18, 2009.

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 [rescind Chs 140, 145; amend Chs 141, 143, 144] is being omitted. These amendments are identical to those published under Notice as **ARC 7285B**, IAB 10/22/08.

[Filed 1/23/09, effective 3/18/09]

[Published 2/11/09]

[For replacement pages for IAC, see IAC Supplement 2/11/09.]

ARC 7550B**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 144A.7A(2), the Department of Public Health hereby amends Chapter 142, “Out-Of-Hospital Do-Not-Resuscitate Orders,” Iowa Administrative Code.

The rules in Chapter 142 set forth guidelines for consideration by health care providers and organizations to help ensure uniform and orderly understandings, processes and procedures for the use and implementation of Out-Of-Hospital Do-Not-Resuscitate Orders. This amendment updates information concerning the uniform identifier based on changes to MedicAlert’s® pricing structure.

Notice of Intended Action was published in the November 19, 2008, Iowa Administrative Bulletin as **ARC 7357B**. No comments were received. The adopted amendment is identical to that published under Notice.

This amendment was adopted by the State Board of Health on January 14, 2009.

This amendment will become effective on March 18, 2009.

This amendment is intended to implement Iowa Code chapter 144A.

The following amendment is adopted.

Amend **641—Chapter 142**, Appendix A, “Directions for obtaining a uniform identifier,” paragraph “**1**,” as follows:

1. A completed MedicAlert® application, which is available in physician offices or through MedicAlert® by phoning (~~880~~ 800)432-5378 or ~~their~~ the Web site www.medicalert.org, and ~~a new membership fee of \$35.~~

[Filed 1/14/09, effective 3/18/09]

[Published 2/11/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/11/09.

ARC 7551B**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.26 and section 613.17 as amended by 2008 Iowa Acts, Senate File 505, the Department of Public Health hereby amends Chapter 143, “Automated External Defibrillator Grant Program,” Iowa Administrative Code.

The rules in Chapter 143 describe the automated external defibrillator (AED) grant program, which provides funds for eligible organizations seeking to implement an early defibrillation program. These amendments add standards for maintenance of an AED device in accordance with Iowa Code section 613.17 as amended by 2008 Iowa Acts, Senate File 505.

Notice of Intended Action was published in the November 19, 2008, Iowa Administrative Bulletin as **ARC 7358B**. No comments were received. The adopted amendments are identical to those published under Notice.

These amendments were adopted by the State Board of Health on January 14, 2009.

These amendments will become effective on March 18, 2009.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

These amendments are intended to implement Iowa Code chapters 135 and 613 and 2008 Iowa Acts, Senate File 505.

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 [143.10 to 143.12] is being omitted. These amendments are identical to those published under Notice as **ARC 7358B**, IAB 11/19/08.

[Filed 1/14/09, effective 3/18/09]

[Published 2/11/09]

[For replacement pages for IAC, see IAC Supplement 2/11/09.]

ARC 7562B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Pursuant to the authority of Iowa Code section 17A.3, the Department of Public Safety hereby rescinds Chapter 25, "Public Records and Fair Information Practices," Iowa Administrative Code, and adopts new Chapter 80 with the same title.

Iowa Code chapter 22 establishes the basic framework for access to records of public agencies in Iowa. 661—Chapter 25 was adopted in 1988 to facilitate implementation of these requirements by the Department of Public Safety. Other chapters of the administrative rules of the Department also relate to the release of records, including Chapter 11 (criminal history records), Chapter 81 (criminal intelligence files), Chapter 83 (sex offender registry records) and Chapter 89 (missing persons records). In 2007, Chapter 25 was amended to be consistent with the "Peace Officer, Public Safety, and Emergency Personnel Bill of Rights," which was enacted as 2007 Iowa Acts, chapter 160, and is now codified as Iowa Code section 80F.1. Because of uncertainty about the scope of applicability of that then-new Code language, a new provision having to do with the release of photographs of employees of the Department was written broadly. It now appears clear that the law is applicable only to certain employees of the Department, so the rule regarding release of photographs is being revised accordingly. In addition, the rule which provides directions about how to obtain information about records maintained by the Department is being updated. In addition, all of Chapter 25 is now being replaced with a new Chapter 80, as part of a renumbering and reorganization of the administrative rules to make them more accessible to those subject to the provisions of the rules and to interested members of the public.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 6916B** on July 2, 2008. A public hearing on the proposed changes was held on August 12, 2008. No comments regarding the proposed changes were received either at the public hearing or otherwise. All changes proposed to the rules in the Notice of Intended Action have been included in the adopted rules contained herein. No other substantive changes to the rules have been made, except that the entirety of the previous Chapter 25 is being moved to a new Chapter 80.

These amendments are intended to implement Iowa Code chapters 22 and 80F.

These amendments will become effective on April 1, 2009.

The following amendments are adopted.

ITEM 1. Rescind and reserve **661—Chapter 25**.

ITEM 2. Adopt the following **new** 661—Chapter 80:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

CHAPTER 80
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

PREAMBLE

Scope. These rules are to provide notice of how the department keeps records and what the procedures are for access by the public. Nothing in these rules affects the access of information by law enforcement agencies, agencies of government or persons authorized by chapter 692 of the Iowa Code to receive information.

661—80.1(17A,22) Definition. As used in this chapter:

“Agency” means the “department of public safety.”

661—80.2(17A,22) Statement of policy. The purpose of this chapter is to facilitate broad public access to open records. It also seeks to facilitate sound agency determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. This agency is committed to the policies set forth in Iowa Code chapter 22; agency staff shall cooperate with members of the public in implementing the provisions of that chapter.

661—80.3(17A,22) Requests for access to records.

80.3(1) Location of record. A request for access to a record should be directed to the office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the Public Information Bureau, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319.

80.3(2) Office hours. Open records shall be made available during customary office hours, which are 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays.

80.3(3) Request for access. A request for access to open records may be made in writing, by electronic mail, in person, or by telephone. The request shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail or telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

80.3(4) Response to requests. Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing. The custodian shall also provide to the requester an estimate of any fees which will be assessed to cover the costs of complying with the request.

80.3(5) Security of record. No person may, without permission from the custodian, search or remove any record from agency files. Examination and copying of agency records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

80.3(6) Copying. A reasonable number of copies of an open record may be made in the departmental office. If photocopy equipment is not available in the departmental office where an open record is kept, the custodian shall permit its examination in that office or a nearby location and shall arrange to have copies promptly made elsewhere. An electronic copy may be provided if mutually agreeable to the custodian and the requester.

80.3(7) Fees.

a. When charged. The agency may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law,

PUBLIC SAFETY DEPARTMENT[661](cont'd)

the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the agency shall be prominently posted in agency offices. Copies of records may be made by or for members of the public on agency photocopy machines or from electronic storage systems at cost as determined and posted in agency offices by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

c. Search and supervisory fees. Fees may be charged for actual agency expenses in searching for and supervising the examination and copying of requested records. The custodian shall notify the requester of the hourly fees to be charged for searching for records and supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of an agency employee who ordinarily would be appropriate and suitable to perform these search and supervisory functions.

d. Advance deposits.

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

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require payment of the full amount of any fees previously owed and of any estimated fees for the new request prior to processing any new request from the requester.

661—80.4(17A,22) Procedures for access to confidential records. This rule contains the provisions governing public access to confidential records in addition to those specified for all records in rule 80.3(17A,22). These provisions do not apply to law enforcement agencies, agencies of government or persons authorized by Iowa Code chapter 692 or 100A to receive confidential information.

80.4(1) Proof of identity. A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

80.4(2) Requests. The custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

80.4(3) Reserved.

80.4(4) Request denied. When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

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

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

80.4(5) Request granted. When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

661—80.5(17A,22) Requests for treatment of a record as a confidential record.

80.5(1) Any person who would be substantially or irreparably injured by disclosure of all or a part of a record to members of the public may file a request, as provided in this rule, for its treatment as a confidential record. Failure of a person to request confidential record treatment for all or part of a record does not preclude the agency from treating it as a confidential record.

80.5(2) A request for the treatment of a record as a confidential record shall be in writing and shall be filed with the custodian of that record. The request shall include an enumeration of the specific grounds upon which examination would not be in the public interest; the specific provisions of law that authorize confidential record treatment; and the name, address, and telephone number of the person authorized to respond to any agency action concerning the request. A person filing a request shall, if

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possible, accompany the request with a copy of the record in question from which those portions for which confidential record treatment has been requested have been deleted. If the original record is being submitted to the agency by the person requesting confidentiality at the same time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are a confidential record. Requests for treatment of all or portions of a record as a confidential record for a limited time period shall also specify the precise period of time for which confidential record treatment is requested.

80.5(3) Failure to request. Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the agency does not request that it be withheld from public inspection under Iowa Code sections 22.7(3) and 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

80.5(4) Timing of decision. A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

80.5(5) Request granted or deferred. If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

80.5(6) Request denied. If a request for confidential record treatment is denied, the requester may seek review or relief under Iowa Code section 22.8.

661—80.6(17A,22) Procedure by which a subject may have additions, dissents, or objections entered into the record. Except as otherwise provided by law, the subject of a record shall have the right to have a written statement of additions, dissents, or objections entered into the record. The subject shall send the statement to the custodian of the record. The statement must be dated and signed by the subject, and shall include the current address and telephone number of the subject or the subject's representative.

EXCEPTION: This rule does not apply to criminal investigation, identification or intelligence files. Access to criminal history data shall be governed by Iowa Code section 692.5.

661—80.7(17A,22) Consent to disclosure by the subject of a confidential record. The subject of a confidential record may consent to agency disclosure to a third party of that portion of the record concerning the subject. The consent must be in writing and must identify the particular record or records that may be disclosed, the particular person, or class of persons, to whom the record may be disclosed, and where applicable, the time period during which the record may be disclosed. The subject and, where applicable, the person to whom the record is to be disclosed may be required to provide proof of identity.

EXCEPTION: This rule does not apply to criminal investigation, identification or intelligence files. Access to criminal history data shall be governed by Iowa Code section 692.5.

661—80.8 Reserved.

661—80.9(17A,22) Disclosures without the consent of the subject.

80.9(1) Open records are routinely disclosed without the consent of the subject.

80.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 80.10(17A,22) or in any notice for a particular record system.

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b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; provided, that, the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject.

e. To the legislative services agency.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

661—80.10(17A,22) Routine use.

80.10(1) Defined. “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

80.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer or employee, or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

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

661—80.11(17A,22) Records retention manual. The department’s “Records Retention Manual” contains the records management information required by Iowa Code chapter 22. The manual is available for examination and copying at the Public Information Bureau, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319.

661—80.12(17A,22) Data processing system. All departmental data processing systems that have common data elements can potentially match, collate or compare personally identifiable information.

661—80.13(22) Confidential records. This rule describes the types of departmental information or records that are confidential, in addition to those listed in Iowa Code chapter 22. This rule is not exhaustive.

1. Investigative reports including laboratory reports. (Iowa Code sections 22.7, 622.11, 692.2)
2. Criminal histories. (Iowa Code sections 22.7, 622.11, 692.2)
3. Intelligence reports. (Iowa Code sections 22.7, 622.11, 692.2)

PUBLIC SAFETY DEPARTMENT[661](cont'd)

4. Domestic abuse reports. Information which individually identifies perpetrators or victims of domestic abuse. (Iowa Code sections 22.7, 236.9)
5. Radio communication log where it contains criminal history and intelligence information. (Iowa Code sections 22.7, 692.2)
6. Personal information in confidential personnel files including but not limited to evaluations, discipline, social security numbers, medical and psychological evaluations.
7. Complaint files, investigative files and similar information relating to private investigative agency licensees. (Iowa Code sections 22.7, 80A.17)
8. Records received from other agencies which would be confidential if created by the department. (Iowa Code sections 22.7, 692.2, 692.3)
9. Any report, manual, or other record which contains information concerning security procedures or emergency preparedness information related to the protection of employees of the department, employees of other agencies of state government, employees of other units of government, visitors to state government facilities or offices, other persons on premises controlled by any state or local government agency, or property owned by or under the control of the department, any other state agency, or any other unit of government, or information concerning security procedures or emergency preparedness information related to persons or property owned by or under the control of a private entity if that information was obtained by the department in relation to planning for emergencies or developing security procedures, or with an assurance that the information would be maintained as confidential.

661—80.14(252J) Release of confidential licensing information for child support recovery purposes. Notwithstanding any statutory confidentiality provision, the department may share information with the child support recovery unit of the Iowa department of human services through manual or automated means for the sole purpose of identifying licensees or applicants subject to enforcement of child support orders pursuant to Iowa Code chapter 252J or 598.

661—80.15(22,80F) Release of official photographs of employees.

80.15(1) An official photograph of an employee of the department who is an officer as defined in Iowa Code section 80F.1 shall be released only if either of the following is true:

- a. The employee has signed a written release giving permission to release the photograph; or
- b. A request has been received to release the photograph pursuant to Iowa Code chapter 22.

80.15(2) A photograph of any employee of the department shall not be released if its release could jeopardize an ongoing investigation or place the employee at risk.

These rules are intended to implement Iowa Code chapters 22 and 80F.

[Filed 1/21/09, effective 4/1/09]

[Published 2/11/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/11/09.

ARC 7559B

REAL ESTATE COMMISSION[193E]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 543B.46 and 543B.18, the Real Estate Commission hereby amends Chapter 13, "Trust Accounts and Closings," Iowa Administrative Code.

This amendment to rule 193E—13.1(543B) adds the correct tax identification number (TIN) and new depositor and depository address for trust account interest remitted by real estate brokers.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 7271B** on October 22, 2008. No comments by the public were received. This amendment is identical to that published under Notice.

This amendment was adopted by the Commission on January 15, 2009.

REAL ESTATE COMMISSION[193E](cont'd)

This amendment is intended to implement Iowa Code Supplement section 543B.46 as amended by 2008 Iowa Acts, Senate File 2136, and Iowa Code section 543B.18.

This amendment shall become effective on March 18, 2009.

The following amendment is adopted.

Rescind paragraphs **13.1(2)“c”** and **“d”** and adopt the following **new** paragraphs in lieu thereof:

c. The depository should use the name “Iowa Finance Authority” and the federal tax identification number (TIN) 52-1699886 on the 1099 reporting form when reporting interest to the IRS.

d. The depository should send the 1099 reporting form to:

Iowa Finance Authority

2015 Grand Avenue

Des Moines, Iowa 50312

[Filed 1/20/09, effective 3/18/09]

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