IOWA ADMINISTRATIVE CODE SUMMARY

To explain and define details of legislation, departments in the executive branch of Iowa government adopt and publish rules. After prescribed public review and comments, these rules are published as the Iowa Administrative Code. Drainage issues are addressed in the published rules of several state departments. Selected provisions are summarized below from the 2004 Administrative Code.

Agriculture and Land Stewardship [21]

Chapter 1 – Administration

Sections 1.4(1) and 1.4(4), description is presented of the Soil Conservation Division’s Field Services Bureau and Water Resources Bureau with focus in such areas as soil and water conservation, agricultural well closures, watershed improvements, and conservation reserve enhancements.

Soil Conservation Division [27]

Chapter 12 – Water Protection Practices-Water Protection Fund

This chapter presents procedures to be followed by soil and water conservation districts and the Iowa Department of Agriculture and Land Stewardship in establishing water protection practices with land owners in such areas as agricultural drainage well management and stream bank stabilization, etc.

Chapter 14 – Levee Reconstruction and Repair Program

This chapter provides rules for a levee reconstruction and repair program including funding, application, and eligibility. Section 14.63(2) states that these funds shall not be used to reimburse other units of government for implementation of these practices.

Chapter 21 – Water Quality Protection Projects-Water Protection Fund

Projects described in this chapter are intended to protect Iowa’s groundwater and surface water from point and non-point contamination. Agricultural drainage wells and sinkholes are included in the program.

Chapter 22 – Soil and Water Resource Conservation Plans

This chapter establishes procedures for development of resource plans in all soil and water districts in Iowa, as well as developing a comprehensive conservation plan for the entire State as required by Iowa Code Section 161A.4.

Chapter 30 – Agricultural Drainage Wells-Alternative Drainage System Assistance Program

This chapter describes funding procedures for closing of agricultural wells and providing alternative drainage systems that are part of a drainage district. Definitions, allocation of funds, eligibility, and payment are addressed.

Attorney General [61]

Chapter 17 – Iowa Mediation Program

Sections 17.15(3), 17.18(3), and 17.27(3) procedures for wetland designation mediation are described.

Utilities Division [199]

Chapter 9 – Restoration of Agricultural Lands During and After Pipeline Construction

This chapter describes drainage structures in section 9.1(3), and repair of drain tile damaged during pipeline installation is explained in section 9.4(2).
Procedures for future installation of tile in the area of buried pipelines is covered in section 9.4(7).

**Natural Resources Department [561]**

**Chapter 9 – Groundwater Hazard Documentation**

In accord with Iowa Code Section 558.69, this chapter describes documentation required to be submitted to the county recorder for the transfer of land regarding the existence of wells, disposal sites, underground storage tanks, and hazardous waste on that property.

**Environmental Protection Commission [567]**

**Chapter 38 – Private Water Well Construction Permits**

This chapter includes definitions, permit requirements, and fees for construction of private wells. Section 38.15 describes the process for delegation of this authority to the county board of supervisors.

**Chapter 39 – Requirements for Properly Plugging Abandoned Wells**

Iowa Code Section 455B.190 requires that abandoned wells be properly plugged. This chapter establishes procedures for accomplishment. Definitions, well classification, schedules, and responsibilities are presented. Section 39.8 describes approved plugging procedures to be used.

**Chapter 49 – Nonpublic Water Supply Wells**

Section 49.15(1) declares that abandoned wells are a contamination hazard to water bearing formations, as well as a physical hazard for people.

**Chapter 51 – Water Permit of Registration–When Required**

Section 51.6(2) allows that withdrawal of water to lower the water table at construction sites does not require a permit if material damages to public or private interests do not occur as a result.

**Chapter 52 – Criteria and Conditions for Authorizing Withdrawal, Diversion, and Storage of Water.**

This chapter presents criteria for issuance of permits to withdraw, divert, and store water for various purposes. Sources of water are further described including conditions pertinent to streams and groundwater sources. Section 52.8 lists certain streams with a protected low flow restriction for withdrawal. Section 52.21 addresses permits that are required to divert water to an agricultural drainage well and closure of these wells.

**Chapter 60 – Scope of Title, Definitions, Forms, Rules of Practice**

This chapter describes forms, application procedures, and other requirements for complying with the EPA storm water regulations.

**Chapter 63 – Monitoring, Analytical, and Reporting Requirements**

This chapter presents guidelines for establishing procedures to analyze pollutants. It also describes the required monitoring records, permits, and procedures for submitting these records.

**Chapter 64 – Wastewater Construction and Operation Permits**

This chapter describes the National Pollutant Discharge Elimination System (NPDES) permits, public participation, and reporting of permit holders. Also included are storm water discharge guidelines for municipal separate storm sewer systems (MS4s).
Chapter 65 – Animal Feeding Operations

Section 65.2(9)e allows that a release of manure into a drainage tile line or intake may not require notification to the department if a discharge into a water of the state does not result. Section 65.4(2) describes conditions when an operations permit for a feedlot is required for manure discharged directly through a drainage system into a water of the state. Section 65.5(2) further describes conditions under which an operations permit is required. Section 65.9(1) describes construction requirements for confinement feeding operations that impede drainage through established tile lines that cross property boundaries. Further, section 65.10(2)b4 describes comments from the county to the department that may be required if construction of an animal feeding operation impedes drainage through established tile lines that drain adjacent property. Section 65.15 provides detailed requirements for addressing existing drain tile lines during construction of a manure storage structure. Guidelines for removal, relocation, and plugging of tile lines are included. Section 65.18 requires certification by a licensed engineer that confinement feeding operation construction complies with tile removal standards previously described.

Chapter 69 – Onsite Wastewater Treatment and Disposal Systems

This chapter provides an extensive list of definitions, restrictions, and requirements for handling of wastewater. Section 69.1(3)b prohibits the discharge of onsite wastewater, except under NPDES permit, into any ditch, stream, pond, lake, natural or artificial waterway, county drain tile, surface water drain tile, land drain tile, or surface of the ground. Disposal into an agricultural drainage well, abandoned well, or sinkhole is expressly prohibited. Section 69.2 describes requirements for discharging effluent into surface water.

Flood Plain Development, Title V

Chapter 70 – Scope of Title, Definitions, Forms, Rules of Practice

The DNR “has jurisdiction over all flood plains and floodways in the state for the purpose of establishing and implementing a program to promote the protection of life and property from floods and to promote the orderly development and wise use of the flood plains in the state.”

Pertinent definitions include agricultural levees or dikes, channel change, dam, drainage district ditch, flood plain, and water source. Required forms are listed. Procedures for requesting flood plain development include review, approval, and appeal activities.

Chapter 71 – Flood Plain or Floodway Development–When Approval is Required

This chapter establishes rules for obtaining approval from the Department of Natural Resources for construction and maintenance work in a flood plain or floodway. Minimum thresholds of 10 square miles of drainage in rural areas and 2 square miles in urban locations are set. Improvements such as bridges, culverts, embankments, channel changes, dams, levees, excavations, and stream bank protection are addressed. Section 71.2(4) describes channel change work by drainage districts, exempting some maintenance and repair work from prior approval.

Chapter 72 – Criteria for Approval

There are special criteria for various types of development such as bridges and road embankments, channel changes, dams, levees, and dikes. An extensive list of protected streams throughout the state is included in Division III. Special accommodations are required for these streams. This chapter also includes the protected stream designation procedures and the declassification process.
Chapter 73 – Use, Maintenance, Removal, Inspections, and Safety of Dams

This chapter presents requirements for approval of operating plans for certain types of dams, manipulation of impoundment levels, inspections, removal, and designation of unsafe conditions.

Chapter 75 – Management of Specific Flood Plain Areas

The Department of Natural Resources has jurisdiction over all flood plains and floodways in Iowa for the purposes of protecting life and property from flood damages and for promoting wise use and orderly development in these areas. This chapter describes the program for those purposes, including the issuance of flood plain management orders, approval of management regulations adopted by local agencies, and approval of flood plain development on a case-by-case basis. Section 75.4 describes the establishment of a floodway, section 75.5 presents minimum standards for flood plain and floodway use, and section 75.7 provides for the delegation of authority to local agencies in the approval of regulations.

Natural Resource Commission [571]

Chapter 77 – Endangered and Threatened Plant and Animal Species

This chapter lists certain plant and animal species that have been determined to be threatened or endangered in Iowa. Section 77.4(8) excludes drainage district repairs and improvements to open ditches from the Department’s efforts to protect the Topeka shiner, a fish species.

Personnel Department [581]

Chapter 21 – Iowa Public Employee’s Retirement System

Section 21.5(1)(a)(14) allows that drainage district employees are covered by IPERS unless they opt out of the program.

Revenue Department [701]

Chapter 17 – Exempt Sales

This chapter lists certain activities and materials that are exempt from sales taxes. Section 17.9(3) lists the sale and installation of drainage tile used for certain purposes as exempt from tax.

Chapter 18 – Taxable and Exempt Sales Determined by Method of Transaction or Usage

Section 18.35 exempts drainage tile from taxation if used for certain purposes, such as disease and weed control and health promotion of plants and livestock produced for market. Tile used for other purposes is subject to tax.

Chapter 19 – Sales and Use Tax on Construction Activities

Iowa Code Section 422.43 imposes taxes on the gross receipts for sales of certain tangible property and listed services. This chapter further describes assessment of those taxes. Section 19.10(2)(e) allows that most drainage improvements are considered to be part of the property realty.

Transportation Department [761]

Chapter 112 – Primary Road Access Control

This chapter details Department of Transportation rules regarding control of access along primary highways in Iowa. Section 112.3(4)(b) allows that
drainage structures within the public right-of-way will be maintained by the Department except for concrete box culverts and bridges constructed as part of an entrance permit. Section 112.6 describes drainage considerations related to entrance construction. Section 112.13(3) states that the property owner is responsible for all costs of special access connections, including drainage structures.

**Chapter 115 – Utility Accommodation**

This chapter addresses installation, adjustment, and maintenance of utility facilities within the right-of-way of primary highways in Iowa. Section 115.17(1) requires that utility poles, guys, anchors, and other devices on non-freeway primary roads not be located in ditches, at drainage structures, or on the roadway shoulders. These devices shall be located to minimize potential conflicts with highway maintenance activities.

**Chapter 150 – Improvements and Maintenance on Primary Road Extensions**

The Iowa DOT and cities are jointly responsible for extensions of freeways and primary highways in incorporated areas. The chapter describes the provisions for sharing costs of drainage district assessments and storm sewer construction, as well as obligations for maintenance.