AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

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[Prior to 7/27/88, Agriculture Department[30]]
Rules under this Department "umbrella" also include
Agricultural Development Authority[25] and Soil Conservation Division[27]

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CHAPTER 1
ADMINISTRATION

[Prior to 2/24/88, see Agriculture Department, 30—Chapter 1]

21—1.1(159) Organization.

1.1(1) *"Department"* means the department of agriculture and land stewardship.

1.1(2) *"Secretary"* means the secretary of agriculture who is the head of the department.

1.1(3) The deputy secretary of agriculture advises the secretary and has the statutory authority to perform any of the duties required or authorized of the secretary in the secretary's absence or through explicit directions or tacit consent.

1.1(4) The department is organized into four branches known as the consumer protection and industry services division, the administration division, the soil conservation division, and the food safety and animal health division. The deputy secretary of agriculture heads the administration division, and division directors head the consumer protection and industry services division, the soil conservation division, and the food safety and animal health division. The directors assist the secretary in the implementation of the secretary's policies within the various bureaus, laboratories, and units assigned to that division. The directors shall also assist the secretary in supervising the work of the various bureaus and units assigned to that division, provide the expertise of their division to other divisions where appropriate, and perform other duties as assigned by the secretary.

1.1(5) Rescinded IAB 2/25/09, effective 2/5/09.

1.1(6) The grain indemnity fund board is an autonomous agency of which the secretary is president. The board operates in conjunction with the grain warehouse bureau of the department, determining and providing for payment of claims which arise as a result of the failure of a grain dealer or warehouse operator and administering the Iowa grain depositors and sellers indemnity fund. The rules for the board's organization and operations and its procedures for resolving claims appear in 21—Chapters 63 and 64, Iowa Administrative Code.

1.1(7) The Iowa board of veterinary medicine is an autonomous agency functioning within the department to provide for the licensing and disciplining of veterinarians and veterinary assistants. The powers of the Iowa board of veterinary medicine are vested in the board pursuant to Iowa Code chapter 169, and its rules appear at 811—Chapter 1, et seq., Iowa Administrative Code. The secretary appoints the state veterinarian who, pursuant to Iowa Code section 169.5, serves as secretary to the board.

[**ARC 7587B**, IAB 2/25/09, effective 2/5/09; **ARC 8240B**, IAB 10/21/09, effective 9/30/09]

21—1.2(159) Consumer protection and industry services division. In addition to the duties outlined in subrule 1.1(4), the director of the consumer protection and industry services division advises the secretary of activities and any impending or potential problems that have come to the attention of the division's personnel. The bureaus and laboratories under the supervision of the consumer protection and industry services division are as follows:

1.2(1) *Grain warehouse bureau.* This bureau licenses, inspects and examines grain dealers and grain warehouse facilities and reviews financial statements of licensees to ensure compliance with requirements, including payment of fees into the grain indemnity fund. The bureau also reviews claims made against the fund and makes recommendations on those claims to the grain indemnity fund board, upon which the board takes action. This bureau includes the following unit:

a. *Audit.* This unit analyzes reports filed by feed and fertilizer companies for fees paid into the general fund of the state. The unit also makes audits to check for compliance with check-off law for the commodity promotion boards.

b. Reserved.

1.2(2) *Weights and measures bureau.* This bureau inspects and licenses for commercial use all weights and measures or weighing and measuring devices; conducts petroleum products sampling and testing, tests and certifies antifreeze, and conducts random package and labeling inspections of products offered for sale; registers and licenses all service agencies and persons who service or repair commercial weighing and measuring devices; approves or rejects all blueprints on new scale installations; and approves or rejects bonds for scale installation. The bureau maintains the state metrology laboratory

and, following the rules and regulations of the National Institute of Standards and Technology and using the weights and measures standards that are traceable to the National Institute of Standards and Technology, adjusts, certifies, and seals weights and measures used by state inspectors, commercial repairers and private industry. The bureau deals with renewable fuels and coproducts by facilitating increased production and consumption of products made from Iowa's agricultural commodities and by encouraging production and use of renewable fuels and coproducts.

1.2(3) *Entomology and seed laboratory.* This laboratory licenses establishments selling or distributing seeds that are sold for agricultural purposes; controls the movement of serious insect pests and plant diseases, including those under federal quarantine; and inspects nursery stock growers and dealers.

1.2(4) *Agricultural diversification and market development bureau.* This bureau processes applications for organic certification and works closely with the Iowa organic advisory council to ensure approval of those applications that meet state and federal regulations. This bureau provides marketing opportunities for diversified agricultural products throughout the state. This bureau includes the following units:

a. Agricultural marketing. This unit works with the various boards of Iowa agricultural organizations to assist and support their respective marketing efforts. The unit also seeks new opportunities to assist Iowa's private firms to find markets for their products. The unit provides Iowa livestock and grain producers with essential market information on a timely basis through the market news reporting service, a joint effort with the United States Department of Agriculture. Additionally, the unit assists the renewable fuel infrastructure board, provides for the administration of the renewable fuel infrastructure programs, and provides for the management of the renewable fuel infrastructure fund.

b. Horticulture. This unit lends direction, continuity, leadership, and administrative services and guidance to the Iowa horticulture industry. The unit identifies and helps determine the market potential for horticultural crops such as ornamental plants, fruits and vegetables, Christmas trees, herbs, mushrooms, grapes, nuts, and turf products. The horticulture unit monitors the conditions of the industry and identifies, collects, and distributes pertinent information concerning horticulture and related interests. The unit acts as a resource for horticultural producers and provides referrals for assistance in marketing, production, financial aid, disaster programs, and regulatory issues. The horticulture unit acts as a liaison between industry organizations, other state and federal agencies, universities, noncommercial horticultural groups, and the agricultural community.

c. Farmers' markets. This unit assists in the organization and improvement of farmers' markets throughout the state. The unit collects and distributes information pertinent to the markets and provides market managers assistance in vendor recruitment, market promotion, and regulatory issues.

d. Farmers' market nutrition programs. This unit administers programs designed to provide a supplemental source of fresh, locally grown fruits and vegetables for women, infants, and children, seniors, and other clients and to increase the production, distribution, and consumption of locally grown fruits and vegetables.

1.2(5) *Horse and dog bureau.* This bureau promotes the Iowa horse and dog breeding industry by registering qualified Iowa-foaled horses and Iowa-whelped dogs and working in cooperation with the racing industry. The bureau administers the payment of breeder awards to the breeders of qualified winning horses and dogs.

[**ARC 7587B**, IAB 2/25/09, effective 2/5/09; **ARC 8240B**, IAB 10/21/09, effective 9/30/09; **ARC 9220B**, IAB 11/17/10, effective 10/20/10; **ARC 9584B**, IAB 6/29/11, effective 7/1/11; **ARC 9816B**, IAB 11/2/11, effective 12/7/11]

21—1.3(159) Administration division. In addition to the duties outlined in subrule 1.1(4), the director of the administration division, who is the deputy secretary of agriculture, assists the secretary in the preparation and presentation of the department's budget to the governor and the general assembly. The division provides personnel services and works with the secretary and other divisions in the selection, hiring, and most phases of employment record keeping and processing relative to pay, benefits, and employee status changes in relation to the department. The director shall serve as a liaison between the

department and the department of management, the department of administrative services, and the state auditor. The bureaus and units under the supervision of the division are as follows:

1.3(1) *Accounting bureau.* The accounting bureau handles all accounting functions for the department, manages grants, formulates budget recommendations, performs various other business functions including the paying of bills and vouchers, and maintains adequate inventory of laboratory supplies.

1.3(2) *Agricultural diversification and market development bureau.* Rescinded IAB 2/25/09, effective 2/5/09.

1.3(3) *Agricultural marketing bureau.* Rescinded IAB 2/25/09, effective 2/5/09.

1.3(4) *Agricultural statistics bureau.* This bureau collects, prepares and publishes annual state farm census and other periodic research data, such as production figures, utilization of feed grains, grain stocks on hand, price variance, and marketing data on crops and livestock.

1.3(5) *Audit bureau.* Rescinded IAB 2/25/09, effective 2/5/09.

1.3(6) *Climatology bureau.* This bureau collects data and keeps records on rainfall, snowfall, snowmelt, frost and sun days, and prepares various reports including publishing maps showing data by region.

1.3(7) *Horse and dog bureau.* Rescinded IAB 2/25/09, effective 2/5/09.

1.3(8) *Horticulture and farmers market bureau.* Rescinded IAB 2/25/09, effective 2/5/09.

1.3(9) *Information.* This unit is staffed by information specialists who prepare informational material for the public benefit under the direction of the secretary. The information specialists prepare information for use through the media including newspapers, radio, television, and magazines. Information specialists are also responsible for drafting brochures and cooperating with other state agencies in disseminating agricultural information and education.

1.3(10) *Renewable fuels and coproducts.* Rescinded IAB 2/25/09, effective 2/5/09.

[**ARC 7587B**, IAB 2/25/09, effective 2/5/09]

21—1.4(159) Soil conservation division. In addition to the duties outlined in subrule 1.1(4), the director of the soil conservation division advises the secretary on soil and water conservation matters and works with the state soil conservation committee in the adoption of rules relating to soil conservation, water resources, and mining. The division performs duties as designated in the Code of Iowa. The bureaus of the soil conservation division are as follows:

1.4(1) *Field services bureau.* This bureau works with elected soil and water conservation district commissioners and division of soil conservation personnel assigned to soil and water conservation districts. The bureau also coordinates water quality and watershed protection projects awarded to soil and water conservation districts.

1.4(2) *Financial incentives bureau.* This bureau works to control erosion on all agricultural land and administers incentive programs for the establishment of land treatment measures. The bureau also provides assistance and guidance to soil and water conservation districts.

1.4(3) *Mining bureau.* This bureau provides for the reclamation and conservation of land affected by surface mining. The bureau carries out coal regulatory and abandoned mine land programs and also regulates limestone and gypsum quarries, sand and gravel pits, and other mineral extraction operations.

1.4(4) *Water resources bureau.* This bureau coordinates water resources programs, including agricultural drainage well closures, watershed project development, and the conservation reserve enhancement program. The bureau also provides technical support on wetland issues, nutrient management, and other division programs.

21—1.5(159) Food safety and animal health. In addition to the duties outlined in subrule 1.1(4), the director of the food safety and animal health division advises the secretary of activities and any impending or potential problems that have come to the attention of the division's personnel. The bureaus and laboratories under the supervision of the food safety and animal health division are as follows:

1.5(1) *Animal industry bureau.* This bureau is under the direction of the state veterinarian and consists of the following units:

a. Animal health. This unit conducts brucellosis, pseudorabies, and tuberculosis control and eradication programs; issues quarantines and approves premises for receiving animals of unknown health status for feeding or isolation while under quarantine; monitors and investigates reports of foreign animal diseases; inspects and licenses cattle dealers, pig dealers, auction markets, hatcheries, and rendering plants; registers cattle brands; provides administrative support, supplies and facilities for the board of veterinary medicine; maintains the capability to react to emergency situations; and maintains liaisons with livestock producer groups.

b. Animal welfare. This unit licenses and regulates facilities that engage in commercial activities relating to animals in the pet industry including, but not limited to, pet stores, dog and cat breeders and dealers, animal shelters and pounds, and kennels.

1.5(2) *Commercial feed and fertilizer bureau.* This bureau licenses feed mills and commercial feed manufacturing facilities; registers feed and stock tonic products; collects commercial feed tonnage fees; inspects medicated feed in accordance with Food and Drug Administration (FDA) rules and regulations; licenses and registers fertilizer plants and products; collects, compiles, and distributes data on plant food consumption; collects commercial fertilizer tonnage fees and groundwater protection fees; approves, inspects and regulates all anhydrous ammonia installations; licenses, samples, evaluates and certifies all limestone quarries; and licenses and inspects egg handlers.

1.5(3) *Dairy products control bureau.* This bureau conducts a statewide program of dairy products control and regulates all phases of production, processing, and manufacturing of Grade A and Grade B dairy foods (manufacturing milk), dairy food, milk and dairy products, and other by-products. The dairy program is a part of a national regulatory scheme which provides for the interstate shipment of raw milk, pasteurized milk, and dairy products.

1.5(4) *Meat and poultry inspection bureau.* This bureau enforces and administers Iowa Code chapter 189A, the meat and poultry inspection Act. It is a cooperative program with the United States Department of Agriculture. The program must maintain an "equal to" status with the federal Wholesome Meat and Poultry Products Inspection Acts. This bureau conducts inspections of facilities, animals, products, and labeling and exercises processing controls and reinspection of meat and poultry products for intrastate commerce.

1.5(5) *Pesticide bureau.* This bureau registers pesticide products, licenses and certifies pesticide applicators, establishes programs for best management practices of agricultural chemicals, monitors consumer products for pesticide residues, implements pesticide enforcement and certification programs of the Environmental Protection Agency, and cooperates with the department of natural resources and other agencies.

1.5(6) *Feed, fertilizer, vitamin and drug laboratory.* This laboratory analyzes feed and fertilizer samples to ensure that they comply with the guaranteed analysis. The laboratory analyzes medicated feed samples to ensure that they are manufactured and used in accordance with Food and Drug Administration (FDA) regulations. The laboratory also analyzes milk products for added vitamins A and D_3.

1.5(7) *Food, meat, poultry and dairy laboratory.* This laboratory analyzes samples to detect bacterial contamination and determine the composition of the product and substances added to determine wholesomeness and safety; certifies private dairy laboratories in the state; and tests public and private water supplies for bacteria and nitrate content.

1.5(8) *Pesticide residue and formulation laboratory.* This laboratory analyzes samples collected from pesticide retail establishments, from pesticide manufacturers to determine if pesticides have been used and produced properly, and during use/misuse investigations.

[**ARC 8240B**, IAB 10/21/09, effective 9/30/09; **ARC 0138C**, IAB 5/30/12, effective 7/4/12]

These rules are intended to implement Iowa Code sections 17A.3 and 17A.4 and Iowa Code chapter 159.

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CHAPTER 2
CONTESTED CASE PROCEEDINGS AND PRACTICE

[Prior to 7/27/88, 21—1.8(159) and 21—1.9(159)]

The uniform rules on contested case proceedings published in the first volume of the Iowa Administrative Code are adopted by reference with the following amendments:

21—2.1(17A,159) Scope and applicability. In lieu of the words "(agency name)" insert "the department of agriculture and land stewardship".

21—2.2(17A,159) Definitions. Insert the following definitions in alphabetical order:

"Department" means the department of agriculture and land stewardship.

"Secretary" means the Iowa secretary of agriculture.

In lieu of the words "(designate official)" insert "person designated by the secretary to preside over a contested case including, but not limited to, an administrative law judge with the department of inspections and appeals. In lieu of the words "(agency name)" insert "the department of agriculture and land stewardship".

21—2.3(17A,159) Time requirements.

2.3(2) Delete the words "or by (specify rule number)".

21—2.4(17A,159) Requests for contested case proceeding. In lieu of the first paragraph insert "Any person claiming an entitlement to a contested case proceeding shall file a written request for such a proceeding within the time specified by the particular rules or statutes governing the subject matter or, in the absence of such law, the time specified in the agency action in question. If no time is specified in the agency action and there is no applicable rule or statute, then the written request for a contested case proceeding shall be filed in writing within 30 calendar days of the action or notice of the intended action the person wishes to contest."

21—2.5(17A,159) Notice of hearing.

2.5(1) Delete paragraph *"e."*

21—2.6(17A,159) Presiding officer.

2.6(1) Delete the words "(or such other time period the agency designates)".

2.6(2) Delete the words "(or its designee)". Delete paragraphs *"c"* and *"i"* and reletter the subsequent paragraphs.

2.6(3) Delete the subrule and insert "The agency shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed."

2.6(4) Delete the subrule and renumber the subsequent subrules.

21—2.12(17A,159) Service and filing of pleadings and other papers.

2.12(3) In lieu of the words "(specify office and address)" insert "Secretary's Office, Department of Agriculture and Land Stewardship, Wallace State Office Building, East Ninth and Grand, Des Moines, Iowa." In lieu of the words "(agency name)" insert "department".

2.12(4) In lieu of the words "(designate office)" insert "secretary's office".

21—2.15(17A,159) Motions.

2.15(4) Delete the words "(or other time period designated by the agency)".

2.15(5) In lieu of the words "(45 days)" insert "45 days". In lieu of the words "(15 days)" insert "15 days". In lieu of the words "(20 days)" insert "20 days".

21—2.16(17A,159) Prehearing conference.

2.16(1) Delete the words "(or other time period designated by the agency)". In lieu of the words "(designate office)" insert "presiding officer".

21—2.17(17A,159) Continuances.

2.17(1) Delete the words "(or other time period designated by the agency)".

21—2.22(17A,159) Default.

2.22(5) Delete the words "(or other time specified by the agency)".

21—2.23(17A,159) Ex parte communication.

2.23(8) In lieu of the words "(or disclosed)" insert "or disclosed".

2.23(10) In lieu of the words "(agency to designate person to whom violations should be reported)" insert "the secretary or the secretary's designee".

21—2.24(17A,159) Recording costs. In lieu of the words "(agency name)" insert "department".

21—2.25(17A,159) Interlocutory appeals. In lieu of the words "(board, commission, director)" insert "secretary or the secretary's designee". In lieu of the words "(of the presiding officer)" insert "of the presiding officer". Delete the words "(or other time period designated by the agency)".

21—2.26(17A,159) Final decision.

2.26(1) In lieu of the words "(the agency) (or a quorum of the agency)" insert "the department".

2.26(2) In lieu of the words "(agency name)" insert "department".

21—2.27(17A,159) Appeals and review.

2.27(1) In lieu of the words "(board, commission, director)" insert "secretary or the secretary's designee". Delete the words "(or other time period designated by the agency)".

2.27(2) In lieu of the words "(board, commission, director)" insert "secretary or the secretary's designee". Delete the words "(or other time period designated by the agency)".

2.27(3) In lieu of the words "(agency name)" insert "department".

2.27(4) Delete the words "(or other time period designated by the agency)". In lieu of the words "(board, commission, director)" insert "secretary or the secretary's designee".

2.27(5) In lieu of the words "(agency name)" insert "department".

2.27(6) Delete the words "(or other time period designated by the agency)". In lieu of the words "(board, commission, director)" insert "secretary or the secretary's designee".

21—2.28(17A,159) Applications for rehearing.

2.28(3) In lieu of the words "(agency name)" insert "department".

2.28(4) In lieu of the words "(agency name)" insert "department".

21—2.29(17A,159) Stays of agency action.

2.29(1) In lieu of the words "(agency name)" insert "department". In lieu of the words "(board, commission, director)" insert "secretary or the secretary's designee".

2.29(2) In lieu of the words "(board, commission, director, as appropriate)" insert "secretary or the secretary's designee".

2.29(3) In lieu of the words "(agency name)" insert "department".

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code chapter 159.

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CHAPTER 3
PETITIONS FOR RULE MAKING

Insert the petition for rule making segment of the Uniform Administrative Rules which is printed in the first Volume of the Iowa Administrative Code with the addition of a new rule 21—3.5(17A) and the following amendments:

21—3.1(17A) Petition for rule making. In lieu of the words "agency, at (designate office)" insert "Secretary of Agriculture at the Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319". In lieu of the words "(AGENCY NAME)", the heading on the petition should read:

BEFORE THE
SECRETARY OF AGRICULTURE
DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

21—3.3(17A) Inquiries. Substitute the following information for the parenthetical statement at the end: "the Secretary of Agriculture, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319".

21—3.5(17A) Petitions for related entities. If, pursuant to this chapter, the secretary receives a petition for rule making which is not within the rule-making power of the secretary but which is within the rule-making power of an autonomous or semiautonomous entity within the umbrella of the department of agriculture and land stewardship, the petition will be forwarded to the appropriate entity.

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CHAPTER 4
DECLARATORY ORDERS

The uniform rules on declaratory orders published in the first volume of the Iowa Administrative Code are adopted by reference with the following amendments:

21—4.1(17A,159) Petition for declaratory order. In lieu of the words "(designate agency)" the first time the words are used, insert "department of agriculture and land stewardship (hereinafter referred to as "the department")". In lieu of the words "(designate agency)" the subsequent times the words are used, insert "department". In lieu of the words "(designate office)" insert "Wallace State Office Building, East Ninth and Grand, Des Moines, Iowa 50319." In lieu of the words "(AGENCY NAME)" insert "DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP".

21—4.2(17A,159) Notice of petition. In lieu of the words "_____ days (15 or less)" insert "15 days". In lieu of the words "(designate agency)" insert "department".

21—4.3(17A,159) Intervention.

4.3(1) In lieu of the words "_____ days" insert "20 days".

4.3(2) In lieu of the words "(designate agency)" insert "the department ".

4.3(3) In lieu of the words "(designate office)" insert "the secretary of agriculture's office". In lieu of the words "(designate agency)" insert "the department". In lieu of the words "(AGENCY NAME)" insert "DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP". Delete paragraph "6" and insert in lieu thereof "6. A statement that the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding."

21—4.4(17A,159) Briefs. In lieu of the words "(designate agency)" insert "department".

21—4.5(17A,159) Inquiries. In lieu of the words "(designate official by full title and address)" insert "the Secretary of Agriculture, Department of Agriculture and Land Stewardship, Wallace State Office Building, East Ninth and Grand, Des Moines, Iowa 50319".

21—4.6(17A,159) Service and filing of petitions and other papers.

4.6(2) In lieu of the words "(specify office and address)" insert "the Secretary of Agriculture, Department of Agriculture and Land Stewardship, Wallace State Office Building, East Ninth and Grand, Des Moines, Iowa 50319". In lieu of the words "(agency name)" insert "department".

4.6(3) In lieu of the words "(uniform rule on contested cases X.12(17A))" insert "rule 2.12(17A,159)".

21—4.7(17A,159) Consideration. In lieu of the words "(designate agency)" insert "department".

21—4.8(17A,159) Action on petition.

4.8(1) In lieu of the words "(designate agency head)" insert "the secretary of agriculture".

4.8(2) In lieu of the words "(contested case uniform rule X.2(17A))" insert "rule 21—2.2(17A, 159)".

21—4.9(17A,159) Refusal to issue order.

4.9(1) In lieu of the words "(designate agency)" insert "department".

21—4.12(17A,159) Effect of a declaratory order. In lieu of the words "(designate agency)" insert "department". Delete the words "(who consent to be bound)".

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code chapter 159.

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CHAPTER 5
AGENCY PROCEDURE FOR RULE MAKING

The uniform rules on agency procedure for rule making published in the first volume of the Iowa Administrative Code are adopted by reference with the following amendments:

21—5.1(17A,159) Applicability. In lieu of the word "agency" insert "the department of agriculture and land stewardship (hereinafter referred to as "the department").

21—5.3(17A,159) Public rule-making docket.

5.3(2) In lieu of the words "(commission, board, council, director)" insert "secretary of agriculture".

21—5.4(17A,159) Notice of proposed rule making.

5.4(3) In lieu of the words "(specify time period)" insert "one year".

21—5.5(17A,159) Public participation.

5.5(1) In lieu of the words "(identify office and address)" insert "the Secretary of Agriculture, Department of Agriculture and Land Stewardship, Wallace State Office Building, East Ninth and Grand, Des Moines, Iowa 50319".

5.5(5) In lieu of the words "(designate office and telephone number)" insert "the secretary of agriculture's office at (515)281-5322".

21—5.6(17A,159) Regulatory analysis.

5.6(2) In lieu of the words "(designate office)" insert "the secretary of agriculture's office".

21—5.10(17A,159) Exemptions from public rule-making procedures.

5.10(2) is deleted and subsequent subrules are renumbered.

21—5.11(17A,159) Concise statement of reasons.

5.11(1) In lieu of the words "(specify the office and address)" insert "the Secretary of Agriculture, Department of Agriculture and Land Stewardship, Wallace State Office Building, East Ninth and Grand, Des Moines, Iowa 50319".

21—5.13(17A,159) Agency rule-making record.

5.13(2) In lieu of the words "(agency head)" insert "secretary of agriculture".

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code chapter 159.

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CHAPTER 6
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The department of agriculture and land stewardship hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in the first Volume of the Iowa Administrative Code.

21—6.1(17A,22) Definitions. As used in this chapter:

"Agency." In lieu of the words "(official or body issuing these rules)" insert "department of agriculture and land stewardship".

21—6.3(17A,22) Requests for access to records.

6.3(1) *Location of record.* In lieu of the words "(insert agency head)" insert "secretary of agriculture". In lieu of the words "(insert agency name and address)" insert "the Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319".

6.3(2) *Office hours.* In lieu of the parenthetical statement, insert "8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays".

6.3(7) *Fees.*

a. When charged. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

c. Supervisory fee. In lieu of the words "specify time period" insert "one-half hour".

21—6.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words "(designate office)" insert "the secretary of agriculture".

21—6.9(17A,22) Disclosures without the consent of the subject.

6.9(1) Open records are routinely disclosed without the consent of the subject.

6.9(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 6.10(17A,22) or in any notice for a particular record system.

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 under Iowa Code section 2A.3.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

21—6.10(17A,22) Routine use.

6.10(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.

6.10(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.

21—6.11(17A,22) Consensual disclosure of confidential records.

6.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 6.7(17A,22).

6.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

21—6.12(17A,22) Release to subject.

6.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 6.6(17A,22). However, the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5))

d. As otherwise authorized by law.

6.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

21—6.13(17A,22) Availability of records.

6.13(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

6.13(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)

b. Tax records made available to the agency. (Iowa Code sections 422.20 and 422.72)

c. Records which are exempt from disclosure under Iowa Code section 22.7.

d. Minutes of closed meetings of a government body. (Iowa Code section 21.5(4))

e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)*"d."*

f. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2 and 17A.3)

g. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

h. Any other records made confidential by law.

6.13(3) *Authority to release confidential records.* The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 6.4(17A,22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 6.4(3).

21—6.14(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 6.1(17A,22). For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. Unless otherwise stated, the authority for this department to maintain the record is provided by Iowa Code chapter 159. The record systems maintained by the agency are:

6.14(1) *Personnel files.* The agency maintains files containing information about employees, families and dependents, and applicants for positions with the agency. The files include payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. This material includes personally identifiable information such as name, address, social security number and employee payroll number. Some of this information is confidential under Iowa Code section 22.7(11). These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

6.14(2) *Litigation files.* These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorneys' notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copy. These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

6.14(3) *Contested case matters.* These records are collected and maintained pursuant to Iowa Code sections 17A.3(1*"d,"* 17A.3(2), 17A.12, and Iowa Code chapters and sections noted in subrules 6.14(4) and 6.14(5). Contested case matters include all pleadings, motions, briefs, orders, transcripts, exhibits,

and physical evidence utilized in the resolution of the matter. These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

6.14(4) *Licensure, permit or certification records.* The department regulates by license, permit, or certification a number of agriculture-related practices, under various chapters of the Iowa Code. Licensing records generally include, but are not limited to, information identifying the licensee by name, location, and form of business entity, including the names of corporate principals. Examination and compliance reports may be included in the license records. These records may include confidential information protected from disclosure under Iowa Code section 22.7(3), 22.7(6), or 22.7(18). These licensing records include but are not limited to:

a. Animal industry. Under Iowa Code chapters 163, 163A, 164, 165, 166C, 169A, and 172B, the department maintains records regarding regulation of animal health, including, but not limited to: calfhood vaccination tags, filed under the name of the administering veterinarian, identified by code, or for some disease vaccinations, by name or code of herd owner; swine and cattle approved premises, license filed by county and premises number, identified by owner's name or code; livestock market and agents and livestock dealers and agents, license identified by name or code; quarantine orders, identified by herd owner's name or code; bull breeder's license, identified by owner's name or code; livestock importation certificates, identified by name or code of Iowa purchaser; slaughter affidavits, identified by herd owner's name or code; brand certificates, identified by owner's name or code; large and small animal health certificates, identified by owner's name or code.

Under Iowa Code chapter 162, the department maintains records regarding the regulation of animal welfare, including, but not limited to: state kennel licenses or federal registrations, identified by owner's name or code; state pound certification or federal registrations, identified by owner's name or code; state shelter certification or federal registration, identified by owner's name or code; dealer's license or federal registration, identified by name or code.

Under Iowa Code chapters 189 and 189A, the department maintains records regarding the regulation of meat and poultry, including but not limited to: licensing of meat or poultry processing plants, identified by plant owner's name or code; registration of labeling, formulation, and processing procedures, identified by plant owner's name or code; inedible permits, identified by plant owner's name or code.

Under Iowa Code chapter 169, the department maintains jointly with the board of veterinary medicine records regarding the licensure of veterinarians and animal technicians, identified by name or code. In addition to general provisions, these records may include information deemed confidential under Iowa Code section 272C.6.

These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

b. Grain warehousing. Under Iowa Code chapters 203, 203A, and 203C, the department maintains records regarding the licensure of grain dealers, grain bargaining agents, grain sellers, and grain warehouses, identified by licensee's name or code. These files may contain information which is confidential under Iowa Code section 22.7(12), 203.16, or 203C.24, specifically including financial statements. Files cross-referenced by licensee name or code include receivership files and indemnity fund claim files, which records identify both the licensee and the names of claimants against the licensee. The latter records are maintained jointly with the grain indemnity fund board. These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

c. Dairy products. Under Iowa Code chapters 189, 190, 190A, 191, 192, 194, and 195, the department maintains records regarding the regulation of dairy products, including but not limited to: milk plant permit, identified by owner's name or code; grade "A" farm permit, identified by operator's name or code; grade "B" farm permit, identified by operator's name or code; hauler/grader license, identified by person's name or code; tester license, identified by person's name or code; milk truck license, identified by owner's name or code. These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

d. Horse and dog breeding. Under Iowa Code section 99D.22, the department maintains records regarding the registration of Iowa-foaled horses and Iowa-whelped dogs, including but not limited to: Iowa stallion eligibility certificate, identified by owner's name or code; brood mare registration, identified by owner's name or code; Iowa-foaled horse certification, identified by breeder's name or code; Iowa-whelped litter registration, identified by breeder's name or code; Iowa-whelped individual registration, identified by owner's name or code. These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

e. Weights and measures. Under Iowa Code chapters 208A, 212, 214, 214A, 215, and 215A, the department maintains records regarding the regulation of weights and measures, including but not limited to: antifreeze permit, identified by manufacturer's name or code; public scale license, identified by owner's name or code; service agency's bond, identified by person's name or code; servicer's license, identified by person's name or code. These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

f. Pesticides. Under Iowa Code chapter 206, the department maintains records regarding the regulation of pesticide use, including but not limited to: commercial pesticide applicator licenses and certifications, identified by person's name or code; private pesticide applicator certification, identified by person's name or code; pesticide product registration, identified by distributor's name or code; pesticide dealer licenses, identified by person's name or code. These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

g. Fertilizer. Under Iowa Code chapters 200 and 201, the department maintains records regarding the regulation of fertilizer use, including but not limited to: fertilizer dealer license, identified by person's name or code; registration of bulk fertilizer, identified by manufacturer's name or code; registration of fertilizer sold in packages of 25 pounds or less, identified by manufacturer's name or code; agricultural limestone license, identified by operator's name or code; fertilizer inspection fee report, identified by manufacturer's name or code; groundwater protection fee report, identified by manufacturer's name or code. These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

h. Seed. Under Iowa Code chapter 199, the department maintains records regarding agricultural seeds, including but not limited to: seed permit, identified by person's name or code; seed permit holder's bond, identified by person's name or code. These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

i. Feed. Under Iowa Code chapter 198, the department maintains records regarding commercial feed, including but not limited to: feed facility registration, identified by manufacturer's name or code; feed manufacturer's product registration (10 pounds or less), identified by manufacturer's name or code; feed manufacturer's product registration (exceeding 10 pounds or in bulk), identified by manufacturer's name or code; semiannual commercial feed tonnage report, identified by manufacturer's name or code; commercial feed tonnage reports, identified by manufacturer's name or code. These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

j. Mines and minerals. Under Iowa Code chapters 207 and 208, the department, jointly with the state soil conservation committee, maintains records regarding mines and minerals, including but not limited to: licensed mine operators, identified by operator's name or code; registered mine sites, identified by operator's name or code; permitted coal mine sites, identified by operator's name or code; coal exploration permits, identified by operator's name or code. These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

6.14(5) *Nonlicensee investigations and records.* The department has general authority in various areas to regulate agriculture-related practices without the necessity of license issuance. The investigations may be part of a criminal prosecution, and therefore records may be confidential under Iowa Code section 22.7(4). Other reports may be confidential under Iowa Code section 22.7(3), 22.7(6) or 22.7(18). These records will be identified by the name of the subject of the investigation or report. These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system. These records include but are not limited to:

a. Apiary investigations pursuant to Iowa Code chapter 160.

b. Soybean assessment audits, soybean first buyer report, pursuant to Iowa Code chapter 185.

c. Corn assessment audits, corn promotion board remittance report, pursuant to Iowa Code chapter 185C.

d. Dairy trade practices price lists, permit fees, pursuant to Iowa Code chapter 192A, confidential pursuant to Iowa Code sections 22.7(6) and 192A.7.

e. Pesticide residue analysis, pursuant to Iowa Code chapter 206.

6.14(6) *Laboratory reports.* In furtherance of license or nonlicense regulation of subject areas under subrules 6.14(4) and 6.14(5), the department may prepare laboratory reports consisting of analytical results of samples. These records may include confidential information protected from disclosure under Iowa Code section 22.7(3), 22.7(6), or 22.7(18). These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system. These records are identified by the name of the subject of the investigation.

6.14(7) *Grant or loan records.* Under Iowa Code chapters 161A and 161B, the soil conservation division of the department maintains records regarding grants and cost-sharing programs, identifying the name of the recipient or applicant. These records are jointly maintained by the division and the state soil conservation committee. These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

Under Iowa Code chapter 175, the staff of the agricultural development authority, within the department, maintain records regarding the issuance of bonds and underwriting of loans, identified by the name of the recipient or applicant. These records are jointly maintained by the department and the agricultural development authority. These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

21—6.15(17A,22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 6.1(17A,22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information as discussed in rule 6.13(17A,22). The records listed may contain information about individuals.

6.15(1) Administrative records. This includes documents concerning budget, property inventory, purchasing, yearly reports, office policies for employees, time sheets, printing and supply requisitions.

6.15(2) Publications. The office receives a number of books, periodicals, newsletters, government documents, etc. These materials would generally be open to the public but may be protected by copyright law. Most publications of general interest are available in the state law library.

6.15(3) Office publications. This office issues a variety of materials consisting of brochures and pamphlets, press releases, and statistical reports, including but not limited to: crop and weather reports issued by the state climatologist's office; livestock and crop farm reports; sheep newsletter.

6.15(4) Rule-making records. Public documents generated during the promulgation of agency rules, including notices and public comments, are available for public inspection.

6.15(5) Office manuals. Information in office manuals may be confidential under Iowa Code section 17A.2(7)*"f"* or other applicable provision of law.

6.15(6) Cooperative agreements. The state has entered into cooperative agreements with the United States Department of Agriculture regarding various agricultural practices, including but not limited to warehouse inspection, agricultural statistics, and animal welfare enforcement.

6.15(7) Board, committee, council and commission records. Agendas, minutes, and materials prepared or maintained by the department or various divisions or bureaus of the department are available from the office, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5 or which are otherwise confidential by law. Board, committee, council and commission records contain information about people who participate in meetings. These entities include both statutory entities, such as the state soil conservation committee, the grain indemnity fund board, the veterinary medicine board, and the agricultural development authority, and voluntary advisory committees, such as the feed advisory committee, the pesticide advisory committee, and the agricultural energy management advisory council. This information is collected pursuant to Iowa Code section 21.3. This information is not stored on an automated data processing system.

6.15(8) General soil conservation records. Soil conservation district information, including directory of commissioners, soil surveys, watershed program records, water resource district records, and other program information is maintained jointly by the division of soil conservation and the state soil conservation committee pursuant to Iowa Code chapters 161A and 161B.

6.15(9) General marketing records. Lists of commodity producers, lists of hay and straw producers, an agricultural export directory, lists of farmers' markets, and other forms of marketing information are maintained and made available to the public pursuant to Iowa Code section 159.20.

6.15(10) All other records that are not exempted from disclosure by law.

21—6.16(17A,22) Data processing systems. None of the data processing systems used by the agency permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

21—6.17(159,252J,272D) Release of confidential licensing information for collection purposes. Notwithstanding any statutory confidentiality provision, the department may share information with the child support recovery unit or with the centralized collection unit of the department of revenue through manual or automated means for the sole purpose of identifying licensees or applicants subject to enforcement under Iowa Code chapter 252J, 598 or 272D.
[**ARC 9390B**, IAB 2/23/11, effective 3/30/11]

These rules are intended to implement Iowa Code chapters 17A, 22, 159, 252J and 272D.

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[Filed ARC 9390B (Notice ARC 9219B, IAB 11/17/10), IAB 2/23/11, effective 3/30/11]

CHAPTER 7
COLLECTION PROCEDURES

21—7.1(159,252J,272D) Licensing actions. In addition to other reasons specified by statute or rule, the department may refuse to issue a license or permit, or may revoke, suspend, or not renew any license or permit for which it has jurisdiction if the department is in receipt of a certificate of noncompliance from the child support recovery unit pursuant to the procedures set forth in Iowa Code chapter 252J or from the centralized collection unit of the department of revenue pursuant to the procedures set forth in Iowa Code chapter 272D.

An applicant, licensee, or permit holder whose application is denied or whose license or permit is denied, suspended, or revoked because of receipt by the department of a certificate of noncompliance issued by the child support recovery unit or by the centralized collection unit of the department of revenue shall be subject to the provisions of rule 21—7.1(159,252J,272D). The procedures specified in 21—Chapter 2 for contesting departmental actions shall not apply.

[**ARC 9390B**, IAB 2/23/11, effective 3/30/11]

21—7.2(159,252J,272D) Collection procedures. The following procedures shall apply to actions taken by the department on a certificate of noncompliance pursuant to Iowa Code chapter 252J or 272D.

7.2(1) The notice required by Iowa Code section 252J.8 or 272D.8 shall be served upon the applicant, licensee, or permit holder by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the applicant, licensee, or permit holder may accept service personally or through authorized counsel.

7.2(2) The effective date of revocation or suspension of a license or permit or the denial of the issuance or renewal of a license or permit, as specified in the notice required by Iowa Code section 252J.8 or 272D.8, shall be 60 days following service of the notice upon the licensee, permit holder, or applicant.

7.2(3) Applicants, licensees, and permit holders shall keep the department informed of all court actions. Applicants, licensees and permit holders shall also keep the department informed of all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J or of all centralized collection unit actions taken under or in connection with Iowa Code chapter 272D. Copies shall be provided to the department, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9 or 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit or withdrawals of certificates of noncompliance by the centralized collection unit.

7.2(4) All departmental fees for applications, license renewals or reinstatements must be paid by the applicant, licensee, or permit holder before a license will be issued, renewed or reinstated after the department has denied the issuance or renewal of a license or has suspended or revoked a license or permit pursuant to Iowa Code chapter 252J or 272D.

7.2(5) If an applicant, licensee, or permit holder timely files a district court action following service of a department notice pursuant to Iowa Code sections 252J.8 and 252J.9 or 272D.8 and 272D.9, the department shall continue with the intended action described in the notice upon receipt of a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed. For the purpose of determining the effective date of revocation or suspension, or denial of the issuance or renewal of a license or permit, the department shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

[**ARC 9390B**, IAB 2/23/11, effective 3/30/11]

These rules are intended to implement Iowa Code chapters 252J and 272D.

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[Filed ARC 9390B (Notice ARC 9219B, IAB 11/17/10), IAB 2/23/11, effective 3/30/11]

CHAPTER 8
WAIVER OR VARIANCE OF RULES

21—8.1(17A,159) Definition. For purposes of this chapter, a "waiver or variance" means action by the department which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. For simplicity, the term "waiver" shall include both a "waiver" and a "variance."

21—8.2(17A,159) Scope of chapter. This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the department in situations where no other more specifically applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this chapter with respect to any waiver from that rule.

21—8.3(17A,159) Applicability. The department may grant a waiver from a rule only if the department has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. The department may not waive requirements created or duties imposed by statute.

21—8.4(17A,159) Criteria for waiver or variance. In response to a petition completed pursuant to rule 21—8.6(17A,159), the department may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the department finds, based on clear and convincing evidence, all of the following:

1. The application of the rule would impose an undue hardship on the person for whom the waiver is requested.
2. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person.
3. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law.
4. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

21—8.5(17A,159) Filing of petition. A petition for a waiver must be submitted in writing to the department as follows:

8.5(1) *License application.* If the petition relates to a license application, the petition shall be made in accordance with the filing requirements for the license in question.

8.5(2) *Contested cases.* If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

8.5(3) *Other.* If the petition does not relate to a license application or a pending contested case, the petition may be submitted to the bureau chief of the bureau administering the rule from which the waiver is sought.

21—8.6(17A,159) Content of petition. A petition for waiver shall include the following information where applicable and known to the requester:

1. The name, address, and telephone number of the entity or person for whom a waiver is being requested and the case number of any related contested case.
2. A description and citation of the specific rule from which a waiver is requested.
3. The specific waiver requested, including the precise scope and duration.
4. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in rule 21—8.4(17A,159). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.

5. A history of any prior contacts between the department and the petitioner relating to the regulated activity or license affected by the proposed waiver, including a description of each affected license held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity or license within the last five years.

6. Any information known to the requester regarding the department's treatment of similar cases.

7. The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question or which might be affected by the granting of a waiver.

8. The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.

9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver.

21—8.7(17A,159) Additional information. Prior to issuing an order granting or denying a waiver, the department may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the department may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the department.

21—8.8(17A,159) Notice. The department shall acknowledge a petition upon receipt. The department shall ensure that, within 30 days of the receipt of the petition, notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law. In addition, the department may give notice to other persons. To accomplish this notice provision, the department may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the department attesting that notice has been provided.

21—8.9(17A,159) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver filed within a contested case and shall otherwise apply to agency proceedings for a waiver only when the department so provides by rule or order or is required to do so by statute.

21—8.10(17A,159) Ruling. An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

8.10(1) *Department discretion.* The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the department, upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the department based on the unique, individual circumstances set out in the petition.

8.10(2) *Burden of persuasion.* The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the department should exercise its discretion to grant a waiver from a department rule.

8.10(3) *Narrowly tailored.* A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

8.10(4) *Administrative deadlines.* When the rule from which a waiver is sought establishes administrative deadlines, the department shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

8.10(5) *Conditions.* The department may place any condition on a waiver that the department finds desirable to protect the public health, safety, and welfare.

8.10(6) *Time period of waiver.* A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the department, a waiver may be renewed if the department finds that grounds for a waiver continue to exist.

8.10(7) *Time for ruling.* The department shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the department shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

8.10(8) *When deemed denied.* Failure of the department to grant or deny a petition within the required time period shall be deemed a denial of that petition by the department. However, the department shall remain responsible for issuing an order denying a waiver.

8.10(9) *Service of order.* Within seven days of its issuance, any order issued under this chapter shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

21—8.11(17A,159) Public availability. All orders granting or denying a waiver petition shall be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. Some petitions or orders may contain information the department is authorized or required to keep confidential. The department may accordingly redact confidential information from petitions or orders prior to public inspection.

21—8.12(17A,159) Summary reports. Semiannually, the department shall prepare a summary report identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the department's actions on waiver requests. If practicable, the report shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

21—8.13(17A,159) Cancellation of a waiver. A waiver issued by the department pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the department issues an order finding any of the following:

1. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver;
2. The alternative means for ensuring that the public health, safety and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or
3. The subject of the waiver order has failed to comply with all conditions contained in the order.

21—8.14(17A,159) Violations. Violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

21—8.15(17A,159) Defense. After the department issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

21—8.16(17A,159) Judicial review. Judicial review of a department's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

These rules are intended to implement Iowa Code section 17A.9A and chapter 159.

[Filed 8/3/01, Notice 2/21/01—published 8/22/01, effective 9/26/01]

CHAPTER 9
Reserved

CHAPTER 10
RURAL REVITALIZATION PROGRAM
[Prior to 7/27/88, see 21—Ch 56]

Rescinded IAB 2/9/00, effective 3/15/00

CHAPTER 11
APPLE GRADING

Rescinded IAB 2/9/00, effective 3/15/00

CHAPTER 12
RENEWABLE FUELS AND COPRODUCTS

21—12.1(159A) Purpose. The purpose of these rules is to further the economic development of Iowa and to encourage production of the renewable fuel and coproduct industry of Iowa by providing specific funding for technical assistance to any person who is located in Iowa or desiring to locate in Iowa.

21—12.2(159A) Definitions.

"Coordinator" means the administrative head of the office of renewable fuels and coproducts appointed by the secretary of agriculture as provided in Iowa Code section 159A.3.

"Coproduct" means a product other than a renewable fuel which at least in part is derived from the processing of agricultural commodities, and which may include corn gluten feed, distillers grain or solubles, or can be used as livestock feed or a feed supplement.

"Department" or *"IDALS"* means the Iowa department of agriculture and land stewardship.

"Fund" means the renewable fuels and coproducts fund established pursuant to Iowa Code section 159A.7.

"Innovative" means a new or different agricultural product or a method of processing agricultural products which is an improvement over traditional methods in a new, different, or unusual way.

"Office" means the office of renewable fuels and coproducts created pursuant to Iowa Code section 159A.3 within the Iowa department of agriculture and land stewardship.

"Person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

"Renewable fuel" means an energy source at least in part derived from an organic compound, capable of powering machinery, including an engine or power plant. A renewable fuel includes, but is not limited to, ethanol-blended or soydiesel fuel.

"Rural economic value-added mentoring program" or *"REVAMP"* means a program which provides assistance to develop or refine business plans for value-added businesses.

"Value-added product" means a product which, through a series of activities or processes, can be sold at a higher price than its original purchase price.

21—12.3(159A) General provisions. Financial support for planning and technical assistance for persons interested in developing renewable fuel or coproduct industries in the state of Iowa.

12.3(1) A person applying for assistance must satisfy the following requirements:

a. Applicant must be interested in developing a value-added industry located in Iowa by:

(1) Producing a product from an agricultural commodity which was not previously produced from an agricultural commodity; or

(2) Using a new process to produce a product derived from an agricultural process which is not commonly used to produce that product; or

(3) Establishing or expanding a renewable fuel production facility.

b. Applicant must submit a Planning and Technical Assistance Application, a Memorandum of Understanding, and cooperate in development or refinement of a business plan.

12.3(2) REVAMP assistance is available as follows:

a. The office may provide up to $1,000 for a contracted consulting agency to provide technical and business planning assistance for a business's proposed project.

b. Upon the recommendation of a consulting agency and upon concurrence of the department, additional moneys may be made available for planning and technical assistance for each company's business plan. No more than a total of $10,000 in assistance will be provided to any one business. Consultants under contract with the office shall be reimbursed directly by the office.

c. Any and all additional costs shall be paid entirely by the applicant.

12.3(3) Applications shall be processed by the coordinator on a first-come, first-served basis, based upon the receipt of documents by the office. Application materials may be obtained from Office of Renewable Fuels and Coproducts, Department of Agriculture and Land Stewardship, Wallace State

Office Building, East 9th and Grand Avenue, Des Moines, Iowa 50319, (515)281-6936. Any person may resubmit an application with revisions as long as fees paid by the office remain under the maximum amount per project.

21—12.4(159A) Renewable fuels motor vehicle fuels decals. All motor vehicle fuel kept, offered or exposed for sale or sold at retail containing over 1 percent of a renewable fuel shall be identified with a decal located on front of the motor vehicle fuel pump and placed between 30″ and 50″ above the driveway level or in an alternative location approved by the department. The appearance of the decal shall conform to the following standards adopted by the renewable fuels and coproducts advisory committee:

12.4(1) The only two sizes of decals approved are the following:

a. A design of 1.25″ by 4″.

b. A design of 2″ by 6″.

12.4(2) All labels shall have the word "with" in letters a minimum of .1875″ high, and the name of the renewable fuel in letters a minimum of .5″ high.

12.4(3) The use of color, design and wording shall be approved by the renewable fuels and coproducts advisory committee. The coordinator may receive input from any party, including the weights and measures bureau of the department, in recommending the color, design, and wording. The advisory committee shall approve the color, design, and wording of the decal to promote the use of renewable fuels.

12.4(4) All black and white fuel pump stickers shall be replaced by approved colorful fuel pump decals effective July 1, 1995.

These rules are intended to implement Iowa Code section 159A.8.

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[1] Effective date of 21—Chapter 12 delayed seventy days by the Administrative Rules Review Committee at its meeting held July 8, 1993; delay lifted by this Committee on 9/15/93.

CHAPTER 13
RENEWABLE FUEL INFRASTRUCTURE BOARD—ORGANIZATION

21—13.1(159A) Definitions. As used in these rules, unless the context otherwise requires, the definitions in Iowa Code section 159A.11 shall apply to this chapter and to 21—Chapters 14, 15, and 16. The following definitions shall also apply:

"Agreement" means the cost-share agreement executed by the department after approval of the grant by the board.

"Applicant" means a person, as defined in this rule, who owns or operates a site.

"Biodiesel," for the purpose of this rule, must be at least B99.

"Biodiesel blended fuel," as defined in Iowa Code section 214A.1, means a blend of biodiesel with petroleum-based diesel fuel which meets the standards, including separately the standard for its biodiesel component. For the purpose of these rules, biodiesel blended fuel must contain at least 2 percent biodiesel at a terminal site and at least 1 percent at a retail site.

"Biofuel" means ethanol or biodiesel as defined in Iowa Code section 214A.1.

"Blender pump," for the purpose of these rules, means blending biofuel. When blending ethanol, the pump must dispense E-85 gasoline at all times.

"Board" means the renewable fuel infrastructure board established by Iowa Code section 159A.13.

"Checklist" or *"IDNR checklist"* means the most recent version of the Underground Storage Tank System Checklist for Equipment Compatibility with E-Blend Fuels (greater than 10 percent by volume) issued by the Iowa department of natural resources.

"Grant" or *"cost-share grant"* means moneys awarded by the board on a cost-share basis from the renewable fuel infrastructure fund created by Iowa Code chapter 15G to help pay for a project.

"Person" means an individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity as defined in Iowa Code section 4.1(20).

"Project" means the installation of equipment for motor fuel storage, dispensing and distribution of E-85 gasoline, biodiesel or biodiesel blend.

"Rack" means a metered motor fuel, special fuel or renewable fuel loading facility with the capacity to pump fuel at a rate of at least 100 gallons per minute (100 gpm); whether from an overhead, lateral, or underneath position, into a transportation vessel for further delivery.

"Renewable fuel," as defined in Iowa Code section 214A.1, means a combustible liquid derived from grain starch, oilseed, animal fat, or other biomass; or produced from a biogas source, including any nonfossilized decaying organic matter which is capable of powering machinery, including but not limited to an engine or power plant. Renewable fuel includes but is not limited to biofuel, ethanol blended gasoline, or biodiesel blended fuel meeting the standards provided in Iowa Code section 214A.2.

"Retail" means offered for sale to the public for final consumption.

"Retail motor fuel site" means a site at which motor fuel is offered for sale to the public for final consumption. A retail motor fuel site may include a tank vehicle or transport.

"Tank vehicle" means a motor vehicle designed to transport liquid or gaseous materials within a tank having a rated capacity of 1,001 or more gallons either permanently or temporarily attached to the vehicle or chassis.

[**ARC 9584B**, IAB 6/29/11, effective 7/1/11; **ARC 9816B**, IAB 11/2/11, effective 12/7/11; **ARC 0738C**, IAB 5/15/13, effective 6/19/13]

21—13.2(159A) Renewable fuel infrastructure board.

13.2(1) *Duties.* The board shall make awards for renewable fuel infrastructure programs and perform other functions as necessary.

13.2(2) *Board structure.* The board shall consist of 11 voting members appointed for five-year terms by the governor. The board shall annually elect a chairperson, on a rotating basis, from among its members. Six voting members shall constitute a quorum. An affirmative vote of a majority of voting members, excluding any member who has a conflict of interest, is necessary for the board to take substantive action.

13.2(3) *Staff.* Staff assistance shall be provided through the department. The department will market the renewable fuel infrastructure program throughout the state.

13.2(4) *Meetings.* Board meetings will generally be held by telephone or at the department's offices. All meetings shall comply with Iowa Code chapter 21.

[**ARC 9584B**, IAB 6/29/11, effective 7/1/11; **ARC 9816B**, IAB 11/2/11, effective 12/7/11; **ARC 0738C**, IAB 5/15/13, effective 6/19/13]

These rules are intended to implement Iowa Code section 159A.13.

[Filed Emergency ARC 9584B, IAB 6/29/11, effective 7/1/11]

[Filed ARC 9816B (Notice ARC 9583B, IAB 6/29/11), IAB 11/2/11, effective 12/7/11]

[Filed ARC 0738C (Notice ARC 0645C, IAB 3/20/13), IAB 5/15/13, effective 6/19/13]

CHAPTER 14
RENEWABLE FUEL INFRASTRUCTURE PROGRAM FOR RETAIL MOTOR FUEL SITES

21—14.1(159A) Purpose. The purpose of the renewable fuel infrastructure program is to install, replace and convert infrastructure to store, blend, and dispense renewable fuels at a retail fuel site.
[**ARC 9584B**, IAB 6/29/11, effective 7/1/11; **ARC 9816B**, IAB 11/2/11, effective 12/7/11; **ARC 0738C**, IAB 5/15/13, effective 6/19/13]

21—14.2(159A) Eligible applicants. To be eligible to receive a retail motor fuel site infrastructure grant, an applicant shall:

14.2(1) Be an owner or operator of a retail motor fuel site.

14.2(2) Submit an application to the department in form and content acceptable to the department and the board.

14.2(3) Meet the following eligibility requirements established by the board:

a. The fuel storage and dispensing infrastructure may include either an aboveground or belowground storage tank and ancillary equipment.

b. The fuel storage tank may be on a tank vehicle or transport if regularly parked overnight in Iowa.

c. The storage tank must, however, be used exclusively for retail delivery to the final consumer.

d. If a tank has multiple compartments, at least one of the compartments must be used exclusively for the storage and dispensing of E-85 gasoline, biodiesel or biodiesel blended fuel at retail. The compartment used exclusively for the storage of E-85 gasoline, biodiesel or biodiesel blended fuel is considered the tank for purposes of this program.

e. The tank and ancillary equipment must be approved for E-85 gasoline, biodiesel or biodiesel blended fuel use by either the Iowa department of natural resources or the state fire marshal, as evidenced by the most recent IDNR checklist.

f. The dispenser must be described by type and model in a written statement by the manufacturer of the dispenser. The manufacturer's written statement must be signed by a responsible official on behalf of the manufacturer and must be provided either to the applicant or to the Iowa department of natural resources or the state fire marshal. If provided to the applicant, the statement must be kept on file on the premises of the applicant for the five-year term of the agreement. The written statement must state that:

(1) The dispenser is, in the opinion of the manufacturer, not incompatible with E-85 gasoline; and

(2) The manufacturer has initiated the process of applying to an independent testing laboratory for listing of the equipment used in dispensing E-85 gasoline.

g. Conversion kits. If a UL-listed E-85 dispenser conversion kit is used, it must be approved by the state fire marshal to be eligible for the E-85 grant.
[**ARC 9584B**, IAB 6/29/11, effective 7/1/11; **ARC 9816B**, IAB 11/2/11, effective 12/7/11; **ARC 0738C**, IAB 5/15/13, effective 6/19/13]

These rules are intended to implement Iowa Code section 159A.14.

[Filed Emergency ARC 9584B, IAB 6/29/11, effective 7/1/11]
[Filed ARC 9816B (Notice ARC 9583B, IAB 6/29/11), IAB 11/2/11, effective 12/7/11]
[Filed ARC 0738C (Notice ARC 0645C, IAB 3/20/13), IAB 5/15/13, effective 6/19/13]

CHAPTER 15
RENEWABLE FUEL INFRASTRUCTURE PROGRAM FOR BIODIESEL TERMINAL GRANTS

21—15.1(159A) Purpose. The purpose of the renewable fuel infrastructure program for biodiesel terminal grants is to provide grants to a terminal facility which stores, blends, or distributes biodiesel fuel, including B2 through B98 and B99/B100, to dealers and retailers.
[**ARC 9584B**, IAB 6/29/11, effective 7/1/11; **ARC 9816B**, IAB 11/2/11, effective 12/7/11; **ARC 0738C**, IAB 5/15/13, effective 6/19/13]

21—15.2(159A) Eligible applicants. To be eligible to receive a biodiesel terminal grant, an applicant shall:

15.2(1) Be an owner or operator of a biodiesel terminal.

15.2(2) Submit an application to the department in form and content acceptable to the department and the board.

15.2(3) Meet the following eligibility requirements established by the board:

a. The terminal must not be a retail motor fuel site.

b. The terminal must not be a facility at which fuel or blend stocks are used in the manufacture of products other than motor fuel and from which no fuel is removed.

c. The terminal must have at least one storage tank of at least a 10,000-gallon capacity, used exclusively for or dedicated exclusively to the storage of biodiesel fuel. The terminal may also have storage for one or more biodiesel blends. The terminal must have facilities for the dispensing of either biodiesel, biodiesel blends, or both.

d. The dispensing of motor fuel at the terminal must be done at a rack in excess of 100 gpm pumping capacity.
[**ARC 9584B**, IAB 6/29/11, effective 7/1/11; **ARC 9816B**, IAB 11/2/11, effective 12/7/11; **ARC 0738C**, IAB 5/15/13, effective 6/19/13]

These rules are intended to implement Iowa Code section 159A.15.

[Filed Emergency ARC 9584B, IAB 6/29/11, effective 7/1/11]
[Filed ARC 9816B (Notice ARC 9583B, IAB 6/29/11), IAB 11/2/11, effective 12/7/11]
[Filed ARC 0738C (Notice ARC 0645C, IAB 3/20/13), IAB 5/15/13, effective 6/19/13]

CHAPTER 16
RENEWABLE FUEL INFRASTRUCTURE PROGRAM ADMINISTRATION

21—16.1(159A) Allocation of awards by congressional district. The board shall use the boundaries of the state's congressional districts and shall prorate and equally distribute the amount available each fiscal year for each district. The board shall have at its discretion a prorated amount (up to $500,000) to distribute to any congressional district. On April 1 of each year, if funds allocated to a district have not been committed, the unobligated balance shall revert to the reserve fund and be available for other projects approved by the board.

[**ARC 9584B**, IAB 6/29/11, effective 7/1/11; **ARC 9816B**, IAB 11/2/11, effective 12/7/11; **ARC 0738C**, IAB 5/15/13, effective 6/19/13]

21—16.2(159A) Form of award available; award amount.

16.2(1) *Form of award.* Eligible applicants may apply for financial incentives on a cost-share basis. Funding shall be available in the form of a grant.

16.2(2) *Timing of application.* A grant may be awarded for an eligible project not yet commenced. However, a grant for an initial application may not be awarded more than one year after the project is put in service.

16.2(3) *Amount of award.*

a. Retail award site.

(1) Three-year cost-share agreement for a retail site. The maximum award amount is 50 percent of the actual cost of making the improvements or $30,000, whichever is less.

(2) Five-year cost-share agreement for a retail site. The maximum award amount is 70 percent of the actual cost of making the improvements or $50,000, whichever is less.

(3) Supplemental financial incentives. A person may be granted supplemental financial incentives as an amendment to the cost-share agreement.

1. Supplemental award for Underwriters Laboratories upgrade. The purpose of an award for Underwriters Laboratories (UL) is to upgrade to UL-certified dispensers, blender pumps and dispensing infrastructure, UL-approved conversion kits and approved and insurable installation projects. The maximum amount available as a supplemental financial incentive is 75 percent of the actual cost of making the improvements or $30,000, whichever is less. The dispenser can be listed by an independent certified testing laboratory or Underwriters Laboratories (UL) as compatible with ethanol blended gasoline classified as E-9 or higher.

2. Supplemental award for additional tank and associated infrastructure. A person may request a supplemental financial incentive for tank and associated infrastructure, as an amendment to the subsequent cost-share agreement(s). The purpose of an award for an additional tank(s) and associated infrastructure is to accelerate the installation of an additional tank(s) and associated infrastructure at an additional retail motor fuel site after an initial grant award is provided. To be eligible, the initial grant award must be awarded to the person on or after May 12, 2008. The maximum award amount available as a supplemental financial incentive is $6,000 per supplemental site. The person is limited to four supplemental financial incentive awards within the 12-month period following the completion of the initial retail motor fuel site project.

b. Terminal facility award for biodiesel B2 through B98 and B99/B100 for year-round distribution.

(1) Biodiesel fuel B2 through B98.

1. Duration. The duration of the cost-share agreement shall be five years.

2. Maximum award. The maximum award amount is 50 percent of the actual cost of making the improvements or $50,000, whichever is less.

(2) Biodiesel fuel B99/B100 for year-round distribution.

1. Duration. The duration of a cost-share agreement is five years.

2. Maximum award amount. The maximum award amount is 50 percent of the actual cost of making the improvements or $100,000, whichever is less.

3. Application acceptance begins January 1, 2009. Grant applications for B99/B100 projects will be accepted beginning January 1, 2009.

4. Lifetime cap amount. The maximum or lifetime cap for B99/B100 biodiesel terminal grants is $800,000 per person.

c. Tank vehicle.

(1) December 31, 2008, deadline. A tank vehicle application must be postmarked no later than December 31, 2008, to be eligible.

(2) Duration. The duration of the cost-share agreement is three years. The maximum award amount is 50 percent of the actual cost of making the improvements or $30,000, whichever is less.

(3) Limitation on number of grants. A person may receive one grant for one tank vehicle used to store and dispense E-85 gasoline and one grant for one tank vehicle used to store and dispense biodiesel or biodiesel blend. If a person received an award for a tank vehicle(s) prior to May 12, 2008, that person is eligible to apply for an additional tank vehicle.

16.2(4) *Time of payment.* The grant shall be paid only upon timely completion of the project and upon the board's receipt of records satisfying the board of the applicant's qualifying expenditures.

a. The applicant must deliver to the board prior to payment a certificate of completion on the board's form.

b. The certificate of completion must include the IDNR checklist completed and signed by an Iowa-certified installer showing review and approval of the completed project.

c. The certificate of completion must be accompanied by proof of financial responsibility as necessary to meet federal requirements for underground storage tank installation.

16.2(5) *Deadline for completion.* The project must be completed within eight months of the board's approval of the award. An extension may be granted by the board upon application showing demonstrable progress toward completion.

16.2(6) *Multiple awards for multiple fuel types.*

a. At a single fuel site. A person must file a separate application form for an ethanol infrastructure improvement grant and a biodiesel infrastructure improvement grant, respectively, at a single fuel site. The board may approve multiple improvements to the same retail motor fuel site for the full amount available for ethanol infrastructure and biodiesel infrastructure. Applications for ethanol and biodiesel infrastructure improvements must be written in separate cost-share agreements.

b. At multiple fuel sites. A person may receive multiple grants as described in paragraph 16.2(6)*"a"* for more than one motor fuel site. When considering multiple grants for multiple fuel sites, the board will make awards fairly and properly among applicants and geographic areas.

16.2(7) *Exhaustion of funds.* In the event funding is exhausted at the end of the fiscal year or June 30, 2012, the board shall approve remaining applications based on criteria implemented by the board.

[**ARC 9584B**, IAB 6/29/11, effective 7/1/11; **ARC 9816B**, IAB 11/2/11, effective 12/7/11; **ARC 0139C**, IAB 5/30/12, effective 7/4/12; **ARC 0738C**, IAB 5/15/13, effective 6/19/13]

21—16.3(159A) Application process.

16.3(1) *Application procedures.*

a. Applications may be submitted at any time, but will be reviewed on a first-come, first-served basis as established by the date stamp on the filed application.

b. Applications shall be submitted to: Renewable Fuel Infrastructure Board, Iowa Department of Agriculture and Land Stewardship, 502 East Ninth Street, Des Moines, Iowa 50309. Application forms and instructions are available at this address.

16.3(2) *Contents of application.*

a. Statutory requirements. An application shall include the information required in Iowa Code section 15G.203.

b. Other information required by the board:

(1) Assurance that the project will be for the purpose of installing, replacing, or converting equipment for the storage or dispensing of the renewable fuel under consideration.

(2) Assurance that all equipment funded by the grant is designed and will be used exclusively to store or dispense E-85 gasoline, biodiesel or biodiesel blended fuel, respectively, for the period specified in the agreement.

(3) An IDNR checklist indicating the current status of the site.

(4) Assurance of compliance with any and all federal requirements for financial responsibility.

(5) Assurance of compliance with any and all state and federal laws and regulations.

(6) A cost proposal from an Iowa-licensed underground storage tank installer (for underground storage projects) and a qualified aboveground storage tank installer (for aboveground storage projects).

(7) Documentation of initiation of the process of applying to an independent laboratory and the manufacturer's written statement that the dispenser is "not incompatible."

[**ARC 9584B**, IAB 6/29/11, effective 7/1/11; **ARC 9816B**, IAB 11/2/11, effective 12/7/11; **ARC 0738C**, IAB 5/15/13, effective 6/19/13]

21—16.4(159A) Review process.

16.4(1) The underground storage tank fund board has chosen not to review the applications. The renewable fuel infrastructure board will review an application for final approval or disapproval. The renewable fuel infrastructure board shall determine the amount of financial incentives to be awarded to an applicant.

16.4(2) Completed applications, including supporting documentation of meeting eligibility requirements, will be reviewed on a first-come, first-served basis. If the amount of funding requests exceeds available funds, the board shall evaluate applications based upon criteria that include, but are not limited to, the following:

a. Submittal of a completed application, including supporting documentation.

b. Location factors such as demographics, proximity to major transportation corridors, and proximity to existing renewable fuel retail and storage facilities.

c. Projected annual sales volume.

d. Other sources of funding.

e. Previous grants awarded.

[**ARC 9584B**, IAB 6/29/11, effective 7/1/11; **ARC 9816B**, IAB 11/2/11, effective 12/7/11; **ARC 0738C**, IAB 5/15/13, effective 6/19/13]

21—16.5(159A) Contract administration.

16.5(1) *Notice of award.* The department shall notify approved applicants in writing of the board's award of grants, including any conditions and terms of the approval.

16.5(2) *Contract required.* The board shall direct the department to prepare a cost-share agreement which shall include terms and conditions of the grant established by the board. The agreement shall:

a. Describe the project in sufficient detail to demonstrate the eligibility of the project.

b. State the total cost of the project expressed in a project budget that contains sufficient detail to meet the requirements of the infrastructure board.

c. State the project completion deadline.

d. State the project completion requirements which are preconditions for payment of the grant by the board.

e. Recite the penalty for the storage or dispensing of motor fuel other than the type of renewable fuel for which the grant was awarded.

(1) Awards for projects under construction or not yet started. The three- or five-year obligation to continue dispensing renewable fuel begins on the date the project is completed.

(2) Awards for projects already completed. The three- or five-year obligation to continue dispensing renewable fuel begins on the date the department issues the first disbursement of grant funds, not on the date of project completion.

f. Be amended to include a supplemental financial incentive, if a supplemental financial incentive is awarded by the board.

16.5(3) *Repayment penalty for nonexclusive renewable fuel use.* In the absence of a waiver from the board, the department may impose a 25 percent penalty due to a grant recipient's use of infrastructure equipment for which a grant was awarded, for the storage or dispensing, within the time frame stated in the agreement, of motor fuel other than the type of renewable fuel for which the grant was awarded.

16.5(4) *Repayment or board waiver.* A grant recipient may not use the infrastructure to store and dispense motor fuel other than the type approved by the board, unless one of the following applies: (1)

the grantee is granted a waiver by the board, or (2) the grantee pays back the moneys awarded including a 25 percent penalty.

16.5(5) *Waiver criteria.* The board may waive repayment of grant funds plus the 25 percent penalty. A grant recipient seeking a waiver during the time period in which a cost-share agreement is in effect shall submit a written waiver request to the board. The board will consider waiver requests under the following circumstances:

a. Permanent waiver.

(1) Waiver due to demonstration of good cause (no repayment and no 25 percent penalty). A grant recipient may request a permanent waiver during the time period in which a cost-share grant agreement is in effect if the grant recipient can demonstrate good cause for failure to continue using the approved renewable fuel. "Good cause" includes, but is not limited to, events such as the following:

1. Permanent business closure due to bankruptcy.
2. Permanent closure of underground or aboveground storage tanks.

(2) Waiver due to demonstration of financial hardship (repayment on a sliding scale and no 25 percent penalty). A grant recipient may seek a permanent waiver of exclusive use of the approved renewable fuel during the time period in which a cost-share agreement is in effect due to financial hardship. The grant recipient must demonstrate that continuing to dispense the renewable fuel at a project site will cause a financial hardship. A request for waiver due to financial hardship shall include documentation to show a "good faith" effort to market the fuel, specifically the most recent six-month history of gallons of approved renewable fuel sold by month, marketing/advertising efforts, retail price comparison of E-85 to E-10 (or regular gasoline) or of biodiesel to regular diesel. If a waiver is granted, the 25 percent penalty will not be assessed, but the grant funds shall be repaid as follows:

1. Three-year cost-share agreement: Months 1 through 11 of the cost-share agreement, 100 percent of grant amount. Months 12 through 36 of cost-share agreement, 4 percent of grant amount for each month remaining on the cost-share agreement.
2. Five-year cost-share agreement: Months 1 through 10 of the cost-share agreement, 100 percent of grant amount. Months 11 through 60 of the cost-share agreement, 2 percent of grant amount for each month remaining on the cost-share agreement.

b. Temporary waiver (temporary suspension of repayment and 25 percent penalty). A grant recipient may request a temporary suspension of the obligation to use only the approved renewable fuel and a temporary waiver of the repayment plus penalty requirement. A request for a temporary waiver, or an extension of a temporary waiver, will only be considered by the board if the recipient can document to the board's satisfaction that market forces are not allowing for advantageous sales of the approved renewable fuel. A grant recipient shall submit documentation of the previous six-month sales history and marketing attempts to substantiate the grant recipient's request for a temporary waiver. The following conditions apply to requests for a temporary waiver:

(1) A temporary waiver will not be granted during the first six months of a cost-share agreement.

(2) A temporary waiver will not shorten the grant recipient's obligation to use the infrastructure to store and dispense the approved renewable fuel for a minimum of three years or five years. If the board approves a temporary waiver, the duration of the cost-share agreement will be extended by the length of the approved waiver period.

(3) A grant recipient may request a temporary waiver of up to six months. The board may approve one or more six-month waivers, provided the total cumulative time period allowed for temporary waivers shall not exceed two years.

(4) If a state executive order suspending the Iowa Renewable Fuel Standard (RFS) schedule is issued, the board may decide to grant a temporary waiver to all grant recipients. The board will establish the duration of the waiver and provide written notice to all grant recipients of the board's action. When the board determines that a temporary waiver is necessary due to suspension of the Iowa RFS schedule, the three-year or five-year duration of the cost-share agreement will not be extended by the length of the temporary waiver.

[**ARC 9584B**, IAB 6/29/11, effective 7/1/11; **ARC 9816B**, IAB 11/2/11, effective 12/7/11; **ARC 0738C**, IAB 5/15/13, effective 6/19/13]

These rules are intended to implement Iowa Code sections 159A.11 to 159A.16.

[Filed Emergency ARC 9584B, IAB 6/29/11, effective 7/1/11]
[Filed ARC 9816B (Notice ARC 9583B, IAB 6/29/11), IAB 11/2/11, effective 12/7/11]
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[Filed ARC 0738C (Notice ARC 0645C, IAB 3/20/13), IAB 5/15/13, effective 6/19/13]

CHAPTERS 17 to 19
Reserved

CHAPTER 20
REFERENDUM

[Prior to 7/27/88 see Agriculture Department 30—Ch 2]

21—20.1(159) Purpose. In order to establish uniform procedures and provide for consistent eligibility guidelines in commodity referendums, it is the policy of the Iowa department of agriculture and land stewardship to enumerate the following rules:

21—20.2(159) Definitions.

"Department" means the Iowa department of agriculture and land stewardship.

"Election judge" means a person or persons selected by the secretary to administer referendum procedures at county voting places.

"Marketing year" means the previous 365 days from the referendum date unless otherwise established by specific statutory authority.

"Producer," as prescribed in the specific statutory authority for each commodity referendum, means the following:

1. *"Producer,"* in a referendum conducted under Iowa Code chapter 181, means every person who raises cattle or veal calves for slaughter or who feeds cattle or veal calves for slaughter, or both.

2. *"Producer,"* in a referendum conducted under Iowa Code chapter 185, means any individual, firm, corporation, partnership or association engaged in this state in the business of producing and marketing in their name at least 250 bushels of soybeans in the previous marketing year.

3. *"Producer,"* in a referendum conducted under Iowa Code chapter 185C, means any individual, firm, corporation, partnership or association engaged in this state in the business of producing and marketing in their name at least 250 bushels of corn in the previous marketing year.

4. *"Producer,"* in a referendum conducted under Iowa Code chapter 196A, means any person who owns, or contracts for the care of, 500 or more layer-type chickens, the eggs of which are sold in this state through commercial channels, including, but not limited to, eggs for hatching, which have been produced by the producer's own flock.

"Secretary" means the secretary of agriculture.

"Statement" means a statement, certification, affidavit or other document furnished by the department which specifies the qualifications required for producer eligibility.

21—20.3(159) Voter eligibility.

20.3(1) *Business organizations.* Only one vote may be cast on behalf of any business organization.

a. Association, college, cooperative, corporation, foundation, university: Only an officer may cast one vote for this business organization.

b. Fiduciary: Only the court-appointed legal representative of an estate, trust, conservatorship, guardianship or other fiduciary relationship may cast one vote for the business held in trust.

c. Partnership/joint venture: If the ownership of the commodity is held in the partnership name or in joint ownership, only one partner/owner may cast one vote. It is the responsibility of the partnership/joint venture to decide who will vote.

20.3(2) *Landlord and tenant.* Each may cast one vote if each meets the definition of "producer." For corn and soybeans, a landlord may vote only if corn or soybeans were grown on a "crop share" basis; a landlord may not vote if land was rented on a "cash rent" basis.

20.3(3) *Joint owners.* If the commodity is held in legal title by joint owners, it is the responsibility of the joint owners to decide who will vote. Only one owner may cast one vote when the commodity is held in joint ownership. If each meets the "producer" definition as separate entity, then each may cast one vote.

20.3(4) *Proxy voting.* No producer may vote by proxy (on behalf of another producer). Farm managers may not vote for their clients.

20.3(5) *Multiple operations.* An individual or business organization who meets the definition of a "producer" in more than one county or on more than one tract of land, may vote once in their own name. If more than one vote is cast, only one vote, cast in the county of residence, will be counted.

20.3(6) *Producer within the previous marketing year.* An individual or business organization must have been a "producer" as defined in 20.2(159), in the previous marketing year.

21—20.4(159) Referendum methods and procedures. A referendum may be conducted by either of two methods: (1) Mail ballot or (2) at county voting places. These two methods of conducting referendums are mutually exclusive. The secretary shall approve that balloting procedure which shall best effectuate the policies and purposes of the referendum to be voted upon.

20.4(1) *Mail ballot procedures.*

a. The secretary may designate such person(s) as are necessary to administer the mail ballot procedure.

b. The official referendum date shall be established by the secretary, and shall be the last date on which completed balloting materials may be postmarked for receipt by the department.

c. The department shall announce referendum procedures and producer qualification information by means of publication of legal notice in at least five Iowa newspapers of general circulation at least 30 days prior to the referendum date.

d. At least 15 days prior to the referendum date, the department shall mail balloting materials to producers, using the best list reasonably available to the secretary.

e. All ballots shall be the responsibility of the secretary, who shall establish a time and place for counting of ballots.

f. To maintain vote anonymity, the department shall provide for return of the ballot in a sealed envelope, unless otherwise indicated in the notice. Producer eligibility may be certified prior to the referendum date; however, votes shall not be counted until the referendum date has passed.

g. If the referendum passes, all expenses incurred by the department in conducting the referendum shall be paid from the fund created by passage.

If the referendum fails, the producer association which petitions for an initial referendum (or for a subsequent referendum if one fails to pass) shall be liable for all costs and expenses incurred by the department in conducting the referendum.

h. All ballots, tabulation forms and producer statements shall be retained by the department for a minimum of six months following the referendum date.

20.4(2) *County voting place procedures.*

a. The secretary shall designate an official voting place(s) in each county. An eligible producer may vote in any Iowa county, when county voting places are in use, with the exception of producers voting in a referendum under Iowa Code chapters 185 and 185C. Said producers may vote only in a county in the crop reporting district in which they reside. The counties within each crop reporting district are as follows:

CROP REPORTING DISTRICT NO. 1

Buena Vista	Emmett	Palo Alto
Cherokee	Lyon	Plymouth
Clay	O'Brien	Pocahontas
Dickinson	Osceola	Sioux

CROP REPORTING DISTRICT NO. 2

Butler	Hancock	Winnebago
Cerro Gordo	Humboldt	Worth
Floyd	Kossuth	Wright
Franklin	Mitchell	

CROP REPORTING DISTRICT NO. 3

Allamakee	Chickasaw	Fayette

Black Hawk	Clayton	Howard
Bremer	Delaware	Winneshiek
Buchanan	Dubuque	
	CROP REPORTING DISTRICT NO. 4	
Audubon	Greene	Monona
Calhoun	Guthrie	Sac
Carroll	Harrison	Shelby
Crawford	Ida	Woodbury
	CROP REPORTING DISTRICT NO. 5	
Boone	Hardin	Poweshiek
Dallas	Jasper	Story
Grundy	Marshall	Tama
Hamilton	Polk	Webster
	CROP REPORTING DISTRICT NO. 6	
Benton	Jackson	Linn
Cedar	Johnson	Muscatine
Clinton	Jones	Scott
Iowa		
	CROP REPORTING DISTRICT NO. 7	
Adair	Fremont	Page
Adams	Mills	Pottawattamie
Cass	Montgomery	Taylor
	CROP REPORTING DISTRICT NO. 8	
Appanoose	Madison	Union
Clarke	Marion	Warren
Decatur	Monroe	Wayne
Lucas	Ringgold	
	CROP REPORTING DISTRICT NO. 9	
Davis	Keokuk	Van Buren
Des Moines	Lee	Wapello
Henry	Louisa	Washington
Jefferson	Mahaska	

b. The secretary shall establish the hours for voting and a time period, up to a maximum of three days, for voting in the referendum. If voting takes place on more than one date, the official referendum date shall be the last day on which voting is allowable.

c. The department shall announce referendum procedures, producer qualification information and location of voting places by means of publication of legal notice in at least five Iowa newspapers of general circulation at least 30 days prior to the referendum date.

d. After signing a producer statement furnished by the department, each producer shall receive a ballot. Each marked ballot shall be placed in a sealed ballot box during the voting period.

e. The election judge shall have the following responsibilities in conducting the referendum:

(1) The election judge shall secure an appropriate ballot box which shall be kept sealed during the voting period.

(2) The election judge shall distribute voting materials and instructions, assist in the balloting process, observe the deposit of ballots in the sealed box, and be responsible for maintaining the integrity and security of the ballots.

(3) The election judge shall, after voting has been completed and the voting place closed, count the ballots and telephone, fax or E-mail the tentative tabulation to the office of the secretary.

(4) The election judge shall return the ballots, along with the original "producer statements" and the "Certification of Judges and Official Vote Tabulation", to the department within 24 hours following the closing of the voting place. All ballots not used shall be destroyed by the election judge.

f. The secretary shall review the tabulation of votes and producer statements received from county election judges. If the number of signed producer statements is greater than the number of ballots cast, the number of ballots shall stand as the official vote total for the county. If the number of ballots cast exceeds the number of signed producer statements, then the following reduction procedure shall be used:

Excess Ballots	Reduce Votes On Prevailing Side	Reduce Votes On Losing Side
1	1	0
2	1	1
3	2	1
4	2	2
5	3	2
6	3	3
7	4	3
8	4	4
9	5	4
10	5	5

If the vote is tied, each side will be reduced by ½ vote for each excess ballot

g. If the referendum passes, all expenses incurred by the department in conducting the referendum shall be paid from the fund created by passage.

If the referendum fails, the producer association which petitions for an initial referendum (or for a subsequent referendum if one fails to pass) shall be liable for all costs and expenses incurred by the department in conducting the referendum.

h. All ballots, tabulation forms and producer statements shall be retained by the department for a minimum of six months following the referendum date.

20.4(3) *Absentee ballot procedures.* When the referendum method is by designated county voting place, any qualified producer may receive an absentee ballot from the department upon request. The ballot and signed producer statement must be returned to the secretary postmarked no later than midnight of the official referendum date. The secretary shall maintain a list of those producers to whom absentee ballots have been provided and shall provide a list of same to all voting sites in the county of residence of the producer.

If the producer could not be at home in time to utilize an absentee ballot mailed from the secretary, and if the regular balloting materials have been received by the county extension office, the county extension director may sign a ballot and provide this to the producer, upon the producers signing a producers certification statement. The completed ballot will be placed in a separate sealed envelope. This ballot envelope and the signed producers certification statement will be placed in an envelope and returned to the office of the secretary for counting.

21—20.5(159) Contesting referendum results.

20.5(1) *In mail ballot referendums.* Written objection to the certification of any producer may be filed with the secretary within 30 days following the date of the counting of the votes. Challenges must include such affidavits or documentation as to substantiate alleged objections.

20.5(2) *In county voting places.* If at the time of voting, procedural or eligibility questions arise, the election judge shall have the producer sign a separate producer statement and complete balloting

materials. The ballot shall be marked and placed in a sealed envelope. Both the sealed ballot envelope and producer statement shall be placed in a separate envelope and set aside and not counted. The election judge shall list all facts of the situation or documentation presented by the person making the objection on the envelope or on a separate sheet to be included in the envelope. All materials shall be returned to the secretary who shall determine whether such vote shall be counted.

21—20.6(159) Official certification. Within 60 days following the referendum date, the secretary shall certify referendum vote totals and officially declare the outcome.

These rules are intended to implement Iowa Code chapters 159, 181, 179, 185, and 185C.

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CHAPTER 21
MULTIFLORA ROSE ERADICATION PROGRAM FOR COST REIMBURSEMENT

[Prior to 7/27/88, see Agriculture Department 30—Ch 4]

Rescinded IAB 2/9/00, effective 3/15/00

CHAPTER 22
APIARY

[Prior to 7/27/88 see Agriculture Department 30—Ch 24]

21—22.1(160) Diseases. The diseases which the state apiarist shall inspect for are, but shall not be limited to: American Foulbrood, European Foulbrood, Nosema and Chalk Brood.

21—22.2(160) Parasites. The parasites for which the state apiarist shall inspect include, but shall not be limited to: the Varroa mite (Varroa jacobsoni), Tropilaelaps mite (Tropilaelaps clareae) and the honeybee tracheal mite (Acarapis woodi).

21—22.3(160) Requirement for the sale of bees. All honeybees offered for sale in Iowa must meet one of the following two requirements:

1. Colonies are apparently free of Varroa mites according to the detection methods listed below.
2. Colonies are under treatment with a miticide approved by EPA for control of Varroa mites in honeybee colonies and have an average of 10 or fewer Varroa mites per 300 adult bees or 500 or fewer Varroa mites per sticky board.

Detection methods to be used for the Varroa mite are the ether roll method with at least 300 adult bees per colony from 20 percent of the colonies in the apiary or the sticky board method with an EPA-approved miticide in 5 percent of the colonies in the apiary.

21—22.4(160) Certificate of inspection required. All honeybees transported into Iowa shall be accompanied by an approved certificate or permit issued by the state of origin or the state of Iowa. The certificate or permit shall indicate that the bees meet one of the two following requirements:

1. An average of 10 or fewer Varroa mites per 300 adult bees was detected by the ether roll test.
2. Colonies are under treatment with a miticide approved by EPA for control of Varroa mites in honeybee colonies at the time of shipment.

21—22.5(160) Certificate of inspection expiration. A certificate of inspection issued by the state of Iowa shall be valid for up to nine months from the date of issuance. An Iowa certificate may be revoked at any time if there is evidence of a disease or parasite infestation or Africanized bees in the certified colonies.

21—22.6(160) American Foulbrood treatment. If upon inspection American Foulbrood disease is detected in colonies, those colonies shall be identified and the disease abated in a timely manner that will prevent spread to neighboring colonies or apiaries as determined by the state apiarist.

The method of disease cleanup will be specified following inspection, depending on the severity of the infection and strength of the bee colony. A strong colony with a light infection of American Foulbrood may be treated with Terramycin or diseased combs removed or a combination of these methods. A severely infected, weak colony must be killed and the diseased combs destroyed by burning or melting at a temperature high enough to kill disease spores. In any case, all combs containing American Foulbrood scale shall be destroyed.

21—22.7(160) Varroa mite treatment. If upon inspection an average of more than 10 Varroa mites are detected in 300 bees by the ether roll method or 500 mites per colony by the sticky board method, then the apiary shall be quarantined and the owner of the apiary ordered to depopulate or treat all colonies with an EPA-approved miticide within ten days from the day the owner is notified.

If an average of 10 or fewer Varroa mites by the ether roll method or 500 or fewer mites by the sticky board method are detected, then the apiary shall be quarantined and the owner of the apiary shall be notified and given instruction on the nature of the mite infestation and the best method of treatment. Such treatment of all colonies in the apiary shall be initiated no later than October 15 of the same year.

21—22.8(160) Undesirable subspecies of honeybees. Each of the following undesirable subspecies of honeybees is found to be capable of inflicting damage to man or animals greater than managed or feral honeybees commonly utilized in North America and is declared a nuisance:

1. African honeybee, (Apis mellifera scutellata),
2. Cape honeybee, (Apis mellifera capensis), and
3. Any other undesirable subspecies of honeybees determined by the state apiarist to be a threat to the state.

Detection of undesirable subspecies of honeybees in the state shall initiate the quarantine of all colonies within a distance prescribed by the state apiarist of the infested apiary. All colonies within the quarantine area shall be inspected. A recommended eradication or control method shall be determined and prescribed by the state apiarist.

21—22.9(160) European honeybee certification. All honeybees transported into Iowa shall be accompanied by an approved certificate or permit from the state of origin indicating that the bees are European honeybees. Honeybees must be certified by one of the following methods:

1. Honeybees are located outside counties which have been determined by the state of origin to be infested with Africanized honeybees.
2. Honeybees have been tested according to the 1991 NASDA National Certification Plan and found to be European.

The certificate or permit shall state the method used to certify the bees. The certificate or permit shall be dated within 90 days prior to entry into Iowa. Africanized honeybees may not be transported into Iowa.

21—22.10(160) Prohibit movement of bees from designated states. A person shall not directly or indirectly transport or cause to be transported into the state of Iowa honeybees originating in the states of Florida, Georgia, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina and the counties of Faribault, Freeborn, Mower and Steele in Minnesota. As used in this rule, "honeybees" shall include, but not be limited to, the following: colonies, nucs, packages, banked queens and queen battery boxes. However, the shipping of honeybee queens and attendants in individual queen cages will be allowed when accompanied by a valid certificate of health indicating that the bees are from an apiary free of small hive beetles. This rule shall remain effective until February 18, 2001.

21—22.11(160) Inspection required for the sale of bees, comb, or used equipment. All honeybee colonies, beeswax comb and used beekeeping equipment offered for sale in Iowa shall meet the following requirements:

1. Be inspected for infectious bee diseases and parasites by the Iowa department of agriculture and land stewardship or another state's department of agriculture not more than 60 days prior to the sale.
2. Be apparently free of American foulbrood disease.

These rules are intended to implement Iowa Code sections 160.2, 160.9 and 160.14.

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CHAPTER 23
DAIRY TRADE PRACTICES

[Appeared as ch 16, 1973 IDR]

[Prior to 7/27/88, see Agriculture Department 30—Ch 25]

Rescinded IAB 1/24/01, effective 2/28/01

CHAPTERS 24 to 35
Reserved

CHAPTER 36
EGG HANDLERS
[Prior to 5/30/12, see 481—Chapter 30]

21—36.1(196) Definitions.

"Capable of use as human food" means any egg or egg product, unless it is denatured or otherwise identified as required by federal regulation to deter its use as human food.

"Check" means an egg that has a broken shell or crack in the shell but has its membranes intact and contents not leaking.

"Department" means the department of agriculture and land stewardship.

"Dirty" means an egg that has a shell that is unbroken and has adhering dirt or foreign material, prominent stains or moderate stains covering more than 1/32 of the shell surface if localized or 1/16 of the shell surface if scattered.

"Egg handler" or *"handler"* means any person who engages in any business in commerce which involves buying or selling any eggs (as a poultry producer or otherwise), or processing any egg products, or otherwise using any eggs in the preparation of human food. An egg handler does not include a food establishment or home food establishment if either establishment obtains eggs from a licensed egg handler or supplier which meets standards referred to in rule 481—31.2(137F). Producers who sell eggs produced exclusively from their own flocks directly to egg handlers or to consumer customers are exempt from regulation as egg handlers.

"Inedible" means any egg of the following description: black rot, yellow rot, white rot, mixed rot (addled egg), sour egg, egg with a green white, egg with a stuck yolk, moldy egg, musty egg, egg showing a blood ring, and an egg containing any embryo chick (at or beyond the blood ring stage), and any egg that is adulterated as such term is defined pursuant to the federal Food, Drug and Cosmetic Act.

"Leaker" means an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell.

"License holder" means an individual, corporation, partnership, governmental unit, association or any other entity to whom a license was issued pursuant to Iowa Code chapter 196.

"Loss" means an egg that is unfit for human food because the egg is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

"Official plant" means any establishment at which inspection of the processing of egg products is maintained by the department under the authority of Iowa Code chapter 196 or by the United States Department of Agriculture under the authority of the federal Egg Products Inspection Act.

"Restricted egg" means any check, dirty, incubator reject, inedible, leaker, or loss.

[**ARC 0138C**, IAB 5/30/12, effective 7/4/12]

21—36.2(196) Licensing. An egg handler's license shall be obtained from the department for each location at which eggs will be candled and graded. In order to obtain an egg handler's license, the applicant shall comply with the standards contained in Iowa Code chapter 196 and this chapter.

36.2(1) A license is not transferable. License fees are not refundable unless the license is surrendered to the department prior to the effective date of the license.

36.2(2) A license is valid for one year, is renewable, and expires on October 1.

36.2(3) A valid license and the most recent inspection report, along with any current complaint or reinspection reports, shall be posted no higher than eye level where the public can see them. For the purpose of this subrule, only founded complaint reports shall be considered a complaint. Founded complaints shall be posted until either the mail-in recheck form has been submitted to the regulatory authority or a recheck inspection has been conducted to verify that the violations have been corrected.

36.2(4) Any change in business ownership or business location requires a new license. Multiple locations operated simultaneously each require a separate license.

36.2(5) The regulatory authority may require documentation from a license holder.

36.2(6) A delinquent license shall only be renewed if it is renewed within 60 days of its expiration. If a delinquent license is not renewed within 60 days, an establishment must apply for a new license and

meet all the requirements for licensure. Establishments that have not renewed the license within 60 days of the expiration of the license shall be closed by the department or a contractor. The establishment shall not be reopened until a new license application has been submitted and approved.

36.2(7) License fees for egg handlers are based on the total number of cases of eggs purchased or handled during the month of April (Iowa Code section 196.3) and are charged as follows:

a. For less than 125 cases—$20.20;
b. For 125 to 249 cases—$47.25;
c. For 250 to 999 cases—$67.50;
d. For 1,000 to 4,999 cases—$135.00;
e. For 5,000 to 9,999 cases—$236.25;
f. For 10,000 or more cases—$337.50.

For the purpose of determining fees, each case shall be 30 dozen eggs.

36.2(8) The department shall charge a voluntary inspection fee of $100 when a voluntary inspection is requested.

[**ARC 0138C**, IAB 5/30/12, effective 7/4/12]

21—36.3(196) Minimum sanitation and operating requirements.

36.3(1) Buildings shall be of sound construction so as to prevent the entrance or harboring of insects, rodents, or vermin. Floors shall be of washable materials and kept clean and floor drains provided where necessary. Walls and ceilings shall be of cleanable material and be kept clean and in good repair.

36.3(2) All areas and rooms in which eggs are handled, graded, and packed shall be kept reasonably clean during working hours and shall be thoroughly cleaned at the end of each operating day. Cartons and cases shall be stored off the floor and storage areas kept clean and dry.

36.3(3) Cooler rooms shall be free from objectionable odors, such as mustiness or a rotten odor, and shall be maintained in a clean, sanitary condition.

36.3(4) Egg cleaning equipment shall be kept in good repair and shall be thoroughly cleaned after each day's use or more often if necessary to maintain a sanitary condition. The wash water shall be potable and maintained at a temperature of 90°F minimum. The wash water temperature must be at least 20°F greater than the egg temperature. The wash water shall be replaced frequently, and the detergent and sanitizer shall be kept at an effective level at all times. During any rest period, or at any time when the equipment is not in operation, the eggs shall be removed from the washing and rinsing area of the egg washer and from the scanning area whenever there is a buildup of heat.

36.3(5) All eggs not cleaned as stated in subrule 36.3(4) must be properly washed and sanitized prior to placement in a carton or container for distribution in a site or operation that provides or prepares food for human consumption.

36.3(6) Facilities for hand washing, complete with hot and cold potable water under pressure, shall be provided. Hand soap, sanitary towels, or a hand-drying device providing heated air shall be conveniently located near the hand-washing area.

36.3(7) Live animals shall be excluded from the plant or portion of the plant in which shell eggs or egg products are handled or stored.

36.3(8) Only United States Department of Agriculture (USDA) or federally approved cleaning compounds and sanitizers may be used. The following substances used in the plant shall be approved and handled in accordance with the manufacturer's instructions: pesticides, insecticides, rodenticides, cleaning compounds, foam control compounds, sanitizers, and inks and oils coming into contact with the product. These products shall be properly stored and segregated.

36.3(9) A separate refuse room or a designated area for the accumulation of trash must be provided. There shall be a sufficient number of containers to hold trash, which must be maintained in good repair, kept covered when not in use, and cleaned at a frequency to prevent insect and rodent attraction.

36.3(10) Washed eggs must be reasonably dry before being placed in cartons or cases.

[**ARC 0138C**, IAB 5/30/12, effective 7/4/12]

21—36.4(196) Egg grading or candling area.

36.4(1) The egg grading or candling area shall be adequately darkened to make possible the accurate quality determination of the candled appearance of eggs.

36.4(2) Egg-weighing equipment shall be provided, constructed to permit easy cleaning, and capable of ready adjustment.

36.4(3) A candling device with adequate light and capable of accurate determination of Iowa grade standards in rule 21—36.13(196) shall be maintained in good working order.

[**ARC 0138C**, IAB 5/30/12, effective 7/4/12]

21—36.5(196) Water supply.

36.5(1) Adequate potable water shall be provided from a source constructed, maintained, and operated according to Iowa law.

36.5(2) Water from a private water system shall be sampled at least annually for coliform.

36.5(3) Records of water tests must be maintained by license holders not served by a public water system. These records must be available to the department upon request.

[**ARC 0138C**, IAB 5/30/12, effective 7/4/12]

21—36.6(196) Egg storage.

36.6(1) From the time of candling and grading until they reach the consumer, all eggs designated for human consumption shall be held at an ambient temperature not to exceed 45°F or 7°C. Each refrigerated unit shall be provided with an accurate numerically scaled indicating thermometer which is located at a place that is representative of the air temperature in the unit. This ambient temperature requirement applies to any place or room where eggs are stored, except in a vehicle during transportation.

36.6(2) Eggs in transport vehicles may be stored at an ambient temperature above 45°F or 7°C, provided the vehicle is equipped with refrigeration units capable of delivering air at that temperature and capable of cooling the vehicle to that temperature.

36.6(3) All shell eggs shall be kept from freezing.

[**ARC 0138C**, IAB 5/30/12, effective 7/4/12]

21—36.7(196) Eggs used in food preparation. Restaurants, institutional consumers, and food manufacturers shall receive and use only clean, sound shell eggs of Grade B quality or better. Dried, frozen, or liquid eggs may be bought only if such products are prepared and pasteurized in a plant under USDA continuous inspection.

[**ARC 0138C**, IAB 5/30/12, effective 7/4/12]

21—36.8(196) Labeling and packaging.

36.8(1) All cases of loose-packed eggs sold in this state shall identify:

a. The egg handler's name or license number or USDA plant number; and

b. The grade of eggs contained in the case.

36.8(2) Each carton containing eggs for retail sale in Iowa which have been candled and graded shall be marked with:

a. The grade and size of the eggs contained;

b. The date the eggs were packed; and

c. The name and address of the distributor or packer.

36.8(3) Labeling shall be printed in letters not less than ¼ inch in height, or plainly and conspicuously stamped or marked in letters not less than ½ inch in height.

36.8(4) Eggs sold to retailers must be prepacked in new cartons.

36.8(5) No person shall use any label which is deceptive as to the true nature of the article or place of production, or which has been carelessly printed or marked, nor shall any person erase or deface any label required by this chapter.

[**ARC 0138C**, IAB 5/30/12, effective 7/4/12]

21—36.9(196) Restricted eggs.

36.9(1) No egg handler may possess and handle restricted eggs unless they are capable of use as human food, or destroyed, or identified and labeled for animal food.

36.9(2) Except for the producer exemption as provided in subrule 36.9(3), checks and dirties may be used for human food provided they are processed and pasteurized in an official plant.

36.9(3) Checks and dirties shall be sold directly or indirectly only to an official plant. However, a producer may sell checks and dirties on the producer's own premises where eggs are produced directly to household consumers for the personal use of the consumer and the consumer's nonpaying guests.

36.9(4) Producer-dealers, packers, handlers, distributors, or retailers shall not sell on or off the premises within the state any restricted eggs to any person, including consumers, institutional consumers or employees.

36.9(5) Restricted eggs shall not be given free to any person, including but not limited to institutional consumers, charitable organizations, or any employee whereby the restricted eggs may be used for human food.

36.9(6) Restricted eggs may be designated for animal food only when properly decharacterized or denatured to preclude their use in food for human consumption. Each container or receptacle shall be labeled "Restricted eggs, Not to be used as human food". However, restricted eggs which are not decharacterized or denatured may be moved from one USDA-licensed plant to another USDA-licensed plant.

36.9(7) Inedible and loss eggs must be denatured at the point and time of segregation. If the liquid is removed from the shells, approved denaturant must be placed in the receptacle provided before the liquid is added. If loss eggs are placed on filler-flats or in flats and fillers, or in any other manner, each layer of eggs must be denatured before another layer is started. However, inedible and loss eggs under USDA inspection and control shall be handled in accordance with USDA recommendations.

36.9(8) Checks and dirties must be conspicuously labeled at the point and time of segregation with a placard or other device. Full or partial master cases containing checks and dirties must be labeled before transfer to the cooler.

[**ARC 0138C**, IAB 5/30/12, effective 7/4/12]

21—36.10(196) Inspections and records. Egg handlers shall be inspected regularly. Egg handlers shall keep a record for each purchase and sale of eggs, including the date of the transaction, the names of the parties, the grade or nest run, and the quantity of eggs being purchased or sold. Records shall be maintained for three years and must be available to the department upon request.

[**ARC 0138C**, IAB 5/30/12, effective 7/4/12]

21—36.11(196) Enforcement. Violation of these rules or any provision of Iowa Code chapter 196 is a simple misdemeanor. The department may employ various remedies if violations are discovered including, but not limited to, revocation or suspension of a license.

[**ARC 0138C**, IAB 5/30/12, effective 7/4/12]

21—36.12(196) Health and hygiene of personnel.

36.12(1) No person known to be affected by a communicable or infectious disease shall be permitted to come in contact with the product.

36.12(2) Personnel engaged in egg handling operations shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during working periods. Personnel engaged in egg handling and warewashing operations shall thoroughly wash their hands and the exposed portion of their arms with soap or detergent and warm water before starting to work; after smoking, eating, or using the toilet; and as often as necessary during work to keep their hands and arms clean. Personnel shall keep their fingernails trimmed and clean.

36.12(3) Personnel shall wear clean outer clothing and effective hair restraints where necessary to prevent the contamination of the product.

[**ARC 0138C**, IAB 5/30/12, effective 7/4/12]

21—36.13(196) Iowa grades. The Iowa standards for consumer grades, quality, and weight classes for shell eggs are as follows:

IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

TABLE 1

IOWA SPECIFICATIONS

QUALITY FACTOR	AA QUALITY	A QUALITY	B QUALITY
Shell	Clean Unbroken Practically normal	Clean Unbroken Practically normal	Clean to slightly stained* Unbroken Abnormal
Air Cell	1/8 inch or less in depth Unlimited movement and free or bubbly	3/16 inch or less in depth Unlimited movement and free or bubbly	Over 3/16 inch in depth Unlimited movement and free or bubbly
White	Clear Firm	Clear Reasonably firm	Weak and watery Small blood and meatspots present**
Yolk	Outline slightly defined Practically free from defects	Outline fairly well defined Practically free from defects	Outline plainly visible Enlarged and flattened Clearly visible germ development but no blood Other serious defects

* Moderately stained areas permitted (1/32 of surface if localized, or 1/16 if scattered).
** If they are small (aggregating not more than 1/8 inch in diameter).

For eggs with dirty or broken shells, the standards of quality provide two additional qualities. These are:

Dirty	Check
Unbroken Adhering dirt or foreign material, prominent stains, moderate stained areas in excess of B quality	Broken or cracked shell but membranes intact, not leaking***

*** Leaker has broken or cracked shell and membranes and contents leaking or free to leak.

IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

TABLE 2

SUMMARY OF IOWA CONSUMER GRADES FOR SHELL EGGS

U.S. CONSUMER GRADE **(ORIGIN)**	QUALITY REQUIRED[1]	TOLERANCE PERMITTED[2]	
		Percent	Quality
Grade AA	87 percent AA	Up to 13 Not over 5 checks[6]	A or B[5]
Grade A	87 percent A or better	Up to 13 Not over 5 checks[6]	B[5]
Grade B	90 percent B or better	Not over 10 checks	

U.S. CONSUMER GRADE **(DESTINATION)**	QUALITY REQUIRED[1]	TOLERANCE PERMITTED[3]	
		Percent	Quality
Grade AA	72 percent AA	Up to 28[4] Not over 7 checks[6]	A or B[5]
Grade A	82 percent A or better	Up to 18 Not over 7 checks[6]	B[5]
Grade B	90 percent B or better	Not over 10 checks	

[1] In lots of two or more cases, see Table 3 of this rule for tolerances for an individual case within a lot.

[2] For the U.S. Consumer Grades (at origin), a tolerance of 0.50 percent leakers, dirties, or loss (due to meat or blood spots) in any combination is permitted, except that such loss may not exceed 0.30 percent. Other types of loss are not permitted.

[3] For the U.S. Consumer Grades (destination), a tolerance of 1 percent leakers, dirties, or loss (due to meat or blood spots) in any combination is permitted, except that such loss may not exceed 0.30 percent. Other types of loss are not permitted.

[4] For U.S. Grade AA at destination, at least 10 percent must be A quality or better.

[5] For U.S. Grade AA and A at origin and destination within the tolerances permitted for B quality, not more than 1 percent may be B quality due to air cells over 3/8 inch, blood spots (aggregating not more than 1/8 inch in diameter), or serious yolk defects.

[6] For U.S. Grades AA and A jumbo size eggs, the tolerance for checks at origin and destination is 7 percent and 9 percent, respectively.

IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

TABLE 3

TOLERANCE FOR INDIVIDUAL CASE WITHIN A LOT

U.S. CONSUMER GRADE	CASE QUALITY	ORIGIN (Percent)	DESTINATION (Percent)
Grade AA	AA (Minimum) A or B Checks (Maximum)	77 13 10	62 28 10
Grade A	A (Minimum) B Checks (Maximum)	77 13 10	72 18 10
Grade B	B (Minimum) Checks (Maximum)	80 20	80 20

NOTE: Substitution of higher qualities for lower qualities is permitted.

TABLE 4

IOWA WEIGHT CLASSES FOR CONSUMER GRADES FOR SHELL EGGS

SIZE OR WEIGHT CLASS	MINIMUM NET WEIGHT PER DOZEN	MINIMUM NET WEIGHT PER 30 DOZEN	MINIMUM WEIGHT FOR INDIVIDUAL EGGS AT RATE PER DOZEN
	OUNCES	*POUNDS*	*OUNCES*
Jumbo	30	56	29
Extra Large	27	50½	26
Large	24	45	23
Medium	21	39½	20
Small	18	34	17
Peewee	15	28	–

These rules are intended to implement Iowa Code chapter 196 as amended by 2011 Iowa Acts, House File 453.

[**ARC 0138C**, IAB 5/30/12, effective 7/4/12]

[Filed ARC 0138C (Notice ARC 0078C, IAB 4/4/12), IAB 5/30/12, effective 7/4/12]

CHAPTERS 37 to 39
Reserved

CHAPTER 40
AGRICULTURAL SEEDS
[Prior to 7/27/88, see Agriculture Department 30—Ch 5]

21—40.1(199) Agricultural seeds. The term "agricultural seeds" shall mean, in addition to those defined as such in Iowa Code subsection 199.1(2), all such seeds listed in 7 C.F.R., Section 201.2(h), revised as of January 1, 1982, with the following exceptions:

Alfilaria-Erodium cicutarium (L).
Bluegrass, annual-Poa annua L.
Chess, soft-Bromus mollis L.
Hemp-Cannabis sativa L.
Johnson grass-Sorghum halepense (L).
Mustard-Brassica juncea (L).
Mustard-black-Brassica nigra.
Rape, bird-Brassica campestris L.
Rape, turnip-Brassica campestris vars.
Sorghum almum-Sorghum almum.

21—40.2(199) Seed testing. The terms used in seed testing and the methods of sampling, inspecting, analyzing, testing and examining agricultural and vegetable seeds and the tolerances to be followed in the administration of this Act shall be those adopted by the Association of Official Seed Analysts, RULES FOR TESTING SEEDS, Vol. 6, Number 2 (1981).

21—40.3(199) Labeling. Agricultural and vegetable seeds in package or wrapped form shall be labeled in accordance with Iowa Code section 189.9(1). In addition, labeling requirements appearing in Title 7, C.F.R., Subchapter K, Part 201, Sections 201.8 through and including 201.36(c), revised as of January 1, 1982, are hereby adopted by this reference and shall be the labeling requirements for agricultural and vegetable seeds in Iowa.

21—40.4 and **40.5** Reserved.

21—40.6(199) Classes and sources of certified seed.

40.6(1) *Terms defined.*

a. Foundation seed is a class of certified seed which is the progeny of breeder or foundation seed handled to maintain specific genetic purity and identity. Production must be acceptable to the certifying agency.

b. Registered seed is a class of certified seed which is the progeny of breeder or foundation seed handled under procedures acceptable to the certifying agency to maintain satisfactory genetic purity and identity.

c. Certified seed is a class of certified seed which is the progeny of breeder, foundation registered seed so handled as to maintain satisfactory genetic purity and identity and which has been acceptable to the certifying agency.

d. "Inbred line" means a relatively true-breeding strain resulting from at least five successive generations of controlled self-fertilization or of backcrossing to a recurrent parent with selection, or its equivalent, for specific characteristics.

40.6(2) Reserved.

21—40.7(199) Labeling of seeds with secondary noxious weeds. In addition to the labeling requirements for all agricultural seeds, such seeds containing secondary noxious weeds shall contain on their labels, the following information:

The name and approximate number of each kind of secondary noxious weed seed per pound in groups 1, 2, 3 and 4 below, when present singly or collectively in excess of:

1. Eighty seeds or bulblets per pound of Agrostis species, Poa species, Bermuda grass, timothy, orchard grass, fescues (except meadow fescue), alsike and white clover, reed canary grass and other agricultural seeds of similar size and weight or mixtures with this group.

2. Forty-eight seeds or bulblets per pound of rye grass, meadow fescue, foxtail millet, alfalfa, red clover, sweet clover, lespedeza, smooth brome, crimson clover, Brassica species, flax, Agropyron species and other agricultural seeds of similar size and weight or mixtures within this group or of this group with 1.

3. Sixteen seeds or bulblets per pound of proso, Sudan grass and other agricultural seeds of similar size and weight or mixtures not specified in 1, 2 or 4.

4. Five seeds or bulblets per pound of wheat, oats, rye, barley, buckwheat, sorghum (except Sudan grass), vetches, soybeans and other agricultural seeds of a size and weight similar to or greater than those within this group.

All determinations of noxious weed seeds are subject to tolerances and methods of determination prescribed in the rules and regulations under this chapter.

21—40.8(199) Germination standards for vegetable seeds. The following standards for the germination of vegetable seeds are hereby adopted:

	Percent
Artichoke	60
Asparagus	70
Asparagus bean	75
Bean, garden	70
Bean, lima	70
Bean, runner	75
Cantaloupe (See Muskmelon)	
Cardoon	60
Carrot	55
Cauliflower	75
Celeriac	55
Celery	55
Chard, Swiss	65
Chicory	65
Chinese cabbage	75
Chives	50
Collards	80
Corn, sweet	75
Corn salad	70
Cowpea	75
Cress, garden	75
Cress, upland	60
Cress, water	40
Cucumber	80
Eggplant	60
Endive	70
Kale	75
Kohlrabi	75
Tomato, husk	50
Watermelon	70

	Percent
Beet	65
Broadbean	75
Broccoli	75
Brussels sprouts	70
Cabbage	75
Leek	60
Lettuce	80
Muskmelon	75
Mustard, India	75
Mustard, spinach	75
Okra	50
Onion	70
Onion, Welsh	70
Pak-choi	75
Parsley	60
Parsnip	60
Pea	80
Pepper	55
Pumpkin	75
Radish	75
Rhubarb	60
Rutabaga	75
Salsify	75
Soybean	75
Spinach, New Zealand	40
Spinach	60
Squash	75
Tomato	50
Turnip	80

21—40.9(199) White sweet clover. Sweet clover seed containing more than 5 percent of yellow sweet clover seed (more than 1.25 percent mottled seeds) must not be labeled white sweet clover. Such seed must be labeled sweet clover or as a mixture.

21—40.10(199) Labeling of conditioned seed distributed to wholesalers. Labeling of seed supplied to a wholesaler whose predominate business is to supply seed to other distributors rather than to consumers of seed, may be by invoice if each bag or other container is clearly identified by a lot number stenciled

on the container or if the seed is in bulk. Each bag or container that does not carry a stenciled lot number must carry complete labeling.

21—40.11(199) Seeds for sprouting. The following information shall be indicated on all labels of seeds sold for sprouting in health food stores or other outlets:

1. Commonly accepted name of kind,
2. Lot number,
3. Percentage by weight of the pure seed, crop seeds, inert matter and weed seeds if required,
4. Percentage of germination, and
5. The calendar month and year the test was completed to determine such percentage.

21—40.12(199) Relabeling. The following information shall appear on a label for seeds relabeled in their original containers:

40.12(1) The calendar month and year the test was completed to determine such percentage of germination, and

40.12(2) The identity of the labeling person, if different from original labeler.

21—40.13(199) Hermetically sealed seed. The following standards, requirements and conditions must be met before seed is considered to be hermetically sealed:

40.13(1) The seed was packaged within nine months after harvest.

40.13(2) The container used does not allow water vapor penetration through any wall, including the seals, greater than 0.05 grams of water per 24 hours per 100 square inches of surface at 100°F., with a relative humidity on one side of 90 percent and on the other side 0 percent. Water vapor penetration or WVP is measured by the standards of the U. S. Bureau of Standards as:

gm. H_2O/24 hr./100sw. in./100°F./90% RH V. .0% RH.

40.13(3) The seed in the container does not exceed the percentage of moisture, on a wet weight basis, as listed below:

Agricultural seeds	Percent
Beet, field	7.5
Beet, sugar	7.5
Bluegrass, Kentucky	6.0
Clover, crimson	8.0
Fescue, red	8.0
Ryegrass, annual	8.0
Ryegrass, perennial	8.0
All others	6.0

Vegetable seeds	Percent
Bean, garden	7.0
Bean, lima	7.0
Beet	7.5
Broccoli	5.0
Brussel sprouts	5.0
Cabbage	5.0
Carrot	7.0
Cauliflower	5.0
Celeriac	7.0
Celery	7.0
Chard, Swiss	7.5
Chinese cabbage	5.0
Chives	6.5
Collards	5.0

Vegetable seeds	Percent
Corn, sweet	8.0
Cucumber	6.0
Eggplant	6.0
Kale	5.0
Kohlrabi	5.0
Leek	6.5
Lettuce	5.5
Muskmelon	6.0
Mustard, India	5.0
Onion	6.5
Onion, Welsh	6.5
Parsley	6.5
Parsnip	6.0
Pea	7.0
Pepper	4.5
Pumpkin	6.0
Radish	5.0
Rutabaga	5.0
Spinach	8.0
Squash	6.0
Tomato	5.0
Turnip	5.0
Watermelon	6.5
All others	6.0

40.13(4) The container is conspicuously labeled in not less than 8-point type to indicate:

a. That the container is hermetically sealed,

b. That the seed has been preconditioned as to moisture content, and

c. The calendar month and year in which the germination test was completed.

40.13(5) The percentage of germination of vegetable seed at the time of packaging was equal to or above the standards in Title 7 C.F.R., Section 201.31, revised as of January 1, 1982.

21—40.14(199) Certification of seed and potatoes. The Iowa Crop Improvement Association is the duly constituted state authority and state association recognized by the secretary to certify agricultural seed, including seed potatoes, in Iowa.

21—40.15(199) Federal regulations adopted. Title 7, C.F.R., Subchapter K—Federal Seed Act—Parts 201, 202 revised as of January 1, 1982, and the Federal Seed Act, 7 U.S.C., Section 1551 et seq., amended as of December 22, 1981, are hereby adopted by this reference in their entirety.

These rules are intended to implement Iowa Code chapter 199.

[Filed 6/7/62, amended 9/14/65, 11/13/69]
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CHAPTER 41
COMMERCIAL FEED

[Appeared as Ch 11, 1973 IDR]
[Prior to 7/27/88 see Agriculture Department 30—Ch 6]

21—41.1(198) Definitions and terms.

41.1(1) The names and definitions for commercial feeds shall be the official definitions of feed ingredients adopted by the Association of American Feed Control Officials, except as the secretary designates otherwise in specific cases.

41.1(2) The terms used in reference to commercial feeds shall be the official feed terms adopted by the AAFCO, except as the secretary designates otherwise in specific cases.

41.1(3) The following commodities are hereby declared exempt from the definition of commercial feed, under the provisions of Iowa Code section 198.3(3): raw meat, hay, straw, stover, silage, cobs, husks, and hulls when unground and when not mixed or intermixed with other materials, provided that these commodities are not adulterated within the meaning of Iowa Code section 198.7.

41.1(4) Individual chemical compounds and substances are hereby declared exempt from the definition of commercial feed under the provisions of Iowa Code section 198.3(3). It has been determined that these products meet the following criteria:

a. There is an adopted AAFCO definition for the product.

b. The product is either generally recognized as safe (GRAS) or is not covered by a specific FDA regulation.

c. The product is either a naturally occurring product of relatively uniform chemical composition or is manufactured to meet the AAFCO definition of the product.

d. The use of the product in the feed industry constitutes a minor portion of its total industrial use.

e. Small quantities of additives which are intended to impart special desirable characteristics shall be permitted.

f. There is no need or problem of control of this product.

41.1(5) The following substance is hereby declared exempt: loose salt.

21—41.2(198) Label format. Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this rule on the principal display panel of the product and in the following format.

1. Product name and brand name, if any, as stipulated in 41.3(1).
2. If a drug is used, label as stipulated in 41.3(2).
3. Purpose statement as stipulated in 41.3(3).
4. Guaranteed analysis as stipulated in 41.3(4).
5. Feed ingredients as stipulated in 41.3(5).
6. Directions for use and precautionary statements as stipulated in 41.3(6).
7. Name and principal mailing address of the manufacturer or person responsible for distributing the feed as stipulated in 41.3(7).
8. Quantity statement.

41.2(1) The information required in 41.2“1” to 41.2“5,” 41.2“7” and 41.2“8” must appear in its entirety on one side of the label or on one side of the container. The information required by 41.2“6” shall be displayed in a prominent place on the label or container but not necessarily on the same side as the above information. When the information required by 41.2“6” is placed on a different side of the label or container, it must be referenced on the front side with a statement such as “See back of label for directions for use.” None of the information required by 41.2(198) shall be subordinated or obscured by other statements or designs.

41.2(2) Customer-formula feed shall be accompanied with the information prescribed in this regulation using labels, invoice, delivery ticket, or other shipping document bearing the following information.

a. The name and address of the manufacturer.

b. The name and address of the purchaser.

c. The date of sale or delivery.

d. The customer-formula feed name and brand name if any.

e. The product name and net quantity of each registered commercial feed and each other ingredient used in the mixture.

f. The directions for use and precautionary statements as required by 41.7(198) and 41.8(198).

g. If a drug-containing product is used:

(1) The purpose of the medication (claim statement).

(2) The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with 41.4(4).

21—41.3(198) Label information. Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this regulation.

41.3(1) Product name and brand name if any.

a. The brand or product name must be appropriate for the intended use of the feed and must not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform therewith. A commercial feed for a particular animal class must be suitable for that purpose.

b. Commercial, registered brand or trade names are not permitted in guarantees or ingredient listings and only in the product name of feeds produced by or for the firm holding the rights to such a name.

c. The name of a commercial feed shall not be derived from one or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing any components of a mixture unless all components are included in the name; provided, that if any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as a part of the brand name or product name if the ingredients or combination of ingredients is quantitatively guaranteed in the guaranteed analysis and the brand or product name is not otherwise false or misleading.

d. The word "protein" shall not be permitted in the product name of a feed that contains added nonprotein nitrogen.

e. When the name carries a percentage value, it shall be understood to signify protein or equivalent protein content only, or both, even though it may not explicitly modify the percentage with the word "protein," provided, that other percentage values may be permitted if they are followed by the proper description and conform to good labeling practice. Digital numbers shall not be used in such a manner as to be misleading or confusing to the customer.

f. Single-ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients as recognized by the Association of American Feed Control Officials unless the secretary designates otherwise.

g. The word "vitamin," or a contraction thereof, or any word suggesting "vitamin" can be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in 41.4(3).

h. The term "mineralized" shall not be used in the name of a feed except for "TRACE MINERALIZED SALT." When so used, the product must contain significant amounts of trace minerals which are recognized as essential for animal nutrition.

i. The term "meat" and "meat by-products" shall be qualified to designate the animal from which the meat and meat by-products are derived unless the meat and meat by-products are made from cattle, swine, sheep and goats.

41.3(2) If a drug is used:

a. The word "medicated" shall appear directly following and below the product name in type size no smaller than one-half the type size of the product name.

b. Purpose statement as required in 41.3(3).

c. The purpose of medication (claim statement).

d. An active ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with 41.4(4).

41.3(3) Purpose statement.

a. The statement of purpose shall contain the specific species and animal class(es) for which the feed is intended as defined in 41.3(4).

b. The manufacturer shall have flexibility in describing in more specific and common language the defined animal class, species and purpose while being consistent with the category of animal class defined in 41.3(4) which may include, but is not limited to, weight range(s), sex, or ages of the animal(s) for which the feed is manufactured.

c. The purpose statement may be excluded from the label if the product name includes a description of the species and animal class(es) for which the product is intended.

d. The purpose statement of a premix for the manufacture of feed may exclude the animal class and species and state "For Further Manufacture of Feed" if the nutrients contained in the premix are guaranteed and sufficient for formulation into various animal species feeds and premix specifications are provided by the end user of the premix. (This paragraph is applicable to commercial feeds regulated under 41.3(4)*"j"*(2)"10.")

e. The purpose statement of a single-purpose ingredient blend, such as a blend of animal protein products, milk products, fat products, roughage products or molasses products may exclude the animal class and species and state "For Further Manufacture of Feed" if the label guarantees of the nutrients contained in the single-purpose nutrient blend are sufficient to provide for formulation into various animal species feeds. (This paragraph is applicable to commercial feeds regulated under 41.3(4)*"j"*(2)"10.")

f. The purpose statement of a product shall include a statement of enzyme functionality if enzymatic activity is represented in any manner.

41.3(4) Guarantees. Crude protein, equivalent crude protein from nonprotein nitrogen, amino acids, crude fat, crude fiber, acid detergent fiber, calcium, phosphorus, salt, and sodium shall be the sequence of nutritional guarantees when such guarantee is stated. Other required and voluntary guarantees should follow in a general format such that the units of measure used to express guarantees (e.g., percentage, parts per million, international units) are listed in a sequence that provides a consistent grouping of the units of measure.

a. Required guarantees for swine formula feeds.

(1) Animal classes.

1. Pre-starter - 2 to 11 pounds.
2. Starter - 11 to 44 pounds.
3. Grower - 44 to 110 pounds.
4. Finisher - 110 to 242 pounds (market).
5. Gilts, sows and adult boars.
6. Lactating gilts and sows.

(2) Guaranteed analysis for swine complete feeds and supplements (all animal classes).

1. Minimum percentage of crude protein.
2. Minimum percentage of lysine.
3. Minimum percentage of crude fat.
4. Maximum percentage of crude fiber.
5. Minimum and maximum percentage of calcium.
6. Minimum percentage of phosphorus.
7. Minimum and maximum percentage of salt (if added).
8. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.
9. Minimum selenium in parts per million (ppm).
10. Minimum zinc in parts per million (ppm).

b. Required guarantees for formula poultry feeds (broilers, layers and turkeys).

(1) Animal classes.

1. Layer - chickens that are grown to produce eggs for food, e.g., table eggs.

- Starting/growing - from day of hatch to approximately 10 weeks of age.

- Finisher - from approximately 10 weeks of age to time first egg is produced (approximately 20 weeks of age).
- Laying - from time first egg is laid throughout the time of egg production.
- Breeders - chickens that produce fertile eggs for hatch replacement layers to produce eggs for food, e.g., table eggs, from time first egg is laid throughout their productive cycle.

2. Broilers - chickens that are grown for human food.

- Starting/growing - from day of hatch to approximately 5 weeks of age.
- Finisher - from approximately 5 weeks of age to market (42 to 52 days).
- Breeders - hybrid strains of chickens whose offspring are grown for human food (broilers), any age and either sex.

3. Broilers, breeders - chickens whose offspring are grown for human food (broilers).

- Starting/growing - from day of hatch until approximately 10 weeks of age.
- Finishing - from approximately 10 weeks of age to time first egg is produced (approximately 20 weeks of age).
- Laying - fertile egg producing chickens (broilers/roasters) from day of first egg throughout the time fertile eggs are produced.

4. Turkeys.

- Starting/growing - turkeys that are grown for human food from day of hatch to approximately 13 weeks of age (females) and 16 weeks of age (males).
- Finisher - turkeys that are grown for human food, females from approximately 13 weeks of age to approximately 17 weeks of age; males from 16 weeks of age to 20 weeks of age (or desired market weight).
- Laying - female turkeys that are producing eggs, from time first egg is produced, throughout the time they are producing eggs.
- Breeder - turkeys that are grown to produce fertile eggs, from day of hatch to time first egg is produced (approximately 30 weeks of age), both sexes.

(2) Guaranteed analysis for poultry complete feeds and supplements (all animal classes).

1. Minimum percentage of crude protein.
2. Minimum percentage of lysine.
3. Minimum percentage of methionine.
4. Minimum percentage of crude fat.
5. Maximum percentage of crude fiber.
6. Minimum and maximum percentage of calcium.
7. Minimum percentage of phosphorus.
8. Minimum and maximum percentage of salt (if added).
9. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

c. Required guarantees for beef cattle formula feeds.

(1) Animal classes.

1. Calves (birth to weaning).
2. Cattle on pasture (may be specific as to production stage, e.g., stocker, feeder, replacement heifers, brood cows, bulls).
3. Feedlot cattle.

(2) Guaranteed analysis for beef complete feeds and supplements (all animal classes).

1. Minimum percentage of crude protein.
2. Maximum percentage of equivalent crude protein from nonprotein nitrogen (NPN) when added.
3. Minimum percentage of crude fat.
4. Maximum percentage of crude fiber.
5. Minimum and maximum percentage of calcium.
6. Minimum percentage of phosphorus.
7. Minimum and maximum percentage of salt (if added).

8. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

9. Minimum percentage of potassium.

10. Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

(3) Guaranteed analysis for beef mineral feeds (if added).

1. Minimum and maximum percentage of calcium.

2. Minimum percentage of phosphorus.

3. Minimum and maximum percentage of salt.

4. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

5. Minimum percentage of magnesium.

6. Minimum percentage of potassium.

7. Minimum copper in parts per million (ppm).

8. Minimum selenium in parts per million (ppm).

9. Minimum zinc in parts per million (ppm).

10. Minimum vitamin A, other than precursors of vitamin A, in international units per pound.

d. Required guarantees for dairy formula feeds.

(1) Animal classes.

1. Veal milk replacer - milk replacer to be fed for veal production.

2. Herd milk replacer - milk replacer to be fed for herd replacement calves.

3. Starter - approximately 3 days to 3 months.

4. Growing heifers, bulls and dairy beef.

- Grower 1 - 3 months to 12 months of age.
- Grower 2 - more than 12 months of age.

5. Lactating dairy cattle.

6. Nonlactating dairy cattle.

(2) Guaranteed analysis for veal and herd replacement milk replacer.

1. Minimum percentage of crude protein.

2. Minimum percentage of crude fat.

3. Maximum percentage of crude fiber.

4. Minimum and maximum percentage of calcium.

5. Minimum percentage of phosphorus.

6. Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

(3) Guaranteed analysis for dairy cattle complete feeds and supplements.

1. Minimum percentage of crude protein.

2. Maximum percentage of equivalent crude protein from nonprotein nitrogen (NPN) when added.

3. Minimum percentage of crude fat.

4. Maximum percentage of crude fiber.

5. Maximum percentage of acid detergent fiber (ADF).

6. Minimum and maximum percentage of calcium.

7. Minimum percentage of phosphorus.

8. Minimum selenium in parts per million (ppm).

9. Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

(4) Required guaranteed analysis for dairy mixing and pasture mineral.

1. Minimum and maximum percentage of calcium.

2. Minimum percentage of phosphorus.

3. Minimum and maximum percentage of salt.

4. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

5. Minimum percentage of magnesium.
6. Minimum percentage of potassium.
7. Minimum selenium in parts per million (ppm).
8. Minimum vitamin A, other than the precursors of vitamin A, in international units per pound.

e. Required guarantees for equine formula feeds.

(1) Animal classes.

1. Foal.
2. Mare.
3. Breeding.
4. Maintenance.

(2) Guaranteed analysis for equine complete feeds and supplements (all animal classes).

1. Minimum percentage of crude protein.
2. Minimum percentage of crude fat.
3. Maximum percentage of crude fiber.
4. Minimum and maximum percentage of calcium.
5. Minimum percentage of phosphorus.
6. Minimum copper in parts per million (ppm).
7. Minimum selenium in parts per million (ppm).
8. Minimum zinc in parts per million (ppm).
9. Minimum vitamin A, other than the precursors of vitamin A, in international units per pound (if added).

(3) Guaranteed analysis for equine mineral feeds (all animal classes).

1. Minimum and maximum percentage of calcium.
2. Minimum percentage of phosphorus.
3. Minimum and maximum percentage of salt (if added).
4. Minimum and maximum percentage of sodium shall be guaranteed only when the total sodium exceeds that furnished by the maximum salt guarantee.
5. Minimum copper in parts per million (ppm).
6. Minimum selenium in parts per million (ppm).
7. Minimum zinc in parts per million (ppm).
8. Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

f. Required guarantees for goat and sheep formula feeds.

(1) Animal classes.

1. Starter.
2. Grower.
3. Finisher.
4. Breeder.
5. Lactating.

(2) Guaranteed analysis for goat and sheep complete feeds and supplements (all animal classes).

1. Minimum percentage of crude protein.
2. Maximum percentage of equivalent crude protein from nonprotein nitrogen (NPN) when added.
3. Minimum percentage of crude fat.
4. Maximum percentage of crude fiber.
5. Minimum and maximum percentage of calcium.
6. Minimum percentage of phosphorus.
7. Minimum and maximum percentage of salt (if added).
8. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.
9. Minimum and maximum copper in parts per million (ppm) (if added, or if total copper exceeds 20 ppm).
10. Minimum selenium in parts per million (ppm).

11. Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

g. Required guarantees for duck and geese formula feeds.

(1) Animal classes.

1. Ducks.

- Starter - 0 to 3 weeks of age.
- Grower - 3 to 6 weeks of age.
- Finisher - 6 weeks to market.
- Breeder developer - 8 to 19 weeks of age.
- Breeder - 22 weeks to end of lay.

2. Geese.

- Starter - 0 to 4 weeks of age.
- Grower - 4 to 8 weeks of age.
- Finisher - 8 weeks to market.
- Breeder developer - 10 to 22 weeks of age.
- Breeder - 22 weeks to end of lay.

(2) Guaranteed analysis for duck and geese complete feeds and supplements (for all animal classes).

1. Minimum percentage of crude protein.
2. Minimum percentage of crude fat.
3. Maximum percentage of crude fiber.
4. Minimum and maximum percentage of calcium.
5. Minimum percentage of phosphorus.
6. Minimum and maximum percentage of salt (if added).
7. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

h. Required guarantees for fish complete feeds and supplements.

(1) Animal species shall be declared in lieu of animal class.

1. Trout.
2. Catfish.
3. Species other than trout or catfish.

(2) Guaranteed analysis for all fish complete feeds and supplements.

1. Minimum percentage of crude protein.
2. Minimum percentage of crude fat.
3. Maximum percentage of crude fiber.
4. Minimum percentage of phosphorus.

i. Required guarantees for rabbit complete feeds and supplements.

(1) Animal classes.

1. Grower - 4 to 12 weeks of age.
2. Breeder - 12 weeks of age and over.

(2) Guaranteed analysis for rabbit complete feeds and supplements (all animal classes).

1. Minimum percentage of crude protein.
2. Minimum percentage of crude fat.
3. Minimum and maximum percentage of crude fiber (the maximum crude fiber shall not exceed the minimum by more than 5.0 units).
4. Minimum and maximum percentage of calcium.
5. Minimum percentage of phosphorus.
6. Minimum and maximum percentage of salt (if added).
7. Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.
8. Minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).

j. The required guarantees of grain mixtures with or without molasses and feeds other than those described in 41.3(4)*"a"* to *"i"* shall include the following items, unless exempted in paragraph *"k,"* in the order listed:

(1) Animal class(es) and species for which the product is intended.

(2) Guaranteed analysis.

1. Minimum percentage of crude protein.

2. Maximum or minimum percentage of equivalent crude protein from nonprotein nitrogen as required in 41.4(5).

3. Minimum percentage of crude fat.

4. Maximum percentage of crude fiber.

5. Minerals in formula feeds, to include in the following order:

- Minimum and maximum percentage of calcium.
- Minimum percentage of phosphorus.
- Minimum and maximum percentage of salt (if added).
- Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.
- Other minerals.

6. Minerals in feed ingredients - as specified by the official definitions of the Association of American Feed Control Officials.

7. Vitamins in such terms as specified in 41.4(3).

8. Total sugars as invert on dried molasses products or products being sold primarily for their sugar content.

9. Viable lactic acid-producing microorganisms for use in silages in terms specified in 41.4(7).

10. A commercial feed (e.g., vitamin/mineral premix, base mix) intended to provide a specialized nutritional source for use in the manufacture of other feeds must state its intended purpose and guarantee those nutrients relevant to such stated purpose. Article II of AAFCO's "Criteria for Labeling Nutritional Indicators" is not applicable to the label guarantees for these specialized commercial feeds.

k. Exemptions.

(1) A mineral guarantee for feed, excluding those feeds manufactured as complete feeds and for feed supplements intended to be mixed with grain to produce a complete feed for swine, poultry, fish, and veal and herd milk replacers, is not required when:

1. The feed or feed ingredient is not intended or represented or does not serve as a principal source of that mineral to the animal; or

2. The feed or feed ingredient is intended for non-food-producing animals and contains less than 6.5 percent total mineral.

(2) Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement.

(3) Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product such as drug premixes, mineral or vitamin supplements, and molasses.

(4) Guarantees for microorganisms are not required when the commercial feed is intended for a purpose other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, and no specific label claims are made.

(5) The indication for animal class(es) and species is not required on single-ingredient products if the ingredient is not intended, represented, or defined for a specific animal class(es) or species.

41.3(5) Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of Iowa Code section 198.5(1)*"d."*

a. The name of each ingredient as defined in the official publication of the Association of American Feed Control Officials, common or usual name, or one approved by the secretary.

b. Collective terms for the grouping of feed ingredients as defined in the official definitions of feed ingredients published in the official publication of the Association of American Feed Control Officials in lieu of the individual ingredients; provided that:

(1) When a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label.

(2) The manufacturer shall provide the feed control official, upon request, with a list of individual ingredients, within a defined group, that are or have been used at manufacturing facilities distributing in or into the state.

c. The registrant may affix the statement "Ingredients as registered with the state" in lieu of ingredient list on the label. The list of ingredients must be on file with the secretary. This list shall be made available to the feed purchaser upon request.

41.3(6) Directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by 41.7(198) and 41.8(198) appear elsewhere on the label.

41.3(7) Name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address shall include the street address, city, state, and ZIP code; however, the street address may be omitted if it is shown in the current city directory or telephone directory.

41.3(8) Quantity statement.

21—41.4(198) Expression of guarantees.

41.4(1) The guarantees for crude protein, equivalent crude protein from nonprotein nitrogen, lysine, methionine, other amino acids, crude fat, crude fiber and acid detergent fiber shall be in terms of percentage.

41.4(2) Mineral guarantees.

a. When the calcium, salt, and sodium guarantees are given in the guaranteed analysis, such shall be stated and conform to the following:

(1) When the minimum is below 2.5 percent, the maximum shall not exceed the minimum by more than 0.5 percentage point.

(2) When the minimum is 2.5 percent but less than 5.0 percent, the maximum shall not exceed the minimum by more than one percentage point.

(3) When the minimum is 5.0 percent or greater, the maximum shall not exceed the minimum by more than 20 percent of the minimum and in no case shall the maximum exceed the minimum by more than five percentage points.

b. When stated, guarantees for minimum and maximum total sodium and salt: minimum potassium, magnesium, sulfur, and phosphorus and maximum fluoride shall be in terms of percentage. Other minimum mineral guarantees shall be stated in parts per million (ppm) when the concentration is less than 10,000 ppm and in percentage when the concentration is 10,000 ppm (1 percent) or greater.

c. Products labeled with a quantity statement (e.g., tablets, capsules, granules, or liquids) may state mineral guarantees in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with the quantity statement and directions for use.

41.4(3) Guarantees for minimum vitamin content of commercial feeds shall be listed in the order specified and are stated in mg/lb or in units consistent with those employed for the quantity statement unless otherwise specified:

a. Vitamin A, other than precursors of vitamin A, in international units per pound.

b. Vitamin D_3 in products offered for poultry feeding, in international chick units per pound.

c. Vitamin D for other uses, in international units per pound.

d. Vitamin E, in international units per pound.

e. Concentrated oils and feed additive premixes containing vitamin A, D or E, or a combination of all three, may, at the option of the distributor, be stated in units per gram instead of units per pound.

f. Vitamin B_{12}, in milligrams or micrograms per pound.

g. All other vitamin guarantees shall express the vitamin activity in milligrams per pound in terms of the following: menadione, riboflavin, d-pantothenic acid, thiamine, niacin, vitamin B_6, folic acid, choline, biotin, inositol, p-amino benzoic acid, ascorbic acid, and carotene.

41.4(4) Guarantees for drugs shall be stated in terms of percent by weight, except:

a. Antibiotics present at less than 2,000 grams per ton (total) of commercial feed shall be stated in grams per ton of commercial feed.

b. Antibiotics present at 2,000 or more grams per ton (total) of commercial feed shall be stated in grams per pound of commercial feed.

c. Labels for commercial feeds containing growth promotion or feed efficiency levels of antibiotics, or both, which are to be fed continuously as the sole ration, are not required to make quantitative guarantees except as specifically noted in the federal food additive regulations for certain antibiotics, wherein, quantitative guarantees are required regardless of the level or purpose of the antibiotic.

d. The term "milligrams per pound" may be used for drugs or antibiotics in those cases where a dosage is given in "milligrams" in the feeding directions.

41.4(5) Commercial feeds containing any added nonprotein nitrogen shall be labeled as follows:

a. For ruminants.

(1) Complete feeds, supplements, and concentrates containing added nonprotein nitrogen and containing more than 5 percent protein from natural sources shall be guaranteed as follows:

1. Crude protein, minimum, _____ %
2. (This includes not more than _____ % equivalent crude protein from nonprotein nitrogen.)

(2) Mixed feed concentrates and supplements containing less than 5 percent protein from natural sources may be guaranteed as follows:

Equivalent crude protein from nonprotein nitrogen, minimum, _____ %

(3) Ingredient sources of nonprotein nitrogen such as urea, diammonium phosphate, ammonium polyphosphate solution, ammoniated rice hulls, or other basic nonprotein nitrogen ingredients defined by the Association of American Feed Control Officials shall be guaranteed as follows:

1. Nitrogen, minimum, _____ %
2. Equivalent crude protein from nonprotein nitrogen, minimum, _____ %

b. For nonruminants.

(1) Complete feeds, supplements and concentrates containing crude protein from all forms of nonprotein nitrogen, added as such, shall be labeled as follows:

1. Crude protein, minimum, _____ %
2. (This includes not more than _____ % equivalent crude protein which is not nutritionally available to (species of animal for which feed is intended).)

(2) Premixes, concentrates or supplements intended for nonruminants containing more than 1.25 percent equivalent crude protein from all forms of nonprotein nitrogen, added as such, must contain adequate directions for use and a prominent statement:

WARNING: This feed must be used only in accordance with directions furnished on the label.

41.4(6) Mineral phosphatic materials for feeding purposes shall be labeled with the guarantee for minimum and maximum percentage of calcium (when present), the minimum percentage of phosphorus, and the maximum percentage of fluorine.

41.4(7) Guarantees for microorganisms shall be stated in colony-forming units per gram (CFU/g) when directions are for using the product in grams, or in colony-forming units per pound (CFU/lb) when directions are for using the product in pounds. A parenthetical statement following the guarantee shall list each species in order of predominance.

41.4(8) Guarantees for enzymes shall be stated in units of enzymatic activity per unit weight or volume, consistent with label directions. The source organism for each type of enzymatic activity shall be specified, such as: protease (bacillus subtilis) 5.5 mg amino acids liberated/min./milligram. If two or more sources have the same type of activity, they shall be listed in order of predominance based on the amount of enzymatic activity provided.

21—41.5(198) Suitability.

41.5(1) The nutritional content of commercial feed shall be as purported or is represented to possess by its labeling. Such animal feed, its labeling and intended use must be suitable for the intended purpose of the product.

41.5(2) Commercial feeds for swine, poultry, and fish, and milk replacer for veal calves and herd replacement calves, when fed according to directions, must meet the nutritional requirements established by:

a. The committee on animal nutrition of the National Research Council of the National Academy of Sciences, or

b. A signed affidavit attesting to the nutritional adequacy of the feed based upon valid scientific evidence. Such affidavit shall be submitted to the secretary upon request.

(1) An affidavit certifying the feed sponsor has valid scientific knowledge which ensures suitability of the nutritional content of the feed product shall be submitted to the secretary only when the suitability of a product is challenged.

(2) Submission of a completed "Affidavit of Suitability" shall serve as proof of suitability and therefore the feed sponsor shall not be required to provide scientific information nor any reference thereto unless the secretary has reason to believe that such product is not suitable for its intended use. In such case the secretary shall have the authority to conduct a hearing pursuant to 21—subrule 2.2(5), Iowa Administrative Code, requiring the feed sponsor to produce sufficient scientific and other evidence of the product's suitability.

(3) Upon receipt of a completed "Affidavit of Suitability," the feed sponsor may continue to market the product. When such affidavit is not adequately submitted, the secretary may continue to withdraw the feed from distribution and order its removal from the marketplace as well as all other feeds manufactured or distributed under the same product name.

(4) The affidavit of suitability shall contain the following information:

1. The feed company's name;
2. The feed's product name;
3. The name and title of the affiant submitting the document;
4. The statement that the affiant has knowledge of the nutritional content of the listed feed product and is familiar with the nutritional requirements for the animal species and animal class(es) for which the product is intended as established by the National Research Council of the National Academy of Sciences;
5. The statement that the affiant has knowledge of valid scientific evidence that supports the suitability of the product for the intended animal species and animal class(es) for which the feed is intended;
6. The date of submission; and
7. The signature of the affiant notarized by a certified notary public.

21—41.6(198) Ingredients.

41.6(1) The name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall be the name as defined in the official definitions of feed ingredients as published in the official publication of the Association of American Feed Control Officials, the common or usual name, or one approved by the secretary.

41.6(2) The name of each ingredient must be shown in letters or type of the same size.

41.6(3) No reference to quality or grade of an ingredient shall appear in the ingredient statement of a feed.

41.6(4) The term "dehydrated" may precede the name of any product that has been artificially dried.

41.6(5) A single ingredient product defined by the Association of American Feed Control Officials is not required to have an ingredient statement.

41.6(6) Tentative definitions for ingredients shall not be used until adopted as official, unless no official definition exists or the ingredient has a common accepted name that requires no definition (e.g., sugar).

41.6(7) When the word "iodized" is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.007 percent iodine, uniformly distributed.

21—41.7(198) Directions for use and precautionary statements.

41.7(1) Directions for use and precautionary statements on the labeling of all commercial feeds and customer-formula feeds containing additives (including drugs, special purpose additives, or nonnutritive additives) shall:

a. Be adequate to enable safe and effective use for the intended purposes by users with no special knowledge of the purpose and use of such articles; and

b. Include, but not be limited to, all information described by all applicable regulations under the Federal Food, Drug and Cosmetic Act.

41.7(2) Adequate directions for use and precautionary statements are required for feeds containing nonprotein nitrogen as specified in 41.8(198).

41.7(3) Adequate directions for use and precautionary statements necessary for safe and effective use are required on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound.

21—41.8(198) Nonprotein nitrogen.

41.8(1) Urea and other nonprotein nitrogen products defined in the official publication of the Association of American Feed Control Officials are acceptable ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein. If the commercial feed contains more than 8.75 percent of equivalent crude protein from all forms of nonprotein nitrogen, added as such, or the equivalent crude protein from all forms of nonprotein nitrogen, added as such, exceeds one-third of the total crude protein, the label shall bear adequate directions for the safe use of feeds and a precautionary statement "CAUTION: USE AS DIRECTED." The directions for use and the caution statement shall be in type of such size so placed on the label that the directions will be read and understood by ordinary persons under customary conditions of purchase and use.

41.8(2) Nonprotein nitrogen defined in the official publication of the Association of American Feed Control Officials, when so indicated, is an acceptable ingredient in commercial feeds distributed to nonruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from nonprotein nitrogen sources when used in nonruminant rations shall not exceed 1.25 percent of the total daily ration.

41.8(3) On labels such as those for medicated feeds which bear adequate feeding directions or warning statements, or both, the presence of added nonprotein nitrogen shall not require a duplication of the feeding directions or the precautionary statements as long as those statements include sufficient information to ensure the safe and effective use of this product due to the presence of nonprotein nitrogen.

21—41.9(198) Drug and feed additives.

41.9(1) Prior to approval of a product label for commercial feed which contains additives (including drugs, other special purpose additives, or nonnutritive additives), the distributor may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.

41.9(2) Satisfactory evidence of safety and efficacy of a commercial feed may be:

a. When the commercial feed contains such additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are "prior sanctioned" or "informal review sanctioned" or "generally recognized as safe" for such use, or

b. When the commercial feed is itself a drug as defined in Iowa Code section 198.3(6) and is generally recognized as safe and effective for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21 U.S.C. 360(b), or

c. When one of the purposes for feeding a commercial feed is to impart immunity (that is to act through some immunological process) the constituents imparting immunity have been approved for the purpose through the Federal Virus, Serum and Toxins Act of 1913, as amended, or

d. When the commercial feed is a direct-fed microbial product and:

(1) The product meets the particular fermentation product definition; and

(2) The microbial content statement, as expressed in the labeling, is limited to the following: "Contains a source of live (viable) naturally occurring microorganisms." This statement shall appear on the label; and

(3) The source is stated with a corresponding guarantee expressed in accordance with 41.4(7).

e. When the commercial feed is an enzyme product and:

(1) The product meets the particular enzyme definition defined by the Association of American Feed Control Officials; and

(2) The enzyme is stated with a corresponding guarantee expressed in accordance with 41.4(8).

21—41.10(198) Adulterants.

41.10(1) For the purpose of Iowa Code section 198.7, the term "poisonous or deleterious substances" includes but is not limited to the following:

a. Fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.20 percent for breeding and dairy cattle; 0.30 percent for slaughter cattle; 0.30 percent for sheep; 0.35 percent for lambs; 0.45 percent for swine; and 0.60 percent for poultry.

b. Fluorine-bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts: 0.004 percent for breeding and dairy cattle; 0.009 percent for slaughter cattle; 0.006 percent for sheep; 0.01 percent for lambs; 0.015 percent for swine; and 0.03 percent for poultry.

c. Fluorine-bearing ingredients incorporated in any feed that is fed directly to cattle, sheep or goats consuming roughage with or without limited amounts of grain, that result in a daily fluorine intake in excess of 50 milligrams of fluorine per 100 pounds of body weight.

d. Soybean meal, flakes or pellets or other vegetable meals, flakes or pellets which have been extracted with trichlorethylene or other chlorinated solvents.

e. Sulfur dioxide, sulfurous acid, and salts of sulfurous acid when used in or on feeds or feed ingredients which are considered or reported to be a significant source of vitamin B_1 (thiamine).

41.10(2) All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds so that the finished product contains no viable prohibited weed seeds per pound and not more than 1½ percent by weight of viable restricted weed seeds.

21—41.11(198) Good manufacturing practices. For the purposes of enforcement of Iowa Code section 198.7(4), the secretary adopts the following as current, good manufacturing practices:

41.11(1) The regulations prescribing good manufacturing practices for Type B and Type C medicated feeds as published in the Code of Federal Regulations, Title 21, Part 225, Sections 225.1 to 225.202.

41.11(2) The regulations prescribing good manufacturing practices for Type A medicated articles as published in the Code of Federal Regulations, Title 21, Part 226, Sections 226.1 to 226.115.

21—41.12(198) Cottonseed product control. As a condition of entry into Iowa, all shipments of whole cottonseed being sold for animal feed use shall be accompanied by a laboratory analysis for aflatoxin B1. The distributor shall provide the laboratory analysis with the bill of lading or invoice to the first purchaser of the whole cottonseed being sold for animal feed use. The first purchaser shall provide a copy of the laboratory analysis to each subsequent purchaser. The whole cottonseed being sold for animal feed use must meet all livestock feeding guidelines established by the Food and Drug Administration regarding aflatoxin B1. Whole cottonseed sold for animal feed use which does not meet the guidelines established

by the Food and Drug Administration will be considered adulterated under the provisions of Iowa Code section 198.7.

These rules are intended to implement Iowa Code chapter 198.

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CHAPTER 42
PET FOOD

[Prior to 7/27/88 see Agriculture Department 30—Ch 7]

21—42.1(198) Definitions and terms. As used in this chapter, the following definitions apply.

"All life stages" means gestation/lactation, growth, and adult maintenance life stages.

"Immediate container" means the unit, can, box, tin, bag, or other receptacle or covering in which a pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers.

"Ingredient statement" means a collective and contiguous listing on the label of the ingredients of which the pet food is composed.

"Principal display panel" means the part of a label that is most likely to be displayed, presented, shown or examined under normal and customary conditions of display for retail sale.

21—42.2(198) Label format and labeling.

42.2(1) The quantity statement and product name must be shown on the principal display panel. All other required information may be placed elsewhere on the label but shall be sufficiently conspicuous as to render it easily read by the average purchaser under ordinary conditions of purchase and sale.

42.2(2) The information which is required to appear in the "Guaranteed Analysis" shall be listed in the following order unless otherwise specified in these rules:

Crude protein (minimum percentage)
Crude fat (minimum percentage)
Crude fiber (maximum percentage)
Moisture (maximum percentage)
Additional guarantees shall follow moisture.

42.2(3) The label of a pet food shall specify the name and address of the manufacturer, packer, or distributor of the pet food. The statement of the place of business shall include the street address, city, state, and ZIP code; however, the street address may be omitted if such street address is shown in a current city directory or telephone directory for the city listed on the label.

42.2(4) If a person manufactures, packages, or distributes a pet food in a place other than the person's principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such pet food was manufactured or packaged or is to be distributed if such statement is not misleading in any particular.

42.2(5) A vignette, graphic, or pictorial representation of a product on a pet food label shall not misrepresent the contents of the package.

42.2(6) The use of the word "proven" in connection with label claims for a pet food is improper unless scientific or other empirical evidence establishing the claim represented as "proven" is available.

42.2(7) No statement shall appear upon the label or labeling of a pet food which makes false or misleading comparisons between that pet food and any other pet food.

42.2(8) Personal or commercial endorsements are permitted on pet food labels where said endorsements are factual and not otherwise misleading.

42.2(9) When a pet food is enclosed in any outer container or wrapper which is intended for retail sale, all required label information must appear on such outside container or wrapper.

42.2(10) The words "Dog Food," "Cat Food," or similar designations must appear conspicuously upon the principal display panels of the pet food labels.

42.2(11) The label of a pet food shall not contain an unqualified representation or claim, directly or indirectly, that the pet food therein contained or a recommended feeding thereof is or meets the requisites of a complete, perfect, scientific or balanced ration for dogs or cats unless such product or feeding:

a. Contains ingredients in quantities sufficient to meet the nutrient requirements for all life stages established by the AAFCO Dog or Cat Food Nutrient Profiles, as the case may be, or some other AAFCO-recognized authority on animal nutrition[1]; or

b. Contains a combination of ingredients which when fed to a normal animal as the only source of nourishment in accordance with the testing procedures established by AAFCO meets the criteria of such testing procedures for all life stages.

42.2(12) Labels for products which are compounded for or which are suitable for only a limited purpose (e.g., a product designed for the feeding of puppies) may contain representations that said pet food product or recommended feeding thereof is or meets the requisites of a complete, perfect, scientific or balanced ration for dogs or cats only:

a. In conjunction with a statement of a limited purpose for which the product is intended or suitable (as, for example, in the statement "A complete food for puppies"). Such representations and such required qualification therefore shall be juxtaposed on the same panel and in the same size, style and color print; and

b. Such qualified representations may appear on pet food labels only if:

(1) The pet food contains ingredients in quantities sufficient to meet the nutrient requirements established by the AAFCO Dog or Cat Food Nutrient Profiles, as the case may be, or some other AAFCO-recognized authority on animal nutrition, for such limited or qualified purpose; or

(2) The pet food product contains a combination of ingredients which when fed for such limited purpose will satisfy the nutrient requirements for such limited purpose and has had its capabilities in this regard demonstrated by adequate testing.

42.2(13) Except as specified by 42.3(1), the name of any ingredient which appears on the label other than in the product name shall not be given undue emphasis so as to create the impression that such an ingredient is present in the product in a larger amount than is the fact, shall constitute at least 3 percent of the total ingredients (exclusive of water sufficient for processing) when preceded by the designation "with" or like term, shall be in the same size, style and color print and if the names of more than one such ingredient are shown, they shall appear in the order of their respective predominance by weight in the product.

[1]To the extent that the product's ingredients provide nutrients in amounts which substantially deviate from those nutrient requirements estimated by such a recognized authority on animal nutrition, or in the event that no estimation has been made by a recognized authority on animal nutrition of the requirements of animals for one or more stages of said animals' lives, the product's represented capabilities in this regard must have been demonstrated by adequate testing.

42.2(14) The label of a dog or cat food (other than one prominently identified as a snack or treat as part of the designation required upon the principal display panel under subrule 42.2(10)) shall bear, on either the principal display panel or the information panel (as those terms are defined in 21 CFR 501.1 and 501.2, respectively), in type of a size reasonably related to the largest type on the panel, a statement of the nutritional adequacy or purpose of the product. Such statement shall consist of one of the following:

a. A claim that the pet food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation, lactation, growth, maintenance, and complete for all life stages, as those categories are set forth in subrules 42.2(11) and 42.2(12). The claim shall be stated as one of the following:

(1) (Name of product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for _____. (Blank is to be completed by using the stage or stages of the pet's life such as gestation, lactation, growth, maintenance or the words "All Life Stages.")

(2) Animal feeding tests using AAFCO procedures substantiate that (name of product) provides complete and balanced nutrition for _____. (Blank is to be completed by using the stage or stages of the pet's life tested such as gestation, lactation, growth, maintenance or the words "All Life Stages.")

b. A nutrition or dietary claim for purposes other than those listed in subrules 42.2(11) and 42.2(12) if the claim is scientifically substantiated.

c. The statement: "This product is intended for intermittent or supplemental feeding only," if a product does not meet either the requirements of subrules 42.2(11) and 42.2(12) or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.

d. The statement: "Use only as directed by your veterinarian," if it is a pet food product intended for use by, or under the supervision or direction of a veterinarian and shall make a statement in accordance with paragraph 42.2(14)*"a"* or 42.2(14)*"c."*

42.2(15) The use of claims on pet food labels stating improvement or newness shall be sufficiently substantiated by the manufacturer and limited to six months' production. The use of claims stating preference or comparative attribute claims shall be sufficiently substantiated by the manufacturer and limited to one year's production after which the claim must be removed or resubstantiated.

42.2(16) Dog and cat foods labeled as complete and balanced for any or all life stages as provided in 42.2(14)*"a"* except those pet foods labeled in accordance with paragraph 42.2(14)*"d"* shall list feeding directions on the product label. These directions shall be expressed in common terms and shall appear prominently on the label. Feeding directions shall, at a minimum, state "Feed (weight/unit of product) per (weight unit) of dog (or cat)."

42.2(17) A signed affidavit attesting that the product meets the requisites of 42.2(11) or 42.2(12) shall be submitted to the secretary upon request.

21—42.3(198) Brand and product names.

42.3(1) No flavor designation shall be used on a pet food label unless the designated flavor is detectable by a recognized test method, or is one the presence of which provides a characteristic distinguishable by the pet. Any flavor designation on a pet food label must either conform to the name of its source as shown in the ingredient statement or the ingredient statement shall show the source of the flavor. The word "flavor" shall be printed in the same size type and with an equal degree of conspicuousness as the ingredient term(s) from which the flavor designation is derived. Distributors of pet food employing such flavor designation or claims on the labels of the product distributed by them shall, upon request, supply verification of the designated or claimed flavor to the appropriate control official.

42.3(2) The designation "100%" or "All" or words of similar connotation shall not be used in the brand or product name of a pet food if it contains more than one ingredient. However, for the purpose of this provision, water sufficient for processing, required decharacterizing agents and trace amounts of preservatives and condiments shall not be considered ingredients.

42.3(3) The term "meat" and "meat by-products" shall be qualified to designate the animal from which the meat and meat by-products are derived unless the meat and meat by-products are from cattle, swine, sheep and goats, for example, "horsemeat" and "horsemeat by-products."

42.3(4) The name of the pet food shall not be derived from one or more ingredients of a mixture of a pet food product unless all components or ingredients are included in the name except as specified by 42.3(1), 42.3(5), or 42.3(6); provided that the name of an ingredient or combination of ingredients may be used as a part of the product name if:

a. The ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product or is present in amounts which have a material bearing upon the price of the product or upon acceptance of the product by the purchaser thereof; or

b. It does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients; or

c. It is not otherwise false or misleading.

42.3(5) When an ingredient or a combination of ingredients derived from animals, poultry, or fish constitutes 95 percent or more of the total weight of all ingredients of a pet food mixture, the name or names of such ingredient(s) may form a part of the product name of the pet food; provided that where more than one ingredient is part of such product name, then all such ingredient names shall be in the same size, style, and color print. For the purpose of this provision, water sufficient for processing shall be excluded when calculating the percentage of the named ingredient(s). However, such named ingredient(s) shall constitute at least 70 percent of the total product.

42.3(6) When an ingredient or a combination of ingredients constitutes at least 25 percent but less than 95 percent of the total weight of all ingredients of a dog or cat food mixture, the name or names of such ingredient or ingredients may form a part of the product name of the pet food if each of the ingredients constitutes at least 3 percent of the product weight excluding water used for processing and only if the product name also includes a primary descriptive term such as "dinner," "platter," or similar designation so that the product name describes the contents of the product in accordance with an

established law, custom or usage or so that the product name is not misleading. If the names of more than one such ingredient are shown, they shall appear in the order of their respective predominance by weight in the product. All such ingredient names and the primary descriptive term shall be in the same size, style and color print. For the purpose of this provision, water sufficient for processing shall be excluded when calculating the percentage of the named ingredient(s). However, such named ingredient(s) shall constitute at least 10 percent of the total product.

42.3(7) Contractions or coined names referring to ingredients shall not be used in the brand name of a pet food unless it is in compliance with subrule 42.3(1), 42.3(4), 42.3(5), or 42.3(6).

21—42.4(198) Expression of guarantees.

42.4(1) The sliding scale method of expressing a guaranteed analysis (for example, "protein 15-18 percent") is prohibited.

42.4(2) Pursuant to Iowa Code section 198.5, the label of a pet food which is formulated as and represented to be a mineral supplement shall include in the guaranteed analysis the minimum and maximum percentage of calcium, the minimum percentage of phosphorus and the minimum and maximum percentage of salt. The minimum content of all other essential nutrient elements recognized by the AAFCO Dog or Cat Food Nutrient Profile or other AAFCO-recognized nutrient profile from sources declared in the ingredient statement shall be expressed as the element in units specified in the recognized nutrient profile. Products labeled as per 42.2(2) may express the mineral guarantees in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use. Liquids expressed as volume must also list a weight equivalent (e.g., 1 fl. oz. = 28 grams).

42.4(3) Vitamins guaranteed on pet food labels shall be stated in international units per kilogram (IU/kg) for vitamins A, D, and E. All other vitamins shall be stated in milligrams per kilogram (mg/kg) except vitamin B_{12} which may be guaranteed in micrograms per kilogram (ug/kg).

42.4(4) The label of a pet food which is formulated as and represented to be a vitamin supplement shall include a guarantee of the minimum content of each vitamin declared in the ingredient statement. Vitamin guarantees shall be expressed as per 42.4(3). Products labeled as per 42.2(2) may express the vitamin guarantees in approved units (e.g., IU, mg, g) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use. Liquids expressed as volume must also list a weight equivalent (e.g., 1 fl. oz. = 28 grams).

42.4(5) If the label of a pet food does not represent the pet food to be either a vitamin or a mineral supplement, but does include a table of comparison of a typical analysis of the vitamin, mineral, or nutrient content of the pet food with levels recommended by an AAFCO-recognized animal nutrition authority, such comparison may be stated in the units of measurement used in the AAFCO Dog or Cat Food Nutrient Profiles. The statement in a table of comparison of the vitamin, mineral, or nutrient content shall constitute a guarantee, but need not be repeated in the guaranteed analysis. Such table of comparison may appear on the label separate and apart from the guaranteed analysis.

42.4(6) The use of percentages or words of similar import when referring to nutrient levels established by the AAFCO Dog or Cat Food Nutrient Profiles or other AAFCO-recognized nutrient profile shall not be permitted on pet food labels, except that such direct comparisons in whole or part of the individual nutrient contents of a pet food with those recommended by the recognized nutrient profile may be made where the comparisons are expressed in the same quantitative units as those used by the cited nutrient profile, and

1. The product in question meets the nutrient profile recommended by the authority, and
2. The comparison is preceded by a statement to that effect.

42.4(7) Guarantees for crude protein, crude fat, and crude fiber are not required when the pet food is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as mineral or vitamin supplements.

21—42.5(198) Ingredients.

42.5(1) The maximum moisture in all pet foods shall be guaranteed and shall not exceed 78 percent or the natural moisture content of the constituent ingredients of the product, whichever is greater. Pet foods such as those consisting principally of stew, gravy, sauce, broth, juice or a milk replacer which are so labeled may contain moisture in excess of 78 percent.

42.5(2) Each ingredient of the pet food shall be listed in the ingredient statement, and names of all ingredients in the ingredient statement must be shown in letters or type of the same size. The failure to list the ingredients of a pet food in descending order by their predominance by weight in nonquantitative terms may be misleading. Any ingredient for which the Association of American Feed Control Officials has established a name and definition shall be identified by the name so established. Any ingredient for which no name and definition have been so established shall be identified by the common or usual name of the ingredient. Brand or trade names shall not be used in the ingredient statement.

42.5(3) The term "dehydrated" may precede the name of any ingredient in the ingredient list that has been artificially dried.

42.5(4) No reference to quality or grade of an ingredient shall appear in the ingredient statement of a pet food.

42.5(5) No reference to the quality, nature, form, or other attribute of an ingredient shall be made unless such designation is accurate and unless the ingredient imparts a distinctive characteristic to the pet food because it possesses that attribute.

21—42.6(198) Drugs and pet food additives.

42.6(1) An artificial color may be used in a pet food only if it has been shown to be harmless to pets. The permanent or provisional listing of an artificial color in the United States Food and Drug Regulations as safe for use, together with the conditions, limitations, and tolerances, if any, incorporated therein, shall be deemed to be satisfactory evidence that the color is, when used pursuant to such regulations, harmless to pets.

42.6(2) Prior to approval of a registration application or approval of a label for pet food which contains additives (including drugs, other special purpose additives, or nonnutritive additives), the distributor may be required to submit evidence to prove the safety and efficacy of the pet food when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food may be:

1. When the pet food contains such additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are "prior sanctioned" or "generally recognized as safe" for such use, or

2. When the pet food itself is a drug as defined in Iowa Code section 198.3(6) and is generally recognized as safe and effective for label use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 360(b).

42.6(3) The medicated labeling format recommended by the Association of American Feed Control Officials shall be used to ensure that adequate labeling is provided.

21—42.7(198) Statements of calorie content. Except as required in 42.8(198), the label of a dog or cat food may bear a statement of calorie content, provided:

42.7(1) The statement shall be separate and distinct from the "Guaranteed Analysis" and shall appear under the heading "Calorie Content"; and

42.7(2) The statement shall be measured in terms of metabolizable energy (ME) on an as-fed basis and must be expressed as "kilocalories per kilogram" ("kcal/kg") of product, and may also be expressed as kilocalories per familiar household measure (e.g., cans, cups, pounds); and

42.7(3) An affidavit shall accompany the request for label review or registration, substantiating that the calorie content was determined:

a. By calculation using the following "Modified Atwater" formula:

$ME(kcal/kg) = 10[(3.5 \times CP) + (8.5 \times CF) + (3.5 \times NFE)]$

where CP = % crude protein as fed

CF = % crude fat as fed

NFE = % nitrogen free extract (carbohydrate) as fed

and the percentages of CP and CF are the arithmetic averages from proximate analyses of at least four production batches of the product, and the NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture and ash (determined in the same manner as CP and CF). The results of all the analyses used in the calculation must accompany the affidavit, and the claim on the label or other labeling must be followed parenthetically by the word "calculated"; or

b. In accordance with a testing procedure established by the Association of American Feed Control Officials. The summary data used in the determination of calorie content must accompany the affidavit. The value stated on the label shall not exceed or understate the value determined in accordance with 42.7(3)*"a"* by more than 15 percent; and

c. By comparative claims that shall not be false, misleading or given undue emphasis and must be based on the same methodology for both products.

21—42.8(198) Descriptive terms.

42.8(1) *Calorie terms.*

a. "Light."

(1) Dog food products bearing the term "light," "lite," "low calorie," or words of similar designation shall contain and state on the label no more than 3100 kcal ME/kg for products containing less than 20 percent moisture, no more than 2500 kcal ME/kg for products containing 20 percent or more but less than 65 percent moisture, and no more than 900 kcal ME/kg for products containing 65 percent or more moisture. The label shall bear a calorie content statement in accordance with the format provided in 42.7(198). Feeding directions shall reflect a reduction in calorie intake consistent with the intended use.

(2) Cat food products bearing the term "light," "lite," "low calorie," or words of similar designation shall contain and state on the label no more than 3250 kcal ME/kg for products containing less than 20 percent moisture, no more than 2650 kcal ME/kg for products containing 20 percent or more but less than 65 percent moisture, and no more than 950 kcal ME/kg for products containing 65 percent or more moisture. The label shall bear a calorie content statement in accordance with the format provided in 42.7(198). Feeding directions shall reflect a reduction in calorie intake consistent with the intended use.

b. "Less" or "reduced calories." For dog or cat food product labels bearing a claim of "less calories," "reduced calories," or words of similar designation, the percentage of reduction and the product of comparison shall be explicitly stated and juxtaposed with the claim in the same size, style, and color print. The product label shall also bear a calorie content statement in accordance with the format provided in 42.7(198). Comparisons between products in different categories of moisture content less than 20 percent, 20 percent or more but less than 65 percent, or 65 percent or more are misleading. Feeding directions shall reflect a reduction in calories compared to feeding directions for the product of comparison.

42.8(2) *Fat terms.*

a. "Lean."

(1) Dog food product labels bearing the term "lean," "low fat," or words of similar designation shall contain and guarantee on the label no more than 9 percent crude fat for products containing less than 20 percent moisture, no more than 7 percent crude fat for products containing 20 percent or more but less than 65 percent moisture, and no more than 4 percent crude fat for products containing 65 percent or more moisture. The product label shall bear a maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in 42.2(2).

(2) Cat food products bearing the term "lean," "low fat," or words of similar designation shall contain and guarantee on the label no more than 10 percent crude fat for products containing less than 20 percent moisture, no more than 8 percent crude fat for products containing 20 percent or more but less than 65 percent moisture, and no more than 5 percent crude fat for products containing 65 percent or more moisture. The product label shall bear a maximum crude fat guarantee immediately following the

minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in 42.2(2).

b. "Less" or "reduced fat." For dog or cat food labels bearing a claim of "less fat," "reduced fat," or words of similar designation, the percentage of reduction and the product of comparison shall be explicitly stated and juxtaposed with the claim in the same size, style, and color print. The product label shall also bear a maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in 42.2(2). Comparisons between products in different categories of moisture content less than 20 percent, 20 percent or more but less than 65 percent, or 65 percent or more are misleading.

These rules are intended to implement Iowa Code chapter 198.

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CHAPTER 43
FERTILIZERS AND AGRICULTURAL LIME

[Appeared as Ch 9A, 1973 IDR]
[Prior to 7/27/88, see Agriculture Department 30—Ch 8]

21—43.1(200) Additional plant food elements besides N, P and K. Additional plant nutrients, besides nitrogen, phosphorus and potassium, when mentioned in any form or manner shall be registered and shall be guaranteed. Guarantees shall be made on the elemental basis. Sources of the elements guaranteed shall be shown on the application for registration. The minimum percentages which will be accepted for registration except for those fertilizers designed to be applied and ordinarily applied directly to growing plant foliage to stimulate further growth are as follows:

Element	*Percent*
Calcium (Ca)	1.00
Magnesium (Mg)	0.50
Sulfur (S)	1.00
Boron (B)	0.02
Chlorine (Cl)	0.10
Cobalt (Co)	0.0005
Copper (Cu)	0.05
Iron (Fe)	0.10
Manganese (Mn)	0.05
Molybdenum (Mo)	0.0005
Sodium (Na)	0.10
Zinc (Zn)	0.05

Guarantees or claims for the above-listed additional plant nutrients are the only ones which will be accepted. Proposed labels and directions for use of the fertilizer shall be furnished with the application for registration upon request. Any of the above-listed elements which are guaranteed shall appear in the order listed, immediately following guarantees for the primary nutrients, nitrogen, phosphorus and potassium. Warning or caution statements are required on the label for any product which contains 0.03 percent or more of boron in a water-soluble form or 0.001 percent or more of molybdenum.

21—43.2(200) Warning required. When any product which contains 0.03 percent or more of boron in a water-soluble form or 0.001 percent or more of molybdenum is incorporated in a commercial fertilizer a special warning tag or statement must be furnished to the purchaser. This tag or statement shall carry the word "WARNING" in letters at least one inch in height; it shall state the crops for which the fertilizer is to be used and it shall state that use of the fertilizer on any other than those recommended may result in serious injury to the crops. The tag or statement is to be attached to or printed on the bag or other container in which the fertilizer is sold; for bulk fertilizers the statement must be placed on the invoice or other document which shall accompany delivery and be supplied to the purchaser at the time of delivery as provided in Iowa Code section 200.6(2).

21—43.3(200) Specialty fertilizer labels. Specialty fertilizer products shall be labeled to show the following information, if not appearing on the face or display side in a readable and conspicuous form, shall occupy at least the upper third of a side of the container.

Net Weight
Brand Name
Grade
Guaranteed Analysis:
Total Nitrogen (N) _____ %
_____% Ammoniacal Nitrogen**
_____% Nitrate Nitrogen**
_____% Water Insoluble Nitrogen*
Available Phosphorus (P) or P_2O_5 or both _____ %
Soluble Potassium (K) or K_2O or both _____ %
Additional Plant Nutrients, if claimed, and in the order and not less than the minimum percentage as shown in 43.1(200).
**Potential Acidity or Basicity _____ % or _____ lbs.
Calcium Carbonate Equivalent per ton.
Name and Address of Registrant

NOTES:
*If claimed or the statement "organic" or "slow acting nitrogen" is used on the label.
**If claimed or required.

21—43.4(200) Pesticides in fertilizers. When an insecticide, herbicide or any other additive for pest control is added to fertilizer the product must be registered and guaranteed with respect to the kind and percentage of each of these additives as well as with respect to plant food elements. In a prominent manner the label on the package shall state the crops for which the fertilizer is to be used and shall state that the use of the fertilizer on any other crops or under conditions other than those recommended may result in serious injury to crops.

This rule is intended to implement Iowa Code sections 200.7 and 200.11.

21—43.5(200) Cancellation or suspension of registration or license. If official sampling and analysis of any registered commercial fertilizer or soil conditioner indicates that the product does not meet the guarantees or claims made for it, or that the products do not meet the minimum plant nutrient values established by rule 21—43.1(200), the secretary may notify the person guaranteeing the product that the quality of the fertilizer or soil conditioner must be improved prior to any further sale, distribution or offer for sale of such products in Iowa and the secretary may request that monetary reimbursement be made to purchaser to rectify the deficiency of the product reported by laboratory analysis and the monetary reimbursement be reported to the department. Reimbursement must be made within 30 days of the reported deficiency. In addition, if it appears to the secretary that the composition of the article does not warrant the claims made for it, or if the article, its labeling or other material required by Iowa Code section 200.5(6) to be submitted to the secretary, do not comply with the requirements of the Iowa fertilizer law, the secretary may revoke, suspend or refuse to register any commercial fertilizer or soil conditioner; or refuse to issue or revoke or suspend any license issued under Iowa Code chapter 200.

This rule is intended to implement Iowa Code sections 200.5 and 200.14.

21—43.6(200) Standard for the storage and handling of anhydrous ammonia. The American National Standard Safety Requirements for the Storage and Handling of Anhydrous Ammonia, commonly referred to as ANSI K61.1-1989 revision, approved March 17, 1989, is adopted by this reference as the official requirement for the storage and handling of anhydrous ammonia, with the following exceptions:

1. Strike subrule 3.1.1 in its entirety and insert in lieu thereof the following:

3.1.1 Any person required to handle, transfer, transport, or otherwise work with ammonia shall be trained once each calendar year prior to handling to understand the properties of ammonia, to become

competent in safe operating practices, and to take appropriate actions in the event of a leak or an emergency.

2. Strike subrule 3.4.1.1 in its entirety and insert in lieu thereof the following:

3.4.1.1 Two full face gas masks, each with one spare ammonia canister in a readily accessible location for use in ammonia concentrations less than the IDLH. See 2.19. A positive pressure, self-contained breathing apparatus may be substituted for the above equipment.

NOTE: A full face piece ammonia gas mask will provide effective respiratory protection in concentrations of ammonia in air that are not immediately dangerous to life or health for short periods of time. A gas mask is not recommended for respiratory protection in concentration exceeding the IDLH except for escape purposes only. Face piece fitting should be used to determine the ability of each individual gas mask wearer to obtain a satisfactory fit. If ammonia vapor is detected within the gas mask face piece, the face piece fit is improper, the ambient concentration is excessive, or the canister is exhausted, the wearer should return to fresh air immediately to take appropriate corrective measures. The life of a canister in service is controlled by many factors including the concentration of ammonia vapor to which it is exposed.

Canisters should not be opened until ready for use and should be discarded after use. Canisters should be discarded and replaced when the shelf life expiration date marked on the canister is exceeded. When canisters include an end-of-service indicator, the manufacturer's expiration instructions are to be followed. In addition to this protection, an independent air-supplied, positive pressure, self-contained breathing apparatus, approved by NIOSH/MSHA, should be used for entry into concentrations of ammonia vapor that are unknown or immediately dangerous to life or health. The American National Standard Z88.2, Practices for Respiratory Protection, should be referred to wherever respirators may be used. (13)

3. Strike subrule 5.2.1 in its entirety and insert in lieu thereof the following:

5.2.1 Containers used with systems covered in Sections 6, 9, 11, and 12 shall be made of steel or other material compatible with ammonia, and tested in accordance with the current ASME Code. An exception to the ASME Code requirements is that construction under Table UW 12 at a basic joint efficiency of under 80 percent is not authorized.

4. Strike subrule 5.2.2.1 in its entirety and insert in lieu thereof the following:

5.2.2.1 The entire container shall be postweld heat treated after completion of all welds to the shells and heads. The method employed shall be as prescribed in the ASME Code, except that the provisions for extended time at lower temperature for postweld heat treatment shall not be permitted. Welded attachments to pads may be made after postweld heat treatment [10]. Exception: Implements of husbandry will not require postweld heat treatment if they are fabricated with hot-formed heads or with cold-formed heads that have been stress relieved.

5. Strike subrule 5.2.2.2 in its entirety.

6. Strike subrule 5.2.4 in its entirety and insert in lieu thereof the following:

5.2.4 Welding for the repair or alteration of pressure-containing parts of a container shall be performed by an ASME Code certified welder. All repair or alteration shall conform insofar as possible to the ASME Code section and edition to which the container was constructed.

7. Strike subrule 5.3.4 in its entirety and insert in lieu thereof the following:

5.3.4 In the absence of a specific determination by the secretary, container locations shall comply with the following table:

	Minimum Distances (in feet or meters) from Each Container to:		
Nominal Capacity of Container (Gallons or Cubic Meters)	Line of Adjoining Property which may be built upon, Highways & Mainline of Railroad	Place of Public Assembly**	Institution Occupancy
*Over 500 to 2,000 gals	25 ft	150 ft	250 ft
Over 2,000 to 30,000 gals	50 ft	300 ft	500 ft
Over 30,000 to 100,000 gals	50 ft	450 ft	750 ft
Over 100,000 gals	50 ft	600 ft	1000 ft
Over 2 to 8 m^3	8 m	45 m	75 m
Over 8 to 110 m^3	15 m	90 m	150 m
Over 110 to 400 m^3	15 m	140 m	230 m
Over 400 m^3	15 m	180 m	300 m

*NOTE: For 500 gallons (2m^3) or less, see 5.3.1 and 5.3.3.
**"Place of Public Assembly" includes any place other than the ammonia business office in which, by public invitation, members of the public normally attend for reasons of business, entertainment, instruction or the like.

8. Insert a new subrule 5.4.2.9 to read as follows:

5.4.2.9 Recertification of Non-Refrigerated Containers and Systems Other Than DOT Containers. Containers with unreadable or missing nameplates may be recertified and have nameplates installed with the following information:

A. An identification number issued by the department.

B. The certification date.

C. The maximum allowable working pressure.

D. The wall thickness of the container shell and heads in inches or millimeters.

E. The water capacity of the container in pounds or kilograms or United States standard gallons or cubic meters (m^3) at 60 degrees Fahrenheit (15.6 degrees centigrade).

Items A through E must be determined and documented on forms provided by the department by a company that holds a valid R-stamp in compliance with the current edition of the National Board Inspection Code.

Nurse tanks and applicator tanks with unreadable or missing nameplates may be recertified and have nameplates installed by July 1, 2008.

9. Strike subrule 5.5.11 in its entirety and insert in lieu thereof the following:

5.5.11 Each liquid filling connection shall have a positive shut-off valve in conjunction with either an internal back-pressure check valve or an internal excess flow valve. Vapor connections shall have a positive shut-off valve together with an internal excess flow valve.

NOTE: The internal back-pressure check valves or internal excess flow valves shall be installed in the facility piping prior to the positive shut-off valves. These valves shall be installed so that any break will occur on the side of the transfer hose. This may be accomplished by bulkheads or equivalent anchorage, or by the use of a weakness or shear fitting or any other method designed to protect the back-pressure check valves or excess flow valves.

10. Strike subrule 5.7.6 in its entirety.

11. Strike subrule 5.8.15 in its entirety and insert in lieu thereof the following:

5.8.15 No container pressure relief device shall be used over five years after the date of installation of the pressure relief device. Records shall be maintained which identify each container and indicate the date of installation for each container pressure relief device.

12. Strike subrule 5.10.8.1 in its entirety and insert in lieu thereof the following:

5.10.8.1 By December 31, 1993, all stationary storage installations shall have an approved emergency shut-off valve installed in the liquid fixed piping of the transfer system. This requirement does not apply to lines feeding a fixed process system. When possible, the emergency shut-off valve shall be located on the discharge side of the pump. A suitable backflow check valve or properly rated

excess flow valve shall be installed in the vapor fixed piping of the transfer system. The emergency shut-off valve shall remain closed when plant is not in use. The emergency shut-off valve shall be installed in the facility piping so that any break will occur on the side of the transfer hose.

NOTE: This may be accomplished by concrete bulkheads or equivalent anchorage, or by the use of a weakness or shear fitting or any other method designed to protect the emergency shut-off valve. Such anchorage is not required for tank car unloading.

13. Add the following subrule 5.10.10:

5.10.10 Anhydrous ammonia shall be vented into an adequate supply of water. For this purpose, an adequate supply of water means ten gallons of water for each gallon of liquid ammonia or fraction thereof which is contained in the hose or vessel to be vented. Any aqueous ammonia solution resulting from the venting process shall be disposed of safely and properly.

NOTE: Ammonia vapor may be flared off when appropriate equipment is used to not allow ammonia vapor to escape unchecked into the atmosphere. This section does not apply to venting of a coupling between transfer hose and nurse tank or applicator or venting of vapor through 85 percent bleeder valve when loading a nurse tank or applicator.

14. Add the following subrule 5.10.10.1:

5.10.10.1 Anhydrous ammonia shall not be vented into the air. Each transport truck unloading point at an anhydrous ammonia storage facility shall have a valve for venting purposes installed in the piping at or near the point where the piping and hose from the transport truck are connected. Anhydrous ammonia from any transport truck hose shall be vented into an adequate supply of water. For this purpose, an adequate supply of water means ten gallons of water for each gallon of liquid ammonia or fraction thereof which could be contained in the hose. Any aqueous solution resulting from the venting process shall be disposed of safely and properly.

15. Add the following subrule 5.10.11:

5.10.11 All anhydrous ammonia storage locations shall have a permanent working platform installed at each nurse tank or applicator loading location. The working platform shall be designed to allow for connecting and disconnecting of transfer hoses without standing on equipment being loaded.

NOTE: This section does not apply to nurse tanks or applicators with a working surface designed for loading purposes.

16. Strike subrule 6.3.1.1 in its entirety and insert in lieu thereof the following:

6.3.1.1 Relief valves shall be installed in a manifold or other suitable device so that they can be replaced while the container remains pressurized. See NOTE in section 5.8.7. Containers designed with internal pressure relief systems are exempt from this requirement.

17. Strike subrule 9.7.3 in its entirety and insert in lieu thereof the following:

9.7.3 A cargo tank of 3,500 gallons or less water capacity may be unloaded into permanent storage locations meeting the requirements of 3.4.1 and 5.10.8 or into implements of husbandry meeting the requirements of 11.1 through 11.7. A cargo tank of greater than 3,500 gallons water capacity but not greater than 5,000 gallons water capacity may be unloaded at permanent storage locations meeting the requirements of 3.4.1 and 5.10.8 or into a portable application equipment container which is capable of holding the entire load. A cargo tank of greater than 5,000 gallons water capacity may only be unloaded into a permanent storage location meeting the requirements of 3.4.1 and 5.10.8 and capable of holding the entire load.

18. Strike subrule 11.6.1(1) in its entirety and insert in lieu thereof the following:

11.6.1(1) Any person required to handle, transfer, transport, or otherwise work with ammonia shall be trained once each calendar year prior to handling to understand the properties of ammonia, to become competent in safe operating practices, and to take appropriate actions in the event of a leak or an emergency.

19. Strike subrule 11.6.2.2 in its entirety.

20. Strike subrule 12.4.1(1) in its entirety and insert in lieu thereof the following:

12.4.1(1) Any person required to handle, transfer, transport, or otherwise work with ammonia shall be trained once each calendar year prior to handling to understand the properties of ammonia, to

become competent in safe operating practices, and to take appropriate actions in the event of a leak or an emergency.

This rule is intended to implement Iowa Code section 200.14.

21—43.7(200) Groundwater protection fee.

43.7(1) There shall be paid by the licensee, as licensed under Iowa Code section 200.4, to the secretary for all commercial fertilizers and soil conditioners sold or distributed in this state, a groundwater protection fee of 75 cents per ton based on an 82 percent nitrogen solution. Other product formulations containing nitrogen shall pay a fee based on the percentage of actual nitrogen contained in the formulation with 82 percent nitrogen solution serving as the base. Product formulations containing less than 2 percent nitrogen shall be exempt from the payment of a groundwater protection fee. Payment of the groundwater protection fee by any licensee exempts all other persons, firms or corporations from the payment.

43.7(2) Every licensee and any person required to pay a groundwater protection fee under this chapter shall:

a. File not later than the last day of January and July of each year, on forms furnished by the secretary, a semiannual statement setting forth the number of net tons of commercial fertilizer or soil conditioners containing nitrogen which were distributed in this state during the preceding six-month period; and upon filing the statement shall pay the groundwater protection fee at the rate stated in subsection 1 of this rule, except that manufacturers of individual packages of fertilizer containing 25 pounds or less shall file not later than the last day of July of each year, on forms furnished by the secretary, an annual statement setting forth the number of net tons of fertilizer containing nitrogen distributed in this state in packages of 25 pounds or less during the preceding 12-month period; and upon filing the statement shall pay the groundwater protection fee at the rate stated in subrule 43.7(1).

b. Reserved.

43.7(3) All licensees who distributed specialty fertilizer, as defined in Iowa Code section 200.3, paragraph 5, or apply specialty fertilizer for compensation, shall file not later than the last day of July of each year, on forms furnished by the secretary, an annual statement setting forth the number of tons of fertilizer containing nitrogen distributed in this state and listing the manufacturer from which the product was purchased but no groundwater protection fee shall be due.

This rule is intended to implement Iowa Code section 200.9.

21—43.8 to **43.19** Reserved.

21—43.20(201) Agricultural lime.

43.20(1) *Notification of production.* The manufacturer or producer of agricultural lime, limestone or aglime shall notify the secretary seven calendar days prior to the manufacture or production of agricultural lime, limestone, or aglime so that samples may be taken.

43.20(2) *Sample fee.* The manufacturer or producer of agricultural lime, limestone, or aglime shall pay a fee of no more than $25 per sample collected. This fee may be adjusted by the secretary of agriculture by a separate notice letter to each manufacturer or producer to reflect as accurately as possible the actual cost of sampling and testing expended by the Iowa department of agriculture and land stewardship and Iowa State University for each sample taken at the manufacturer's or producer's facilities.

This rule is intended to implement Iowa Code sections 201.6 and 201.12.

21—43.21(200) Minimum requirements for registration of fertilizer and soil conditioners.

43.21(1) Fertilizer and soil conditioners submitted for registration may be required to be tested for a minimum of two growing seasons in at least three Iowa crop reporting districts in accordance with standards for efficacy testing. The results of testing shall be reviewed by the secretary's pesticide and fertilizer advisory committee. The testing requirement may be waived if research has been conducted with crops and under conditions relevant to the state of Iowa. The secretary's pesticide and fertilizer

advisory committee may require the applicant for registration to submit an economic or environmental impact statement.

43.21(2) Applications for registration shall include methods of laboratory analysis of products used for achieving results consistent with the label guarantee.

This rule is intended to implement Iowa Code sections 200.5 and 200.14.

21—43.22(200) Provisional product registration. A provisional product registration may be granted during the time required to complete efficacy testing to achieve product registration. Prior to the growing seasons or granting of a provisional product registration, the registrant must submit a plan for efficacy testing to the department for approval by the first day of February. A fee of $100 shall be collected for each provisional product registration. Annual reviews of provisional product registrations shall determine if satisfactory progress is being made toward achieving product registration. A provisional product registration may be canceled if it appears that conditions under which provisional product registration was granted have not been completed.

The registrant does not have the right to sell, distribute or promote any fertilizer or soil conditioner within the state of Iowa under a provisional product registration.

This rule is intended to implement Iowa Code sections 200.5 and 200.14.

21—43.23(200) Review of product registrations. Fertilizer and soil conditioner registrations may be reviewed to determine that the product meets claims for which registration was granted. If credible cause can be demonstrated that product claims have not been substantiated, registration may be canceled and a provisional registration may be issued until minimum requirements for registrations of fertilizers and soil conditioners again have been satisfied.

21—43.24(200) Product claims. Product claims may be substantiated by one of two methods: (1) efficacy testing; or (2) substantiation of data relevant to Iowa crops and soils. Efficacy testing and substantiation shall be completed when requested by the department to support claims made for fertilizer and soil conditioner that is sold, distributed or offered for sale in Iowa. Documentation substantiating product claims by efficacy testing shall contain the following information:

1. All guaranteed ingredients must be identified and indicated by percentage.
2. State the crop or soil response being measured.
3. The research facility and investigators conducting the trials.
4. Dates and locations of trials.
5. The trials must be conducted, utilizing the principles of experimental design and methods consistent with those in agricultural research. This involves raw data from proper treatment selection, replication and randomization in such a manner that statistical analysis of data is possible.
6. Exclude consumer testimonials.

This rule is intended to implement Iowa Code sections 200.5 and 200.14.

21—43.25 to **43.29** Reserved.

21—43.30(201A) Definitions. When used in this chapter:

"Agricultural liming material" means a product containing calcium and magnesium compounds capable of neutralizing soil acidity.

"Brand" means the term, designation, trade name, product name, or other specific designation under which individual agricultural liming material is offered for sale.

"Bulk" means in nonpackaged form.

"Calcium carbonate equivalent" means the acid-neutralizing capacity of an agricultural liming material expressed as percentage of pure calcium carbonate.

"Effective calcium carbonate equivalent (ECCE)" means the acid-neutralizing capacity of an agricultural liming material or specialty limestone.

"Fineness" means the percentage by weight of the material which will pass U.S. standard sieves of specified sizes.

"Industrial by-product" means agricultural liming material containing calcium or a combination of calcium with magnesium and capable of neutralizing soil acidity which is derived from any industrial waste or by-product.

"Label" means any written or printed material on or attached to the package or on the delivery ticket which accompanies bulk shipments.

"Limestone" means a material consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity.

"Pelletized lime" means agricultural liming material containing calcium or a combination of calcium with magnesium and capable of neutralizing soil acidity which has been processed into pellet or granular form, with or without binding agents.

"Percent" or *"Percentage"* means by weight.

"Permanent production facilities" means stationary crushing and screening equipment which is immobile.

"Person" means individual, partnership, association, firm or corporation.

"Portable plant" means mobile crushing and screening equipment mounted on wheels.

"Quarry lime" means agricultural liming material containing calcium or a combination of calcium with magnesium which has been excavated from the earth and processed by crushing and screening and capable of neutralizing soil acidity.

"Specialty limestone" means agricultural liming material distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses and nurseries.

"Ton" means a net weight of 2,000 pounds avoirdupois.

"Water treatment lime" means agricultural liming material containing calcium or a combination of calcium with magnesium and capable of neutralizing soil acidity which is derived from water treatment plants.

"Weight" means the weight of undried agricultural liming material or specialty limestone offered for sale.

21—43.31(201A) Determination of ECCE. Agricultural liming material or specialty limestone offered for sale, sold or otherwise distributed in this state shall be analyzed on the basis of the number of pounds of effective calcium carbonate equivalent per ton, using the method set forth in this rule.

43.31(1) A fineness factor shall be determined as follows:

a. Multiply the percent of the total material passing the number 4 sieve by one-tenth.

b. Multiply the percent of the total material passing the number 8 sieve by three-tenths.

c. Multiply the percent of the total material passing the number 60 sieve by six-tenths. Add the results obtained from paragraph *"a," "b"* and *"c"* of this subrule to obtain the fineness factor.

43.31(2) Multiply the fineness factor obtained by using the method in subrule 43.31(1) by the percent of calcium carbonate equivalent in the material to obtain the percent of ECCE.

43.31(3) The percent of ECCE obtained in subrule 43.31(2) shall be reduced by the percent of moisture contained in the sample.

43.31(4) Multiply 2,000 pounds by the percent ECCE obtained in subrule 43.31(3) to determine the number of pounds of ECCE per ton of agricultural liming material or specialty limestone.

21—43.32(201A) Sample procedure.

43.32(1) Samples of agricultural liming material for analyzing the number of pounds of ECCE shall be obtained by taking samples from the manufacturer's production belt or stockpile. Samples shall be taken at locations where there are permanent production facilities once each calendar month during the months that agricultural liming material is being produced. Samples shall be taken at locations where there are no permanent production facilities once during the first week that a portable plant is at the location producing agricultural liming material and once each week during the period that the portable plant is at the location until a total of five representative samples have been accumulated and submitted for analysis, after which a sample shall be obtained and tested once each calendar month during the months

in which agricultural liming material is being produced. The manufacturer or producer of agricultural liming material shall notify the secretary of agriculture or person or persons appointed by the secretary of the production of agricultural liming material seven calendar days prior to the manufacture or production of agricultural liming material so that samples may be obtained by a person or persons appointed by the secretary in compliance with this rule.

43.32(2) Samples of specialty limestone for analyzing the number of pounds of ECCE shall be submitted to the secretary of agriculture by the manufacturer or producer of specialty limestone for analysis in accordance with rule 43.33(201A).

43.32(3) Samples of agricultural liming material may be obtained from manufacturers' or producers' production belts, stockpiles or in transportation and analyzed for compliance with certification requirements of rule 43.35(201A). Samples of specialty limestone may be obtained from packages and analyzed for compliance with certification requirements of rule 43.35(201A).

43.32(4) Samples of water treatment plant lime for analyzing the number of pounds of ECCE shall be obtained by taking samples from the water plant designated sampling point. Samples shall be taken once each month during the months when agricultural liming material is being taken off-site for land application. The producer of the agricultural liming material shall notify the secretary of agriculture or person(s) appointed by the secretary about the intent to land apply the liming material seven calendar days prior to the land application of agricultural liming material so that samples may be obtained in compliance with this rule.

21—43.33(201A) Sample analysis. Samples of agricultural liming material or specialty limestone obtained as provided in rule 43.32(201A) shall be submitted to the Soil Testing Laboratory, Iowa State University of Science and Technology, for analysis of acid neutralization capacity expressed as calcium carbonate equivalent, percentage of material passing a 4-, 8- and 60-mesh sieve and the percentage of moisture contained in the sample. The results of the analysis of each sample shall be submitted to the secretary of agriculture.

21—43.34(201A) Sample fee. The manufacturer or producer of agricultural liming material or specialty limestone shall pay a fee of no more than $25 per sample collected. This fee may be adjusted by the secretary of agriculture by a separate notice letter to each manufacturer or producer to reflect as accurately as possible the actual cost of sampling and testing expended by the Iowa department of agriculture and land stewardship and Iowa State University of Science and Technology for each sample collected.

21—43.35(201A) Certification.

43.35(1) The secretary of agriculture shall, upon receipt of the analysis provided in rule 43.33(201A), certify the number of pounds of ECCE, using the method provided in rule 43.31(201A). The certification shall be forwarded to the manufacturer or producer from whom the sample was obtained by written notice and sent by United States mail.

Each certification of ECCE shall be based on the average of a maximum of five analyses from five samples. Each new analysis received shall be added to the previous five analyses and the oldest analysis shall be omitted. Fewer than five analyses shall be averaged on the basis of the actual number of analyses. Nothing in this rule shall preclude a manufacturer or producer from having a certification on separate stockpiles of agricultural liming material provided that each stockpile shall be separated from any other stockpile and each separate stockpile has been sampled and certified as required.

43.35(2) All agricultural liming material or specialty limestone offered for sale, sold or otherwise distributed shall be offered for sale, sold or distributed by the pound of ECCE. Any person who offers for sale, sells or distributes agricultural liming material or specialty limestone shall affix or cause to be affixed to every bill of lading, scale ticket, delivery receipt or other instrument of sale or package the certification of the secretary of agriculture of the number of pounds of ECCE per ton in the agricultural liming material or specialty limestone.

The certification shall be in the following form: Iowa Secretary of Agriculture Certified _____ pounds ECCE per ton. The pounds of ECCE certified by the secretary of agriculture for the agricultural liming material or specialty limestone shall be inserted in the space provided.

43.35(3) Agricultural liming material which has been further processed, subsequent to certification, as provided in rule 43.31(201A), including but not limited to decreasing or increasing moisture content, shall have the certification adjusted accordingly. Within 48 hours from the time of delivery, the adjusted certification shall be provided to the ultimate consumer of the agricultural liming material in writing together with the certification as provided in subrule 43.35(2) and shall accurately reflect the ECCE of the agricultural liming material.

43.35(4) All agricultural liming material and specialty limestone certifications shall expire on January 1, three years after being issued, provided no samples have been obtained and analyzed.

21—43.36(201A) Compliance with certification. If official sampling and analysis of agricultural liming material or specialty limestone in accordance with subrule 43.32(3) and rule 43.33(201A) indicates that the agricultural liming material or specialty limestone does not meet a minimum of 90 percent of the certification as provided in rule 43.35(201A), the secretary shall notify the manufacturer or producer of the agricultural liming material or specialty limestone that the certification must be corrected prior to any further sale, distribution or offer for sale of the agricultural liming material or specialty limestone in Iowa. The secretary may request that monetary reimbursement be made to the purchaser to rectify the deficiency of the agricultural liming material or specialty limestone and that the monetary reimbursement be reported to the department. Reimbursement must be made within 30 days of the reported deficiency.

21—43.37(201A) Labeling. Agricultural liming material shall not be offered for sale, sold or otherwise distributed in this state unless a label accompanies the agricultural liming material which provides the identification of the type of agricultural liming material in accordance with rule 43.30(201A).

21—43.38(201A) Toxic materials prohibited. It shall be unlawful for any manufacturer or producer of agricultural liming material or specialty limestone to sell, distribute or offer for sale any agricultural liming material or specialty limestone which contains toxic materials in quantities injurious to plant, animal, human or aquatic life or which causes soil or water contamination. The secretary may require additional laboratory analysis be conducted and results submitted to the department by the manufacturer or producer of agricultural liming material or specialty limestone to determine that the product does not contain an injurious quantity of toxic materials.

21—43.39(201A) Added materials. It shall be unlawful to sell, distribute or offer for sale any agricultural liming material or specialty limestone which contains other added materials unless the added materials are registered and guaranteed as provided in Iowa Code section 200.5(1), except binding materials used in the production of pelletized lime as defined in rule 43.30(201A).

21—43.40(201A) Egg shells. The following shall apply to any agricultural liming material that consists primarily of egg shells:

1. With the exception of paragraph "2," the material shall be stored in a structure that prevents precipitation from contacting the stored material.
2. The material may be stored in a manner not meeting the requirements of paragraph "1" for a period of not more than 14 days in the field where the material will be land-applied.

These rules are intended to implement Iowa Code chapters 200, 201, and 201A.

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CHAPTER 44
ON-SITE CONTAINMENT
OF PESTICIDES, FERTILIZERS AND SOIL CONDITIONERS

[Prior to 7/27/88, see 21—Ch 9]

PESTICIDES

21—44.1(206) Definitions. Where used in these rules:

"Aerial applicator" means a commercial applicator who is certified in #11—Aerial Application and who applies the pesticide by using an aircraft.

"Bulk pesticide" means any registered pesticide which is transported or held in an individual container in undivided quantities of greater than 55 U.S. gallons liquid measure or 100 pounds net dry weight.

"Bulk repackaging" means the transfer of a registered pesticide from one bulk container (containing undivided quantities of greater than 55 U.S. gallons liquid measure or 100 pounds net dry weight) to another bulk container (containing undivided quantities of greater than 55 U.S. gallons liquid measure or 100 pounds of net dry weight) in an unaltered state in preparation for sale or distribution to another person.

"Certified commercial applicator" means a pesticide applicator or individual who applies or uses a pesticide or device on any property of another for compensation.

"Mobile containers" means containers designed and used for transporting pesticide materials.

"Nonmobile containers" means all containers not defined as mobile.

"Permanent pesticide storage and mixing site" means a site where pesticides are being stored for more than 30 days per year and at which more than 300 gallons of liquid pesticide or 300 pounds of dry pesticide are being mixed, repackaged or transferred from one container to another within a 30-day period.

"Secondary containment" means any structure used to prevent runoff or leaching of pesticide materials.

21—44.2(206) On-site containment of pesticides. All nonmobile bulk pesticide storage containers shall be located within a watertight secondary containment facility.

All mixing, repackaging and transfer of pesticides from one container to another performed at a permanent pesticide storage and mixing site shall be done within a containment area. The designated site shall be paved with asphalt or concrete and be elevated above the surrounding area or curbed so as not to receive runoff from surrounding areas that would overload the recovery system and shall slope to a discharge point that allows materials to flow to a watertight containment structure in compliance with rule 21—44.10(206).

21—44.3(206) Design plans and specifications. Design plans and specifications for facilities required under these rules shall be submitted to the Iowa department of agriculture and land stewardship prior to the start of construction, along with certification from an Iowa registered engineer (as defined in Iowa Code chapter 542B) that the designed facilities will comply with all requirements of these rules.

A person may deviate from the requirements of these rules if such deviations are clearly noted on the design plans and specifications, along with certification from an Iowa registered engineer that these deviations will not reduce the effectiveness of the facilities in protecting surface or groundwaters.

21—44.4(206) Certification of construction. Upon completion of construction, certification by the owner or owner's agent shall be made to the Iowa department of agriculture and land stewardship that the facilities were constructed in accordance with rules 44.2(206) to 44.11(206). If departmental investigation, subsequent to the completion of construction, determines the constructed facilities were not constructed in accordance with the submitted plans and specifications or the requirements of these rules, the owner shall correct any deficiencies in a timely manner as set forth by the department.

The department may exempt any person from a requirement under rules 21—44.2(206) to 21—44.11(206) if an engineering justification is provided demonstrating variations from the requirements will result in at least equivalent effectiveness.

21—44.5(206) New pesticide storage and mixing site location. New permanent storage and mixing sites as defined in rule 44.1(206) shall be selected in accordance with requirements of the Iowa department of natural resources. The new site, if located in a flood plain, shall be protected from inundation from floods. New permanent pesticide storage and mixing sites shall be located a minimum of 400 feet from public water supply wells or below ground level finished water storage facilities and a minimum of 150 feet from private water supply wells.

21—44.6(206) Pesticide storage and mixing site. Each site shall comply with those ordinances and regulations enacted by the city or county affected by such location that related to the location of such sites. All sites and facilities where flammable pesticides are stored shall comply with state and federal fire protection rules and regulations, including the National Fire Protection Standards (Standard 30) for storage of flammable liquids.

21—44.7(206) Secondary containment for nonmobile bulk pesticide storage and mixing. Base and walls of secondary containment facilities must be constructed of concrete, steel or other impervious materials which are compatible with the pesticides being stored and will maintain their integrity under fire conditions. Storage containers must be anchored, as necessary, to prevent flotation or instability in the event of discharge into the secondary containment facility. Routine inspection is required to ensure against cracks or other conditions that may reduce the effectiveness of the containment facility. Cracks that occur in a secondary containment structure must be repaired with an acceptable sealant, and other repairs shall be made as needed to maintain the effectiveness of the containment facility.

The diked area shall not have a relief outlet and valve. The base shall slope to a collecting spot where precipitation water may be pumped out, provided the liquid is not contaminated with pesticides. If contaminated with a pesticide, the liquid shall be disposed of in accordance with applicable hazardous or solid waste requirements or field applied according to the pesticide label instructions.

44.7(1) Storage in other than an enclosed structure.

a. Secondary containment for nonmobile bulk liquid pesticide storage located in other than an enclosed structure shall be constructed with a volume sufficient to contain a minimum of 110 percent of the capacity of the largest single container, plus the space occupied by other tanks located within the secondary containment structure.

b. Secondary containment for nonmobile bulk dry pesticide storage located in other than an enclosed structure shall be constructed to contain any releases of dry pesticide. The secondary containment will have as a minimum a six-inch high curb separated horizontally from the storage vessel a minimum of three feet. Provisions shall be made for the collection of rainwater, and rainwater shall not be allowed to accumulate in the containment structure.

44.7(2) Storage in an enclosed structure.

a. Secondary containment for nonmobile bulk liquid pesticide storage located in an enclosed structure shall be constructed with a volume sufficient to contain a minimum of 100 percent of the capacity of the largest single container, plus the space occupied by other tanks located within the secondary containment structure.

b. Secondary containment for nonmobile bulk dry pesticide storage located in an enclosed structure shall be constructed to contain any releases of dry pesticide. The secondary containment will have as a minimum a six-inch high curb separated horizontally from the storage vessel a minimum of three feet on an open side. Nonmobile bulk dry pesticide storage tanks may be constructed within three feet of a permanent wall provided the wall is lined with an impervious surface which contains and directs any spilled material into a containment structure, according to the engineer's design plans.

44.7(3) Precipitation must not be allowed to accumulate in the secondary containment facility. Failure to properly maintain secondary containment facilities may subject the firm to state and federal regulations related to hazardous waste generators.

44.7(4) Discharges into a secondary containment facility must be promptly recovered to the maximum extent possible. Failure to properly manage discharge may subject the firm to pesticide misuse regulations and possibly to regulations related to hazardous waste generators.

44.7(5) Pesticides shall be handled in a manner that minimizes the movement of pesticide dusts, aerosols and vapors from the pesticide storage and mixing site. The following dust control measures shall apply to bulk dry pesticide storage tanks:

a. Primary vents on all tanks must be equipped with a dust filter. Filters shall be capable of handling 500 cubic feet per minute air flow. Primary filtration systems may be mounted on the tank or on the delivery truck.

b. Filters shall retain all particles greater than ten microns in size and retain greater than 90 percent of particles between three and ten microns in size.

c. Pressure relief valves shall be enclosed in a filter arrangement capable of retaining 100 percent of ten micron particles. Filters shall be maintained on a regular basis and replaced when necessary to maintain the proper filtering capacity.

d. Tanks and loading areas and all plant site transfer systems shall be equipped with fittings which facilitate closed system handling.

44.7(6) Discharge of pesticides from a secondary containment facility shall be recovered to the maximum extent possible. The Iowa department of natural resources, the county sheriff or local police shall be contacted as soon as possible, but not later than six hours of onset or discovery of spill.

21—44.8(206) Pesticide storage and mixing site containers. Containers used for pesticide storage and handling shall be of materials and construction compatible with the pesticide stored and the conditions of storage and maintained in a manner as to minimize the possibility of a spill.

44.8(1) Storage container labeling and protection. Upon delivery of the bulk pesticide, the registered product label shall be affixed in a prominent location on the bulk pesticide storage container and designed to remain intact and legible through active use of container.

Locking devices are required on bulk pesticide storage containers and all valves shall be closed and locked when the facility is left unattended.

Containers, pipes and valves must be protected against reasonably foreseeable risks of damage by trucks and other moving vehicles.

44.8(2) Reserved.

21—44.9(206) Transportation of bulk pesticides. Bulk pesticide containers shall meet all applicable standards of the appropriate state and U.S. Department of Transportation laws and regulations.

44.9(1) Mobile bulk pesticide containers shall be secured to prevent significant movement during transportation.

44.9(2) Mobile bulk pesticide containers shall bear the registered product label for the material contained therein.

21—44.10(206) Mixing, repackaging and transfer of pesticides. Pesticides shall be mixed, repackaged and transferred in a manner that will prevent unreasonable adverse effects to humans or to the environment. Physical and chemical properties, including volatility, toxicity and flammability, shall be considered in the mixing, repackaging and transfer of pesticides.

44.10(1) Spilled, leaked or unchecked pesticides.

a. Liquid pesticides that are spilled, leaked or otherwise unchecked during the normal operation of permanent pesticide storage and mixing sites (including the mixing, repackaging and transfer of pesticides) must discharge or drain into a watertight catch basin from which discharges are to be recovered, including discharge from any empty pesticide containers not rinsed according to label.

b. Dry pesticides that are spilled or otherwise unchecked during normal operation of permanent pesticide storage and mixing sites (including the mixing, repackaging and transfer of pesticides) must be located within an operational containment area that is curbed and watertight to facilitate the recovery of any product spilled.

44.10(2) All washing of pesticide handling and application equipment performed at a permanent pesticide storage and mixing site shall be conducted within an area which drains to a watertight containment structure. No pesticide rinsates or wash waters from pesticide equipment shall be disposed of through storm sewer systems; and no pesticide rinsates or wash waters shall be disposed of through sanitary sewer systems without a National Pollutant Discharge Elimination System Permit; and no pesticide rinsates or wash waters shall be disposed of through sanitary sewers connected to a publicly owned treatment works without prior approval of the sanitary sewer authority and in accordance with the discharge limitations of a pretreatment agreement or sewer use ordinance.

44.10(3) Prior to refilling, bulk pesticide containers must be thoroughly cleaned except when a sealed or dedicated recyclable bulk pesticide container is refilled with the same labeled pesticide product as the preceding product.

44.10(4) All drainage into a containment structure shall be monitored and properly managed. All rinsates and minor spillages related to pesticides which have not resulted from a container failure and which accumulated in the secondary containment structure shall be disposed of as provided by the product's original labeling. If contaminated with a pesticide product that is labeled incompatible because of chemical characteristics, the pesticide bureau of the Iowa department of agriculture and land stewardship shall be contacted for guidance.

44.10(5) All pesticide handling facilities shall be equipped with adequate personal protective equipment as required by each label of each pesticide handled and as needed for the number of employees handling these pesticides. Emergency first-aid provisions shall be maintained in an area immediately accessible by all employees, if and when needed.

44.10(6) Field mixing and transferring of pesticides, including field rinsing of equipment, is exempted from the on-site containment provisions of rule 21—44.2(206). Rinsates shall be field applied at rates compatible with pesticide product labeling. No mixing and transferring of pesticides and rinsing of equipment shall be conducted on public highways, roads and streets.

21—44.11(206) Distribution of bulk pesticides. Bulk repackaging for sale or delivery may be made provided the establishment conducting the transfer, sale or delivery shall comply with FIFRA, Section 7 (registration of pesticide producing establishments).

44.11(1) There shall be no change in pesticide product labeling, except for the addition of the required EPA establishment number and net contents statement; or identity of the party accountable for the integrity of the product, i.e., the manufacturer or registrant as evidenced by the assigned EPA product registration number.

44.11(2) A written letter of authorization from the registrant is required for the bulk repackaging.

44.11(3) Bulk repackaging may be made only into containers which conform with rules 21—44.8(206) and 44.9(206) and which meet the approval of the seller of the pesticide.

44.11(4) Scales or meters used for bulk pesticide sales shall meet the specifications, tolerances and other technical requirements for weighing and measuring devices as specified by the Iowa department of agriculture and land stewardship, bureau of weights and measures.

44.11(5) Appropriate measures shall be taken to prevent contamination of product when meters or other devices are used to dispense pesticides.

These rules are intended to implement Iowa Code section 206.19.

21—44.12(206) Secondary containment for aerial applicator aircraft. If the spray component of an aircraft is being drained or repaired during aircraft maintenance, secondary containment with permanent devices or portable devices suitable for use with pesticides is required.

21—44.13 to **44.49** Reserved.

FERTILIZERS AND SOIL CONDITIONERS

21—44.50(200) On-site containment of fertilizers and soil conditioners. Effective February 18, 1987, all new construction of fertilizer and soil conditioner facilities shall provide secondary product containment as specified in rules 21—44.51(200) to 21—44.58(200). Effective February 18, 1997, ten years after the adoption of these rules, all fertilizer and soil conditioner facilities shall provide secondary product containment as specified in these rules.

21—44.51(200) Definitions.

"Mobile containers." Containers designed and used for transporting fertilizer or soil conditioner materials.

"Nonmobile containers." All containers not defined as mobile.

"Permanent storage site." Location where nonmobile containers are used for fertilizer and soil conditioner storage in quantities of 5,000 gallons or more. One container or a combination of containers with a volume of 5,000 gallons or less is exempt.

"Secondary containment." Any structure used to prevent runoff or leaching of fertilizer or soil conditioner materials.

21—44.52(200) Design plans and specifications. Design plans and specifications for facilities required under these rules shall be submitted to the Iowa department of agriculture and land stewardship prior to the start of construction, along with certification from a registered engineer (as defined in Iowa Code chapter 542B) that the designed facilities will comply with all requirements of these rules.

A person may deviate from the requirements of these rules if such deviations are clearly noted on the design plans and specifications, along with certification from a registered engineer that these deviations will not reduce the effectiveness of the facilities in protecting surface or groundwaters.

21—44.53(200) New fertilizer or soil conditioner storage site location. New permanent storage sites as defined in rule 21—44.51(200) shall be selected in accordance with the requirements of the Iowa department of natural resources. The new site, if located in a floodplain, shall be protected from inundation from floods. New permanent fertilizer and soil conditioner storage sites shall be located at a minimum of 400 feet from public water supply wells or below ground level finished water storage facilities and a minimum of 150 feet from private water supply wells.

21—44.54(200) Certification of construction. Upon completion of construction, certification by the owner or owner's agent shall be made to the Iowa department of agriculture and land stewardship that the facilities were constructed in accordance with rules 21—44.52(200) to 21—44.58(200). If departmental investigation, subsequent to the completion of construction, determines the constructed facilities were not constructed in accordance with the submitted plans and specifications or the requirements of these rules, the owner shall correct any deficiencies in a timely manner as set forth by the department.

The department may exempt any person from a requirement under rules 21—44.52(200) to 21—44.58(200) if an engineering justification is provided demonstrating variations from the requirements will result in at least equivalent effectiveness.

21—44.55(200) Secondary containment for liquid fertilizers and liquid soil conditioner storage. All liquid fertilizer and soil conditioner storage facilities, except anhydrous ammonia storage facilities, as defined in rule 21—44.51(200) shall be located within a secondary containment structure. The secondary containment structure shall have a volume 20 percent greater than the volume of the largest storage tank within the area, plus the space occupied by the other tanks in the area, and may be constructed of earth, concrete, or a combination of both.

44.55(1) Secondary containment structures constructed entirely or partially of earth shall comply with the following minimum requirements:

a. The soil surface, including dike, shall be constructed to prevent downward water movement at rates greater than 1×10^{-6} cm/sec., and shall be maintained to prevent downward water movement at

rates greater than 1 x 10^{-5} cm/sec. The method of achieving a satisfactory seal shall be determined by a registered engineer.

b. Dike shall be protected against erosion. If the slope is 30 degrees or less, grass can be sufficient protection, provided it does not interfere with the required soil seal. If greater than 30 degrees, other methods of erosion protection shall be used.

c. Top width of dike shall be no less than 2½ feet. The slope should be no greater than 45 degrees.

d. The diked area shall not have a relief outlet and valve. The base shall slope to a collecting spot where storm water can be pumped over the berm, provided the liquid is not contaminated with fertilizer or soil conditioner materials. If contaminated with liquid fertilizer or soil conditioner, the liquid shall be field applied at normal fertilizer application rates or transferred to auxiliary storage tanks.

e. Storage containers shall be anchored or placed on a raised area to prevent flotation or instability in the event of discharge into the secondary containment facility.

44.55(2) Secondary containment structures constructed of concrete shall be watertight and comply with the following requirements:

a. The base of the containment structure shall be designed to support all tanks and their contents.

b. The diked area shall not have a relief outlet and valve. The concrete base shall be sloped to a collecting area for recovery of fertilizer material. Storm water may be discharged over the containment wall, provided the liquid is not contaminated with fertilizer or soil conditioner material. If contaminated, the liquid shall be field applied at normal fertilizer application rates or transferred to auxiliary storage tanks.

c. Storage containers shall be anchored or placed on a raised area to prevent flotation or instability in the event of discharge into the secondary containment facility.

d. Routine inspection is required to ensure against concrete cracks. Where cracks exist, storage integrity shall be maintained with acceptable sealant.

21—44.56(200) Secondary containment for nonliquid fertilizers and soil conditioners. Nonliquid fertilizer and soil conditioner stored in a totally enclosed building are exempt from the requirements of this rule. Unless stored in a totally enclosed building, all nonliquid fertilizer and soil conditioner materials shall be stored within an area which drains into a secondary containment structure. The secondary containment structure shall have a volume sufficient to retain the equivalent of 12 inches of runoff from the area drained into the containment structure. This minimum storage volume may be provided within the containment structure or in auxiliary storage tanks, and may be constructed of earth, concrete, or a combination of both.

44.56(1) Secondary containment structures constructed entirely or partially of earth shall comply with the following requirements:

a. The soil surface, including dike, shall be constructed to prevent downward water movement at rates greater than 1 x 10^{-6} cm/sec., and shall be maintained to prevent downward water movement at rates greater than 1 x 10^{-5} cm/sec. The method of achieving a satisfactory seal shall be determined by a registered engineer.

b. Dike shall be protected against erosion. If the slope is 30 degrees or less, grass can be sufficient protection, provided it does not interfere with the required soil seal. If greater than 30 degrees, other methods of erosion protection shall be used.

c. Top width of dike shall be no less than 2½ feet. The slope should be no greater than 45 degrees.

d. The diked area shall not have a relief outlet.

e. All liquid and other material collected shall be field applied at normal fertilizer application rates or transferred to auxiliary storage tanks.

44.56(2) Runoff collection structures constructed of concrete shall comply with the following requirements:

a. The base of the structure shall be maintained to prevent downward water movement.

b. The diked area shall not have a relief outlet.

c. All liquid and other material collected shall be field applied at normal fertilizer application rates or transferred to auxiliary storage tanks.

These rules are intended to implement Iowa Code section 200.14.

21—44.57(200) Fertilizer loading, unloading, and mixing area.

44.57(1) All loading, unloading, and mixing of liquid fertilizer or liquid soil conditioners, unless performed in the field of application, shall be done within a containment area. The containment area shall be large enough to prevent spillage onto unprotected areas and paved with asphalt, concrete, or other impervious material. It shall slope to a recovery system that will allow collected materials to move to a containment structure which complies with rule 21—44.55(200). In addition, the area shall be so constructed, using curbs or other means, as to prevent spilled materials from running out of the containment area. Any contaminated liquid or material shall be field applied at normal fertilizer rates or used in a liquid mixing operation.

44.57(2) All loading or mixing of nonliquid fertilizers or nonliquid soil conditioners at permanent storage sites shall be done in an area paved with asphalt, concrete or other impervious materials. The area shall also be so constructed, using curbs or other means to prevent runon or runoff of storm water generated by a four-inch rain. The area shall contain a recessed catch basin so that contaminated water can be moved to storage tanks or a secondary containment area. Uncontaminated rain water, ice, or snow can be discharged as storm water. Any contaminated water or other materials shall be field applied at normal fertilizer rates or used in a liquid mixing operation.

44.57(3) A spill containment structure will not be required if loading, unloading, or mixing of a nonliquid fertilizer or nonliquid soil conditioners is done entirely within an enclosed building and no washing operations are conducted within the enclosed area.

44.57(4) Unloading of all types of equipment and loading of railroad cars with nonliquid fertilizer or nonliquid soil conditioners shall be exempt from the containment area provisions of subrule 44.57(2) provided any materials spilled during the unloading/loading operations are promptly cleaned up and fed back into the unloading/loading system.

44.57(5) Rules 21—44.2(206) to 21—44.11(206) shall apply when fertilizers or soil conditioners and pesticides are combined.

44.57(6) Fertilizers and soil conditioners must be handled in a manner that minimizes dust and vapors from movement off of the site.

21—44.58(200) Wash water and rinsates. All washing of fertilizer and soil conditioner handling and application equipment at permanent storage sites shall be conducted within an area which drains into a containment structure which complies with rule 21—44.55(200). No fertilizer rinsates or wash waters from fertilizer or soil conditioner equipment shall be disposed of through sanitary or storm sewer systems. Field washing of fertilizer or soil conditioner equipment is permissible and encouraged if performed at the site of final fertilizer or soil conditioner application for a given day and no runoff from the wash site occurs.

These rules are intended to implement Iowa Code section 200.14.

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[1] Effective date of 9.3 and 9.7 delayed seventy days by the Administrative Rules Review Committee at its 11/11/86 meeting.
(Chapter 9 renumbered as Chapter 44, IAC 7/27/88)

CHAPTER 45
PESTICIDES

[Appeared as Ch 9, 1973 IDR]
[Prior to 7/27/88 see Agriculture Department 30—Ch 10]

DIVISION I

21—45.1(206) Definitions and standards.

45.1(1) The following definitions are hereby adopted.

"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.

"Certified handler" means a person employed by a licensed commercial applicator, noncommercial applicator, public applicator, or pesticide dealer who handles pesticides in other than unopened containers for the purposes of preparing, mixing or loading pesticides for application by another person, repackaging bulk pesticides or disposing of pesticide-related wastes from these activities.

"Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from the plant with or without causing abscission.

"Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

"Fungi" means all nonchlorophyll-bearing thallophytes, that is, all noncholorophyll-bearing plants of a lower order than mosses and liverworts, as for example, rusts, smuts, mildews, molds, yeasts and bacteria except those on or in living man or other animals.

"Fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any fungi.

"Herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed or undesirable plant.

"Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes and wood lice.

"Insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects and related forms which may be present in any environment whatsoever.

"Nematocide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating nematodes or subterranean pests.

"Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform or saclike bodies covered with cuticle and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms.

"Nonchemical pest control device" means any instrument or contrivance, other than a firearm or trap, intended or purported to be a primary pest control device or a pest control aid for repelling insects or rodents without the use of chemicals through utilization of electromagnetic, sound, ultrasonic, subsonic, cosmic, geotechnical or other similar wave technology.

"Noncommercial applicator" means any person who applies restricted use pesticides on lands or property owned, rented or leased by the applicator or the applicator's employer. This definition shall not apply to private applicators using restricted use pesticides in the production of agricultural commodities.

"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.

"Rodent" means any animal of the order Rodentia, including, but not limited to, rats, mice, rabbits, gophers, prairie dogs and squirrels.

"Rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating rodents or any other vertebrate animal which the secretary shall designate to be a pest.

"Use of a pesticide contrary to its labeling" means to use any registered pesticide in a manner not permitted by the labeling provided that the phrase shall not include:

1. Applying a pesticide for agricultural or horticultural purposes only at any dosage, concentration or frequency less than that specified on the labeling.

2. Applying a pesticide for agricultural or horticultural purposes only against any target pest not specified on the labeling if the application is to the crop, animal or site specified on the labeling unless the labeling specifically states that the pesticide may be used only for the pests specified on the labeling; or

3. Employing any method of application not prohibited by the labeling for agricultural or horticultural purposes only.

4. Mixing pesticides or mixing pesticide with a fertilizer when such mixture is not prohibited by the labeling for agricultural or horticultural purposes only.

"Weed" means any plant which grows where not wanted.

"Wood-destroying insect" means subterranean termites, carpenter ants, and powder-post beetles.

45.1(2) Additional definitions and standards which are consistent and applicable to the pesticide Act shall be those established by the Association of American Pesticide Control Officials.

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

[**ARC 7556B**, IAB 2/11/09, effective 2/1/09; **ARC 8704B**, IAB 4/21/10, effective 5/26/10]

21—45.2(206) Methods of analysis. The current methods of analysis of the Association of Official Analytical Chemists of North America shall be adopted as the official methods insofar as they are applicable, and such other methods shall be used as may be necessary to determine whether the product complies with the law.

21—45.3(206) Registration required. No person shall distribute, give, sell or offer to sell any pesticide which has not been registered with the department of agriculture and land stewardship.

45.3(1) *Registration fees.* All pesticides distributed for sale in the state of Iowa shall be registered pursuant to Iowa Code section 206.12. The registration period shall be January 1 through December 31 of each year. The annual registration fee for each brand and grade of pesticide shall be a minimum of $250 and a maximum of $3000. Intermediate fees shall be determined by multiplying the gross dollar amount of annual sales in Iowa for each pesticide product by one-fifth of 1 percent or 0.002.

Each registrant shall submit an application for registration on forms approved by the secretary of agriculture. The registration fee for each product shall be submitted with the application for registration. Application for new or initial registrations of pesticide products shall be accompanied by the minimum registration fee of $250.

45.3(2) *Renewal fees.* Pesticide product registration renewal fees shall be based on the previous year's gross annual sales with the dollar value derived from the first level of distribution for each pesticide product sold in the state of Iowa. Each registrant shall be responsible for determining total annual Iowa sales data for each pesticide product sold in Iowa whether the pesticide product is distributed for retail sale in Iowa by a manufacturer or from a distributor or wholesaler in the state or from outside the state. Registration renewal fees for pesticide products registered for sale and use in Iowa shall be based on one-fifth of 1 percent of the dollar amount of the total sales for each pesticide product sold. Registration

renewal fees shall be a minimum of $250 and a maximum of $3000 per pesticide product for each registration period.

The annual sales data for each pesticide product registered in Iowa shall be maintained on file for a minimum of three years with the registrant and shall be made available for audit upon request by the department.

45.3(3) *Exemption from minimum fee.* A manufacturer or registrant of a pesticide product may file a request for an exemption to the minimum product registration fee of $250 and the secretary may grant an exemption to the minimum registration fee for a period not to exceed one year provided that at least one of the following conditions is met:

a. The application is for pesticide product renewal registration; and the total annual sales in Iowa are less than $20,000; and no similar pesticides are registered in the state. A similar pesticide shall be of similar composition and labeled for a similar use pattern provided that the applicant submits a signed affidavit reflecting gross annual sales in Iowa of the pesticide produced for the previous year.

b. The pesticide product is formulated or comprised of naturally occurring substances including, but not limited to, plant or animal derivatives or microorganisms, and which has an oral LD50 toxicity of 5000 milligrams per kilogram or greater.

c. Pesticides registered under the authority of Section 18 of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) for emergency, crisis or public health quarantine situations, when the secretary of agriculture initiates the application.

d. Pesticides registered under the authority of Section 24(c) of FIFRA when the secretary of agriculture initiates the application.

45.3(4) *Penalty for nonregistered pesticides.*

a. Any pesticide distributed in Iowa which is not registered in the state shall be subject to Stop Sale, Use or Removal Order. A penalty shall be assessed the registrant equal to 25 percent of the registration fee due to the department. Upon receipt of the required registration fee due and the required penalty, the pesticide product may be released for sale in Iowa for the effective registration period.

b. A manufacturer or registrant shall not be subject to penalties for nonregistered discontinued pesticide products if adequate proof can be provided to the department indicating that all distributors and retailers handling a discontinued pesticide product were properly notified.

45.3(5) *Discontinued pesticides.* Discontinued pesticide product registrations shall be renewed for a minimum of two years after the product is discontinued; and the pesticide product registration renewal application shall identify discontinued products. Any registrant that discontinues registration of a pesticide product shall accept the return of any product in its original unbroken container that remains in the channels of trade after the registration expires. This subrule shall not apply to registered custom blended pesticide products.

45.3(6) *Registration renewal grace period.* The registration period shall be January 1 through December 31 of each year. However, a registrant shall be granted a grace period of three months ending on the last day of March of each year for registration renewal. A registrant shall be assessed a late fee equaling 25 percent of the registration fees due by the registrant for a registration renewal received on or after the first day of April of each year. Application for registration renewal shall be made on forms prescribed by the secretary and certified by the registrant.

This rule is intended to implement Iowa Code section 206.12.

[**ARC 0392C**, IAB 10/17/12, effective 11/21/12]

21—45.4(206) Registration of products. One exact copy of the labeling of each proposed product shall be submitted with the application. Also, there shall be submitted an ingredient statement, which shall comply with the provisions of 21—45.13(206) herein, the proposed directions for use of the product, and a list of the specific pests that the product to be sold is intended to control, if such information is not contained in the labeling. Other pertinent information concerning ingredients and physical properties of the product shall also be included on request by the secretary.

[**ARC 0392C**, IAB 10/17/12, effective 11/21/12]

21—45.5(206) Registration, general application of. A registration of a pesticide is held to apply to the product even though manufactured at or shipped from other than the registered address. When a product has been registered by a manufacturer or jobber, no registration shall be required of other sellers of the product so registered, provided shipments or deliveries thereof are in the manufacturer's or registrant's original unopened and properly labeled container.

21—45.6(206) Revocation, suspension or denial of registration. Any of the following causes is sufficient to justify revocation or suspension of registration or denial of application of renewal of an expired/expiring registration of a pesticide.

1. If the labeling bears any statement, design or graphic representation relative thereto, or to its ingredients, which is false or misleading in any particular;
2. If the product is found to be an imitation of, or illegally offered for sale under the name of another pesticide;
3. If the labeling bears reference to Iowa registration number;
4. If the labeling accompanying the pesticide does not contain directions for use which are necessary and, if complied with, adequate for the protection of the public;
5. If the label does not contain a warning or caution statement which may be necessary and, if complied with, adequate to prevent injury to humans and other vertebrate animals;
6. If the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read under customary conditions of purchase. Provided, however, the secretary may permit the ingredient statement to appear prominently on some other part of the container, if the size or form of the container makes it impracticable to place it on the part of the retail package which is displayed;
7. If any word, statement or other information required to appear on the label or labeling is omitted or not prominently placed thereon and in such terms as to render it likely to be read and understood under customary conditions of purchase and use;
8. If an insecticide, nematocide, antibiotic, bactericide, fungicide or herbicide is found to be injurious to humans or other useful vertebrate animals or to vegetation (except weeds), to which it is applied or to the person applying such pesticide when used as directed or in accordance with commonly recognized safe practice; or if a plant regulator, defoliant or desiccant when used as directed is found to be injurious to humans or other vertebrate animals or vegetation to which it is applied, or to the person applying such pesticide; provided, however, that physical or physiological effect on plants or parts thereof shall not be deemed to be injurious, when this is the purpose for which the plant regulator, defoliant or desiccant was applied in accordance with label claims and recommendations;
9. If the pesticide is misbranded;
10. If the registrant has been guilty of fraudulent and deceptive practices in the evasion or attempted evasion of the pesticide Act or any rules promulgated thereunder; provided, however, that no registration shall be revoked until the registrant shall have been given an opportunity for a hearing by the secretary.

Special local need registrations and permits. State registration of pesticides pursuant to Section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act as amended by Public Law 92-516 October 21, 1972, Public Law 94-140 November 28, 1975, and Public Law 95-396 September 30, 1978, or any special use permit issued pursuant to revisions of the Federal Insecticide, Fungicide, and Rodenticide Act as amended by Public Law 92-516 October 21, 1972, Public Law 94-140 November 28, 1975, and Public Law 95-396 September 30, 1978, or the Pesticide Control Act, Iowa Code chapter 206, may be denied, amended or revoked when the secretary has made a determination as follows: That such action is necessary to prevent unreasonable adverse effects to humans or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide; or that "special local need" which necessitated the registration or permit no longer exists. Expiration of 24(c) registrations and all special use permits shall be governed by Iowa Code section 206.12.

"Special Local Need" means a pest problem (existing or likely to occur within a state) which cannot be effectively controlled because:

(1) There is no pesticide product registered by EPA for such use; or

(2) There is no EPA-registered pesticide product which, under the conditions of use within the state, would be as safe or as efficacious for such use within the terms and conditions of EPA registration; or

(3) An appropriate EPA-registered pesticide product is not available.

This rule is intended to implement Iowa Code sections 206.9, 206.11, and 206.12, along with the cooperative enforcement program entered into between the state of Iowa and U.S.E.P.A. pursuant to Sec. 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act amended as of September 30, 1978.

21—45.7(206) Changes in labeling or ingredient statement. Changes in the labeling or ingredient statement in registered pesticides shall be submitted in advance to the secretary for approval. The registrant must describe the exact change desired and proposed effective date and such other pertinent information that justify such changes. After the effective date of a change in labeling or ingredient statement the product shall be marketed only under the new claims or ingredient statement, except that a reasonable time may be allowed by the secretary for disposal of properly labeled stocks of the old product. Changes in the composition shall not be allowed if such changes would result in a lowering of the product's value as a pesticide.

21—45.8(206) Label requirements. Each package of pesticide sold separately shall bear a complete label. The label shall contain the name, brand or trademark of the product; name and address of the manufacturer, registrant or person for whom manufactured; directions for use which are necessary and if complied with, adequate for protection of the public; statement of net content in terms of weight or measure in general use; and an ingredient statement. The label of every pesticide, if necessary to prevent injury to humans, other animals and useful vegetation, must contain a warning or caution statement, in nontechnical language based on the hazard involved in the use of the pesticide. In addition, any pesticide highly toxic to humans shall be labeled with a skull and crossbones and with the word "poison" prominently in red on a background of distinctly contrasting color; the first-aid antidote for the poison shall be given and instructions for safe disposal of containers.

NOTE: Products subject to deterioration may bear on their label a statement such as "not to be sold or used after....date...." The use of such a statement, however, in no way relieves the manufacturer of the responsibility for label claims.

21—45.9(206) Directions for use—when necessary. Directions for use are required whenever they are necessary for the protection of the public. The public includes not only users of pesticides but also those who handle them or may be affected by their use, handling, or storage. Directions for use are considered necessary in the case of most small retail containers which go into the hands of users, and in the case of larger containers with the following exception:

Directions may be omitted if the pesticide is to be used by manufacturers in their regular manufacturing processes; provided, the label clearly shows that the product is intended for use only in manufacturing processes and bears an ingredient statement giving the name and percentage of each of the active ingredients.

21—45.10(206) Other claims. No claim shall be made for products in any written, printed or graphic matter accompanying the product at any time which differ in substance from written representations made in connection with registration.

21—45.11(206) Name of product. The name of the product shall appear on the labeling so as not to emphasize any one ingredient or otherwise be misleading. It shall not be arranged on the label in such a manner as to be confused with other terms, trade names or legends.

21—45.12(206) Brand names, duplication of, or infringement on. A brand name is distinctive with reference to the material to which it applies and the registration of a pesticide under the same brand name by two or more manufacturers or shippers should be denied or refused. This principle applies also to the registration of brand names so similar in character as to be likely to be confused by the purchaser. In

the event the same name or a closely similar one is offered by another manufacturer, the secretary may decline the said name a second time, for registration unless required to do so by an order of court.

21—45.13(206) Ingredient statement.

45.13(1) *Location of ingredient statement.* The ingredient statement must appear on that part of the label displayed under customary conditions of purchase except in cases where the secretary determines that, due to the size or form of the container, a statement on that portion of the label is impractical, and permits such statement to appear on another side or panel of the label. When so permitted, the ingredient statement must be in larger type and more prominent than would otherwise be possible. The ingredient statement must run parallel with other printed matter on the panel of the label on which it appears and must be on a clear contrasting background not obscured or crowded.

45.13(2) *Names of ingredients.* The well-known common name of the ingredient must be given or, if the ingredient has no common name, the correct chemical name. If there is no common name and the chemical composition is unknown or complex, the secretary may permit the use of a new or coined name which the secretary finds to be appropriate for the information and protection of the user. If the use of a new or coined name is permitted, the secretary may prescribe the terms under which it may be used. A trademark or trade name may not be used as the name of an ingredient except when it has become a common name.

45.13(3) *Percentages of ingredients.* Percentages of ingredients shall be determined by weight and the sum of the percentages of the ingredients shall be one hundred. Sliding scale forms of ingredient statements shall not be used.

45.13(4) *Designation of ingredients.*

a. Active ingredients and inert ingredients shall be so designated, and the term "inert ingredient" shall appear in the same size type and be equally as prominent as the term "active ingredients."

b. If the name but not the percentage of each active ingredient is given, the names of the active and inert ingredients shall respectively be shown in the descending order of the percentage of each present in each classification and the name of each ingredient shall be given equal prominence.

45.13(5) *Active ingredient content.* As long as a pesticide is subject to the Act the percentages of active ingredients declared in the ingredient statement shall be the percentages of such ingredients in the pesticide.

21—45.14(206) Net contents. Each package of pesticide shall show the net weight or measure of content, either stenciled or printed on the package or container, or on a tag attached thereto. Indefinite statements of content such as ". . . . oz. when packed" shall not be used. Statements of liquid measure, or of specific gravity or density of liquid preparations, or expression of composition in terms of pounds per gallon shall be made on the basis of 68°F. (20°C.) except when other basis has been established through trade custom.

21—45.15(206) Coloration of highly toxic materials. The white powder pesticides hereinafter named shall be colored or discolored in accordance with this rule. Provided, however, that any such white powder pesticide which is intended solely for use by a textile manufacturer or commercial laundry, cleaner or dyer as a moth-proofing agent, which would not be suitable for such use if colored and which will not come into the hands of the public except when incorporated into a fabric, shall not be required to be so colored or discolored in accordance with this rule. The hues, values and chromas specified are those contained in the Munsell Book of Color, Munsell Color Company, 10 East Franklin Street, Baltimore, Maryland.

45.15(1) The coloring agent must produce a uniformly colored product not subject to change in color beyond the minimum requirements during ordinary conditions of marketing and storage and must not cause the product to become less effective or cause damage when used as directed or in accordance with commonly recognized safe practice.

45.15(2) Standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite and barium fluosilicate shall be colored any hue, except the yellow-reds and

yellows, having a value of not more than eight or a chroma of not less than four or shall be discolored to a neutral lightness value not over seven.

45.15(3) Sodium fluoride and sodium fluosilicate shall be colored blue or green having a value of not more than eight and a chroma of not less than four or shall be discolored to a neutral lightness value not over seven.

45.15(4) Other white powder pesticides may be required to be colored or discolored after investigation and public hearing.

45.15(5) The secretary may permit other hues to be used for any particular purpose if the prescribed hues are not feasible for such purposes, and if such action will not be injurious to the public.

45.15(6) The coloration requirements above shall apply to the materials named therein and not to nonhighly toxic mixtures consisting of other ingredients with highly toxic materials.

This rule is intended to implement Iowa Code section 206.11.

21—45.16(206) Illegal acts. All pesticides, whether registered or not, sold or offered for sale shall comply with the provisions of section 206.11(1) of the pesticide Act.

The secretary shall examine pesticides from time to time, and if it appears at any time that a pesticide fails to comply with any provision of the pesticide Act, notice may be given to the manufacturer or seller thereof and an opportunity to present views either orally or in writing about the alleged violation. If it then appears that the provisions of this Act have been violated, a statement of the facts may be sent to the county attorney in the county in which the violation occurred for the purpose of instituting criminal proceedings.

21—45.17(206) Guarantee of pesticide.

45.17(1) Any manufacturer or distributor or other person residing in the United States may furnish to any person to whom it sells a pesticide a guarantee that the pesticide was lawfully registered at the time of sale and delivery to such person, and that the pesticide complies with all the requirements of the Act and rules herein.

45.17(2) No reference to or suggestion that a guarantee of registration has been given shall be made in the labeling of any pesticide.

21—45.18(206) Shipments for experimental use. A pesticide shipped or delivered for experimental use shall not be considered a violation of section 206.11(1) of the pesticide Act.

45.18(1) When the pesticide is shipped or delivered for experimental use under the supervision of any federal or state agency authorized by law to conduct research.

45.18(2) By others if the pesticide is not sold and if the container thereof is plainly and conspicuously marked "For Experimental Use Only—Not To Be Sold".

45.18(3) Or provided that a written permit has been obtained from the secretary either specific or general subject to such restrictions or conditions as may be set forth in the permit. The application for such a permit shall contain such information as may be required by the secretary; and in addition the proposed labeling thereon shall bear (1) the prominent statement "For Experimental Use Only" on the container label; (2) a caution or warning statement which may be necessary and if complied with adequate for the protection of those who may handle or be exposed to the experimental products; (3) the name and address of the applicant; (4) the name or designation of the formulation; (5) if the pesticide is to be sold, the statement of the names and percentages of the principal active ingredients in the product.

45.18(4) A pesticide intended for experimental use shall not be offered for general sale by a retailer or others, or advertised for general sale.

21—45.19(206) Enforcement.

45.19(1) Collection of samples. Samples of pesticides and devices shall be collected by an official investigator or by any employee of the state who has been duly designated by the secretary, by entry into any place during reasonable business hours.

45.19(2) Nonchemical pest control devices. Manufacturers or their representatives intending to sell or lease a nonchemical pest control device in the state shall submit efficacy and safety data to the department of agriculture and land stewardship prior to the sale or lease. This requirement may include the furnishing of specimen devices or samples. The department or the department's designee shall examine or test the device as may be necessary to ascertain the reliability, efficacy and safety data of the device and actual or potential adverse effects of the device upon human health and safety. The costs of conducting the examination or test shall be borne by the manufacturer or the manufacturer's representative.

45.19(3) Notice of apparent violation. If from an examination or analysis a pesticide appears to be in noncompliance with the pesticide Act, a written stop sale, use or removal notice will be initiated by the secretary or the secretary's duly appointed authority. The notice shall state the manner in which the product fails to meet the requirements of the Act and the regulations and that the recipient shall be given an opportunity to offer such written explanation as the recipient may desire.

45.19(4) Any person may obtain an opportunity to present relevant arguments or comments by submitting a written request within 20 days from the date of mailing of the notice.

45.19(5) The secretary may suspend an applicator's license, permit or certification pending inquiry and, after opportunity for a hearing, may deny, suspend, revoke or modify any provision of any license, permit or certification issued under the Act, upon receipt of information from the environmental protection agency that the applicator has been convicted under the criminal provision of Section 14(b) of FIFRA or has been assessed a civil penalty under Section 14(a) of FIFRA.

[**ARC 8704B**, IAB 4/21/10, effective 5/26/10]

21—45.20(206) Hazardous rodenticides. Before the rodenticides sodium fluoracetate (1080), thallium sulfate, and phosphorous pastes are to be used by any federal, state, county, municipal, or public officers, or their deputies, employees, or agents, in their official duties in pest control; or licensed pest control operators for use in their service work; the applicator shall notify the department of agriculture and land stewardship prior to use, of: (1) The location or site where the rodenticide is to be used; (2) Date the application is to be made; and (3) The amount of hazardous rodenticide to be used. At the time of notification the licensee must give assurance that the certified applicator understands the hazards of the product, the standard operating procedures as provided by the manufacturer, and, assure the department that the certified applicator will comply with all label precautions. Failure to comply with this rule may result in the suspension or revocation of the applicator's license.

21—45.21(206) Highly toxic. A pesticide which falls within any of the following categories when tested on laboratory animals (mice, rats and rabbits) is highly toxic to humans within the meaning of these principles:

45.21(1) *Oral toxicity.* Those which produce death within 14 days in half or more than half the animals of any species at a dosage of 50 milligrams at a single dose, or less, per kilogram of body weight when administered orally to ten or more such animals of each species.

45.21(2) *Toxicity on inhalation.* Those which produce death within 14 days in half or more than half of the animals of any species at a dosage of 200 parts or less by volume of the gas or vapor per million parts by volume of air when administered by continuous inhalation for one hour or less to ten or more animals of each species, provided such concentration is likely to be encountered by humans when the pesticide is used in any reasonably foreseeable manner.

45.21(3) *Toxicity by skin absorption.* Those which produce death within 14 days in half or more than half of the animals (rabbits only) tested at a dosage of 200 milligrams or less per kilogram of body weight when administered by continuous contact with the bare skin for 24 hours or less to ten or more animals.

45.21(4) *Designation as highly toxic.* Provided, however, that the secretary may exempt any pesticide which meets the above standard but which is not in fact highly toxic to humans, from these principles with respect to pesticides highly toxic to humans, and may after a hearing designate as highly toxic to humans any pesticide which experience has shown to be so in fact.

45.21(5) *Human data.* If the secretary finds, after opportunity for hearing that available data on human experience with any pesticide indicates a toxicity greater than that indicated from the above described tests on animals, the human data shall take precedence and if that protection of the public health so requires, the secretary shall declare such pesticide to be highly toxic to humans for the purposes of this Act and the regulations thereunder.

21—45.22(206) License and certification standards for pesticide applicators. No person shall engage in the business of applying pesticides to the land or property of another at any time without being licensed and certified by the secretary. No person shall apply any restricted use pesticide without first complying with certification standards or unless the application is made under the direct supervision of a certified applicator as specified in this chapter.

45.22(1) *License for commercial, noncommercial and public applicators.* Before a license is issued, each commercial, noncommercial and public applicator shall demonstrate competence by qualifying for a commercial, noncommercial and public applicator's license by successfully completing the appropriate certification examinations administered by the secretary to demonstrate knowledge regarding the potential for pesticides contaminating groundwater aquifers and proper pesticide handling practices that will aid in preventing the contamination of groundwater aquifers, calibration, integrated pest management, recognition of common pests to be controlled, timing and methods of application, interpretation of label and labeling information, safety precautions and preharvest or reentry restrictions, specific procedures to be used in disposing of pesticides and containers, and related legal responsibility under the classifications for which such applicant is to be licensed.

a. Examination scores for individuals not completing certification requirements or paying the required fees shall be maintained on file as valid test scores for a maximum of one year following the date each examination was successfully completed.

b. Certification categories which are added to an individual's current certification shall expire on the same date the individual's current certification card expires.

45.22(2) *Certification of commercial, noncommercial and public applicators.*

a. Initial certification. To be initially certified as a commercial, noncommercial or public applicator, a person shall demonstrate a fundamental knowledge of the minimum state and federal standards of competency for commercial applicators by passing an examination administered by the department. The examination may cover subjects relating to the safe handling, application and storage of pesticides, the correct calibration of equipment used for the application of pesticides, and the effects of pesticides upon groundwater. The examination may also cover subjects related to the minimum standards of competency for commercial applicators outlined in 40 CFR 171.4(b) and (c) as revised July 1, 1992.

b. A person who employs noncommercial applicators shall apply for a noncommercial applicator's license; and all noncommercial applicators shall be certified by successfully completing the appropriate examinations for the type of restricted use pesticide applications being made and shall be required to pay the certification fee of $75 for a three-year certification for each employee certified. Noncommercial applicators shall be subject to the $25 annual license fee. The provisions of Iowa Code section 206.13 relating to licenses and requirements for their insurance shall not apply to a noncommercial applicator, providing that the noncommercial applicator:

(1) Is a full-time employee of a privately held entity.

(2) Shall not publicly claim to be a commercial pesticide applicator nor engage in the business of applying pesticides other than as an employee of a company on company property.

c. Separate examinations shall be taken and passed for each classification or category in which the commercial, noncommercial or public applicator intends to become certified, including the following: #1a—Agriculture Weed Control, #1b—Agriculture Insect Control, #1c—Agriculture Crop Disease Control, #1d—Fruit and Vegetable Pest Control, #1e—Animal Pest Control, #2—Forest Pest Control, #3ot—Ornamental and Turf Pest Control, #3t—Turf Pest Control, #3o—Ornamental Pest Control, #3g—Greenhouse Pest Control, #4—Seed Treatment, #5—Aquatic Pest Control, #6—Right-of-Way Pest Control, #7a—General and Household Pest Control, #7b—Termite Control,

#7c—Fumigation, #7d—Community Insect Control, #7e—Wood Preservatives, #8—Public Health Pest Control, #9—Regulatory Pest Control, #10—Demonstration and Research Pest Control, and #11—Aerial Application.

d. Wood-destroying insect inspection. Persons conducting wood-destroying insect inspections for the purpose of issuing a wood-destroying insect report for real estate transactions, real estate refinance transactions, or for treatment for control or prevention of wood-destroying insect infestations shall have in effect a valid Iowa commercial pesticide applicator license and certification in category 7b—Termite Control.

45.22(3) *Certification of private applicators.*

a. Initial certification. To be initially certified as a private applicator, a person shall demonstrate a fundamental knowledge of the minimum state and federal standards of competency for private applicators by passing an examination administered by the department and submitting a $15 certification fee. The examination shall cover subjects relating to the safe handling, application, and storage of pesticides, the correct calibration of equipment used for the application of pesticides, and the effects of pesticides upon groundwater. The examination shall also cover subjects related to the minimum standards of competency for private applicators outlined in 40 CFR 171.5 as revised July 1, 1992. A private applicator shall pay a certification fee of $15 for a period not to exceed three years.

b. Renewal of private applicator certification. A private applicator's certification shall be renewed upon evidence that the applicator has paid the required certification fee and has successfully completed an instructional course consisting of either an examination or continuing instructional courses as prescribed by the department. A private applicator shall pass an examination each third year following initial certification or may elect to attend two hours of approved continuing instructional courses each year during the renewal period. A private applicator failing to complete the required two hours of approved instruction for each year during the renewal period following initial certification or recertification shall be required to pass an examination prior to recertification.

c. A private applicator who purchases or applies a grain fumigant which is classified as a restricted use pesticide shall pass an examination prescribed by the department for initial certification in the private fumigation category in addition to the examination required for initial private certification. Upon successfully completing the required private fumigation examination the private applicator's certification credentials shall be so designated. The fumigation category designation shall remain valid until the private applicator's certification expires. To renew the fumigation category certification a private applicator may elect to complete an instructional course consisting of either an examination or instructional course as prescribed by the department in addition to the examination or instruction required for private certification.

45.22(4) *Renewal of license classification and certification.*

a. Each commercial, noncommercial and public applicator's license classification shall expire annually on December 31 and shall be renewed upon payment of the required license fee provided that all of the applicant's personnel who apply pesticides are certified commercial, noncommercial or public applicators and are certified in the appropriate classifications covering their pesticide application activities.

b. Each commercial, noncommercial and public applicator's certification shall expire December 31 of the third year of the three-year certification and shall be renewed by the department upon receipt of evidence that the applicator has paid the required certification fee and has completed an instructional course consisting of either an examination or continuing instructional courses as prescribed by the department. A commercial, noncommercial or public applicator shall pass an examination each third year following initial certification or may elect to attend two hours of approved continuing instructional courses each year during the renewal period. A commercial, noncommercial or public applicator seeking recertification by attending continuing instructional courses shall attend courses approved for each certification category in which the person is seeking recertification. A two-hour continuing instructional course may be approved for more than one certification category. A commercial, noncommercial or public applicator failing to complete the required two hours of approved instruction for each year during the renewal period shall be required to pass an examination prior to recertification.

c. Any person who attempts to misrepresent anyone or attempts to use unauthorized assistance in passing any examination shall be denied the privilege of taking any examination for the period of one year.

d. The secretary may revise certification periods for pesticide applicators with certification fees adjusted to reflect an equivalent certification fee based on fees currently established in order to provide a more uniform distribution of pesticide applicator certification renewal dates.

45.22(5) *Certification renewal periods for commercial, noncommercial, public and private applicators.*

a. Renewal periods for commercial, noncommercial, and public applicators. The renewal period is the time within which the commercial, noncommercial, public and private applicators have to renew their certification by either completing the required certification examination or instructional courses and pay the required certification fee. Except as provided in paragraph 45.22(5)*"c,"* the renewal period for commercial, noncommercial and public applicators shall begin on the date a person has completed the required certification examination or instructional courses and paid the required certification fee. The renewal period shall end on December 31 of the third calendar year of the certification cycle.

b. The renewal period for private applicators. The renewal period for a private applicator shall begin on the date a person has completed the required certification examination or instructional courses and paid the required certification fee. The renewal period shall end on April 15 of the calendar year following the certification expiration date.

c. The renewal period for a person completing initial certification requirements on October 1 or any time thereafter during a calendar year shall begin on January 1 of the following calendar year.

d. Except as provided in paragraphs *"a," "b,"* and *"c"* of this subrule, continuing instruction credits from a previous year in a certification renewal period shall not be accepted nor shall credits accumulated be accepted for use in a future year in a certification renewal period.

45.22(6) *Report of licensee.*

a. A commercial, noncommercial or public applicator applying for recertification without retesting shall file a report on a form provided by the department certifying that the required continuing instructional courses have been completed.

b. The licensee shall maintain a file of the certificates of completion required under subrule 45.52(4) for each employee recertifying by attending continuing instruction courses. The file shall contain the certificates of completion for the period covering the previous certification period and current certification period for each employee receiving continuing instruction courses.

c. An employee who transfers to a new employer shall, upon request, be provided copies of the certificates of completion on file with the previous employer for filing with a new employer.

d. Files containing certificates of completion shall be open for inspection upon request by the department.

45.22(7) *Standards for supervision of noncertified applicators by certified private and commercial applicators.* Certified applicators whose activities indicate a supervisory role must demonstrate a practical knowledge of federal and state supervisory requirements, including labeling, regarding the application of restricted use pesticides by noncertified applicators.

The availability of the certified applicator must be directly related to the hazard of the situation. In many situations, where the certified applicator is not required to be physically present, "direct supervision" shall include verifiable instruction to the competent person, as follows: *(a)* detailed guidance for applying the pesticide properly; and *(b)* provisions for contacting the certified applicator in the event the certified applicator is needed. In other situations, and as required by the label, the actual physical presence of a certified applicator may be required when application is made by a noncertified applicator.

45.22(8) *License application—contents.* Each license application submitted pursuant to Iowa Code section 206.6 shall include a complete list of all employees who may apply pesticides. Any changes regarding the status of the employees named on the application or new employees shall be reported immediately to the pesticide section of the Iowa department of agriculture and land stewardship.

45.22(9) *Exemption from certification.* An employee of a public agency who applies pesticides classified for general use and which are in ready-to-use formulations shall be exempt from the certification requirements of Iowa Code chapter 206 provided that the application of pesticides is an incidental part of the person's duties.

45.22(10) *Pesticide use on private golf courses.* Employees of private golf courses who apply pesticides shall comply with the same requirements for employees applying pesticides for public golf courses including, but not limited to, certification and notification requirements.

45.22(11) *Oral certification examination.* A private applicator may request certification by oral examination in lieu of a written examination. A written request shall be submitted to the secretary or an authorized representative describing in detail the reasons an oral examination is requested in lieu of the written examination. Oral examinations will be administered by appointment only.

The oral examination shall cover the same certification standards as the written examination, and a minimum passing grade shall be 70 percent of the questions answered correctly.

As a prerequisite for an oral examination, the secretary may require the applicant to attend a private applicator training program sponsored by the Iowa State University cooperative extension service.

45.22(12) *Temporary exemption from certification.* A commercial, noncommercial, public or private applicator need not be certified to apply pesticides for a period of 21 days from the date of initial employment if the commercial, noncommercial, public or private applicator is under the direct supervision of a certified applicator. Except for subrules 45.22(13) to 45.22(15), "under the direct supervision of" means the application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator who is physically present by being in sight or hearing distance of the supervised person.

45.22(13) *Temporary exemption for certification for agricultural applicators.* A commercial applicator who applies pesticides to agricultural land may elect to be exempt from the certification requirements for a commercial applicator for a period of 21 days from the date of initial employment if the applicator meets the requirements of a private applicator. A commercial applicator who applies pesticides to agricultural land and elects to take advantage of the exemption as provided for in Iowa Code section 206.5 shall work under the instructions and control of a certified commercial applicator. The supervising applicator is not required to be physically present but shall be immediately available if and when necessary.

45.22(14) *Employees of food processing and distribution establishments.* An employee of a food processing and distribution establishment is exempt from the certification requirements of Iowa Code section 206.5 provided the following conditions are met:

a. The employer has at least one person holding a supervisory position that is a certified applicator.

b. The employer provides a program approved by the department for training, testing and certification of personnel who apply, as an incidental part of their duties, any restricted use pesticide on property owned or rented by the employer.

c. The exempt employee applies pesticides under the direct supervision of a certified applicator. "Under direct supervision" shall not require the physical presence of the supervising certified applicator, if the supervising applicator is immediately available if and when needed.

45.22(15) *Certified handler.*

a. Certified handler. Each person employed by a licensed commercial applicator, noncommercial applicator, public applicator, or pesticide dealer who handles pesticides in other than unopened containers for the purposes of preparing, mixing or loading pesticides for application by another person, repackaging bulk pesticides or disposing of pesticide-related wastes from these activities shall become certified by taking and passing an examination as prescribed by the secretary.

b. A certified handler shall demonstrate a fundamental knowledge of the potential for pesticides contaminating groundwater aquifers or surface waters and proper handling practices that will aid in preventing the contamination of groundwater aquifers or surface waters, adverse effects on the environment and any other personal or public hazards associated with the use of pesticides by passing a fundamental examination administered by the secretary covering interpretation of label and labeling information, mixing and application of pesticides in accordance with label instructions including proper

concentration of pesticides to be used and local environmental situations that shall be considered during handling of pesticides to avoid contamination, specific procedures to be used in disposing of pesticides and containers, recognition of poisoning symptoms, procedures to follow in case of a pesticide accident, safe handling of pesticides and the effects on groundwater and surface water, the proper use of personal safety equipment and related legal responsibilities.

c. A certified handler's certification shall expire December 31 of the third year of the three-year certification and shall be renewed by the secretary upon receipt of evidence that the applicator has passed a written examination similar and equal to that required to obtain initial certification and has paid the required certification fee. A 21-day grace period from the day of initial employment shall be allowed to meet the certification requirements.

d. A certified handler employed by a licensed applicator shall work under the direct supervision of a certified commercial, noncommercial or public applicator employed by the same firm or agency. "Under direct supervision" shall not require the physical presence of the supervising certified applicator in reference to agricultural crop pesticide applications, if the supervisor is available if and when needed.

e. A certified handler shall not act in the capacity of a supervisor of other certified handlers or certified applicators.

45.22(16) *Transition to recertification by instruction.* Recertification may be accomplished by successful completion of the required written examination every third year or completion of an approved two-hour instructional course each year of the renewal period.

a. Private applicator recertification. A private applicator may apply for recertification by providing evidence of completion of an approved two-hour instructional course for each year during the preceding three-year renewal period. A private applicator failing to meet the required annual two-hour instruction requirement for recertification during the three-year certification renewal period shall apply for recertification by providing evidence of satisfactorily completing an examination. Applications for recertification shall be submitted with a $15 certification fee.

b. Commercial, noncommercial, and public applicator recertification. A commercial, noncommercial or public applicator may apply for recertification by providing evidence of completion of an approved two-hour instructional course in each of the three calendar years preceding the expiration date. Applications for recertification shall be submitted with the appropriate certification fee.

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. 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 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 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.

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

[**ARC 7556B**, IAB 2/11/09, effective 2/1/09; **ARC 0392C**, IAB 10/17/12, effective 11/21/12]

21—45.23(206) Sale or possession of thallium. No person shall sell or possess any thallium or thallium compound except federal, state, county, municipal officers or their deputies for use in their official duties in pest control; research or chemical laboratories in their respective fields; regularly licensed pest control operators for use in their own service work; properly registered ant, mole and rodent poisons containing thallium expressed as metallic not more than one percent; wholesalers or jobbers of pesticides for sale to the aforementioned persons; or for export.

21—45.24(206) Warning, caution and antidote statements. In order to promote uniformity between the requirements of the Iowa pesticide Act and requirements of the several states and the federal government, Iowa Code section 206.21 of the Iowa pesticide Act provides for the adoption of rules and regulations in conformity with those prescribed by the United States department of agriculture. Warning, caution and antidote statements required to appear on labels of pesticides under the pesticide Act shall conform to the warning, caution and antidote statements required under interpretation 18 and revisions thereof of the regulations for the enforcement of the federal Insecticide, Fungicide, and Rodenticide Act, which interpretation 18 and revisions thereof are hereby incorporated into this rule by this reference and made a part hereof.

21—45.25(206) Declaration of pests. The secretary declares the following to be pests:

1. Any insect, rodent, nematode, fungus, weed, or
2. Any form of plant and animal life, virus, or other microorganism, except viruses or other microorganisms on or in living man or other living animals, which exists under circumstances that make it unduly injurious to plants, man, domestic animals, other useful vertebrates, useful invertebrates, or other articles or substances.

21—45.26(206) Record-keeping requirements. Commercial applicators and retail dealers shall maintain records with respect to application of pesticides for a period of three years from the date of application of the pesticides to which the records refer; and shall furnish copies to the secretary upon request in writing.

45.26(1) *Retail dealers—sales to certified applicators.* Each restricted use pesticide retail dealer shall maintain at each individual dealership records of each transaction where a restricted use pesticide is made available for use by that dealership to a certified applicator. Record of each transaction shall include the following information:

a. Name and address of the residence or principal place of business of each person to whom the pesticide was made available for use.

b. The certification number on the document evidencing that person's certification, the state (or other governmental unit) that issued the document, the expiration date of the certification and the categories in which the applicator is certified, if appropriate.

c. The product name, EPA registration number granted under Section 24(c) of the FIFRA (if any) on the label of the pesticide.

d. The quantity of the pesticide made available for use in the transaction.

e. The date of the transaction.

45.26(2) *Sales to uncertified persons.* No dealership may make a restricted use pesticide available to an uncertified person unless the dealer or dealership can document that the restricted use pesticide will be used by a certified applicator and the dealer or dealership maintains the records required in this subrule. Each restricted use pesticide retail dealer shall maintain records at each individual dealership of each transaction where a restricted use pesticide was made available to an uncertified person for use

by a certified applicator. Records of each transaction shall be maintained for a period of 36 months after the date of the transaction and shall include the following information:

a. The name and address of the residence or principal place of business of the uncertified person to whom the restricted use pesticide is made available for use by a certified applicator.

b. The name and address of the residence or principal place of business of the certified applicator who will use the restricted use pesticide.

c. The certified applicator's certification number, the state (or other governmental unit) that issued the certification document, the expiration date of the certification and the categories in which the applicator is certified, if appropriate.

d. The product name, EPA registration number and the state special local need registration number granted under Section 24(c) of the FIFRA (if any) on the label of the pesticide.

e. The quantity of the pesticide made available for use in the transaction.

f. The date of the transaction.

45.26(3) *Commercial applicators.* Every commercial applicator shall make, or cause to have made, office records of all application activities on each pesticide applied. Records for application activities involving more than one licensed commercial applicator or billed through a licensed pesticide dealer shall be maintained by each licensee. Each set of records shall include the following:

a. The name and license number of the licensee.

b. The name and address of the landowner or customer.

c. Address of the place of application of restricted use pesticide.

d. Date of pesticide application.

e. Trade name of pesticide product used.

f. The quantity of pesticide product used and the concentration or rate of application.

g. If applicable, the temperature and the direction and estimated velocity of wind at time of application to any outdoor area.

h. Use of "restricted use" pesticide.

i. Time pesticide application begins and ends.

This rule is intended to implement Iowa Code sections 206.11(3) and 206.15.

[**ARC 7572B**, IAB 2/11/09, effective 1/22/09]

21—45.27(206) Use of high volatile esters. The use of high volatile esters formulations of 2,4-D and 2,4,5-T, the alcohol fraction of which contains five or fewer carbons, shall be prohibited in the counties of Harrison, Mills, Lee, Muscatine and that part of Pottawattamie county west of Range 41 West of the 5th P.M. to become effective upon filing.

21—45.28(206) Emergency single purchase/single use of restricted pesticide. The department shall issue a temporary certificate to private applicators for a single purchase/single use of restricted pesticides in situations declared to be an emergency by the department, upon receipt of the following completed and signed affidavit.

21—45.28(206) EMERGENCY USE OF A RESTRICTED USE
PESTICIDE BY A PRIVATE APPLICATOR

Emergency Single Purchase/Single Use of Restricted Pesticide—Affidavit.

The Label which I have read, indicates:

Brand name of pesticide: _____

Federal Registration Number: _____

Name of Active Ingredient(s): _____

Percentage of Active Ingredient(s): _____

If the pesticide product is to be mixed with a carrier, show the amount of pesticide product per gallon of tank mix:

_____

Application rate per acre: _____

Name pest to be controlled: _____
At what stage of development is the pest most easily controlled:
_____
State degree of hazard (signal word): _____
Describe safety equipment required: _____
What is the recommended antidote for this product: _____
List environmental precaution shown on label: _____
Length of time until re-entry, if given: _____
Preharvest interval days required: _____
Describe method of container disposal: _____
I wish to make application of this pesticide on (date)_____
and I hereby swear under penalty of perjury that I understand the above label information and warnings.

_____
(name of private applicator)

This rule is intended to implement Iowa Code sections 206.4 and 206.5.

21—45.29(206) Application of general use pesticide by nonlicensed commercial applicator. A person may apply a general use pesticide without satisfying the licensing requirements of Iowa Code chapter 206, upon presenting evidence to the secretary of applying the pesticide under the direct supervision of a licensed commercial applicator or a public applicator.

21—45.30(206) Restricted use pesticides classified. Pesticide products containing active ingredients classified as restricted use are limited to use by or under the direct supervision of a certified applicator. The pesticide use classification as promulgated by the United States Environmental Protection Agency in 40 CFR, Section 162.31, revised as of July 1, 1983, is hereby adopted in its entirety by this reference.

This rule is intended to implement Iowa Code section 206.20.

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).

[**ARC 7572B**, IAB 2/11/09, effective 1/22/09]

21—45.32(206) Use of DDT and DDD. Pesticides containing dichloro diphenyl trichloroethane (DDT) or dichloro diphenyl dichloroethane (DDD) shall not be distributed, sold or used except for control of pests of public health importance and pests subject to state or federal quarantines where applications of pesticides are made under the direct supervision of public health officials or state or federal quarantine officials.

21—45.33(206) Use of inorganic arsenic.

45.33(1) *Home use.* Formulations of inorganic arsenic containing more than one percent arsenic (expressed as elemental arsenic) shall not be distributed or sold for use as a pesticide in or around the home for the purpose of preventing, destroying or repelling any weed, rodent, insect or other pests.

45.33(2) *Other uses.* Formulations of inorganic arsenic shall not be distributed or sold for use as a pesticide for the purpose of preventing, destroying or repelling any weed, rodent, insect or other pests, unless there are no acceptable alternative methods of control available, as determined by the department. Where no acceptable alternative methods of control are available, and an inorganic arsenic formulation

is approved for use by the department, such approval shall include specific conditions designed to protect the applicator, as well as the public health and welfare; and a permit must be secured by the user from the department prior to the application or use of the product.

21—45.34(206) Use of heptachlor. Pesticides containing heptachlor shall not be distributed, sold or used for the purposes of preventing, destroying or repelling mosquitoes or flies.

21—45.35(206) Use of lindane. Formulations of pesticides containing lindane or crystalline lindane shall not be distributed, sold or used when the lindane is prepared, identified, packaged or advertised to be vaporized through the use of thermal vaporizing devices.

21—45.36(206) Reports of livestock poisoning. Any person practicing veterinary medicine under the provisions of Iowa Code chapter 169 encountering a case of poisoning, or suspected poisoning, of domestic livestock through injury from contact with, exposure to, or ingestion of any biological or chemical agent or compound, shall immediately report by telephone or telegraph such poisoning to the head of the veterinary diagnostic laboratory of Iowa state university of science and technology who shall immediately notify the state veterinarian of any such reports. Reports made pursuant to this rule shall be confirmed in writing as provided in 45.36(2).

45.36(1) *Verbal report.* The verbal report of a case of such poisoning shall provide information on as many of the items listed in 45.36(2) as available data allows.

45.36(2) *Written report.* The written report of a case of such poisoning shall be submitted within 48 hours, with one copy to the department and one copy to the veterinary diagnostic laboratory, and shall contain the following information on forms provided by the veterinary diagnostic laboratory or the department:

a. Location of incident.
b. Time and date of incident.
c. Number and type of livestock affected.
d. Poison agent, known or suspected.
e. Location of source of poisoning.
f. Type and degree of poisoning.
g. Name, mailing address and telephone number of livestock owner.
h. Whether release of poisoning agent is continuing.
i. Whether poisoning agent is on land or in water.
j. Any other information that may assist in evaluation of the incident.
k. Name and address of reporting veterinarian.

45.36(3) *Subsequent findings.* All subsequent findings and diagnostic results shall be submitted as soon as they become available.

21—45.37(206) Approval of use of inorganic arsenic formulation. There are two stages in obtaining approval for the use of an inorganic arsenic formulation pursuant to rule 45.33(206). First, the advisory committee must approve the use of the formulation in the state for a particular pest. Then, each individual desiring to use the approved formulation must secure a permit from the department. The required procedure is set out in this rule.

45.37(1) *Who may apply.* Any person may apply for approval for the use of an inorganic arsenic formulation to control a specific pest or pests pursuant to rule 45.33(206).

45.37(2) *Form of application.* All such applications shall be made in writing, signed by the applicant, and shall specify:

a. Common name or scientific name of pest or pests to be controlled with the formulation,
b. Crops which the pest or pests endanger,
c. Chemical name of inorganic arsenic formulation for which approval is requested,
d. Why there are no acceptable alternative methods of controlling the pests available,
e. Rate of application needed for control,

f. Number of applications needed annually for control,

g. Name, address and telephone number of the applicant.

45.37(3) *Hearings, when held.*

a. Applications for approval shall be considered at public hearings by the advisory committee.

b. The committee shall grant, modify, or deny the request for approval within 72 hours of the conclusion of the hearing.

45.37(4) *Conditions of approval.* Approvals shall be valid until revoked by the department.

a. In its approval, the committee shall specify:

(1) The inorganic arsenic formulation to be used.

(2) The pests for which it may be used.

(3) The crops on which it may be used.

(4) The maximum number of applications to be made annually, and

(5) Information to be submitted to the department following use of the formulation.

b. The committee shall also specify the conditions designed to protect the public health and welfare as conditions for the issuance of a permit by the department. Such conditions shall include, but not be limited to:

(1) That the permit applicant has sustained or will likely sustain damage from the pest for which control is approved,

(2) Topographical requirements to ensure minimal runoff into waters of the state,

(3) Minimum separation distance of area to be treated from waters of the state,

(4) Minimum distance of area to be treated from property not under control of applicant,

(5) Grass or other plant cover to prevent erosion on slopes to which the formulation is applied.

45.37(5) *Permits.* After an application for approval is granted, any person may use the formulation approved, provided that a permit is obtained from the department. The department and the committee shall review at least annually its approvals of uses of inorganic arsenic formulations and shall revoke an approval whenever it finds an acceptable alternative method of control is available.

Rules 45.33 to 45.37 are intended to implement Iowa Code sections 206.19, 206.20 and 206.23.

21—45.38 to **45.44** Reserved.

21—45.45(206) Ethylene dibromide (EDB) residue levels in food. The following is the maximum allowable residue levels of Ethylene dibromide (EDB) for each of the three primary tiers of grain products:

45.45(1) For raw grain, the level should not exceed 900 parts per billion.

45.45(2) Intermediate level products—flour, various mixes for preparing baked goods, soft cereals and other products that would normally require cooking or baking before eating—the level should not exceed 150 parts per billion.

45.45(3) For ready-to-eat products—cold cereals, snack foods, bread and all baked goods—the level should not exceed 30 parts per billion.

45.45(4) For baby food, zero (0) tolerance—no acceptable level of EDB is permissible.

45.45(5) For fruit, the level should not exceed 250 parts per billion tolerance for the total fruit and should not exceed 30 parts per billion in the edible portion of the fruit.

This rule is intended to implement Iowa Code sections 189.17, 190.2 and 206.21.

21—45.46(206) Use of pesticide Command 6EC. The pesticide Command 6EC Herbicide EPA Reg. No. 279-3054 (active ingredient: 2-(2-Chlorophenyl) methyl-4, 4-dimethyl-3-isoxazolidinone . . . 64.3%) or any identically formulated compound shall be soil incorporated immediately following application. The method of application shall be limited to ground equipment.

21—45.47(206) Reporting of pesticide sales. Commercial pesticide applicators, pesticide dealers, pesticide manufacturers and pesticide distributors with the exception of manufacturers or distributors that distribute pesticides for resale purposes only shall submit annual reports to the Iowa department

of agriculture and land stewardship by October 1 of each year on forms approved by the secretary of agriculture except that pesticide manufacturers or pesticide distributors that distribute pesticides only for resale purposes shall not be required to submit a report. The reports shall include information related to the gross dollar amount for all pesticides sold at retail for use in this state. The reports shall also list the individual label name, EPA registration number and the gross dollar amount of each pesticide sold at retail for which gross retail sales are $3000 or more.

This rule is intended to implement Iowa Code sections 206.6, 206.8 and 206.12.

21—45.48(206) Dealer license fees. A dealer license fee for initial application for a dealer license shall be $25. The annual dealer license renewal fee shall be based on one-tenth of one percent of the gross annual sales of all pesticides sold the previous fiscal year or $25, whichever is greater. The fiscal year shall begin July 1 and end June 30 of the following year.

45.48(1) A pesticide dealer license expires on June 30 of each year. However, a grace period beginning July 1 and extending to October 1 of each year shall be allowed for renewal of pesticide dealer licenses. A late fee of 2 percent of the license fee due based on the gross pesticide retail sales shall be imposed upon the licensure of a pesticide dealer applying for licensure renewal during October; a late fee of 4 percent of the license fee due based on the gross pesticide retail sales shall be imposed upon the licensure of a pesticide dealer applying for licensure renewal during November; a late fee of 5 percent of the license fee due based on the gross pesticide retail sales shall be imposed upon the licensure of a pesticide dealer applying for licensure renewal during December; and an additional 5 percent penalty for each month thereafter shall be imposed. The application for renewal shall be considered complete once the required fees and reports have been submitted to the department.

45.48(2) The annual license fee for manufacturers or distributors distributing pesticides for resale purposes only shall be $25. License fees required by this rule shall be due July 1 of each year.

This rule is intended to implement Iowa Code sections 206.6, 206.8 and 206.12.

21—45.49(206) Pesticide use recommendations. Persons making pesticide use recommendations shall be familiar with the safe and proper use of each pesticide for which recommendations are made and shall not make any recommendations which are contrary to label instructions. The employer or licensee shall be responsible for all pesticide use recommendations made by their employees which are contrary to label instructions.

This rule is intended to implement Iowa Code sections 206.2, 206.4, 206.5, 206.6, 206.7 and 206.31.

21—45.50(206) Notification requirements for urban pesticide applications. All commercial or public applicators who apply pesticides within urban areas in municipalities shall post or affix notification signs at the start of the application and for at least 24 hours following the application or longer if required by the reentry directions on the pesticide label(s). The requirements of this rule shall not apply to the application of pesticides within a structure or within six feet of the outside perimeter of a structure and to pesticide applications made by the homeowner or tenant to their property.

For purposes of enforcement of this rule the term "municipality" shall include any city or developed residential area in the state. The term "urban" shall mean any area within or belonging to a city or developed residential area.

45.50(1) *Residential lawns.*

a. Notification signs shall project at least 12 inches above the top of the grass line or 18 inches to the top of the signs.

b. The notification sign shall be posted on a lawn or yard between two feet and five feet from the sidewalk or street. Residences that have unfenced or open backyards shall be posted within two feet to five feet from the back lot line.

c. When landscaping or other obstructions prohibit compliance with the minimum distances specified, the notification signs shall be posted in a manner that is reasonably within the intent of this subrule.

45.50(2) *Golf courses.* Signs including posters or placards shall be posted in a conspicuous manner near the first tee of each nine-hole course. The sign shall be constructed of a weather-resistant material and be a minimum size of 8½ inches by 11 inches. The lettering shall not be less than ½ inch. The sign shall read "Pesticides are periodically applied to the golf course. If desired, you may contact your golf course superintendent or person in charge for further information." The sign shall be displayed prior to the application of any pesticide on the golf course and left in place for at least 24 hours following any pesticide application. Where pesticide labeling requires specific notification or reentry restrictions, the applicator shall comply with the label instructions.

45.50(3) *Parks, playgrounds and athletic fields.* For parks, athletic fields, playgrounds or other similar recreational property, the notification signs shall be posted immediately adjacent to areas within the property where pesticides have been applied and at or near the entrances to the property where pesticides have been applied. The notification signs shall be placed in a conspicuous manner to provide a reasonable notification to the public.

45.50(4) *Public rights-of-way.*

a. Notice of the application of pesticides to public rights-of-way of highways, roads, streets, alleys, sidewalks and recreational trails within the corporate limits of municipalities shall be posted in a manner that provides reasonable notice to the occupants of properties immediately adjacent to the area being treated. A minimum of two signs shall be posted to denote the beginning and the end of the area being treated. Within developed residential zones, at least one sign shall be posted at the beginning and one at the end of each block. Signs shall be placed in a manner to be readable from the adjacent property.

b. Public rights-of-way bordered by a chain link fence, noise wall or other structures or enclosures that bar pedestrian access shall be exempt from the posting requirement.

c. The licensed pesticide applicator performing the application shall make pesticide application schedules and other community right-to-know information available to the public upon request at the applicator's place of business during regular business hours.

d. The notification signs used for posting public rights-of-way shall consist of a weather-resistant poster or placard measuring at least 10 inches by 12 inches with lettering measuring a minimum of 1 inch. Notification signs shall project at least 2 feet above the top of the grass line or 3 feet to the top of the signs. The words "This area chemically treated. Keep off" shall be used for posting public rights-of-way.

45.50(5) *Public pest control programs.* Pesticides applied for or by any municipality for the control or abatement of pests related to public health programs such as mosquitoes or other pest control programs shall be exempt from posting requirements provided that the intended dates, time and locations are announced to the public in a conspicuous manner at least 24 hours prior to the application. The announcement shall be made on a major radio station, TV station, newspaper or any other means of mass communication that would normally reach the residents of that city or developed residential area.

45.50(6) *Notification signs.*

a. The notification signs shall be of a material that is rain-resistant for at least a 24-hour period and shall not be removed by the applicator for at least 24 hours from the time pesticides are applied or longer if required by the label of the pesticide applied. Each property owner, tenant, agent or person in charge of the property shall be provided with instructions that the notification sign is required to remain in place for a minimum of 24 hours following the pesticide application. When the labeling of the pesticide(s) applied requires a reentry restriction more than 24 hours, the sign shall be left in place for the specified period restricting reentry. After the required posting period has elapsed, all notification signs should be removed by either a representative of the business, organization, entity or person making said application or the owner, agent, person in charge of the property, or their representative, to which the pesticide was applied.

b. As a minimum, unless otherwise specified, the following information shall be printed on the notification sign in contrasting colors and block letters:

(1) The name and telephone number of the business, organization, entity or person applying the pesticide; and

(2) The words: "This area chemically treated. Keep off. Do not remove sign for twenty-four hours." As an alternative, a universally accepted symbol and text approved by the secretary that is

recognized as having the same meaning or intent as specified in this paragraph may be used. When the labeling of the pesticide(s) applied requires a longer reentry restriction it shall be so stated on the notification sign.

The lettering for notification signs used for posting residential, commercial or public lawns or gardens or other similar areas shall measure at least three-eighths inch. The lettering for notification signs used for right-of-way areas required to be posted shall measure at least one inch.

c. The notification sign used for posting residential, commercial or public lawns or gardens or other similar areas shall consist of a sign or placard measuring at least four inches by five inches with letters measuring a minimum of three-eighths inch.

d. The label and other information normally associated with the use of the pesticide(s) being applied to any urban area that is required to be posted shall be provided to any individual upon request.

e. A commercial or public applicator who applies a pesticide with labeling that requires further maintenance after application shall provide the homeowner or agent in charge of property with a copy of the complete label of the pesticide(s) applied if requested and instructions on proper maintenance procedures.

f. Officials of the municipalities affected by this rule shall cooperate with the department in enforcing the requirements of this rule and shall report any infractions to the department.

45.50(7) *Prenotification registry.* In lieu of the requirement for public notification as specified in subrule 45.50(5), a municipality may maintain a registry of persons requesting to receive notification prior to pesticide applications and provide notification to those individuals at least 24 hours prior to a pesticide application made adjacent to their property.

a. A municipality may also choose to make arrangements with those persons upon request to refrain from applying pesticides to adjacent properties in lieu of prenotification.

b. The registry shall be updated annually and contain at least the name, address, and telephone number where occupant may be reached during normal business hours. The registry shall be made available upon request to licensed commercial and public pesticide applicators.

45.50(8) *Prior notification of pesticide application to lawns, parks, playgrounds and athletic fields located in urban areas.*

a. An occupant of a property adjoining property where pesticides are applied by a commercial or public applicator may receive prior notification of a pesticide application by personally contacting the applicator in writing in a timely manner and providing the following information:

(1) Name and address of occupant.

(2) A telephone number of a location where occupant may be contacted during normal business hours and evening hours.

(3) Address of each property that adjoins occupant's property.

b. The applicator receiving a written request for prior notification shall provide notice at least the calendar day before a scheduled application to property adjoining the occupant's property. The notice may be made in writing, in person or by telephone and shall disclose the date and approximate time of day for the scheduled application. If the notice to the occupant is in a form other than writing the applicator shall document that notice was given and maintain a record of that notice at its place of business.

c. When an applicator is not successful in contacting an occupant of an adjoining property as provided in paragraph *"b"* of this subrule, the applicator shall, at least the calendar day before a scheduled application, leave a written notice at the residence of the person requesting prior notification indicating the date and approximate time of day for the scheduled application.

d. A request for prior notification shall expire on December 31 of each year, or the date when the occupant no longer occupies the property, whichever is earlier.

45.50(9) *Prior notification of pesticide application to golf courses.*

a. An occupant of a property adjoining a golf course may receive prior notice of an application by contacting the golf course superintendent or other responsible person in a timely manner and providing the following information:

(1) Name and address of occupant.

(2) Telephone number of a location where the occupant may be contacted during normal business hours and evening hours.

b. A golf course representative receiving a request for prior notification shall provide notice at least the day before the scheduled application. The notice may be made in writing, in person or by telephone and shall disclose the date and approximate time of day for the scheduled application.

c. When a golf course representative is not successful in contacting an occupant of an adjoining property the day before a scheduled application, the representative shall leave a written notice at the residence of the person requesting prior notification which shall disclose the date and approximate time of day for the scheduled application.

d. A request for prior notification shall expire on December 31 of each year, or the date when the occupant no longer occupies the property, whichever is earlier.

This rule is intended to implement Iowa Code section 206.19 and 1995 Iowa Acts, Senate File 256.

21—45.51(206) Restrictions on the distribution and use of pesticides containing the active ingredient atrazine or any combination of active ingredients including atrazine.

45.51(1) Atrazine is the common name for the pesticide chemical 2-chloro-4-ethylamino-6-isopropylamino-1,3,5 triazine.

45.51(2) All pesticides containing the active ingredient atrazine or any combination of active ingredients including atrazine distributed for sale or use in Iowa shall be classified as restricted use pesticides. All pesticides containing the active ingredient atrazine shall be restricted for retail sale to and use by certified pesticide applicators only.

45.51(3) A pesticide dealer selling a pesticide containing the active ingredient atrazine shall file an annual report listing the full trade name of the pesticide product, EPA registration number and total volume in gallons or pounds of product sold. This report shall be included with the annual report required under rule 21—45.47(206), Iowa Administrative Code.

45.51(4) Atrazine use limitations.

a. The application rate for the actual active ingredient atrazine shall be limited to three pounds or less actual active ingredient per acre per calendar year with the exception where further restrictions on the maximum allowable application rates of the active ingredient atrazine apply.

b. Pesticides or any other substance containing the active ingredient atrazine shall not be applied within 50 feet of a sinkhole (outer edge of slope), well, cistern, lake, water impoundment or other similar areas. This includes, but is not limited to, abandoned wells, agricultural drainage wells and drainage well surface inlets and drinking water wells.

c. Pesticides, or any other substance containing the active ingredient atrazine unless handled in the original unopened container shall not be mixed, loaded or repackaged within 100 feet of any well, cistern, sinkhole (outer edge of slope), streambed, lake, water impoundment or other similar areas. This includes, but is not limited to, any well, whether in use or abandoned, including agricultural drainage wells and drainage well inlets. This paragraph shall not apply where pesticides are handled in compliance with the secondary containment of pesticide mixing and loading sites as specified in 21—Chapter 44, Iowa Administrative Code.

d. Atrazine mixing, loading, and equipment cleanout shall be carried out in a manner that meets the secondary containment requirements in 21—Chapter 44, Iowa Administrative Code or in the field of application provided all other restrictions are followed regarding the application of atrazine or rinsates containing atrazine to labeled use areas. Equipment and container wash waters shall be applied to labeled use areas or used as part of dilution makeup water and applied to labeled use areas in accordance with the label instructions and any other restrictions that may apply.

e. The following areas shall be designated as pesticide management areas regarding the application of pesticides containing the active ingredient atrazine. The application of atrazine shall be limited to no more than one and one-half pounds of the actual active ingredient atrazine per acre per calendar year in the following designated areas:

(1) All of Allamakee, Clayton, Dubuque, Floyd, Humboldt, Jackson and Winneshiek counties.

(2) All areas within the townships of the following counties:

COUNTIES	TOWNSHIPS
Black Hawk	Poyner
Bremer	Douglas, Fredericka, Jackson, Jefferson, Lafayette, Polk, Washington
Butler	Bennezette, Butler, Coldwater, Dayton, Fremont, Pittsford
Cerro Gordo	Owen, Portland
Chickasaw	Bradford, Chickasaw, Deerfield
Clinton	Elk River, Hampshire
Delaware	Bremen, Colony, Delhi, Elk, Milo, North Fork, Oneida, South Fork, Union
Fayette	Auburn, Clermont, Dover, Eden, Fairfield, Illyria, Pleasant Valley, Union, Westfield, Windsor
Howard	Albion, Chester, Forest City, New Oregon, Vernon Springs
Jones	Castle Grove, Clay, Hale, Lovell, Oxford, Richland, Washington and Wyoming
Kossuth	Sherman
Linn	Marion
Mitchell	Burr Oak, Cedar, Liberty, Mitchell, Newberg, Osage, Otranto, Rock, Saint Ansgar, Union, West Lincoln
Pocahontas	Garfield
Worth	Barton, Kensett
Wright	Grant, Lincoln, Wall Lake

f. Persons conducting research with atrazine shall be exempt from the use limitations described in this rule provided that such research is under the supervision of a federal or state agency or educational institution authorized to conduct research and are properly certified.

45.51(5) Best management practices. The department of agriculture and land stewardship and the Iowa State University extension service shall jointly develop and implement a set of best management practices (BMPs) and a targeted education program aimed at preventing further contamination of groundwater with atrazine. The pesticide applicator certification training and testing programs shall include information related to the atrazine BMPs.

45.51(6) As new information becomes available, changes in atrazine use or management shall be reevaluated periodically.

This rule is intended to implement Iowa Code sections 206.19, 206.20, and 206.21.

21—45.52(206) Continuing instructional courses for pesticide applicator recertification. A certified private, commercial, noncommercial or public applicator may elect to renew the pesticide applicator certification by attending two hours of approved continuing instructional courses each year during the renewal period as specified in subrule 45.22(5) in lieu of passing an examination.

45.52(1) *Requirements for continuing instructional courses.*

a. An approved continuing instruction course for pesticide applicator recertification shall include, as a minimum, information on safe handling, application and storage of pesticides; the correct calibration of equipment used for the application of pesticides; effects of pesticides upon groundwater; and the federal standards for pesticide applicator certification outlined in 40 CFR 171.5 as revised July 1, 1992, for private applicators or 40 CFR 171.4(b) and (c) revised as of July 1, 1992, for commercial applicators.

b. Instructional courses and materials for recertification shall be developed or approved by the department in cooperation with the Iowa Cooperative Extension Service in agriculture and home economics of Iowa State University of Science and Technology. The instructional course content shall be selected to cover the minimum standards outlined in paragraph *"a"* of this subrule and presented in two-hour blocks in three consecutive calendar years.

c. The instructional courses may be conducted by the department, Iowa State University Cooperative Extension Service or other persons interested in the application of pesticides as qualified under 45.52(2)*"b."*

d. An instructional course offered by a college, university, industry association or other organization may be approved for continuing instruction credit provided the instructional course meets the minimum standards for certification specified in paragraph *"a"* of this subrule.

e. Courses for approved continuing instruction are not intended for the sale of products or services.

f. An approved instructional course shall designate the certification categories that are eligible for continuing instruction credit. A two-hour program may qualify for more than one certification category. No credit shall be approved for persons not certified in the corresponding categories.

45.52(2) *Provider approval.* Provider means the person, industry association or other organization providing continuing instructional courses for pesticide applicator recertification. No course for continuing instruction credit shall be approved unless the provider has first registered with the department.

a. Provider shall register with the department by providing the following information on forms as provided by the department:

(1) Name and address of provider or sponsoring organization.

(2) Name and telephone number of the contact person.

(3) Names and qualifications of instructors.

(4) Verification that provider has acquired adequate audiovisual or other necessary equipment and facilities conducive to a learning environment.

(5) Verification that all instructors are qualified as provided in these rules.

(6) Verification that a current authorized representative of the provider has completed a "train the trainer" course sponsored by the department in cooperation with Iowa State University Cooperative Extension Service.

b. Instructor qualifications. A qualified instructor shall meet the following minimum requirements:

(1) Be current, knowledgeable and skillful in the subject matter.

(2) As a minimum the equivalent of a four-year degree or experience in teaching in the specialized area within three years preceding the offering or one year of work experience in the specialized area within three years preceding the offering.

(3) Be knowledgeable of the current state and federal pesticide laws and regulations.

(4) Upon receipt of the required information and satisfactory verification that the provider and instructors have met the requirements as outlined in paragraphs *"a"* and *"b"* of this subrule, the department shall assign the provider a registration approval number for each qualified instructor.

c. A person who is the instructor of an approved continuing instructional course is entitled to the same credit as a participant completing the subject but may receive such credit only once in a calendar year, regardless of the number of times the person instructs the instructional course.

45.52(3) *Course approval.*

a. Any person, industry association or other organization intending to provide an instructional course for continuing instruction credit shall submit an application to the department for approval. Requests received later than 30 days prior to the date the instructional course is scheduled shall be disapproved.

b. The following information shall be furnished on the request for approval of a continuing instruction course:

(1) Name and address of provider or sponsoring organization.

(2) Name and telephone number of the contact person for the provider.

(3) Course title.

(4) Whether the course is new, a repeat course, or a revised course.

(5) Course number, if course is repeat or revised.

(6) Date(s) course shall be offered.

(7) Location(s) where course shall be offered.

(8) For a new or revised course, an outline of the course including a schedule of times when subjects shall be presented. The topics covered in the course shall be listed individually. Under each separate topic, a summary of the instruction given and the material covered must be included.

(9) Names of instructors.

(10) Number of credit hours requested.

(11) Signature of the contact person.

c. Any material changes in the instructional course as submitted to the department on the request form and attachments shall automatically void the approval.

d. A copy of all course materials shall be provided upon request by the department.

e. A provider shall be notified indicating approval or disapproval. Approved courses shall be assigned a course number.

45.52(4) *Certificate of completion.*

a. The department shall adopt a standard certificate of completion form and provide the form to each registered provider. The form shall include the applicator's name, social security number, name of employer when applicable, course number, date and location of the course, the category or categories the course has been approved for and the signature of the course instructor.

b. Once a course is approved, the provider shall furnish a certificate of completion to each person who satisfactorily completes such a course. The certificate shall be signed by the course instructor. Providers shall also maintain a list of all persons who attend courses offered by them for continuing instruction for at least three years from the end of the year in which the courses are offered. The list shall identify each participant by name, address, social security number and employer when applicable.

45.52(5) *Provider's responsibility.*

a. A provider of an approved course is responsible for both the attendance of the participants and their attention. During the approved instructional course, if the provider finds that a participant is reading unrelated materials, sleeping, talking excessively with a neighbor or is otherwise disruptive or inattentive, the provider may refuse to grant the participant any credit for attendance.

b. A provider may require participants to preregister for an approved course. In the event a provider cancels an approved course, the provider shall notify each individual registered for the course in a timely manner but not less than three business days prior, except as specified, to the scheduled date of the course.

c. A provider who cancels a course which did not require participants to preregister shall notify prospective participants in a timely manner. Notification for cancellation may be accomplished by a similar means of communication as the original notification of the course availability or any other generally accepted means of reaching the expected target participants.

d. Minimum lead time for participant notification of canceled courses shall be waived when courses are canceled because of emergency conditions such as extreme weather conditions, acts of God, military actions, or any other circumstance which is deemed to be an emergency condition. Providers shall attempt to notify prospective participants by public service announcements via radio or television broadcasts which may provide this service.

e. A provider shall notify the pesticide bureau of the department in a timely manner prior to the cancellation of an approved course. Initial notice of cancellation may be made by telephone; however, cancellations made by telephone shall be followed by written verification.

f. Provider records. The provider shall maintain a list of all persons who attend courses offered by them for continuing instruction credit for at least three years from the end of the year in which the courses are offered. The record system shall provide for secure storage and retrieval of individual attendance and information regarding each instructional course offering. The provider's record of continuing instruction credits granted shall be available within two weeks upon request from individual participants or from the department.

g. If the provider is not the instructor, the provider shall inform the instructor of the instructor's responsibilities as provided in this subrule.

45.52(6) *Enforcement—providers.*

a. The department may, upon finding any one or more of the following, revoke or suspend a provider's registration after an opportunity for hearing:

(1) Advertising that a course is approved, prior to approval;

(2) Presenting material not approved as provided in subrule 45.52(1) during the time of an approved course;

(3) Failing to present a course for the total time period specified in the request form submitted to the department;

(4) Distributing certificates of completion before the course has been completed;

(5) Refusing to issue certificates of completion to any participant who satisfactorily completes an approved course, except when 45.52(5)*"a"* applies;

(6) Failing to notify course registrants of a cancellation pursuant to 45.52(5)*"b"* and 45.52(5)*"c"*; or

(7) Utilizing instructors who are not qualified as provided in these rules.

b. The department may suspend or revoke a provider's registration after notice and opportunity for hearing pursuant to 21—Chapter 2, Iowa Administrative Code.

c. In addition, the department may require any one or more of the following upon a finding of a violation of paragraph *"a"* of this subrule.

(1) Upon receipt of an application to reregister, provide evidence that all violations have been cured;

(2) Withdraw the possibility of course approvals of courses sponsored by such provider for a set period of time or indefinitely; or

(3) Any other disciplinary action permitted by statute.

This rule is intended to implement Iowa Code Supplement section 206.5.

DIVISION II

21—45.53 to **45.99** Reserved.

DIVISION III
CIVIL PENALTIES

This division establishes a peer review panel solely to make recommendations to the department regarding the assessment of civil penalties and sets forth the policies and procedures for establishing, accessing, and collecting civil penalties against commercial pesticide applicators for violations of Iowa Code chapter 206 or rules promulgated pursuant to Iowa Code chapter 206. Iowa Code section 206.19(5) authorizes the assessment of civil penalties against commercial applicators for violations of Iowa Code chapter 206 or rules promulgated pursuant to Iowa Code chapter 206. Iowa Code section 206.23A mandates the department to establish a commercial pesticide applicator peer review panel and a period for the review and response by the panel.

21—45.100(206) Definitions. Where used in these rules:

"Contested case hearing" means an evidentiary hearing pursuant to Iowa Code chapter 17A.

"Department" means the pesticide bureau of the Iowa department of agriculture and land stewardship.

"Informal settlement" means an agreement between representatives of the department and a commercial applicator providing for sanctions for a violation of Iowa Code chapter 206 or the department's rules but does not include a contested case hearing.

"Panel" means the peer review panel.

"Peer review panel" means the peer review panel appointed by the secretary to assist in the review of proposed civil penalties for commercial applicators.

"Review period" means the period of time during which the department or commercial applicator subject to a civil penalty may seek review by the panel.

21—45.101(206) Commercial pesticide applicator peer review panel. The peer review panel was created by Iowa Code section 206.23A and is charged with the responsibility of assisting the department in assessing or collecting a civil penalty pursuant to Iowa Code section 206.19(5). This section does not apply to a license revocation proceeding, a referral for criminal prosecution or a referral to the United States Environmental Protection Agency.

45.101(1) *Organization and operation location.* The panel is located within the Iowa Department of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319. The department's office hours are from 8 a.m. to 4:30 p.m., Monday through Friday.

45.101(2) *Membership.* The panel consists of five members as set forth in Iowa Code section 206.23A.

45.101(3) *Staff.* Staff assistance is provided through the Iowa department of agriculture and land stewardship.

45.101(4) *Meetings.* The panel meets annually to elect a chairperson but may meet at other times at the call of the chairperson or upon written request to the chairperson of two or more members.

All panel meetings shall comply with Iowa Code chapter 21. A quorum of three-fifths of the panel members shall be present to transact business.

Action by the panel requires a vote of a majority of those on the panel. Meetings follow Robert's Rules of Order. Minutes of each meeting are available from the Secretary of Agriculture, Iowa Department of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319.

21—45.102(206) Civil penalties—establishment, assessment, and collection. Commercial applicators who violate provisions of Iowa Code chapter 206 or rules promulgated pursuant to Iowa Code chapter 206 may be subject to civil penalties. This rule outlines the criteria and procedures for establishing, assessing, and collecting civil penalties.

45.102(1) *Criteria.* In evaluating a violation to determine which cases may be appropriate for administrative assessment of penalties, and in determining the amount of penalty, or for purposes of assessing civil penalties, the department shall consider all of the following factors:

a. Willfulness or recklessness of the violation.

b. Actual or potential danger of injury to the public health, safety, or damage to the environment caused by the violation.

c. Actual or potential cost of the injury or damage caused by the violation to the public health or safety or to the environment.

d. Actual and potential cost incurred by the department in enforcing the provisions of Iowa Code chapter 206 and rules adopted pursuant to this chapter against the violator.

e. Remedial action taken by the commercial applicator.

f. Previous history of noncompliance by the commercial applicator being assessed the civil penalty.

45.102(2) *Notice and hearing.* Civil penalties may be assessed against a commercial applicator only after notice and an opportunity for a contested case hearing unless the parties agree to an informal settlement which assesses a civil penalty or other disciplinary action. The department may seek assessment of a civil penalty by serving a complaint upon the commercial applicator. The complaint shall include a statement of the time, place and nature of the hearing, a statement of the legal authority and jurisdiction under which the hearing will be held, a reference to the statute or rules involved, a statement of the matters asserted, and shall inform the applicator of the availability of review by the panel. The complaint may be served on the commercial applicator by personal service or by certified mail, return receipt requested. The contested case shall be governed by the department's rules on contested case hearings. The department's procedures for informal settlement also apply.

45.102(3) *Administrative order.* Upon finding that a commercial applicator has violated Iowa Code chapter 206 or rules adopted pursuant to this chapter, an administrative order shall be issued assessing the civil penalty. The order shall recite the facts, the legal requirements which have been violated, the rationale for the assessment of the civil penalty and the date of issuance.

45.102(4) *Amount of penalty.* The civil penalty imposed on a commercial applicator shall not exceed $500 per violation of Iowa Code chapter 206 or to the rules promulgated pursuant to Iowa Code chapter 206. Each day a commercial applicator is in violation following receipt of written notification of such violation from the department may be considered a separate violation.

45.102(5) *Payment.* The penalty shall be paid within 30 days of the date the order assessing the civil penalty becomes final. Failure to pay the civil penalty within three months of the date the order becomes final shall be grounds for suspension or revocation of the commercial applicator's license. The department may request that the attorney general institute judicial proceedings to recover an unpaid civil penalty.

45.102(6) *Informal settlement.* These rules do not apply to any settlement reached between the commercial applicator and the department prior to the initiation of a contested case proceeding. The department shall notify the applicator that it has found a probable violation with a proposed penalty and provide the applicator an opportunity to attend an informal settlement conference. The department and the applicator may attend an informal settlement conference and reach an agreement about the assessment of a civil penalty or other disciplinary action against the applicator. This agreement is not reviewable by the panel.

21—45.103(206) Review period. Either the department or commercial applicator may request peer review within 14 days following the department's notification of a probable violation and proposed penalty, if no agreement has been reached.

45.103(1) If the department seeks review, it shall prepare a brief summary of the case against the commercial applicator for the panel. The summary shall include the name of the applicator, a short and concise description of the facts, and the rationale for the penalty sought with reference to the factors to be considered in assessment of civil penalties as provided in these rules.

45.103(2) If the commercial applicator seeks review, the commercial applicator shall submit a short and concise statement of the facts of the case and a statement as to why the amount of civil penalty sought to be assessed is inappropriate under the circumstances of the case.

21—45.104(206) Review by peer review panel. The request for review shall be served in writing by regular mail upon the chairperson of the panel, with copies furnished to the other party. Upon receipt of the request for review, the chairperson shall schedule a meeting of the panel in Des Moines at the Henry A. Wallace Building. The panel may agree to meet telephonically, with the chairperson providing copies of the request for review to the members of the panel.

45.104(1) The panel shall confine its review to the department's summary or the information furnished by the commercial applicator. The department's investigative files, or parts thereof, may be made available to the panel upon request. The panel's review shall not be a contested case evidentiary hearing. The panel shall not have power to examine or cross-examine witnesses, nor shall it have power to subpoena witnesses or documents.

45.104(2) The panel's recommendation may include increasing the amount of civil penalty, reducing the amount of civil penalty or not imposing a penalty or that conditions be placed upon the license of the commercial applicator.

21—45.105(206) Response by peer review panel. The panel shall notify in writing the department and the commercial applicator of its recommendations within 30 days of receipt of a request for review. Upon receipt of the panel's recommendations, the department and the commercial applicator may reach an agreement on the amount of the civil penalty. If the parties do not agree, the department may initiate or continue the contested case proceeding. The department is not required to follow the recommendation of the panel as to assessment of the civil penalty. If the department does not receive a recommendation from the panel within 30 days of the panel's receipt of a request for review, it may proceed with the hearing.

These rules are intended to implement Iowa Code section 206.23A.

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◊ Two or more ARCs

CHAPTER 46
CROP PESTS

[Prior to 7/27/88 see Agriculture Department 30—Ch 26]

21—46.1(177A) Nursery stock. Hardy, cultivated or wild woody plants, such as trees, evergreens, shrubs and vines, and small fruits such as strawberries and raspberries. Nursery stock dug from the wild and offered for sale or movement should be so labeled.

21—46.2(177A) Hardy. Capable of surviving the normal winter temperatures of Iowa.

21—46.3(177A) Person. Any individual or combination of individuals, corporation, society, association, partnership, institution or public agency.

21—46.4(177A) Nursery growers. A person who grows or propagates nursery stock for sale or distribution.

21—46.5(177A) Nursery. Any grounds or premises, on or in which nursery stock is propagated or grown for sale or distribution, including any grounds or premises on or in which nursery stock is being fumigated, treated, stored or packed for sale or movement.

21—46.6(177A) Nursery dealer. Any person who does not grow nursery stock, but who obtains, takes title to and possession of nursery stock, and moves it or offers it for movement to the ownership of other persons.

21—46.7(177A) Out-of-state nursery growers and nursery dealers. Any person desiring to ship nursery stock into Iowa shall:

46.7(1) File with the state entomologist's office an official certificate of inspection showing that the nursery from which the plants originated has been inspected and certified by the plant regulatory officials of that state. This information may be communicated to the state entomologist's office by the filing of an official list of certified nurseries by the plant regulatory official of the state of origin.

46.7(2) Provide a valid copy of the certificate of inspection of the state of origin which will accompany each shipment of nursery stock into Iowa.

46.7(3) No fee shall be charged out-of-state nursery growers or dealers who ship nursery stock directly from their out-of-state location to Iowa purchasers, unless the state in which the shipping nursery is located charges a fee to Iowa nursery growers and dealers. In this case, a fee equivalent to that charged Iowa nursery growers or dealers shipping into that state shall be charged.

21—46.8(177A) Nursery inspection. Each nursery within the state of Iowa shall be inspected at least annually to ascertain if they are infested with insect pests or infected with plant diseases. If insect pests or diseases are found, control or cleanup measures shall be required. Certificates will be issued only for stock found apparently free from insect pests and diseases. Cleanup measures will be required if excessive weeds in the nursery make an adequate inspection impossible.

21—46.9(177A) Nursery dealer certificate. Nursery dealers shall secure a nursery dealer's certificate from the state entomologist before they carry on their business within the state. Each separate sales location shall operate under its own certificate. Nurseries that sell stock from more than one location shall obtain a nursery dealer certificate for those additional locations.

21—46.10(177A) Proper facilities. Individuals, firms or corporations who offer nursery stock for sale at nursery grounds, stores, roadside stands, public market places, or any other place, shall have and maintain proper facilities for keeping all nursery stock in a viable condition; shall keep such stock in a viable condition pending sale; and shall display at the sales location the proper kind of certificate showing that they have the right to offer nursery stock for sale. Proper facilities should include a storage and

display area for the nursery stock which prevents excessive drying of plant tissues and a ready access to a water supply.

21—46.11(177A) Storage and display. All nursery stock offered for sale or distribution shall be stored and displayed as follows:

46.11(1) Balled and burlapped stock shall be kept moist at all times and shall be kept in sawdust, shingle tow, peat, sphagnum moss or other moisture-holding material not toxic to plants, of sufficient depth to cover the top of the ball of earth.

46.11(2) Container stock shall be watered sufficiently to maintain the viability and vigor of the stock. Potting soil shall be maintained at a depth so as to cover all roots of the plants.

46.11(3) Bare-root stock shall be kept under conditions of temperature and moisture to retard etiolated or otherwise abnormal growth and maintain viability. Moisture must be supplied to the root system by high humidity conditions in storage or by covering the roots with soil, sawdust, peat, wood shavings or other moisture-holding materials not toxic to plants. Such material is to be kept moist at all times. Roots of healed-in stock must be covered with well packed soil at least one inch above the crown of the plant.

46.11(4) Stock with roots packaged in moisture-retaining plastic, peat, wood shavings or other material not toxic to plants must be stored and displayed under conditions that will retard etiolated or otherwise abnormal growth and will ensure an adequate supply of moisture to the roots at all times.

46.11(5) Nursery stock offered for sale or movement at locations with hard surfaced areas, such as concrete or asphalt parking lots, must not be in constant, direct contact with the hard surfaced area; but must be so displayed that the roots of the stock are protected from excessive heat, drying, or other adverse conditions associated with contact from hard surfaced areas.

21—46.12(177A) Nursery stock viability qualifications. All nursery stock offered for sale or distribution, not meeting the following minimum indices of viability, shall be removed from public view and not offered for sale.

46.12(1) Woody stemmed deciduous stock shall have moist, green, cambium tissue in the stems and branches and shall have viable buds or normal, green, unwilted growth. Etiolated growth from individual buds shall be no more than four inches. In the case of rose bushes, each stem must show moist, green, undamaged cambium in at least the first six inches above the graft. Any single stem on a rose bush not meeting this specification shall disqualify the entire plant; however, a bush may be pruned to remove dead or damaged canes and the plant can then be sold at the proper grade according to Standards of the American Association of Nurserymen.

46.12(2) Balled and burlapped stock in addition to 46.12(1) above regarding aerial parts, shall have unbroken earth balls of a size specified by the American Association of Nurserymen's American Standard for Nursery Stock.

46.12(3) Colored waxes or other materials used to coat the aerial parts of plants that change the appearance of the plant surface so as to prevent adequate inspection, are prohibited.

21—46.13(177A) Certificates. Certificates issued to nursery growers, nursery dealers or signees of compliance agreements pertaining to regulated articles are nontransferable and are for the exclusive use of the one to whom they are issued. Certificates may be revoked by the state entomologist for a failure to comply with regulatory requirements.
[**ARC 9190B**, IAB 11/3/10, effective 1/1/11]

21—46.14(177A) Miscellaneous and service inspections. Any person wanting to move plants or plant products to any destination outside of Iowa may apply to the state entomologist for inspection of the plants or plant products and certification as to the presence or absence of plant pests and diseases likely to prevent the acceptance of those plants or plant products at the destination. The application must be made as far in advance as possible. Upon receipt of the application, the state entomologist will arrange for the inspection to be made as early as conveniently practical. The plants or plant products to be inspected shall be assembled and held in such a manner as to enable a proper and adequate inspection

to be made. If destination requirements regarding plant pests and diseases are met, certification can be made in accordance with Iowa Code section 177A.9. Fees for the inspection will be set to cover in full any expenses incurred by the state entomologist or authorized inspectors who made the inspection.

Any plants or plant parts capable of propagation, not classified as nursery stock, which originate outside the state, may be subject to inspection to determine whether those plants or plant parts are infested or infected with insect pests or diseases. If inspections reveal the presence of insect pests or diseases, such plants or plant parts will be treated or destroyed. If no infestations are discovered, a certification report may be issued by the inspector to the person offering the plants or plant parts for sale or movement. Inspection of these plants or plant parts shall be subject to the same rules and fees as nursery stock.

21—46.15(177A) Insect pests and diseases. To comply with Iowa Code section 177A.5, there are listed below the insect pests and diseases which the state entomologist finds should be prevented from being introduced into or disseminated within Iowa, in order to safeguard the plants and plant products likely to become infested or infected with such insect pests and diseases.

Insect pests:

Asian gypsy moth *(Lymantria dispar dispar (Linnaeus))*
Asian longhorned beetle *(Anoplophora glabripennis)*
Blue alfalfa aphid *(Acyrthosiphon kondoi)*
Emerald ash borer *(Agrilus planipennis)*
European woodwasp *(Sirex noctilio)*
Gypsy (European) moth *(Lymantria dispar)*
Gypsy moth (European X Asian) *(Lymantria dispar x hybrid)*
Khapra beetle *(Trogoderma granarium)*
Rosy (pink) gypsy moth *(Lymantria mathura)*
Viburnum leaf beetle *(Pyrrhalta viburni)*
Walnut twig beetle *(Pityophthorus juglandis)*

Diseases:

Black stem rust of wheat *(Puccinia graminis)*
Corn late wilt or black bundle disease of corn *(Harpophora (Cephalosporium) maydis)*
Oat cyst nematode *(Bidera avenae)*
Golden nematode *(Globodera rostochiensis)*
Corn cyst nematode *(Heterodera zeae)*
Columbia root-knot nematode *(Meloidogyne chitwoodi)*
Mexican corn cyst *(Punctodera chalcoensis)*
Head smut of corn *(Sphacelotheca reiliana)*
Sudden oak death *(Phytophthora ramorum)*
Thousand cankers disease of black walnut *(Geosmithia,* sp.*)*
White potato cyst nematode *(Globodera pallida)*

[**ARC 8293B**, IAB 11/18/09, effective 12/23/09]

21—46.16(177A) Firewood labeling. Every package of firewood offered for sale, sold or distributed must include the harvest location of the wood by county and state. The harvest location of wood sold in bulk must be included on the delivery ticket. These provisions apply to any length of tree that has been cut. A limited permit may be issued by the state entomologist, or a compliance agreement may specify the regulations which would allow the movement of the wood. The limited permit or compliance agreement is not transferable and may be revoked by the state entomologist for noncompliance or failure to comply with regulatory requirements.

[**ARC 9190B**, IAB 11/3/10, effective 1/1/11]

These rules are intended to implement Iowa Code chapter 177A.

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CHAPTER 47
IOWA ORGANIC PROGRAM

21—47.1(190C) Iowa organic program. The department adopts by reference 7 CFR 205 Subchapter M—Organic Foods Production Act Provisions (April 21, 2001) and the following additional provisions which shall hereby be referred to as the department's organic provisions.

21—47.2(190C) Exempt operations. Production or handling operations exempt from organic certification according to 7 CFR Section 205.101 shall:

1. Submit to the department a signed Exempt Party Declaration form, as provided by the department, attesting to knowledge of and compliance with Iowa Code chapter 190C and this chapter; and
2. Submit a processing fee as published by the department.

21—47.3(190C) Crops.

47.3(1) *Split operations.* Split operations shall be allowed. Segregation plans shall be developed and followed, and applicable logs shall be maintained for organic and nonorganic crops. The operation shall maintain, but not be limited to, the documents and logs addressing the following procedures: equipment cleaning, spraying, purging, separate storage and separate transportation. Appropriate physical facilities, machinery and management practices shall be established to prevent commingling of nonorganic and organic products or contamination by prohibited substances.

47.3(2) *Buffer zone.*

a. *Requirements.*

(1) If crops are grown in a buffer zone, such crops shall not be labeled, sold or in any way represented as organic.

(2) Crops harvested from buffer zones shall be kept separate from organic crops, and appropriately designated storage areas shall be clearly identified and records maintained to sufficiently identify the disposition of nonorganic product.

b. *Recommendations.*

(1) A minimum of 25 feet is recommended as a buffer zone between certified organic crops and areas treated with prohibited substances.

(2) Planting windbreaks and hedgerows is encouraged to help reduce spray drift from neighboring farms and wind damage to crops.

(3) It is recommended that the producer notify neighbors, county roadside management officials, railroads, utility companies and other potential sources of contaminants. It is recommended that the producer provide such individuals with maps of organic production areas, request individuals not to spray adjacent areas, and request to be informed if prohibited materials are applied to land adjacent to organic production areas.

(4) Place "no-spray" or "organic farm" signs where appropriate, e.g., roadways and access areas.

47.3(3) *Drift.*

a. The party in control of the site shall notify the department's organic program of suspected pesticide drift incidences onto certified organic land or land which is under consideration for organic certification. The department may require residue testing to make a determination regarding certification.

b. In the case of drift, the affected party may file a complaint under Iowa Code section 206.14 with the department's pesticide bureau.

47.3(4) *Runoff and flooding.*

a. Records shall be kept regarding land that is subject to runoff or flooding.

b. The department may require testing to make a determination regarding certification.

47.3(5) *Rotations.* For the production of annual crops, rotations are required for soil improvement and disruption of weed, insect, disease and nematode cycles. A crop rotation including, but not limited to, sod, legumes or other nitrogen-fixing plants, and green manure crops shall be established.

a. *Annual agronomic crops (row crops and small grain crops).*

(1) Crops of the same species or family shall not be grown repeatedly without interruption on the same field or plot.

(2) Soil-building period. It is recommended that each field or plot be planted in and achieve a viable stand of a solid-seeded (non-row), soil-building legume crop or crop mixture that includes at least one legume species and that the field or plot be maintained a minimum of one year out of a five-year period. During this soil-building period, the producer may maintain the soil-building crop through the crop's growing period to maturity or until the crop achieves its optimal soil-building characteristics. Soil-building crops may be used as winter cover or plow-down in fall. Some examples of soil-building practices include the following:

1. Plant and harvest a small grain crop with the solid-seeded crop mixture identified above; e.g., plant oats and alfalfa in the spring and harvest oats in the summer;

2. Maintain the solid-seeded crop mixture identified above for more than one season; e.g., alfalfa established in one season may be maintained and harvested for successive years if desired; or

3. Harvest the solid-seeded crop mixture identified above prior to its incorporation into the soil; e.g., harvest oats and alfalfa mixture in the summer prior to incorporation into the soil at a later time.

b. Annual horticultural crops (fruit, vegetable, and herb crops).

(1) Crops of the same species or family shall not be grown repeatedly without interruption on the same field or plot.

(2) Soil-building period. It is recommended that each field or plot be planted in and achieve a viable stand of a solid-seeded (non-row), soil-building legume crop or crop mixture that includes at least one legume species and that the field or plot be maintained a minimum of one year out of a five-year period. During this soil-building period, the producer may maintain the soil-building crop through the crop's growing period to maturity or until the crop achieves its optimal soil-building characteristics. Soil-building crops may be used as winter cover or plow-down in fall. Some examples of soil-building practices include the following:

1. Plant and harvest a small grain crop with the solid-seeded crop mixture identified above; e.g., plant oats and alfalfa in the spring and harvest oats in the summer;

2. Maintain the solid-seeded crop mixture identified above for more than one season; e.g., alfalfa established in one season may be maintained and harvested for successive years if desired; or

3. Harvest the solid-seeded crop mixture identified above prior to its incorporation into the soil; e.g., harvest oats and alfalfa mixture in the summer prior to incorporation into the soil at a later time.

(3) It is recommended that the producer make an effort to establish a rotation sequence where crops of the same species or family, e.g., Solanaceae family: tomatoes, peppers, potatoes, and eggplant, are not planted in the same field or plot in consecutive years.

c. Perennials. Perennial systems shall include a plan for biodiversity in the system and a soil-building program, including the use of cover crops, mulches, grass cover and a soil-building legume crop mixture.

(1) It is strongly recommended that, at the end of a perennial crop life cycle that exceeds four years, the field or plot be planted in a solid-seeded (non-row) soil-building legume crop or crop mixture which includes at least one legume species, achieves a viable stand, and is maintained for a minimum of one year prior to planting another perennial crop.

(2) Replacement of individual plants within a perennial crop stand is permissible.

(3) Rescinded IAB 10/29/03, effective 12/3/03.

d. Crop rotation variance. Rescinded IAB 10/29/03, effective 12/3/03.

21—47.4(190C) Livestock.

47.4(1) *Split operations.* Split operations shall be allowed, but segregation plans and applicable records must be followed and documented.

a. All animals in both the nonorganic and organic herds shall be uniquely identified, and detailed records on the origin and production history of each animal shall be kept.

b. In poultry production, nonorganic and organic flocks shall be kept in separate, clearly marked facilities.

c. Each storage facility for feed, grain, or any other controlled input shall be clearly marked "nonorganic" or "organic."

d. Appropriate physical facilities, machinery and management practices shall be established to prevent commingling of nonorganic livestock and livestock products with organic livestock products or contamination by prohibited substances.

47.4(2) *Pasture.*

a. *Requirement.* Pastures shall be managed to minimize risk of contamination by prohibited substances.

b. *Recommendation.* The establishment of livestock fence located an appropriate distance inward from the pasture border to prevent border grazing or a solid-stand windbreak along the pasture border is recommended.

c. *Disqualification.* Evidence that the pasture has been contaminated with a prohibited substance shall result in disqualification of that pasture. The livestock or offspring may be disqualified if allowed to continue to graze pasture that has been disqualified.

21—47.5(190C) Use of state seal. For the promotion or sale of organic products, only those producers, handlers and processors certified as organic by the department are entitled to utilize the state seal attesting to state of Iowa organic certification.

21—47.6(190C) General requirements. In order to receive and maintain organic certification from the department, producers, processors and handlers of organic agricultural products shall apply for organic certification with the department and submit all required materials; comply with Iowa Code chapter 190C and this chapter; permit the department to access the operation and all applicable records as deemed necessary; comply with all local, state and federal regulations applicable to the conduct of such business; and submit all applicable fees to the department pursuant to Iowa Code section 190C.5(1) as amended by 2003 Iowa Acts, House File 600, and this chapter.

47.6(1) Application for state organic certification.

a. Application for state certification shall be completed and submitted with required application materials and fees to the department on forms furnished by the department. Applications submitted to the department after the published deadline date may be charged late fees for application and inspection, and the processing of such applications may be subject to delays or the applications may not be processed at all.

b. The applicant shall inform the department of changes to the organic plan which may affect the conformity of the operation to the certification standards at any time during the certification process and after such certification is granted.

c. The state-certified party shall inform the department of any changes in the organic plan, such as production changes or intended modification to the product(s) or manufacturing process which may affect the conformity of the operation to the certification standards. If such is the case, the certified party may not be allowed to release such products as certified organic products bearing the state seal until the department has given approval to do so.

d. The certified party shall keep a record of all complaints made known to that party relating to a product's compliance with requirements to the relevant standard and shall make these records available to the department upon request. The certified party shall take appropriate action with respect to such complaints and any deficiencies found in products or services that affect compliance with the requirements for certification, and all such actions shall be documented and available upon request by the department.

e. Records of inputs applied to nonorganic fields or livestock split or parallel operations shall be maintained and made available during inspections. This applies to all fields in the operation whether leased or owned.

47.6(2) Reserved.

21—47.7(190C) Document review. Rescinded IAB 10/29/03, effective 12/3/03.

21—47.8(190C) Certification agent.

47.8(1) The department shall serve as certification agent on behalf of and as authorized by the secretary of agriculture pursuant to Iowa Code section 190C.3 as amended by 2003 Iowa Acts, House File 600.

47.8(2) Scope of certification. Contingent upon USDA accreditation, the department may inspect and certify organic production and handling operations located outside of the state. The intent of the department is to facilitate continuity of certification services to Iowa-based farms or businesses, or when the county in which the applicant resides is contiguous to the state. Consideration may be given to other out-of-state applicants. The department may seek accreditation from USDA to provide certification services in Iowa and other states where necessary.

ADMINISTRATIVE

21—47.9(190C) Fees. Fees are established for application, inspection, and certification to support costs associated with activities necessary to administer this program pursuant to Iowa Code sections 190C.5(1) to 190C.5(3) as amended by 2003 Iowa Acts, House File 600. The applicant shall submit all fees to the department for the specific amount and at the appropriate time as specified in this rule. A schedule of application, inspection and certification fees shall be published by the department and disseminated with the application packet.

47.9(1) *Application fee.* The application fee shall accompany the application for certification. An additional late fee shall accompany applications submitted after the published deadline date.

47.9(2) *Inspection fee.* An inspection fee shall be paid by all on-farm production operations; on-farm processing operations; off-farm and nonfarm processing operations; and handling operations. This fee covers the cost of providing the inspection. A base inspection fee will be listed on the fee schedule provided to each applicant; however, if the actual cost of the inspection exceeds the amount listed, the applicant shall be required to pay the balance.

a. An inspection fee shall be assessed to the producer, processor or handler if additional inspections are conducted due to the necessity of a follow-up inspection in the same year or due to the inspection of distinct multiple production or processing sites.

b. The inspection fee shall be submitted after the application has been reviewed to determine that all necessary documents have been provided.

47.9(3) *Certification fees.* Certification fees may be adjusted annually pursuant to Iowa Code section 190C.5(2) as amended by 2003 Iowa Acts, House File 600. The certification fee is assessed annually.

21—47.10(190C) Compliance.

47.10(1) *Enforcement and investigations.* The department and the attorney general shall enforce Iowa Code chapter 190C and this chapter pursuant to Iowa Code section 190C.21 as amended by 2003 Iowa Acts, House File 600.

47.10(2) *Complaints.* Any person may submit a written complaint to the department regarding a suspected violation of Iowa Code chapter 190C and this chapter pursuant to Iowa Code section 190C.22(2) as amended by 2003 Iowa Acts, House File 600. Such signed complaints shall be submitted on the required form provided by the department upon request.

47.10(3) *Inspection and testing, reporting and exclusion from sale—unscheduled inspection.* All parties making an organic claim may be subject to an unscheduled on-site inspection, review of records and sampling if deemed necessary by the department pursuant to Iowa Code sections 190C.22(3), 190C.22(4), and 190C.24(1) as amended by 2003 Iowa Acts, House File 600, to verify compliance.

47.10(4) *Adverse action appeal process.*

a. *Appeals.* Appeal procedures are established pursuant to Iowa Code section 190C.3(6) under 21—Chapter 2. The department may receive and process appeals regarding organic certification to the extent authorized by the national organic program. Procedures and restrictions concerning the hearing of appeals shall apply.

b. *Written appeal.* Except as specifically provided in the Iowa Code or elsewhere in the Iowa Administrative Code, a person who wishes to appeal an action or proposed action of the department which adversely affects the person shall file a written appeal with the department within 30 calendar days of the action or notice of the intended action. A written notice of appeal shall be considered filed on the date of the postmark if the notice is mailed. The failure to file timely shall be deemed a waiver of the right to appeal.

c. *Records.* Records of all appeals, complaints and disputes, and remedial actions relative to certification shall be maintained by the department for a minimum of ten years. Records shall include documentation of appropriate subsequent action taken and its effectiveness.

21—47.11(190C) Regional organic associations (ROAs). The department may register and authorize a regional organic association to assist the department by providing application assistance to the association's members requesting application assistance.

47.11(1) *Registration.* If authorized by the department, regional organic associations shall be registered by the department in order to assist the department.

a. *Registration.* Regional organic associations shall register annually. To register with the department, the regional organic association shall submit the following:

(1) Names and addresses of a minimum of 25 members;

(2) A signed regional organic association declaration as provided by the department;

(3) The bylaws and ongoing changes to the bylaws; and

(4) Verification of regional organic association liability insurance.

b. *Authorization.* For authorization to be granted, the following requirements shall be met:

(1) The regional association shall sign a memorandum of understanding with the department specifying functions to be performed by the association related to application assistance; and

(2) The regional association shall receive from the department a letter of authorization to provide application assistance.

47.11(2) *Functions.*

a. Authorized ROAs, reviewing member application materials for submission to the department, shall:

(1) Provide to the department and the board a summary of the member's application;

(2) Identify any unresolved shortcomings in the application; and

(3) Indicate if the application appears to meet the Iowa organic standards promulgated in Iowa Code chapter 190C and this chapter.

b. Requirements.

(1) Application assistance provided by ROAs shall be conducted by association staff or association board members; and

(2) Application materials received by the ROA for submission to the department shall be forwarded along with the summary to the department. The application fee for state organic certification shall be paid with a check made payable to the department by the individual member applying for state certification. The check shall be submitted with the application.

47.11(3) *Prohibited.*

a. ROA staff or ROA board members providing application assistance for their members shall have no personal or commercial interest in the outcome of a member's application for state certification.

b. ROAs shall not amend member documents prior to submitting them to the department.

21—47.12(190C) Private certification organizations (PCOs) and other state certification agencies. Rescinded IAB 10/29/03, effective 12/3/03.

These rules are intended to implement Iowa Code chapter 190C as amended by 2003 Iowa Acts, House File 600.

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[Filed 10/8/03, Notice 8/20/03—published 10/29/03, effective 12/3/03]

CHAPTER 48
PESTICIDE ADVISORY COMMITTEE

21—48.1(206) Function. The pesticide advisory committee was created by Iowa Code chapter 206 and is charged with the responsibility of assisting the secretary in obtaining scientific data and coordinating agricultural chemical regulatory, enforcement, research and educational functions of the state.

48.1(1) *Organization and operation location.* The pesticide advisory committee is located within the Department of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319. The department's office hours are from 8 a.m. to 4:30 p.m., Monday through Friday.

48.1(2) *Membership.* The pesticide advisory committee consists of nine members as set forth in Iowa Code section 206.23.

21—48.2(206) Staff. Staff assistance is provided through the department of agriculture and land stewardship as designated by the secretary of agriculture.

21—48.3(206) Advisors. The pesticide advisory committee may solicit input from advisors without restriction as determined by the committee.

21—48.4(206) Meetings. The pesticide advisory committee meets annually to elect a chairperson but may meet at other times as directed by the secretary or designee. Meetings may be called by the chairperson or on request by four members of the committee.

All committee meetings shall comply with Iowa Code chapter 21. A quorum of two-thirds of the committee members must be present to transact business. Action by the committee requires a vote of a majority of those on the committee. Meetings follow Robert's Rules of Order. Minutes of each meeting are available from the Secretary of Agriculture, Department of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319.

21—48.5(206) Open records. All public records of the committee are available for public inspection during business hours. Requests to obtain records may be made by mail, by telephone or in person to the secretary's office, department of agriculture and land stewardship. Minutes of the committee meetings may be obtained without charge. Other records requiring more than five copies may be obtained upon payment of the actual cost for copying.

21—48.6(206) Budget. The pesticide advisory committee shall submit an annual budget to the secretary of agriculture.

21—48.7(206) Review of pesticide applicator instructional course and examination. The pesticide advisory committee shall meet at least once annually to review pesticide applicator certification instructional courses and examinations. The purpose of the annual review is to discuss topics of current concern that may be incorporated in pesticide applicator instructional courses and appropriate examinations. The committee shall review and evaluate the various instructional programs recently conducted and recommend options to increase overall effectiveness.

These rules are intended to implement Iowa Code section 206.23.

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[Filed emergency 1/10/90—published 2/7/90, effective 1/10/90]
[Filed emergency 10/8/93—published 10/27/93, effective 10/8/93]
[Filed 4/20/94, Notice 10/27/93—published 5/11/94, effective 6/15/94]

CHAPTER 49
BULK DRY ANIMAL NUTRIENTS

21—49.1(200A) Definitions. When used in this chapter:

"Bulk dry animal nutrient product" or *"bulk product"* means an animal nutrient product delivered to a purchaser in bulk form to which a label cannot be attached.

"County soil survey" means a publication containing a survey of soils and topography of an Iowa county by the Iowa cooperative soil survey.

"Department" means the department of agriculture and land stewardship.

"Distribute" means to offer for sale, sell, hold out for sale, exchange, barter, supply or furnish a bulk dry animal nutrient product on a commercial basis.

"Distributor" means a person who distributes a bulk dry animal nutrient product.

"Dry animal nutrient product" means any unmanipulated animal manure composed primarily of animal excreta if all of the following apply:

1. The manure contains one or more recognized plant nutrients which are used for their plant nutrient content.
2. The manure promotes plant growth.
3. The manure does not flow perceptibly under pressure.
4. The manure is not capable of being transported through a mechanical pumping device designed to move a liquid.
5. The constituent molecules of the manure do not flow freely among themselves but do show the tendency to separate under stress.

"Guaranteed analysis" means the minimum percentage of plant nutrients claimed and reported to the department pursuant to Iowa Code section 200A.6.

"Label" means any written or printed material which accompanies bulk shipments.

"Official sample" means any sample of a bulk dry animal nutrient taken by the department, according to procedures established by the department consistent with this chapter.

"Percent" or *"percentage"* means percentage by weight.

"Person" means individual, partnership, association, firm or corporation.

"Purchaser" means a person to whom a dry bulk animal nutrient is distributed.

"Ton" means a net weight of 2,000 pounds avoirdupois.

21—49.2(200A) License. Any person who distributes bulk dry animal nutrients in Iowa must first obtain a license from the department and shall pay a $10 license fee for each place from which bulk dry animal nutrients are distributed. Such license fee shall be paid on July 1 of each year. Application for license shall be made on forms furnished by the department.

21—49.3(200A) Registration. Each bulk dry animal nutrient shall be registered before being distributed in this state. The application for registration shall be submitted to the department on forms furnished by the department and shall be accompanied by a label which contains information as provided in Iowa Code section 200A.6, subsection 2, paragraphs *"a"* and *"b."*

21—49.4(200A) Additional plant elements. Additional plant food nutrients, besides nitrogen, phosphorus and potassium, when mentioned in any form or manner, shall be registered and shall be guaranteed. Guarantees shall be made on the elemental basis. The minimum percentages which will be accepted for registration are as follows:

Element	Percent
Calcium (Ca)	1.00
Magnesium (Mg)	0.50
Sulfur (S)	1.00
Boron (B)	0.02
Chlorine (Cl)	0.10
Cobalt (Co)	0.0005
Copper (Cu)	0.05
Iron (Fe)	0.10
Manganese (Mn)	0.05
Molybdenum (Mo)	0.0005
Sodium (Na)	0.10
Zinc (Zn)	0.05

Guarantees or claims for the above-listed additional plant nutrients are the only ones which will be accepted. Proposed labels and directions for use shall be furnished with the application for registration. Any of the above-listed elements which are guaranteed shall appear in the order listed, immediately following guarantees for nitrogen, phosphorus and potassium. A warning statement is required on the label for any product which contains 0.03 or more boron in a water-soluble form or 0.001 percent or more of molybdenum. The statement shall carry the word "WARNING" in letters large enough to be conspicuous; it shall state the crops for which the bulk dry animal nutrient may be used and it shall state that use of the bulk dry animal nutrient on any other than those recommended may result in serious injury to the crops.

21—49.5(200A) Distribution statement. Any bulk dry animal nutrient distributed in this state must be accompanied by a form, furnished by the department, which contains all information required by Iowa Code section 200A.7. The distribution statement must be provided to the purchaser before possession of bulk dry animal nutrient is transferred to the purchaser and receipt of the distribution statement must be acknowledged by signature or initials of the purchaser. The distributor shall maintain a copy of the distribution statement for one year.

21—49.6(200A) Distribution reports. Any person required to be licensed to distribute bulk dry animal nutrients in this state shall file distribution reports on forms furnished by the department as required by Iowa Code section 200A.8.

21—49.7(200A) Storage of bulk dry animal nutrients. A distributor shall not store bulk dry animal nutrients in a manner which pollutes the waters of the state. Storage requirements include the following:

1. Bulk dry animal nutrients shall not be stored in a grassed waterway.
2. Bulk dry animal nutrients shall not be stored on ground with a slope of greater than class "B" as defined in the county soil survey.
3. Bulk dry animal nutrients shall not be stored within 200 feet of a shallow private water supply well or within 100 feet of a deep water supply well. Bulk dry animal nutrients shall not be stored within 500 feet of a surface intake, wellhead or cistern of agricultural drainage wells, known sinkholes or major water sources or within 200 feet of watercourses other than major water sources (excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided). For purposes of this rule, terms used are considered to have the same meaning as defined in 567—65.1(455B).

21—49.8(200A) Manure management plans. Distributors of bulk dry animal nutrients who are confinement feeding operations must comply with rules 567—65.16(455B) and 65.17(455B) and 567—paragraph 65.3(3)*"g."* For the volume of bulk dry animal nutrients to be sold or removed from control of the distributor, the requirements of rules 567—65.16(455B) and 65.17(455B) and

567—paragraph 65.3(3)*"g"* shall be deemed to have been met when a distributor notifies in writing the department of natural resources.

These rules are intended to implement Iowa Code chapter 200A.

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CHAPTER 50
WOMEN, INFANTS, AND CHILDREN/FARMERS' MARKET NUTRITION PROGRAM AND SENIOR FARMERS' MARKET NUTRITION PROGRAM

21—50.1(159) Authority and scope. This chapter establishes procedures to govern the administration of a farmers' market special supplemental food program by the department of agriculture and land stewardship for implementing the applicable agreement and guidelines set forth by the United States Department of Agriculture, Food and Nutrition Service Agreement, in accordance with 2007 Iowa Acts, House File 846.

Information may be obtained by contacting the Horticulture and Farmers' Market Bureau, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319, telephone (515)281-5321.

21—50.2(159) Severability. If any provision of a rule or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule which can be given effect without the invalid provision or application, and, to this end, the provisions of these rules are severable.

21—50.3(159) Definitions. For the purposes of this chapter:

"Application" means a request made by an individual to the department for vendor certification in the FMNP/SFMNP on a form provided by the horticulture and farmers' market bureau of the department.

"Authorized CSA" means a community supported agriculture program that is authorized by the department for the exchange of SFMNP funds for eligible foods.

"Authorized farmers' market" means a farmers' market site authorized by the department for the exchange of vouchers for eligible foods.

"Authorized farmstand" means a farmstand site authorized by the department for the exchange of vouchers for eligible foods.

"Certified vendor" means an individual who has met all FMNP/SFMNP conditions as outlined by the department and who is guaranteed payment on all vouchers accepted, provided compliance is maintained by that individual regarding all FMNP/SFMNP rules and procedures as outlined in the vendor certification handbook. Individuals who exclusively sell produce grown by someone else, such as wholesale distributors, cannot be certified to participate in the FMNP/SFMNP, except individuals employed by a farmer otherwise qualified under these rules.

"Certified vendor identification card" means a department-issued card that shall be presented by the certified vendor during each occurrence of voucher deposit in the financial institution of certified vendor choice. This card shall remain the sole property of the department with forfeiture by the certified vendor to the department in the event of disqualification or suspension.

"Certified vendor identification sign" means department-issued signage which shall be clearly displayed by the certified vendor at all times the vendor accepts or intends to accept vouchers in an authorized farmers' market/farmstand. Signs shall remain the sole property of the department with forfeiture by the certified vendor to the department in the event of disqualification or suspension.

"Certified vendor number" means a unique identification number issued for a designated period by the department and assigned to an individual whom the department has identified as a certified vendor. The certified vendor number shall be affixed to the certified vendor identification card and the certified vendor identification sign, and the certified vendor shall stamp the number on each voucher that is submitted for deposit. An individual shall be assigned no more than one certification number for any designated period.

"Certified vendor stall" means all of the area in an authorized farmers' market that is dedicated to a certified vendor for the purpose of displaying and offering product for sale. Certified vendors are permitted only one certified vendor stall per market. The only exceptions shall be:

1. If the certified vendor elects not to promote any of the area as FMNP/SFMNP for an entire farmers' market day; or

2. If the certified vendor elects to exclude a portion of the space by maintaining a distance of separation from the certified vendor stall by a minimum of two farmers' market vendors who are neither affiliated with nor related to the certified vendor and who are actively participating in the farmers' market on the given day. An excluded area shall be operated independently of the certified vendor stall.
These exceptions shall hold only when the vendor neither accepts nor intends to accept vouchers.

"Certified vendor stamp" means a department-issued stamp of the certified vendor number.

"Community supported agriculture" means a program under which a farmer or group of farmers grows food for a group of shareholders (or subscribers) who pledge to buy a portion of the farmer's crop(s) for that season.

"Days" means calendar days.

"Department" means the Iowa department of agriculture and land stewardship.

"Designated distribution site" means a site authorized by the department for distribution of vouchers by the local agency.

"Distribution" means the process outlined by the department and the means by which local agencies actually dispense vouchers to eligible recipients.

"Eligible foods" means fresh, nutritious, unprepared, locally grown fruits, vegetables and herbs for human consumption. Eligible foods may not be processed or prepared beyond their natural state except for usual harvesting and cleaning processes. Locally produced, unpasteurized, pure honey is an eligible food only for the recipients of SFMNP benefits.

"Farmers' market" means a cooperative or nonprofit enterprise or association that consistently occupies a given site throughout the season, which operates principally as a common marketplace for a group of farmers to sell locally grown fresh produce directly to consumers, and where the majority of products sold are produced by the participating farmers with the sole intent and purpose of generating a portion of household income.

"Farmstand" means a consistent site throughout the season, in which a single individual farmer sells the farmer's produce directly to consumers.

"FMNP" means the women, infants, and children farmers' market nutrition program.

"Fresh produce" means fruits and vegetables that have not been processed in any manner. This term does not include such items as dried fruits and vegetables, potted or dried herbs, wild rice, nuts of any kind including raw nuts, popcorn, fruit or vegetable plants/seedlings, dried beans/peas, seeds/grains, flowers, maple syrup, cider, eggs, meat, cheese, and seafood.

"Local agency" means a nonprofit entity that certifies eligible recipients, issues FMNP/SFMNP vouchers, arranges for the distribution of eligible foods through CSA programs, or provides nutritional education or information on operational aspects of the FMNP/SFMNP to recipients and which has entered into a contract with the department.

"Locally grown" means produce that has a traceable point of origin either within Iowa or in a neighboring state in a county adjacent to Iowa's border.

"Posted hours and days" means the operational time frames stated in assurances submitted by a representative, who has the legal authority to obligate the farmers' market/farmstand, which include a beginning and an ending time and date for each year of operation.

"Proxy" means an individual authorized by an eligible recipient to act on the recipient's behalf, including application for, receipt of, or use of vouchers or acceptance of SFMNP foods provided through a CSA program as long as the benefits are ultimately received by the recipient. Minors shall not be used as proxies. A proxy may act on behalf of more than one eligible recipient only if the proxy is directly related to the additional eligible recipients.

"Recipient" means a person chosen by the Iowa department of agriculture and land stewardship to receive FMNP/SFMNP benefits.

1. To receive FMNP benefits, such person must be a woman, infant over four months of age, or child who receives benefits under the WIC program or is on the waiting list to receive benefits under the WIC program.

2. To receive SFMNP benefits, such person must meet the senior eligibility criteria of the SFMNP in Part 249.6 of Subpart C of Title 7 Code of Federal Regulations as of May 26, 2005.

"Season" means a clearly delineated period of time during a given year that has a beginning date and ending date, as specified by the department, which correlates with a major portion of the harvest period for locally grown fresh produce.

"Secretary" means the secretary of agriculture for the state of Iowa.

"Service area" means the geographic area that encompasses all of the designated distribution sites and authorized farmers' markets, farmstands, and CSAs within Iowa for a designated period.

"SFMNP" means the senior farmers' market nutrition program.

"Shareholder" means an SFMNP recipient for whom a full or partial share in a community supported agriculture program has been purchased by the department, and who receives SFMNP benefits in the form of actual eligible foods rather than vouchers that must be exchanged for eligible foods at farmers' markets or farmstands.

"USDA-FNS" means the United States Department of Agriculture-Food and Nutrition Service.

"Vendor certification handbook" means a publication by the department that is based on USDA-FNS regulations and guidelines, addresses all FMNP/SFMNP rules and procedures applicable to a certified vendor, and provides the basis for vendor training. A copy of the publication shall be issued to each individual after certification training. New editions supersede all previous editions.

"Voucher" means a negotiable instrument issued by the department to recipients that is redeemable only for eligible foods from certified vendors at authorized farmers' markets/farmstands with a limited negotiable period that directly correlates to the season designated by the department.

"WIC" means the Special Supplemental Food Program for Women, Infants and Children, as administered by the Iowa department of public health.

[**ARC 8308B**, IAB 11/18/09, effective 12/23/09]

21—50.4(159) Program description and goals. The women, infants, and children/farmers' market nutrition program (FMNP) and the senior farmers' market nutrition program (SFMNP) are jointly funded by the state of Iowa and the United States Department of Agriculture.

50.4(1) The dual purposes of the FMNP are:

a. To provide resources in the form of fresh, nutritious, unprepared foods (fruits and vegetables) from farmers' markets to women, infants, and children who are nutritionally at risk and who are participating in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) or are on the waiting list for the WIC program, and

b. To expand the awareness of, use of and sales at farmers' markets.

50.4(2) The purposes of the SFMNP are:

a. To provide resources in the form of fresh, nutritious, unprepared locally grown fruits, vegetables and herbs from farmers' markets, roadside stands, and community supported agriculture (CSA) programs to low-income seniors;

b. To increase the domestic consumption of agricultural commodities by expanding or aiding in the expansion of domestic farmers' markets, roadside stands, and CSAs; and

c. To develop or aid in the development of new and additional farmers' markets, roadside stands, and CSAs.

21—50.5(159) Administration and agreements.

50.5(1) The program shall be administered by the secretary or by the secretary's designee.

50.5(2) The department shall maintain all conditions as outlined in the farmers' market nutrition program/senior farmers' market nutrition program state plan submitted to USDA-FNS.

21—50.6(159) Distribution of benefits.

50.6(1) Iowa department of public health WIC client screening processes and records shall provide the basis for identifying recipients eligible for receipt of FMNP vouchers. The department may contract with local agencies to certify eligible recipients and distribute SFMNP vouchers. Senior recipient eligibility criteria shall conform to Part 249.6 of Subpart C of Title 7 Code of Federal Regulations as of May 26, 2005.

50.6(2) Local agencies shall distribute vouchers at designated distribution sites to recipients in the manner specified by the department in the procedures guide for distribution site staff. Local agency services shall include, but not be limited to, ensuring that:

a. Each recipient is issued vouchers during each distribution as authorized by the department.

b. The voucher serial numbers issued to the recipient correspond to the numbers in the distribution registry.

c. A proxy is allowed to act on behalf of a recipient.

d. Each recipient is provided a thorough explanation of program guidelines and recipient responsibility as outlined by the department.

e. All FMNP/SFMNP support materials are put into use as outlined by the department.

f. Accurate and complete records of all related FMNP/SFMNP activities in the possession of a local agency are maintained and retained for a minimum of three years following the date of submission of the final expenditure report for the period to which the report pertains. In the event of litigation or audit findings, the records shall be retained until all issues arising from such actions have been resolved or until the end of the prescribed retention period, whichever is later.

g. All agency records pertaining to this program are made available for inspection to representatives of USDA, the Comptroller General of the United States, the state auditor, the department, and other agencies working under contract with the department as necessary, at any time during normal business hours, and as frequently as is deemed necessary for inspection and audit. Otherwise, confidentiality of personal information on all recipients participating in the program shall be maintained at all times.

21—50.7(159) Recipient responsibilities. Recipients shall be responsible for, but not limited to, all of the following:

1. Qualifying under FMNP/SFMNP guidelines and attending a designated distribution site when vouchers are distributed.
2. Properly signing a voucher(s) at time of use in the presence of the certified vendor who accepts a voucher in exchange for eligible foods.
3. Using vouchers only to purchase eligible foods from certified vendors who display certified vendor identification signs at authorized farmers' markets/farmstands.
4. Redeeming vouchers on or before the expiration date printed on the face of the voucher, or surrendering all claim to the value of vouchers that remain unredeemed.
5. Ensuring vouchers received are not assigned to any other party other than to a proxy.
6. Reporting violations or problems to the department or the local agency.
7. Reporting all incidents of lost or stolen vouchers to the local agency.

21—50.8(159) Farmers' market, farmstand, and community supported agriculture (CSA) authorization and priority.

50.8(1) A farmers' market/farmstand/CSA shall be eligible for authorization based in part upon the submission of assurances by a representative who has the legal authority to obligate the farmers' market/farmstand/CSA. Farmers' market/farmstand/CSA assurances shall be submitted in a manner outlined by the a department and shall provide evidence of willingness by a person(s) associated with the farmers' market/farmstand/CSA to implement all FMNP/SFMNP requirements.

50.8(2) Assurances submitted by a farmers' market/farmstand shall include, but not be limited to, all of the following:

a. The name(s) of certified vendor participant(s).

b. Posted hours and days of operation to be maintained each week, specifically detailed to cover any anticipated fluctuations in operations over the course of the season. A farmers' market/farmstand must be actively operating a minimum of two consecutive hours each week.

c. Season of operation which ensures the farmers' market/farmstand is actively operating on the same day, on a weekly basis, for a majority of the weeks of the season.

d. Accessibility and consistency of farmers' market/farmstand site over the course of the season.

e. Local rules that do not overly restrict the number of certified vendors who may participate in the farmers' market or operate a farmstand.

f. Department is notified if the farmers' market/farmstand changes the posted hours and days of operation prior to the end of the authorization period.

50.8(3) A CSA program shall:

a. Provide such information as the department may require for its periodic reports to USDA-FNS.

b. Ensure that SFMNP recipients receive only eligible foods.

c. Provide eligible foods to SFMNP shareholders at or less than the price charged to other customers.

d. Ensure that the shareholders receive eligible foods that are of equitable value and quantity to their share.

e. Ensure that all funds from the department are used for planting of crops for SFMNP shareholders.

f. Provide to the department access to a tracking system that determines the value of the eligible foods provided and the remaining value owed to each SFMNP shareholder.

g. Ensure that SFMNP shareholders/authorized representatives provide written acknowledgment of receipt of eligible foods.

h. Accept training on SFMNP procedures and provide training to farmers and any employees with SFMNP responsibilities for such procedures.

i. Agree to be monitored for compliance with SFMNP requirements, including both overt and covert monitoring.

j. Be accountable for actions of farmers or employees in the provision of eligible foods and related activities.

k. Offer SFMNP shareholders the same courtesies as other customers.

l. Notify the department immediately when the CSA program is experiencing a problem with its crops and may be unable to provide SFMNP shareholders with the complete amount of eligible foods agreed upon between the CSA and the department.

m. Comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Department of Agriculture regulations on nondiscrimination contained in Parts 15, 15a and 15b and FNS instructions as outlined in Part 249.7 of Title 7 Code of Federal Regulations, as of May 26, 2005.

n. Notify the department if any CSA program ceases operation prior to the end of the authorization period.

50.8(4) The department shall give priority to a farmers' market/farmstand/CSA with previous involvement in FMNP/SFMNP, provided the farmers' market/farmstand/CSA does not have a high incidence of certified vendor noncompliance, suspensions, or disqualifications.

50.8(5) A principal factor in determining farmers' market authorization shall pertain to the number of eligible applications received by the department prior to April 15 that indicate the intent to participate in the given farmers' market. A standard of three eligible certified vendor applications, indicating intent to participate in the farmers' market for the majority of weeks of the season, is required for a farmers' market to receive authorization.

50.8(6) The number of farmers' markets/farmstands/CSAs authorized for publication in the directory shall be determined by the department no later than May 1 prior to each season. Additional farmers' markets/farmstands/CSAs may be authorized no later than June 30.

50.8(7) An authorized farmers' market must ensure that at least one certified vendor remains at the authorized farmers' market during the posted days and hours of market operation. Failure to comply will result in a warning citation from the department. Repeated noncompliance could result in the revocation of the farmers' market authorization.

50.8(8) A farmstand authorized to participate in the FMNP/SFMNP shall be operated from a permanent building that is primarily used for the sale of eligible foods, is not moveable and remains in the same location year-round. The building shall have at least a roof, sidewalls, and solid floor to protect produce and people. Wood post frame, stud frame, rigid-frame metal, and concrete block construction

are suitable farmstand construction. The building must be maintained in a manner consistent with standards generally accepted for this type of business. Up to two moveable farmstands that do not meet the requirements of permanent farmstands may be authorized in cities and villages that are not located within ten miles of an authorized farmers' market. If three or more applications for moveable farmstands within the same city or village are received by the department, the applicants shall be required to meet the authorization requirements of a farmers' market. An authorized farmstand must be staffed during all hours of operation. Failure to comply will result in a warning citation from the department. Repeated noncompliance could result in the revocation of the farmstand authorization.

21—50.9(159) Vendor certification.

50.9(1) Vendor certification shall not be in effect and vouchers shall not be accepted until the applicant receives a certified vendor identification card, a certified vendor identification sign, a certified vendor stamp, a copy of the vendor application form, and the applicant copy of the department-vendor agreement signed by both parties.

50.9(2) Vendor certification expires at the end of each year of issuance. Individuals must annually apply for and receive vendor certification in order to participate in FMNP/SFMNP.

50.9(3) The department does not limit the number of vendors who may become certified under FMNP/SFMNP. The department issues a single certified vendor number for each separate and distinct agricultural operation. A vendor certified to accept program vouchers may accept vouchers at any authorized market in the state upon approval by the department to participate in that particular market and acceptance by the particular market. A vendor who satisfies all the following criteria shall be certified to accept vouchers.

a. Indicates an intent to participate in one or more authorized farmers' markets/farmstands for a majority of weeks of the market season. A vendor who does not participate in the FMNP/SFMNP for the majority of weeks of the season may be certified to accept vouchers only at farmers' markets that have been previously authorized. A certified vendor who does not participate in the FMNP/SFMNP for the majority of weeks of the season will not be considered in the standard of three eligible certified vendor applications required for a farmers' market to receive authorization.

b. Participates in training on FMNP/SFMNP rules and procedures through attendance in an entire session of one of the six scheduled training meetings conducted by department staff.

c. Meets the eligibility requirements based on the information submitted in a completed application to the department prior to the deadline.

d. Is 18 years of age or older and submits a completed and signed certified vendor agreement to the department.

e. Resides and grows eligible foods within Iowa or in a neighboring state in a county adjacent to Iowa's border.

21—50.10(159) Certified vendor obligations. A certified vendor shall be responsible for, but not limited to, all of the following:

1. Beginning each market day with at least 20 percent of all products for sale or display in a certified vendor stall as eligible foods, having personally grown a majority of the eligible foods for sale or display, and with all produce being locally grown. When eligible foods are purchased for resale from another producer or wholesaler, valid receipts must be presented to the department upon request and must contain the following information: the name, address and telephone number of the producer/wholesaler; the date of purchase; location of the growing site; and quantity purchased, itemized by product type.

2. Accepting vouchers only for a transaction that takes place at the location, hours, and days of an authorized farmers' market/farmstand, only in exchange for eligible foods, and signed by the recipient or proxy at the time of purchase.

3. Prominently displaying a certified vendor identification sign that is located on the customer traffic side of the stall only at the location, hours, and days of an authorized farmers' market/farmstand. The certified vendor identification sign must be removed or covered when the eligible foods are sold out.

4. Providing eligible foods to recipients upon receipt of a valid and properly completed voucher, which is signed at the time of sale. Vouchers that are properly presented must be accepted by certified vendors participating in the FMNP/SFMNP.

5. Accepting vouchers as payment for eligible foods only if presented on or before the usage expiration date printed on the face of the voucher.

6. Stamping each transacted voucher with the certified vendor number prior to voucher deposit and submitting vouchers for payment on or before 15 days following the expiration date printed on the face of the voucher.

7. Handling transactions with recipients in the same manner as transactions with all other customers, to ensure that FMNP/SFMNP clients are not exposed to discriminatory practices in any form.

8. Not collecting state or local taxes on purchases involving vouchers.

9. Providing eligible foods to recipients at the current price or less than the current price charged to other customers.

10. Not levying a surcharge based on the use of vouchers by recipients.

11. Not returning cash or issuing credit in any form to recipients during sales transactions that involve vouchers only. In the event of a single transaction in which a recipient presents a combination of cash and vouchers for the purchase of locally grown fresh produce, cash or credit up to the value of the cash portion of the payment may be given to the recipient. Credits or refunds may not be issued on returned eligible foods that were purchased with vouchers.

12. Participating in training as the department deems necessary to carry out the intent of FMNP/SFMNP.

13. Cooperating with the department in the evaluation of each season by completely and accurately responding to a survey, with resubmission to the department in a specified and timely manner.

14. Immediately informing the department in the event of loss, destruction, or theft of the certified vendor identification card, certified vendor identification sign, or certified vendor stamp so that a replacement may be issued.

15. Complying with all procedures and rules as herein outlined and as delineated in the department vendor agreement, the certified vendor handbook, and written notices of clarification issued by the department to the vendor.

16. Complying with the requirements of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, United States Department of Agriculture regulations on nondiscrimination contained in Parts 15, 15a and 15b and FNS instructions as outlined in 248.7 and 249.7 of the Title 7 Code of Federal Regulations as of May 26, 2005.

17. Agreeing to be monitored at farmers' markets/farmstands and growing sites for compliance with FMNP/SFMNP requirements, including both overt and covert monitoring, and providing directions to growing sites upon request of department staff.

18. Not seeking restitution from FMNP/SFMNP recipients for vouchers not paid by the department.

19. Paying the department for any vouchers transacted in violation of the FMNP/SFMNP regulations.

20. Ensuring that all other persons who act on behalf of the certified vendor at a farmers' market/farmstand act solely on behalf of the certified vendor and understand and adhere to the procedures and regulations of the FMNP/SFMNP.

21. Coordinating with other certified vendors to ensure that at least one certified vendor remains at the authorized farmers' market during the posted hours and days of operation.

21—50.11(159) Certified vendor noncompliance sanctions.

50.11(1) A voucher shall be returned to the certified vendor unpaid if the certified vendor identification number is not properly stamped on the face of the voucher or if the recipient signature is missing on the face of the voucher. A voucher may be resubmitted for payment in the event that the signature or vendor certification identification error can be properly and legally corrected by the certified vendor.

50.11(2) Sanctions for violations of FMNP/SFMNP procedures and rules applicable to a certified vendor are as follows:

a. A warning citation may be the sanction for violation of the requirement to:

(1) Appropriately display the certified vendor identification sign,

(2) Post the current operating sticker to the vendor identification sign or vendor identification card, or

(3) Coordinate with other certified vendors to ensure that at least one certified vendor remains at the authorized farmers' market during the posted hours and days of operation.

If a pattern of disregard is evident, the vendor may be suspended for the remainder of the current year and the following year.

b. A warning citation after the first violation and suspension from the FMNP/SFMNP for the remainder of the current year and the following year after the second violation (regardless of when the first violation occurred) may be the sanctions for violation of the requirement to:

(1) Begin each market day with at least 20 percent of all products for sale or on display in a certified vendor stall as eligible foods, having personally grown a majority of the eligible foods for sale or display, and with all produce being locally grown.

(2) Accept vouchers only at locations, hours, or days authorized by the department.

(3) Provide eligible foods to recipients upon receipt of a valid and properly completed voucher, which is signed at the time of sale.

(4) Accept vouchers as payment for eligible foods only if presented on or before the usage expiration date printed on the face of the voucher.

(5) Handle transactions with recipients in the same manner as transactions with all other customers to ensure that FMNP/SFMNP clients are not exposed to discriminatory practices in any form.

(6) Not collect state or local taxes on purchases involving vouchers.

(7) Provide eligible foods to recipients at the current price or less than the current price charged to other customers.

(8) Not levy a surcharge based on the use of vouchers by recipients.

(9) Comply with all procedures and rules as herein outlined and as delineated in the department vendor agreement, the certified vendor handbook, and written notices of clarification issued by the department to the vendor.

(10) Agree to be monitored at farmers' markets/farmstands and growing locations for compliance with FMNP/SFMNP requirements, including both overt and covert monitoring; provide proper receipts for produce purchased for resale; or provide directions to growing sites upon request of department staff.

(11) Refrain from abusive or discriminatory treatment of recipients or FMNP/SFMNP staff.

c. Disqualification without reinstatement may be the sanction for violation of the requirement to:

(1) Accept vouchers only in exchange for eligible foods, or

(2) Return no cash or issue no credit in any form to recipients during sales transactions that involve vouchers only.

50.11(3) Violations involving the use of multiple vouchers in a single sales transaction shall be considered as a single violation. Violations involving multiple sales transactions, regardless of time elapsed, shall be considered multiple violations at a standard of one violation per sales transaction.

50.11(4) Citations. A written citation shall be issued to the certified vendor by the department within five days of receipt of evidence of a violation. A written citation from the department shall be pending for five days following receipt of the citation by the certified vendor. The certified vendor shall be granted the pending period for presenting sufficient evidence to the department to substantiate a reversal. Remedies undertaken in response to receipt of a written notice of a pending citation of noncompliance shall not constitute evidence in defense of such citation. Failure to present any evidence (oral or written) to the department within the specified period shall constitute acceptance of the citation by the certified vendor. Submission of insufficient evidence by the certified vendor for determination of reversal on the pending citation by the department may result in a sanction upon completion of the pending period.

50.11(5) Suspension. Suspension of a certified vendor from participation in FMNP/SFMNP shall remain in effect for the balance of the current year and the following year. During the suspension period,

the cited vendor shall refrain from participating in FMNP/SFMNP. The department shall have the right to reimbursement from the vendor of an amount equal in value to vouchers deposited after the official date of the suspension notification. The suspended vendor is required to return the certified vendor identification sign(s), certified vendor identification card, and certified vendor stamp to the department within 15 days of receipt of the suspension notice. At the conclusion of a suspension period, the vendor must reapply for and receive certification in order to resume participation in FMNP/SFMNP.

50.11(6) Disqualification. Disqualification shall be without reinstatement. The disqualified vendor is required to return the certified vendor identification sign(s), certified vendor card, and certified vendor stamp to the department within 15 days of receipt of the disqualification notice. In the event of a disqualification, the department shall have the right to reimbursement from the vendor of an amount equal in value to vouchers deposited after the official date of disqualification notification.

50.11(7) Probationary status. Any vendor successfully recertified following suspension will be on probationary status for one full FMNP/SFMNP season. Recurrence of a substantiated suspension violation during the probationary period and for which the certified vendor has been cited shall be sufficient grounds for immediate and automatic disqualification.

21—50.12(159) Appeal. A certified vendor who wishes to appeal a sanction made by the department which resulted in a suspension or disqualification may make a written request for administrative appeal to the department's FMNP/SFMNP director. This appeal must be made within 15 days of receipt of sanction notification by the certified vendor. The provisions of 21—Chapter 2 shall be applicable to an appeal except as otherwise provided in this chapter. The farmer/farmers' market/CSA program has the right to appeal a denial of an application to participate. Expiration of a contract or agreement shall not be subject to appeal.

21—50.13(159) Deadlines.

50.13(1) *Submission of farmers' market/farmstand/CSA assurances.* Assurances, on forms provided by the department, must be submitted no later than May 1 in order for a farmers' market/farmstand/CSA to be published in the Directory of Authorized Locations. Assurances will be accepted no later than June 30.

50.13(2) *Submission of vendor application.* All applications shall be submitted no later than one month preceding the last date on which vouchers may be used by recipients at an authorized farmers' market/farmstand/CSA.

50.13(3) *Recipient voucher usage expiration.* Vouchers shall be valid for recipient use from the season starting date through the ending date as designated by the department. Such date shall be clearly printed on the voucher face. Vouchers shall be null and void after the expiration date.

50.13(4) *Certified vendor voucher reimbursement.* All vouchers accepted by a certified vendor shall be deposited on or before 15 days following the date of expiration for voucher usage by recipients. Such date shall be clearly printed in the endorsement space on the back of the voucher. Any claim to voucher payment beyond the voucher reimbursement expiration date is not valid and shall be denied.

50.13(5) *Submissions by local agency.* Deadlines for submission of records, reports, survey instruments and undistributed vouchers by local agencies shall be established by the department and specified in the agreement entered into with the local agency.

50.13(6) *Operations plans and reports to USDA-FNS.* The department shall develop and submit plans and reports in a manner prescribed by USDA-FNS.

21—50.14(159) Discrimination complaints. FMNP/SFMNP is open to all eligible persons. Persons seeking to file discrimination complaints based on race, national origin, age, sex, or disability may write to USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue SW, Washington, DC 20250-9410.

These rules are intended to implement Iowa Code chapter 159.

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[Filed ARC 8308B (Notice ARC 7867B, IAB 6/17/09), IAB 11/18/09, effective 12/23/09]

CHAPTER 51
REMEDIATION OF AGRICHEMICAL SITES

21—51.1(161) Definitions. As used in this chapter:

"Department" means department of agriculture and land stewardship.

21—51.2(161) Agrichemical remediation board. The agrichemical remediation board was established by Iowa Code section 161.3 and is charged with the responsibility of executing remediation agreements; reviewing and determining the eligibility for site remediation; approving administrative costs of the department; and consulting with the department in the adoption of rules necessary to carry out the provisions of Iowa Code chapter 161.

51.2(1) *Organization and operation location.* The agrichemical remediation board is located within the Department of Agriculture and Land Stewardship, Henry A. Wallace Building, East 9th and Grand, Des Moines, Iowa 50319. The department's office hours are from 8 a.m. to 4:30 p.m., Monday through Friday.

51.2(2) *Membership.* The agrichemical remediation board consists of seven members as set forth in Iowa Code section 161.3.

51.2(3) *Staff.* Staff assistance is provided through the department as designated by the secretary of agriculture.

51.2(4) *Advisors.* The agrichemical remediation board may solicit input from advisors without restriction as determined by the board.

51.2(5) *Meetings.* The agrichemical remediation board shall meet on a regular basis and annually to elect a chairperson. The board shall meet at other times at the call of the chairperson or upon written request to the chairperson by two or more members. Meetings may be in person or via telephone conference as determined by the chairperson.

a. All board meetings shall comply with Iowa Code chapter 21. A quorum of an absolute majority of the board members must be present to transact business. Action by the board requires the approval of an absolute majority of board members.

b. Meetings will follow Robert's Rules of Order. Minutes of each meeting will be available from the Secretary of Agriculture, Department of Agriculture and Land Stewardship, Henry A. Wallace Building, East 9th and Grand, Des Moines, Iowa 50319.

51.2(6) *Open records.* All public records of the board are available for public inspection during business hours. Requests to obtain records may be made by regular mail, by electronic mail, by telephone or in person to the secretary's office, department of agriculture and land stewardship. Minutes of the board meetings may be obtained without charge. Other records requiring more than five copies may be obtained upon payment of the actual cost of copying.

51.2(7) *Budget.* The agrichemical remediation board shall submit a proposed budget to the secretary of agriculture no later than May 1 of each year.

51.2(8) *Reports.* The agrichemical remediation board shall submit a report to the general assembly by January 10 of each odd-numbered year. The report shall provide a summary and a detailed accounting of the board's financial condition including expected revenue and expenses during the following two years.

These rules are intended to implement Iowa Code section 161.3.

[Filed emergency 12/8/00—published 12/27/00, effective 12/8/00]
[Filed 3/30/01, Notice 12/27/00—published 4/18/01, effective 5/23/01]

CHAPTER 52
GRAPE AND WINE DEVELOPMENT FUNDING PROGRAM

21—52.1(175A) Authority and scope. This chapter establishes procedures to govern the administration of the grape and wine development fund by the department of agriculture and land stewardship in accordance with Iowa Code chapter 175A.

21—52.2(175A) Severability. If any provision of a rule or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule which can be given effect without the invalid provision, and, to this end, the provisions of these rules are severable.

21—52.3(175A) Goals and purpose.

52.3(1) The goals of this program are to:

a. Assist persons in establishing, improving, or expanding vineyards or winemaking operations, including wineries; and

b. To enhance and develop the native wine industry and to provide an infrastructure to encourage the growth of the native wine industry in this state.

52.3(2) Purpose. The purpose of this program is to provide assistance to eligible applicants to carry out grape and wine development programs.

21—52.4(175A) Definitions.

"Commission" means the grape and wine development commission as established pursuant to Iowa Code section 175A.2.

"Department" means the department of agriculture and land stewardship.

"Indemnification" means compensation for sustained loss or damage.

21—52.5(175A) Administration.

52.5(1) The commission shall:

a. Determine needs and priorities related to the development of Iowa's grape and wine industry and develop requests for proposals to address these needs and priorities.

b. Approve or disapprove applications for financial assistance after departmental review and recommendation.

c. Make recommendations to the department regarding the expenditure of moneys to enhance and develop the native wine industry and to provide an infrastructure to encourage the growth of the native wine industry in this state.

52.5(2) The department shall:

a. Establish grape and wine development programs and account for and expend moneys from the grape and wine development fund.

b. Consult with the commission prior to authorizing an expenditure of moneys.

21—52.6(175A) Grape and wine development programs.

52.6(1) The programs may provide for all of the following:

a. Technical assistance which may include all of the following:

(1) Viticultural assistance in order to increase the size of vineyards, improve yield, and enhance the character, composition, and condition of grapes. The department may provide technical assistance regarding the selection and management of vines suitable for regions of this state; cultivation and harvest practices; the implementation of practices designed to improve grape growing based on soil types, nutrients and minerals, space, climate, and drainage; the use of recommended varieties of native or hybrid cultivars; and disease, weed, and pest control, including the safe and effective application of pesticides or herbicides or the use of organic practices.

(2) Oenological assistance which may be based on oenological study in order to produce, preserve, and transport commercially viable wines, including high-quality wines, wines adapted to particular

regions of the state, and wines with distinctive tastes produced from native or hybrid cultivars. The technical assistance may include assistance regarding improving practices or constructing facilities designed to expand or improve processing, cellarage, or bottling.

b. Financial assistance which shall be in the form of a loan, forgivable loan, cost share, indemnification of costs, or any combination of such financing as deemed appropriate by the commission. Financial assistance may be awarded to persons beginning or engaged in grape growing or winemaking in Iowa, based on a sound business plan that demonstrates the viability of the proposed operations. Financial assistance received shall be used within the state of Iowa. Voting members of the commission are ineligible to receive financial assistance while serving on the commission.

(1) Each applicant must complete the documents required in the request for proposals. The applicant must submit the completed forms and requested information to the department at the following address: Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. Copies of the "grape and wine development funding program, request for proposals" are available through the department at the address above or on the designated department Web site.

(2) The deadlines for submission shall be determined by the commission.

52.6(2) Financial assistance caps and eligible costs.

a. Applicants may request up to $10,000, or with the mutual consent of the department and the commission up to $25,000, in financial assistance for costs including, but not limited to:

(1) Planning and implementing educational forums including, but not limited to, workshops;

(2) Developing, printing and distributing educational materials including, but not limited to, handouts for workshops and public awareness/education pamphlets;

(3) Salaries directly related to the implementation and operation of the project;

(4) Research/laboratory equipment and supplies directly related to the implementation and operation of the project;

(5) Vineyard trellising materials, grape plants or cuttings, chemicals, and site preparation costs directly related to the implementation and operation of the project; and

(6) Winery equipment and building costs directly related to the implementation and operation of the project.

b. Applicants may request up to $5,000, or with the mutual consent of the department and the commission up to $10,000, in financial assistance for material loss of grape crop, secondary grape products, and research/laboratory equipment and supplies if the material loss is caused by fire, damaging weather, natural occurrence, or a related condition.

52.6(3) Ineligible costs include, but are not limited to:

a. Land acquisition;

b. Taxes;

c. Vehicle registration;

d. Overhead expenses or indirect costs;

e. Legal costs;

f. Contingency funds;

g. Proposal preparation;

h. Contractual project administration;

i. Costs for which payment has been or will be received under another federal, state or private funding program;

j. Costs for which insurance will cover any loss for which the applicant has requested financial assistance; or

k. Political or lobbying activities.

52.6(4) Criteria for selecting proposals.

a. The commission will approve, disapprove or partially approve applications for financial assistance, after department review and recommendation, based on the following criteria:

(1) Need for the project and the benefits to the Iowa grape growing and winemaking industry;

(2) Soundness of the project information narrative;

(3) Reasonableness of the budget;

(4) Innovation of the project;

(5) Sustainability of the project;

(6) Ease in duplicating project outcomes; and

(7) Degree of collaboration or partnership.

b. Applications for financial assistance may be disapproved for any of the following reasons including, but not limited to:

(1) Insufficient moneys in the fund;

(2) An applicant does not meet the eligibility requirements;

(3) An applicant does not provide sufficient information on forms provided by the department;

(4) An applicant is delinquent on payments for financial assistance already received through the program;

(5) The project goals or purposes are not consistent with this program or the request for proposals; or

(6) The applicant has requested or received funding to indemnify for material loss of grape crop, secondary grape products, and research/laboratory equipment and supplies in either of the past two years.

52.6(5) Financial assistance disbursement limitations.

a. Financial assistance may be offered in an amount less than that requested by the applicant. In such case, the applicant may be requested to document the impact on the proposed project. Reduced financial assistance may be offered in any of the following circumstances:

(1) Moneys in the grape and wine development fund are insufficient to provide for all applicants the level of funding requested;

(2) The applicant can implement the project at a reduced level of financial assistance and achieve the project objectives and goals of this program; or

(3) The term of a proposed project may be reduced, thus affecting the total proposed costs. In such case, the applicant may reapply for financial assistance in future submission periods.

b. Financial assistance shall not be disbursed by the department until:

(1) The department has determined that financing for any cost share amount is ensured by the applicant; reviewed and recommended the application to the commission; executed a written contract with the applicant; and ensured that moneys in the grape and wine development fund are available for disbursement; and

(2) The commission has approved the application.

52.6(6) Contracts and loans.

a. Applicants shall enter into a contract with the department for the purpose of implementing the project for which financial assistance has been awarded. The contract shall be signed by an appointed authority of the department and a representative that has the legal authority to obligate the applicant. The recipient shall be required to submit periodic financial and progress reports as identified in the executed contract. Financial and progress reports are considered part of the public record. The department may terminate any contract and seek the return of any financial assistance released under the contract for material breach under the terms and conditions of the contract. The department may seek the return of any unused financial assistance under the terms of the contract. Written amendments to contracts may be adopted by mutual consent between the department and the recipient.

b. Loans executed in accordance with these rules shall be determined on a case-by-case basis and shall be based on the specific capital costs financed, as well as the terms of other financing provided for the project. A written contract between the department and the recipient shall establish other conditions or terms needed to manage or implement the project. The recipient shall be required to make regularly scheduled installment payments to retire the loan and any interest assigned to the loan as identified in the executed contract.

52.6(7) Notification. The department will notify applicants regarding the status of their proposals within two months after the applicable submission deadlines. An extension may be necessary if the commission requests additional information from an applicant about any of the proposals under review.

21—52.7(175A) Appeal. A recipient who wishes to appeal the department's decision to terminate a contract or seek the return of financial assistance released under a contract may make a written request for administrative appeal. The appeal shall be made within 15 days of notification. The provisions of 21—Chapter 2 shall be applicable to an appeal except as otherwise provided in this chapter. Expiration of a contract shall not be subject to appeal.

These rules are intended to implement Iowa Code chapter 175A.

[Filed 9/21/06, Notice 5/24/06—published 10/11/06, effective 11/15/06]

CHAPTER 57
WHITETAIL DEER HUNTING PRESERVES

Rescinded IAB 7/21/04, effective 7/2/04

CHAPTER 58
NOXIOUS WEEDS

21—58.1(317) Definition. As used in this chapter, "sterile" means any plant or variety that is incapable of reproduction or which is either noninvasive or nonaggressive in that the plant does not spread into areas where it was not initially planted.

21—58.2(317) Purple loosestrife. The following Lythrum (purple loosestrife) cultivars are derived from Lythrum virgatum that are sterile or nonaggressive and can be sold for planting in ornamental gardens.

1. Rose queen
2. The rocket
3. Morden pink
4. Morden gleam
5. Morden rose
6. Dropmore purple
7. Columbia pink

Any person selling or offering for sale any or all of the above-listed varieties shall prominently display a sign to inform purchaser it is legal to plant the above-listed Lythrum virgatum in "ornamental gardens" only.

21—58.3(317) Records. A person selling or offering for sale any or all of the varieties listed in rule 58.2(317) shall retain in the person's possession records on the inventory of such varieties acquired, sold, or retained by the person. These records shall include the identity and address of the supplier of any of the varieties. These records shall be retained for a period of three years and shall be available to the department for inspection during the person's regular business hours.

These rules are intended to implement Iowa Code section 317.25.

[Filed emergency 4/3/91 after Notice 12/26/90—published 5/1/91, effective 4/3/91]

CHAPTER 59
SORGHUM

Rescinded IAB 11/26/03, effective 12/31/03

CHAPTER 60
POULTRY

[Prior to 7/27/88, see Agriculture Department 30—Ch 11]

21—60.1(168) Egg-type chickens, meat-type chickens, turkeys, domestic waterfowl, domestic game birds and exhibition poultry.

60.1(1) For the purpose of assisting the state of Iowa in maintaining its pullorum-typhoid free status, the secretary adopts the provisions of §§145.23(b)(3)(i) through (vii), 145.33(b)(3)(i) through (vii), 145.43(b)(3)(i) through (vi), and 145.53(b)(3)(i) through (vii), part 145 issued originally as part 445 under section 101(b) of the Department of Agriculture Organic Act of 1944, as amended (7 U.S.C. 429) as of July 1, 1977; and the regulations promulgated pursuant thereto of the Iowa National Poultry Improvement Plan as amended as of August 1989, a copy of which is on file with the secretary.

60.1(2) All hatching eggs, baby chicks or started pullets must originate from flocks or hatcheries that have a pullorum-typhoid clean rating.

60.1(3) All boxes, crates, coops or other containers shall be new or disinfected before being used to move poultry within the state of Iowa. Each such box, crate, coop or other container that is attached to a customer lot shall be plainly labeled by identifying the customer lot thereof with a label to be supplied by the NPIP recognized official state contact agency (Iowa Poultry Association). The label shall contain the name of seller and description of contents as specified in Iowa Code section 168.5(4).

21—60.2(168) License for dealers of baby chicks or domestic fowls. In order to qualify for the license to engage in the business of custom hatching, producing baby chicks and other baby domestic fowls under six weeks of age, for sale in this state or of offering them for sale or selling them within this state, the applicant shall comply with the following requirements:

60.2(1) Application for a license shall be accompanied by the required license fee.

60.2(2) Applicant shall assist the state in maintaining its pullorum-typhoid free status by accompanying license application with evidence or affidavit indicating compliance with regulations of the Iowa Poultry Improvement Plan, as amended as of August 1989, a copy of which is on file with the secretary.

60.2(3) Prior to issuing the license, the department may inspect the applicant's business establishment. All the requirements of Iowa Code section 168.5 shall be complied with.

These rules are intended to implement Iowa Code sections 168.2, 168.5, 168.6, 168.7, 197.1 and 159.1(2).

21—60.3(163) Turkeys. All turkey-hatching eggs or turkey poults must originate from flocks or hatcheries that comply with the following requirements of the Iowa state department of agriculture and land stewardship.

60.3(1) For the purpose of assisting the state of Iowa in maintaining its "U.S. mycoplasma gallisepticum clean state status," the secretary adopts the provisions of §§145.44(c), 145.14(b), 145.43(c) of the Code of Federal Regulations, Title 9, and the regulations promulgated pursuant thereto of the Iowa Poultry Improvement Plan, August 1989, a copy of which is on file with the secretary.

60.3(2) Blood samples shall be tested by an approved laboratory.

60.3(3) Tests shall be conducted with antigens approved by the department.

60.3(4) All eggs used for hatching shall be identified by the flock owner as to the flock of origin.

60.3(5) All flock and hatchery owners shall follow sanitation procedures prescribed by the department.

60.3(6) Flock and hatchery owners shall report any signs of respiratory disease to the department.

21—60.4(163) Registration of exhibitions involving poultry. For the purposes of this rule, poultry includes egg-type chickens, meat-type chickens, turkeys, domestic waterfowl, domestic game birds, and exhibition poultry. All exhibitions which include the exhibition of poultry must be registered with and approved by the state veterinarian at least 30 days prior to the exhibition.

60.4(1) A licensed accredited veterinarian shall inspect all poultry on the premises of the poultry exhibition, show or sale the day of the activity. All poultry showing signs of any contagious disease shall be removed from the premises immediately.

60.4(2) All poultry present at exhibitions, shows or sales must come from U.S. Pullorum-Typhoid clean or equivalent flocks, or have had a negative Pullorum-Typhoid test within 90 days prior to the event, and the test must have been performed by an authorized tester.

60.4(3) Sales of poultry will not be allowed at unregulated facilities or events, such as flea markets and swap meets, unless such facilities or events have been registered with and approved by the state veterinarian at least 30 days prior to the event.

These rules are intended to implement Iowa Code sections 163.1 and 168.7.

[Filed 6/13/66; amended 5/14/68]
[Filed 5/25/77, Notice 4/20/77—published 6/15/77, effective 7/20/77]
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[Filed 7/25/03, Notice 5/14/03—published 8/20/03, effective 9/24/03]

CHAPTER 61
DEAD ANIMAL DISPOSAL

[Prior to 7/27/88, see Agriculture Department 30—Ch 12]

21—61.1(167) Dead animal disposal—license. No person, firm or corporation shall engage in the business of disposing of the bodies of dead animals without first obtaining a license to do so in the manner and upon the terms and conditions provided in Iowa Code chapter 167.

This rule is intended to implement Iowa Code section 167.2.

21—61.2(167) Animal disposal—persons defined. Any person who shall obtain from any other person the body of any animal for the purpose of obtaining the hide, skin or grease from such animal in any way whatsoever shall be deemed to be engaged in the business of disposing of dead animals.

This rule is intended to implement Iowa Code section 167.3.

21—61.3(167) Disposing of dead animals by cooking. Any person desiring to engage in the business of disposing of the bodies of dead animals by cooking or otherwise shall file with the department of agriculture and land stewardship of the state of Iowa an application for license.

This rule is intended to implement Iowa Code section 167.2.

21—61.4(167) License fee. Such applicant shall, upon filing such application, pay to the department of agriculture and land stewardship the sum of $100.

This rule is intended to implement Iowa Code section 167.4.

21—61.5(167) Certificate issuance. If the secretary of agriculture shall find that such applicant is a responsible and reliable person and capable of conducting properly such business, and that the place where such business is to be conducted is a suitable and sanitary place, the secretary shall issue to such applicant a certificate to that effect.

This rule is intended to implement Iowa Code section 167.5.

21—61.6(167) Filing certificate. Such applicant shall file such certificate with the department of agriculture and land stewardship and shall pay said department the sum of $100 for a license to conduct such business.

This rule is intended to implement Iowa Code section 167.7.

21—61.7(167) License renewal. Every person operating under a license issued by the department of agriculture and land stewardship shall pay, annually, for the renewal of such license the sum of $100.

This rule is intended to implement Iowa Code section 167.10.

21—61.8 to **61.10** Reserved.

21—61.11(167) Disposal plant plans. Plans of disposal plant, either in blueprint or detail drawing shall be filed with the Iowa department of agriculture and land stewardship. All tanks, vats, pipes, drains, valves, etc., shall be shown in detail. A separate drawing or blueprint of the covered or underground portion of the construction shall be included with these plans. Any alteration in construction that is to be made shall be approved by the department before construction is undertaken.

This rule is intended to implement Iowa Code section 167.11.

21—61.12(167) Disposal plant specifications. No place shall be deemed suitable or sanitary for disposing of the bodies of dead animals unless it conforms to the following specifications:

61.12(1) The building must be provided with concrete or cement floors or some other nonabsorbent material and provided with good drainage and be thoroughly sanitary.

61.12(2) All cooking vats or tanks shall be airtight; except where proper escapes or vents are required for live steam used in cooking.

61.12(3) Steam shall be so disposed of as not to cause unnecessary annoyance or create a nuisance.

61.12(4) Such place shall be so situated, arranged and conducted as not to interfere with the comfortable enjoyment of life and property of the citizens of this state.

61.12(5) No liquid wastes, either from the process or from washings, shall be discharged into any stream, watercourse or on the surface of the ground.

61.12(6) All sewage from washing of floors, wagons, trucks, and all liquid wastes from the rendering process shall be disposed of by:

a. Evaporation.

b. Sterilized by boiling.

c. Through a series of septic tanks proven adequate to handle and render nonpathogenic the quantity of material discharged at maximum capacity of the plant. The disposal plan for carrying out the above process shall be submitted to the department for approval before it is installed.

This rule is intended to implement Iowa Code sections 167.11 and 167.12.

21—61.13 and **61.14** Reserved.

21—61.15(167) Conveyances requirements. Conveyances for transporting carcasses of animals must be provided with watertight bed or tank not less than 24 inches in depth; all metal or metal-lined and watertight at least 4 inches above the general level of the bottom of box or bed; endgate to be of metal or metal-lined, hinged at the bottom of box or bed and fastened firmly at top when closed; endgate to be provided with an effect on the inside to fit snugly over the end of the bed.

This rule is intended to implement Iowa Code section 167.15.

21—61.16(167) Disposal plant trucks. All trucks used for transporting carcasses of dead animals on the highways must be owned and operated by a licensed disposal plant, except as provided for in rule 21—64.104(167). The name and address and license number of the plant shall be painted on both sides of the truck in letters not less than four inches high and in a color in definite contrast to the body color of the truck.

This rule is intended to implement Iowa Code section 167.15.

21—61.17(167) Disposal employees. In cases where licensed disposal plants have employees operating trucks in other cities or towns, they must operate under the name of the licensed disposal plant by which they are employed, and this applies to all advertisements and listings.

This rule is intended to implement Iowa Code section 167.15.

21—61.18(167) Tarpaulins. No disposal plant truck shall be moved on the highway without having a tarpaulin which is adequate to cover the bed of the truck and anything contained therein. If any carcass is contained in the truck or the truck has not been thoroughly cleaned, such tarpaulin must be in place covering the bed of the truck and its contents. Such tarpaulin must have no holes through which flies can pass.

This rule is intended to implement Iowa Code section 167.15.

21—61.19(167) Disposal vehicles—disinfection. Whenever a vehicle or person in charge thereof has been upon any premises for the purpose of removing the carcass of any animal, or where animals are dead or dying, before such vehicle can be taken upon a public highway or upon other premises and before leaving the premises of the rendering plant on each trip the wheels of such vehicles and shoes or boots of all persons having been upon such infected premises shall be disinfected thoroughly with any disinfectant of prescribed strength recommended by the division of animal industry as a disinfectant, preferably creosol compound, three percent, or by a 1-1000 solution of bichloride of mercury. Facilities and materials for disinfection shall be carried on truck at all times.

This rule is intended to implement Iowa Code section 167.17.

21—61.20 to **61.22** Reserved.

21—61.23(167) Rendering plant committee. If a committee, composed of a member of the division of animal industry, a member of the dairy and food division and representatives of the state board of health and local board of health, after investigation finds that the location or management of any rendering plant interferes with the health, comfort and enjoyment of life or property, the department will consider such finding sufficient grounds for the withholding or suspending of a license.

This rule is intended to implement Iowa Code sections 167.8 and 167.13.

21—61.24(167) Rendering plant—spraying. It will be necessary for the management of each rendering or processing plant to spray the inside of each building, including the doors, windows and screens, as well as all trucks used in transporting the bodies of dead animals, with an approved and effective fly control agent every 30 days beginning the first of April and continuing through the month of October.

This rule is intended to implement Iowa Code section 167.13.

21—61.25(167) Penalty. See Iowa Code section 167.19.

This rule is intended to implement Iowa Code section 167.19.

21—61.26 and **61.27** Reserved.

21—61.28(167) Anthrax. The carcass of no animal which dies or which has been killed on account of being affected with anthrax may be handled by a disposal plant. In case through error or otherwise an anthrax carcass is brought into a disposal plant, the plant and its trucks shall be placed under quarantine immediately on the premises of the disposal plant. And said quarantine shall remain in effect until such cleaning and sterilizing of the plant, equipment and any byproducts including hides that the department may deem necessary have been completed.

This rule is intended to implement Iowa Code section 167.13.

21—61.29(167) Anthrax—disposal. All carcasses of animals dead or which have been killed on account of being infected with anthrax must be burned within 24 hours intact without removal of the hide, together with all contaminated flooring, mangers, feed racks, watering troughs, buckets, bedding, litter, soil and utensils. In case such flooring, mangers, feed racks, watering troughs, buckets, stanchions, etc., that have been contaminated are constructed of metal and cement or other fireproof material, they shall be disinfected thoroughly with cresolis compound, U.S.P. or any reliable disinfectant recommended by the B.A.I., chief of division of animal industry or a regularly qualified veterinarian. In the event the owner neglects or refuses to make such disposition of the carcasses of animals dead from anthrax within 24 hours, as stated above, then in such cases the disposal of the same shall be handled in accordance with rule 21—61.33(167).

This rule is intended to implement Iowa Code section 167.13.

21—61.30(167) Classical swine fever—carcasses. All carcasses of hogs dead of classical swine fever must be burned within 24 hours intact, or they may be disposed of within 24 hours by the operator of a licensed rendering plant. In the event that the owner neglects or refuses to make such disposition of the carcass or carcasses of hogs dead of classical swine fever, then the disposal of same shall be handled in accordance with rule 21—61.33(167).

This rule is intended to implement Iowa Code section 166B.2.

[**ARC 0230C**, IAB 7/25/12, effective 8/29/12]

21—61.31(167) Noncommunicable diseases—carcasses. All carcasses of animals, dead from noncommunicable diseases, may be either burned within 24 hours, or such carcasses may be disposed of within 24 hours by the operator of a licensed rendering plant. In the event that the owner neglects or refuses to make such disposition of the carcass or carcasses, then the disposal of same shall be handled in accordance with rule 21—61.33(167).

This rule is intended to implement Iowa Code section 167.18.

21—61.32(167) Carcass disposal—streams. All persons are strictly forbidden to throw the carcass of any animal into any river, stream, lake or pond or bury the carcass of any animal near any stream or tile drain. Such carcasses if dead of noncommunicable disease, if not disposed of to a rendering plant, must be buried six feet below the surface of the ground, in accordance with the preceding rule.

This rule is intended to implement Iowa Code section 167.18.

21—61.33(167) Improper disposal. When the owner of any animal, dead from any cause, neglects or refuses to make proper disposition of the carcasses of such animals it shall be the duty of the township trustees or local board of health to supervise the disposal of such carcasses.

This rule is intended to implement Iowa Code section 167.13.

[Filed 11/26/57]

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[Filed ARC 0230C (Notice ARC 0140C, IAB 5/30/12), IAB 7/25/12, effective 8/29/12]

CHAPTER 62
REGISTRATION OF IOWA-FOALED HORSES AND IOWA-WHELPED DOGS

[Prior to 7/27/88, see Agriculture Department 30—Ch 14]

21—62.1(99D) Definitions. For purposes of this chapter, unless a different meaning is clearly indicated by the context:

"Bona fide Iowa resident" means a person who has resided in Iowa for six months prior to the date of registration of the stallion.

"Breeder of a foal" means the owner of the brood mare at the time the foal is dropped.

"Breeder of a greyhound dog" means the owner of the pup(s) at the time of whelping.

"Department" means the Iowa department of agriculture and land stewardship.

"Onionskin" means an original individual greyhound application form of the National Greyhound Association.

"Owner of a thoroughbred stallion," "owner of a standardbred stallion" or *"owner of a quarter horse stallion"* means a bona fide Iowa resident who owns at least 51 percent of a thoroughbred, standardbred or quarter horse stallion for one service season or more.

"Secretary" means the Iowa secretary of agriculture.

21—62.2(99D) Iowa horse and dog breeders' fund and Iowa thoroughbred horse breeders' promotion fund. Iowa-foaled horses and Iowa-whelped dog records and breeder payments:

The department will establish and maintain a records system entitled the "Iowa Horse and Dog Breeders' Fund." This records system will feature a list of thoroughbred, standardbred and quarter horses who have qualified to be Iowa-foaled horses, as well as a listing of all greyhound dogs that have qualified to be Iowa-whelped dogs.

A sum equal to 12 percent of the purse won by an Iowa-foaled horse or Iowa-whelped dog shall be used to promote the horse and dog breeding industries. This percentage shall be applicable to all races that are limited to Iowa-foaled horses or Iowa-whelped dogs as well as all other races which are won by Iowa-foaled horses or Iowa-whelped dogs.

The 12 percent shall be withheld by the licensee from the breakage and shall be paid at the end of the race meeting to the state department of agriculture and land stewardship which, in turn, shall deposit the 12 percent in a special fund to be known as the "Iowa Horse and Dog Breeders' Fund" and pay the 12 percent by December 31 of each calendar year to the breeder of the winning Iowa-foaled horse or the breeder of the Iowa-whelped dog.

A sum equal to 6 percent of the purse won by an Iowa-foaled thoroughbred horse shall be used as a supplement to promote the thoroughbred horse breeding industries for horses placing second through fourth place. This percentage shall be applicable to all thoroughbred races that are held at Prairie Meadows racetrack.

The 6 percent supplement shall be withheld by the licensee from the horse breeders' fund for thoroughbreds and shall be paid at the end of the race meeting to the state department of agriculture and land stewardship which, in turn, shall deposit it in a special fund to be known as the "Iowa Thoroughbred Horse Breeders' Promotion Fund." This fund will pay 6 percent of the money earned to each horse placing second, third and fourth place by December 31 of each calendar year to the breeder of the Iowa-foaled thoroughbred horse.

62.2(1) All foals/horses qualified through the department to be Iowa-foaled horses and dogs qualified to be Iowa-whelped will be listed by a department registration number. The Iowa-foaled horse mare breeder(s) at the time of foaling, or the owner of the standardbred and quarter horse brood mare at the time of breeding, or the owner of the dog, as a pup, at the time of whelping, shall be properly recorded with a registration number.

62.2(2) A race track licensee shall hold at least one race on each racing day limited to Iowa-foaled horses or Iowa-whelped dogs. However, if sufficient competition cannot be had among that class of horses or dogs on any day, another race for the day may be substituted.

62.2(3) As the department receives this money from the licensee, the department shall credit each horse or dog, by registration number, with the amount. At the end of each calendar year, the department shall pay the amount credited to winning Iowa-foaled horses or lowa-whelped dogs to the Iowa-foaled horse breeder or to the Iowa-whelped dog breeder.

62.2(4) The department will implement and maintain a system of keeping the Iowa state racing commission informed and updated relative to all horses and dogs which are eligible to race as Iowa foaled or Iowa whelped.

62.2(5) The department shall have the authority to inspect the premises to verify that the animals are maintained under conditions appropriate to each species to ensure that the animals are properly cared for and that the standards of proper animal welfare are met.

[**ARC 9978B**, IAB 1/25/12, effective 1/5/12]

21—62.3(99D) Forms. The following forms to qualify thoroughbred, standardbred and quarter horses as registered and certified Iowa-foaled horses and to qualify dogs as registered and certified Iowa-whelped dogs are available and can be obtained from the department. The forms shall provide for the applicant to certify the truthfulness and accuracy of the information.

62.3(1) *Thoroughbred, standardbred, quarter horse.*

a. Application for Iowa Stallion Eligibility Certificate, Form S-1.

b. Iowa Stallion Eligibility Certificate, Form S-2.

c. Record of Mares Bred, Form S-3.

d. Brood Mare Registration Application, Form M-4.

e. Mare Status Report, Form M-5.

f. Mare Transfer of Ownership, Form M-6.

g. Application for Iowa-foaled Registration, Form I-6.

h. Certificate for Iowa-foaled Status, Form I-7.

62.3(2) *Greyhound.*

a. Application for Iowa-whelped Litter Registration, Form GH-1.

b. Application for Iowa-whelped Individual Registration, Form GH-2.

c. Bitch Information Report, Form GH-3.

21—62.4(99D) Disciplinary actions.

62.4(1) A person shall not knowingly provide false information to the department. If the department finds that a person knowingly furnished false information to the department relating to the registration of a horse or dog under these rules, then the department may deny, temporarily suspend, or permanently suspend all registrations and eligibility certificates by or on behalf of the person. The department may withhold payment of breeder's awards to a breeder if the breeder is not in compliance with Iowa Code chapter 162, 717, or 717B or rules adopted pursuant to those chapters. If a breeder does not come into compliance, the department may deny the registration of a breeder's litters, dogs or foals. In addition, the department may temporarily or permanently suspend previously approved registrations.

62.4(2) Upon receipt of information from the Iowa racing and gaming commission that a person has been disqualified from licensure (suspended for 365 days or denied), the department shall deny, temporarily suspend, or permanently suspend all registrations and eligibility certificates by or on behalf of the person. The department may determine horses certified as Iowa-foaled horses or dogs certified as Iowa-whelped dogs prior to commission action are eligible to race as Iowa-foaled or Iowa-whelped; however, the disqualified person is denied receipt of moneys from the Iowa horse and dog breeders' fund. If the Iowa racing and gaming commission subsequently grants licensing privileges to a previously disqualified person, the department shall make an independent determination as to the person's eligiblity to have registrations and eligibility certificates by or on behalf of the person reinstated or granted.

62.4(3) Whenever action is taken under this rule, the department shall remit the withheld breakage to the breakage pool at the track where the money was generated. In such cases, the money shall instead be retained by the racetrack and distributed in the manner as provided in Iowa Code section 99D.12.

62.4(4) The registration of an Iowa-foaled horse or an Iowa-whelped dog shall not be denied or suspended under this rule if either of the following applies:

a. The horse or dog had previously been owned by the person subject to discipline, but the horse or dog had been, in good faith, transferred to another person prior to the imposition of discipline by the department. The department, however, may still impose the discipline if the department determines that the purpose of the transfer was to circumvent the discipline.

b. The horse or dog is in the possession of or under the control of a person subject to discipline but the person has never had an ownership interest in the horse or dog.

21—62.5(99D) Access to premises and records. The department inspectors shall have access to records and to the premises on which qualified Iowa-whelped dogs and Iowa-foaled horses are kept.

21—62.6(99D) Registration fees.

62.6(1) *Iowa-foaled horses.* For an Iowa-foaled horse to be eligible to race in Iowa, a $30 registration fee shall be imposed at the time of registration of each stallion, mare or foal registered.

62.6(2) *Iowa-whelped dogs.* The following fees shall be imposed at the time of registration:

a. Registration of a dam, $25.

b. Registration of a litter, $10.

c. Registration of a dog, $5.

This rule is intended to implement Iowa Code section 99D.22.

[**ARC 9978B**, IAB 1/25/12, effective 1/5/12]

21—62.7 to **62.9** Reserved.

THOROUGHBRED DIVISION

21—62.10(99D) Iowa thoroughbred stallion requirements. To qualify as an Iowa thoroughbred stallion, a stallion must be certified by and registered with the department.

62.10(1) No person shall be issued an Iowa Stallion Eligibility Certificate who is not a bona fide resident.

62.10(2) All Iowa registered stallions must meet one of the following qualifications:

a. Stallions that have previously bred a mare in any state must have residency in Iowa from January 1 through December 31 of the first year of service as a registered Iowa stallion. Further, all stallions meeting this residency requirement must be registered with the department as a registered Iowa stallion the year prior to standing.

b. Stallions that have not previously bred a mare in any state must have residency in Iowa from its registration with the department as a registered stallion through December 31 of the year of registration.

62.10(3) Any false information submitted by applicant for an Iowa Stallion Eligibility Certificate shall be grounds for denial of registration and certification.

21—62.11(99D) Notification requirements. The owner or owner's authorized representative must give immediate notification to the department if the stallion leaves the state. If the stallion leaves the state for breeding purposes, the Iowa Stallion Eligibility Certificate will be invalidated. Subsequently, if the owner(s) wishes to return the stallion to service in Iowa, the original application procedure will be required. If an Iowa registered stallion is moved within Iowa to stand at another location, the department must be notified before the stallion is offered for service at the new Iowa location. If an Iowa registered stallion is moved, temporarily, to another state for medication, its certification will remain valid as long as the department is properly notified.

21—62.12(99D) Stallion qualification and application procedure. To qualify a stallion as an Iowa registered stallion the owner is required to complete the application for an Iowa Stallion Eligibility Certificate and forward it to the Horse Racing Section, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. The issuance of an Iowa Stallion

Eligibility Certificate by the department is contingent on the stallion being registered and certified by the department. This certificate shall be valid as long as all stallion residency and notification procedures are properly met.

62.12(1) Rescinded, effective 6/13/86.

62.12(2) In the event of a sale or transfer of ownership of a thoroughbred stallion, qualified with the department, the transfer of ownership shall be executed on the back of the Iowa Stallion Eligibility Certificate for that stallion and endorsed certificate forwarded to the department.

62.12(3) If 51 percent of the new ownership is a bona fide Iowa resident(s) and wishes to qualify the stallion as an Iowa stallion, then the new owner(s) must submit an application for an Iowa Stallion Eligibility Certificate, a copy of the bill of sale and meet all other department requirements.

62.12(4) The Iowa Stallion Eligibility Certificate shall be available for inspection by a department inspector on the premises where the stallion stands.

This rule is intended to implement Iowa Code section 99D.22.

21—62.13(99D) Application information. Every person wanting to offer or stand a stallion as an Iowa registered stallion must file with the department a written application, utilizing Form S-1, and providing the following:

1. Name of stallion;
2. The name(s) of the owner(s) and address(es);
3. The place where the stallion stood for service during the previous year;
4. The place where the stallion will stand for service;
5. Statement that a minimum of 51 percent of the stallion is owned by a bona fide resident(s) of Iowa, and that the stallion will not stand for service any place outside the state of Iowa during the calendar year in which the foal is conceived;
6. Details concerning right of ownership, such as a bill of sale, contract or other documents providing proof of ownership, which must show any agreements concerning breeding rights, repurchase agreements and other types of concessions; and any other relevant information requested by the department;
7. An official certificate of registration from the Jockey Club of New York, which will be returned within ten working days to the applicant.

This rule is intended to implement Iowa Code section 99D.22.

21—62.14(99D) Breeding record—report of mares bred. Every person offering or standing any stallion for services as an Iowa registered stallion shall maintain a complete breeding record of the stallion and all mares of any breed bred to the stallion.

62.14(1) Such records shall be available to the department for inspection by a department inspector and shall include the following information:

a. The name of the mare;

b. The dam and sire of the mare;

c. The name and address, including zip code, of the owner(s) of the mare;

d. The first and last dates on which the stallion was bred to the mare;

e. The place where the stallion was standing for service at the time of the breeding of the mare;

f. The person(s) in charge of the stallion at the time of service to the mare, and any other relevant information requested by the department.

62.14(2) A report entitled "Record of Mares Bred" must be filed with the department by September 1 of each year. The report must be filed on Form S-3 provided by the department.

21—62.15(99D) Iowa-foaled horses and brood mares. To qualify for the "Iowa Horse and Dog Breeders' Fund" program, horses must be Iowa foaled.

62.15(1) All thoroughbred horses foaled in Iowa prior to January 1, 1985, which are registered by the Jockey Club as Iowa foaled, shall be considered to be Iowa foaled.

62.15(2) After January 1, 1985, eligibility for brood mare residence shall be achieved by meeting at least one of the following rules:

a. Thirty days' residency until the foal is inspected by a department inspector if in foal to a registered Iowa stallion.

b. Thirty days' residency until the foal is inspected by a department inspector for brood mares which are bred back to registered Iowa stallions.

c. Continuous residency from December 31 until the foal is inspected by a department inspector if the mare was bred by other than an Iowa registered stallion and which is not bred back to an Iowa registered stallion.

d. Rescinded IAB 8/31/94, effective 10/5/94.

62.15(3) Except as provided in this subrule, a foal shall not be eligible for Iowa-foaled status if the mare and foal leave or are removed from the state before the foal is inspected by a department inspector. However, a foal may be registered if it left or was removed from the state prior to inspection by the department inspector if all of the following conditions are met.

a. The owner or agent of the owner of the foal has contacted the department in writing or by fax. The written or faxed notification must be received by the department at least 72 hours prior to the time the mare and foal are to be removed from the state.

b. The department has been unable to get an inspector to the location where the mare and foal are located prior to their being moved from the state.

c. The owner of the foal submits a signed, dated and notarized affidavit executed by a veterinarian licensed to practice in Iowa. The affidavit must attest that the veterinarian saw the foal within seven days of its birth, that the veterinarian has reason to believe that the foal was born in Iowa, and the basis for the veterinarian's belief that the foal was born in Iowa. In addition, the affidavit shall also contain the name of the dam, the state number of the dam, the sex and a physical description of the foal, the date of the birth and the foaling address. It must be postmarked to the department no more than ten days after foaling.

d. The owner has filed a timely mare status report on the mare of the foal.

62.15(4) Additionally, for mares to be eligible for the "Iowa Horse and Dog Breeders' Fund" program and for their foals to be eligible to enter races limited to Iowa-foaled horses, it is required that:

a. A Thoroughbred Brood Mare Registration Application, Form M-4, must be submitted to the department prior to foaling. This registration will cover the mare her entire productive life as long as there is not a change of ownership and the thoroughbred mare meets the eligibility rules set forth in 62.15(2).

b. The owner(s) of the mare must complete and return the Mare Status Report (Form M-5) to the department by December 31 of the year bred.

c. The Mare Status Report must show the place where the mare will foal in this state and the person who will be responsible for the mare at the time of foaling.

d. The Mare Status Report must indicate if the mare is to be bred back to an Iowa registered stallion or to a stallion standing at service outside the state of Iowa. If the breeding plans as stated on the Mare Status Report are changed, the department must be notified.

62.15(5) A thoroughbred mare transfer of ownership, Form M-6, must be submitted to the department when a thoroughbred mare already in the program is purchased by a new owner. The Form M-6 will provide the following information:

a. Name of mare;

b. Date of transfer;

c. Color of mare;

d. State registration number;

e. National breed registration number;

f. Date of sale;

g. Name, address, and phone number of seller;

h. Name, address, and phone number of buyer.

This rule is intended to implement Iowa Code section 99D.22.

21—62.16(99D) Iowa-foaled horse status. Iowa-foaled horse status can be achieved the following two ways:

1. All thoroughbred horses foaled in Iowa prior to January 1, 1985, which are registered by the Jockey Club as Iowa foaled shall be considered to be Iowa foaled.

2. After January 1, 1985, a foal from a mare meeting the eligibility requirements will be eligible to become an Iowa-foaled horse.

62.16(1) Both Iowa-foaled categories will require that an application to be an Iowa-foaled thoroughbred horse be filed with the department. The application must be filed on a Form I-6 provided by the department.

62.16(2) The form shall be completed by the owner(s) of the thoroughbred foal or horse or by the owner's authorized representative. This registration will cover the thoroughbred foal or horse its entire productive life.

62.16(3) The owner(s) shall complete an application for an Iowa-foaled Registration, showing the name of the brood mare, the name of the sire, date of foaling, color, as well as the sex and markings of the foal or horse.

62.16(4) To complete the official registration of an Iowa-foaled horse, the owner(s) must forward the Jockey Club Certificate by registered mail to the department. If the horse has met all requirements for registration, the department shall affix its official seal on the face of the Jockey Club Certificate, which shall include the department's registration number for the horse, and return the certificate within ten working days from the date of receipt. In the event the horse has met all requirements for registration but the department fails to affix its official seal on the face of the Jockey Club Certificate after proper presentation, the list of Iowa-foaled horses prepared by the department shall serve as official notification of Iowa-foaled status until the department's official seal is affixed. If the Jockey Club Certificate is lost or destroyed, a duplicate Jockey Club Certificate for that horse must be forwarded to the department and must be recertified by the department.

62.16(5) and **62.16(6)** Rescinded IAB 11/14/90, effective 12/19/90.

62.16(7) An investigator, appointed by the secretary, shall have access to the premises on which qualified mares, Iowa registered stallions and Iowa-bred foals or horses are kept.

This rule is intended to implement Iowa Code section 99D.22.

21—62.17 to **62.19** Reserved.

STANDARDBRED DIVISION

21—62.20(99D) Iowa standardbred stallion requirements. To qualify as an Iowa standardbred stallion, a stallion must be certified by and registered with the department.

62.20(1) No person shall be issued an Iowa Stallion Eligibility Certificate who is not a bona fide resident.

62.20(2) All Iowa registered standardbred stallions must meet one of the following qualifications:

a. Stallions that have previously bred a mare in any state must have residency in Iowa from January 1 through December 31 of the first year of service as a registered Iowa stallion. Further, all stallions meeting this residency requirement must register with the department as a registered Iowa stallion the year prior to standing.

b. Stallions that have not previously bred a mare in any state must have residency in Iowa from its registration with the department as a registered Iowa stallion through December 31 of the year of registration.

62.20(3) Any false information submitted by applicant for an Iowa Stallion Eligibility Certificate shall be grounds for denial of registration and certification.

21—62.21(99D) Notification requirements. The owner or owner's authorized representative must give immediate notification to the department if the stallion leaves the state. If the stallion leaves the state before August 1 for breeding purposes, the Iowa Stallion Eligibility Certificate will be invalidated.

Subsequently, if the owner(s) wishes to return the stallion to service in Iowa, the original application procedure will be required. If an Iowa registered stallion is moved within Iowa to stand at another location, the department must be notified before the stallion is offered for service at the new Iowa location. If an Iowa registered stallion is moved, temporarily, to another state for medication, its certification will remain valid as long as the department is properly notified.

21—62.22(99D) Stallion qualification and application procedure. To qualify a stallion as an Iowa registered stallion, the owner is required to complete the application for an Iowa Stallion Eligibility Certificate and forward it to the Horse Racing Section, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. The issuance of an Iowa Stallion Eligibility Certificate by the department is contingent on the stallion being registered and certified by the department. This certificate shall be valid as long as all stallion residency and notification procedures are properly met.

62.22(1) Rescinded, effective 6/13/86.

62.22(2) In the event of a sale or transfer of ownership of a standardbred stallion, qualified with the department, the transfer of ownership shall be executed on the back of the Iowa Stallion Eligibility Certificate for that stallion and the endorsed certificate forwarded to the department.

62.22(3) If 51 percent of the new ownership is a bona fide Iowa resident(s) and wishes to qualify the stallion as an Iowa stallion, then the new owner(s) must submit an application for an Iowa Stallion Eligibility Certificate, a copy of the bill of sale and meet all other department requirements.

62.22(4) The Iowa Stallion Eligibility Certificate shall be available for inspection by a department inspector on the premises where the stallion stands.

This rule is intended to implement Iowa Code section 99D.22.

21—62.23(99D) Application information. Every person wanting to offer or stand a stallion as an Iowa registered stallion must file with the department a written application, utilizing Form S-1, and providing the following:

1. Name of stallion;
2. The name(s) of the owner(s) and address(es);
3. The place where the stallion stood for service during the previous year;
4. The place where the stallion will stand for service;
5. Statement that a minimum of 51 percent of the stallion is owned by a bona fide resident(s) of Iowa, and that the stallion will not stand for service any place outside the state of Iowa before August 1 of the calendar year in which the foal is conceived;
6. Details concerning right of ownership, such as a bill of sale, contract or other documents providing proof of ownership, which must show any agreements concerning breeding rights, repurchase agreements and other types of concessions; and any other relevant information requested by the department;
7. An official certificate of registration from the U.S. Trotting Association, which will be returned within ten working days to the applicant.

This rule is intended to implement Iowa Code section 99D.22.

21—62.24(99D) Breeding record—report of mares bred. Every person offering or standing any stallion for services as an Iowa registered stallion shall maintain a complete breeding record of the stallion and all mares of any breed bred to the stallion.

62.24(1) Such records shall be available to the department for inspection by a department inspector and shall include the following information:

a. The name of the mare;
b. The dam and sire of the mare;
c. The name and address, including zip code, of the owner(s) of the mare;
d. The first and last dates on which the stallion was bred to the mare;
e. The place where the stallion was standing for service at the time of the breeding of the mare;

f. The person(s) in charge of the stallion at the time of service to the mare, and any other relevant information requested by the department.

62.24(2) A report entitled "Record of Mares Bred" must be filed with the department by September 1 of each year. The report must be filed on Form S-3 provided by the department.

21—62.25(99D) Iowa-foaled horses and brood mares. To qualify for the "Iowa Horse and Dog Breeders' Fund" program, horses must be Iowa foaled.

62.25(1) All standardbred horses foaled in Iowa prior to January 1, 1985, which are registered by the U.S. Trotting Association as Iowa foaled, shall be considered to be Iowa foaled.

62.25(2) After January 1, 1985, eligibility for brood mare residence shall be achieved by meeting at least one of the following rules:

a. Thirty days' residency until the foal is inspected by a department inspector if in foal to a registered Iowa stallion.

b. Thirty days' residency until the foal is inspected by a department inspector for brood mares which are bred back to registered Iowa stallions.

c. Continuous residency from December 31 until the foal is inspected by a department inspector if the mare was bred by other than an Iowa registered stallion and which is not bred back to an Iowa registered stallion.

d. Rescinded IAB 8/31/94, effective 10/5/94.

62.25(3) Except as provided in this subrule, a foal shall not be eligible for Iowa-foaled status if the mare and foal leave or are removed from the state before the foal is inspected by a department inspector. However, a foal may be registered if it left or was removed from the state prior to inspection by the department inspector if all of the following conditions are met.

a. The owner or agent of the owner of the foal has contacted the department in writing or by fax. The written or faxed notification must be received by the department at least 72 hours prior to the time the mare and foal are to be removed from the state.

b. The department has been unable to get an inspector to the location where the mare and foal are located prior to their being moved from the state.

c. The owner of the foal submits a signed, dated and notarized affidavit executed by a veterinarian licensed to practice in Iowa. The affidavit must attest that the veterinarian saw the foal within seven days of its birth, that the veterinarian has reason to believe that the foal was born in Iowa, and the basis for the veterinarian's belief that the foal was born in Iowa. In addition, the affidavit shall also contain the name of the dam, the state number of the dam, the sex and a physical description of the foal, the date of the birth and the foaling address. It must be postmarked to the department no more than ten days after foaling.

d. The owner has filed a timely mare status report on the mare of the foal.

62.25(4) Additionally, for mares to be eligible for the "Iowa Horse and Dog Breeders' Fund" program and for their foals to be eligible to enter races limited to Iowa-foaled horses, it is required that:

a. A Standardbred Brood Mare Registration Application, Form M-4, must be submitted to the department prior to foaling. This registration will cover the mare her entire productive life as long as there is not a change of ownership and the standardbred mare meets the eligibility rules set forth in 62.25(2).

b. The owner(s) of the mare must complete and return the Mare Status Report, Form M-5, to the department by December 31 of the year bred.

c. The Mare Status Report must show the place where the mare will foal in this state and the person who will be responsible for the mare at the time of foaling.

d. The Mare Status Report must indicate if the mare is to be bred back to an Iowa registered stallion or to a stallion standing at service outside the state of Iowa. If the breeding plans as stated on the Mare Status Report are changed, the department must be notified.

62.25(5) A standardbred mare transfer of ownership, Form M-6, must be submitted to the department when a standardbred mare already in the program is purchased by a new owner. The Form M-6 will provide the following information:

a. Name of mare;
b. Date of transfer;
c. Color of mare;
d. State registration number;
e. National breed registration number;
f. Date of sale;
g. Name, address, and phone number of seller;
h. Name, address, and phone number of buyer.

This rule is intended to implement Iowa Code section 99D.22.

21—62.26(99D) Iowa-foaled horse status. Iowa-foaled horse status can be achieved the following two ways:

1. All standardbred horses foaled in Iowa prior to January 1, 1985, which are registered by the U.S. Trotting Association as Iowa foaled, shall be considered to be Iowa foaled.

2. After January 1, 1985, a foal from a mare meeting the eligibility requirements will be eligible to become an Iowa-foaled horse.

62.26(1) Both Iowa-foaled categories will require that an application to be an Iowa-foaled standardbred horse be filed with the department. The application must be filed on a Form I-6 provided by the department.

62.26(2) The form shall be completed by the owner(s) of the standardbred foal or horse or by the owner's authorized representative. This registration will cover the standardbred foal or horse its entire productive life.

62.26(3) The owner(s) shall complete an application for an Iowa-foaled Registration, showing the name of the brood mare, the name of the sire, date of foaling, color, as well as the sex and markings of the foal or horse.

62.26(4) To complete the official registration of an Iowa-foaled horse, the owner(s) must forward the U.S. Trotting Association Certificate to the department. If the horse has met all requirements for registration, the department shall place the name and number of the horse on the official department list of Iowa-foaled standardbreds, which list shall constitute the official certification of the horse, and return the certificate within ten working days from the date of receipt. If the U.S. Trotting Association Certificate is lost or destroyed, a duplicate U.S. Trotting Association Certificate for that horse must be forwarded to the department and must be recertified by the department.

62.26(5) and **62.26(6)** Rescinded IAB 11/14/90, effective 12/19/90.

62.26(7) An investigator, appointed by the secretary, shall have access to the premises on which qualified mares, Iowa registered stallions and Iowa-bred foals or horses are kept.

This rule is intended to implement Iowa Code section 99D.22.

21—62.27 to **62.29** Reserved.

QUARTER HORSE DIVISION

21—62.30(99D) Iowa quarter horse stallion requirements. To qualify as an Iowa quarter horse stallion, a stallion must be certified by and registered with the department.

62.30(1) No person shall be issued an Iowa Stallion Eligibility Certificate who is not a bona fide resident.

62.30(2) All Iowa registered quarter horse stallions must meet one of the following qualifications:

a. Stallions that have previously bred a mare in any state must have residency in Iowa from January 1 through December 31 of the first year of service as a registered Iowa stallion. Further, all stallions meeting this residency requirement must be registered with the department as a registered Iowa stallion the year prior to standing.

b. Stallions that have not previously bred a mare in any state must have residency in Iowa from its registration with the department as a registered Iowa stallion through December 31 of the year of registration.

62.30(3) Any false information submitted by applicant for an Iowa Stallion Eligibility Certificate shall be grounds for denial of registration and certification.

21—62.31(99D) Notification requirements. The owner or owner's authorized representative must give immediate notification to the department if the stallion leaves the state. If the stallion leaves the state before August 1 for breeding purposes, the Iowa Stallion Eligibility Certificate will be invalidated. Subsequently, if the owner(s) wishes to return the stallion to service in Iowa, the original application procedure will be required. If an Iowa registered stallion is moved within Iowa to stand at another location, the department must be notified before the stallion is offered for service at the new Iowa location. If an Iowa registered stallion is moved, temporarily, to another state for medication, its certification will remain valid as long as the department is properly notified.

21—62.32(99D) Stallion qualification and application procedure. To qualify a stallion as an Iowa registered stallion, the owner is required to complete the application for an Iowa Stallion Eligibility Certificate and forward it to the Horse Racing Section, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. The issuance of an Iowa Stallion Eligibility Certificate by the department is contingent on the stallion being registered and certified by the department. This certificate shall be valid as long as all stallion residency and notification procedures are properly met.

62.32(1) Rescinded, effective 6/13/86.

62.32(2) In the event of a sale or transfer of ownership of a quarter horse stallion, qualified with the department, the transfer of ownership shall be executed on the back of the Iowa Stallion Eligibility Certificate for that stallion and the endorsed certificate forwarded to the department.

62.32(3) If 51 percent of the new ownership is a bona fide Iowa resident(s) and wishes to qualify the stallion as an Iowa stallion, then the new owner(s) must submit an application for an Iowa Stallion Eligibility Certificate, a copy of the bill of sale and meet all other department requirements.

62.32(4) The Iowa Stallion Eligibility Certificate shall be available for inspection by a department inspector on the premises where the stallion stands.

This rule is intended to implement Iowa Code section 99D.22.

21—62.33(99D) Application information. Every person wanting to offer or stand a stallion as an Iowa registered stallion must file with the department a written application, utilizing Form S-1, and providing the following:

1. Name of stallion;
2. The name(s) of the owner(s) and address(es);
3. The place where the stallion stood for service during the previous year;
4. The place where the stallion will stand for service;
5. Statement that a minimum of 51 percent of the stallion is owned by a bona fide resident(s) of Iowa, and that the stallion will not stand for service any place outside the state of Iowa before August 1 of the calendar year in which the foal is conceived;
6. Details concerning right of ownership, such as a bill of sale, contract or other documents providing proof of ownership, which must show any agreements concerning breeding rights, repurchase agreements and other types of concessions; and any other relevant information requested by the department;
7. An official certificate of registration from the American Quarter Horse Association, Amarillo, Texas, which will be returned within ten working days to the applicant.

This rule is intended to implement Iowa Code section 99D.22.

21—62.34(99D) Breeding record—report of mares bred. Every person offering or standing any stallion for services as an Iowa registered stallion shall maintain a complete breeding record of the stallion and all mares of any breed bred to the stallion.

62.34(1) Such record shall be available to the department for inspection by a department inspector and shall include the following information:

a. The name of the mare;

b. The dam and sire of the mare;

c. The name and address, including zip code, of the owner(s) of the mare;

d. The first and last dates on which the stallion was bred to the mare;

e. The place where the stallion was standing for service at the time of the breeding of the mare;

f. The person(s) in charge of the stallion at the time of service to the mare, and any other relevant information requested by the department.

62.34(2) A report entitled "Record of Mares Bred" must be filed with the department by September 1 of each year. The report must be filed on Form S-3 provided by the department.

21—62.35(99D) Iowa-foaled horses and brood mares. To qualify for the "Iowa Horse and Dog Breeders' Fund" program, horses must be Iowa foaled.

62.35(1) All quarter horses foaled in Iowa prior to January 1, 1985, which are registered by the American Quarter Horse Association as Iowa foaled, shall be considered to be Iowa foaled.

62.35(2) After January 1, 1985, eligibility for brood mare residence shall be achieved by meeting at least one of the following rules:

a. Thirty days' residency until the foal is inspected by a department inspector, if in foal to a registered Iowa stallion.

b. Thirty days' residency until the foal is inspected by a department inspector for brood mares which are bred back to registered Iowa stallions.

c. Continuous residency from December 31 until the foal is inspected by a department inspector if the mare was bred by other than an Iowa registered stallion and which is not bred back to an Iowa registered stallion.

d. Rescinded IAB 8/31/94, effective 10/5/94.

62.35(3) Except as provided in this subrule, a foal shall not be eligible for Iowa-foaled status if the mare and foal leave or are removed from the state before the foal is inspected by a department inspector. However, a foal may be registered if it left or was removed from the state prior to inspection by the department inspector if all of the following conditions are met.

a. The owner or agent of the owner of the foal has contacted the department in writing or by fax. The written or faxed notification must be received by the department at least 72 hours prior to the time the mare and foal are to be removed from the state.

b. The department has been unable to get an inspector to the location where the mare and foal are located prior to their being moved from the state.

c. The owner of the foal submits a signed, dated and notarized affidavit executed by a veterinarian licensed to practice in Iowa. The affidavit must attest that the veterinarian saw the foal within seven days of its birth, that the veterinarian has reason to believe that the foal was born in Iowa, and the basis for the veterinarian's belief that the foal was born in Iowa. In addition, the affidavit shall also contain the name of the dam, the state number of the dam, the sex and a physical description of the foal, the date of the birth and the foaling address. It must be postmarked to the department no more than ten days after foaling.

d. The owner has filed a timely mare status report on the mare of the foal.

62.35(4) Additionally, for mares to be eligible for the "Iowa Horse and Dog Breeders' Fund" program and for their foals to be eligible to enter races limited to Iowa-foaled horses, it is required that:

a. A Quarter Horse Brood Mare Registration Application, Form M-4, must be submitted to the department prior to foaling. This registration will cover the mare her entire productive life as long as there is not a change of ownership and the quarter horse mare meets the eligibility rules set forth in 62.35(2).

b. The owner(s) of the mare must complete and return the Mare Status Report, Form M-5, to the department by December 31 of the year bred.

c. The Mare Status Report must show the place where the mare will foal in this state and the person who will be responsible for the mare at the time of foaling.

d. The Mare Status Report must indicate if the mare is to be bred back to an Iowa registered stallion or to a stallion standing at service outside the state of Iowa. If the breeding plans as stated on the Mare Status Report are changed, the department must be notified.

62.35(5) A quarter horse mare transfer of ownership, Form M-6, must be submitted to the department when a quarter horse mare already in the program is purchased by a new owner. The Form M-6 will provide the following information:

a. Name of mare;

b. Date of transfer;

c. Color of mare;

d. State registration number;

e. National breed registration number;

f. Date of sale;

g. Name, address, and phone number of seller;

h. Name, address, and phone number of buyer.

This rule is intended to implement Iowa Code section 99D.22.

21—62.36(99D) Iowa-foaled horse status. Iowa-foaled horse status can be achieved the following two ways:

1. All quarter horses foaled in Iowa prior to January 1, 1985, which are registered by the American Quarter Horse Association as Iowa foaled, shall be considered to be Iowa foaled.

2. After January 1, 1985, a foal from a mare meeting the eligibility requirements will be eligible to become an Iowa-foaled horse.

62.36(1) Both Iowa-foaled categories will require that an application to be an Iowa-foaled quarter horse be filed with the department. The application must be filed on a Form I-6 provided by the department.

62.36(2) The form shall be completed by the owner(s) of the foal or horse or by the owner's authorized representative.

62.36(3) The owner(s) shall complete an application for an Iowa-foaled Registration, showing the name of the brood mare, the name of the sire, date of foaling, color, as well as the sex and markings of the foal or horse.

62.36(4) To complete the official registration of an Iowa-foaled horse, the owner(s) must forward the American Quarter Horse Association Certificate to the department. If the horse has met all requirements for registration, the department shall affix its official seal on the face of the American Quarter Horse Association Certificate, which shall include the department's registration number for the horse, and return the certificate within ten working days from the date of receipt. In the event the horse has met all requirements for registration but the department fails to affix its official seal on the face of the American Quarter Horse Association Certificate after proper presentation, the list of Iowa-foaled horses prepared by the department shall serve as official notification of Iowa-foaled status until the department's official seal is affixed. If the American Quarter Horse Association Certificate is lost or destroyed, a duplicate American Quarter Horse Association Certificate for that horse must be forwarded to the department and must be recertified by the department.

62.36(5) and **62.36(6)** Rescinded IAB 11/14/90, effective 12/19/90.

62.36(7) An investigator, appointed by the secretary, shall have access to the premises on which qualified mares, Iowa registered stallions and Iowa-bred foals or horses are kept.

This rule is intended to implement Iowa Code section 99D.22.

21—62.37(99D) Embryo transfer for Iowa-foaled status. Embryo transfers may be eligible for Iowa-foaled status in accordance with the following provisions:

62.37(1) The recipient mare must be in the state of Iowa before the first day of December the year prior to foaling and must remain in Iowa until the foal or foals are born and are inspected by the department.

62.37(2) There is no limit to the number of foals eligible for Iowa-foaled status, provided the donor mare or a recipient mare:

a. Carries the foal full term;

b. Meets all the required Iowa rules; and

c. Is inspected by the department.

62.37(3) Registration and status reports of recipient mares and donor mares must be submitted to the department with proper identification, including but not limited to registration certificates, brands, and identification numbers prior to the time the donor mare is serviced.

62.37(4) Recipient mares must have a name, brand, or some means of identification and must be photographed for inspection purposes.

21—62.38 and **62.39** Reserved.

GREYHOUND DOG DIVISION

21—62.40(99D) Iowa-whelped dog requirements. A greyhound dog registered with the National Greyhound Association in Abilene, Kansas, may be registered as an Iowa-whelped dog if the following qualifications are met:

A dog must have been whelped in Iowa and raised for the first six months of its life in Iowa by an owner who qualifies as a two-year resident of Iowa prior to whelping.

Effective December 31, 1986, all commercial enterprises that own Iowa-whelped dogs must have been formed under the laws of the state for a period of two years. Effective September 30, 1995, 100 percent of all stockholders or members of such commercial enterprises must qualify as two-year residents of Iowa, prior to the whelping. Any entity registering greyhounds must have proof available at any time during the two-year residency of the members of the entity.

Sale and lease of dams and pups, between two-year bonafide residents of Iowa, is permissible at any time.

The department may take action under rule 21—62.43(99D) if the department determines that the Iowa owner of the dam has entered into an arrangement with another person, who is not eligible to be a breeder of Iowa-whelped dogs, wherein the Iowa owner is acting as an agent or other similar capacity so that Iowa-whelped status can be achieved.

21—62.41(99D) Procedures for registration. In order to qualify pups of a litter as lowa-whelped pups, the Iowa owner of the dam shall file a copy of her national registration papers (front and back), together with an Iowa Form GH-3 with the department within ten days prior to the expected whelping date of the litter. Late filings of GH-3 forms postmarked after the whelping date of the litter will not be accepted. After the GH-3 form is received by the department, a department inspector must inspect the dam and litter.

Within 30 days after litter registration with the National Greyhound Association, the original litter acknowledgment must be received by the department. A copy of the owner's driver's license, voter registration, or any other valid proof of residency of all first-time litter applicants must accompany the litter acknowledgment. Any late litter registrations will be assessed a penalty of $25. Litters over six months old will not be accepted for registration. After the litter registration, Form GH-1, is received by the department, a department inspector must inspect the litter. When the application for individual dog registration is made to the National Greyhound Association, the original registration certificate (yellow copy) or the onionskin shall be provided to the department, accompanying the department's Form GH-2.

62.41(1) The department will send the original registration certificate (yellow copy) or the onionskin to the National Greyhound Association, along with a request to stamp the original registration as Iowa whelped. The association will send the yellow registration copy to the department stamped "Certified

Iowa-whelped." The department will make a copy of the registration for their files and return the original (yellow) copy to the owner.

62.41(2) All greyhound litters meeting the qualifications to be Iowa-whelped, which were whelped in a qualified kennel prior to January 1, 1985, are eligible to be registered and to race as an Iowa-whelped dog. If it is determined that the breeder's kennel is not qualified, the litter will not be registered and approved until the kennel has complied with animal welfare laws and regulations. The "Certified Iowa-whelped" designation will begin on the date of approval and shall not be retroactive.

Individual dogs whelped prior to January 1, 1985, if sold to an owner currently in compliance with animal welfare laws and regulations, may receive the "Certified Iowa-whelped" designation for owner supplements only.

This rule is intended to implement Iowa Code section 99D.22.

21—62.42 Rescinded, effective 6/13/86.

21—62.43(99D) Disciplinary procedures. Rescinded IAB 2/4/04, effective 3/10/04.

21—62.44(99D) Access to records. Rescinded IAB 2/4/04, effective 3/10/04.

These rules are intended to implement Iowa Code section 99D.22.

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CHAPTER 63
BRANDING

[Appeared as Ch 18, 1973 IDR]
[Prior to 7/27/88, see Agriculture Department 30—Ch 15]

21—63.1(169A) Location of brands on livestock.

63.1(1) Brands shall be recorded on one of either sides of the animals, in any one of three locations, to wit: The shoulder, rib, or hip.

63.1(2) Each location is considered a separate brand and not in or under conflict with the same or similar brand in a different location or on a different side.

This rule is intended to implement Iowa Code section 169A.5.

21—63.2(169A) Brands in conflict.

63.2(1) Whenever two or more brands are determined by the secretary, to be in or under conflict, the secretary shall give written notice to the brand owners.

63.2(2) When herds bearing a similar brand are maintained in close proximity to each other, and the secretary determines that confusion or conflict may arise therefrom; then the secretary shall direct any change or changes in the position of the brands, so as to remove such confusion or conflict.

63.2(3) When two or more brands are determined, by the secretary, to be in or under conflict, then the owner having recorded said brand on the earliest date shall be given preference in retaining said brand.

This rule is intended to implement Iowa Code section 169A.15.

[Filed September 26, 1967]
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CHAPTER 64
INFECTIOUS AND CONTAGIOUS DISEASES

[Appeared as Ch 1, 1973 IDR]
[Ch 16, IAC 7/1/75 renumbered as 11.3, 12.1 to 12.33, and 16.24 and 16.25 renumbered 16.6 and 16.7 as per written instructions from Ag. Dept. 10/11/77]
[Prior to 7/27/88, see Agriculture Department 30—Ch 16]

21—64.1(163) Reporting disease. Whenever any person or persons who shall have knowledge of the existence of any infectious or contagious disease, such disease affecting the animals within the state or resulting in exposure thereto, which may prove detrimental to the health of the animals within the state, it shall be the duty of such person or persons to report the same in writing to the State Veterinarian, Bureau of Animal Industry, Wallace State Office Building, Des Moines, Iowa 50319, who shall then take such action as deemed necessary for the suppression and prevention of such disease. The diseases as classified by the Office International Des Epizooties are included. The following named diseases are infectious or contagious and the diagnosis or suspected diagnosis of any of these diseases in animals must be reported promptly to the Iowa department of agriculture and land stewardship by the veterinarian making the diagnosis or suspected diagnosis:

64.1(1) *Multiple species diseases.*

- Anthrax
- Aujeszky's disease
- Bluetongue
- Brucellosis (Brucella abortus)
- Brucellosis (Brucella melitensis)
- Brucellosis (Brucella suis)
- Crimean Congo haemorrhagic fever
- Echinococcosis/hydatidosis
- Epizootic haemorrhagic disease
- Equine encephalomyelitis (Eastern)
- Foot and mouth disease
- Heartwater
- Japanese encephalitis
- Johne's disease
- Leptospirosis
- New world screwworm (Cochliomyia hominivorax)
- Old world screwworm (Chrysomya bezziana)
- Q fever
- Rabies
- Rift Valley fever
- Rinderpest
- Surra (Trypanosoma evansi)
- Trichinellosis
- Tularemia
- Vesicular stomatitis
- West Nile fever

64.1(2) *Cattle diseases.*

- Bovine anaplasmosis
- Bovine babesiosis
- Bovine genital campylobacteriosis
- Bovine spongiform encephalopathy
- Bovine tuberculosis
- Bovine viral diarrhoea
- Contagious bovine pleuropneumonia
- Enzootic bovine leukosis

- Haemorrhagic septicaemia
- Infectious bovine rhinotracheitis/infectious pustular vulvovaginitis
- Lumpy skin disease
- Theileriosis
- Trichomonosis
- Trypanosomosis (tsetse-transmitted)

64.1(3) *Swine diseases.*

- African swine fever
- Classical swine fever
- Nipah virus encephalitis
- Porcine cysticercosis
- Porcine reproductive and respiratory syndrome
- Swine vesicular disease
- Transmissible gastroenteritis

64.1(4) *Sheep and goat diseases.*

- Caprine arthritis/encephalitis
- Contagious agalactia
- Contagious caprine pleuropneumonia
- Enzootic abortion of ewes (ovine chlamydiosis)
- Maedi-visna
- Nairobi sheep disease
- Ovine epididymitis (Brucella ovis)
- Peste des petits ruminants
- Salmonellosis (S. abortusovis)
- Scrapie
- Sheep pox and goat pox

64.1(5) *Equine diseases.*

- African horse sickness
- Contagious equine metritis
- Dourine
- Equine encephalomyelitis (Western)
- Equine infectious anaemia
- Equine influenza
- Equine piroplasmosis
- Equine rhinopneumonitis
- Equine viral arteritis
- Glanders
- Venezuelan equine encephalomyelitis

64.1(6) *Avian diseases.*

- Avian chlamydiosis
- Avian infectious bronchitis
- Avian infectious laryngotracheitis
- Avian mycoplasmosis (M. gallisepticum)
- Avian mycoplasmosis (M. synoviae)
- Duck virus hepatitis
- Fowl cholera
- Fowl typhoid
- Highly pathogenic avian influenza and low pathogenic avian influenza in poultry
- Infectious bursal disease (Gumboro disease)
- Marek's disease
- Newcastle disease
- Pullorum disease

- Turkey rhinotracheitis

64.1(7) *Lagomorph diseases.*

- Myxomatosis
- Rabbit haemorrhagic disease

64.1(8) *Fish diseases.*

- Epizootic haematopoietic necrosis
- Epizootic ulcerative syndrome
- Gyrodactylosis (Gyrodactylus salaris)
- Infectious haematopoietic necrosis
- Infectious salmon anaemia
- Koi herpesvirus disease
- Red sea bream iridoviral disease
- Spring viraemia of carp
- Viral haemorrhagic septicaemia

64.1(9) *Mollusc diseases.*

- Infection with abalone herpes-like virus
- Infection with Bonamia exitiosa
- Infection with Bonamia ostreae
- Infection with Marteilia refringens
- Infection with Perkinsus marinus
- Infection with Perkinsus olseni
- Infection with Xenohaliotis californiensis

64.1(10) *Crustacean diseases.*

- Crayfish plague (Aphanomyces astaci)
- Infectious hypodermal and haematopoietic necrosis
- Infectious myonecrosis
- Taura syndrome
- White spot disease
- White tail disease
- Yellowhead disease

64.1(11) *Amphibian diseases.*

- Infection with Batrachochytrium dendrobatidis
- Infection with ranavirus

64.1(12) *Other diseases.*

- Camel pox
- Chronic wasting disease
- Leishmaniosis

Reporting is required for any case or suspicious case of an animal having any disease that may be caused by bioterrorism, epidemic or pandemic disease, or novel or highly fatal infectious agents or biological toxins and that might pose a substantial risk of a significant number of animal fatalities, incidents of acute short-term illness in animals, or incidents of permanent or long-term disability in animals.

This rule is intended to implement Iowa Code sections 163.1, 163.2, 189A.12, 189A.13 and 197.5.

[**ARC 9102B**, IAB 9/22/10, effective 9/1/10; **ARC 0230C**, IAB 7/25/12, effective 8/29/12]

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[Filed ARC 0230C (Notice ARC 0140C, IAB 5/30/12), IAB 7/25/12, effective 8/29/12]

21—64.2(163) Disease prevention and suppression. Whenever the chief of division of animal industry shall have knowledge of an outbreak of any contagious, infectious or communicable disease among domestic animals in the state, the chief of the division of animal industry shall take such action as necessary for the prevention and suppression of such disease, including establishment, enforcement and maintenance of quarantines. The chief of the division of animal industry is authorized and empowered to obtain assistance of any peace officer.

This rule is intended to implement Iowa Code sections 163.1 and 163.10.

21—64.3(163) Duties of township trustees and health board. Whenever notice is given to the trustees of a township or to a local board of health that animals are suspected of being affected with or having been exposed to any contagious, infectious or communicable disease, they may impose such restrictions as deemed necessary to prevent the spread of the disease. It shall be the duty of such township trustees or local boards to immediately notify the chief of division of animal industry.

This rule is intended to implement Iowa Code section 163.17.

21—64.4(163) "Exposed" defined. An animal must be considered as "exposed" when it has stood in a stable with, or been in contact with, any animal known to be affected with a contagious, infectious or transmissible disease; or if placed in a stable, yard or other enclosure where such diseased animal or animals have been kept unless such stable, yard or other enclosure has been thoroughly cleaned and disinfected after containing animals so affected.

This rule is intended to implement Iowa Code section 163.1.

21—64.5(163) Sale of vaccine. No attenuated or live culture vaccine or virus shall be sold or offered for sale at retail except to a licensed veterinarian of this state, nor shall it be administered to any livestock or poultry except by a licensed veterinarian of the state of Iowa. This does not apply to the sale of and administration of virulent classical swine fever virus when sold to and administered by valid permit holders for its use on hogs owned by themselves on their own premises.

This rule is intended to implement Iowa Code section 163.1.

[**ARC 0230C**, IAB 7/25/12, effective 8/29/12]

21—64.6(163) "Quarantine" defined. The term "quarantine" shall be construed to mean the perfect isolation of all diseased or suspected animals from contact with other animals as well as the exclusion of other animals from yards, stables, enclosures or grounds where suspected or diseased animals are or have been kept.

This rule is intended to implement Iowa Code section 163.1.

21—64.7(163) Chiefs of Iowa and U.S. animal industries to cooperate. The department of agriculture and land stewardship hereby authorizes and directs the chief of division of animal industry to cooperate with the bureau of animal industry, United States Department of Agriculture, in all regulations for the prevention, control and eradication of contagious and infectious diseases among domestic animals in the state of Iowa.

This rule is intended to implement Iowa Code section 163.1.

21—64.8(163) Animal blood sample collection. Any animal slaughtered in Iowa is subject to having blood samples taken in order to determine whether the animal is infected with an infectious or contagious disease. Upon written notification from the department or from the United States Department of Agriculture, the management of a slaughter facility shall provide for or permit the collection of blood samples for testing from any animal confined at or being slaughtered at such a facility.

If the department or the United States Department of Agriculture chooses to place government employees or private contractors in the facility for the purpose of collecting the blood samples, neither the facility nor the management of the facility shall charge a fee for providing such access. In addition, the slaughter facility shall provide blood collectors access to facilities routinely available to plant employees such as rest rooms, lockers, break rooms, lunchrooms, and storage facilities to facilitate blood collection in the same manner and on the same terms as the facility provides access to the facility to meat inspectors employed by the department or the Food Safety Inspection Service of the United States Department of Agriculture.

21—64.9 Reserved.

[July 1952 IDR; File 6/3/55; Amended 3/12/62]
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GLANDERS AND FARCY CONTROL

21—64.10(163) Preventing spread of glanders. No person owning or having the care or custody of any animal affected with glanders or farcy, or which there is a reason to believe is affected with said disease, shall lead, drive or permit such animal to go on or over any public grounds, unenclosed lands, street, road, public highway, lane or alley; or permit such animal to drink at any public watering trough, pail or spring, or keep such diseased animal in any enclosure in or from which such diseased animal may come in contact with, or in proximity to, any animal not affected with such disease.

This rule is intended to implement Iowa Code section 163.20.

21—64.11(163) Disposal of diseased animal. Whenever any animal affected with glanders dies or is destroyed the carcass of such animal shall be burned immediately.

As glanders is transmissible to human beings great care must be exercised in handling diseased animals or carcasses.

This rule is intended to implement Iowa Code section 163.1.

21—64.12(163) Glanders quarantine. It shall be the duty of the chief of division of animal industry to maintain quarantine on all animals affected with glanders until such animals have been destroyed by consent of the owner or otherwise, and carcasses disposed of in accordance with 21—64.11(163) and the premises where the same have been kept thoroughly cleaned and disinfected.

This rule is intended to implement Iowa Code section 163.2.

21—64.13(163) Tests for glanders and farcy. In suspected cases of glanders and farcy the most efficient field test is the intrapalpebral mallein test, and as valuable aids to diagnosis the mallein Strass' agglutination and precipitation tests shall be recognized.

This rule is intended to implement Iowa Code section 163.1.

21—64.14 Reserved.

[Filed 6/3/55]
[Filed emergency 7/8/88 after Notice 6/1/88—published 7/27/88, effective 7/8/88]

BLACKLEG CONTROL

21—64.15(163) Blackleg. Upon the appearance of an outbreak of blackleg on any premises all calves and yearlings on the premises should be promptly immunized. All carcasses of animals dead of blackleg must be burned intact without removal of the hide. Such carcasses may be disposed of by removal within 24 hours by the operator of a regularly licensed rendering plant. In the event that the owner of any animal dead from blackleg neglects or refuses to make such disposition of the carcass or carcasses as indicated above, then in such cases the disposal shall be handled in accordance with 21—61.33(163).

This rule is intended to implement Iowa Code sections 167.18 and 163.2.

21—64.16 Reserved.

[Filed 6/3/55]
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DEPARTMENT NOTIFICATION OF DISEASES

21—64.17(163) Notification of chief of animal industry. It shall be the duty of any city or local board of health or township trustees, whenever notice is given of animals being affected with rabies, glanders, scabies, classical swine fever or any contagious or infectious disease or having been exposed to the same, to promptly notify the state veterinarian.

This rule is intended to implement Iowa Code section 163.17.

[**ARC 0230C**, IAB 7/25/12, effective 8/29/12]

21—64.18 to **64.22** Reserved.

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RABIES CONTROL

21—64.23(163) Rabies—exposed animals. Whenever rabies is known to exist in any community it shall be the duty of all owners of dogs or other exposed animals to immediately confine such dogs or animals securely to prevent them from spreading the infection should they develop the disease.

This rule is intended to implement Iowa Code section 351.39.

21—64.24(163) Rabies quarantine. When quarantine is established in any community on account of the existence of rabies all dogs not confined or muzzled shall be promptly destroyed.

This rule is intended to implement Iowa Code section 351.40.

21—64.25(351) Control and prevention of rabies.

64.25(1) *Antirabies vaccine.*

a. Vaccines and immunization procedures recommended in the Compendium of Animal Rabies Vaccines prepared by the National Association of Public Health Veterinarians, Inc. are approved by the Iowa department of agriculture and land stewardship.

b. Reserved.

64.25(2) *Tag and certificate.*

a. The veterinarian shall issue a tag with the numerical number thereon and the certificate of vaccination shall designate the tag number.

b. Each rabies vaccination certificate issued by the veterinarian must be an Official Rabies Vaccination Certificate approved by the Iowa department of agriculture and land stewardship.

This rule is intended to implement Iowa Code section 351.35.

21—64.26 to **64.29** Reserved.

[Filed 6/3/55, amended 7/13/65, 3/21/67]
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SCABIES OR MANGE CONTROL

21—64.30(163) Scabies or mange quarantine. Whenever the state veterinarian shall have knowledge of any horses, cattle, sheep or swine affected with scabies or mange, owners of any horses, cattle, sheep or swine affected shall medicate the animals at intervals the state veterinarian deems necessary with a method approved by the state veterinarian.

This rule is intended to implement Iowa Code section 166A.8.

[**ARC 9102B**, IAB 9/22/10, effective 9/1/10]

21—64.31 Reserved.

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DISEASE CONTROL AT FAIRS AND EXHIBITS

21—64.32(163) State fairgrounds—disinfection of livestock quarters. It shall be the duty of the chief of division of animal industry to supervise the disinfection of all buildings, stalls and pens at the state fairgrounds just prior to the opening of such fair and to supervise the disinfecting daily of hog pens and such other enclosures.

This rule is intended to implement Iowa Code section 163.1.

21—64.33(163) County fairs—disinfection of livestock quarters. It shall be the duty of all secretaries of all county fairs or exhibitions of livestock in the state of Iowa, excepting the Iowa state fair, to supervise the disinfecting of all buildings, stalls and pens prior to the opening of such county fair or exhibition of livestock and to disinfect hog pens and all such enclosures daily during such fairs and exhibitions.

This rule is intended to implement Iowa Code section 163.1.

21—64.34(163) Health requirements for exhibition of livestock, poultry and birds at the state fair, district shows and exhibitions.

64.34(1) *General requirements.* All animals, poultry and birds intended for any exhibition will be considered under quarantine and not eligible for showing until the owner or agent presents an official Certificate of Veterinary Inspection. The certificate must be issued by an accredited veterinarian within 30 days (14 days for sheep) prior to the date of entry; and must indicate that the veterinarian has inspected the animals, poultry or birds and any nurse stock that accompany them, and that they are apparently free from symptoms of any infectious disease (including warts, ringworm, footrot, draining abscesses and pinkeye) or any communicable disease. Individual Certificates of Veterinary Inspection will not be required in certain classes, if the division superintendent for the exhibition has made prior arrangements with the official fair veterinarian to have all animals and birds inspected on arrival.

64.34(2) *Breeding cattle.*

a. *Tuberculosis.* Cattle originating from a USDA accredited-free state or zone may be exhibited without other testing requirements when accompanied by a Certificate of Veterinary Inspection that lists individual official identification. Cattle from a herd or area under quarantine for tuberculosis may not be exhibited. Cattle from a state or zone which is not a USDA accredited-free state or zone must meet the following requirements:

(1) Have had an individual animal test conducted within 60 days of the exhibition; or

(2) Originate from a tuberculosis accredited-free herd, with the accredited herd number and date of last test listed on the Certificate of Veterinary Inspection; and

(3) Have been issued a preentry permit from the state veterinarian's office.

b. *Brucellosis.*

(1) Native Iowa cattle originating from a herd not under quarantine may be exhibited when accompanied by a Certificate of Veterinary Inspection that lists individual official identification.

(2) Cattle originating outside the state must meet one of the following requirements:

1. Originate from brucellosis class "free" states, accompanied by a Certificate of Veterinary Inspection that lists individual official identification; or

2. Be beef heifers under 24 months of age and dairy heifers under 20 months of age which are official brucellosis vaccinates, accompanied by a Certificate of Veterinary Inspection that lists the official calfhood vaccination tattoo and individual official identification; or

3. Be animals of any age that originate from a herd not under quarantine, accompanied by a Certificate of Veterinary Inspection that lists a report of a negative brucellosis test conducted within 30 days prior to opening date of exhibition and individual official identification; or

4. Originate from a certified brucellosis-free herd, accompanied by a Certificate of Veterinary Inspection that lists individual official identification, herd number, and date of last test; or

5. Be calves under six months of age, accompanied by a Certificate of Veterinary Inspection that lists individual official identification.

(3) All brucellosis tests must have been confirmed by a state-federal laboratory. All nurse cows which accompany calves to be exhibited must meet the health requirements set forth in 64.34(2)*"b."*

(4) All cattle originating from states not classified as "free" for brucellosis must have been issued a preentry permit from the state veterinarian's office.

64.34(3) *Market beef cattle.* Steers and beef-type heifers exhibited in market classes must be accompanied by a Certificate of Veterinary Inspection, showing individual official identification for each animal, and must originate from a herd not under quarantine.

64.34(4) *Swine.* All swine must originate from a herd or area not under quarantine and must be individually identified on a Certificate of Veterinary Inspection. Plastic tags issued by 4-H officials may be substituted for an official metal test tag, when an additional identification (ear notch) is also recorded on the test chart and Certificate of Veterinary Inspection. All identification is to be recorded on the pseudorabies test chart and the Certificate of Veterinary Inspection.

a. *Brucellosis.* All breeding swine six months of age and older must:

(1) Originate from a brucellosis class "free" state; or

(2) Originate from a brucellosis validated herd with herd certification number and date of last test listed on the Certificate of Veterinary Inspection; or

(3) Have a negative brucellosis test conducted within 60 days prior to show and confirmed by a state-federal laboratory.

b. *Aujeszky's Disease (pseudorabies)—all swine.*

(1) Native Iowa swine. Exhibitors of native Iowa swine that originate from a Stage IV or lower-status county must present a test record and Certificate of Veterinary Inspection that indicate that each swine has had a negative test for pseudorabies within 30 days prior to the show (individual show regulations may have more restrictive time restrictions), regardless of the status of the herd, and that show individual official identification. Exhibitors of native Iowa swine that originate from a Stage V county must present a Certificate of Veterinary Inspection that lists individual official identification. No

pseudorabies testing requirements will be necessary for native Iowa swine that originate from Stage V counties. Electronic identification will not be considered official identification for exhibition purposes.

(2) Swine originating outside Iowa. All exhibitors must present a test record and Certificate of Veterinary Inspection that indicate that each swine has had a negative test for pseudorabies within 30 days prior to the show (individual show regulations may have more restrictive time restrictions), regardless of the status of the herd, and that show individual official identification. Electronic identification will not be considered official identification for exhibition purposes.

64.34(5) *Sheep and goats.* All sheep and goats must be individually identified and a record of the identification noted on the Certificate of Veterinary Inspection and must originate from a herd or flock not under quarantine. Any evidence of club lamb fungus, draining abscesses, ringworm, footrot, sore mouth or any other contagious disease shall eliminate the animal from the show. The Certificate of Veterinary Inspection for sheep shall require clinical inspection by an accredited veterinarian within 14 days (30 days for goats) prior to date of entry to exhibition grounds.

a. Sheep and goats—scrapie. All sexually intact sheep must be identified with an individual scrapie flock of origin identification tag, and this number must be listed on the Certificate of Veterinary Inspection.

All sexually intact goats must be identified with an individual scrapie flock of origin identification tag or by an official registered tattoo, and one of these numbers must be listed on the Certificate of Veterinary Inspection. The Certificate of Veterinary Inspection must also include a statement certifying the herd's participation in the scrapie program.

b. Goats—brucellosis and tuberculosis. Goats must be from a state certified brucellosis-free herd or have a record of a negative brucellosis test performed within 90 days of the exhibition. In addition, they must originate from a herd having a negative tuberculosis test within the last 12 months or have a record of a negative tuberculosis test performed within 90 days of exhibition.

64.34(6) *Horses and mules.* Native Iowa horses and mules can be exhibited when accompanied by an individual Certificate of Veterinary Inspection listing individual identification or a description of the individual animals.

All equine, six months of age or older, originating from outside the state shall be accompanied by an official Certificate of Veterinary Inspection listing individual identification or a description of the individual animals; and indicating that each animal in the shipment has had a negative official equine infectious anemia test within 12 months of importation. The testing laboratory, laboratory accession number and date of test must appear on the certificate.

64.34(7) *Poultry and birds.* All poultry exhibited must come from U.S. pullorum-typhoid clean or equivalent flocks; or have had a negative pullorum-typhoid test performed within 90 days of the exhibition by an authorized tester. An approved certificate verifying this status shall accompany the exhibit.

64.34(8) *Dogs and cats.* Dogs and cats exhibited must have current, official rabies vaccination certificates.

64.34(9) *Removal from fair or exhibition.* The veterinary inspector in charge shall order that any livestock, poultry or birds found to be infected with any contagious or infectious disease be removed from the fair or exhibition.

64.34(10) *Cervidae.* For the purposes of this subrule, "Cervidae" means all animals belonging to the Cervidae family, and "CWD susceptible Cervidae" means whitetail deer, blacktail deer, mule deer, red deer, and elk.

a. Native Iowa Cervidae. Native Iowa Cervidae from a herd not under quarantine may be exhibited without additional testing for brucellosis or tuberculosis. CWD susceptible Cervidae intended for exhibition must originate from a herd that has completed at least one year in the CWD monitoring program. Native Iowa Cervidae may be exhibited without other testing requirements when the Cervidae are accompanied by a Certificate of Veterinary Inspection that lists individual official identification and the monitored CWD cervid herd number or certified CWD herd number for CWD susceptible Cervidae, including the status level and anniversary date, and contains the following statement:

"All Cervidae listed on this certificate have been part of the herd of origin for at least one year or were natural additions to the herd. There has been no diagnosis, sign, or epidemiological evidence of chronic wasting disease in this herd for the past year."

b. *Cervidae originating outside Iowa.* Cervidae that originate outside Iowa must obtain an entry permit from the state veterinarian's office prior to import into Iowa. Cervidae that originate outside Iowa which are six months of age or older must originate from a herd not under quarantine and have been tested negative for Tuberculosis (TB) by the Single Cervical Tuberculin (SCT) test (Cervidae) or by the Cervid TB Stat-Pak test within 90 days of exhibition, or originate from an Accredited Herd (Cervidae), or originate from a Qualified Herd (Cervidae), with test dates shown on the Certificate of Veterinary Inspection. Herd status and SCT test are according to USDA Tuberculosis Eradication in Cervidae Uniform Methods and Rules, effective January 22, 1999.

Cervidae that originate outside Iowa which are six months of age or older must also have been tested negative for brucellosis within 90 days of exhibition, or originate from a certified brucellosis-free cervid herd, or a cervid class-free status state (brucellosis). This negative test result must be determined by brucellosis tests approved for cattle and bison, and the test must have been conducted in a cooperative state-federal laboratory.

(1) All CWD susceptible Cervidae must have originated from a monitored or certified CWD cervid herd in which the animals have been kept for at least one year or to which the animals were natural additions. The originating herd must have achieved a CWD status equal to completion of three years in an approved CWD monitoring program, and the CWD herd number and enrollment date must be listed on the Certificate of Veterinary Inspection. Cervidae originating from a herd with a diagnosis, sign, or epidemiological evidence of CWD or from an area under quarantine for chronic wasting disease shall not be exhibited. The following statement must appear on the Certificate of Veterinary Inspection:

"All Cervidae listed on this certificate originate from a chronic wasting disease monitored or certified herd in which these animals have been kept for at least one year or to which the animals were natural additions. There has been no diagnosis, sign, or epidemiological evidence of chronic wasting disease in this herd for the past year."

(2) Other Cervidae. For all other Cervidae, the following statement must appear on the Certificate of Veterinary Inspection:

"All Cervidae listed on this certificate have been part of the herd of origin for at least one year or were natural additions to this herd. There has been no diagnosis, sign, or epidemiological evidence of chronic wasting disease in this herd for the past year."

This rule is intended to implement Iowa Code sections 163.1 and 163.14.

[**ARC 9942B**, IAB 12/28/11, effective 1/1/12; **ARC 0656C**, IAB 3/20/13, effective 3/1/13]

21—64.35(163) Health requirements for exhibition of livestock, poultry and birds at exhibitions. Each county fair shall have an official veterinarian who will inspect all livestock, poultry and birds when they are unloaded or shortly thereafter. No Certificate of Veterinary Inspection will be required on livestock, poultry and birds exhibited at a county 4-H or FFA show. Quarantined animals or animals from quarantined herds cannot be exhibited. Evidence of warts, ringworm, footrot, pinkeye, draining abscesses or any other contagious or infectious condition will eliminate the animal from the show.

64.35(1) *Swine exhibition requirements.* "Swine exhibition" means an exhibit, demonstration, show, or competition involving an event on the state fairgrounds, a county fair, or other exhibition event. The sponsor of the exhibition must retain an Iowa licensed veterinarian to supervise the health of the swine at the exhibition location. The sponsor must electronically file the approved registration form and obtain approval from the state veterinarian at least 30 days before the event. The registration form includes the name of the exhibition and the address and telephone number of its location; the name, address and telephone number of the veterinarian; and the date of the planned exhibition. Sales of swine will not be allowed unless the event has been registered and received approval from the state veterinarian 30 days prior to the event.

64.35(2) *Swine exhibition report required.* The sponsor of the swine exhibition shall electronically submit to the department the approved report form within five business days after the conclusion of the exhibition. The form includes the name of the exhibition and the address and telephone number of its location; the name, address and telephone number of the veterinarian; the date that the exhibition occurred; the name, address and telephone number of the owner of the swine; and the address and telephone number of the premises from which the swine was moved after the exhibition if such premises is a different premises.

64.35(3) *Dogs and cats.* All dogs and cats exhibited in county exhibitions must have a current, official rabies certification.

64.35(4) *Poultry and birds.* Except as provided in this subrule, all poultry exhibited must come from U.S. pullorum-typhoid clean or equivalent flocks; or have had a negative pullorum-typhoid test performed within 90 days of exhibition by an authorized tester. An approved certificate verifying this status shall accompany the exhibit.

However, no testing for salmonella pullorum-typhoid shall be required for "market classes" of poultry, if the poultry are consigned to a slaughter establishment directly from the exhibition. Poultry exhibited in these "market classes" shall be maintained separate and apart from poultry not exempted from the testing requirements. Separate and apart shall include both of the following: holding poultry so that neither poultry nor organic material originating from the poultry has physical contact with other poultry; and poultry exhibited in "market classes" shall be maintained in enclosures at least ten feet apart or separated by an eight-foot high solid partition from all other poultry. Poultry exhibited in "market classes" shall be so declared at the time of entry into this exhibition or before.

All enclosures maintaining poultry shall be thoroughly cleaned and disinfected.

64.35(5) *Sheep and goats.* All sexually intact sheep must have an individual scrapie flock of origin identification tag. All sexually intact goats must have an individual scrapie flock of origin identification tag or an official registered tattoo.

64.35(6) *Cervidae.* Native Iowa Cervidae from a herd not under quarantine may be exhibited without additional testing for brucellosis or tuberculosis. CWD susceptible Cervidae intended for exhibition must originate from a herd that has completed at least one year in the CWD monitoring program. Native Iowa Cervidae may be exhibited without other testing requirements when the Cervidae are accompanied by a Certificate of Veterinary Inspection that lists individual official identification and the monitored CWD cervid herd number or certified CWD herd number for CWD susceptible Cervidae, including the status level and anniversary date, and contains the following statement:

"All Cervidae listed on this certificate have been part of the herd of origin for at least one year or were natural additions to the herd. There has been no diagnosis, sign, or epidemiological evidence of chronic wasting disease in this herd for the past year."

64.35(7) *Show veterinarian.* The decision of the show veterinarian shall be final.

This rule is intended to implement Iowa Code sections 163.1 and 163.14.

[**ARC 9942B**, IAB 12/28/11, effective 1/1/12]

21—64.36 and **64.37** Reserved.

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DISEASE CONTROL BY CONVEYANCES

21—64.38(163) Transportation companies—disinfecting livestock quarters. All railroad and transportation companies are hereby required to provide for proper drainage of all stockyards, pens, alleyways and chutes, and to clean and disinfect the same between April 15 and May 15 of each year and at such other times as may be deemed necessary. All expense incurred for the disinfecting and supervision of same must be paid by the railroad company. The chief of the division of animal industry shall enforce this rule.

This rule is intended to implement Iowa Code section 163.1.

21—64.39(163) Livestock vehicles—disinfection. It is hereby ordered by the state of Iowa, secretary of agriculture, that all cars or vehicles that have been used for conveying any animal or animals that have been found to have suffered or are suffering from any contagious or infectious diseases must be cleaned and disinfected thoroughly before leaving the yards where such animal or animals have been unloaded within the state of Iowa.

This rule is intended to implement Iowa Code section 163.1.

21—64.40 Reserved.

[Filed 6/3/55]
[Filed emergency 7/8/88 after Notice of 6/1/88—published 7/27/88, effective 7/8/88]

INTRASTATE MOVEMENT OF LIVESTOCK

21—64.41(163) General. All places where livestock is assembled, either bought or sold for purposes other than immediate slaughter, whether by private sale or public auction, when not under federal supervision must be under state supervision.

64.41(1) The management of all livestock auction markets shall make application for, and obtain a permit from the department to conduct such sales.

64.41(2) Before movement, the livestock shall comply with requirements as set forth below.

64.41(3) Livestock imported for resale shall meet all health requirements governing their admission into the state as set forth in 21—Chapter 65.

This rule is intended to implement Iowa Code sections 163.1, 163.11, and 163.14.

21—64.42(163) Veterinary inspection.

64.42(1) All livestock markets shall be under the general supervision of the Chief, Bureau of Animal Industry, Iowa Department of Agriculture and Land Stewardship, Des Moines, Iowa 50319, and the direct supervision of the approved veterinary inspector. Markets shall pay inspection fees directly to the veterinary inspector.

64.42(2) The veterinary inspector shall:

a. Examine all livestock moving through the market.

b. Prohibit the sale of any animal deemed to be diseased.

c. Issue quarantines when required, and

d. Supervise the cleaning and disinfection of yards following sales.

This rule is intended to implement Iowa Code section 163.1.

21—64.43(163) Swine.

64.43(1) *Brucellosis.* All breeding swine four months of age or over moving through a livestock market or offered for sale or sold by the owner by private treaty must:

a. Originate from a validated herd, or from a validated brucellosis-free state according to Title 9 CFR as amended effective May 23, 1994, and published in the Federal Register, Vol. 59, No. 77, April 21, 1994, or

b. Be proved negative to a brucellosis test conducted within 60 days prior to sale or service and originate from a herd not under quarantine.

All breeding swine showing a positive reaction to a brucellosis test conducted at a livestock market shall be tagged in the left ear with a reactor tag and moved direct to slaughter on permit. The herd of origin shall be placed under quarantine for immediate test. Such quarantine to remain in effect until a complete negative herd test is conducted.

The negative animals from a reactor group disclosed at an auction market can return to the farm of origin under strict quarantine to be tested no sooner than 30 days nor later than 60 days from the date of test.

64.43(2) Reserved.

This rule is intended to implement Iowa Code sections 163A.1 and 163A.3.

21—64.44(163) Farm deer. Rescinded IAB 11/26/03, effective 12/31/03.

21—64.45 and **64.46** Reserved.

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BRUCELLOSIS

21—64.47(163) Definitions as used in these rules.

64.47(1) *"Department"* means the Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa.

64.47(2) *"Federal Office"* means the Animal, Plant and Health Inspection Service, United States Department of Agriculture, Federal Building, Des Moines, Iowa 50309.

64.47(3) *"Brucellosis"* means the disease of brucellosis in animals.

64.47(4) *"Brucellosis test"* means the blood serum test for brucellosis, applied in accordance with a technique approved by the department.

64.47(5) *"B.R.T."* means a brucellosis ring test as applied to milk and cream, and used as a presumptive test for locating possible brucellosis infected herds according to a technique approved by the department.

64.47(6) *"Brucellosis test classification"* means the designation of animals tested by the methods of card test or rivanol or any other method approved jointly by the state and federal departments of agriculture.

64.47(7) *"Veterinarian"* means a graduate of an approved veterinary school who is licensed and registered to practice veterinary medicine in this state.

64.47(8) *"Designated animals"* means only the following named bovine animals: beef cattle, dairy cattle, American bison or "buffalo," and their hybrids.

This rule is intended to implement Iowa Code section 163A.9.

21—64.48 Reserved.

21—64.49(163) Certified brucellosis-free herd. In order to qualify a herd of cattle as brucellosis-free and receive a certificate evidencing same, the owner thereof shall comply with the following requirements:

64.49(1) *Certified brucellosis-free herd.* A herd may qualify for initial certification by a minimum of three consecutive negative milk ring tests (B.R.T.) conducted at not less than 90-day intervals, followed by a negative herd blood test conducted within 90 days after the last negative milk ring test; or at least two consecutive negative blood tests not less than 10 months nor more than 14 months apart. A herd may qualify for recertification by a negative blood test within 60 days of each anniversary date, and the certification period being 12 months. If recertification is not conducted within 60 days following the anniversary date, then certification requirements are the same for initial certification.

64.49(2) *Additions to certified herds.*

a. To certified herds:

(1) From herds with equal status.

(2) From once-tested clean herds. Calf vaccinated animals up to 30 months of age on certificate of vaccination—over 30 months if negative; or nonvaccinated animals on evidence of negative retest not less than 60 days from date of negative herd test.

b. To once-tested clean herds:

(1) From herds with equal or superior status.

(2) From other herds, calfhood vaccinated animals up to 30 months of age on certificate of vaccination; over 30 months, if negative; nonvaccinated animals if tested negative, then segregated and retested negative in not less than 60 days.

64.49(3) The owner or veterinarian shall make a request to the chief, division of animal industry for certification or recertification, for a brucellosis-free herd when the required tests are completed.

This rule is intended to implement Iowa Code section 164.4.

21—64.50(163) Restraining animals. To facilitate the vaccination, taking of blood sample or identifying animals as reactors, it shall be the duty of the owner to confine the animals in a suitable enclosure and to restrain the individual animal in a manner sufficient to permit the veterinarian to perform any of the services required under laws and rules of Iowa.

This rule is intended to implement Iowa Code section 164.4.

21—64.51(163) Quarantines.

64.51(1) Bovine animals classified as reactors shall be quarantined on the premises and not permitted to mingle with other cattle until disposed of for slaughter under a permit issued by the department or its authorized agent.

64.51(2) All bovine animals comprising a herd operating under control Plan A shall be quarantined when one of its members has been classified as a reactor, such quarantine to remain in effect until two consecutive negative brucellosis tests, 30 to 60 days apart, have been made. No animals of such a herd may be moved or sold except to slaughter under permit issued by the department or its authorized agent except that the department in hardship cases may permit the movement of such animals other than to slaughter with quarantines remaining in effect at the new location, together with any new animals with which they may commingle.

64.51(3) Owners of animals tested for brucellosis shall hold the entire herd on the premises until the results of the test are determined.

64.51(4) Notice of quarantine shall be delivered in writing by the department or its authorized agent to the owner or caretaker of all cattle quarantined. A report of such quarantine shall also be filed with the department as prescribed.

This rule is intended to implement Iowa Code sections 164.15 and 164.19.

21—64.52(163) Identification of bovine animals.

64.52(1) *Identification tag.* Every veterinarian, in conjunction with the testing of any bovine animal for brucellosis or the vaccination of any such animal, shall insert an identification tag of the type approved by the department in the right ear of each animal which is not so identified; provided that in the case of an animal registered with a purebred association, the registry or tattoo number assigned to the animal by such association may be used for identification in lieu of an identification tag.

64.52(2) *Official vaccinates.* An animal vaccinated with RB-51 brucella abortus vaccine must have an official identification tag in the right ear or an individual animal registration tattoo. Additionally, the animal must be tattooed in the right ear with the U.S. Registered Shield and the letter "V," which shall be preceded by a letter "R" and followed by a number corresponding to the last digit of the year in which the animal was vaccinated.

64.52(3) *Reactor identification.* Bovine-reactor cattle eight months of age or over shall be permanently branded with a hot iron on the tailhead over the fourth to the seventh coccygeal vertebrae with the letter "B" not less than two inches nor more than three inches high and shall also be tagged in the left ear with a reactor identification tag approved by the department within 15 days of the date on which they were disclosed as reactors. This subrule shall not apply to official calfhood vaccination as defined in Iowa Code section 164.1. Such vaccinates need not be branded if they react to the brucellosis test until 30 months of age.

This rule is intended to implement Iowa Code sections 164.11 and 164.12.

[**ARC 9102B**, IAB 9/22/10, effective 9/1/10]

21—64.53(163) Cleaning and disinfection. After any disclosure of reactors to the brucellosis test and following their disposal for slaughter, the owner of such cattle shall be required to clean and disinfect all barns and premises in which said cattle have been held. Such cleaning and disinfection shall be done in accordance with instructions and with a disinfectant approved by the department.

This rule is intended to implement Iowa Code section 163.1.

21—64.54(163) Disposal of reactors.

64.54(1) Reactor cattle disclosed in herds operating under Plan A shall be tagged and branded within 15 days of the date the blood samples were taken. In accordance with Iowa law, an additional 30 days will be allowed for slaughter.

64.54(2) All reactors shall be disposed of for slaughter only in plants operating under federal meat inspection or slaughtering establishment approved by the department and must be accompanied by a shipping permit ADE 1-27 issued by an accredited veterinarian.

64.54(3) No cattle shall be disposed of through public sales or sales barns.

This rule is intended to implement Iowa Code section 164.17.

21—64.55(163) Brucellosis tests and reports.

64.55(1) All brucellosis tests conducted at state-federal expense must be performed at a state-federal laboratory as determined by the department.

64.55(2) The department shall approve a veterinarian as eligible to conduct brucellosis tests upon successful completion of a course of training and instruction provided by the department. The department shall specify the standards for maintaining such approval.

64.55(3) All brucellosis tests conducted by a veterinarian must be reported to the department, on forms prescribed, within seven days following completion of such tests. A copy of such tests shall also be given to the herd owner by the veterinarian.

64.55(4) Reports of vaccination shall be rendered by the veterinarian within 30 days in compliance with the regulation. It is from the information on these reports that the owner of the cattle will receive recognition as being under official supervision.

This rule is intended to implement Iowa Code section 164.10.

[**ARC 9102B**, IAB 9/22/10, effective 9/1/10]

21—64.56(163) Suspect animals designated as reactors.

64.56(1) A nonvaccinated animal classified as a suspect on the brucellosis test may be reclassified as a reactor by the veterinarian obtaining the blood sample provided that such an animal is known to have aborted and is from a herd containing reactors.

64.56(2) Animals so designated in 64.38(1) and 64.38(2) will be eligible for indemnity in accordance with the laws and rules governing same.

This rule is intended to implement Iowa Code section 163.1.

21—64.57(163) Indemnity not allowed.

64.57(1) No indemnity shall be paid unless the test was previously authorized by proper state or federal authority.

64.57(2) No indemnity may be paid on an animal which was vaccinated when it was more than eight months of age.

64.57(3) Rescinded.

64.57(4) No indemnity may be paid as a result of a test of an official vaccinate less than 30 months of age.

64.57(5) No indemnity may be paid upon reactors unless they are tagged, branded and slaughtered according to the state and federal regulations.

64.57(6) No indemnity may be paid upon cattle entering the state of Iowa which have not met the requirements for entry as breeding or dairy cattle.

64.57(7) No indemnity can be paid on reactors owned by the state or county.

64.57(8) No indemnity may be paid on unregistered reactor bulls, steers or spayed heifers.

64.57(9) No indemnity will be paid for brucellosis reactors when known reactors have been held on the premises for more than 30 days from the date on which they were tagged and branded.

64.57(10) No indemnity will be paid when infected premises have not been cleaned and disinfected to the satisfaction of the department in such a manner as to prevent the further spread of the disease.

64.57(11) No indemnity will be paid if the claimant has failed to comply with any of the requirements of these rules.

64.57(12) No indemnity will be paid on brucellosis reactors disclosed in a herd unless a state-federal cooperative agreement has been signed by the owner prior to conducting the brucellosis test.

64.57(13) No indemnity will be allowed unless all animals comprising the herd, both beef and dairy type, have been subjected to a brucellosis test conducted at the state-federal laboratory.

64.57(14) No indemnity will be paid on any reactors unless they are slaughtered in a plant operating under federal meat inspection and accompanied by a shipping permit ADE 1-27 issued by an accredited veterinarian.

This rule is intended to implement Iowa Code section 163.15.

21—64.58(163) Area testing.

64.58(1) Counties shall be tested in the order that valid petitions are received unless the department shall decide that it is not expedient to make tests in that order.

64.58(2) All provisions of the rules as promulgated under authority of Iowa Code section 164.2 are also in effect for counties designated as under area testing.

64.58(3) An area may be declared modified certified brucellosis-free by the application of two milk tests not less than six months apart, together with a blood test of all milk reacting herds and such other herds as are not included in the milk test. The number of reactors (exclusive of officially calf vaccinated animals under 30 months of age) must not exceed 1 percent of the cattle and the herd infection must not

exceed 5 percent. Infected herds shall be quarantined until they have passed at least two consecutive blood tests not less than 60 days apart.

64.58(4) If testing as outlined in 64.58(3) above reveals an animal infection rate of more than 1 percent, but not over 2 percent and a retest of the infected herds applied within 120 days discloses not more than 1 percent animal infection in not over 5 percent of the herds, the area may then be certified.

64.58(5) If the test of an area as outlined under 64.58(3) results in more than 2 percent reactors, or if a retest of infected herds as under 64.58(3) does not qualify the area for certification, it shall be necessary to make a complete area retest.

64.58(6) Recertification. Areas may be recertified with the application of semiannual milk tests, follow-up blood tests of milk reacting herds and blood tests at three-year intervals on 20 percent of all herds not included in the milk test, if the incidence of infection does not exceed 1 percent of the cattle and 5 percent of the herds under test.

64.58(7) If testing as outlined under 64.58(6) reveals an animal infection rate of more than 1 percent, but not over 2 percent and a retest of the infected herds applied within 120 days discloses not more than 1 percent animal infection in not over 5 percent of the herds, the area may then be certified.

64.58(8) Any area not qualifying for recertification under the provisions of 64.58(7) shall be required to reestablish its certified status through testing procedures as outlined under 64.58(3).

64.58(9) The report of suspicious ring test of any herd shall be cause for a brucellosis test to be made.

64.58(10) The report of negative ring test will exempt a herd from brucellosis test unless such herd is due a test because of previous infection.

64.58(11) Milk producing herds missed on more than one regularly scheduled ring test will be required to have a brucellosis test made.

This rule is intended to implement Iowa Code sections 163.1, 164.2, 164.4, and 165.2.

21—64.59 to **64.62** Reserved.

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BOVINE BRUCELLOSIS

21—64.63(164) Back tagging in bovine brucellosis control.

64.63(1) All bovine animals two years of age and older received for sale or shipment to a slaughtering establishment shall be identified with a back tag issued by the department. The back tag will be affixed to the animal as directed by the department.

64.63(2) It shall be the duty of every livestock trucker, when delivering to an out-of-state market, and every livestock dealer, livestock market operator, stockyards operator and slaughtering establishment to identify all such bovine animals not bearing a back tag at the time of receiving possession or control of such animals. A livestock trucker may be exempted from this requirement if the animals are identified as to the farm of origin when delivered to a livestock market, stockyards or slaughtering establishment agreeing to accept responsibility for back tag identification.

64.63(3) Every person required to identify animals under this rule shall file reports of such identification on forms prescribed by the department. Each such report will cover all animals identified during the preceding week.

This rule is intended to implement Iowa Code section 164.30.

21—64.64(164) Fee schedule.

64.64(1) *Bleeding.* Thirty dollars per stop (herd) and five dollars per head for all cattle bled.

64.64(2) *Tagging and branding reactors.* Fifteen dollars for the first reactor and five dollars for each additional reactor.

This rule is intended to implement Iowa Code section 164.6.

[**ARC 9102B**, IAB 9/22/10, effective 9/1/10]

21—64.65(163) Definitions.

64.65(1) *Bleeding.* Bleeding shall mean the taking of a blood sample in a vial or tube, to be submitted to a laboratory for testing and diagnosis of diseases.

64.65(2) *Injection.* Injection shall mean the injection of tuberculin into a prescribed area of the animal as a diagnostic test for tuberculosis.

64.65(3) *Reading.* Reading shall mean the examination of the injection site to ascertain whether or not there has been a reaction. A reaction at the injection site is a positive diagnosis of tuberculosis.

64.65(4) *Stop.* Stop shall mean a personal visit at a particular farm for the expressed purpose of testing animals for tuberculosis or brucellosis, for reading animals for tuberculosis, or for tagging and branding animals diagnosed as having tuberculosis or brucellosis.

This rule is intended to implement Iowa Code section 164.4.

21—64.66 Reserved.

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ERADICATION OF SWINE BRUCELLOSIS

21—64.67(163A) Brucellosis test. When reactor animals are revealed on any test, the herd of origin and all exposed animals shall be placed under quarantine and inspections and tests performed as provided in Iowa Code chapter 163A.

This rule is intended to implement Iowa Code section 163A.12.

21—64.68(163A) Veterinarians to test. The department will designate a federal or state veterinarian or it may designate a licensed accredited veterinarian to make the inspections and tests. The expense of the tests may be charged to the county brucellosis eradication fund as provided in Iowa Code section 163A.12.

This rule is intended to implement Iowa Code section 163A.12.

21—64.69 and **64.70** Reserved.

21—64.71(163A) Fee schedule.

64.71(1) *Bleeding.* Thirty dollars per stop (herd) and five dollars per head for all animals bled.

64.71(2) *Tagging of reactors.* Thirty dollars per stop (herd) and two dollars per head for all swine tagged.

This rule is intended to implement Iowa Code section 163A.12.

[**ARC 9102B**, IAB 9/22/10, effective 9/1/10]

21—64.72 Reserved.

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ERADICATION OF BOVINE TUBERCULOSIS

21—64.73(163) Tuberculin tests classified. Tuberculin tests adopted by the department of agriculture and land stewardship are:

64.73(1) The subcutaneous or "Thermal" test.

64.73(2) The intradermic or "Skin" test.

64.73(3) The ophthalmic or "Eye" test.

64.73(4) The TB Stat-Pak test for cervids.

This rule is intended to implement Iowa Code section 165.13.

[**ARC 0656C**, IAB 3/20/13, effective 3/1/13]

21—64.74(163) Acceptance of intradermic test. The intradermic tuberculin test will be accepted provided it has been applied by a regularly employed state or federal veterinarian, an accredited veterinarian or by an approved veterinarian when endorsed by the authorities of the state of origin, provided the observations be made at the seventy-second hour.

This rule is intended to implement Iowa Code section 164.4.

21—64.75(163) Adoption of intradermic test. The intradermic test is hereby adopted for area tuberculosis eradication work.

This rule is intended to implement Iowa Code section 164.4.

21—64.76(163) Ophthalmic test. The ophthalmic test will not be accepted as an official test except when applied in combination with either the subcutaneous or intradermic test.

This rule is intended to implement Iowa Code section 164.4.

21—64.77(163) Tuberculin test deadline. All tuberculin tests must be made within 30 days of date of shipment.

This rule is intended to implement Iowa Code section 164.4.

21—64.78(163) Health certificate. All certificates of health must show the number of cattle included in the test, the name of the owner and the post-office address.

This rule is intended to implement Iowa Code section 164.7.

21—64.79(163) Ear tags. All cattle not identified by registration name and number shall be identified by a proper metal tag bearing a serial number attached to the right ear.

This rule is intended to implement Iowa Code section 164.11.

21—64.80(163) Cattle importation. No cattle shall be imported into the state of Iowa except in accordance with 21—65.4(163).

This rule is intended to implement Iowa Code sections 163.11 and 165.36.

21—64.81(163) Tuberculin reactors. All herds of breeding cattle in counties that are under state and federal supervision for the eradication of tuberculosis in which reactors have been found may be held in quarantine until they have passed a negative tuberculin test.

All cattle that react to the tuberculin test, as well as those which show physical evidence of tuberculosis, shall be marked for identification by branding with the letter "T" not less than two or more than three inches high on the hip near the tailhead, and to the left ear shall be attached a metal tag bearing a serial number and the inscription "REACTOR".

This rule is intended to implement Iowa Code section 165.4.

[**ARC 9102B**, IAB 9/22/10, effective 9/1/10]

21—64.82(163) Steers—testing. All untested steer cattle shall be handled and maintained as a separate unit from the breeding cattle (which means they shall be quarantined, watered and fed apart from breeding cattle).

This rule is intended to implement Iowa Code sections 163.1 and 164.4.

21—64.83(163) Female cattle—testing. Female cattle, the products of which are intended for family use, may be tuberculin tested without being denied the use of the same pastures and the same watering troughs as steers in feeding. This does not apply to female cattle, the products of which are handled commercially; neither does it apply where the feeding cattle are other than steers. Cows kept under such conditions cannot be sold for any purpose other than slaughter without being subjected to an additional tuberculin test.

This rule is intended to implement Iowa Code sections 163.1 and 164.4.

21—64.84(163) Certificates and test charts. Certificates and test charts must be made to conform with United States Bureau of Animal Industry rules governing the interstate movement of cattle; the original must be attached to the waybill and a copy forwarded to the Chief of Division of Animal Industry, Iowa Department of Agriculture and Land Stewardship, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code sections 163.1 and 164.4.

21—64.85(163) Slaughtering reactors. Reactors to the tuberculin test brought in for immediate slaughter must be consigned to a slaughtering establishment having federal inspection and must be transported thereto in accordance with section V, Regulation 7, of B.A.I. Order No. 309.

64.85(1) When it is found on slaughter that animals are affected with tuberculosis, the chief, division of animal industry, may order an immediate investigation, and if deemed advisable have all breeding cattle on the premises from which the tubercular animals originated, tested for tuberculosis.

64.85(2) When cattle within the state of Iowa are sold under sale contract to pass a 60- or 90-day tuberculin test and have failed to pass the same, before being returned to the original owner, the party wishing to return such animal or animals shall first obtain a permit from the chief, division of animal industry, Iowa department of agriculture and land stewardship, to do so.

64.85(3) When cattle are sold out of the state of Iowa under sale contract to pass a 60- or 90-day tuberculin test and failing to pass the same, before being returned to the original owner, the party wishing to return such animal or animals shall first furnish a tuberculin test chart showing the reaction, giving the date of reaction and proving to the satisfaction of the chief, division of animal industry, that such animals are reactors.

This rule is intended to implement Iowa Code section 165.4.

21—64.86(163) Agriculture tuberculin rules. The rules adopted by the Iowa department of agriculture and land stewardship governing the establishment of tuberculosis-free accredited herds and accredited areas or units in Iowa will be applied to such herds, and areas or units in cooperation with the bureau of animal industry, United States department of agriculture.

This rule is intended to implement Iowa Code section 165.12.

21—64.87(163) "Tuberculosis-free accredited herd" defined. A tuberculosis-free accredited herd is one which has been tuberculin tested by the subcutaneous method or any other test approved by the bureau of animal industry, under the supervision of the Iowa department of agriculture and land stewardship and the United States department of agriculture or a veterinary inspector employed by the state in which cooperative tuberculosis eradication work is being conducted jointly by the United States department of agriculture and the state. Further, it shall be a herd in which no animal affected with tuberculosis has been found upon two annual or three semiannual tuberculin tests, as above described, and by physical examination.

This rule is intended to implement Iowa Code section 165.12.

21—64.88(163) Retesting. The entire herd, or any cattle in the herd, shall be tuberculin tested or retested at such time as is considered necessary by the federal or state authorities.

This rule is intended to implement Iowa Code section 165.32.

21—64.89(163) Accredited herd. No herd shall be classed as an accredited herd, in which tuberculosis has been found by the application of the test as referred to in 21—64.63(163), until such herd has been successfully subjected to two consecutive tests with tuberculin applied at intervals of not less than six months, the first interval dating from the time of removal of the tuberculous animals from the herd.

This rule is intended to implement Iowa Code section 165.12.

21—64.90(163) Selection of cattle for tuberculin tests. No cattle shall be presented for the tuberculin test which have been injected with tuberculin within 60 days immediately preceding or which have at any time reacted to a tuberculin test.

This rule is intended to implement Iowa Code sections 165.10, 165.13 and 165.26.

21—64.91(163) Identification for test. Prior to each tuberculin test satisfactory evidence of the identity of the registered animal shall be presented to the inspector. Any grade cattle maintained in the herd or associated with the animals of the herd shall be identified by a tag or other marking satisfactory to the state and federal officials.

This rule is intended to implement Iowa Code section 163.1.

21—64.92(163) Removing cattle from herd. All removals of cattle from the herd, either by sale, death or slaughter, shall be reported promptly to the said state or federal officials, giving the identification of the animal, and if sold, the name and address of the person to whom transferred. If the transfer is made from the accredited herd to another accredited herd the shipment shall be made in only cleaned and disinfected cars. No cattle which have not passed a tuberculin test approved by the state and federal officials shall be allowed to associate with the herd.

This rule is intended to implement Iowa Code section 163.1.

21—64.93(163) Milk. All milk and other dairy products fed to calves shall be that produced by an accredited herd, or if from outside or unknown sources it shall be pasteurized by heating to not less than 150° F. for not less than 20 minutes.

This rule is intended to implement Iowa Code section 163.1.

21—64.94(163) Sanitary measures. All reasonable sanitary measures and other recommendations by the state and federal authorities for the control of tuberculosis shall be complied with.

This rule is intended to implement Iowa Code section 163.1.

21—64.95(163) Interstate shipment. Cattle from an accredited herd may be shipped interstate on certificate obtained from the office of the chief, division of animal industry, or from the office of the bureau of animal industry without further tuberculin test, for a period of one year, subject to the rules of the state of destination.

This rule is intended to implement Iowa Code section 165.36.

21—64.96(163) Reactors—removal. All cattle which react to the tuberculin test and for which the owner desires indemnity, as provided by statute, must be removed immediately from the cattle barn, lots and pastures where other cattle are being kept.

64.96(1) The barn or place where reacting cattle have been housed or kept shall be thoroughly cleaned and disinfected immediately.

64.96(2) Feed places and floors must be cleared of all hay and manure and scraped clean.

64.96(3) All loose boards and decayed woodwork should be removed, and when deemed necessary, and requested by the veterinarian, must be accomplished before it will be considered that the place has been properly cleaned and disinfected.

64.96(4) The feeding places, troughs, floors and partitions near the floor should be washed and scoured with hot water and lye.

This rule is intended to implement Iowa Code section 163.1.

21—64.97(163) Certificate. Strict compliance with these methods and rules shall entitle the owner of tuberculosis-free herds to a certificate, "TUBERCULOSIS-FREE ACCREDITED HERD", to be issued by the United States Department of Agriculture, bureau of animal industry and the division of animal industry, Iowa department of agriculture and land stewardship. Said certificate shall be good for one year from date of test unless revoked at an earlier date.

This rule is intended to implement Iowa Code section 165.12.

21—64.98(163) Violation of certificate. Failure on the part of the owners to comply with the letter or spirit of these methods and rules shall be considered sufficient cause for immediate cancellation of the cooperative agreement with them by the state and federal officials.

This rule is intended to implement Iowa Code section 165.12.

21—64.99(163) Tuberculin—administration. In accordance with the provisions of Iowa Code chapter 165, the Iowa department of agriculture and land stewardship shall have control of the sale, distribution and use of all tuberculin used in the state and shall formulate regulations for its distribution and use. Only such persons as are authorized by the department, inspectors of the B.A.I. and regularly licensed practicing veterinary surgeons of the state of Iowa shall be entitled to administer tuberculin to any animal included within the meaning of this chapter.

This rule is intended to implement Iowa Code section 165.13.

21—64.100(163) Sale of tuberculin. No person, firm or corporation shall sell or distribute tuberculin to any person or persons in the state of Iowa except under the following conditions:

64.100(1) That the person or persons are legally authorized to administer tuberculin.

64.100(2) That all sales of tuberculin shall be reported to the secretary of agriculture on proper forms, which forms may be obtained from the chief, division of animal industry.

64.100(3) Reports of all sales and distribution of tuberculin in the state of Iowa shall be made in triplicate; the original copy to be delivered with the tuberculin to the person obtaining same; the duplicate to be forwarded to the Chief, Division of Animal Industry, Des Moines, Iowa 50319; and the triplicate copy to be retained by the manufacturer or distributor. All reports shall be made within 60 days from date of sale.

This rule is intended to implement Iowa Code section 165.12.

21—64.101(165) Fee schedule.

64.101(1) *Injection.* Thirty dollars per stop (herd) and two dollars per head.

64.101(2) *Reading.* Thirty dollars per stop (herd) and two dollars per head.

64.101(3) *Tagging and branding reactors.* Five dollars first reactor and three dollars each additional reactor.

This rule is intended to implement Iowa Code section 165.17.

[**ARC 9102B**, IAB 9/22/10, effective 9/1/10]

21—64.102 and **64.103** Reserved.

[Filed 11/26/57, amended 7/13/65]

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CHRONIC WASTING DISEASE (CWD)

21—64.104(163) Definitions. Definitions used in rules 21—64.104(163) through 21—64.119(163) are as follows:

"Accredited veterinarian" means a veterinarian approved by the deputy administrator of veterinary services, Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), and the state veterinarian in accordance with Part 161 of Title 9, Chapter 1, of the Code of Federal Regulations, revised as of January 9, 2013, to perform functions required by cooperative state/federal animal disease control and eradication programs.

"Adjacent herd" means one of the following:

1. A herd of Cervidae occupying premises that border an affected herd, including herds separated by roads or streams.

2. A herd of Cervidae occupying premises that were previously occupied by an affected herd within the past four years as determined by the designated epidemiologist.

"Affected cervid herd" means a cervid herd from which any animal has been diagnosed as affected with CWD and which has not been in compliance with the control program for CWD as described in rules 21—64.104(163) through 21—64.119(163).

"Certificate" means an official document, issued by a state veterinarian or federal animal health official or an accredited veterinarian at the point of origin, containing information on the individual identification of each animal being moved, the number of animals, the purpose of the movement, the points of origin and destination, the consignor, the consignee, and any other information required by the state veterinarian.

"Certified CWD cervid herd" means a herd of Cervidae that has met the qualifications for and has been issued a certified CWD cervid herd certificate signed by the state veterinarian.

"Cervidae" means all animals belonging to the Cervidae family.

"Cervid CWD surveillance identification program" or *"CCWDSI program"* means a CWD surveillance program that requires identification and laboratory diagnosis on all deaths of Cervidae 12 months of age and older including, but not limited to, deaths by slaughter, hunting, illness, and injury. A copy of official laboratory reports shall be maintained by the owner for purposes of completion of the annual inventory examination for recertification. Such diagnosis shall include examination of brain and any other tissue as directed by the state veterinarian. If there are deaths for which tissues were not submitted for laboratory diagnosis due to postmortem changes or unavailability, the department shall determine compliance.

"Cervid dealer" means any person who engages in the business of buying, selling, trading, or negotiating the transfer of Cervidae, but not a person who purchases Cervidae exclusively for slaughter on the person's own premises or buys and sells as part of a normal livestock production operation.

"Cervid herd" means a group of Cervidae or one or more groups of Cervidae maintained on common ground or under common ownership or supervision that are geographically separated but can have interchange or movement.

"Cervid herd of origin" means a cervid herd, or any farm or other premises, where the animals were born or where they currently reside.

"Chronic wasting disease" or *"CWD"* means a transmissible spongiform encephalopathy of cervids.

"CWD affected" means a designation applied to Cervidae diagnosed as affected with CWD based on laboratory results, clinical signs, or epidemiologic investigation.

"CWD exposed" or *"exposed"* means a designation applied to Cervidae that are either part of an affected herd or for which epidemiological investigation indicates contact with CWD affected animals, contact with animals from a CWD affected herd or contact with a contaminated premises in the past five years.

"CWD susceptible Cervidae" means whitetail deer, blacktail deer, mule deer, red deer, elk, moose, and related species and hybrids of these species.

"CWD suspect" or *"suspect"* means a designation applied to Cervidae for which laboratory evidence or clinical signs suggest a diagnosis of CWD but for which laboratory results are inconclusive.

"Designated epidemiologist" means a veterinarian who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the state veterinarian.

"Group" means one or more Cervidae.

"Individual herd plan" means a written herd management and testing plan that is designed by the herd owner, the owner's veterinarian, if requested, and a designated epidemiologist to identify and eradicate CWD from an affected, exposed, or adjacent herd.

"Monitored CWD cervid herd" means a herd of Cervidae that is in compliance with the CCWDSI program as defined in this rule. Monitored herds are defined as one-year, two-year, three-year, four-year, and five-year monitored herds in accordance with the time in years such herds have been in compliance with the CCWDSI program.

"Official cervid CWD test" means an approved test to diagnose CWD conducted at an official laboratory.

"Official cervid identification" means one of the following:

1. A USDA-approved identification ear tag that conforms to the alphanumeric national uniform ear tagging system as defined in 9 CFR Part 71.1, Chapter 1, revised as of January 9, 2013.
2. A plastic or other material tag that includes the official herd number issued by the USDA, and includes individual animal identification which is no more than five digits and is unique for each animal.
3. A legible tattoo which includes the official herd number issued by the USDA, and includes individual animal identification which is no more than five digits and is unique for each animal.

"Official laboratory" means a USDA-approved American Association of Veterinary Laboratory Diagnosticians (AAVLD) accredited laboratory or the National Veterinary Services Laboratory, Ames, Iowa.

"Permit" means an official document that is issued by the state veterinarian or USDA area veterinarian-in-charge or an accredited veterinarian for movement of affected, suspect, or exposed animals.

"Quarantine" means an imposed restriction prohibiting movement of cervids to any location without specific written permits.

"State" means any state of the United States; the District of Columbia; Puerto Rico; the U.S. Virgin Islands; or Guam.

"Traceback" means the process of identifying the herd of origin of CCWDSI-positive animals, including herds that were sold for slaughter.

[**ARC 0391C**, IAB 10/17/12, effective 11/1/12; **ARC 1024C**, IAB 9/18/13, effective 10/23/13]

21—64.105(163) Supervision of the cervid CWD surveillance identification program. The state veterinarian's office will conduct an annual inventory of Cervidae in a herd enrolled in the CCWDSI program.

21—64.106(163) Surveillance procedures. For cervid herds enrolled in this voluntary certification program, surveillance procedures shall include the following:

64.106(1) *Slaughter establishments.* All slaughtered Cervidae 12 months of age and older must have brain tissue submitted at slaughter and examined for CWD by an official laboratory. This brain tissue sample will be obtained by a state or federal meat inspector or accredited veterinarian on the premises at the time of slaughter.

64.106(2) *Cervid herds.* All cervid herds must be under continuous surveillance for CWD as defined in the CCWDSI program.

64.106(3) *Identification.* All cervid animals must receive the identification before 12 months of age and be identified with either:

a. Two forms of official cervid identification, or

b. One form of official cervid identification along with either a state-approved tag or a tag from the North American Elk Breeders Association or North American Deer Farmers Association.

[**ARC 0391C**, IAB 10/17/12, effective 11/1/12; **ARC 1024C**, IAB 9/18/13, effective 10/23/13]

21—64.107(163) Official cervid tests. The following are recognized as official cervid tests for CWD:

1. Histopathology.
2. Immunohistochemistry.
3. Western blot.
4. Enzyme-linked immunosorbent assay (ELISA).
5. Any other tests performed by an official laboratory to confirm a diagnosis of CWD.

[**ARC 1024C**, IAB 9/18/13, effective 10/23/13]

21—64.108(163) Investigation of CWD affected animals identified through surveillance. Traceback must be performed for all animals diagnosed at an official laboratory as affected with CWD. All herds of origin and all adjacent herds having contact with affected animals as determined by the CCWDSI program must be investigated epidemiologically. All herds of origin, adjacent herds, and herds having contact with affected animals or exposed animals must be quarantined. The department will investigate CWD suspect herds.

[**ARC 1024C**, IAB 9/18/13, effective 10/23/13]

21—64.109(163) Duration of quarantine. Quarantines placed in accordance with these rules must maintain compliance with rules 21—64.104(163) through 21—64.119(163). Quarantines maintaining compliance shall be removed after five years from the date of the last CWD detected test or after all animals have died or been depopulated and have been tested without the detection of CWD.

[**ARC 1024C**, IAB 9/18/13, effective 10/23/13]

21—64.110(163) Herd plan. The herd owner, the owner's veterinarian, if requested, and the epidemiologist shall develop a plan for eradicating CWD in each affected herd. The plan must be designed to reduce and then eliminate CWD from the herd, to prevent spread of the disease to other herds, and to prevent reintroduction of CWD after the herd becomes a certified CWD cervid herd. Animals that die, are depopulated, or are otherwise killed must be tested for CWD. The herd plan must be developed and signed within 60 days after the determination that the herd is affected. The plan must address herd management and adhere to rules 21—64.104(163) through 21—64.119(163). The plan must be formalized as a memorandum of agreement between the owner and program officials, must be approved by the state veterinarian, and must include plans to obtain certified CWD cervid herd status. No movement restrictions may be removed prior to formalization of the agreement.

[**ARC 1024C**, IAB 9/18/13, effective 10/23/13]

21—64.111(163) Identification and disposal requirements. Affected and exposed animals must remain on the premises where they are found until they are identified and disposed of in accordance with direction from the state veterinarian. The department and the Iowa department of natural resources shall approve disposal issues of affected and exposed animals including manner and site.

[**ARC 1024C**, IAB 9/18/13, effective 10/23/13]

21—64.112(163) Cleaning and disinfecting. Premises must be cleaned and disinfected under state supervision within 15 days after affected animals have been removed.

21—64.113(163) Methods for obtaining certified CWD cervid herd status. Certified CWD cervid herd status must include all Cervidae under common ownership. The animals that are part of a certified herd cannot be commingled with other cervids that are not certified, and a minimum geographic separation of 30 feet between herds of different status must be maintained in accordance with the USDA Uniform Methods and Rules as defined in APHIS Manual 91-45-011, revised as of January 22, 1999. The escape, disappearance or death of any cervid shall be promptly reported along with identification numbers and estimated time of escape, disappearance or death. Tissue samples shall be available. A herd may qualify for status as a certified CWD cervid herd by one of the following means:

64.113(1) Purchasing a certified CWD cervid herd. Upon request and with proof of purchase, the department shall issue a new certificate in the new owner's name. The anniversary date and herd status for the purchased animals shall be the same as for the herd to which the animals are added; or if part or all of the purchased herd is moved directly to premises that have no other Cervidae, the herd may retain

the certified CWD status of the herd of origin. The anniversary date of the new herd is the date of the most recent herd certification status certificate.

64.113(2) Upon request and with proof by records, a herd owner shall be issued a certified CWD cervid herd certificate by complying with the CCWDSI program for a period of five years.
[**ARC 1024C**, IAB 9/18/13, effective 10/23/13]

21—64.114(163) Recertification of CWD cervid herds. A herd is certified for 12 months. Annual inventories conducted by the department, a state-authorized veterinarian, or authorized federal personnel are required every 9 to 15 months from the anniversary date. A complete physical herd inventory will be completed by the department, a state-authorized veterinarian, or authorized federal personnel every three years. For continuous certification, adherence to the provisions in these rules and all other state laws and rules pertaining to raising cervids is required. A herd's certification status is immediately terminated and a herd investigation shall be initiated if CWD affected or exposed animals are determined to originate from that herd.
[**ARC 1024C**, IAB 9/18/13, effective 10/23/13]

21—64.115(163) Movement into a certified CWD cervid herd.

64.115(1) Animals originating from certified CWD cervid herds may move into another certified CWD cervid herd with no change in the status of the herd of destination.

64.115(2) The movement of animals originating from noncertified or lesser status herds into certified CWD cervid herds will result in the redesignation of the herd of destination to the lesser status.

21—64.116(163) Movement into a monitored CWD cervid herd.

64.116(1) Animals originating from a monitored CWD cervid herd may move into another monitored CWD cervid herd of the same status.

64.116(2) The movement of animals originating from a herd which is not a monitored CWD cervid herd or from a lower status monitored CWD cervid herd will result in the redesignation of the herd of destination to the lesser status.

21—64.117(163) Recognition of monitored CWD cervid herds. The state veterinarian shall issue a monitored CWD cervid herd certificate, including CWD monitored herd status as CWD monitored Level 1 during the first calendar year, CWD monitored Level 2 during the second calendar year, CWD monitored Level 3 during the third calendar year, CWD monitored Level 4 during the fourth calendar year, CWD monitored Level 5 during the fifth calendar year, and CWD certification at the completion of the fifth year and thereafter.

21—64.118(163) Recognition of certified CWD cervid herds. The state veterinarian shall issue a certified CWD cervid herd certificate when the herd first qualifies for certification. The state veterinarian shall issue a renewal form annually.

21—64.119(163) Effective period. Rescinded IAB 9/14/05, effective 8/16/05.

These rules are intended to implement Iowa Code chapter 163 and Iowa Code Supplement chapter 170.

21—64.120 to **64.132** Reserved.

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ERADICATION OF SWINE TUBERCULOSIS

21—64.133(159) Indemnity. Indemnity may be paid for losses incurred by slaughtering establishments in the event native Iowa swine purchased by the establishments for immediate slaughter are determined to have tuberculosis by the official meat inspector at the establishment, subject to laboratory confirmation at the discretion of the department by any laboratory procedure acceptable to the department. Indemnity will be paid by the county of origin of the swine provided that swine shall be identified to the farm of origin located in that county. If no identification can be established on swine no indemnity may be paid.

If the county bovine tuberculosis eradication funds are insufficient, the claim may be filed and may be paid in subsequent years.

Indemnity will be paid to the producer of swine only after proof of cleaning and disinfecting of premises has been established.

If a herd of swine is tested for tuberculosis at program expense authorization must be given by an official of the Iowa department of agriculture and land stewardship.

This rule is intended to implement Iowa Code sections 159.5 and 163.15.

21—64.134(159) Fee schedule.

64.134(1) *Injection.* Thirty dollars per stop (herd) and two dollars per head.

64.134(2) *Reading.* Thirty dollars per stop (herd) and one dollar per head.

64.134(3) *Tagging.* Five dollars for first reactor and one dollar for each additional reactor.

This rule is intended to implement Iowa Code section 159.5(13).

[**ARC 9102B**, IAB 9/22/10, effective 9/1/10]

21—64.135 to **64.146** Reserved.

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PSEUDORABIES DISEASE

21—64.147(163,166D) Definitions. As used in these rules:

"All-in-all-out" means a management system whereby feeder swine are handled in groups kept "separate and apart" from other groups in a production facility. These groups are removed from the production facility with the completely vacated area being cleaned and sanitized prior to the introduction of another group.

"Aujeszky's disease," commonly known as pseudorabies, means the disease wherein an animal is infected with Aujeszky's disease virus, irrespective of the occurrence or absence of clinical symptoms.

"Breeding swine" means boars, sows and gilts used, or intended for use, exclusively for reproductive purposes.

"Department" means the Iowa department of agriculture and land stewardship.

"Exigent circumstances" means an extraordinary situation that the secretary concludes will impose an unjust and undue economic hardship if coupled with the imposition of these rules.

"Fertility center" means a premises where breeding swine are maintained for the purposes of the collection of semen, ovum, or other germplasm and for the distribution of semen, ovum, or other germplasm to other swine herds.

"Herd" means any group of swine maintained for 60 days or more on common ground for any purpose, or two or more groups of swine that have been intermingled without regard to pseudorabies status and are under common ownership or possession and that have been geographically separated within the state of Iowa. Two or more groups of swine are assumed to be one herd, unless an investigation by the epidemiologist has determined that intermingling and contact between groups has not occurred.

"Low incidence state/area" means a state or subdivision of a state with little or no incidence of pseudorabies and which qualifies for Stage III, or higher, and has been designated Stage III, or higher, by the National Pseudorabies Control Board as defined in the State/Federal Industry Program Standards for pseudorabies eradication; or an area outside the United States with a low incidence of pseudorabies determined by at least an equivalent testing protocol as is used to establish Stage III status.

"Native Iowa feeder pig" means a feeder pig farrowed in Iowa, and always located in Iowa.

"Premises" means a parcel of land together with buildings, enclosures and facilities sufficient for swine production.

"Restricted movement" means movement of swine in accordance with 2000 Iowa Acts, Senate File 2312, section 17.

"Vicinity" means a distance less than one-half mile.

21—64.148(163,166C) Pseudorabies tests and reports. Rescinded IAB 9/6/89, effective 10/11/89.

21—64.149(163,166C) Approval of qualified pseudorabies negative herd. Rescinded IAB 9/6/89, effective 10/11/89.

21—64.150(163,166C) Shipment of breeding swine and feeder pigs. Rescinded IAB 9/6/89, effective 10/11/89.

21—64.151(163,166D) Quarantines.

64.151(1) Except for sales to slaughter or to pseudorabies-approved premises, owners of animals tested for pseudorabies shall hold the entire herd on the premises until results are determined.

64.151(2) Infected herds not on an approved cleanup plan. All known pseudorabies infected herds, not on an approved herd cleanup plan, are subject to restricted movement to slaughter according to 64.154(2)*"c"* and 64.155(8).

64.151(3) Quarantine releasing procedures.

a. A heard of swine shall no longer be classified as a known infected herd after removal of all positive swine and at least one of the following three conditions have been met:

(1) All swine have been removed and the premises have been cleaned and disinfected and maintained free of swine for 30 days or a period of time determined adequate by an official pseudorabies epidemiologist.

(2) All swine seropositive to an official test have been removed and all remaining swine, except suckling pigs, are tested and found negative 30 days or more after removal of the seropositive animals.

(3) All swine seropositive to an official test have been removed, and all breeding swine that remain in the herd and an official random sample consisting of at least 30 animals from each segregated group of grower-finisher swine over two months of age are tested and found negative 30 days or more after removal of the seropositive animals. A second test of grower-finisher swine at least 30 days after the first test is required.

b. In nurseries and finishing herds without any breeding swine and where no pigs are received from quarantined premises, quarantines may be released as follows:

(1) A negative official random-sample test consisting of at least 30 animals from each segregated group, conducted at least 30 days following depopulation with cleaning and disinfection of the premises and 7 days' downtime, or

(2) A negative official random-sample test consisting of at least 30 animals from each segregated group, conducted at least 30 days following a similar negative official random-sample test.

A similar official random-sample test must then be conducted between 60 and 90 days following quarantine release.

Any quarantine releasing procedure deviating from the above procedures or Iowa Code section 166D.9 must be approved by the official pseudorabies epidemiologist and the state veterinarian.

21—64.152(163,166D) Nondifferentiable pseudorabies vaccine disapproved. The only pseudorabies vaccine or pseudorabies vaccine combination used in this state shall be a differentiable vaccine.

After July 1, 1993, this vaccine must be differentiable by a licensed and approved differentiable pseudorabies test capable of determining gp1 negative swine vaccinated with a gp1 gene deleted vaccine.

21—64.153(166D) Pseudorabies disease program areas.

64.153(1) Pseudorabies disease program areas as declared by the Iowa department of agriculture and land stewardship: all counties in the state of Iowa.

64.153(2) All producers will permit sufficient swine in their herds to be tested at program expense to determine the health status of the herd at intervals during the course of the program as deemed necessary by the department.

The owner shall confine the swine to be tested in a suitable place and restrain them in a suitable manner so that the proper tests can be applied. If the owner refuses to confine and restrain the swine, after reasonable time the department may employ sufficient help to properly confine and restrain them and the expense of such help shall be paid by the owner.

The swine tested shall be sufficient in number, and by method of selection, to quality for the surveillance program required to attain and maintain the program stages according to the most recent "State-Federal-Industry Program Standards" for pseudorabies eradication.

64.153(3) No indemnities will be paid for condemned animals.

64.153(4) Any person possessing swine is required to provide the name and address of the owner or the owner's agent to a representative of the department.

64.153(5) Beginning on October 1, 1999, all swine located within three miles of a pseudorabies-infected herd are required to be vaccinated with an approved pseudorabies vaccine within seven days of notification by a regulatory official. One dose of vaccine shall be administered to growing swine prior to 14 weeks of age or 100 pounds. Swine over six months of age or greater than 200 pounds, used or intended to be used for breeding, shall receive vaccine on a schedule designed to administer at least four doses throughout a 12-month period. The department may require a herd test to monitor both the pseudorabies status and the pseudorabies vaccine status of the herd.

A waiver for this vaccination requirement may be issued by the state veterinarian, based on epidemiological investigation and risk determination. Herd testing, at a level determined by the pseudorabies epidemiologist, will be required as a condition for issuance of a vaccination waiver.

In addition, beginning April 19, 2000, all swine located in a county designated as in Stage II of the national pseudorabies eradication program are required to be vaccinated with a modified-live differentiable vaccine. Breeding swine shall at a minimum receive quarterly vaccinations. Feeder swine shall at a minimum receive one vaccination administered when the swine reach 8 to 12 weeks of age or 100 pounds. These vaccination requirements shall be waived if:

a. The swine are part of a herd's being continuously maintained as a qualified negative herd; or

b. The swine are part of a herd located within a county where both of the following conditions apply:

(1) The department has determined that the county has a six-month history of 0 percent prevalence of pseudorabies infection among all herds in the county, and

(2) All contiguous counties have a 0 percent prevalence of pseudorabies infection among herds in that county.

64.153(6) All premises containing swine which are located in the Stage II area of Iowa must have a monitoring test for the premises conducted between January 1, 2000, and August 31, 2000.

21—64.154(163,166D) Identification.

64.154(1) All breeding and feeder swine being exhibited or having a change of ownership must be identified by a method approved by the Iowa department of agriculture and land stewardship. The identification shall be applied by the owner, the pig dealer, or the livestock dealer at the farm of origin or by the pig dealer or the livestock dealer at the first concentration point.

64.154(2) Approved identification.

a. Breeding swine.

(1) Ear tags or tattoos with an alphabetic or numeric system to provide unique identification for each animal.

(2) Ear notches or ear tattoos, if applied according to the standard breed registry system.

(3) Electronic devices, other devices, or marks which, when applied, will permanently and uniquely identify each animal.

(4) Breeding swine qualified to move intrastate without individual tests may move without unique identification of each animal, if they are all identified as a group to the herd of origin by an official premises tattoo.

b. Feeder swine.

(1) Ear tags or tattoos with an alphabetic or numeric system to provide unique identification with each herd, each lot, or each individual swine.

(2) Electronic devices, other devices, or marks which, when applied, will provide permanent identification with each herd, each lot, or each individual swine.

c. Restricted movement swine.

(1) All infected herds not on an approved herd cleanup plan shall only move swine directly to slaughter by restricted movement. All animals from infected herds must move by restricted movement to slaughter (slaughtering plant or fixed concentration point) or to an approved premises detailed in the herd cleanup plan. The department may, until a herd plan is approved and showing progress, require the movement of all slaughter swine by "direct movement," to slaughter only, by a Permit for Restricted Movement to Slaughter which provides a description of the animals, the owner, the consignee, the date of movement, the destination, and the identification or vehicle seal number if applicable. These "restricted movement to slaughter only swine" shall be individually identified by approved metal ear tags applied at the farm of origin, if required. The transportation vehicle must be sealed at the farm of origin. This seal shall be applied by an accredited veterinarian. This seal shall be removed by an accredited veterinarian, USDA official, department official, or the person purchasing the swine upon arrival of the consignment at the destination indicated on the Permit for Restricted Movement to Slaughter.

The ear tags shall have an alphabetic or numeric numbering system to provide unique identification with each herd, each lot, or each individual swine. They shall be applied prior to movement and listed on the Permit for Restricted Movement to Slaughter, if required. This Permit for Restricted Movement to Slaughter shall be issued and distributed by an accredited veterinarian as follows:

1. Original to accompany shipment.
2. Mail a copy to the department.
3. Veterinarian issuing permit will retain a copy.

(2) The vehicle sealing requirement may be waived by the department. Written application for waiver must be directed to the state veterinarian's office, and written waivers may be granted for herds in compliance with an approved herd cleanup plan. The minimal requirements for granting a waiver shall be:

1. No clinical disease in the herd for the past 30 days.
2. Complete herd vaccination documentation.
3. Compliance with herd plan testing requirements.
4. Concurrence of herd veterinarian and regulatory district veterinarian.

No waiver shall be granted, and waivers already granted shall be voided, for herds still classified as infected four months from the initial infection date. The department may impose additional requirements on a case-by-case basis.

The department may grant an extension to this waiver for a period of up to four additional months on a case-by-case basis. Written application for waiver extension must be directed to the state veterinarian's office, and written waivers may be granted for herds in compliance with an approved herd cleanup plan.

64.154(3) Approved ear tags available from the Iowa department of agriculture and land stewardship:

a. Pink tags to identify pseudorabies vaccinated swine.

b. Silver tags to identify feeder pigs from pseudorabies noninfected herds.

c. Blue tags to identify other swine.

64.154(4) Farm-to-farm movement of native Iowa feeder pigs.

a. Native Iowa feeder pigs sold and moved farm-to-farm within the state are exempt from identification requirements if the owner transferring possession and the person taking possession agree in writing that the feeder pigs will not be commingled with other swine for a period of 30 days. The owner transferring possession shall provide a copy of the agreement to the person taking possession of the feeder pigs.

b. "Moved farm-to-farm" as used in this rule means feeder pigs farrowed and raised in Iowa by a farm owner or operator and sold to another farm owner or operator who agree, in writing, not to commingle these pigs for at least 30 days.

Feeder pigs purchased for resale by a pig dealer cannot be moved farm-to-farm, as described in the above paragraph. They must be accompanied by a Certificate of Veterinary Inspection and be identified.

c. Identification-exempt feeder pigs must originate from a "monitored," or other "noninfected," herd. The "monitored herd" number, or other qualifying number, and the date of expiration must also be shown on the Certificate of Inspection.

All identification-exempt feeder pigs aboard the transport vehicle must be from the same farm of origin and be the only pigs aboard. They must be kept in "isolation" and transported by "direct movement" to the farm of destination.

d. The veterinarian will certify, by signature on the Certificate of Inspection, that the above conditions have been met and that the pigs are exempt from the identification requirements and will qualify for movement according to 64.155(4).

64.154(5) Swine being relocated intrastate without a change of ownership are exempt from health certification, identification requirements, and transportation certification except as required by Iowa Code chapter 172B provided relocation records sufficient to determine the origin, the current pseudorabies status of the herd of origin, the number relocated, the date relocated, and destination of the relocated swine are available for inspection.

Swine relocated within a herd held on multiple premises are exempted from this health certification, identification requirement, and transportation certification, except as required by Iowa Code chapter 172B and the above record-keeping requirements.

Relocation records, if required, shall be maintained and available for inspection for a minimum of two years.

64.154(6) This rule should not be construed to implement or affect the identification requirements set down in Iowa Code sections 163.34, 163.35, 163.36, and 163.37. Records of identification applied to slaughter swine at concentration points shall be reported weekly to the department on forms provided by the department.

21—64.155(163,166D,172B) Certificates of inspection. The following certificates shall be used as outlined. All are provided by the department. All require inspection by a licensed accredited veterinarian.

64.155(1) Iowa origin Interstate Certificates of Veterinary Inspection shall be used for exporting breeding swine or feeder swine out of the state.

64.155(2) Intrastate Certificates of Veterinary Inspection shall be used for the following movements:

a. The intrastate movement of feeder swine, with a change of ownership, originating from noninfected herds requires approved identification and noninfected herd identification number, showing

the date of last test on a Certificate of Veterinary Inspection. The feeder swine shall be quarantined for 30 days.

b. The intrastate movement, with a change of ownership, of breeding swine from nonquarantined herds requires approved identification and noninfected herd number, or individual test results and dates tested included on a Certificate of Veterinary Inspection only. The breeding swine shall be quarantined for 30 days.

c. The concentration points to farm movement of feeder swine originating from noninfected herds requires approved identification and herd identification number and date tested included on a Certificate of Veterinary Inspection. The feeder swine shall be quarantined for 30 days.

d. The concentration point to farm intrastate movement of noninfected breeding swine from nonquarantined herds requires approved identification and noninfected herd number or individual test results and dates tested included on a Certificate of Veterinary Inspection. The breeding swine shall be quarantined for 30 days.

e. The farm to an approved premises or from a concentration point to an approved premises movement of feeder swine requires approved identification and approved premises number to be included on a Certificate of Veterinary Inspection. A statement, "Quarantined until slaughter," shall be included on a Certificate of Veterinary Inspection.

f. Movement of exhibition swine to an exhibition when a certificate is required must be with a Certificate of Veterinary Inspection.

64.155(3) QLSM certificate. A QLSM certificate shall be used when moving swine under restricted movement and quarantined until moved to slaughter. The certificate shall be used for the following movements:

a. Movement of feeder swine from quarantined herds to approved premises. Approved identification and approved premises number shall be included on the certificate. The swine are quarantined to slaughter or can be moved to another approved premises on a certificate of inspection.

b. Movement of feeder swine from herds of unknown status, feeder pig cooperator herd plans, or herd cleanup plans. Approved identification shall be included on the certificate. This certificate is used for farm-to-farm or concentration point to farm movements.

64.155(4) A Farm-to-Farm Certificate of Veterinary Inspection or an Intrastate Certificate of Veterinary Inspection shall be used for moving identification-exempt native Iowa feeder pigs farm-to-farm according to 64.154(4)*"b."* Feeder swine purchased for resale by a pig dealer must be identified and accompanied by a Certificate of Inspection.

64.155(5) Import Interstate Certificates from out-of-state origins shall accompany shipments of breeding swine and feeder swine into Iowa.

a. Feeder swine: If a state of origin does not issue a monitored herd number, then the certificate shall include the statement, "These pigs are from a noninfected herd and the date of last test was _____," or "These pigs are from a monitored herd tested within the last 12 months. Date of last test was _____." The certificate shall include the following statement: "These feeder pigs are quarantined until moved to slaughter."

b. Breeding swine: Individual test results and date tested or noninfected herd number and date of last test shall be included on the certificate.

c. Feeder swine from low incidence state/area of origin. The certificate shall include the following statements, "These pigs were born and raised in the state/area of _____," (state/area name) and "These feeder pigs are quarantined until moved to slaughter."

d. Beginning January 1, 1998, all imported feeder swine, except those from qualified negative herds entering qualified negative herds, must be vaccinated for pseudorabies with a G1 deleted vaccine within 45 days of arrival if imported into a county with a pseudorabies prevalence greater than 3 percent. This requirement must be stated on the import interstate certificate. Imported swine consigned directly to slaughter are exempt from vaccination requirements.

64.155(6) Slaughter affidavits shall accompany all shipments of feeder swine or finished swine from concentration points moving direct to slaughter.

64.155(7) Transportation certificate. This certificate involves shipments of swine from farm or approved premises moving direct to slaughter as detailed in Iowa Code chapter 172B. Veterinary inspection not required.

64.155(8) Rescinded IAB 10/22/97, effective 10/1/97.

21—64.156(166D) Noninfected herds.

64.156(1) *Qualified pseudorabies negative herd—recertification.*

a. Recertification of a qualified pseudorabies negative herd and a qualified differential negative herd shall be by monthly testing, as detailed in Iowa Code section 166D.7(1)*"a."*

b. The status of a qualified pseudorabies negative herd will be revoked if:

(1) A positive test is recognized and interpreted by a pseudorabies epidemiologist as infected.

(2) Pseudorabies infection is diagnosed.

(3) Recertification testing is not done on time.

(4) Inadequate number of animals are tested.

(5) Once a qualified pseudorabies negative herd is decertified, the herd must meet all requirements of Iowa Code section 166D.7, to recertify as a qualified pseudorabies negative herd.

64.156(2) *Iowa monitored feeder pig herd.*

a. Test requirements for a monitored feeder pig herd status include a negative herd test every 12 months of randomly selected breeding animals according to the following schedule:

1-10 head	Test all
11-35 head	Test 10
36 or more	Test 30 percent or 30, whichever is less.

Effective July 1, 2000, all breeding herd locations in Stage II counties must have a monitored or better status or move by restricted movement.

b. A monitored identification card will be sent by first-class mail to the herd owner shown on the test chart if test results qualify the herd as monitored. An expiration date which is 12 months from the date that the certifying tests were drawn will be printed on the card.

It is the owner's responsibility to retest the herd annually. The monitored status is voided on the date of expiration. A monitored herd status is revoked if:

(1) A positive test is recognized and interpreted by a pseudorabies epidemiologist and interpreted as infected.

(2) Pseudorabies infection is diagnosed.

(3) Recertification test is not done on time.

(4) Not enough tests, according to herd size and vaccination status, are submitted.

c. Additions of swine to a monitored herd shall be from noninfected herds, according to Iowa Code section 166D.7.

d. Feeder pigs sold for further feeding require a monitoring test conducted within the six months prior to movement if the feeder pigs have been maintained on the same site as the breeding herd.

e. Monitored, or higher, status feeder pigs sold may regain, and maintain, monitored status by a negative test of all or a random sample of 30 head of each segregated group, whichever is less, within 30 days prior to resale.

f. Nursery units located in Stage II counties and not in the vicinity of the breeding herd are required to maintain a monitored status on the nursery unit in order for the swine to be eligible to be relocated to a finishing premises. Feeder pigs sold from these nursery units must meet the requirements of a negative test of all or a random sample of 30 head of each segregated group, whichever is less, within 30 days prior to sale. An official random-sample test shall be required for each segregated group of swine on an individual premises every 12 months for the maintenance of this monitored status. These testing requirements apply to swine eligible for relocation movement. Testing requirements for this random sampling are:

Test 10 head per building, minimum 14 head per site.

Effective July 1, 2000, all nursery locations in Stage II counties must have a monitored or better status or move by restricted movement.

g. Off-site finishing units located in the Stage II counties are required to maintain a monitored status on the finishing unit in order for the swine to be eligible to be sold to slaughter. An official random-sample test will be required for each segregated group of swine on an individual premises every 12 months for the maintenance of this monitored status. These testing requirements also apply to swine eligible for relocation movement. Testing requirements for this random sampling are:

Test 10 head per building, minimum 14 head per site.

Effective July 1, 2000, all finishing locations in Stage II counties must have a monitored or better status or move by restricted movement.

h. Relocation, and sales to slaughter, require a 12-month monitoring test.

64.156(3) *Qualified differentiable negative herd—recertification.*

a. Recertification of a qualified differentiable negative herd will include monthly testing, as detailed in Iowa Code section 166D.7. A minimum of five breeding swine or 10 percent of the breeding herd, whichever is greater, must be tested each month.

b. The status of a qualified differentiable negative herd will be revoked if:

(1) A positive test is recognized and interpreted by a pseudorabies epidemiologist as infected.

(2) Pseudorabies infection is diagnosed.

(3) Recertification testing is not done on time.

(4) Inadequate number of animals are tested.

(5) Once a qualified differentiable negative herd is decertified, the herd must meet all requirements in Iowa Code section 166D.7 to recertify as a qualified differentiable negative herd.

64.156(4) *Maintaining qualified negative status (progeny).* Progeny from qualified negative (unvaccinated) or from qualified negative (vaccinated) herds moved to a facility not within the vicinity of the herd of origin and unexposed to lesser status swine may maintain qualified negative status by a monthly negative test of 10 percent or 60 head, whichever is less, of swine that have been on the premises for at least 30 days.

64.156(5) *Other qualified pseudorabies negative herds.* Any breeding herd in a Stage IV or V State/Area or an area outside the United States with a low incidence of pseudorabies equivalent to a Stage IV or V State/Area is recognized as a qualified pseudorabies negative herd.

64.156(6) *Fertility centers.* Breeding swine in a fertility center shall attain a "noninfected herd" status by an initial negative test of all breeding swine in the center. This status shall be maintained by a monthly negative test of a random sample of five head or 10 percent, whichever is greater, of the swine at the center. All additions of swine to the fertility center must originate from a "noninfected" herd, must be placed in isolation for 30 days or more, and must test negative for pseudorabies 20 days or more after being isolated.

a. Semen and germplasm must be identified to the fertility center of origin.

b. Imported semen or germplasm must originate from a fertility center, or "noninfected" herd, with requirements at least equivalent to the above, and be identified to the fertility center.

21—64.157(166D) Herd cleanup plan for infected herds (eradication plan).

64.157(1) The herd cleanup plan shall be a written plan approved and on file with the department.

64.157(2) The herd cleanup plan shall contain:

a. Owner's name, location and herd number.

b. Type of herd plan selected, e.g., offspring segregation, test and removal, depopulation.

c. Description of the plan, which shall include the following requirements:

(1) The breeding herd shall be maintained on an approved vaccination program, at least four times per year;

(2) The progeny shall be weaned and segregated by five weeks of age or less, and progeny group isolation shall be maintained according to the terms of the herd plan;

(3) The herd must be visited on a regular basis (at least quarterly) by the herd veterinarian to monitor progress of the herd cleanup plan. This will include monthly testing if applicable, overseeing

management procedures which may include all-in, all-out swine movement, ventilation, sanitation, disinfection, and vaccine handling;

(4) Vaccine shall be administered to the progeny swine at least once, or more often if required by the herd plan;

(5) Feeder pig movement or relocation from the premises of origin must be detailed in writing in the herd cleanup plan. Feeder pig movement or relocation from the premises of origin will only be allowed to approved premises and must be detailed in writing in the herd cleanup plan. Movement will not be allowed from the herd if the herd has experienced clinical symptoms of pseudorabies in the past 30 days. Effective April 19, 2000, all movements from infected premises shall be by restricted movement. "Movement" in this paragraph includes movement to a premises in the production system not in the vicinity of the current location, irrespective of whether there is a change of ownership;

(6) Culled breeding swine must move by restricted movement directly to slaughter (slaughtering plant or fixed concentration point) or to an approved premises in compliance with Iowa Code section 166D.10 as amended by 2000 Iowa Acts, Senate File 2312, section 16, and as detailed in the herd cleanup plan. No swine moved from infected herds may be represented as breeding swine;

(7) Herds identified as infected on or after August 1, 1999, with breeding swine, shall implement a test and removal herd cleanup plan which allows for the phased test and removal of bred animals for one farrowing cycle, followed by a whole herd test and removal plan. Effective August 1, 2000, a whole herd test and removal plan shall be implemented for all infected breeding herds. The herd plan shall include the following:

1. All breeding swine, including boars, shall be tested within 14 days of the herd's being classified as infected. Testing shall also include progeny, if applicable.

2. All breeding swine must be identified by an approved ear tag, or other approved identification method, at the time of blood collection.

3. Until August 1, 2000, all seropositive, unbred breeding swine must be removed from the herd by restricted movement, direct to slaughter (slaughtering plant or fixed concentration point), within 15 days after blood collection. All seropositive, bred swine must be removed from the herd by restricted movement, direct to slaughter (slaughtering plant or fixed concentration point), within 15 days of weaning. All replacement breeding stock must be vaccinated prior to addition into the herd and must be retested 60 days after entry into the herd. Effective August 1, 2000, all seropositive animals, bred or unbred, must be removed from the herd by restricted movement, direct to slaughter (slaughtering plant or fixed concentration point), within 15 days of the whole herd test. All known positive animals in the herd on August 1, 2000, must be removed from the herd by restricted movement, direct to slaughter (slaughtering plant or fixed concentration point), by August 15, 2000.

4. A whole herd test shall be required within 30 days after the removal of the last known positive animal. Any additional seropositive animals must be removed from the herd by restricted movement, direct to slaughter, within 15 days of the collection date. Whole herd retests shall be required at 30-day intervals, with removal of positive animals within 15 days of the test, until it has been determined that the herd is noninfected.

5. Seropositive swine must be removed from the herd, by restricted movement, direct to a buying station or to a slaughtering establishment.

All swine movement from infected herds must be by restricted movement directly to slaughter or to an approved premises as detailed in the herd cleanup plan.

When a herd is designated a noninfected herd, or has been depopulated, by procedures detailed in Iowa Code section 166D.9, the plan is completed;

(8) Beginning October 1, 1999, a herd cleanup plan shall be implemented for all infected finishing herds which shall include the following:

1. A description of the premises, including the location, capacity, physical layout, owner's name, and herd number.

2. Vaccination requirements:

- Every animal, unless such animal is within three weeks of anticipated slaughter, must be vaccinated with an approved pseudorabies vaccine within seven days of notification by a regulatory official.
- New animals introduced into the infected premises are to be vaccinated with an approved pseudorabies vaccine according to the timetable outlined in the herd plan.
- If, through subsequent testing, additional buildings on the site are determined to be infected, all swine on the site shall be managed by all-in, all-out production.

3. Testing requirements:

- A minimum of 14 swine, selected randomly, per building, shall be tested immediately.
- Swine shall be retested, at a minimum of 14 animals, selected randomly, per building, every 45 days, if necessary, until the premises are determined to be noninfected.

4. Description, restrictions, and requirements of pig flow through the facilities.

5. All movements from infected finishing sites shall be by restricted movement and only to slaughter.

d. Specific movement limitations which may include approved destination locations, "restricted movement to slaughter," or other appropriate animal movement control measures.

e. Signatures of the herd owner, the owner's veterinarian, and the epidemiologist or the epidemiologist's representative.

64.157(3) Rescinded IAB 10/22/97, effective 10/1/97.

64.157(4) Rescinded IAB 10/22/97, effective 10/1/97.

64.157(5) If this herd cleanup plan is not followed, is discontinued, or is not progressing in a satisfactory manner as determined by the department, the herd is a quarantined herd and is subject to "restricted movement to slaughter," according to 2000 Iowa Acts, Senate File 2312, section 17, until a new and approved cleanup plan is in place and showing progress according to a designated epidemiologist.

64.157(6) Rescinded IAB 10/22/97, effective 10/1/97.

64.157(7) A deviation from a herd cleanup plan may be used in exigent circumstances if the deviation has the approval, in writing, of the epidemiologist and the state veterinarian.

21—64.158(166D) Feeder pig cooperator plan for infected herds.

64.158(1) A feeder pig cooperator plan shall be a written plan approved and on file with the department.

64.158(2) Feeder Pig Cooperator Plan Agreement—revised effective April 1, 1995.

Feeder Pig Cooperator Plan Agreement—Revised

Date:
Herd I.D. Number:
Owner's Name:
Address:
Telephone Number:

The Feeder Pig Cooperator Plan Agreement shall include the following:

1. The herd has not experienced clinical signs of pseudorabies within the previous 30 days.

2. Maintain the breeding herd on an approved vaccination program, at least four times per year.

3. Wean and segregate progeny by five weeks of age or less and maintain progeny group isolation until moved as feeder pigs.

4. The herd must be visited at least quarterly by the herd veterinarian to monitor progress of herd cleanup plan; this shall include quarterly testing, if applicable, overseeing management procedures including all-in, all-out swine movement, ventilation, animal waste handling, sanitation, disinfection and vaccine handling.

5. Feeder pigs may be marketed or moved intrastate as cooperator pigs by restricted movement to approved premises detailed in the herd cleanup plan provided that all requirements of this plan are followed.

6. All feeder pigs must be vaccinated prior to sale. Vaccine shall be administered according to individual's herd plan.

7. All feeder pigs must be identified prior to sale with an official pink feeder pig ear tag, or a tattoo, approved by the department, beginning with the letters PR. All movement of feeder pigs from the herd shall be by restricted movement and only be allowed to approved premises detailed in the herd cleanup plan. All feeder pigs are quarantined to farm of destination until sold to slaughter. Movement to slaughter must be by restricted movement.

8. Breeding swine shall move directly to slaughter, or an approved premises in compliance with Iowa Code section 166D.10 as amended by 2000 Iowa Acts, Senate File 2312, section 16, and as detailed in the herd cleanup plan, and by restricted movement. No swine from infected herds may be represented as breeding swine.

9. The producer shall maintain a record of all test charts, all sales transactions by way of health certificates or restricted movement permits, and vaccine purchases for at least two years. These records shall be available to department officials upon request.

10. When this herd is determined, through procedures as detailed in Iowa Code section 166D.9, to become a noninfected herd or is depopulated, the plan is completed.

11. I agree, if this plan is not followed, is discontinued, or is not progressing in a satisfactory manner as determined by the department, the herd is a quarantined herd and subject to restricted movement, direct to slaughter or to an approved premises.

I am currently enrolled in an approved herd cleanup plan. I further agree to comply with all the requirements contained in this Feeder Pig Cooperator Plan Agreement.

Herd Owner:	Date:
Herd Veterinarian:	Date:

21—64.159(166D) Herds of unknown status. Feeder pigs from herds of unknown status may not move after September 30, 1993; however, these herds may test to determine status and feeder pigs may be moved according to 64.156(1), 64.156(2), 64.156(3), 64.157(3), or 64.158(2).

The owner must provide test data, prior to movement, proving that these requirements have been met.

21—64.160(166D) Approved premises. The purpose of an approved premises is to maintain feeder swine and feeder pigs under quarantine with movement either direct to slaughter or to another approved premises. Effective June 1, 2000, all swine moved or relocated from an infected herd on an approved herd cleanup plan may only move by restricted movement to an approved premises for further feeding or to slaughter (slaughtering plant or fixed concentration point).

64.160(1) The following are requirements establishing, renewing, or revoking an approved premises permit:

a. A permit application, as part of the herd cleanup plan, must indicate the name of the premises operator and address of the premises.

b. To be valid, an approved premises must be detailed as part of a herd cleanup plan and approved by a department or inspection service official certifying that the facility meets the following guidelines:

(1) Must be a dry lot facility located in an area of confirmed cases of pseudorabies.

(2) Shall not be in the vicinity of a breeding herd. Effective June 1, 2000, an approved premises shall not be located in a county designated as in Stage III of the national pseudorabies eradication program, nor shall it be located in a county which has achieved 0 percent prevalence of pseudorabies infection among all herds in the county as of March 1, 2000, or later. Effective August 1, 2000, an approved premises shall not be located within one and one-half miles of a noninfected herd or three miles of a qualified negative herd.

(3) Shall be built such that it can be thoroughly cleaned and disinfected.

(4) The lay of the land or the facilities shall not be conducive to animal waste draining onto adjacent property.

(5) Only feeder swine and cull swine may be moved onto this premises. Boars and sows are to be maintained separate and apart.

(6) Swine on the premises must be maintained in isolation from other livestock.

c. The permittee must provide to the department or inspection service, during normal business hours, access to the approved premises and to all required records. Records of swine transfers must be kept for at least one year. The records shall include information about purchases and sales, names of buyers and sellers, the dates of transactions, and the number of swine involved with each transaction.

d. Swine must be vaccinated for pseudorabies according to the herd cleanup plan. Vaccination records must be available for inspection during normal business hours.

e. Dead swine must be disposed of in accordance with Iowa Code chapter 167. The dead swine must be held so as to prevent animals, including wild animals and livestock, from reaching the dead swine.

f. Swine must be moved direct to slaughter or to another approved premises by restricted movement and as detailed in the herd cleanup plan.

g. An approved premises permit may be revoked by following quarantine release methods as detailed in Iowa Code section 166D.9, or failure to comply with departmental operation rules, or if swine have been removed from the premises for a period of 12 or more months.

h. Renewal of an approved premises will not be permitted when:

(1) The approved premises is not compliant with the requirements of this rule.

(2) Federal law prohibits approved premises.

(3) The approved premises no longer is part of an approved herd cleanup plan, or the county where the approved premises is located no longer allows approved premises or the site of the approved premises no longer complies with requirements.

i. Revocation of an approved premises will result in the issuance of a quarantine by the department effective until quarantine release methods have been followed as detailed in Iowa Code section 166D.9, or the approved premises has been depopulated by restricted movement to slaughter or to another approved premises as detailed in the herd cleanup plan.

64.160(2) An approved premises will be considered permitted as long as the approved premises is compliant with all regulations and is part of an approved herd cleanup plan.

21—64.161(166D) Sales to approved premises. After June 1, 2000, all feeder pigs and cull swine except those from "noninfected herds" must be moved directly to an approved premises by restricted movement for further feeding; however, these pigs may continue to move as cooperator pigs if a "Feeder Pig Cooperator Plan Agreement—Revised" is approved by the department and movement is permitted by the department.

21—64.162(166D) Certification of veterinarians to initiate approved herd cleanup plans and approved feeder pig cooperator plan agreements and fee basis.

64.162(1) *Requirements for certification.* To be certified, the veterinarian shall meet both of the following requirements:

a. Be an accredited veterinarian.

b. Attend and complete continuing education sessions as determined by the Iowa pseudorabies advisory committee and the department.

64.162(2) *Responsibilities.* A certified veterinarian is authorized to do the following:

a. Complete and submit herd plan and herd agreement forms (supplied by the department) within ten days of completion for approval by the department.

b. Review and update herd plans and herd agreements and report to the department any changes made.

64.162(3) *Revocation of certification.* Failure to comply with the above requirements of this rule will result in revocation of certification.

64.162(4) *Remuneration.* Compensation will be made to the veterinarian or veterinarians certified to initiate herd plans and herd agreements. Payment will be made from pseudorabies program funds,

if available and authorized for these purposes. Fees for payment shall be approved by the advisory committee and established by the department by order. Payment will be made for the following:

a. Initial herd cleanup plan with or without an accompanying feeder pig cooperator agreement. Payment will be made upon submission of the completed form and department approval of the plan.

b. Review of herd cleanup plan. Payment will be made upon submission of the completed form and department approval of the plan review.

c. Upon completion of the herd cleanup plan and release of the infected status, the veterinarian will receive a payment.

d. All other herd consultation or time devoted to herd plan implementation shall be at owner's expense.

64.162(5) *Fee basis.* The following fees are allocated to the testing veterinarian when approved by the department, provided funding is available:

a. Herd stop fee per stop not to exceed four stops per year.

b. Bleeding fee per animal, not to exceed 100 tests per herd, per year.

c. Differentiable vaccine reimbursement per dose, when dispensed during the first 24 months from the date of initial program area designation. Doses of pseudorabies differentiable vaccine are dispensed to infected herds on approved cleanup plans, based upon date of herd plan approval, according to the number of breeding swine.

d. Fees for additional herd stops and tests may be allocated by approval from the department.

21—64.163(166D) Nondifferentiable pseudorabies vaccine disapproved. Transferred and amended, see 21—64.152(163,166D), IAB 8/19/92.

These rules are intended to implement Iowa Code chapters 163 and 166D.

21—64.164 to **64.169** Reserved.

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PARATUBERCULOSIS (JOHNE'S) DISEASE

21—64.170(165A) Definitions. Definitions used in rules 21—64.170(165A) through 21—64.178(165A) are as follows:

"Accredited veterinarian" means a veterinarian approved by the deputy administrator of veterinary services, Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), and the state veterinarian in accordance with Part 161 of Title 9, Chapter 1 of the Code of Federal Regulations, revised as of January 1, 2000, to perform functions required by cooperative state-federal animal disease control and eradication programs.

"Approved laboratory" means an American Association of Veterinary Laboratory Diagnosticians (AAVLD) accredited laboratory or the National Veterinary Services Laboratory, Ames, Iowa. An approved laboratory must have successfully passed the Johne's diagnostic proficiency test in the previous year.

"Certificate" means an official document that is issued at the point of origin by a state veterinarian, federal animal health official, or accredited veterinarian and contains information on the individual identification of each animal being moved, the number of animals, the purpose of the movement, the points of origin and destination, the consignor, the consignee, and any other information required by the state veterinarian.

"Designated epidemiologist" means a veterinarian who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the state veterinarian.

"Individual herd plan" means a written herd management plan that is designed by the herd owner, the owner's veterinarian, if requested, and a designated epidemiologist to identify and control Johne's disease in an affected herd. The individual herd plan may include optional testing.

"Johne's disease-affected animal" means an animal which has reacted positively to an organism-based detection test conducted by an approved laboratory.

"Permit" means an official document for movement of affected or exposed animals that is issued by the state veterinarian, USDA Area Veterinarian-in-Charge, or accredited veterinarian.

"State" means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or Guam.
[**ARC 0230C**, IAB 7/25/12, effective 8/29/12]

21—64.171(165A) Supervision of the Johne's disease program. The state veterinarian's office will provide supervision for the Johne's disease program.
[**ARC 0230C**, IAB 7/25/12, effective 8/29/12]

21—64.172(165A) Official Johne's disease tests. Organism-based detection tests will be considered as official Johne's disease tests. These tests include, but are not limited to, Polymerase Chain Reaction (PCR) tests and bacteriological culture.
[**ARC 0230C**, IAB 7/25/12, effective 8/29/12]

21—64.173(165A) Vaccination allowed. Vaccination against Johne's disease is allowed with the permission of the state veterinarian. The herd owner requesting vaccination of the herd must sign and follow a Johne's disease herd control plan consisting of best management practices designed to prevent the introduction of and control the spread of Johne's disease. A risk assessment may be included as part

of the herd control plan. The herd owner shall submit animal vaccination reports to the department on forms provided by the department.
[**ARC 0230C**, IAB 7/25/12, effective 8/29/12]

21—64.174(165A) Herd plan. The herd owner, the owner's veterinarian, if requested, and the designated epidemiologist may develop a plan for preventing the introduction of and controlling the spread of Johne's disease in each affected herd.
[**ARC 0230C**, IAB 7/25/12, effective 8/29/12]

21—64.175(165A) Identification and disposal requirements. Affected animals must remain on the premises where they are found until they are permanently identified by an accredited veterinarian applying a C-punch in the right ear of the animal. Affected animals may be moved only for the purpose of consigning the animal to slaughter.

21—64.176(165A) Segregation, cleaning, and disinfecting. Positive animals, consigned to slaughter through a state-federal approved auction market, must be maintained separate and apart from noninfected animals. Positive animals must be the last class of animal sold. Cleaning and disinfection of the alleyways, pen(s) and sale ring used to house positive animals must be accomplished prior to the next scheduled sale. Affected animals entering slaughter marketing channels must be moved directly to the slaughter facility or the slaughter market concentration point. Transportation vehicles used to haul affected animals shall be cleaned and disinfected after such use and before transporting any additional animals.

21—64.177(165A) Intrastate movement requirements.

64.177(1) Animals that are positive to an official Johne's disease test may be moved from the farm of origin for slaughter only if the animals are moved directly to a recognized slaughtering establishment and accompanied by an owner-shipper statement that identifies the animals as positive to an official Johne's disease test and the statement is delivered to the consignee. Positive animals shall be identified prior to movement by application of a C-punch in the right ear of the animal.

64.177(2) Animals that are positive to an official Johne's disease test may be moved within Iowa for slaughter and consigned to a state-federal approved slaughter market if the animals are accompanied by an owner-shipper statement that identifies the animals as positive to an official Johne's disease test and the statement is delivered to the consignee. Positive animals shall be identified prior to movement by application of a C-punch in the right ear of the animal.

64.177(3) Animals that are positive to an official Johne's disease test may be moved within Iowa for purposes other than slaughter only by permit from the state veterinarian.
[**ARC 0230C**, IAB 7/25/12, effective 8/29/12]

21—64.178(165A) Import requirements.

64.178(1) Animals that are positive to an official Johne's disease test may be imported into Iowa for slaughter if the animals are moved directly to a recognized slaughtering establishment and accompanied by an owner-shipper statement that identifies the animals as positive to an official Johne's disease test and the statement is delivered to the consignee. All animals must be officially identified.

64.178(2) Animals that are positive to an official Johne's disease test may be imported into Iowa for slaughter and consigned to a state-federal approved slaughter market if the animals are accompanied by an owner-shipper statement that identifies the animals as positive to an official Johne's disease test and the statement is delivered to the consignee. Positive animals shall be identified at the market, prior to sale, by application of a C-punch in the right ear of the animal.

64.178(3) Animals that are positive to an official Johne's disease test may be imported into Iowa for purposes other than slaughter only by permit from the state veterinarian.
[**ARC 0230C**, IAB 7/25/12, effective 8/29/12]

21—64.179 to **64.184** Reserved.

These rules are intended to implement Iowa Code Supplement chapter 165A.

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LOW PATHOGENIC AVIAN INFLUENZA (LPAI)

21—64.185(163) Definitions. Terms used in these rules are defined as follows:

"Affected poultry flock" means a poultry flock from which any animal has been diagnosed as infected with LPAI and which is not in compliance with the provisions of the control program for LPAI as described in this chapter.

"Approved laboratory" means the Iowa State University Veterinary Diagnostic Laboratory, Ames, Iowa, or other American Association of Veterinary Laboratory Diagnosticians (AAVLD) accredited laboratory, including the National Veterinary Services Laboratory, Ames, Iowa.

"Designated epidemiologist" means a state veterinarian who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the state veterinarian.

"House/housing facilities" means the individual barn that houses the poultry.

"Individual flock plan" means a written flock management and testing plan that is designed by the flock owner, the owner's veterinarian, if requested, and a designated epidemiologist to identify and eradicate LPAI from an affected or exposed flock and to prevent the spread of the disease to an adjacent flock.

"Low pathogenic avian influenza (LPAI)" means an infectious, contagious disease of poultry caused by Type A influenza virus. For the purposes of these rules, LPAI shall include only subtypes identified as H5 or H7.

"LPAI affected" means a designation applied to poultry diagnosed as infected with LPAI based on laboratory results, clinical signs, or epidemiologic investigation.

"LPAI suspect" means a designation applied to poultry for which laboratory evidence or clinical signs suggest a diagnosis of LPAI but for which laboratory results are inconclusive.

"Monitored LPAI poultry flock" means a flock of poultry that is in compliance with the surveillance and testing procedures set forth in these rules.

"Official avian influenza test" means an approved test conducted at a laboratory approved to diagnose avian influenza.

"Poultry" means commercial egg-laying and meat-producing chickens and commercial turkeys. "Poultry" also means breeder flocks.

"Poultry flock" means a group of poultry, generally of the same age, that are hatched, housed, managed, and sold together as one unit.

"Quarantine" means an imposed restriction prohibiting movement of poultry to any location without specific written permits.

"Slaughter/disposal" means the removal or depopulation of the poultry flock.

21—64.186(163) Supervision of the low pathogenic avian influenza program. The state veterinarian's office shall provide oversight and supervision of the LPAI program in Iowa.

21—64.187(163) Surveillance procedures. Surveillance procedures shall only apply to commercial poultry flocks of 10,000 or more layers, commercial chicken broiler operations with 10,000 or more broilers, and commercial turkey operations with 1,000 or more turkeys. Breeders that participate in, and qualify under, the USDA, APHIS, NPIP U.S. Avian Influenza Clean Program meet or exceed the surveillance provisions of this plan and are exempt from further certification under this rule. For poultry flocks, surveillance procedures shall include the following:

64.187(1) *Turkeys and turkey poults.*

a. *Preslaughter/movement testing.* A minimum of 15 blood samples may be collected and forwarded to an approved laboratory for LPAI testing within 21 days prior to depopulation or movement; or

b. *Slaughter/disposal testing.* Twenty blood samples shall be collected at slaughter/disposal and forwarded to an approved laboratory for LPAI testing.

c. *Sick flock testing.* Twenty blood samples shall be collected between 10 days and 21 days after the onset of respiratory disease and forwarded to an approved laboratory for LPAI testing, and 20 pharyngeal swabs shall be collected at onset of respiratory disease and forwarded to an approved laboratory for LPAI testing.

d. *Routine serologic testing.* A test for LPAI should be included.

64.187(2) *Laying chickens and pre-lay pullets.*

a. *Preslaughter/disposal/movement testing.* Fifteen blood samples shall be collected and forwarded to an approved laboratory for LPAI testing within 30 days prior to depopulation or disposal of spent hens or movement of pre-lay pullets to another farm.

b. *Sick flock testing.* Twenty blood samples shall be collected between 10 days and 21 days after the onset of respiratory disease and forwarded to an approved laboratory for LPAI testing, and 20 pharyngeal swabs shall be collected at onset of respiratory disease and forwarded to an approved laboratory for LPAI testing.

c. *Routine serologic testing.* A test for LPAI should be included.

64.187(3) *Broiler chickens.*

a. *Preslaughter testing.* Twenty blood samples may be collected and forwarded to an approved laboratory for LPAI testing within 21 days prior to depopulation; or

b. *Slaughter/disposal testing.* Twenty blood samples shall be collected at slaughter/disposal and forwarded to an approved laboratory for LPAI testing.

c. *Sick flock testing.* Twenty blood samples shall be collected between 10 days and 21 days after the onset of respiratory disease and forwarded to an approved laboratory for LPAI testing, and 20 pharyngeal swabs shall be collected at onset of respiratory disease and forwarded to an approved laboratory for LPAI testing.

d. *Routine serologic testing.* A test for LPAI should be included.

21—64.188(163) Official LPAI tests. Official tests for LPAI are:

1. Agar Gel Precipitin (AGP);
2. Enzyme Linked Immunosorbent Assay (ELISA);
3. Any other tests performed by an approved laboratory to confirm a diagnosis of LPAI.

Tests positive to screening for avian influenza through AGP, ELISA, and any other tests performed by an approved laboratory to confirm a diagnosis of LPAI must be forwarded to National Veterinary Services Laboratory, Ames, Iowa, for subtype testing.

4. Influenza type A antigen detection tests approved by the state veterinarian. All influenza type A antigen detection tests performed shall be prior-approved by the state veterinarian, and all positive tests results shall be reported immediately to the state veterinarian. A monthly report of all test results shall be reported to the state veterinarian.

21—64.189(163) Investigation of LPAI affected poultry identified through surveillance. All poultry diagnosed at an approved laboratory as infected with LPAI must be traced back to the flock or farm of origin.

All flocks having contact with affected or exposed poultry as determined by the designated epidemiologist must be investigated epidemiologically. All farms of origin and flocks having contact with affected or exposed poultry must be quarantined, pending the results of the epidemiological investigation.

21—64.190(163) Duration of quarantine. Quarantines imposed in accordance with these rules shall be in effect for a minimum of three months after the last detection of active avian influenza virus on the premises. Active avian influenza virus on the premises will be determined through the use of sentinel poultry or virus isolation.

21—64.191(163) Flock plan.

64.191(1) The flock owner, the owner's veterinarian, if requested, and the epidemiologist shall develop a plan for eradicating LPAI in each affected flock. The plan must be designed to reduce and then eliminate LPAI from the flock, to prevent spread of the disease to other flocks, and to prevent reintroduction of LPAI after the flock becomes disease-free. The flock plan must be developed and signed within 15 days after the determination that the flock is affected.

64.191(2) The flock plan will include, but is not limited to, the following areas:

a. Movement of vehicles, equipment, and people on and off the premises.

b. Cleaning and disinfection of vehicles entering and leaving the premises.

c. Proper elimination of daily mortality through composting on premises, incineration on premises, or other approved method.

d. Biosecurity procedures for people entering or leaving the facility.

e. Controlled marketing.

(1) No poultry may be removed from the premises for a minimum of 21 days after the last detection of active avian influenza virus on the premises. Immune flocks that have recovered from avian influenza infection may remain on the premises for the remainder of their scheduled life span.

(2) After 21 days, poultry marketing will only be allowed for delivery to slaughter establishments at the close of business for the week.

(3) Routes used to transport poultry to slaughter must avoid other poultry operations.

(4) Trucks used to transport poultry from an infected premises must be cleaned and disinfected and may not enter another poultry facility for at least 24 hours.

(5) Eggs which are washed, sanitized, and packed in new materials may be moved into normal marketing channels, but trucks hauling these eggs must not visit another premises between the production site and the market. Egg handling materials must be destroyed at the plant or cleaned, sanitized, and returned to the premises of origin without contacting materials going to other premises. Disposable egg flats or sanitized, plastic flats must be used to transport eggs.

(6) Eggs that are sold as "nest run" and are not washed and sanitized must be moved directly to only an "off-line" breaking operation for pasteurization and used for breaking only. The egg handling materials must be handled as described in (5) above.

(7) Liquid eggs from layer flocks may continue to move from breaking operations directly to pasteurization plants provided that the transport vehicles are cleaned and disinfected before entering and leaving the premises.

f. Vaccination. Avian influenza vaccine will be considered for use only if allowed by the state veterinarian and USDA APHIS.

(1) Killed H5 or H7 vaccine may be used to immunize all noninfected poultry remaining on the premises. Laying-flock replacement poultry should be vaccinated at least two weeks before entering the laying operation.

(2) Twenty sentinel (nonvaccinated) poultry will be kept in each vaccinated flock, and all 20 will be tested for avian influenza every 30 days.

(3) Avian influenza virus will be considered to be no longer active when all sentinel poultry are serologically negative on two consecutive tests conducted at least 14 days apart and when cloacal swabs from each of the 20 sentinel poultry are negative by virus isolation testing.

(4) Positive sentinel poultry must be euthanized and replaced by negative poultry after 14 days.

(5) Slaughter withdrawal times must be followed in the marketing of poultry.

g. Housing facilities and manure. Before a new flock is placed in an infected house, manure must be removed and the housing facilities must be cleaned and disinfected. Manure shall not be removed from the premises for a minimum of 30 days after the last active detection of avian influenza virus in a house.

Manure from infected housing facilities must be carried in covered conveyances, and transportation routes must avoid other poultry operations. Manure handling and disposal will be at the direction of the state veterinarian.

h. Wild bird, insect, and rodent control. Wild bird, insect, and rodent control programs must be implemented on the premises before a facility is repopulated with poultry. Rodenticide must be set out before feed or birds are removed from the premises.

64.191(3) The plan must address flock management and be in compliance with all provisions of these rules. The plan must be formalized as a memorandum of agreement between the owner and program officials, must be approved by the state veterinarian, and must include plans to obtain a disease-free status.

21—64.192(163) Cleaning and disinfecting. The housing facilities must be cleaned and disinfected under state supervision within 15 days after affected poultry and manure have been removed.

21—64.193 to **64.199** Reserved.

These rules are intended to implement Iowa Code chapter 163.

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SCRAPIE DISEASE

21—64.200(163) Definitions. Definitions used in rules 21—64.200(163) through 21—64.211(163) are as follows:

"Accredited veterinarian" means a veterinarian approved by the administrator of the Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), and the state veterinarian in accordance with Part 161 of Title 9, Chapter 1 of the Code of Federal Regulations (CFR), to perform functions required by cooperative state-federal animal disease control and eradication programs.

"Administrator" means the administrator of APHIS or any employee of USDA to whom the administrator has delegated authority to act on behalf of the administrator.

"Animal" means any sheep or goat.

"APHIS representative" means an individual employed by the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) in animal health activities who is authorized by the administrator to perform the functions and duties involved.

"Approved laboratory" means a diagnostic laboratory approved by APHIS to conduct tests for scrapie or genotypes on one or more tissues.

"Area veterinarian-in-charge" or *"AVIC"* means the veterinary official of APHIS assigned by APHIS to supervise and perform the official animal health work of APHIS in Iowa.

"Breed associations and registries" means the organizations that maintain the permanent records of ancestry or pedigrees of animals (including each animal's sire and dam), individual identification of animals, and ownership of animals.

"Certificate of Veterinary Inspection" or *"CVI"* means an official document approved by the department and issued by a licensed accredited veterinarian at the point of origin of movement of animals.

"Commingle" means to group animals together in a manner that allows them to have physical contact with each other, including contact through a fence, but not limited contact. Commingling includes sharing the same section in a transportation unit where physical contact can occur.

"Designated scrapie epidemiologist" or *"DSE"* means a state or federal veterinarian designated by the department and APHIS to make decisions about the use and interpretation of diagnostic tests and

field investigation data and the management of flocks and animals of epidemiological significance to the scrapie program.

"Directly to slaughter" means movement from a farm to a place of business where animals are processed into meat, excluding movement through an auction market or livestock dealer's place of business.

"Exposed animal" means any animal that has had contact with a scrapie-positive animal or had contact with a premises where a scrapie-positive animal has resided and for which a flock plan has not yet been completed. Exposed animals shall be evaluated by a state or federal veterinarian in concurrence with the DSE and state veterinarian and may be redesignated into a risk category according to genetic resistance and exposure and may be restricted or have restrictions removed in accordance with current USDA regulations.

"Exposed flock" means any flock in which:

1. A scrapie-positive animal was born or gave birth; or
2. A high-risk or suspect female animal currently resides; or
3. A high-risk or suspect animal once resided that gave birth or aborted in the flock and from which tissues were not submitted for official scrapie testing.

"Flock" means a group of sheep or goats, or a mixture of both species, residing on the same premises or under common ownership or supervision on two or more premises with animal interchange between the premises. Changes in ownership of part or all of a flock do not change the identity of the flock or the regulatory requirements applicable to the flock.

"Flock identification number" or *"flock ID number"* means the unique alphanumeric premises identification number that appears on the official identification issued to a flock, that conforms with the standards for an epidemiologically distinct premises, as outlined in 9 CFR 79.1, and that is assigned by USDA and approved by the department.

"Flock of origin" means the flock of birth for male animals and, for female animals, means the flock in which the animal most recently resided in which it either was born, gave birth, or resided during lambing or kidding.

"Flock plan" means a written flock management agreement signed by the owner of a flock, the accredited veterinarian, if one is employed by the owner, and a department or APHIS representative in which each participant agrees to undertake actions specified in the flock plan to control the spread of scrapie from, and eradicate scrapie in, an infected flock or source flock or to reduce the risk of the occurrence of scrapie in a flock that contains a high-risk or exposed animal. As part of a flock plan, the flock owner must provide the facilities and personnel needed to carry out the requirements of the flock plan. The flock plan must include the requirements in 9 CFR 54.8.

"Genetic susceptibility" means the animal's likelihood, based upon the genotype of the animal, of developing scrapie following exposure to scrapie.

"High-risk animal" means:

1. Any exposed female animal designated as genetically susceptible under current USDA guidelines;
2. The female offspring of a scrapie-positive female animal; or
3. Any other exposed female animal determined by the DSE to be a potential risk.

"Infected flock" means any flock in which the DSE has determined that a scrapie-positive female animal has resided, unless an epidemiological investigation conducted by the DSE shows that the animal did not give birth or abort in the flock.

"Interstate commerce" means trade, traffic, transportation, or other commerce between a place in a state and any place outside that state, or between points within a state but through any place outside that state.

"Limited contact" means incidental contact between animals away from the flock's premises, such as at fairs, shows, exhibitions, markets, and sales; between ewes being inseminated, flushed, or implanted; or between rams at ram test or collection stations. Embryo transfer and artificial insemination equipment and surgical tools must be sterilized after each use in order for the contact to be considered limited contact. Limited contact does not include any contact with a female animal during or up to 30 days

after she gave birth or aborted or when there is any visible vaginal discharge other than that associated with estrus. Limited contact does not include any activity in which uninhibited contact occurs, such as sharing an enclosure, sharing a section of a transport vehicle, or residing in other flocks for breeding or other purposes, except as allowed by scrapie flock certification program standards.

"Live-animal screening test" means any test used for the diagnosis of scrapie in a live animal, approved by APHIS, and conducted in a laboratory approved by APHIS.

"Noncompliant flock" means:

1. Any source or infected flock whose owner declines to enter into a flock plan or postexposure management and monitoring plan (PEMMP) agreement within 60 days of the flock's being designated as a source or infected flock;

2. Any exposed flock whose owner fails to make animals available for testing within 60 days of notification, or as mutually agreed upon by the department and the owner, or whose owner fails to submit required postmortem samples;

3. Any flock whose owner or manager has misrepresented, or who employs a person who has misrepresented, the scrapie status of an animal or has misrepresented any other information on a certificate, permit, owner statement, or other official document within the last five years;

4. Any flock whose owner or manager has moved, or who employs a person who has moved, an animal in violation of this chapter within the last five years; or

5. Any flock which does not meet the requirements of a flock plan or PEMMP.

"Official genotype test" means any test used to determine the genotype of a live or dead animal and conducted at an approved laboratory provided that the animal is officially identified and the samples used for the test are collected and shipped to the laboratory by either an accredited veterinarian or a department or APHIS representative.

"Official identification" or *"official ID"* means identification approved by the department and APHIS for use in the scrapie eradication program in the state of Iowa. For sheep, official identification consists of (1) approved ear tags which include the flock ID number combined with an individual animal number; (2) approved unique, alphanumeric serial-numbered ear tags; or (3) ear tags approved for use with the scrapie flock certification program. For goats, official identification consists of any method of identification approved by the USDA, as outlined in 9 CFR 79.2.

"Official test" means any test used for the diagnosis of scrapie in a live or dead animal, approved by APHIS for that use, and conducted at an approved laboratory.

"Owner" means a person, partnership, company, corporation, or any other legal entity which has legal or rightful title to animals.

"Owner/seller statement form" means a written document to be completed by the owner or seller of animals that require official identification and includes the owner's/seller's name, address, and telephone number; date of transaction; the flock identification number; the number of animals involved; a statement indicating that the animals that require official identification have been officially identified and that the owner/seller will maintain records as to the origin of the individual animals for five years; and a signed owner statement.

"Owner statement" means a statement signed by the owner certifying that the sexually intact animals are not scrapie-positive, suspect, high-risk, or exposed and that they did not originate from an infected, source, exposed, or noncompliant flock.

"Permit" means an official document that has been issued by an APHIS or department representative or an authorized accredited veterinarian and allows the interstate movement of animals under quarantine. A seal may be required by the state veterinarian or AVIC.

"Postexposure management and monitoring plan" or *"PEMMP"* means a written agreement signed by the owner of a flock, an accredited veterinarian, if one is employed by the owner, and a department or APHIS representative in which each participant agrees to undertake actions specified in the agreement to reduce the risk of the occurrence of scrapie and to monitor for the occurrence of scrapie in the flock for at least five years after the last high-risk or scrapie-positive animal is removed from the flock or after the last exposure of the flock to a scrapie-positive animal, unless the monitoring time is otherwise specified by a department or APHIS representative. As part of a postexposure management and monitoring plan,

the flock owner must provide the facilities and personnel needed to carry out the requirements of the plan. The plan must include the requirements in 9 CFR 54.8.

"Premises" means the ground, area, buildings, and equipment occupied by one or more flocks of animals.

"Quarantine" means an imposed restriction prohibiting movement of animals to any location without specific written permits.

"Scrapie" means a nonfebrile, transmissible, insidious degenerative disease affecting the central nervous system of sheep and goats.

"Scrapie eradication program" or *"program"* means the cooperative state-federal-industry program administered by APHIS and states to control and eradicate scrapie.

"Scrapie flock certification program" or *"SFCP"* means a voluntary state-federal-industry cooperative program established and maintained to reduce the occurrence and spread of scrapie, to identify flocks that have been free of evidence of scrapie over specified time periods, and to contribute to the eventual eradication of scrapie. This program was formerly known as the voluntary scrapie flock certification program.

"Scrapie-positive animal" or *"positive animal"* means an animal for which a diagnosis of scrapie has been made by an approved laboratory through one of the following methods:

1. Histopathological examination of central nervous system (CNS) tissues from the animal for characteristic microscopic lesions of scrapie;
2. The use of protease-resistant protein analysis methods, including but not limited to immunohistochemistry or western blotting, on CNS or peripheral tissue samples from a live or a dead animal for which a given method has been approved by the administrator for use on that tissue;
3. Bioassay;
4. Scrapie-associated fibrils (SAF) detected by electron microscopy; or
5. Any other test method approved by the administrator in accordance with 9 CFR 54.10.

"Source flock" means a flock in which a department or APHIS representative has determined that at least one animal was born that was diagnosed as a scrapie-positive animal at an age of 72 months or less.

"State animal health official" means an individual employed by the department in animal health activities and authorized by the department to perform the functions involved.

"Suspect animal" means:

1. A sheep or goat that exhibits any of the following possible signs of scrapie and that has been examined by an accredited veterinarian or a department or APHIS representative. Possible signs of scrapie include: weight loss despite retention of appetite; behavioral abnormalities; pruritus (itching); wool pulling; biting at legs or side; lip smacking; motor abnormalities such as incoordination, high-stepping gait of forelimbs, bunny hop movement of rear legs, or swaying of back end; increased sensitivity to noise and sudden movement; tremor, star gazing, head pressing, recumbency, or other signs of neurological disease or chronic wasting;
2. A sheep or goat that has tested positive for scrapie or for the protease-resistant protein associated with scrapie on a live-animal screening test, or any other official test, unless the animal is designated as a scrapie-positive animal; or
3. A sheep or goat that has tested inconclusive or suggestive of scrapie on an official test for scrapie.

"Trace" means all actions required to identify the flock of origin or flock of destination of an animal.

"Unofficial test" means any test used for the diagnosis of scrapie or for the detection of the protease-resistant protein associated with scrapie in a live or dead animal but that either has not been approved by APHIS or was not conducted at an approved diagnostic laboratory.

"Veterinary signature-stamped bill of sale" means a document allowed in Iowa in lieu of a Certificate of Veterinary Inspection for use when animals are sold through a licensed auction market and will remain in Iowa. The bill of sale shall contain the following statement: "I certify, as an accredited veterinarian, that these animals have been inspected by me and that they are not showing any signs of infectious, contagious, or communicable diseases (except where noted)." The signature of the veterinarian who inspected the animals at the sale must appear on the document.

21—64.201(163) Supervision of the scrapie eradication program. The scrapie eradication program is a cooperative program between the department and APHIS and is supervised by full-time animal health veterinarians employed by the state or federal government.

21—64.202(163) Identification. Animals required to be officially identified shall have official identification applied upon, or before, departure from the current flock of origin by the flock owner or the owner's agent. An animal that already has identification recognized as official for Iowa does not need to have any additional official identification applied. If an animal was not identified prior to departing from its flock of birth or if its identification has been lost, then the animal must be identified upon, or before, departing from the current flock in which the animal resides and the flock of birth, or previous flock of origin, should be recorded, if known. No person shall apply a flock ID tag to an animal that has not resided in that flock. If a sexually intact animal that requires official identification is of uncertain origin or if the animal is identified with a blue metal "meat only" tag or a red or yellow tag denoting exposure or test status, then the animal may not be used for breeding and must be restricted until slaughter. Animals that require official identification and enter the state of Iowa from other states must be identified with an identification that complies with 9 CFR 79.2. For sheep originating from out of state, ear tags that comply with 9 CFR 79.2 will be considered official identification in Iowa. For goats, either ear tags or tattoos that comply with 9 CFR 79.2 will be considered official identification in Iowa.

64.202(1) *Sheep—official identification required.* Sheep required to be officially identified include:

a. All sexually intact sheep, unless specifically excluded in these rules;

b. All sexually intact sheep for exhibition;

c. All sheep over 18 months of age;

d. All sheep residing in noncompliant flocks;

e. All exposed, suspect, positive and high-risk sheep; and

f. Sexually intact sheep of any age imported into Iowa, except as noted in 64.202(2).

64.202(2) *Sheep—official identification not required.* Sheep that do not require official identification include:

a. Sheep under 18 months of age originating from outside the state of Iowa moving into an approved terminal feedlot, and any sheep under 18 months of age moving directly to slaughter;

b. Wether sheep for exhibition, unless over 18 months of age; and

c. Sheep moved for grazing or similar management reasons provided that the sheep are moved from a premises owned or leased by the owner of the sheep to another premises owned or leased by the owner of the sheep.

64.202(3) *Goats—official identification required.* Goats that require official identification include:

a. Sexually intact goats that are registered, are used for exhibition, or have resided on the same premises with or been commingled with sheep, excluding limited contact;

b. All goats residing in noncompliant flocks; and

c. All exposed, suspect, positive and high-risk goats.

64.202(4) *Goats—official identification not required.* Goats that do not require official identification include:

a. Goats under 18 months of age originating from outside the state of Iowa moving into an approved terminal feedlot, and any goats under 18 months of age moving directly to slaughter;

b. Wether goats for exhibition;

c. Goats raised and maintained apart from sheep and used exclusively for meat and fiber production;

d. Pet goats raised and maintained apart from sheep and not registered or used for exhibition;

e. Dairy goats raised and maintained apart from sheep and not registered or used for exhibition; and

f. Goats moved for grazing or similar management reasons provided that the goats are moved from a premises owned or leased by the owner of the goats to another premises owned or leased by the owner of the goats.

NOTE: Official identification requirements for goats will become identical to those for sheep 90 days following the disclosure of a case of scrapie in Iowa goats that cannot be attributed to exposure to sheep.

21—64.203(163) Restrictions on the removal of official identification. No person may remove or tamper with any approved means of identification required to be on sheep or goats, unless the identification must be removed for medical reasons, in which case new official identification must be applied to the animal as soon as possible and prior to commingling that could result in the loss of identity of the animal. A record documenting the change of official identification must be made.

21—64.204(163) Records.

64.204(1) *Record-keeping requirements for owners.* Records on every animal that requires official ID shall be maintained for five years from the time the animal leaves the flock or dies. For animals not born in the flock, records must include the flock-of-origin number or the previous owner's name and address, date of acquisition, a description of the animal (sheep or goat, and breed or class), and flock of birth, if known. When official ID tags are applied, it is recommended that the owner correlate official ID with production records, such as lambing dates, for all breeding animals. The owner shall maintain a record of the name and address of the market or buyer, the date, the number of animals sold, and a description of the animals (sheep or goat, and breed or class) for all animals moved from the flock. The owner must supply the market or buyer with the owner's flock ID number. A Certificate of Veterinary Inspection (CVI), or a veterinary signature-stamped bill of sale for animals purchased through Iowa markets, is required for every change of ownership of animals in Iowa, other than for animals sold to slaughter. A copy of the CVI or veterinary signature-stamped bill of sale must be maintained for every animal purchased, and for every animal sold privately, other than to slaughter. For animals sold to slaughter, records must show the date of sale, number of animals sold, and where or to whom sold.

64.204(2) *Record-keeping requirements for auction markets.* Markets must collect a completed and signed owner/seller statement form from each seller presenting animals that require official identification or must post where animals are unloaded signs which state that "sexually intact sheep or goats that are known to be scrapie-positive, suspect, high-risk, or exposed, or that originated from a known infected, source, exposed, or noncompliant flock may not be unloaded or sold through this market." For animals identified by the market, the serial tag numbers applied to each seller's animals must be recorded. Animals that require official identification, but that cannot be identified to their flock of origin shall not be sold as breeding animals. Bill-of-sale records must indicate the seller or flock ID number(s) or serial tag numbers of the animals involved and will serve as documentation of the buyers of animals presented by any particular seller. The market must always record, either on the owner/seller statement form or separately, the following information on all sexually intact animals that require official identification: the seller's flock ID number or seller's name and address, the name or flock ID number of the owner of the flock of origin if different from the seller, and the buyer's name and address or buyer's flock ID number. All animals moving interstate must depart from the market with either a Certificate of Veterinary Inspection or slaughter affidavit; all animals remaining in Iowa must depart from the market with a Certificate of Veterinary Inspection, veterinary signature-stamped bill of sale, or slaughter affidavit. Certificates of Veterinary Inspection for animals moving interstate must contain the statement set forth in 21—64.208(163). All of these documents must be made available for inspection upon request and maintained as official records for five years.

64.204(3) *Record-keeping requirements for licensed sheep dealers.* The dealer must either collect a completed and signed owner/seller statement form from the person from whom the dealer takes possession of the animals or must post signs as described in 64.204(2) if there is any possibility that the animals will move interstate, other than through slaughter channels. The dealer must always record, either on the owner/seller statement form or separately, the following information on all sexually intact animals that require official identification: the seller's flock ID number or seller's name and address and the name of the owner of the flock of origin, or flock-of-origin ID number, if different from the seller. For animals identified by the dealer, the serial tag number applied to each animal must be recorded. Animals that move interstate, other than to slaughter, must be inspected by a veterinarian

and have a Certificate of Veterinary Inspection that includes the required statements as set forth in 21—64.208(163). All animals that do not go to slaughter must be inspected by a veterinarian and have a Certificate of Veterinary Inspection completed prior to sale, unless the animals are being sold at a licensed auction market where a veterinary inspection will occur. For animals that are taken to an auction market, the dealer must provide to the market for its records a list of all flock ID numbers or serial tag numbers in the group. For animals that are resorted and sold, records must identify all potential buyers of any animal acquired. Every effort should be made to maintain the identity of groups from the same flock, through separate penning or use of temporary ID, such as chalk marking, in order to simplify efforts to identify the final destination of individual animals. If animals are under 18 months of age and the dealer picks them up at the owner's premises and delivers them directly to slaughter, then the official identification requirement may be waived; however, a record of the transaction must be maintained. Records must document the buyer's name and address or buyer's flock-of-origin ID number, date of sale, and animals sold for all private sales or sales to slaughter, so that animals can be traced to their final destination. All records must be kept for five years and made available for inspection upon request.

21—64.205(163) Responsibility of persons handling animals in commerce to ensure the official identification of animals. Licensed sheep dealers and auction markets and those that provide transport must ensure that animals are properly identified upon taking possession of the animals. Animals lacking official ID must either be declined or be identified by the licensed dealer or market with official ID issued to the dealer or market immediately upon the dealer's or market's taking possession, and prior to commingling of the animals.

21—64.206(163) Veterinarian's responsibilities when identifying sheep or goats. Veterinarians may be called upon to officially identify animals and may be issued official identification for the animals in the form of the serial number ear tags for carrying out this duty. The veterinarian may apply the ID only if the flock-of-origin information is available. Sexually intact animals that require official identification and are of unknown origin shall not be used for breeding and must be restricted until slaughter. When animals are identified, the veterinarian applying the ID must record the serial tag number applied to each animal and the following information (this requirement may be accomplished by collecting a completed owner/seller statement form): the flock-of-origin ID number or name and address of the current owner, if different from the owner of the flock of origin, and the name and address of the buyer, if a change of ownership is occurring. The flock of birth should also be recorded, if known. These records must be kept for five years and made available for inspection upon request.

21—64.207(163) Flock plans. Infected and source flocks will be quarantined by the department upon the determination of their status. A written flock cleanup plan shall be signed by the owner of an infected or source flock, and the requirements set out in the plan shall be adhered to until its completion. The plan may consist of:

1. Whole flock depopulation;
2. The removal of genetically susceptible female animals, suspect animals, positive animals, and the female offspring of positive female animals; or
3. The removal of high-risk animals as defined in 9 CFR 79.4.

Indemnity may be paid for animals removed, if funds are available through USDA. All flock plans require cleaning and disinfecting procedures as part of the requirements. Upon completion of the flock plan, the quarantine may be released, with the approval of the DSE, and following an inspection of the premises by a state or federal animal health official. At that time, the owner is required to sign a post-exposure management and monitoring plan (PEMMP) and agree to the requirements set out in that plan. Exposed flocks may also be quarantined, or have other movement restrictions placed on them, and may require a PEMMP plan which is consistent with current USDA regulations.

21—64.208(163) Certificates of Veterinary Inspection. Certificates of Veterinary Inspection (CVIs) issued by licensed accredited veterinarians shall be obtained whenever animals change ownership, other than when animals are sold for slaughter, except as provided in this rule. For animals that require official identification, the CVI must include the individual official ID numbers(s) or the flock-of-origin ID number(s), the total number of animals, the purpose of the movement, the name and address of the consignor and consignee, and the points of origin and destination. CVIs for animals that will move interstate must additionally have the following signed owner statement: "I certify that the sexually intact animals represented on this form are not known to be scrapie-positive, suspect, high-risk, or exposed, and did not originate from a known infected, source, exposed, or noncompliant flock." The veterinarian may sign the statement (which may be applied in stamp form) on behalf of the owner if a properly executed owner/seller statement form has been collected from the owner or if the animals are at a licensed auction market or a licensed dealer's place of business where signs, which have been posted where animals are unloaded, state that "sexually intact sheep or goats that are known to be scrapie-positive, suspect, high-risk, or exposed, or that originated from a known infected, source, exposed, or noncompliant flock may not be unloaded or sold through this market." The veterinarian should check with the state of destination for additional requirements. Animals sold other than to slaughter through state-licensed livestock markets but that will remain in Iowa may be released on either a Certificate of Veterinary Inspection or a veterinary signature-stamped bill of sale. A Certificate of Veterinary Inspection may be completed for sexually intact animals from an exposed flock in some circumstances, with the approval of the state veterinarian.

21—64.209(163) Requirements for shows and sales. Official identification is required for any sexually intact sheep or goat to be exhibited. Positive, suspect, sexually intact exposed, and high-risk animals may not be exhibited. Exposed animals that have been redesignated and had restrictions removed by the DSE according to USDA guidelines may attend shows and sales. Feeder/market class animals from an exposed flock that are not positive, suspect, exposed, or high-risk may be exhibited with the approval of the state veterinarian, provided that they are moved only to slaughter or returned to the premises of origin following the show.

64.209(1) Female animals over 12 months of age should be penned separately from female animals from other flocks when practical.

64.209(2) Female animals within 30 days of parturition, postpartum female animals, or female animals that have aborted or are pregnant and have a vaginal discharge must be kept separate from animals from other flocks so as to prohibit any direct contact. Any enclosures used to contain the female animals must be cleaned and disinfected.

21—64.210(163) Movement restrictions for animals and flocks. A sexually intact animal shall not be moved from an infected or source flock, except under permit. Permitted animals may be moved to slaughter, to a research or diagnostic facility, or to another facility as specified in the flock plan. High-risk, suspect, and sexually intact exposed animals from other than infected or source flocks will be placed under movement restrictions in accordance with 9 CFR 79.3. The movement restrictions on the flock and the criteria for release of these restrictions shall be specified as part of either the flock plan or the postexposure management and monitoring plan. Animals from noncompliant flocks shall be placed under movement restrictions and shall be moved only by permit.

21—64.211(163) Approved terminal feedlots. Approved terminal feedlots allow purchasers of young sexually intact feeder animals from out of state to bring those animals into Iowa without official identification provided that the animals are restricted to an inspected and approved premises and all are delivered to slaughter by 18 months of age.

64.211(1) *Requirements for approved terminal feedlots.* All sexually intact animals of out-of-state origin that have arrived without official identification must be moved directly to slaughter by 18 months of age. Other sheep or goats that require official identification may be maintained on the premises

provided that the requirements described herein are met. The approved terminal feedlot premises must be designated as either:

a. Feeder-only premises. Feeder-only premises may contain only feeder animals destined to slaughter by 18 months of age.

b. Breeding flock/slaughter-only premises. The breeding flock/slaughter-only premises allows a breeding flock to be maintained on the site. All offspring must be sent to slaughter by 18 months of age (except as noted below), and do not require official ID provided that the slaughter animals move directly to slaughter. Adult animals must be identified, and any of their offspring retained as replacement breeding stock must have official ID applied prior to weaning. Production, inventory, purchase, and sales records will be inspected on all breeding animals.

c. Separate operation premises. The separate operation premises allows animals other than the nonidentified feeder animals to be kept on site, and sold other than to slaughter, but these animals must be separated from the feeder animals by a distance of 30 feet or by a solid wall that prevents contact or the passage of fluids. Offspring must be identified prior to weaning. Records must account for the arrival and dispersal of each individual animal in the separate flock, and there shall be no identification exemption on these animals.

All three types of approved terminal feedlot premises require that all nonidentified feeder animals be moved directly to slaughter, or another approved terminal feedlot, prior to 18 months of age. These animals may only be sold through a licensed market or licensed dealer if the owner identifies sexually intact animals with official blue metal "meat only" tags, and the animals are sold to slaughter.

64.211(2) *Identification at approved terminal feedlots.* Out-of-state origin sexually intact feeder animals moved to an approved terminal feedlot will be exempted from identification requirements provided that the feedlot maintains compliance with all rules and regulations governing approved terminal feedlots.

64.211(3) *Registration of approved terminal feedlots.* All approved terminal feedlots must obtain a permit issued by the department. Approved terminal feedlots will be subject to periodic records and premises inspections. The department shall assign an approved terminal feedlot number for each approved terminal feedlot facility.

64.211(4) *Records for approved terminal feedlots.* All approved terminal feedlots must maintain appropriate records for a period of five years. Records will include Certificates of Veterinary Inspection for all animals of out-of-state origin received by the facility and slaughter records sufficient to conduct inventory reconciliation. If a breeding flock or any other sheep or goats that require official identification are maintained on the same premises, then records shall also include an inventory of animals, lambing and kidding records, bills of sale, slaughter receipts, and any Certificates of Veterinary Inspection sufficient to account for the acquisition and dispersal of all animals. Failure to maintain appropriate records shall be grounds for revocation of the feedlot permit. All animals without official identification must be moved directly to slaughter, and movement to slaughter must be completed before any of the animals reach the age of 18 months. If blue metal "meat only" tags are applied, then records on tags applied must be maintained and shall consist of serial tag numbers, origin of the group(s) (state, market, or individual), date of tagging, and destination (date sold and buyer).

These rules are intended to implement Iowa Code chapter 163.

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[1] Effective date of 7/20/88 delayed 70 days by the Administrative Rules Review Committee at its July 1988 meeting.

[2] Effective date of 3/15/89 delayed 70 days by the Administrative Rules Review Committee at its March 13, 1989, meeting.

[3] Revised 21—subrule 64.158(2) effective April 1, 1995.

CHAPTER 65
ANIMAL AND LIVESTOCK IMPORTATION

[Appeared as Ch 3, 1973 IDR]
[Prior to 7/27/88, see Agriculture Department 30—Ch 17]

21—65.1(163) Definitions.

"Accredited veterinarian" means a veterinarian licensed in the state of origin and approved by the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), to perform certain functions of federal and cooperative state-federal programs in accordance with the provision of Title 9 Code of Federal Regulations (CFR) §160 through §162.

"Avian influenza- or exotic Newcastle disease-affected state" or *"AI- or END-affected state"* means any state in which avian influenza subtype H5 or H7 or END virus has been diagnosed in poultry within the last 90 days prior to importation.

"Domestic fowl" means any member of the class Aves that is propagated or maintained under control of a person for commercial, exhibition, or breeding purposes or as a pet.

"Feral swine" means swine that are free-roaming.

"Official individual identification" means a unique individual identification that is secure and traceable including, but not limited to, a USDA-approved identification ear tag that conforms to the alphanumeric national uniform ear tagging system; a USDA-approved premises tattoo; a registered purebred tattoo; or identification that conforms to the National Animal Identification System. An owner's private brand or tattoo, even though permanent and registered in the state of origin, is not acceptable official individual identification of an animal for the purpose of entry into Iowa.

"Poultry" means chickens, turkeys, domestic waterfowl, ratites, and domestic game birds, except doves and pigeons.

"Pre-entry permit" means a written or verbal authorization provided by the department prior to the importation of animals into Iowa. If required, a pre-entry permit number must be obtained and listed on the Certificate of Veterinary Inspection accompanying the animals.

"Recognized slaughter establishment" means a slaughtering establishment operating under the provisions of either the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or an equivalent state meat inspection program.

"Specifically approved auction market" means a stockyard, livestock market, buying station, concentration point, or any other premises under state or federal veterinary supervision where livestock are assembled for sale or sale purposes and which has been approved by USDA as provided in 9 CFR §71.20.

"Transitional swine" means swine that have been, or have had the potential to be, exposed to feral swine.

"Vesicular stomatitis-affected state" or *"VS-affected state"* means any state in which vesicular stomatitis (VS) virus serotype New Jersey or Indiana has been diagnosed within the last 60 days prior to animal importation.

21—65.2(163) Pre-entry permits.

65.2(1) Requests for permits should be directed to the Animal Industry Bureau, Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319, or may be made by telephoning the bureau at (515)281-5547 during normal business hours (7:30 a.m. to 4:30 p.m.).

65.2(2) All permits shall be valid for one shipment only and shall be void 15 days after the date of issuance.

65.2(3) Pre-entry permits are required for:

a. All Cervidae.

b. All domestic fowl or poultry originating from an AI- or END-affected state.

c. Captive wild-type swine.

d. Cattle and bison originating from states or zones not classified as tuberculosis-free and brucellosis-free.

[**ARC 9151B**, IAB 10/20/10, effective 9/20/10]

21—65.3(163) General requirements and limitations.

65.3(1) *Restricted animals.* The following animals are restricted from importation into the state:

a. No animal, including poultry or birds of any species, that is affected with, or that has been recently exposed to, any infectious, contagious or communicable disease or that originates from a quarantined area shall be shipped or in any manner transported or moved into Iowa, unless approved by the state veterinarian.

b. Prairie dogs (Cynomys sp.), tree squirrels (Heliosciurus sp.), rope squirrels (Funisciurus sp.), dormice (Graphiurus sp.), Gambian giant pouched rats (Cricetomys sp.), brush-tailed porcupines (Atherurus sp.), and striped mice (Hybomys sp.) are prohibited from importation into the state.

[1]**65.3(2)** *Cleaning and disinfection of transportation vehicles.* All stock cars and trucks used for hauling into the state of Iowa livestock (cattle, horses, sheep, goats, Cervidae, poultry and swine) for feeding, breeding, or stock purposes must be cleaned and disinfected before such shipments of livestock are loaded.

65.3(3) *Certificate of Veterinary Inspection (CVI).* Animals imported into the state must be accompanied by a Certificate of Veterinary Inspection, unless specifically exempted by this chapter.

a. A Certificate of Veterinary Inspection is a legible record accomplished on an official form of the state of origin, issued by a licensed accredited veterinarian and approved by the chief livestock health official of the state of origin; or an equivalent form of the United States Department of Agriculture (USDA) issued by a federally employed veterinarian. A Certificate of Veterinary Inspection may be an official paper form or an official approved electronic form.

b. A copy of the approved CVI shall be forwarded immediately to the chief livestock health official of the state of origin for approval and transmittal.

c. An approved CVI shall not be valid more than 30 days from the date of inspection of the animals.

d. The approved CVI must accompany the animals to their final destination in Iowa.

e. All information required on the CVI must be fully completed by the issuing veterinarian and must include the following:

(1) Name and address of the consignor;

(2) Name and address of the consignee;

(3) Point of origin and premises identification, if assigned by the chief livestock health official in the state of origin;

(4) Point of destination of the animals;

(5) Date of examination;

(6) Number of animals examined;

(7) Official individual identification or group identification of all animals;

(8) Sex, age, and breed of each animal;

(9) Test results and herd or state status on diseases specified in this chapter;

(10) Pre-entry permit number, if required; and

(11) A statement by the issuing veterinarian that the animals identified on the CVI are free of signs of infectious or communicable disease.

65.3(4) *Certification for vesicular stomatitis (VS).* All hoofed animals, including horses, ruminants, swine, and exotic and wild hoofed animals, originating from a VS-affected state must be accompanied by an official Certificate of Veterinary Inspection which, in addition to meeting the requirements of subrule 65.3(3), includes the following statement: "All animals susceptible to Vesicular Stomatitis (VS) identified and included on this certificate have been examined and found to be free from clinical signs of VS, have not been exposed to VS, and, within the past 30 days, have not been within ten (10) miles of any site under quarantine for VS."

[1] Objection filed 1/9/81; see "Objection" at the end of this chapter.

21—65.4(163) Cattle and bison.

65.4(1) *General.*

a. *Certificate of Veterinary Inspection (CVI).* All cattle and bison imported into the state must be accompanied by a CVI, except the following:

(1) Cattle or bison consigned directly to a specifically approved auction market, and

(2) Cattle or bison consigned directly to a recognized slaughter establishment.

b. *Identification.* All cattle and bison imported into the state must have official individual identification, except as otherwise provided in this rule.

65.4(2) *Requirements and limitations, general.*

a. Cattle or bison originating from herds or areas under quarantine shall not be admitted into the state.

b. Cattle or bison known to be infected with Johne's disease shall not be imported except to a recognized slaughter establishment and shall be accompanied by an owner-shipper statement that identifies the animals as positive to an official Johne's disease test. Such statement shall be delivered to the consignee, unless prior approval is obtained from the state veterinarian.

c. Cattle (beef-type) and bison steers and heifers more than 6 months of age but less than 18 months of age may be imported for feeding purposes without official individual identification and quarantined to the premises of destination. However, cattle and bison originating from a state which is not a tuberculosis-free state and heifers originating from a state which is not a brucellosis-free state are not eligible for this identification exemption. The CVI must contain the statement: "These animals are quarantined to the premises of destination until moved to slaughter."

65.4(3) *Testing.*

a. *Tuberculosis test.* Testing requirements for tuberculosis are as follows:

(1) A tuberculosis test is not required for importation of cattle or bison provided that:

1. The cattle or bison are native to, and originate from, an accredited tuberculosis-free herd (accredited herd number and date of last test must be listed on the CVI), state, or zone; or

2. The cattle (beef-type) and bison are between the ages of 6 months and 18 months and are being imported for feeding purposes.

(2) A negative tuberculosis test is required within 60 days prior to importation for cattle or bison six months of age or older that are not exempted by 65.4(3)*"a"*(1).

(3) Cattle and bison less than 6 months of age that originate from a herd, state, or zone that is not accredited as tuberculosis-free or as modified accredited advanced must originate from a herd which has been whole-herd tested negative for tuberculosis within 12 months prior to importation.

b. *Brucellosis test.*

(1) A brucellosis test is not required for importation of cattle or bison provided that:

1. The cattle or bison are native to, and originate from, a certified brucellosis-free herd (herd number and date of last test shall be listed on the CVI), state, or area; or

2. The cattle and bison are official calfhood vaccinates under 18 months of age; or

3. The cattle and bison are steers or spayed heifers.

(2) A negative brucellosis test is required within 30 days prior to importation for cattle or bison six months of age or older that are not exempted by 65.4(3)*"b"*(1).

(3) Cattle and bison less than 6 months of age that originate from a herd, state or zone that is not certified brucellosis-free must originate from a herd which has been whole-herd tested negative for brucellosis within 12 months prior to importation.

(4) All brucellosis tests of cattle and bison shall be conducted by state or federal laboratories or by approved laboratories under the supervision of the chief livestock health official of the state of origin.

c. *Trichomoniasis test.* A bull must have a negative trichomoniasis test within 30 days prior to importation and have no subsequent sexual exposure. The trichomoniasis test is either one negative polymerase chain reaction (PCR) test or three consecutive weekly negative trichomoniasis foetus cultures. This testing requirement does not apply if the bull is:

(1) Under the age of 24 months and listed on the Certificate of Veterinary Inspection as "virgin" or not having been sexually exposed to any female;

(2) Being sent directly to slaughter or to an auction market and directly to slaughter; or

(3) Temporarily in the state for a rodeo or exhibition and leaves after the event.

65.4(4) *Rodeo bulls.*

a. *Tuberculosis test.* A negative tuberculosis test is required within 12 months prior to importation.

b. *Brucellosis test.* A negative brucellosis test is required within 12 months prior to importation.

[**ARC 9151B**, IAB 10/20/10, effective 9/20/10; **ARC 0230C**, IAB 7/25/12, effective 8/29/12; **ARC 1278C**, IAB 1/8/14, effective 2/12/14]

21—65.5(163,166D) Swine.

65.5(1) *General.*

a. Certificate of Veterinary Inspection (CVI). All swine imported into the state, except swine consigned directly to a recognized slaughter establishment, swine consigned to a specifically approved auction market, or swine that are moved in accordance with an approved swine production health plan (SPHP), must be accompanied by a CVI.

b. All swine imported into the state, except swine consigned directly to a recognized slaughter establishment, swine consigned to a specifically approved auction market, or swine that are moved in accordance with an approved swine production health plan (SPHP), must have official individual identification.

c. All swine imported into the state must originate from a herd or area not under quarantine.

d. Feral swine are not eligible for importation into the state.

e. Transitional swine must meet the requirements of 65.5(4) in addition to the general requirements. Transitional swine are swine that have been, or have had the potential to be, exposed to feral swine.

65.5(2) *Breeding swine.*

a. *Brucellosis test.* All breeding swine imported into the state must:

(1) Originate from herds not known to be infected with, or exposed to, brucellosis and be accompanied by proof of a negative brucellosis test conducted within 30 days prior to importation; or

(2) Originate directly from a validated brucellosis-free state; or

(3) Originate directly from a validated brucellosis-free herd. The date of the last test and herd validation number must be included on the CVI.

b. *Pseudorabies test.* All breeding swine imported into the state must:

(1) Originate from a herd not known to be infected with, or exposed to, pseudorabies and be accompanied by proof of a negative pseudorabies test conducted within 30 days of importation; or

(2) Originate from a qualified pseudorabies negative (QN) herd (the date of last test and herd number shall be listed on the CVI); or

(3) Originate from a pseudorabies Stage IV or Stage V state.

65.5(3) *Feeder swine.*

a. *Brucellosis test.* Swine imported into the state for further feeding must originate from herds not known to be infected with, or exposed to, brucellosis.

b. *Pseudorabies test.* Swine imported into the state for further feeding must:

(1) Originate from herds not known to be infected with, or exposed to, pseudorabies and be accompanied by proof of a negative pseudorabies test conducted within 30 days prior to importation; or

(2) Originate from a qualified pseudorabies negative (QN) herd; or

(3) Originate from a pseudorabies Stage III, Stage IV or Stage V state.

65.5(4) *Captive wild-type and transitional swine.* Captive wild-type and transitional swine imported into the state must:

a. Originate from herds not known to be infected with, or exposed to, brucellosis and be accompanied by proof of a negative brucellosis test conducted within 30 days prior to importation; and

b. Originate from herds not known to be infected with, or exposed to, pseudorabies and be accompanied by proof of a negative pseudorabies test conducted within 30 days prior to importation; and

c. Have a pre-entry permit from the state veterinarian.

65.5(5) *Swine for slaughter.* All swine that are moved directly to a recognized slaughter establishment or to a specifically approved auction market for sale directly to a recognized slaughter establishment for immediate slaughter may be moved without restriction.

21—65.6(163) Goats.

65.6(1) *General.*

a. Certificate of Veterinary Inspection (CVI). All goats imported into the state, except goats consigned directly to a recognized slaughter establishment and goats consigned to a specifically approved auction market, must be accompanied by a CVI.

b. All sexually intact goats imported into the state that are registered, are used for exhibition, or have resided on the same premises with or been commingled with sheep must be officially identified with either ear tags or tattoos that meet the requirements specified in 9 CFR §79.2 and §79.3 and the Scrapie Eradication Uniform Methods and Rules. All other goats imported into the state must have official individual identification.

c. All goats imported into the state must originate from a herd or area not under quarantine.

65.6(2) *Breeding and dairy goats.*

a. *Brucellosis.*

(1) All sexually intact goats six months of age or older, except those for immediate slaughter, must:

1. Originate from a certified brucellosis-free herd (the date of the last test and certified herd number shall be listed on the CVI); or

2. Originate from a herd not known to be infected with, or exposed to, brucellosis and be accompanied by proof of a negative brucellosis test conducted within 30 days prior to importation.

(2) Sexually intact goats less than six months of age must originate from a herd which has been whole-herd tested negative for brucellosis within the last 12 months or must originate from a certified brucellosis-free herd (the date of the last test and certified herd number shall be listed on the CVI).

b. *Tuberculosis.*

(1) All goats six months of age or older must:

1. Originate from an accredited tuberculosis-free herd (the date of last test and accredited herd number shall be listed on the CVI); or

2. Originate from a herd which has been whole-herd tested negative for tuberculosis within 12 months of importation (the date of herd test shall be listed on the CVI); or

3. Originate from a herd not known to be infected with, or exposed to, tuberculosis and be accompanied by proof of a negative tuberculosis test conducted within 60 days of importation.

(2) Goats less than six months of age must originate from a herd which has been whole-herd tested negative for tuberculosis within the last 12 months or must originate from an accredited tuberculosis-free herd (the date of last test and accredited herd number shall be listed on the CVI).

65.6(3) *Scrapie.* Sexually intact goats from premises where scrapie has been known to exist within the last 60 months or sexually intact goats under surveillance for scrapie shall not be admitted into Iowa, except by permission of the state veterinarian for direct movement to a recognized slaughter establishment.

21—65.7(163) Sheep.

65.7(1) *General.*

a. *Certificate of Veterinary Inspection (CVI).* All sheep imported into the state, except sheep consigned directly to a recognized slaughter establishment for immediate slaughter or sheep consigned to a specifically approved auction market, shall be accompanied by a CVI. For animals requiring identification, the CVI must include the official scrapie flock identification number(s) for the animal(s) listed or the official individual identification for each animal.

b. *Identification.*

(1) All sheep imported into the state must be officially, individually identified with ear tags that meet the requirements specified in 9 CFR §79.2 and §79.3 and the Scrapie Eradication Uniform Methods and Rules, unless exempted pursuant to 65.7(1)*"b"*(2).

(2) Exemption to identification requirements. Exemptions to requirements for individual identification of sheep include:

1. Sheep less than 18 months of age consigned directly to a recognized slaughter establishment; and

2. Wethers less than 18 months of age; and

3. Sheep less than 18 months of age consigned directly to an Iowa approved terminal feedlot. The CVI must list the approved terminal feedlot number for the feedlot.

65.7(2) *Restrictions and limitations.*

a. *Scabies.* Sheep from scabies-quarantined areas must meet federal regulations for interstate movement.

b. *Scrapie.* Sheep that are known to be scrapie-positive, suspect, high-risk, or exposed, or that originate from a known infected, source, exposed, or noncompliant flock may not be imported into the state unless:

(1) The flock from which they originate has completed an approved scrapie flock cleanup plan, or

(2) Prior permission has been granted by the state veterinarian.

21—65.8(163) Equine.

65.8(1) *General.*

a. Certificate of Veterinary Inspection (CVI). All equine imported into the state of Iowa shall be accompanied by a CVI.

b. Equidae which are positive to a brucellosis test or which show evidence of "poll evil" or "fistulous withers" whether draining or not shall not be allowed to enter the state for any purpose.

65.8(2) *Testing—equine infectious anemia (EIA).* All Equidae imported into the state must be accompanied by proof of a negative EIA serological test conducted within 12 months prior to importation, except foals under 6 months of age accompanied by their dams which meet the EIA test requirements. The name of the testing laboratory, laboratory accession number, and the date of test must appear on the CVI.

21—65.9(163) Cervidae.

65.9(1) *General.*

a. Definitions.

"Cervidae" means all animals belonging to the Cervidae family.

"Chronic wasting disease" or *"CWD"* means a transmissible spongiform encephalopathy of cervids.

"CWD susceptible Cervidae" means all species of Cervidae susceptible to chronic wasting disease, including whitetail deer, blacktail deer, mule deer, red deer, elk, moose, and related species and hybrids of these species.

b. Certificate of Veterinary Inspection (CVI). All Cervidae imported into the state shall be accompanied by a CVI.

c. All Cervidae imported into this state, except Cervidae consigned directly to a recognized slaughter establishment, must have a pre-entry permit. The permit number must be requested by the licensed accredited veterinarian signing the CVI and issued by the state veterinarian prior to movement of the Cervidae. The permit number must be recorded on the CVI.

65.9(2) *Chronic wasting disease.*

a. Cervidae originating from an area considered to be endemic for chronic wasting disease shall not be allowed entry into Iowa. Cervidae that originate from a herd that has had animal introductions from an area endemic to chronic wasting disease during the preceding five years shall not be allowed entry into Iowa.

b. CWD susceptible Cervidae shall only be allowed into Iowa from herds which are currently enrolled in and have satisfactorily completed at least five years in an official recognized CWD monitoring program. The CWD herd number, anniversary date, expiration date, and herd status for each individual animal must be listed on the CVI.

The following statement must be accurate and listed on the CVI:

"All Cervidae on this certificate originate from a CWD monitored or certified herd in which these animals have been kept for at least one year or were natural additions. There has been no diagnosis, sign, or epidemiological evidence of CWD in this herd for the past five years."

c. Cervidae other than CWD susceptible Cervidae shall be allowed into the state only from herds which are currently enrolled in an official recognized CWD monitoring program. The CWD herd number, anniversary date, expiration date, and herd status for each individual animal must be listed on the CVI. The following statement must be accurate and listed on the CVI:

"All Cervidae on this certificate originate from a CWD monitored or certified herd and have not spent any time within the past 36 months in a zoo, animal menagerie or like facility, and have not been on the same premises as a cervid herd which has been classified as a CWD infected herd, exposed herd or trace herd."

d. Each animal must have official individual identification, and all forms of identification must be listed on the certificate.

65.9(3) *Testing.*

a. *Tuberculosis test.* Herd status and Single Cervical Tuberculin (SCT) test (Cervidae) are according to USDA Tuberculosis Eradication in Cervidae Uniform Methods and Rules effective January 22, 1999.

(1) Cervidae six months of age or older imported into this state, except Cervidae imported directly to a recognized slaughter establishment, must:

1. Originate from a herd not under quarantine and be tested negative for tuberculosis (TB) within 90 days of importation by the Single Cervical Tuberculin (SCT) test (Cervidae) or by the Cervid TB Stat-Pak test; or

2. Originate from an accredited herd (Cervidae) or originate from a qualified herd (Cervidae) and be tested negative within 90 days of importation (the test dates and herd number shall be listed on the CVI).

(2) Cervidae less than 6 months of age imported into the state must originate from a herd which has been whole-herd tested negative for tuberculosis within the last 12 months or must originate from an accredited herd (Cervidae).

b. *Brucellosis test.*

(1) Cervidae six months of age or older imported into the state, except Cervidae imported directly to a recognized slaughter establishment, must:

1. Originate from a herd not under quarantine and be accompanied by proof of a negative brucellosis test conducted within 90 days of importation; or

2. Originate from a certified brucellosis-free cervid herd or a cervid class free status state (brucellosis). The date of the last test and herd number shall be listed on the CVI.

(2) Cervidae less than 6 months of age must originate from a herd which has been tested negative for brucellosis within the last 12 months or must originate from a certified brucellosis-free herd.

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21—65.10(163) Dogs and cats.

65.10(1) *General.*

a. Certificate of Veterinary Inspection (CVI). All dogs and cats imported into the state must be accompanied by a CVI indicating apparent freedom from disease or exposure to infectious or contagious disease, except dogs for exhibition and performing dogs entering for a limited period of time.

b. Dogs or cats originating from rabies-quarantined areas shall not be admitted.

65.10(2) *Rabies.*

a. *Cats.* No rabies vaccination is required.

b. *Dogs.* All dogs four months of age and older must have a current rabies vaccination with a USDA-approved rabies vaccine.

21—65.11(163) Poultry, domestic fowl, and hatching eggs.

65.11(1) *Certificate of Veterinary Inspection (CVI).* All poultry, domestic fowl, and their hatching eggs imported into the state, except poultry and domestic fowl consigned directly to a recognized slaughter establishment or a specifically approved auction market, must be accompanied by a CVI. For poultry and hatching eggs classified under provisions of the National Poultry Improvement Plan (NPIP), a VS Form 9-3, Report of Sales of Hatching Eggs, Chicks and Poults, may be substituted for the CVI.

65.11(2) *Restrictions and limitations, general.*

a. All poultry, domestic fowl, and their hatching eggs being imported into the state and not originating from an AI- or END-affected state must have a pre-entry permit issued by the Iowa Poultry Association. This permit may be obtained by calling (515)727-4701, extension 10.

b. Importations from an AI- or END-affected state.

(1) Approval. All domestic fowl, live poultry or poultry products from an AI- or END-affected state(s) may be considered for importation on a case-by-case basis following a risk assessment.

(2) Documentation. Poultry or poultry products must originate from a flock that is classified as AI clean under provision of the NPIP. The CVI must indicate that the poultry or poultry products originate from an AI- or END-negative flock and include a description of the birds, the test date, test results, and the name of the testing laboratory.

(3) Pre-entry permit. All domestic fowl, live poultry or poultry products originating from an AI-or END-affected state must have a pre-entry permit issued by the state veterinarian.

(4) Domestic fowl, live poultry or poultry products originating from a quarantined area shall not be allowed entry into the state.

65.11(3) *Testing.*

a. *Pullorum-typhoid test.*

(1) An official negative test for pullorum-typhoid is required within 30 days of importation for domestic fowl or live poultry or for the flock from which hatching eggs originate unless exempted pursuant to 65.11(3)*"a"*(2).

(2) Exemptions to the test requirements. No test is required for the following:

1. Imported domestic fowl, live poultry or hatching eggs originating from flocks classified under provisions of the NPIP as pullorum-typhoid clean.
2. Exotic birds or other pet birds.
3. Poultry consigned directly to a recognized slaughter establishment.

b. *Mycoplasma gallisepticum test—turkeys.* Live turkeys or turkey hatching eggs for importation must originate from a flock that has been tested annually and can be classified as U.S. mycoplasma gallisepticum clean as provided by the NPIP. Turkeys consigned directly to a recognized slaughter establishment are not affected by this subrule.

21—65.12(163) Swine production health plan (SPHP).

65.12(1) *General.*

a. *Swine production health plan (SPHP).* A swine production health plan is a written agreement developed for a swine production system and designed to maintain the health of the swine and detect signs of communicable disease. The plan must include all of the following:

(1) Address and contact information for all premises that are part of the swine production system and that receive or send swine in interstate commerce.

(2) Provisions for regular veterinary inspections of all swine maintained on the identified premises, at intervals no greater than 30 days, by the swine production system's licensed accredited veterinarian(s).

(3) Description of the record-keeping system of the swine production system.

(4) The signature of each official of each swine production system identified in the plan, including the swine production system's licensed accredited veterinarian(s), the state veterinarian, an APHIS representative, and the state animal health official from each state in which the swine production system has a premises.

(5) Acknowledgment that the managers of all the swine production system's premises listed in the plan have been notified that any failure of the participants in the swine production system to abide by

the provisions of the plan and the applicable provisions of 9 CFR Parts 71 and 85 constitutes a basis for the cancellation of the swine production health plan.

b. *Interstate swine movement report.* An interstate swine movement report is a paper or electronic document detailing interstate movement of animals within a swine production health system. The interstate swine movement report must include the following information:

(1) The name, location, and premises identification number of the premises from which the swine are to be moved.

(2) The name, location, and premises identification number of the premises to which the swine are to be moved.

(3) The date of movement.

(4) The number, age, and type of swine to be moved.

(5) A description of any individual identification or group identification associated with the swine.

(6) The name of the swine production system's licensed accredited veterinarian(s).

(7) The health status of the herd from which the swine are to be moved, including any disease of regulatory concern to the state or the United States Department of Agriculture (USDA) Animal Plant Health Inspection Service (APHIS).

(8) An accurate statement that swine on the premises from which the swine are to be moved have been inspected by the swine production system's licensed accredited veterinarian(s) within 30 days prior to the interstate movement, consistent with the dates specified by the premises' swine production health plan, and found free from signs of communicable disease.

c. *Swine production system.* A swine production system is an enterprise that consists of multiple sites of swine production (i.e., sow herds, nursery herds, and growing or finishing herds) that do not include a recognized slaughter facility or livestock market, that are connected by ownership or contractual relationships, and between which swine are moved while remaining under the control of a single owner or a group of contractually connected owners.

d. *Swine production system's licensed accredited veterinarian.* A swine production system's licensed accredited veterinarian is a licensed accredited veterinarian who is named in a swine production health plan for a premises within a swine production system and who performs inspection of such premises and animals and other duties related to the movement of swine in a swine production system.

65.12(2) *Identification of swine moving interstate within an SPHP.* Swine that are moved into the state within a swine production system to other than a recognized slaughter facility or a specifically authorized livestock market are not required to be individually identified when moved provided that the following requirements are met:

a. The swine may be moved interstate only to another premises identified in a valid swine production health plan for that swine production system.

b. The swine production system must operate under a valid swine production health plan in which both the sending and receiving states have agreed to allow the movement.

c. The swine must have been found free from signs of any communicable disease during the most recent inspection of the premises by the swine production system's licensed accredited veterinarian(s) within 30 days prior to movement.

d. Prior to the movement of any swine, the producer(s) moving swine must deliver the required interstate swine movement report to the following individuals identified in the swine production health plan:

(1) The swine production system's licensed accredited veterinarian for the premises from which the swine are to be moved.

(2) The state animal health officials for the state of origin of the swine.

(3) The state veterinarian for the state of destination of the swine.

(4) Individuals designated by the state animal health officials.

e. The receiving premises must not commingle swine received from different premises in a manner that prevents identification of the premises that sent the swine or groups of swine. This requirement may be met by use of permanent premises or individual animal identification, by keeping groups of animals

received from one premises physically separate from animals received from other premises, or by any other effective means.

f. For each premises, the swine production system must maintain for three years after their date of creation records that will allow a state animal health official to trace any animal on the premises back to its previous premises and must maintain copies of each swine production health plan signed by the producer, all interstate swine movement reports issued by the producer, and all reports the swine production system's accredited veterinarian(s) issues documenting the health status of the swine on the premises.

g. Each premises must allow state animal health officials access to the premises upon request to inspect animals and review records.

h. Every seven calendar days, each swine production system must send the state veterinarian a written summary that is based on the interstate swine movement report data and that shows how many animals were moved in the past seven calendar days, the premises from which they were moved, and the premises to which they were moved.

65.12(3) *Cancellation of SPHP.* The following procedures apply to cancellation of, or withdrawal from, a swine production health plan:

a. The state veterinarian may cancel the state's participation in a swine production health plan by giving written notice to all swine producers, APHIS representatives, accredited veterinarians, and other state animal health officials listed in the plan. Withdrawal shall be effective upon the date specified by the state veterinarian in the notice, but for shipments in transit, withdrawal shall become effective seven days after the date of such notice. Upon withdrawal of the state, the swine production health plan may continue to operate among the other states and parties that are signatory to the plan.

b. A swine production system may withdraw one or more of its premises from participation in the plan upon giving written notice to the state veterinarian, APHIS administrator, the accredited veterinarian(s), and all swine producers listed in the plan. Withdrawal shall be effective upon the date specified by the swine production system in the written notice, but for shipments in transit, withdrawal shall become effective seven days after the date of such notice.

c. The state veterinarian shall cancel a swine production health plan after determining that swine movements within the swine production system have occurred that were not in compliance with the swine production health plan or with other requirements of this chapter. Before a swine health production plan is canceled, the state veterinarian shall inform a representative of the swine production system of the reasons for the cancellation. The swine production system may appeal the cancellation in writing in accordance with Iowa Code chapter 17A and Iowa Administrative Code 21—Chapter 2. This cancellation shall continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the state veterinarian.

21—65.13(163) Penalties. A person violating a provision of this chapter shall be subject to a civil penalty of at least $100 but not more than $1,000. In the case of a continuing violation, each day of the continuing violation is a separate violation. A person who falsifies a Certificate of Veterinary Inspection shall be subject to a civil penalty of not more than $5,000 for each reference to an animal falsified on the certificate.

These rules are intended to implement Iowa Code chapter 163.

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[1] Objection to 30 IAC 17.1(3) filed 1/9/81; subrule renumbered 21—65.1(3) IAC 7/27/88; renumbered as 65.3(2) IAB 5/25/05.

OBJECTION

At its January 9, 1981 meeting the administrative rules review committee voted the following objection:

The committee objects to subrule 30 IAC 17.1(3)* on the grounds it is unreasonable. The subrule appears as part of ARC 1630 in III IAB 12 (12/10/80) and requires all livestock vehicles to be cleaned and disinfected before they carry shipments into the state. The committee feels this provision is impossible to enforce because it relates to activities that occur outside of Iowa jurisdiction.

* Renumbered 21—65.1(3) IAC 7/27/88; renumbered as 65.3(2) IAB 5/25/05.

CHAPTER 66
LIVESTOCK MOVEMENT

[Appeared as Ch 2, 1973 IDR]
[Prior to 7/27/88, see Agriculture Department 30—Ch 18]

21—66.1(163) Definitions and permits.

66.1(1) *Definition.* As used in this chapter, the following term is defined to have the following meaning:

"Livestock" means cattle, horses, sheep, goats, swine (other than feeder swine), or any other animals of the bovine, equine, ovine, caprine or porcine species. "Livestock" also includes all species of deer, elk, and moose raised under confinement or agricultural conditions for the production of meat, the production of other agricultural products, sport, or exhibition.

66.1(2) *Livestock dealer permit required.* Any person engaged in the business of buying, selling or assembling livestock by consignment for the purpose of resale, either interstate or intrastate, shall first obtain a permit from the department to conduct business. However, a person is not required to be licensed as a livestock dealer if either of the following applies:

a. The person is licensed as an agent for a packer operating under Iowa Code chapter 172A, the person only buys for the packer, and the livestock move directly to slaughter; or

b. The person is licensed as a feeder pig dealer under Iowa Code section 163.30 and does not sell livestock other than feeder pigs.

A separate permit must be obtained for each separate location even though operated under the same management or person.

66.1(3) *Livestock dealer's agent permit required.* An individual working for a person holding a permit required by subrule 66.1(2) shall obtain, in lieu of a livestock dealer permit, a permit as a livestock dealer's agent. A person shall not act as an agent for more than one dealer at the same time. A person shall not act as an agent for a dealer and also hold a livestock dealer permit in the person's own name.

66.1(4) *Permitting period.* A livestock dealer permit and a livestock dealer's agent permit shall be issued for a time period commencing on July 1 and ending June 30 of the following year.

66.1(5) *Fee for permit.* The following nonrefundable fee shall accompany each application for a permit or the renewal of a permit.

1. Livestock dealer permit—$50
2. Livestock dealer's agent permit—$10

66.1(6) *Bonding requirement.* An applicant for a livestock dealer permit shall submit a bond to the department with the secretary of agriculture named as trustee. The bond shall be payable for the use and benefit of any person damaged as a result of a violation of this chapter. The amount of the bond shall be calculated in the same manner and contain the same condition clauses as required by the United States Packers and Stockyards Administration as adopted in Sections 201.30 and 201.31 of Title 9, Chapter II, of the Code of Federal Regulations, revised as of May 1, 2000. However, a person applying for a permit is exempt from providing a bond if the person can show that the person has a valid bond on file and maintained with the United States Packers and Stockyards Administration in an amount equivalent to or greater than that required by federal regulations.

66.1(7) *Information required.* An applicant for a livestock dealer permit or a livestock dealer's agent permit or a renewal of a permit shall provide the department with information required on the permit application including, but not limited to, the name, address, and telephone number of the applicant; a listing of any state, country, or province in which the applicant is licensed or permitted to engage in a similar business; and any past or pending legal or administrative action or investigation conducted or ongoing regarding that license or permit.

This rule is intended to implement Iowa Code section 163.1.

21—66.2(163) Animal health sanitation and record-keeping requirements.

66.2(1) *Veterinary inspection required.* All auction markets, marketing agencies, sales barns or sales yards operating under a permit as required shall provide for veterinary inspection by a qualified veterinary inspector, approved by the department of agriculture and land stewardship, state of Iowa, who shall

inspect all animals marketed and shall require that the premises be maintained in sanitary condition at all times.

66.2(2) *Who may inspect.* Any accredited veterinarian, licensed to practice in the state of Iowa, and who has been approved by the Iowa department of agriculture and land stewardship. In addition the veterinary inspector must be approved by the department to do brucellosis testing or shall have available approved laboratory testing facilities.

66.2(3) All livestock marketing permitholders are required to comply with the record-keeping requirements of subrule 66.3(7). Failure to do so shall constitute grounds for revoking their permit.

This rule is intended to implement Iowa Code section 163.1.

21—66.3(163) Duties and responsibilities of the livestock market management.

General. All livestock market owners, operators or managers shall cooperate in obtaining full compliance with all state laws, rules and with the federal regulation (Part 78, Title 9—C.F.R.) and shall agree to:

66.3(1) Notify the division of animal industry, Iowa department of agriculture and land stewardship and United States Department of Agriculture (Des Moines branch) animal disease eradication division as to method of operation (buying, receiving and selling of livestock). Auction markets shall furnish a schedule of regular sale dates and notify both aforementioned departments of all special sales not less than five days in advance.

66.3(2) Provide for chutes and divisions of yarding and pens as required to handle livestock according to their classification.

66.3(3) Furnish the name of a veterinarian who will be held primarily responsible for all inspections required to be approved as veterinary inspector.

66.3(4) Permit no animals to be sold at any time prior to veterinary inspection.

66.3(5) Release only recognized beef-type cattle for feeding or grazing purposes as qualify under Iowa law and federal regulations.

66.3(6) Clean and disinfect all chutes, whether portable or stationary and all pens, alleyways and scales after each sale or at any time when ordered to do so by the approved veterinary inspector and in accordance with the procedure recommended by the inspector.

66.3(7) Maintain accurate records, including records of origin, identification, destination or other disposition of all livestock handled at the livestock market. Such records shall be made available for inspection by an authorized state or federal inspector upon request. Such records shall be kept for a period of not less than two years.

66.3(8) Notify both state and federal offices immediately in the event of sale, transfer of ownership or change of management of the livestock marketing agency.

66.3(9) Failure to comply with any of the foregoing provisions shall be deemed sufficient reason to remove a market from the state-federal approved list or revoke the permit to operate as a livestock market or both. In the event of termination of operation, the permit to operate must be surrendered to the State Department of Agriculture and Land Stewardship, Henry Wallace Building, Des Moines, Iowa 50319.

21—66.4(163) Duties and responsibilities of the livestock market veterinary inspector.

General. The livestock market veterinary inspector shall allow sufficient time to perform their duties at the livestock market and shall inspect all livestock prior to sale whether sold by auction or private sale. In the case of auction markets they must be present during the entire time the sale is in progress. They shall have full authority to reject or detain any animal or animals at owner's expense, or any animal or animals which in their opinion is diseased or exposed in conformance with Iowa Code chapter 163, which for any reason may be detrimental to the health of the animals within the state. In addition to clinical inspection on all animals, the veterinary inspector shall:

66.4(1) Permit no animal to be sold prior to test when a test is required.

66.4(2) Permit no animal to be released prior to vaccination when vaccination is required.

66.4(3) Obtain permits for movement (either interstate or intrastate) at owner's expense when permits are required.

66.4(4) Issue all official quarantines (including feeder quarantine) or other form of releasing documents before permitting animals to be removed from the livestock market.

66.4(5) Mail copies of all certificate of veterinary inspections and quarantines to the division of animal industry immediately.

66.4(6) Mail copies of all test charts (both TB and Brucellosis) and copies of all calfhood vaccination record Form BV-1 to the United States Department of Agriculture (Des Moines branch), Animal Disease Eradication Division.

66.4(7) Report promptly all violations or refusals to comply with state laws, rules and federal regulations to the proper state or federal inspectors.

66.4(8) Failure to comply with any of the foregoing provisions shall be deemed sufficient reason for disapproving the veterinary inspector.

66.4(9) Identify all cattle exposed to brucellosis that are moving from a premise of origin or from a livestock market to slaughter, by branding with heat the letter "S" (at least 2 × 2 inches) placed on the left jaw prior to movement, or exposed cattle may be identified and permitted to a livestock market where they shall be identified by "S" brand upon arrival. Exposed cattle returned from the livestock market to the herd of origin under quarantine pending further testing are exempt from this requirement. Exposed cattle may move intrastate directly from a herd of origin to slaughter in a sealed truck without permanent identification by "S" brand.

In the event that circumstances make it impossible to return exposed animals to farm of origin, and that the sale of exposed animals to slaughter will create a financial hardship for the seller, a permit may be obtained from the department, whereby the exposed animals may be moved to farm of origin or other premise unbranded and there kept under strict quarantine. These animals must be tested at the appropriate times and the quarantine may be released when the results of the testing qualify the herd for such release.

Fee schedule. At market—no herd stop. Two dollars per head for all cattle branded. Claim by the veterinarian will be certified by the secretary of agriculture and forwarded to the county of origin.

Farm of origin—Trip charge fifteen dollars plus two dollars for each animal branded.

Charges for exposed cattle originating from out of state or from dealers shall be paid by consignor.

21—66.5(163) Classification of livestock markets and permitholders.

66.5(1) State-federal approved markets shall include all markets that qualify to receive cattle in conformance with state laws, rules and federal regulations 9 CFR, 78.1 et seq., revised as of January 1, 1980. They will be classified according to their physical facilities and equipment available to receive, handle and maintain the identity and the brucellosis health status of cattle marketed. They will be designated as Class "A", those approved to receive all classes of cattle including known brucellosis reactors, and Class "B", those approved to receive only cattle not known to be brucellosis infected.

66.5(2) Nonapproved markets shall include all markets that do not qualify for state-federal approval under 9 CFR, 78.1 et seq., revised as of January 1, 1980.

21—66.6(163) Requirements for state-federal (specifically) approved markets.

66.6(1) Physical facilities and equipment necessary to qualify for Class "A" state-federal approved market.

Class "A" certificates of approval will be issued to auction markets only; and only to those markets having facilities and equipment to receive cattle in conformance with state laws, rules and with federal regulation (Title 9, Part 78—CFR) and will be permitted to receive all classes of cattle including known brucellosis reactors.

66.6(2) Class "A" state-federal approved markets shall:

a. Provide a separate unloading chute and a division of yarding for handling of known brucellosis reactors, such chute and yarding shall at no time be used to hold cattle of any other class.

b. Provide sufficient runways or alleyways, the floors of which shall be covered with concrete or other material of an impervious nature so that reactor animals can travel from the holding pens through the sale ring and the scale room and be returned without leaving such floors.

c. Provide a separate unloading chute and a division of yarding for handling cattle originating in certified brucellosis-free herds or in negative herds from modified certified brucellosis areas. Such chute may be used for handling cattle of unknown brucellosis health status.

d. Provide sufficient runways or alleyways, the floors of which are covered with concrete or other material of an impervious nature so that animals can travel from holding pens through sale ring and scale room and be returned without leaving such floors.

66.6(3) Physical facilities and equipment necessary to qualify for Class "B" state-federal approved markets. Class "B" certificates of approval will be issued to auction markets meeting the same requirements as listed under 66.6(2) except paragraphs *"a"* and *"b"*; and to marketing agencies having facilities to maintain the identity and brucellosis health status of the various classes of cattle received.

66.6(4) *Nonapproved markets.* Nonapproved markets will not be permitted to receive cattle originating outside the state of Iowa, except such cattle that have met both state and federal requirements prior to entry, but must meet the same requirements as state-federal specifically approved markets in handling and releasing cattle to move intrastate and must meet all federal regulations under Title 9, Part 78—CFR, as well as the requirements of the state of destination in releasing cattle to move interstate. Cattle from certified herds and areas passing through such markets shall be deemed to have lost their status and must meet the requirements of 66.7(1) through 66.7(6). If brucellosis reactor animals are disclosed on tests within nonapproved markets, they shall be placed in a holding pen separate and apart from other cattle. Such animals must be sold or moved from the holding pen direct to slaughter.

This rule is intended to implement Iowa Code section 163.1.

21—66.7(163) Requirements for sale of all bovine animals. All animals must pass a negative test for brucellosis unless they can be classified under one of the following exemptions:

66.7(1) Steers and spayed heifers.

66.7(2) Female calves for dairy and breeding purposes under six months of age.

66.7(3) Female animals of recognized beef type sold for feeding and grazing purposes under 18 months of age (as evidenced by the loss of the first pair of temporary incisor teeth) which are not parturient (springers) or postparturient.

66.7(4) Cattle cosigned direct to slaughter.

66.7(5) Official calfhood vaccinates of the dairy breeds under 20 months of age and of beef breeds under 24 months of age when properly identified (as evidenced by the presence of the first pair of incisor teeth), which are not parturient (springers) or postparturient.

66.7(6) Cattle accompanied by test charts and properly identified as having passed a negative test within 30 days.

66.7(7) Cattle from brucellosis certified-free herds where certification number and date of last test are known and individually identified.

66.7(8) Cattle which have been located in a brucellosis Class Free state for the six months immediately prior to sale.

After the cattle are classified and identified, according to the purpose for which they are to be sold, this information shall be recorded on the check-in slip. All check-in slips, vaccination certificates, test charts, permits or other official documents shall be given to the official veterinary inspector. The veterinary inspector shall be held responsible for checking all animals and determining if the animals qualify under these exemptions. Animals that do not qualify must be tested or sold for slaughter.

This rule is intended to implement Iowa Code sections 163.1 and 163.19.

21—66.8(163) Testing. All animals classified to be tested shall be tested prior to sale. All brucellosis tests shall be reported on the regular brucellosis test form 4-33, and blood samples of all animals tested shall be forwarded to the State-Federal Animal Health Laboratory, Department of Agriculture and Land Stewardship, Wallace Building, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code section 164.4.

21—66.9(163) Order of sale through auction markets. The following order shall be maintained in the sale of the various classes of cattle through auction markets whenever applicable:

66.9(1) Cattle from certified herds and modified certified brucellosis areas.

66.9(2) Animals having passed a negative test within 30 days and official vaccinates of dairy type under 20 months of age and of beef type under 24 months of age not visibly pregnant or postparturient.

66.9(3) Beef cattle sold for feeding and grazing.

66.9(4) Animals consigned direct to a slaughter.

66.9(5) Brucellosis reactor animals.

This rule is intended to implement Iowa Code sections 163.1 and 163.19.

21—66.10(163) Releasing cattle. The veterinary inspector in charge of the livestock market shall be held responsible for seeing that all animals are released in conformance with Iowa laws, rules and federal regulation Title 9, Part 78—CFR, where interstate movement is involved. All release forms must be signed, stamped or otherwise approved by the veterinarian or someone authorized by the veterinarian. Any stamp so used must be initialed by the person by whom it is used. The livestock market management shall cooperate to see that all animals are released only on properly stamped or veterinary-approved release forms.

This rule is intended to implement Iowa Code section 163.4.

21—66.11(163,172B) Movement of livestock within the state. With the exception of nonquarantined livestock consigned for immediate slaughter, all livestock transported within Iowa, where a change of ownership is involved, must be accompanied by a standard transportation certificate or one of the following documents:

1. Certificate of Veterinary Inspection
2. Form M—Certificate of Inspection or Postmovement Quarantine Form
3. Form Q-LSM—Swine Quarantine
4. Form 1-27—Quarantined Livestock Consigned for Slaughter
5. Affidavit of Slaughter.

All of the foregoing documents shall be properly executed by a licensed, accredited veterinarian of Iowa and shall indicate the following: destination of the livestock, purpose of the movement, number and description of the animals, point of origin, and name and address of the consignor.

EXCEPTION: Livestock classes that do not require individual identification may move intrastate on a bill of sale containing a stamped certification of veterinary inspection. The stamped certification shall contain the following statement:

> "I certify as a licensed, accredited veterinarian, that these animals have been inspected by me and that they are not showing signs of infectious, contagious, or communicable diseases (except where noted)."
>
> _____
>
> Signature

The stamped certification must be signed by the veterinarian or contain the veterinarian's stamped signature, applied and initialed by someone authorized by the veterinarian.

Market consignment records must be signed or initialed by the inspecting veterinarian as proof of inspection before the stamped certification can be applied to the bill of sale by an authorized person. Inspection records must be maintained by the market for at least two years.

This rule is intended to implement Iowa Code chapters 163, 163A, 164, and 172B and Iowa Code section 163.12.

21—66.12(189,189A) Movement of food-producing animals and their products into the state. All movement in Iowa of animals which are raised for food production and intended for feeding or slaughter purposes, and which originate from countries which allow a use of chloramphenicol, prohibited by 21

CFR, Part 555, Revised as of April 1, 1983, shall be accompanied by a certificate that documents such animals are free from any residue of chloramphenicol drugs.

This rule is intended to implement Iowa Code sections 189.15 and 189.17.

21—66.13(163,202C) Feeder pig dealer bonding/letter of credit requirement and claims procedures.

66.13(1) *General requirement.* In addition to the bond required in Iowa Code section 163.30, a feeder pig dealer shall maintain on file with the department evidence of financial responsibility consisting of a surety bond furnished by a surety or an irrevocable letter of credit issued by a financial institution. "Financial institution" means a bank or savings and loan association authorized by this state, or by the laws of the United States, which is a member of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or the National Bank for Cooperatives established in the Agricultural Credit Act, Pub. L. No. 100-233.

Bonds and irrevocable letters of credit filed with the department shall be on the forms prescribed by the animal industry bureau. Bonds and irrevocable letters of credit shall be written so as to provide funds to protect purchasers of feeder pigs who incur damages in Iowa as a result of sick or diseased pigs obtained from a feeder pig dealer or who otherwise suffer damages arising from a breach of contract relating to the sale of feeder pigs by the feeder pig dealer described in the bond or irrevocable letter of credit.

Evidence of financial responsibility shall be provided to the department before the feeder pig dealer's license is issued or renewed pursuant to Iowa Code section 163.30. The evidence of additional financial responsibility shall not be for less than $5,000 or for more than $25,000. The department may increase the amount of the evidence of financial responsibility for a dealer upon a showing of good cause. Terms of the bond or irrevocable letter of credit shall provide that if the bond or irrevocable letter of credit is canceled as to future transactions, written notice of the cancellation shall be provided to the department at least 30 days in advance of the cancellation. Such notice shall be provided to the department either by personal delivery to the department or by certified mail. The feeder pig dealer shall provide an adequate replacement bond or irrevocable letter of credit prior to the effective date of the cancellation. The dealer's failure to submit an adequate replacement bond or irrevocable letter of credit shall result in the immediate suspension of the dealer's license to do business until such bond or irrevocable letter of credit is provided.

66.13(2) *Applicability.* A bond or irrevocable letter of credit filed pursuant to this rule shall only be subject to claims which arise after July 1, 2004, and are subsequent to feeder pig dealer licensing or relicensing with the department.

66.13(3) *Amount of bond.* The amount of financial responsibility shall be based on the annual volume of feeder pig sales in Iowa reported by the feeder pig dealer to the department or, at the option of the feeder pig dealer, the annual volume of all livestock or feeder pig sales reported to the United States Packers and Stockyards Administration. The following table shall be used to determine the level of additional financial responsibility:

TABLE FOR COMPUTING SURETY BOND
OR IRREVOCABLE LETTER OF CREDIT EQUIVALENTS

Volume Range in Dollars		Additional Financial Responsibility Required
(not less than)	(not more than)	
$ 1	$ 6,500,000	$ 5,000
$ 6,500,001	$ 7,150,000	$ 6,000
$ 7,150,001	$ 7,800,000	$ 7,000
$ 7,800,001	$ 8,450,000	$ 8,000
$ 8,450,001	$ 9,100,000	$ 9,000
$ 9,100,001	$ 9,750,000	$10,000
$ 9,750,001	$16,250,000	$11,000

Volume Range in Dollars		Additional Financial Responsibility Required
(not less than)	(not more than)	
$16,250,001	$22,750,000	$12,000
$22,750,001	$29,250,000	$13,000
$29,250,001	$35,750,000	$14,000
$35,750,001	$42,250,000	$15,000
$42,250,001	$48,750,000	$16,000
$48,750,001	$55,250,000	$17,000
$55,250,001	$61,750,000	$18,000
$61,750,001	$68,250,000	$19,000
$68,250,001	$74,750,000	$20,000
$74,750,001	$81,250,000	$21,000
$81,250,001	$87,750,000	$22,000
$87,750,001	$94,250,000	$23,000
$94,250,001	$100,750,000	$24,000
$100,750,001	And higher	$25,000

66.13(4) *Claims.* A person who has suffered damages in Iowa as a result of sick or diseased pigs obtained from a feeder pig dealer, or who otherwise suffers damages arising from a breach of contract relating to the sale of feeder pigs by the feeder pig dealer, may file a claim against a bond or irrevocable letter of credit provided under this rule. A claim against the bond shall be valid only for a claim incurred in the state of Iowa for which there is a final judgment from a court of competent jurisdiction.

66.13(5) *Procedure.* A person filing a claim against the bond or irrevocable letter of credit shall submit both of the following before such claim shall be considered to be completed:

1. A notarized and completed copy of the claim form.
2. An official copy of the court judgment or other order which has established the debt as a bona fide adjudicated debt, including the date that the judgment was entered.

66.13(6) *Disputes.* The department shall review any claim filed and, upon determining that a completed form and the required documents have been submitted, shall provide written notification of the claim to both the feeder pig dealer and the issuer of the bond or irrevocable letter of credit. The feeder pig dealer and the issuer of the bond or irrevocable letter of credit shall have 20 calendar days to file a written dispute of the claim. The dispute of the claim shall be limited to the following grounds only:

a. The claim is not covered by the bond or irrevocable letter of credit.
b. The claim is not a final adjudicated judgment.
c. The claim does not relate to damages incurred in Iowa.
d. The claim is for a judgment which has already been settled or compromised.

66.13(7) *Costs of settling disputes.* If a dispute is filed on a claim, the department shall schedule an administrative hearing to determine whether the dispute is valid. The costs of the department in resolving the dispute, including the costs incurred in holding the administrative hearing, shall be paid out of the proceeds of the bond or irrevocable letter of credit prior to distribution of any proceeds, whether the dispute is upheld or denied.

This rule is intended to implement Iowa Code section 163.30, Iowa Code Supplement chapter 202C and 2004 Iowa Acts, House File 2475.

21—66.14(163) Intrastate movement requirements.

66.14(1) All intrastate movements of Cervidae other than to a state or federally inspected slaughter establishment shall be accompanied by an intrastate movement Certificate of Veterinary Inspection signed by a licensed, accredited veterinarian. Movement of CWD susceptible Cervidae, other than

direct movement to slaughter, shall only be allowed from herds that have been enrolled in the Iowa CWD monitoring program and have successfully completed at least one year. As used in this subrule, "been enrolled" means that the herd owner has received from the department written notification of the herd's enrollment and participation in the program.

66.14(2) Such intrastate movement certificate shall include all of the following:

a. Consignor's name and address.

b. Consignee's name and address.

c. Individual, official identification of each animal.

d. For CWD susceptible Cervidae, the certificate shall include the CWD herd premises number, the herd status level, the anniversary date, and the expiration date. The following statement must be included on the certificate:

"There has been no diagnosis, sign, or epidemiological evidence of chronic wasting disease in this herd for the past year."

e. For Cervidae other than CWD susceptible Cervidae, the following statement must be included on the certificate:

"The animal(s) has not spent any time within the past 36 months in a zoo, animal menagerie, or like facility, or has not been on the same premises as a cervid herd which has been classified as a CWD infected herd, exposed herd, or trace herd."

This rule is intended to implement Iowa Code chapter 163 and Iowa Code Supplement chapter 170.

21—66.15 to **66.19** Reserved.

21—66.20(163) Revocation or denial of permit. The department may revoke or refuse to issue or renew a livestock dealer permit, a pig dealer license, or a livestock dealer agent permit or a pig dealer agent permit if the department finds that the applicant, a person with an ownership interest in the applicant, or an individual employed by the applicant has done any of the following:

1. Has not filed or maintained a surety bond in the form and amount as required by Iowa Code section 163.30 or Iowa Code Supplement chapter 202C.

2. Has violated the provisions of Iowa Code chapter 163, 163A, 164, 165, 166, 166A, 166B, or 166D or the rules adopted pursuant to those chapters.

3. Has made false or misleading statements as to the health or physical condition or origin of livestock or feeder pigs, or practiced fraud or misrepresentation in connection with the buying or receiving of livestock or feeder pigs or the selling, exchanging, soliciting or negotiating the sale of livestock or the weighing of livestock or feeder pigs.

4. Has failed to maintain and keep suitable animal health and movement records as required or to provide access to the department to the records.

5. Has had a license or permit suspended or revoked or has been otherwise barred from engaging in the buying, selling, assembling livestock or feeder pigs, or receiving livestock or feeder pigs on consignment by either the United States Department of Agriculture or by another state unless the department concludes after an investigation that the facts leading to the suspension or revocation demonstrate that granting the license or permit will not create a substantial risk to the Iowa livestock or feeder pig industry. This paragraph shall also apply if there is a pending action to suspend or revoke a permit.

6. Has failed to comply with any lawful order of the department or a state or federal court.

This rule is intended to implement Iowa Code chapter 163.

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CHAPTER 67
ANIMAL WELFARE

[Prior to 7/27/88 see Agriculture Department 30—Ch 20]

21—67.1(162) Animals included in rules. Dog, as that term is used in the rules, includes hybrid dog mixtures. Animals, as that term is used in rules relating to boarding kennels, commercial kennels, hobby kennels, commercial breeders, dealers, public auctions, animal shelters, and pounds includes dogs and cats. Animals, as that term is used in rules relating to pet shops, includes dogs, cats, rabbits, rodents, nonhuman primates, birds, fish, or other vertebrate animals.

This rule implements Iowa Code sections 162.1 and 162.8.

21—67.2(162) Housing facilities and primary enclosures.

67.2(1) *Housing facilities.*

a. Buildings shall be of adequate structure and maintained in good repair so as to ensure protection of animals from injury.

b. Shelter shall be provided to allow access to shade from direct sunlight and regress from exposure to rain or snow. Heat, insulation, or bedding adequate to provide comfort shall be provided when the atmospheric temperature is below 50° F. or that temperature to which the particular animals are acclimated. Indoor housing facilities shall be provided for dogs and cats under the age of eight weeks and for dogs and cats within two weeks of whelping.

c. Indoor and outdoor housing facilities shall at all times be provided with ventilation by means of doors, windows, vents, air conditioning or direct flow of fresh air that is adequate to provide for the good health and comfort of the animals. Such ventilation shall be environmentally provided as to minimize drafts, moisture condensation, odors or stagnant vapors of excreta.

d. Ample lighting shall be provided by natural or artificial means or both during sunrise to sunset hours to allow efficient cleaning of the facilities and routine inspection of the facilities and animals contained therein.

e. Ceilings, walls and floors shall be so constructed as to lend themselves to efficient cleaning and sanitizing. Such surfaces shall be kept in good repair and maintained so that they are substantially impervious to moisture. Floors and walls to a height of four feet shall have finished surfaces.

f. Food supplies and bedding materials shall be stored so as to adequately protect them from contamination or infestation by vermin or other factors which would render the food or bedding unclean. Separate storage facilities shall be maintained for cleaning and sanitizing equipment and supplies.

g. Washrooms, basins or sinks shall be provided within or be readily accessible to each housing facility, for maintaining cleanliness among animal caretakers and sanitizing of food and water utensils.

h. Equipment shall be available for removal and disposal of all waste materials from housing facilities to minimize vermin infestation, odors and disease hazards. Drainage systems shall be functional to effect the above purposes.

i. Facilities shall be provided to isolate diseased animals, to prevent exposure to healthy animals.

j. Outdoor dog runs and exercise areas shall be of sound construction and kept in good repair so as to safely contain the animal(s) therein without injury. Floors shall be concrete, gravel or materials which can be regularly cleaned and kept free of waste accumulation. Grass runs and exercise areas are permissible provided adequate ground cover is maintained, holes are kept filled and the ground cover is not allowed to become overgrown. Dog runs and exercise areas utilizing wire floors are permissible, provided that they are not injurious to the animals and adequately maintained.

k. Group housing is permitted for animals which are compatible with one another. Adequate space shall be provided to prevent crowding and to allow freedom of movement and comfort to animals of the size which are housed in the facility. Females in estrus shall not be housed with males, except for breeding purposes.

67.2(2) *Primary enclosures.*

a. Primary enclosures shall be of sound construction and maintained in good repair to protect the animals from injury.

b. Construction materials and maintenance shall allow the animals to be kept clean and dry. Walls and floors shall be impervious to urine and other moisture.

c. The shape and size of the enclosure shall afford ample space for the individual(s) to comfortably turn about, stand erect, sit or lie. Not more than 12 dogs or cats shall be housed in the same primary enclosure.

d. Litter pans, containing clean litter, shall be provided at all times for kittens and cats.

e. Means shall be provided to maintain that temperature and ventilation which is comfortable for the species within the primary enclosure. Lighting shall be adequate to allow observation of the animals but they shall be protected from excessive illumination.

f. Animals shall be removed from their primary enclosures at least twice in each 24-hour period and exercised, unless the primary enclosure shall be of sufficient size to provide this exercise.

g. If doghouses with chains are used as primary enclosures for dogs kept outdoors, the chains used shall be so placed or attached that they cannot become entangled with the chains of other dogs or any other objects. Such chains shall be of a type commonly used for the size dog involved and shall be attached to the dog by means of a well fitted collar. Such chains shall be at least three times the length of the dog as measured from the tip of its nose to the base of its tail and shall allow the dog convenient access to the doghouse.

67.2(3) *In-home kennel.*

a. For the purposes of this subrule, "in-home kennel" means an individual required to be licensed as a boarding kennel or as a commercial breeder under Iowa Code chapter 162 who maintains or harbors not more than six adult animals (including both breeding animals and surgically sterilized animals) in the individual's living quarters.

b. Notwithstanding subrules 67.2(1), 67.2(2), and 67.3(2), an in-home kennel shall comply with the following standards:

(1) Food supplies shall be stored so as to adequately protect them from contamination or infestation by vermin or other factors which would render the food unclean.

(2) Ample lighting shall be provided by natural or artificial means or both during sunrise to sunset hours. Animals shall be protected from excessive illumination.

(3) Building shall be of adequate structure and maintained in good repair so as to ensure protection of animals from injury.

(4) Facilities shall be provided to isolate diseased animals to prevent exposure to healthy animals.

(5) Outdoor dog runs and exercise areas shall be of sound construction and kept in good repair so as to safely contain the animal(s) therein without injury. Floors shall be concrete, gravel or materials which can be regularly cleaned and kept free of waste accumulation. Grass runs and exercise areas are permissible provided adequate ground cover is maintained, holes are kept filled and the ground cover is not allowed to become overgrown. Wire floors are permissible, provided they are not injurious to the animals and adequately maintained.

(6) Group housing is permitted for animals which are compatible with one another. Adequate space shall be provided to prevent crowding and to allow freedom of movement and comfort to animals of the size which are housed within the facility. Females in estrus shall not be housed with males, except for breeding purposes.

(7) If the animals are confined to a restricted area of the living quarters, the restricted area shall meet the space requirements set out in paragraph 67.2(2)*"c."*

(8) Litter pans, containing clean litter, shall be provided at all times for kittens and cats.

(9) Means shall be provided to maintain that temperature and ventilation which is comfortable for the species within the primary enclosure or housing facility.

(10) Animals shall be removed from their primary enclosures at least twice in each 24-hour period and exercised.

(11) Housing facilities shall be cleaned as necessary to reduce disease hazards, and an effective program shall be established and maintained for the control of vermin infestation.

This rule is intended to implement Iowa Code sections 162.8 and 162.9.

21—67.3(162) General care and husbandry standards.

67.3(1) *Feeding and watering.*

a. All species covered under Iowa Code chapter 162 shall be provided with adequate feed as defined in section 162.2(1).

b. Young animals and animals under veterinary care shall be fed at more frequent intervals and with specific diets as their needs shall dictate.

c. All species covered under Iowa Code chapter 162 shall be provided with adequate water as defined in section 162.2(2).

67.3(2) *Sanitation.*

a. Housing facilities and primary enclosures shall be cleaned a minimum of once in each 24-hour period and more frequently as may be necessary to reduce disease hazards and odors.

b. Housing facilities and primary enclosures shall be sanitized at intervals not to exceed two weeks or more frequently as may be necessary to reduce disease hazards. Primary enclosures for dogs and cats in pet shops shall be sanitized at intervals not to exceed 48 hours. Sanitizing shall be done by washing the surfaces with hot water and soap or detergent, followed by the application of a safe and effective disinfectant. Pressure water systems or live steam may be used for cleaning, if animals are removed while cleaning. Runs and exercise areas having gravel or other nonpermanent surface materials shall be sanitized by periodic removal of soiled materials, application of suitable disinfectants, and replacement with clean surface materials.

c. An effective program shall be established and maintained for the control of vermin infestation.

67.3(3) *Veterinary care.*

a. Programs of disease prevention and control shall be established and maintained.

b. Sick, diseased or injured animals shall be provided with proper veterinary care or disposed of by euthanasia.

c. All species regulated under Iowa Code chapter 162 which are infected with contagious diseases shall be immediately placed into facilities provided for in 67.2(1)*"i."*

d. All dogs and cats transported into housing facilities regulated under Iowa Code chapter 162, excluding pounds and animal shelters, shall have been vaccinated against distemper and rabies, unless exempted by direct recommendation of the owner's veterinarian or exempted by Iowa Code section 351.33 or 351.42.

e. Each commercial breeder shall enter into a written agreement with a veterinarian licensed in this state to provide veterinary care for the animals maintained in the commercial breeder's facility. The agreement shall include a requirement that the veterinarian visit the facility at least once every 12 months for the purpose of viewing all the animals in the facility, making a general determination concerning the health/disease status of the animals, and reviewing the commercial breeder's program for disease prevention and control. If during the course of the visit, the veterinarian identifies an animal that requires a more detailed individual examination to determine the specific condition of the animal or to determine an appropriate course of treatment, then such examination shall be undertaken.

f. If during an inspection of a facility the department finds an animal which appears to have a physical condition or disease which, in the opinion of the inspector, requires a veterinarian's attention, the department may order that the licensee subject the animal to a veterinarian's examination at the licensee's expense. The department may require the licensee to submit written proof of the veterinarian's examination and results of the examination within a time frame set by the department.

67.3(4) *Personnel.*

a. The owner or personnel shall be present at least once in each 24-hour period to supervise and ascertain that the care of animals and maintenance of facilities conform to all of the provisions of Iowa Code chapter 162.

b. A sufficient number of employees shall be utilized to provide the required care of animals and maintenance of facilities during normal business hours.

This rule is intended to implement Iowa Code sections 162.1 and 162.2.

21—67.4(162) Transportation.

67.4(1) *Primary enclosures.*

a. Primary enclosures utilized in transportation shall be of sound construction and maintained in good repair so as to ensure protection of animals from injury.

b. Floors and lower sides shall be so constructed or shall be covered on the inner surfaces so as to contain excreta and bedding materials.

c. Adequate space shall be provided so that the individual(s) contained therein may comfortably turn about, stand erect, sit or lie.

d. Openings shall be provided in enclosures so that adequate ventilation can be maintained when they are positioned in the transporting vehicle.

e. Primary enclosures shall be cleaned and sanitized before each trip.

f. The temperature within primary enclosures shall not be allowed to exceed the atmospheric temperature; moreover the ambient temperature shall not be allowed to exceed 95° F. for a period of more than two hours, nor be allowed at any time to fall below 45° F. unless the animals are acclimated to lower temperatures.

67.4(2) *Vehicles.*

a. Protection shall be afforded to primary enclosures transported in the vehicle, sheltering the animals from drafts and extremes of hot or cold temperatures to which they are not acclimated.

b. Primary enclosures used in transportation shall be securely positioned in the vehicle to protect the animals from injury.

67.4(3) *Care in transit.*

a. Animals in transit shall be provided adequate feed and adequate water as defined in Iowa Code sections 162.2(1) and 162.2(2).

b. Incompatible animals shall not be placed together during shipment. Females in estrus shall not be placed in the same primary enclosure with a male.

c. Animals shall be inspected at least once in each six-hour period and their emergency needs attended to immediately.

d. Animals shall be removed for exercise and their enclosures cleaned if they shall have been en route for a 24-hour period.

21—67.5(162) Purchase, sale, trade and adoption.

67.5(1) Records shall be made, and retained for a period of 12 months for each dog, cat or nonhuman primate sold, traded, or adopted from a licensee or registered pound or animal shelter. Records shall include date of sale or transfer, identification of animal, names and addresses of seller and purchaser or transferor and recipient, and source of the animal. Records shall be similarly kept on other small vertebrate animals sold or transferred, except that individual identifications shall not be required.

67.5(2) Licensees, pounds, and animal shelters shall furnish a statement of sale, transfer, or adoption to each purchaser or recipient of a dog, cat, nonhuman primate, bird, or other vertebrate animal. This statement shall include: Name and address of the seller or transferor, name and address of the purchaser or recipient, date of sale or transfer, description or identification of the vertebrate sold or transferred, prophylactic immunization(s) and date(s) administered, and internal parasite medication(s) given and date(s) administered.

67.5(3) All vertebrate animals regulated under Iowa Code chapter 162 which are known to be exposed to or show symptoms of having infectious and contagious diseases or which show symptoms of parasitism or malnutrition sufficient to adversely affect the health of the animals are restricted from sale or transfer.

The secretary may order quarantine on premises or housing facilities in which any of the above listed conditions in 67.5(3) shall exist. Quarantine shall be removed when at the discretion of the secretary or the secretary's designee, the disease conditions for which quarantined are no longer evident and the apparent health of the animals indicates absence of contagion.

67.5(4) For the purposes of determining an individual's obligation to be licensed under Iowa Code section 162.8, "breeding animal" will include any sexually intact animal over the age of 12 months.

This rule is intended to implement Iowa Code sections 162.6 and 162.8.

21—67.6(162) Public health.

67.6(1) Animal wardens aiding in the enforcement of the provisions of Iowa Code chapter 162 shall enlist veterinary aid in programming control measures to protect the public from zoonotic diseases which may be suspected to be on the premises of a licensee or registrant of said Iowa Code chapter.

67.6(2) Animals, housing facilities, or premises may be placed under quarantine by order of the secretary when it is deemed necessary to protect the public from zoonotic diseases.

21—67.7(162) Kennels, shelters and other facilities—access, seizure and impoundment.

67.7(1) *Boarding kennels and commercial kennels.*

a. Records shall be made, and retained for a period of 12 months for each animal boarded, groomed or trained. Records shall include owner's name and address, identification of animal, duration of stay, service provided and illnesses which have occurred.

b. Animals exhibiting symptoms of disease shall be promptly examined and treated by a veterinarian.

c. Group housing is permitted only if the animals are owned by the same person and are compatible.

d. Grooming and training utensils and equipment shall be cleaned and sanitized between use on animals owned by different persons.

e. Primary enclosures shall be cleaned and sanitized between use in containing animals owned by different persons.

f. Primary enclosures shall utilize latches which cannot be inadvertently opened, or shall be equipped with some form of locking device so as to prevent the accidental release of the animal contained therein.

67.7(2) *Animal shelters and pounds.*

a. Dogs, cats and other vertebrates upon which euthanasia may be permitted by law, shall be destroyed only as defined by euthanasia under Iowa Code chapter 162.

b. Animal shelters and pounds shall develop and implement a plan providing for the surgical sterilization of all dogs and cats released, unless exempted from this provision in accordance with Iowa Code section 162.20(5).

c. Sterilization agreements shall contain the following:

(1) Name, address and signature of the person receiving custody of the dog or cat.

(2) A complete description of the animal, including any identification.

(3) The signature of the representative of the pound or animal shelter.

(4) The date that the agreement is executed and the date by which sterilization must be completed.

(5) A statement which states the following:

1. Sterilization of the animal is required pursuant to Iowa Code section 162.20.

2. Ownership of the dog or cat is conditioned upon the satisfaction of the terms of the agreement.

3. Failure to satisfy the terms of the agreement constitutes a breach of contract, requiring the return of the dog or cat.

4. A person failing to satisfy the sterilization provisions of the agreement is guilty of a simple misdemeanor.

d. In addition to records required by 67.5(1), animal shelters and pounds shall maintain, for a period of 12 months, the following records:

(1) Euthanasia records, including date of entry, source of animal, and date of euthanasia.

(2) Sterilization agreements, including confirmation in the form of a receipt furnished by the office of the attending veterinarian.

(3) Disposition records of all animals lawfully claimed by owners, research facilities, or Class B federal dealers.

e. A pound or animal shelter may apply in writing for an enforcement waiver pursuant to Iowa Code section 162.20(5), paragraph *"b."* The application shall include the specific guidelines under which the waiver is being requested and a certified copy of the ordinance providing the basis for the waiver application. A waiver application fee of $10 shall accompany the application.

f. A pound or animal shelter shall be subject to civil penalties as provided in Iowa Code section 162.20(3), paragraph *"c,"* for not procuring and maintaining required records documenting compliance with the sterilization agreement, successfully seeking return of the animal from a noncompliant custodian, failing to effect a sterilization agreement when required for an animal which is released, or seeking legal recourse as provided in Iowa Code section 162.20(4). The pound or animal shelter shall be entitled to appeal pursuant to Iowa Code chapter 17A.

67.7(3) *Access to facilities and records.* The premises, housing facilities and records required by Iowa Code chapter 162 shall be open for inspection by authorized personnel of the Iowa department of agriculture and land stewardship during normal business hours.

67.7(4) *Seizure and impoundment.*

a. "Animals," as that term is used in this subrule, shall include any dog, cat, rabbit, rodent, nonhuman primate, fish other than live bait, bird, or other vertebrate animal. Animals, as that term is used in this subrule, shall not include members of the equine, bovine, porcine, ovine, or caprine species.

b. "Seizure and impoundment," as used in this subrule, may mean either of the following:

(1) The confinement of the animals to the property of the owner or custodian of the animals with provisions being made for the care of the animals pending review and final disposition.

(2) The physical removal of the animals to another facility for care pending review and final disposition.

c. Failure of any pound, animal shelter, pet shop, boarding kennel, commercial kennel, commercial breeder, public auction or dealer to adequately house, feed, water or care for the animals in the person's or facility's possession or custody may subject the animals to seizure and impoundment. Seizure and impoundment shall be at the discretion of the secretary. Standards to guide discretion shall include, but not be limited to, the following:

(1) An assessment of the condition of the animals, including, but not necessarily limited to, direct visual examination. Such assessment may include procedures and testing necessary to accurately determine disease, nutritional, and health status.

(2) An assessment as to the likelihood that the condition of the animals will deteriorate if action is not taken.

(3) An assessment as to the degree of failure to provide for the animals. Primary consideration will be based on the general health of the animals and the adequacy with which the animals are being fed, watered and sheltered.

(4) An assessment as to the history, if any, of the facility's compliance, noncompliance, and willingness to take corrective action. Such an assessment will be based on past inspection reports completed by regulatory personnel from the appropriate licensing agency.

(5) Court determination, if any, as to the existence of cruelty, abuse or neglect under Iowa Code chapter 717.

(6) The willingness of the facility to allow frequent monitoring and the ability of the department or local law enforcement officers to provide this service.

(7) A determination as to whether adequate impoundment facilities or resources exist and are available for use by the department for the seizure and impoundment of animals.

d. In proceeding under this subrule the department may either:

(1) Petition the court in the county where the facility is located for an ex parte court order authorizing seizure and impoundment, either separately or as part of an action commenced pursuant to Iowa Code chapter 717. The petition shall request an expedited hearing within seven days of the order for seizure and impoundment. The expedited hearing shall determine final disposition of the animals seized and impounded.

(2) Issue an administrative order authorizing seizure and impoundment. The order shall state the finding of facts on which the order was issued. The order shall be personally served upon the owner

or manager of the facility. If the owner or manager cannot be found after a reasonable effort to locate, the notice shall be posted conspicuously at the facility. The notice shall state the time and place of an administrative hearing to determine the appropriateness of the seizure and impoundment; and if such seizure and impoundment is upheld, then the hearing shall determine final disposition of the animals seized and impounded.

The administrative hearing shall be held within three days of the seizure unless a continuance is agreed upon by the department and the owner. A decision at the administrative hearing will not be stayed by the department for more than 48 hours pending appeal without a court order. However, the department may delay the disposition if the department determines the delay is desirable for the orderly disposition of the animals. Unless otherwise provided in this subrule, the department will follow adopted departmental rules on the conduct of the administrative hearing.

e. The release of animals for final disposition to the department will allow for the sale, adoption or euthanasia of the animals. Determination of the most appropriate option for final disposition of a specific animal shall reside with the department and be based on, but not limited to, the animal's physical health, the presence of any condition which would necessitate treatment of significant duration or expense, and the appropriateness of the animal as a pet. All due consideration shall be given to the sale or adoption of an animal as the preferable option of disposition.

f. Any moneys generated from the sale or adoption of animals shall be used to provide compensation for the cost of care of the animals while impounded or the cost of disposition. Any residual moneys shall be directed to the owner. If the moneys generated from the sale and adoption of the animals are insufficient to meet the costs incurred in caring for the animals, the difference may be recovered in an action against the owner of the animals.

g. The department may arrange for impoundment services, including final disposition, with any licensed facility able to adequately provide for the care and disposition of the animals. Animals for which an order is issued authorizing seizure and impoundment shall be individually identified and records maintained relating to their care and final disposition. The department, or their representatives, shall be allowed access during normal business hours to the records and animals impounded.

h. In lieu of seizure and impoundment, the secretary may authorize a one-time dispersal of animals, including by sale, as a remedial option. The owner may petition the department in writing for full or partial dispersal. The petition shall address the terms and conditions for dispersal which are being requested. The department may require additional terms and conditions. The terms and conditions governing dispersal will be contingent upon department approval. Such approval shall be in writing.

i. Conditions of this subrule, subrule 67.7(3), and Iowa Code sections 162.13 and 162.14 shall likewise apply to all eligible licensees and registrants, whether or not they have been properly licensed by Iowa Code chapter 162.

67.7(5) *Adoption by reference.* The secretary may adopt by reference or otherwise such provisions of the rules, regulations and standards under the federal Acts, with such changes therein appropriate to make them applicable to operations and businesses subject to Iowa Code chapter 162, which shall have the same force and effect as if promulgated under said chapter.

This rule is intended to implement Iowa Code sections 162.3, 162.4, 162.13 and 162.20.

21—67.8(162) Applicability to commercial establishments with federal licenses. In addition to obtaining the permit from the department, any person who operates a commercial establishment under a current and valid federal license shall provide care ensuring adequate feed, water, and housing facilities and appropriate sanitary control, grooming practices and veterinary care. The department has the authority to inspect the premises and the required records.

This rule is intended to implement Iowa Code sections 162.10A, 162.10B and 162.10C.

[**ARC 9456B**, IAB 4/6/11, effective 3/18/11; **ARC 9456B**, IAB 4/6/11, effective 3/18/11; **ARC 9670B**, IAB 8/10/11, effective 9/14/11]

21—67.9(162) Acceptable forms of euthanasia. The euthanasia of all animals kept in facilities regulated under Iowa Code chapter 162 and these rules shall be performed in a manner deemed

acceptable by and published in the 2007 American Veterinary Medical Association Guidelines on Euthanasia. A copy of this report is on file with the department.

This rule is intended to implement Iowa Code chapter 162.

21—67.10(162) Loss of license or denial of license.

67.10(1) If a licensee has its license revoked or relinquishes its license while a revocation action is pending, the licensee shall not be eligible to reapply for a new license for at least three years from the date of the revocation or relinquishment. If a licensee has been found in court to have committed an act of animal cruelty or neglect, the licensee shall not be eligible for a new license for at least five years from the date of the revocation or relinquishment. If an applicant has been found in court to have committed an act of animal cruelty or neglect, the applicant shall not be eligible for a license for at least five years from the date of the conviction or guilty plea. The prohibition against relicensure or licensure in this subrule shall include any partnership, firm, corporation, or other legal entity in which the person has a substantial interest, financial or otherwise, and any person who has been or is an officer, agent or employee of the licensee if the person was responsible for or participated in the violation upon which the revocation or conviction was based. The department may waive the three-year bar to relicensure arising from a revocation or relinquishment of a license where a revocation action was pending. Such waiver shall be made on a case-by-case basis. Such a waiver shall only be given if the department finds that the conditions which resulted in the revocation or revocation action have been addressed and there is little likelihood that they will be replicated.

67.10(2) If a licensee has its license revoked or voluntarily relinquishes its license, the licensee shall file with the department a written plan detailing the numbers and types of animals in its facilities and how these animals are going to be legally disposed of to ensure that the animals are being humanely handled and to ensure that the remaining animals are being maintained properly. The licensee shall submit this plan to the department no later than ten calendar days from the date of revocation or relinquishment.

This rule is intended to implement Iowa Code section 162.13.

[**ARC 8847B**, IAB 6/16/10, effective 5/20/10]

21—67.11(162) Dog day care.

67.11(1) *Definition.*

"Dog day care" means a facility licensed as a commercial kennel or a boarding kennel and designed and operated with the intention that a dog admitted to the facility is allowed, in compliance with this rule, to mingle and interact with other dogs in one or more playgroups operating in the facility. The purpose of a dog day care is to allow dogs participating in the day care to become socialized through interaction in playgroups with other compatible dogs. A kennel that operates as a dog day care shall not provide overnight boarding or other kennel activities unless, during the time that the day care operation is closed, the kennel is operated in a manner consistent with applicable kennel rules including, but not limited to, paragraph 67.2(1)*"k"* that restricts the commingling of dogs.

67.11(2) *Facility requirements.* A facility licensed to be a dog day care shall comply with the following facility requirements:

a. Buildings shall be of adequate structure and maintained in good repair so as to ensure protection of dogs from injury.

b. Shelter shall be provided to allow access to shade from direct sunlight and regress from exposure to rain or snow. Heat, insulation, or bedding adequate to provide comfort shall be provided when the atmospheric temperature is below 50° F or below that temperature to which the particular dogs are acclimated. Indoor facilities shall be provided for all dogs.

c. Indoor and outdoor facilities shall at all times be provided with ventilation by means of doors, windows, vents, air conditioning or direct flow of fresh air that is adequate to provide for the good health and comfort of the dogs. Such ventilation shall be environmentally provided to minimize drafts, moisture condensation, odors or stagnant vapors of excreta.

d. Ample lighting shall be provided by natural or artificial means or both during sunrise to sunset hours to allow efficient cleaning of the facilities and routine inspection of the facilities and dogs contained therein.

e. Ceilings, walls, floors, furniture, and play equipment shall be constructed to lend themselves to efficient cleaning and sanitizing. Such surfaces shall be kept in good repair and maintained so that they are substantially impervious to moisture. Floors and walls to a height of four feet shall have finished surfaces. Upholstered furniture or carpeting shall not be permitted in that portion of the facility to which dogs have access.

f. Food supplies and bedding materials shall be stored to adequately protect them from contamination or infestation by vermin or other factors that would render the food or bedding unclean. Separate storage facilities shall be maintained for cleaning and sanitizing equipment and supplies.

g. Washrooms, basins or sinks shall be provided within or be readily accessible to each facility for maintaining cleanliness among animal caretakers and sanitizing of food and water utensils.

h. Equipment shall be available for removal and disposal of all waste materials from the building to minimize vermin infestation, odors and disease hazards. Drainage systems shall be functional to achieve the above purposes.

i. Facilities shall be provided to isolate any dog that becomes sick or injured or that becomes otherwise incompatible with the other dogs.

j. Outdoor dog runs and exercise areas shall be of sound construction and kept in good repair so as to safely contain the dogs therein without injury. Floors shall be concrete, gravel or materials which can be regularly cleaned and kept free of waste accumulation. Grass runs and exercise areas are permissible provided adequate ground cover is maintained, holes are kept filled and the ground cover is not allowed to become overgrown.

k. Group interaction is permitted for dogs that are compatible with one another.

l. The play area for dogs shall provide for a minimum of 75 square feet per dog.

67.11(3) *Sanitation requirements.* A facility licensed to be a dog day care shall comply with the following sanitation standards:

a. All areas to which a dog has access shall be cleaned and sanitized a minimum of once in each 24-hour period and more frequently as may be necessary to reduce disease hazards and odors. Sanitizing shall be done by washing the surfaces with hot water and soap or detergent, followed by the application of a safe and effective disinfectant. Runs and exercise areas having gravel or other nonpermanent surface materials shall be sanitized by periodic removal of soiled materials, application of suitable disinfectants, and replacement with clean surface materials.

b. An effective program shall be established for the control of vermin infestation.

67.11(4) *Operations.* A facility licensed to be a dog day care shall comply with the following operational standards:

a. A dog, including a dog owned by the day care owner or a day care employee, shall be admitted into a day care only after the day care has:

(1) Subjected the dog to a preentry screening process that adequately evaluates the temperament of the dog, the dog's ability to interact with other dogs in a positive manner, and the dog's ability to interact with humans in a positive manner. The screening shall include, but is not limited to, obtaining a social history of the dog from the dog's owner. A written record of the testing shall be maintained by the facility for the time the dog is enrolled in the day care.

(2) Obtained from the dog's owner documentation of the medical history of the dog, including the dog's current vaccination status against distemper and rabies, unless exempted by direct, written recommendation of the owner's veterinarian or exempted by Iowa Code section 351.33 or 351.42.

(3) Determined through documentation or from obvious visual inspection that the dog is at least eight weeks of age.

(4) Obtained documentation that the dog has been spayed or neutered, if the dog is over six months of age.

(5) Obtained a written acknowledgment from the dog's owner that the owner understands the inherent risk of injury or disease when dogs owned by different people are allowed to commingle. This written acknowledgment shall be separately signed or initialed by the dog's owner.

b. The day care shall separate dogs in the day care into playgroups comprised of compatible dogs. Dogs of incompatible personalities or temperament shall be maintained separately.

c. The day care shall not admit any dog into the day care if the dog has a predisposition to be possessive of either the facility or a person owning or working in the facility.

d. The day care shall make advance arrangements with a veterinarian to provide emergency veterinary care for dogs at the day care.

e. A sick, diseased or injured dog shall be immediately removed from the playgroup and isolated. If circumstances indicate that immediate veterinary care is required, the dog shall be taken to a veterinarian or a veterinarian shall be called to examine the dog. The veterinarian can be either a veterinarian whose services have been contracted for by the day care or the veterinarian designated by the dog's owner, if a timely examination by that veterinarian is feasible.

f. Feeding of dogs and giving of snacks to a dog shall only be provided when the dog receiving the food or snack is outside the vision of the other dogs in the playgroup.

g. A day care shall not establish a playgroup composed of more than 15 dogs.

h. A day care shall employ sufficient staffing so that there is a minimum of one person assigned to each playgroup. The person supervising a playgroup shall be in continuous visual or auditory contact with the playgroup at all times.

This rule is intended to implement Iowa Code sections 162.6 and 162.9.

21—67.12(162) Fostering oversight organizations and foster care homes.

67.12(1) As used in this rule, unless the context otherwise requires:

"Foster care home" means a private residence that is authorized to provide temporary shelter and care for an animal which has been accepted by a fostering oversight organization.

"Fostering oversight organization" means a registered animal shelter or a registered pound, as defined in Iowa Code chapter 162, which has been authorized by the department to utilize foster care homes in its operation.

67.12(2) A registered animal shelter or registered pound shall not operate a foster care home or operate an organization that utilizes a foster care home unless the shelter or pound is in compliance with this rule and other applicable provisions of this chapter and Iowa Code chapter 162.

67.12(3) A registered animal shelter or registered pound may apply to the department for a permit authorizing the shelter or pound to utilize one or more foster care homes in carrying out its mission of providing for the care and maintenance of an animal which has been taken in or entrusted to the animal shelter or pound. For purposes of this rule, an animal shelter or pound which has been granted such authorization shall be considered a fostering oversight organization.

67.12(4) Neither a registered animal shelter nor a registered pound may utilize a foster care home unless the shelter or pound has been granted authorization by the department to be a fostering oversight organization. An animal shelter or pound which uses a foster care home without first obtaining a permit authorizing the shelter or pound to be a fostering oversight organization shall be considered to be operating illegally, shall be subject to suspension or revocation of its license to operate, and may be subject to other penalties authorized in Iowa Code chapter 162.

67.12(5) A registered animal shelter or registered pound seeking to obtain a permit to be a fostering oversight organization shall make application to the department on a form prescribed by the department. When feasible, the application shall be submitted to the department at the same time that the registered animal shelter or registered pound submits its certificate of registration renewal application. The permit application shall provide sufficient information to allow the department to determine the ability of the proposed fostering oversight organization to provide adequate screening and oversight of any foster care home operating under the authority of the fostering oversight organization. Such application shall include, but is not limited to, the following information:

a. The proposed fostering oversight organization's plan for screening a prospective foster care home. Such plan shall include the criteria to be used by the fostering oversight organization in determining whether a person who will be operating a foster care home is capable of caring for the animals that may be placed in the foster care home.

b. The proposed fostering oversight organization's plan for providing oversight to the foster care home. The plan shall include the frequency of inspections of the foster care home by the fostering oversight organization and the criteria to be used by the fostering oversight organization in reviewing the foster care home during periodic inspections. The plan shall also include the actions to be taken by the fostering oversight organization in the event that the fostering oversight organization determines that the foster care home is not adequately providing for the animals in the foster care home.

c. The name, address, and telephone number of the staff person connected with the proposed fostering oversight organization who will have primary responsibility for administering the proposed foster care program.

d. The name, address, and telephone number of a secondary staff person connected with the proposed fostering oversight organization who will have responsibility for administering the proposed foster care program in the absence of the primary administrator.

67.12(6) The initial approval of a fostering oversight organization shall be in effect only until the next expiration date of the registered pound or registered animal shelter's license. Thereafter, a fostering oversight organization permit renewal shall be concurrent with the facility's certificate of registration renewal, unless circumstances otherwise require.

67.12(7) A fostering oversight organization shall require that all persons seeking to operate a foster care home under the fostering oversight organization submit a written application to the fostering oversight organization specifying the proposed foster care home's qualifications, including, but not limited to, the ability of the foster care home to provide adequate care, exercise, feed, water, shelter, space, and veterinary care.

67.12(8) A fostering oversight organization shall not be authorized to approve more than 20 foster care homes. In granting a permit to a fostering oversight organization, the department may further restrict the number of foster care homes a particular fostering oversight organization may utilize if the department determines that the fostering oversight organization does not have adequate personnel to supervise the number of foster care homes for which authorization was sought. The department may authorize the fostering oversight organization to approve more than 20 foster care homes only if the department finds that the fostering oversight organization has and maintains adequate personnel assigned to provide sufficient oversight of foster care homes.

67.12(9) A fostering oversight organization shall not authorize a foster care home to have in its care more than 4 foster care animals over four months of age or 12 foster care animals less than four months of age, unless the foster care animals less than four months of age are from no more than two biological litters. When a nursing litter is placed in a foster care home, the nursing mother shall not be counted toward any applicable animal limitations for two weeks after the litter is weaned. Any approval of a foster care home shall not be interpreted to limit or override any local government's limitations on the number of animals that may be kept on a single premises.

67.12(10) A person who has been found to have engaged in or participated in an act constituting animal abandonment, neglect, cruelty, or abuse shall not be authorized to operate a foster care home. In addition, if a person has had a license or permit issued under Iowa Code chapter 162 or under the United States Department of Agriculture's animal care program revoked or has surrendered that person's license in lieu of revocation, then that person shall not be authorized to operate a foster care home.

67.12(11) A fostering oversight organization shall not place a sexually intact animal in a foster care home where there is a sexually intact animal of the opposite sex of the same species, unless the fostering oversight organization determines that the fostered animal is too young to breed. If the fostering oversight organization determines that a sexually intact animal may be placed in a foster care home with another sexually intact animal of the opposite sex of the same species because the fostered animal is too young to breed, then the fostering oversight organization shall monitor the physical development of the fostered

animal to either remove the animal before it is capable of breeding or to neuter or spay the fostered animal.

67.12(12) The fostering oversight organization shall retain a copy of all the following documents for a period of 24 months and shall make such documents available for inspection by the department during regular business hours:

a. Applications to operate a foster care home, including any written approvals, conditional approvals, or denials.

b. Inspections or other reports relating to the operation of a foster care home.

c. Any written complaints or notes written by staff of the fostering oversight organization relating to an oral complaint against a foster care home.

d. Any documents relating to the investigation or other resolution of a complaint regarding a foster care home.

e. Any documents relating to the revocation or suspension of a foster care home's authorization.

67.12(13) The fostering oversight organization shall maintain detailed records as to which animals have been placed in a foster care home, when each animal was placed in a foster care home, and the ultimate disposition of each animal.

67.12(14) All adoptions and euthanasias of animals placed in a foster care home shall be the responsibility of the fostering oversight organization and shall not be performed by the foster care home, unless an emergency euthanasia must be performed by a licensed veterinarian to prevent the needless suffering of the animal.

67.12(15) All deaths, injuries, or emergency euthanasias occurring within a foster care home shall be reported to the fostering oversight organization within 24 hours of the event.

67.12(16) It is the primary responsibility of the fostering oversight organization to provide for oversight and regulation of its foster care homes; however, the department may choose to inspect a foster care home if the department determines that it would be in the best interests of the animals being maintained in the foster care home to conduct the inspection or if the department deems an inspection is desirable to determine whether a fostering oversight organization is properly fulfilling its role of screening and oversight of foster care homes. If the department determines that either serious or chronic problems exist in a foster care home, the department may order the fostering oversight organization to suspend or rescind the authorization of the foster care home. The fostering oversight organization shall immediately obtain physical examinations of all animals previously placed in the foster care home.

67.12(17) If the department determines that a fostering oversight organization is not providing adequate screening or oversight of its foster care homes, then the department may suspend or rescind the fostering oversight organization's authorization to use foster care homes.

67.12(18) If the department suspends or revokes the license of an animal shelter or pound and that animal shelter or pound is also a fostering oversight organization, then the authorization of the animal shelter or pound to operate as a fostering oversight organization shall immediately cease, and the authorization of the foster care homes operating under that fostering oversight organization shall also immediately cease.

This rule is intended to implement Iowa Code chapter 162.

21—67.13(162) Greyhound breeder or farm fee. A person who owns, keeps, breeds, or transports a greyhound dog for pari-mutuel wagering at a racetrack as provided in Iowa Code chapter 99D shall pay a fee of $40 for the issuance or renewal of a state license.

This rule is intended to implement 2010 Iowa Acts, House File 2280, section 5.

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CHAPTER 68
DAIRY

[Prior to 3/9/88, see Agriculture Department 30—Ch 30]
[Prior to 7/27/88, see 21—Ch 30]

21—68.1(192,194) Definitions. In addition to the definition found in the Code of Iowa, the following terms shall mean:

"Habitual violator" is a producer or other dairy industry business entity that is regulated by the department, for whom the monthly official records for somatic cell counts, bacteria, cooling or added water show that the violation has occurred eight times in a 12-month period, including the accelerated testing counts; or that has received three, two-of-four warning letters in a 12-month period; or that has received a second three-of-five, off-the-market letter in a 12-month period; or that has been cited for unsanitary conditions three times in a 12-month period; or that has been found with a fourth positive antibiotic in a 12-month period.

"Imminent hazard to the public health" means any condition so serious as to require immediate action to protect the public health. It shall include, but is not limited to: pesticide, antibiotic, or any other substance in milk or milk products considered to be dangerous if consumed by humans.

"P.M.O." means the Grade A Pasteurized Milk Ordinance, 2009 Revisions, from the United States Public Health Service/Food and Drug Administration, a copy of which is on file with the department and is incorporated into this chapter by reference and made a part of this chapter.

"Public health hazard" means any condition which, if not corrected, could endanger the public health.

"Qualified personnel" means employees certified or approved by the department to perform certain tasks as required by the Code of Iowa. It shall include, but not be limited to, dairy industry inspectors and hearing officers.

[**ARC 8699B**, IAB 4/21/10, effective 5/26/10]

21—68.2(192) Licenses and permits required.

68.2(1) *Milk plant permit.* A person who brings, sends into, or receives into this state, milk or milk products for storage, transfer, processing, sale or to offer for sale, shall possess a "milk plant" permit.

68.2(2) *Grade A farm permit.* A person who operates a dairy farm to produce "Grade A milk" shall possess a "Grade A farm" permit.

68.2(3) *Grade B farm permit.* A person who operates a dairy farm to produce milk to be used as "milk for manufacturing purposes" shall possess a "Grade B farm" permit.

68.2(4) *Hauler/grader license.* A person engaged in the transporting, transferring, sampling, weighing or measuring of milk or a person engaged as a sample courier shall possess a "hauler/grader" license.

68.2(5) *Tester license.* A person who tests a dairy product for fat content to establish a value of the product shall possess a "tester's" license.

68.2(6) *Milk truck license.* A vehicle used primarily for collecting or transporting milk or milk product in the bulk shall possess a "milk truck" license.

68.2(7) *Dairy distributor's permit.* A person primarily in the business of distributing dairy products shall possess a "dairy distributor" permit.

21—68.3(192) License application. Reserved.

21—68.4(192) Certification of personnel. Certification programs conducted by the department shall follow closely the procedures as outlined in the P.M.O., Appendix B.

68.4(1) *Dairy industry inspectors.* Reserved.

68.4(2) *Field representative.* The department shall provide a certification program for individuals who work as "quality control" officers in the dairy industry but are not employees of the department. An individual certified as a "field representative" may perform certain tasks for the department when authorized to do so by the department.

21—68.5(190,192,194) Milk tests. The department recognizes approved methods of testing milk or cream for milk fat and other dairy products as specified in Standard Methods for the Examination of Dairy Products (16th Edition). That publication is hereby incorporated into this rule by this reference and made part thereof insofar as applicable, a copy of which is on file with the department.

All milk, graded or tested, as provided by Iowa Code chapters 192 and 194 shall be graded and tested by samples which shall be taken in the following manner:

1. Samples may only be taken from vats or tanks which pass the required organoleptic test.
2. The temperature of milk in bulk tanks from which the sample is to be taken must not be higher than 45 degrees Fahrenheit for Grade A milk and 50 degrees Fahrenheit for manufacturing milk.
3. The temperature of the milk in the bulk tank shall be recorded on the farm milk room record, on the collection record, and on the sample container.
4. The volume of the milk in the bulk tank shall then be measured and the measurement shall be recorded.
5. Bulk tanks of less than 1,000-gallon size shall be agitated for a period of not less than five minutes. Bulk tanks of 1,000 gallons or greater shall be agitated for a period of not less than ten minutes. However, if the manufacturer of the bulk tank provides in writing that a lesser time for agitation is acceptable given the design of the bulk tank, then the lesser time is acceptable if the agitation is done in a manner and time consistent with the manufacturer's written instructions. In addition, the instructions must be conspicuously posted in the milk room. The instructions shall be laminated, framed under glass, or otherwise displayed so that the instructions will not deteriorate while displayed in the milk room.
6. The sample shall then be taken by using an approved sterile dipper and the milk shall be poured in an approved sterile sample container, until the sample container is three-quarters full.
7. The sample of milk shall then be immediately stored at a temperature of between 32 and 40 degrees Fahrenheit.
8. Grade A and Grade B milk shall not be picked up from a farm bulk milk tank when the milk volume in the tank is insufficient to completely submerge the bulk milk agitator paddle or, if there is more than one set of paddles, the lower set of agitator paddles into the milk.
9. No device, other than the bulk tank agitator, shall be used to agitate the milk in a farm bulk milk tank.
10. If the milk in a farm bulk milk tank cannot be properly agitated by the bulk tank agitator at the time of pickup by the milk hauler, the milk shall not be sold for human consumption.

This rule is intended to implement Iowa Code sections 194.4, 194.5, and 194.6.

21—68.6(190,192,194) Test bottles. Test bottles and pipettes as approved by the Standard Methods for the Examination of Dairy Products, 16th Edition, are approved for universal use in Iowa. All test bottles should be graduated to the half point.

This rule is intended to implement Iowa Code chapters 192 and 194.

21—68.7(190,192,194,195) Test transactions. Rescinded IAB 1/24/01, effective 2/28/01.

21—68.8(190,192,194,195) Cream testing. Rescinded IAB 1/24/01, effective 2/28/01.

21—68.9(192,194) Tester's license. The examination for a tester's license must be approved and administered by the department.

This rule is intended to implement Iowa Code sections 192.111 and 194.13.

21—68.10(192,194) Contaminating activities prohibited in milk plants. All "milk plants," "creameries," "transfer stations," "receiving stations," or any other facility for handling of bulk milk or milk products shall be a facility separated from any activity that could contaminate or tend to contaminate the milk or milk products.

21—68.11(192,194) Suspension of dairy farm permits.

68.11(1) Grade A and Grade B farm permit suspension and revocation. The department may temporarily suspend a Grade A or Grade B farm permit if the dairy farm fails to meet all the requirements as set forth in the P.M.O. or the Grade B United States Department of Agriculture document titled, "Milk for Manufacturing Purposes and Its Production and Processing, Recommended Requirements," effective September 1, 2005. A Grade A farm under temporary suspension of the Grade A permit may sell the milk as "milk for manufacturing purposes" until reinstated as a Grade A farm if the former Grade A farm meets the requirements necessary to sell Grade B milk. A Grade B farm under temporary suspension of the Grade B permit may sell milk as "Undergrade Class 3" until reinstated as a Grade B farm if the former Grade B farm meets the requirements of Undergrade Class 3. If an inspection reveals a violation which, in the opinion of the inspector, is an imminent hazard to the public health, the inspector shall take immediate action to prevent any milk believed to have been exposed to the hazard from entering commerce. In addition, the inspector shall immediately notify the department that such action has been taken. In other cases, if there is a repeat violation of a dairy standard as determined by two consecutive routine inspections of a dairy farm, the inspector shall immediately refer the violation to the department for action. The department may revoke the dairy permit of a person that the department determines is a habitual violator as defined in rule 21—68.1(192,194).

68.11(2) Summary suspension of dairy farm permits. If the department finds that the public health, safety or welfare imperatively requires emergency action, summary suspension of a permit may be ordered pending proceedings for revocation or other action. If a permit is summarily suspended, no milk or milk products may be sold or offered for sale until permit is reinstated.

The following situations or incidents are situations in which summary suspension is appropriate:

a. Unclean milk contact surfaces of equipment or utensils.

b. Filthy conditions in a milking barn or parlor or in a cattle housing area, including several days' accumulation of manure in the milking barn gutters, calf pens or in other areas.

c. Filthy conditions in a cow yard and very dirty cows.

d. Filthy conditions in a milk room/milk house.

e. Water supply, water pressure, or water heating facilities not in compliance with standard operating procedures.

f. No access to hand-washing facility in the milk room/milk house.

g. Violation of standards under this chapter related to well construction or potability of water supply, including any cross connections between potable and nonpotable water sources.

h. Lack of an approved sanitizer in the milk room/milk house or adjacent storage area to meet the sanitizing requirements.

i. Visibly dirty udders and teats on cows being milked.

j. Milk not cooled in compliance with subrule 68.22(4).

k. Rodent activity in the milk room/milk house, or severe rodent activity in a milking barn or milking parlor or in a feed storage room.

l. Dead animals in the milking barn, parlor or cow yard.

m. Other situations where the department determines that conditions warrant immediate action to prevent an imminent threat to the public health or welfare.

68.11(3) A Grade A dairy producer whose permit has been suspended for a period of 12 consecutive months shall be downgraded to the Grade B market and be issued a Grade B permit.

[**ARC 8699B**, IAB 4/21/10, effective 5/26/10]

GRADE A MILK

21—68.12(192) Milk standards. Standards for the production, processing, distribution, transportation, handling, sampling, examination, grading, labeling, sale and standards of identity of Grade A pasteurized milk, Grade A milk products and Grade A raw milk, the inspection of Grade A dairy herds, dairy farms, milk plants, milk receiving stations and milk transfer stations, the issuing, suspension and revocation of permits and licenses to milk producers, milk haulers, and milk distributors shall be regulated in

accordance with the provisions of the P.M.O., a copy of which is on file with the department and is incorporated into this rule by reference and made a part of this rule.

Where the mandatory compliance with the provisions of the appendixes therein is specified, the provisions shall be deemed a requirement of this rule.

Cottage cheese, dry curd cottage cheese and low fat cottage cheese bearing the Grade A label must conform to the standards of identity for Title 21, section 133 of the Code of Federal Regulations. However, cottage cheese, dry curd cottage cheese, and low fat cottage cheese shall not require a Grade A rating for sale within this state.

The discharge pipe on all gravity flow manure removal systems in milk barns shall be sufficient in size to handle the flow of manure generated by the cows using the system and any bedding materials or other materials that may enter the system.

Lighting systems shall be adequate to produce sufficient light as required by the Pasteurized Milk Ordinance. Such systems may include, but are not limited to, electrical powered lighting systems or pressurized white gasoline, pressurized kerosene, or battery powered lanterns. Such systems shall be designed and used in a manner that no odors can reasonably be expected to be emitted into the milk room unless there is sufficient ventilation to remove the odors. Lanterns shall be mounted on permanently affixed hooks and shall remain in place at all times.

If artificial lighting is provided by nonelectrical means, then a portable battery operated fluorescent light shall be made available for use and maintained in working order in the milk house. The fluorescent bulb shall either be shatterproof or shall be enclosed in a shatterproof enclosure.

Raw milk for pasteurization shall be cooled to 7° C (45° F) or less within two hours after milking. However, the blend temperature after the first milking and subsequent milkings shall not exceed 10° C (50° F). No specific bulk milk tank equipment is required in achieving this cooling standard; however, producers are expected to use all necessary diligence in achieving compliance.

This rule is intended to implement Iowa Code chapter 192.

21—68.13(192,194) Public health service requirements.

68.13(1) *Certification.* A rating of 90 percent or more calculated according to the rating system as contained in Public Health Service "Methods of Making Sanitation Ratings of Milk Shippers," 2009 Revision, shall be necessary to receive or retain a Grade A certification under Iowa Code chapter 192. That publication is hereby incorporated into this rule by this reference and made a part thereof insofar as applicable, a copy of which is on file with the department.

68.13(2) *Documents.* The following publications of the Public Health Service of the Food and Drug Administration are hereby adopted. A copy of each is on file with the department:

1. "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments," 2009 Revision.
2. "Standards for the Fabrication of Single Service Containers and Closures for Milk and Milk Products," as incorporated in the P.M.O., Appendix J.
3. "Grade A Condensed and Dry Milk Products and Condensed and Dry Whey," Supplement I to the Grade A Pasteurized Milk Ordinance, 2009 Recommendations.
4. "Evaluation of Milk Laboratories," 2009 Revision.

This rule is intended to implement Iowa Code chapter 192.

[**ARC 8699B**, IAB 4/21/10, effective 5/26/10]

21—68.14(190,192,194,195) Laboratories. Evaluation of methods and reporting of results for approval of a laboratory shall be based on procedures and tests contained in "Standard Methods for the Examination of Dairy Products, 16th Edition 1992," and "Methods of Analysis of the Association of Official Analytical Chemists, 15th Edition 1990." These publications are hereby incorporated into this rule by this reference and made a part thereof insofar as applicable; a copy of each being on file with the department. The health authority shall accept, without the imposition of a fee for testing or inspection, supplies of milk and milk products from an area or an individual shipper not under routine inspection provided they are delivered in closed and date-coded containers; provided further that if the code date

has expired, reasonable inspection testing fees may be assessed the processor or establishment having care, custody and control of the milk and milk products.

This rule is intended to implement Iowa Code chapter 192.

GRADE B MILK

21—68.15(192,194) Milk standards. Standards for the production and processing of milk for manufacturing purposes shall conform to standards contained in the USDA document entitled "Milk for Manufacturing Purposes and Its Production and Processing, Recommended Requirements," dated September 1, 2005, which is hereby incorporated into this rule by reference and made a part thereof insofar as applicable, a copy of which is on file with the department.
[**ARC 8699B**, IAB 4/21/10, effective 5/26/10]

21—68.16(194) Legal milk.

68.16(1) All milk delivered to a creamery, cheese factory or milk processing plant shall be subject to an examination, as provided in Iowa Code chapter 194, which shall be made at the plant if delivered in separate containers or before mixing with other milk collected in a bulk tank container and the examination shall be made by a licensed grader.

68.16(2) Every creamery, cheese factory or milk processing plant which gathers its milk by a bulk tank vehicle whether operated by an independent contractor or otherwise shall provide for a licensed grader in the operation of the bulk tank and for examination of the milk by the grader upon receipt thereof at the bulk tank.

68.16(3) The common change occurring in milk is the development of acidity, causing an acid flavor and odor, or even complete or partial coagulation. Other undesirable changes include sweet curdling, ropiness, gassiness and abnormal flavors, odors and colors. All milk showing any of these defects or any other defect must be rejected.

68.16(4) The presence of any insect in milk shall be sufficient cause for rejection.

This rule is intended to implement Iowa Code sections 194.2, 194.12 and 194.15.

21—68.17(194) New producers.

68.17(1) A "new producer" is a person selling milk for the first time who has not previously produced milk under Iowa Code chapter 194. A person who formerly produced farm-separated cream and is now selling, for the first time, whole milk for manufacturing purposes is considered a new producer. Similarly, a producer who previously supplied Grade A milk or sold milk in another state not reciprocating on quality transfers and offering manufacturing milk for sale in the state of Iowa for the first time shall be classified as a new producer. A new producer is also one who has not offered manufacturing milk for sale since the enactment of this milk grading law on July 4, 1959.

68.17(2) A licensed milk grader must examine, smell and taste the first lot of milk purchased from a new producer. This milk must also be tested immediately for extraneous matter or sediment content. However, it is not necessary to subject the milk of the new producer on the first delivery to a bacterial quality test. A test of this nature, however, must be made on a properly collected sample from this producer within 15 days thereafter.

68.17(3) If the sediment disc on the can of milk selected for test shows sediment in excess of 2.50 mg., all cans in the shipment shall be tested for sediment content in the same manner. Any milk showing sediment in excess of 2.50 mg. shall be rejected by the creamery, cheese factory or milk processing plant and not used for human consumption.

This rule is intended to implement Iowa Code section 194.2.

21—68.18(194) Testing and exclusion of Class III milk.

68.18(1) If a producer desires to change to another plant or factory, it is required that the first shipment of milk be accompanied by a written quality release form from the former purchaser. This quality release form must be requested by the producer in person or in writing from the manager of the plant previously purchasing the milk. (Plant being asked for quality release shall give it to person

with written order or deliver to producer making the request.) The new buyer shall not accept the first delivery until receiving a copy of the record of the producer's milk quality covering the preceding 90 days.

68.18(2) If the quality release form of this producer shows that the last test for bacterial quality indicated Class III milk, the new purchaser must then test first shipment of the transferring producer's milk by:

a. Organoleptic grading (physical appearance, taste and smell).

b. Sediment or extraneous matter.

c. An estimate of bacterial quality must be run within seven days from the last test date entered on the transfer form.

68.18(3) In other words, the previous record of bacterial quality is transferred. For example, if a producer has had two consecutive Class III bacterial estimates at one plant and then decides to sell the milk to another plant, the producer may not start as a new producer without previous history. This rule requires that the milk be tested for four consecutive weeks if there is no improvement in the quality of the milk during this period. Upon transferring to a new plant, the next bacterial test is entered on the record as the third of the four required tests.

68.18(4) If the fourth consecutive test is still Class III, this producer's milk may not be purchased by any plant for human consumption. The plant refusing this milk is required to notify the area resident inspector of the dairy products control bureau of the Iowa department of agriculture and land stewardship, immediately, in writing.

This rule is intended to implement Iowa Code section 194.2.

21—68.19(194) Unlawful milk. Four weekly Class III bacterial tests or milk containing radioactive agents "deleterious to health" shall make rejection compulsory and that milk shall not be accepted thereafter by any plant or creamery until authorized by the secretary of agriculture.

This rule is intended to implement Iowa Code sections 194.4 and 194.9.

21—68.20(194) Price differential. All purchasers or receivers of milk shall maintain a price differential between the grades of milk as defined by bacterial estimate test.

21—68.21(194) Penalties for plants and producers.

68.21(1) The scope of this section is broad, covering all plant employees, operators and milk haulers.

68.21(2) A producer selling milk to a new purchaser without first obtaining a quality release form from the former buyer, would be an example of noncompliance with the law and these rules.

This rule is intended to implement Iowa Code section 194.20.

21—68.22(192,194) Farm requirements for milk for manufacturing.

68.22(1) *Milking facility and housing.* A milking barn or milking parlor of adequate size and arrangement shall be provided to permit normal sanitary milking operations. It shall be well lighted and ventilated, and the floors and gutters in the milking area shall be constructed of concrete or other impervious material. The facility shall be kept clean.

68.22(2) *Milk house or milk room.* A milk house or milk room conveniently located and properly constructed, lighted, and ventilated shall be provided for handling and cooling milk and for washing, handling, and storing the utensils and equipment. Other products shall not be stored in the milk room which would be likely to contaminate milk, or otherwise create a public health hazard.

It shall be equipped with wash and rinse vat, utensil rack, milk cooling facilities and have an adequate supply of hot water available for cleaning milking equipment.

68.22(3) *Utensils and equipment.* Utensils, milk cans, milking machines (including pipeline systems), and other equipment used in the handling of milk shall be maintained in good condition, shall be free from rust, open seams, milkstone, or any unsanitary condition, and shall be washed, rinsed, and drained after each milking, stored in suitable facilities, and sanitized immediately before use with at least 200 ppm. chlorine solution or its equivalent.

68.22(4) *Cooling.* Milk in farm bulk tanks shall be cooled to 45° F or 7° C or lower within two hours after milking and maintained at 50° F or 10° C or lower until transferred to the transport tank. Milk in cans shall be cooled immediately after milking to 50° F or 10° C or lower unless delivered to the plant within two hours after milking. The temperature requirement for milk placed in cans will be 50° F or 10° C or lower. The cooler, tank, or refrigerated unit shall be kept clean.

This rule is intended to implement Iowa Code chapter 192 and section 192A.28.

21—68.23 to **68.25** Reserved.

21—68.26(190,192,194) Tests for abnormal milk.

68.26(1) At least once every calendar month, all creameries, cheese factories, or milk processing plants, hereafter referred to as purchasers, shall test a herd milk sample from every producer in a certified or officially designated laboratory to determine the existence of abnormal milk.

68.26(2) A herd milk sample shall be deemed to be abnormal or adulterated if a test by direct microscopic examination, electronic somatic cell count, or equivalent technique, reveals a count greater than 750,000 somatic cells/ml.

68.26(3) Whenever two of the last four consecutive somatic cell counts exceed 750,000 cells/ml, the purchaser or regulatory authority shall send a written notice thereof to the person concerned. An additional sample shall be taken within 21 days of the sending of such notice, but not before the lapse of three days. Immediate suspension of permit shall be instituted whenever the standard is violated by three of the last five somatic cell counts.

68.26(4) Within one week following receipt of a written application from the producer, an inspection shall be made by the regulatory authority or the purchaser and a herd milk sample taken. If the test indicates a count of 750,000 or less somatic cells/ml, the producer's milk may be purchased for human consumption provided additional samples of herd milk are tested at a rate of not more than two per week. The producer shall be reinstated under the normal testing program when three out of four consecutive tests have counts of 750,000 or less somatic cells/ml.

This rule is intended to implement Iowa Code chapter 192 and Iowa Code sections 190.4, 194.4, and 194.6.

21—68.27(192,194) Standards for performing farm inspections. The August 1, 1976, manual prepared by USDA/AMS, Dairy Division, titled "General Instructions for Performing Farm Inspections According to USDA Recommended Requirements for Manufacturing Purposes and Its Production and Processing for Adoption by State Regulatory Agencies," is adopted in its entirety, and shall constitute the official standards for farms producing milk for manufacturing, with the following exception:

Strike from Rule 1c, Brucellosis Test, the words "Uniform Methods and Rules" for establishing and maintaining Certified Brucellosis Free Herds of Cattle, Modified Certified Brucellosis Area and Certified Brucellosis Free Areas which are approved by Animal Disease Eradication Division, Agricultural Research Service. . .", and insert in lieu thereof, "Brucellosis Eradication, Uniform Methods and Rules, effective February 1, 1998". The bacteriological standards for private water supplies used by dairy farms consist of an MPN (Most Probable Number of Coliform Organisms) of less than 2.2/100 ml by the multiple tube fermentation technique, or less than 1/100 ml by the membrane filter technique, or the results of any water test approved by the United States Food and Drug Administration or Environmental Protection Agency of less than 1/100 ml.

DAIRY FARM WATER

21—68.28 to **68.34** Reserved.

21—68.35(192) Dairy farm water supply.

68.35(1) Water for milk house and milking operations shall be from a supply properly located, protected, and operated and shall be easily accessible, adequate and of a safe, sanitary quality.

68.35(2) A Grade A permit shall not be issued to an applicant when the water well supplying the dairy facility is located in a well pit.

68.35(3) New well construction or the reconstruction of an existing well supplying the dairy facility shall be constructed according to 567—Chapter 49, Iowa Administrative Code.

68.35(4) Frost-free hydrants shall be located at least ten feet from the well that supplies the water for the dairy facility unless a written variance is granted by the department.

68.35(5) The department encourages the use of high-pressure washers for use in the dairy facility. However, they can create a negative pressure and contaminate the water supply system because of their capability to pump at a faster rate than water can be supplied if not properly installed and operated.

The dairy facility water supply system shall be protected from overpumping by a high-pressure washer by one of the following:

1. A separate water supply.
2. By supplying the high-pressure washer from a surge tank that is isolated from the main water supply system by an air gap.
3. A low-pressure cutoff switch.
4. A device built into the high-pressure washer by the manufacturer and approved by the department.
5. Any other device installed in the system to prevent a negative pressure to the supply system that is approved by the department.

This rule is intended to implement Iowa Code chapter 192.

21—68.36(192) Antibiotic testing.

68.36(1) The dairy industry shall screen all Grade A and Grade B farm bulk milk pickup tankers and farm can milk loads for beta lactam drug residues or other residues as designated by the department. A sampling method shall be used with can milk loads to ensure that the sample includes raw milk from every milk can on the vehicle.

68.36(2) When loads are found to contain drugs or other inhibitors at levels exceeding federal Food and Drug Administration established "safety levels," the department's dairy products control bureau shall be notified immediately of the results and of the ultimate disposition of the raw milk. Disposition shall be in a manner approved by the bureau. The producer samples from the violative load shall be tested for tracing the violation back to the violative producer. The primary responsibility for tracing the violation back to the violative producer shall be that of the initial purchaser of the raw milk.

68.36(3) In every antibiotic incident, pickups of milk from the violative individual producer(s) shall be immediately discontinued and the permit shall be suspended until such time that subsequent testing by a certified industry supervisor establishes that the milk does not exceed safe levels of inhibitory residues. In addition, in every antibiotic incident except when the load is negative and the milk can be used, the violative producer shall pay the purchaser for the contaminated load of milk and the producer will not be paid for the producer's share of milk on the load.

68.36(4) The dairy products control bureau staff shall monitor the dairy industry inhibitor load testing activities by making unannounced, on-site inspections to review the load sampling records. The inspector may also collect load samples for testing in the department's dairy laboratory.

68.36(5) For the first violative occurrence within a 12-month period, a department dairy products inspector shall conduct an investigation.

68.36(6) For the second violative occurrence within a 12-month period, a department dairy products inspector shall make an appointment with the producer and a dairy industry representative to meet at the dairy facility within 10 working days of the violative occurrence to inspect the drug storage and to determine the cause of the second violation. In addition, the producer shall review the "Milk and Dairy Beef Residue Prevention Protocol" with a veterinarian within 30 days of the violative occurrence. The protocol certificate shall be signed by the producer and the veterinarian. The producer shall send the dairy products control bureau a copy of the signed certificate within 35 days of the violation. Failure to complete the course or to submit a copy of the certificate to the dairy products control bureau is grounds for suspension or revocation of a violative producer's permit to sell raw milk.

68.36(7) For the third violative occurrence within a 12-month period, the producer shall attend a hearing concerning the third violation at a time, date, and place set by the department. At the hearing, the producer shall explain the history of the violations and steps taken to prevent a repetition of the violation. At the conclusion of the hearing, the department may order the producer to take additional steps to avoid future repetition of the violation. Failure of the producer to abide by the conditions set by the department is grounds for the department to initiate an action to suspend or revoke the producer's permit to sell raw milk.

68.36(8) In every antibiotic incident of a noncommingled load of milk where there is only one producer on the load, the load shall be discarded and the producer shall pay for the disposition of the load and for the cost of hauling. In addition, the producer and employee(s) shall review the "Milk and Dairy Beef Residue Prevention Protocol" with a veterinarian within 30 days, and the protocol certificate shall be signed by the veterinarian, the producer and the employee(s). The certificate shall be received by the dairy products control bureau within 35 days of the violative occurrence or the permit will be suspended until the certificate is received. For the third violation within a 12-month period, the producer shall be required to attend a hearing in the same manner as specified in subrule 68.36(7).

68.36(9) When the antibiotic tests show that a load is nonviolative, but routine producer sampling finds that a producer on the load is violative, the permit shall be suspended until subsequent testing establishes that the milk does not exceed safe levels of inhibitory residues. The first or second monetary penalty within a 12-month period shall be waived. In case of a third violation within a 12-month period, procedures shall be initiated as provided in subrule 68.36(7).

68.36(10) Each violative occurrence within a 12-month period, including a violative producer found on a nonviolative load, shall count as a first, second, third or fourth violation against the producer.

68.36(11) Records shall be kept by the industry at each receiving or transfer station of all incoming farm pickup loads of raw milk. The records shall be retained for a period of at least 12 months.

a. The records shall include the following information:

(1) Name of the organization;

(2) Name of test(s) used;

(3) Controls, positive and negative;

(4) Date of test(s);

(5) Time the test was performed;

(6) Temperature of the milk in the tanker at the time of sampling;

(7) Identification of the load;

(8) Pounds of milk on the load;

(9) Initials of the person filling out the record.

b. When the load is violative, the records shall also include the following:

(1) Names of the producers on the load;

(2) Identification of the violative producer(s);

(3) The first name of the dairy products control bureau office person telephoned;

(4) Location of disposition of the violative load;

(5) The number of pounds of milk belonging to each producer.

68.36(12) When telephoning the dairy products control bureau office to report a violative load or violative producer, the following information shall be given:

a. Name of the person telephoning;

b. Name of the organization;

c. Date of violation;

d. Route number and name of the milk hauler;

e. Verification that all producers on the violative load were tested;

f. Name and producer number(s) of the violative producer(s) and milk grade;

g. The concentration of residue in the producer sample;

h. The concentration of residue in the load sample, if available;

i. Name of test(s) used;

j. Name of analyst;

k. Pounds of milk on the load and violative producer(s) pounds;

l. Location of disposition of the milk.

This rule is intended to implement Iowa Code chapter 192.

21—68.37(192,194) Milk truck approaches.

68.37(1) The milk truck approach of a dairy farm facility shall not be through a cowyard or any other animal confinement area.

68.37(2) If the milk truck approach is contaminated with manure, the milk truck shall not traverse through the contaminated area.

68.37(3) All milk truck approach driveways shall be graded, maintained in a smooth condition, and shall be topped with gravel or be paved.

This rule is intended to implement Iowa Code chapters 192 and 194.

[**ARC 8699B**, IAB 4/21/10, effective 5/26/10]

21—68.38 and **68.39** Reserved.

MILK TANKER, MILK HAULER, MILK GRADER, CAN MILK TRUCK BODY

21—68.40(192) Definitions.

"Bulk milk tanker" means a mobile bulk container used to transport milk or fluid milk products from farm to plant or from plant to plant. This includes both the over-the-road semitankers and the tankers that are permanently mounted on a motor vehicle.

"Bulk tank" means a bulk tank used to cool and store milk on a farm.

"Can milk truck body" means a truck body permanently mounted on a motor vehicle for the purpose of picking up milk in milk cans from dairy farms for delivery to a milk plant.

"Dairy farm" means any place where one or more cows, sheep or goats are kept for the production of milk.

"Milk" means the lacteal secretion of cows, sheep or goats, and includes dairy products.

"Milk can" means a sanitary-designed, seamless, stainless steel can, manufactured from approved material for the purpose of storing raw milk on can milk farms, to be picked up and loaded onto a can milk truck body.

"Milk grader" means a person who collects a milk sample from a bulk tank or a bulk milk tanker. This includes dairy industry field personnel and dairy industry milk intake personnel.

"Milk hauler" means any person who collects milk at a dairy farm for delivery to a milk plant.

"Milk plant" means any facility where milk is processed, received or transferred.

"Milk producer" means any person who owns or operates a dairy farm.

21—68.41(192) Bulk milk tanker license required.

68.41(1) A milk tanker shall not operate in Iowa without a valid license.

68.41(2) The license application shall include a description of the bulk milk tanker, including the make, serial number, capacity and the address at which the bulk milk tanker is customarily kept when not being used. The applicant shall also furnish any other information which the department reasonably requires for identification and licensing.

68.41(3) A license pursuant to this rule expires June 30 annually and is not transferable between tankers.

68.41(4) The department may initiate an enforcement action against a person operating a bulk milk tanker if the department determines that the person has operated without a license or has procured another person to operate without a license.

68.41(5) The cost of the bulk milk tanker license is $25 per year.

68.41(6) If the bulk milk tanker and accessories have been inspected within the last 12 months and carry a current license, the bulk milk tanker renewal license application and a return envelope will be mailed to the owner of the tanker in April annually by the dairy products control bureau office in Des Moines.

21—68.42(192) Bulk milk tanker construction. A bulk milk tanker, including equipment and accessories, shall be of a sanitary design and construction and shall comply with "3-A Sanitary Standards for Stainless Steel Automotive Milk and Milk Products Transportation Tanks for Bulk Delivery and/or Farm Pick-Up Service," Number 05-14 (November 1, 1989), published jointly by the International Association of Milk, Food and Environmental Sanitarians, Inc. and the Food and Drug Administration, Public Health Service, United States Department of Health and Human Services.

21—68.43(192) Bulk milk tanker cleaning and maintenance.

68.43(1) A bulk milk tanker, including equipment and accessories, shall be thoroughly cleaned immediately after each day's use and shall be kept clean and in good repair.

68.43(2) All product contact surfaces on a bulk milk tanker, including all contact product surfaces of equipment and accessories used on the tanker, shall be thoroughly cleaned.

68.43(3) External surfaces of a bulk milk tanker shall also be thoroughly cleaned.

21—68.44(192) Bulk tanker sanitization. All product contact surfaces on a bulk milk tanker, including equipment and accessories, shall be thoroughly sanitized immediately after cleaning.

21—68.45(192) Bulk milk tanker cleaning facility.

68.45(1) A bulk milk tanker shall be cleaned and sanitized in a fully enclosed facility.

68.45(2) The facility shall have an impervious drained floor and shall be equipped with adequate hot and cold water under pressure, a wash vat, sanitizing facilities and equipment storage racks.

68.45(3) A bulk milk tanker may be cleaned and sanitized in the same room where milk is being received from bulk milk tankers.

21—68.46(192) Bulk milk tanker cleaning tag.

68.46(1) When a bulk milk tanker has been thoroughly cleaned and sanitized, but is not returning to the same plant, the dairy receiving operator shall attach a tag showing all of the following:

a. The date on which the tanker was cleaned and sanitized.

b. The name and location of the facility where the tanker was cleaned and sanitized.

c. The legible signature or initials of the person who cleaned and sanitized the tanker.

d. The type or name of the chemicals used to clean and sanitize.

68.46(2) The tag shall be attached to the outlet valve or inside the pump cabinet of the tanker.

68.46(3) The tag shall not be removed until the tanker is cleaned and sanitized again.

68.46(4) All unused tags shall be maintained in a secure location so they cannot be easily used for unauthorized purposes.

21—68.47(192) Dairy plant, receiving station or transfer station records.

68.47(1) Records shall be kept at all plants where tankers are cleaned and sanitized.

68.47(2) The records shall be kept for at least 90 days.

68.47(3) The records shall include all of the following:

a. The name and address of the facility where the tanker was cleaned and sanitized.

b. The date on which the tanker was cleaned and sanitized.

c. The legible name or initials of the person who cleaned and sanitized the tanker.

21—68.48(192) Milk hauler license required.

68.48(1) A person shall not engage in the activities of being a milk hauler without a valid milk hauler license.

68.48(2) The cost of a milk hauler license is $10.

68.48(3) A milk hauler license obtained pursuant to this rule expires June 30 annually and is not transferable between persons.

68.48(4) As a condition of relicensing, a milk hauler license renewal applicant shall have had an on-the-farm evaluation of milk pickup procedures by a department inspector within two years

immediately prior to relicensure and shall have attended a milk hauler school within three years immediately prior if a hauler school was made available within that three-year period.

68.48(5) If a milk hauler with a current license has had an on-the-farm evaluation within the last two years and has attended a state milk hauler training school within the last three years, a milk hauler renewal application and a return envelope will be mailed to the milk hauler in April annually by the dairy products control bureau office in Des Moines.

68.48(6) The department may take action against a person if the department determines that the person has engaged in activities requiring a milk hauler license without a valid milk hauler license or has procured another person to operate without a license.

21—68.49(192) New milk hauler license applicant.

68.49(1) The department may issue a 45-day interim license to a new applicant for a milk hauler license if the department determines that the new applicant has been trained by an industry field person who holds a milk hauler license.

68.49(2) An application for an interim license may be made by calling the dairy products control bureau office in Des Moines at (515)281-3545 and requesting the interim license and the Milk Hauler's Manual. The applicant shall give the name of the person who has provided the training and the telephone number where that person can be reached for verification. The license may be issued after verification of the training and verification of the trainer's license.

68.49(3) The cost of the interim license is $10 and will be used for the payment of the regular milk hauler license upon approval by the department.

68.49(4) An application form for the regular milk hauler license will be sent with the interim license. During the 45-day interim period, in order to receive a regular milk hauler license, the applicant shall do both of the following:

a. Pass a written examination based upon the Milk Hauler's Manual, given by a department inspector.

b. Pass a written, on-the-farm evaluation of milk pickup procedures by a department inspector on a "Bulk Milk Pickup Tanker, Hauler Report and Sampler Evaluation Form" that was filled out by the department inspector at the time of the evaluation. This form shall be sent to the Des Moines office with the completed application and the $10 license fee (if the fee has not been paid).

68.49(5) The department shall grant or deny a license application within the 45-day interim period.

68.49(6) The department shall not issue a milk hauler license if court action is in progress against the applicant for operating without an interim or regular license.

21—68.50(192) Supplies required for milk collection and sampling. A milk hauler who collects milk in bulk from a dairy farm shall have all of the following supplies available:

1. An adequate supply of sample containers.
2. A sample dipper.
3. A sample dipper storage container.
4. A sanitizing solution in the sample dipper storage container of 200 ppm of chlorine or equivalent.
5. An insulated carrying case with a rack to hold samples.
6. A certified thermometer, accurate to plus or minus 2°F, that can be used to check the temperature of the milk in the farm bulk tank, the accuracy of the farm bulk tank thermometers and the temperature of the commingled load.
7. A marking device to identify samples collected.
8. A watch or timing device.
9. An adequate supply of forms needed for milk collection and records.
10. A writing device to write on the forms and records.
11. Access to an adequate supply of single-service paper towels.

21—68.51(192) Milk hauler sanitization.

1. A milk hauler shall wear clean clothing.
2. A milk hauler shall maintain a high degree of personal cleanliness.
3. A milk hauler shall observe good hygienic practices.
4. A milk hauler shall not measure, sample or collect milk if the hauler has a discharging or infected wound or lesion on the hauler's hands or exposed arms.

21—68.52(192) Examining milk by sight and smell.

68.52(1) Before a milk hauler receives or collects milk from a dairy farm, the hauler shall examine the milk by sight and smell and shall reject all milk that has any of the following characteristics:

1. Objectionable odor.
2. Abnormal appearance and consistency.
3. Visible adulteration.

68.52(2) A milk hauler who rejects milk from a farm shall collect only a sample of the rejected milk.

68.52(3) If a dairy farmer disputes a milk hauler's rejection of the milk, the milk hauler shall contact the operator of the dairy plant to which the milk would ordinarily be delivered, and the plant operator or the plant field person shall examine the rejected milk to determine whether the milk was properly rejected.

21—68.53(192) Milk hauler hand washing. A milk hauler shall wash and dry hands before performing any of the following:

1. Using a thermometer.
2. Measuring the milk.
3. Collecting a milk sample.

21—68.54(192) Milk temperature.

68.54(1) Before a milk hauler collects milk at a dairy farm, the milk hauler shall record the temperature of the milk to be collected.

68.54(2) If the milk is collected more than two hours after the last milking, the milk hauler shall reject the milk if the milk temperature exceeds 45°F or 7°C.

68.54(3) If milk from two or more milkings is collected within two hours of the last milking, the milk hauler shall reject the milk if the milk temperature exceeds 50°F or 10°C.

68.54(4) If the farm bulk tank thermometer is working, at least once each month, and more often if necessary, a milk hauler shall check the accuracy of each dairy farm bulk tank thermometer by taking the temperature of the milk in the bulk tank with the milk hauler's thermometer and shall record the temperature on the milk pickup record card. This procedure shall be done at every pickup if the farm bulk tank thermometer is not working.

68.54(5) Before a milk hauler uses the milk hauler's thermometer to take the temperature of the milk in a bulk tank, the hauler shall sanitize the stem of the thermometer in 200 ppm chlorine or its equivalent for a minimum of 60 seconds.

68.54(6) A milk hauler shall immediately notify the milk producer and the dairy field person if the dairy farm bulk tank is not cooling properly or if the bulk tank thermometer is not recording the temperatures accurately.

21—68.55(192) Connecting the milk hose.

68.55(1) Before the milk hauler connects a tanker hose to a bulk tank, the hauler shall examine the fittings of the tanker hose and the bulk tank outlet and shall clean and sanitize as necessary.

68.55(2) The milk hauler shall attach the milk hose to the bulk tank outlet in a manner that does not contaminate the hose or the hose cap.

68.55(3) The hose shall be connected through the milk room hose port.

21—68.56(192) Measuring the milk in the bulk tank.

68.56(1) Before milk is transferred from a bulk tank to a bulk milk tanker, the milk hauler shall measure the amount of milk in the bulk tank.

68.56(2) The milk hauler shall measure the milk using a clean gauge rod or other measuring device that is specifically designed and calibrated to measure milk in the bulk tank.

68.56(3) Immediately before using the gauge rod or measuring device, the milk hauler shall wipe it dry with a clean, single-service disposable towel.

68.56(4) A milk hauler shall not measure the amount of milk in a dairy farm bulk tank until the milk in the tank is motionless.

68.56(5) If the milk is being agitated, the milk hauler shall turn off the agitator and wait for the milk to become completely motionless before measuring the milk.

68.56(6) After measuring the milk with a gauge rod or other device, the milk hauler shall use that measurement to calculate the weight or volume of milk in the bulk tank with the manufacturer's conversion chart.

68.56(7) The milk hauler shall record that weight or volume on a written collection record.

21—68.57(192) Milk sample for testing.

68.57(1) Before milk is transferred from a dairy farm bulk tank to a bulk milk tanker, a milk hauler shall collect a representative sample of that milk from the dairy farm bulk tank for testing. If there is more than one bulk tank, a sample from each tank shall be taken and identified.

68.57(2) The collected sample shall be filled only ¾ full in the sample container so that the sample can be agitated in the lab.

21—68.58(192) Milk collection record.

68.58(1) Whenever a milk hauler collects a milk shipment from a dairy farm, the milk hauler shall make a written record for that shipment.

68.58(2) One copy of the collection record shall be posted in a dairy farm milk room.

68.58(3) The collection record shall be initialed by the milk hauler.

68.58(4) The record shall include all of the following:

1. The milk producer identification number.
2. The milk hauler's initials.
3. The date when the milk was sampled and collected.
4. The temperature of the milk when collected.
5. The weight or volume of milk collected as determined by the milk hauler.
6. The time of pickup, including whether A.M. or P.M. or military time.

21—68.59(192) Loading the milk from the bulk tank to the milk tanker.

68.59(1) After a milk hauler has sampled milk from the dairy farm bulk tank and prepared a complete collection record, the hauler may transfer the milk from that bulk tank to the milk tanker.

68.59(2) A milk hauler shall not collect milk from any other container on a dairy farm other than from a bulk tank.

68.59(3) Partial pickup of milk shall be avoided whenever possible.

68.59(4) After a milk hauler has collected all of the milk from a bulk tank, the milk hauler shall disconnect the milk hose from the bulk tank, cap the hose and return the hose to its cabinet in the bulk milk tanker.

68.59(5) The milk hauler shall inspect the empty dairy farm bulk tank for abnormal sediments and shall report any abnormal sediments to the dairy producer and the dairy plant field person.

68.59(6) After the milk hauler has disconnected the milk hose and inspected the empty farm bulk tank for abnormal sediments, the milk hauler shall rinse the bulk tank with cold or lukewarm water.

21—68.60(192) Milk samples required for testing.

68.60(1) The milk hauler shall collect a sample of milk from each dairy farm bulk tank before that milk is transferred to a bulk milk tanker.

68.60(2) A milk sample collected from a dairy farm bulk tank shall not be commingled with a sample collected from any other bulk tank.

21—68.61(192) Bulk milk sampling procedures. A milk hauler shall comply with all of the following procedures when collecting a milk sample:

1. Shall collect the sample after the bulk tank milk has been thoroughly agitated.
2. Shall agitate a bulk tank of less than a 1000 gallon size, in the presence of the milk hauler, for at least five minutes before the milk sample is taken.
3. Shall agitate a bulk tank of a 1000 gallon size or larger, in the presence of the milk hauler, for at least ten minutes before the milk sample is taken. If there are stamped printed instructions on the bulk tank, giving explicit agitation instructions that are different from ten minutes, the bulk tank shall then be agitated according to the written instructions.
4. Shall collect the sample using a sanitized sample dipper that is manufactured for the purpose of taking a milk sample from a bulk tank. The milk hauler shall not use the sample container to collect a milk sample.
5. Shall rinse the sanitized sample dipper in the milk, in the bulk tank, at least two times before the dipper is used to collect the sample.
6. After rinsing the sample dipper in the milk, shall pour the sample from the dipper into a sample container until the sample container is ¾ full and shall securely close the sample container.
7. Shall not fill the sample container over the bulk tank, but shall fill the sample container off to the side of the bulk tank, over the floor of the milk room.
8. Shall handle the sample container and cap aseptically.
9. After collecting the milk sample, shall immediately place the sample on a rack or floater, on ice in the insulated sample container, and rinse the sample dipper with clean potable water.

21—68.62(192) Temperature control sample.

68.62(1) The milk hauler shall collect two milk samples at the first farm on each milk route.

68.62(2) One of the two samples collected from the first farm shall be used for a temperature control (TC) sample.

68.62(3) The temperature control (TC) sample shall remain in the rack with the other samples pertaining to that load.

68.62(4) The temperature control (TC) sample container shall be marked in a legible manner identifying the sample as the TC sample and shall also be marked with the other following information:

1. The producer identification number.
2. The initials of the milk hauler.
3. The date the sample was collected.
4. The time the sample was collected.
5. The temperature of the milk in the farm bulk tank from which the TC sample was collected.

21—68.63(192) Producer sample identification. Immediately before a milk hauler collects a milk sample, but before the milk hauler opens the sample container, the milk hauler shall, unless that sample container is prelabeled with the producer information, clearly and indelibly label the sample container with all of the following information:

1. The producer identification number.
2. The date when the sample was collected.
3. The temperature of the milk in the bulk tank.

21—68.64(192) Care and delivery of producer milk samples.

68.64(1) Immediately after a milk hauler collects a milk sample, the milk hauler shall place the sample container in a clean, refrigerated carrying case in which the temperature is kept at from 32°F to 40°F.

68.64(2) If the sample containers are packed in ice or cold water to keep the samples refrigerated, the ice or water shall cover no more than ¾ of each sample container.

68.64(3) The milk hauler shall promptly deliver the samples to the place designated by the milk purchaser.

21—68.65(192) Milk sample carrying case. The carrying case shall be constructed to have all of the following characteristics:

1. Shall be constructed of rigid metal or plastic.
2. Shall be effectively insulated and refrigerated to keep the samples at the required temperature.
3. Shall have a rack or floater designed to hold samples in the upright position.

21—68.66(192) Bulk milk delivery.

68.66(1) If milk is unloaded or transferred at any location other than a licensed facility, the person having custody of the milk shall notify the department of that unloading or transfer before that milk is processed or shipped to any other location.

68.66(2) Air entering a bulk milk tanker when the tanker is unloading shall be filtered to prevent contamination of the milk when the door to the receiving area is open.

21—68.67(192) False samples or records. The department may take enforcement action against a person doing or conspiring to do any of the following:

1. Falsely identify any milk sample.
2. Submit a false or manipulated milk sample.
3. Submit a milk sample collected in violation of this chapter.
4. Misrepresent the amount of milk collected from a dairy farm.
5. Misrepresent or falsify any record or report required under this chapter.

21—68.68(192) Violations prompting immediate suspension. A person violating any of the following shall have the person's milk hauler license suspended for the first full five weekdays following the violation. Administering the violation in this manner will allow a licensed field representative or a person employed by the plant with a milk hauler's license to ride with a suspended milk hauler and to perform all of the bulk milk pickup procedures which the suspended milk hauler shall not perform while the license is suspended. This rule will also allow a dairy co-op or a proprietary establishment the ability to recover the cost of the employee of the business establishment while the employee is working with the suspended milk hauler.

1. Not measuring the milk before pumping.
2. Not collecting a sample from the farm bulk tank.
3. Collecting milk from a container other than the farm bulk tank or an approved milk can.
4. Not collecting a milk sample before pumping or opening the valve to the milk tanker.
5. Mixing the contents of milk samples with other milk samples.
6. Collecting a sample before proper agitation.
7. Not using proper sample collection equipment.
8. Falsely identifying a milk sample.
9. Submitting a false or manipulated milk sample or a false sample collection record.

21—68.69(192) Milk grader license required.

68.69(1) A person shall not be employed as a dairy field person or a milk intake person and shall not collect a raw milk sample from a farm bulk tank or collect a load sample from a bulk milk tanker in Iowa without first being evaluated by a department dairy inspector and making application for a milk

grader license. A milk grader license will not be needed by a temporary milk plant intake person that is under the direct supervision of a licensed milk grader.

68.69(2) The department may take an enforcement action against a person engaged in activities of a dairy field person or milk intake person or a person collecting milk samples from a farm bulk tank or from a bulk milk tanker if the department determines that the applicant has engaged in such activities without first obtaining a valid Iowa milk grader license or a valid 45-day interim license or has procured another person to operate without a license.

68.69(3) The cost of a milk grader license is $10.

68.69(4) A milk grader license obtained pursuant to this rule expires June 30 annually and is not transferable between persons.

68.69(5) As a condition of relicensing:

a. A milk grader license renewal applicant for collecting a milk sample from a farm bulk tank shall have had an on-the-farm evaluation of milk collecting and care of milk sample procedures by a department inspector within two years immediately prior to relicensure and shall have attended a milk hauler school within three years immediately prior to relicensure, if a hauler school was made available within that three-year period.

b. A milk grader license renewal applicant for collecting a milk sample from a bulk milk tanker at a milk plant shall have had an in-the-plant evaluation of milk collecting procedures by a department inspector within the last two years prior to relicensure.

c. If the milk grader has had an evaluation within the last two years and, if required, has attended a milk hauler training school within the last three years, a milk grader renewal application and a return envelope will be mailed annually in April to the milk grader by the dairy products control bureau office in Des Moines.

21—68.70(192) New milk grader license applicant.

68.70(1) The department may issue a 45-day interim license to a new applicant for a milk grader license if the department determines that the new applicant has been trained by a licensed milk grader.

68.70(2) An applicant for a milk grader license to collect a milk sample from a farm bulk tank shall follow the procedures outlined in subrules 68.49(2) to 68.49(4).

68.70(3) An applicant for a milk grader license to collect a milk sample from a bulk milk tanker at a milk plant shall contact the dairy products control bureau office in Des Moines, telephone (515)281-3545, and request a sampling procedure review by a department inspector and a milk grader application.

The inspector will fill out "Inspection Form Short Form 009-0293/TS" for verification of the sampling procedure review and give a signed copy to the applicant. The applicant shall mail the signed copy, the completed application and the $10 license fee to the dairy products control bureau office for a "Restricted Milk Grader License."

21—68.71(192,194) Can milk truck body.

68.71(1) A can milk truck body used for the purpose of picking up milk in milk cans from dairy farms for delivery to a milk plant shall not operate in the state of Iowa without first being issued a valid license from the department. This rule is intended to include can milk truck bodies that are commercially licensed in Iowa.

68.71(2) The can milk truck body vehicle license applicant shall include a description of the body, the make, model, year and color of the truck, a description of the can milk truck body, including the make, serial number, can capacity and the address at which the can milk truck body is customarily kept when not being used. The applicant shall also furnish any other information which the department reasonably requires for identification and licensing.

68.71(3) A license pursuant to this rule expires June 30 annually and is not transferable between truck bodies.

68.71(4) The department may take enforcement action against a person operating a can milk truck body if the department determines that the person has operated without a license or a person has procured another person to operate without a license.

68.71(5) The cost of the can milk truck body license is $25 per year.

68.71(6) The applicant shall have received an annual inspection by a department inspector and shall make the vehicle available for inspection prior to receiving the license.

These rules are intended to implement Iowa Code chapter 192.

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CHAPTER 69
MILK ROOM AND BULK TANKS FOR MANUFACTURING MILK

[Prior to 3/9/88, see Agriculture Department 30—Ch 31]
[Prior to 7/27/88, see 21—Ch 31]

21—69.1(192) Milk room. The milk room may be built inside of a barn or other building if completely enclosed, properly ventilated and kept in a sanitary condition. A vestibule is not required.

21—69.2(192) Drainage. The milk room shall have a floor drain with a trap and the floor shall be so graded as to provide proper drainage. A drain opening through the wall will not be permitted.

21—69.3(192) Walls and ceilings. The walls and ceilings of the milk room shall be sealed and of material that can be easily cleaned.

21—69.4(192) Milk room windows. All windows that open or can be opened shall be screened against flies or other insects.

21—69.5(192) Doors. Doors shall be self-closing, made of solid material, and open outward. Doors swinging both ways will not be approved, but may have sliding doors, if self-closing. The outside door may be a screen door opening outward.

21—69.6(192) Ventilation. A well-ventilated room shall mean a room in which the air is changing or moving so as to keep it free from moisture, bad odors, excessive heat and dust.

21—69.7(192) Bulk tank location. The bulk tank shall be located in such a manner that the drain is accessible for cleaning and rodding.

21—69.8(192) Hose port. The hose port shall be located on the exterior wall of the milk room in such a manner that the hose can be kept clean and sanitary at all times.

21—69.9(192) Safety regulations. The usual safety regulations for a 220-volt weatherproof electrical connection for a milk pump shall be followed. The switch box shall be placed on the inside wall of the milk room.

21—69.10(192) Properly located tank. A properly located tank shall mean one with easy access to all areas for cleaning and servicing. There must be space for a person to move around on all sides of the tank for proper cleaning.

These rules are intended to implement Iowa Code chapter 192.

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CHAPTER 70
CONTRACTS FOR DAIRY INSPECTION SERVICES

[Prior to 7/27/88, see 21—Ch 32]

Rescinded IAB 2/9/00, effective 3/15/00

CHAPTER 71
STANDARDS FOR DAIRY PRODUCTS

[Prior to 3/9/88, see Agriculture Department, 30—Ch 34]
[Prior to 7/27/88, see 21—Ch 34]

21—71.1(190) Dairy products. The general specifications and standards of U.S.D.A. for grades of dairy products as contained in 7 CFR Part 58, Subparts B and H through S, revised as of January 1, 1996, is hereby adopted in its entirety, with the exception of the following subsections: 646, 734, and 101 through 124, 155 through 158, and 505 through 530. Nothing in the foregoing is intended to require use of grades for Iowa dairy products. In addition, the following standards established and revised by FDA as of January 1, 1996, are hereby adopted in their entirety: 21 CFR Parts 101 (Food Labeling), 133 (Cheese and Related Products), 135 (Frozen Dessert), 166 (Margarine), 168 (Sweeteners) and 182 (Substances Generally Recognized Safe). All reference to "administrator" in these rules shall be deemed to mean the Iowa secretary of agriculture and "department" shall be deemed to mean Iowa department of agriculture and land stewardship.

This rule is intended to implement Iowa Code section 190.2.

21—71.2(189,210) Requirements for packaging and labeling. The uniform packaging and labeling regulation as adopted by the National Conference on Weights and Measures and published in the current edition "Uniform Laws and Regulations" are hereby adopted in their entirety by this reference.

This rule is intended to implement Iowa Code sections 189.9, 189.10 and 210.18.

21—71.3(210) Requirements for the method of sale of commodities. The requirements for the method of sale of commodities as adopted by the National Conference on Weights and Measures and published in the current edition "Uniform Laws and Regulations" are hereby adopted in their entirety by this reference.

This rule is intended to implement Iowa Code sections 210.1 and 210.18.

21—71.4(210) Requirements for unit pricing. The requirements for unit pricing as adopted by the National Conference on Weights and Measures and published in the current edition "Uniform Laws and Regulations" are hereby adopted in their entirety by this reference.

This rule is intended to implement Iowa Code sections 210.1 and 210.18.

21—71.5(189,190) Flavors. In case where a flavor is added to milk or skimmed milk drink or compound, it is not considered by the department as violating section 190.6, when the fat of said flavor does not exceed ½ of 1 percent of the whole and said compound is labeled as required by section 189.11.

This rule is intended to implement Iowa Code sections 189.11 and 190.6.

21—71.6(190) Standard for light butter.

"Light butter" is the food defined in Iowa Code section 190.1(1) except:

1. The milkfat content of light butter shall be 52 percent.

2. Light butter shall have vitamin A added, if needed, to provide 15,000 international units per pound, within limits of good manufacturing practices.

3. Light butter may contain the following dairy ingredients: partially skimmed milk, skim milk, buttermilk, whey or whey-derived ingredients.

4. Other optional ingredients allowed in light butter are:

(1) Water;
(2) Salt or salt substitutes;
(3) Bacterial cultures;
(4) Nutritive sweeteners;
(5) Emulsifiers and stabilizers;
(6) Safe and suitable color additives;
(7) Natural flavors; or

(8) Safe and suitable ingredients that improve texture, prevent syneresis, or extend the shelf life of the product.

5. Label declaration. The principal display panel of the label must include a comparative statement expressing the reduction in calories and fat relative to butter (i.e., one-third less fat and calories than regular butter).

This rule is intended to implement Iowa Code chapter 190.

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CHAPTER 75
PRODUCTION AND SALE OF EGGS

[Prior to 7/27/88 see Agriculture Department 30—Ch 35]

Rescinded IAB 2/9/00, effective 3/15/00

CHAPTER 76
MEAT AND POULTRY INSPECTION
[Prior to 7/27/88 see Agriculture Department 30—Ch 43]

21—76.1(189A) Federal Wholesome Meat Act regulations adopted. Part 301 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2013, is hereby adopted in its entirety by reference; and in addition thereto, the following subsections shall be expanded to include:

1. Sec. 301.2(a) therein defining the term "Act" shall include the Iowa meat and poultry inspection Act, Iowa Code chapter 189A.
2. Sec. 301.2(b) therein defining the term "department" shall include the Iowa department of agriculture and land stewardship.
3. Sec. 301.2(c) therein defining the term "secretary" shall include the secretary of agriculture of the state of Iowa.
4. Sec. 301.2(e) therein defining the term "administrator" shall include the supervisor of the Iowa meat and poultry inspection service or any officer or employee of the Iowa department of agriculture and land stewardship.
5. Sec. 301.2(t) therein defining the term "commerce" shall include intrastate commerce in the state of Iowa.
6. Sec. 301.2(u) therein defining the term "United States" shall include the state of Iowa.

[**ARC 9012B**, IAB 8/25/10, effective 9/29/10; **ARC 0733C**, IAB 5/15/13, effective 6/19/13]

21—76.2(189A) Federal Wholesome Meat Act regulations adopted. Part 303, Part 304, Part 305, Part 306, Parts 308 through 320, Part 329, Part 416, Part 417, Part 418, Part 424, Part 430, Part 441 and Part 442 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2013, are hereby adopted in their entirety by reference. Part 307 except Sections 307.5 and 307.6 and Part 325 except Sections 325.3 and 325.12 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2013, are hereby adopted in their entirety by reference. Part 500 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2013, is adopted by reference, except that references in Sections 500.5, 500.6, 500.7, and 500.8 to the federal Uniform Rules of Practice are not adopted.

[**ARC 9012B**, IAB 8/25/10, effective 9/29/10; **ARC 0733C**, IAB 5/15/13, effective 6/19/13]

21—76.3(189A) Federal Poultry Products Inspection Act regulations adopted. Part 381, Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2013, is hereby adopted in its entirety with the following exceptions: 381.96, 381.97, 381.99, 381.101, 381.102, 381.104, 381.105, 381.106, 381.107, 381.128, Subpart R, Subpart T, Subpart V, Subpart W; and in addition thereto, the following subsections shall be expanded to include:

1. Sec. 381.1(b)(2) therein defining the term "Act" shall include the Iowa meat and poultry inspection Act, Iowa Code chapter 189A.
2. Sec. 381.1(b)(3) therein defining the term "administrator" shall include the supervisor of the Iowa meat and poultry inspection service, or any officer or employee of the Iowa department of agriculture and land stewardship.
3. Sec. 381.1(b)(10) therein defining the term "commerce" shall include intrastate commerce in the state of Iowa.
4. Sec. 381.1(b) therein defining the term "department" shall include the Iowa department of agriculture and land stewardship.
5. Sec. 381.1(b)(47) therein defining the term "secretary" shall include the secretary of agriculture of the state of Iowa.
6. Sec. 381.1(b)(53) therein defining the term "United States" shall include the state of Iowa.

[**ARC 9012B**, IAB 8/25/10, effective 9/29/10; **ARC 0733C**, IAB 5/15/13, effective 6/19/13]

These rules are intended to implement Iowa Code sections 189A.3 and 189A.7(8).

21—76.4(189A) Inspection required. Every establishment except as provided in Section 303.1(a), (b), (c) and (d) of Title 9, Chapter III, Subchapter A, of the Code of Federal Regulations, revised as of January 1, 2013, in which slaughter of livestock or poultry, or the preparation of livestock products or poultry products is maintained for transportation or sale in commerce, shall be subject to the inspection and other requirements of those parts of Title 9, Chapter III, Subchapter A, of the Code of Federal Regulations, revised as of January 1, 2013, enumerated in rules 21—76.1(189A), 21—76.2(189A) and 21—76.3(189A).

This rule is intended to implement Iowa Code sections 189A.4 and 189A.5.

[**ARC 9012B**, IAB 8/25/10, effective 9/29/10; **ARC 0733C**, IAB 5/15/13, effective 6/19/13]

21—76.5(189A) Custom/exempt facilities sanitation standard operating procedures. Iowa inspected custom/exempt facilities shall develop and implement a sanitation standard operating procedure (SSOP) in a manner consistent with Section 416.12, Title 9, Chapter III, Code of Federal Regulations.

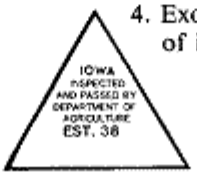
21—76.6(189A) Forms and marks. Whenever an official form is designated by federal regulation, the appropriate Iowa form will be substituted and whenever an official mark is designated, the following official Iowa marks will be substituted:

1. IOWA INSP'D AND CONDEMNED

2.

3. Exotic Carcass Brand

4. Exotic product label mark of inspection



This rule is intended to implement Iowa Code section 189A.5(2).

21—76.7(189A,167) Registration. Every person engaged in business in or for intrastate commerce as a broker, renderer, animal food manufacturer, or wholesaler or public warehouser of livestock or poultry products, or engaged in the business of buying, selling or transporting in intrastate commerce any dead, dying, disabled or diseased livestock or poultry or parts of the carcasses of such animals, including

poultry, that died otherwise than by slaughter, shall register with the meat and poultry section, department of agriculture and land stewardship, indicating the name and address of each place of business and all trade names.

This rule is intended to implement Iowa Code section 189A.7(7).

21—76.8(189A,167) Dead, dying, disabled or diseased animals. Persons shall not engage in the business of buying, selling, transporting in intrastate commerce, dead, dying, disabled or diseased animals, or any parts of the carcasses of any animal, unless they have been licensed for the purpose of disposing of the bodies of dead animals pursuant to Iowa Code section 167.2. All persons so engaged are subject to the provisions of Iowa Code chapter 167 and regulations of 21—Chapter 61, "Dead Animal Disposal," Iowa Administrative Code.

76.8(1) All rendering plants engaged in processing fallen or dead animals into pet food and pet food processing plants shall be inspected by the meat and poultry section in accordance with Iowa Code chapter 167 before registration is approved.

76.8(2) The plant shall engage the services of a licensed veterinarian, approved by the department, to inspect carcasses for the presence of communicable disease or harmful contamination or adulteration and evidence of decomposition. Any of these conditions shall be cause for the carcass to be condemned as unfit for processing into pet animal food.

All compensation for the veterinarian employed by the rendering plant and pet animal food processing plants processing inedible meat and carcass parts for pet food shall be paid by the plant.

76.8(3) Fallen or dead animals which are recovered and transported to the processing plant shall be immediately skinned and eviscerated, except the lungs, heart, kidneys and liver, which shall be left attached to the carcass, and the carcasses shall be stored in a chill room with attached viscera until inspected and approved by a veterinary inspector. The stomach or stomachs, together with the entire intestinal tract, shall be tagged immediately with serially numbered tags and stamped with the word "inedible." The word "inedible" shall be not less than one-half inch high. Condemned carcasses shall be deeply slashed on the round, rump, loin and shoulder, denatured with a ten percent solution of cresylic acid or other decharacterizing agent approved by the department of agriculture and land stewardship and removed to a rendering plant prior to the close of the working day.

76.8(4) The department shall inspect each place registered under Iowa Code chapter 189A or licensed under Iowa Code chapter 167 at least once a year, and as often as it deems necessary and shall see that the registrant conducts the business in conformity to both chapters and these rules.

76.8(5) Rendering plants and pet animal food processing plants may process fallen or dead animals into pet food where the animals are recovered and transported to a processing plant within a reasonable time following the death of an animal and before decomposition occurs.

76.8(6) Processing facilities, when located in or operated in conjunction with a rendering plant, shall be in a separate area equipped and used only for skinning, eviscerating, deboning, grinding, decharacterizing, packaging and labeling of inedible meat and carcass parts to be used in pet animal food. Rendering facilities approved by the department shall be available to process materials not suitable for pet animal food.

76.8(7) These rules shall also govern the collection, transportation and processing of other inedible material such as lungs, livers, hearts, spleens, poultry and poultry parts obtained from slaughterhouses, packing plants or other sources, to be used in the processing and manufacture of pet animal food.

This rule is intended to implement Iowa Code sections 189A.8, 167.5 and 167.14.

21—76.9(189A) Denaturing and identification of livestock or poultry products not intended for use as human food. No person shall buy, sell, transport, or offer for sale or transportation, or receive for transportation, in intrastate commerce any livestock products or poultry products which are not intended for use as human food unless they are denatured or otherwise identified.

76.9(1) All inedible meat and carcass parts shall be adequately decharacterized with charcoal or with other suitable agent acceptable to the Iowa department of agriculture and land stewardship. Inedible material shall be cut into pieces or chunks no more than four inches in any dimension. Following

decharacterization, inedible meat and carcass parts shall be packed in suitable containers approved by the department.

76.9(2) Decharacterizing shall be done to an extent acceptable to the department. Decharacterization shall be done in such a manner that each piece of material shall be decharacterized so as to preclude its being used for, or mistaken for, product for human consumption.

76.9(3) All containers for decharacterized inedible meat or carcass parts shall be plainly marked with the word "inedible" in letters no less than two inches high.

76.9(4) Decharacterized inedible meat and carcass parts shall be frozen or held at a temperature of 40°F or less in the processing plant or during transportation to the final processor.

This rule is intended to implement Iowa Code section 189A.8.

21—76.10(189A,167) Transportation of decharacterized inedible meat or carcass parts. No person engaged in the business of buying, selling or transporting in intrastate commerce, dead, dying, disabled or diseased animals, or any parts of the carcasses of any animals that died otherwise than by slaughter, or any other inedible product not intended for use as human food, shall buy, sell, transport, offer for sale or transportation or receive for transportation in such commerce, any dead, dying, disabled or diseased livestock or poultry or the products of any such animals that died otherwise than by slaughter, or any other inedible product not intended for use as human food, unless such transaction or transportation is made in accordance with Iowa Code chapters 167 and 189A and 21—Chapters 61 and 76.

76.10(1) All carcasses and other inedible material received for processing, and all decharacterized inedible material shipped from the plant, shall be transported and delivered in closed conveyances. The conveyance shall be constructed in such a manner as to prevent the spillage of liquids and material and in accordance with rules21—61.15(167) and 61.16(167), Iowa Administrative Code.

76.10(2) Rendering plants and pet animal food processing plants outside the state of Iowa, from which decharacterized inedible meat or carcass parts are shipped into the state of Iowa, shall be certified by the proper public officials of the state of origin that the processing plants meet at least the minimum standards as set forth in these rules.

This rule is intended to implement Iowa Code sections 189A.8 and 167.15.

21—76.11(189A) Records. Records which fully and correctly disclose all transactions involved in their business shall be kept and retained for a period of no less than two years by the following classes of persons:

Any person that engages in intrastate commerce in the business of slaughtering any livestock or poultry, or preparing, freezing, packaging or labeling, buying or selling, transporting or storing any livestock or poultry products for human or animal food;

Any person that engages in intrastate commerce in business as a renderer or in the business of buying, selling or transporting any dead, dying, disabled or diseased carcasses of such animals or parts of carcasses of any such animals, including poultry, that died otherwise than by slaughter.

76.11(1) All such persons shall afford the secretary and authorized representatives access to such business and opportunity at all reasonable times to examine the facilities, inventory and records thereof, to copy the records and to take reasonable samples of the inventory, upon payment of the reasonable value therefor.

76.11(2) Records shall include the following:

a. The name and address of the owner, the approximate time of death of the animal and the date the animal was received for processing shall be recorded for all animals to be inspected for processing into pet animal food.

b. The number of cartons or containers and the approximate weight of other material received from slaughterhouses, packing plants and other sources to be used in the processing of pet animal food.

c. The number of cartons, packages or containers of processed inedible meat and carcass parts and the weight of each carton stored.

d. Date of shipment, number of containers or boxes, weight of each shipment and name and address of the consignee of all inedible and decharacterized material shipped from the plant.

This rule is intended to implement Iowa Code section 189A.4(7).

21—76.12(189,189A) Movement of meat products into the state. Rescinded IAB 2/26/97, effective 4/2/97.

21—76.13(189A) Voluntary inspections of exotic animals. Every person wishing to obtain voluntary inspection of exotic animals shall comply with the regulations adopted in this rule.

Part 352 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2013, is hereby adopted in its entirety by reference.

This rule is intended to implement Iowa Code chapter 189A.

[**ARC 9012B**, IAB 8/25/10, effective 9/29/10; **ARC 0733C**, IAB 5/15/13, effective 6/19/13]

21—76.14(189A) Federal Wholesome Meat Act regulations adopted for the regulation of farm deer.

1. All federal regulations adopted in 21—76.1(189A).
2. All federal regulations adopted in 21—76.2(189A), except Part 303 and Part 307.4(c) of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2013.

This rule is intended to implement Iowa Code chapters 170 and 189A.

[**ARC 9012B**, IAB 8/25/10, effective 9/29/10; **ARC 0733C**, IAB 5/15/13, effective 6/19/13]

21—76.15(189A) Fees. Rescinded IAB 7/21/04, effective 7/2/04.

[Filed 7/12/66; amended 11/14/66, 9/26/67, 2/20/71, 4/20/72, 7/30/73]
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[Filed 11/3/95, Notice 9/27/95—published 11/22/95, effective 12/27/95]
[Filed 2/7/97, Notice 12/4/96—published 2/26/97, effective 4/2/97]
[Filed 12/24/98, Notice 11/4/98—published 1/13/99, effective 2/17/99]
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[Filed emergency 7/2/04—published 7/21/04, effective 7/2/04]
[Filed 8/11/04, Notice 5/26/04—published 9/1/04, effective 10/6/04]
[Filed 10/2/08, Notice 8/13/08—published 10/22/08, effective 11/26/08]
[Filed ARC 9012B (Notice ARC 8842B, IAB 6/16/10), IAB 8/25/10, effective 9/29/10]
[Filed ARC 0733C (Notice ARC 0634C, IAB 3/6/13), IAB 5/15/13, effective 6/19/13]

CHAPTER 77
DANGEROUS WILD ANIMALS

21—77.1(717F) Definitions.

"Agricultural animal" means any of the following:

1. An animal that is maintained for its parts or products having commercial value, including but not limited to its muscle tissue, organs, fat, blood, manure, bones, milk, wool, hide, pelt, feathers, eggs, semen, embryos, or honey.

2. An animal belonging to the equine species, including horse, pony, mule, jenny, donkey, or hinny.

"Agricultural animal" does not mean a swine which is a member of the species sus scrofa Linnaeus, including but not limited to swine commonly known as Russian boar or European boar of either sex.

"Dangerous wild animal" means any of the following:

1. A member of the family canidae of the order carnivora, including but not limited to wolves, coyotes, and jackals. However, a dangerous wild animal does not include a domestic dog.

2. A member of the family hyaenidae of the order of carnivora, including but not limited to hyenas.

3. A member of the family felidae of the order carnivora, including but not limited to lions, tigers, cougars, leopards, cheetahs, ocelots, and servals. However, a dangerous wild animal does not include a domestic cat.

4. A member of the family ursidae of the order carnivora, including bears and pandas.

5. A member of the family rhinocero tidae of the order perissodactyla, which is a rhinoceros.

6. A member of the order proboscidea, which are any species of elephant.

7. A member of the order of primates other than humans, and including the following families: callitrichiadae, cebidae, cercopithecidae, cheirogaleidae, daubentoniidae, galagonidae, hominidae, hylobatidae, indridae, lemuridae, loridae, megaladapidae, or tarsiidae. A member includes but is not limited to marmosets, tamarins, monkeys, lemurs, galagos, bush babies, great apes, gibbons, lesser apes, indris, sifakas, and tarsiers.

8. A member of the order crocodilia, including but not limited to alligators, caimans, crocodiles, and gharials.

9. A member of the family varanidae of the order squamata, which are limited to water monitors and crocodile monitors.

10. A member of the order squamata which is any of the following:

- A member of the family varanidae, which are limited to water monitors and crocodile monitors.
- A member of the family atractaspidae, including but not limited to mole vipers and burrowing asps.
- A member of the family helodermatidae, including but not limited to beaded lizards and gila monsters.
- A member of the family elapidae, voperidae, crotalidae, atractaspidae, or hydrophidae which are venomous, including but not limited to cobras, mambas, coral snakes, kraits, adders, vipers, rattlesnakes, copperheads, pit vipers, keelbacks, cottonmouths, and sea snakes.
- A member of the superfamily henophidia, which are limited to reticulated pythons, anacondas, and African rock pythons.

11. Swine which is a member of the species sus scrofa Linnaeus, including but not limited to swine commonly known as Russian boar or European boar of either sex.

"Dangerous wild animal" includes an animal which is the offspring of an animal listed in paragraphs "1" to "11" and another animal listed in those paragraphs or any other animal. It also includes animals which are the offspring of each subsequent generation. However, a dangerous wild animal does not include the offspring of a domestic dog and a wolf, or the offspring from each subsequent generation in which at least one parent is a domestic dog. A dangerous wild animal does not include the offspring of a domestic cat and another member of the family felidae classified as a bengal or savannah as long as the bengal or savannah is the fourth or later filial generation of offspring.

"Department" means the Iowa department of agriculture and land stewardship.

"Possess" means to own, keep, or control a dangerous wild animal, or supervise or provide for the care and feeding of a dangerous wild animal, including any activity relating to confining, handling, breeding, transporting, or exhibiting the dangerous wild animal.
[**ARC 0949C**, IAB 8/21/13, effective 9/25/13]

21—77.2(717F) Prohibitions. Except as otherwise provided in this chapter, a person shall not own or possess a dangerous wild animal, cause or allow a dangerous wild animal owned by a person or in the person's possession to breed, or transport a dangerous wild animal into this state.
[**ARC 0949C**, IAB 8/21/13, effective 9/25/13]

21—77.3(717F) Continued ownership—requirements of the individual. A person who owns or possesses a dangerous wild animal on July 1, 2007, may continue to own or possess the dangerous wild animal if the person is 18 years old or older and meets all of the following:

77.3(1) The person must not have been convicted of an offense involving the abuse or neglect of an animal pursuant to a law of this state or another state, including but not limited to the provisions of Iowa Code chapter 717, 717B, 717C, or 717D or an ordinance adopted by a city or county.

77.3(2) The department, another state, or the federal government must not have suspended an application for a permit or license or revoked a permit or license required to operate a commercial establishment for the care, breeding, or sale of animals, including as provided in Iowa Code chapter 162.

77.3(3) The person must not have been convicted of a felony for an offense committed within the last ten years, as provided by the Code of Iowa, under the laws of another state, or under federal law.

77.3(4) The person must not have been convicted of a misdemeanor or felony for an offense committed within the last ten years involving a controlled substance, as defined in Iowa Code section 124.101, in this state, under the laws of another state, or under federal law.
[**ARC 0949C**, IAB 8/21/13, effective 9/25/13]

21—77.4(717F) Continued ownership—insurance required. The person who continues to own or possess a dangerous wild animal must maintain liability insurance coverage in an amount of not less than $100,000, with a deductible of not more than $250, for each occurrence of property damage, bodily injury, or death caused by each dangerous wild animal kept by the person. The contents of the insurance policy must provide for notification to the department if the policy is canceled or reduced.
[**ARC 0949C**, IAB 8/21/13, effective 9/25/13]

21—77.5(717F) Continued ownership—electronic identification device. The person who continues to own or possess a dangerous wild animal must have an electronic identification device implanted beneath the skin or hide of the dangerous wild animal, unless a licensed veterinarian states in writing that the implantation would endanger the comfort or health of the animal. In such case, an electronic identification device may be otherwise attached to the dangerous wild animal as required by the department. An electronic identification device means a device which when installed is designed to store information regarding an animal or the animal's owner in a digital format which may be accessed by a computer for purposes of reading or manipulating the information.
[**ARC 0949C**, IAB 8/21/13, effective 9/25/13]

21—77.6(717F) Continued ownership—registration form.

77.6(1) The person who continues to own or possess a dangerous wild animal must notify the department using a registration form prepared by the department not later than December 31, 2007.

77.6(2) The registration form shall include all of the following information:

a. The person's name, address, and telephone number.

b. A sworn affidavit that the person meets the requirements necessary to own or possess a dangerous wild animal as provided in this chapter.

c. A complete inventory of each dangerous wild animal which the person owns or possesses. The inventory shall include all of the following information:

(1) The number of dangerous wild animals according to species.

(2) The name of the manufacturer and number of the manufacturer's electronic device implanted in or attached to each dangerous wild animal.

(3) The location where each dangerous wild animal is kept. The person must notify the department in writing within ten days of a change of address or of the location where the dangerous wild animal is kept.

(4) The approximate age, sex, color, weight, scars, and any distinguishing marks of each dangerous wild animal.

(5) The name, business mailing address, and business telephone number of the licensed veterinarian who is responsible for providing care to the dangerous wild animal. The information shall include a statement signed by the licensed veterinarian certifying that the dangerous wild animal is in good health.

(6) A color photograph of the dangerous wild animal.

(7) A copy of a current liability insurance policy as required in rule 21—77.4(717F). The person shall submit a copy of the current liability policy to the department each year.

[**ARC 0949C**, IAB 8/21/13, effective 9/25/13]

21—77.7(717F) Continued ownership—registration fee.

77.7(1) The person who continues to own or possess a dangerous wild animal must pay the department an annual registration fee as follows:

a. $500 for a member of the order proboscidea, which are any species of elephant.

b. $500 for a member of the family rhinocero tidae of the order perissodactyla, which is a rhinoceros.

c. $300 for a member of the family ursidae of the order carnivora, which is limited to bears.

d. For a member of the family felidae of the order carnivora, all of the following:

(1) $300 for a member of the subfamily pantherinae, limited to leopards other than snow leopards, lions, and tigers; and for a member of the subfamily felinae limited to pumas, jaguars, and cougars.

(2) $200 for a member of the subfamily felinae limited to bobcats, clouded leopards, cheetahs, and lynx.

(3) $100 for a member of the subfamily felinae limited to caracals, desert cats, Geoffroy's cats, jungle cats, margays, ocelots, servals, and wild cats.

e. For a member of the order of primates other than humans, all of the following:

(1) $300 for a member commonly referred to as an ape, belonging to the hylobatidae family such as gibbons and siamangs, or to the pongidae family including gorillas, orangutans, or chimpanzees.

(2) $150 for a member commonly referred to as an old world monkey, belonging to the family cercopithecidae, including but not limited to macaques, rhesus, mangabeys, mandrills, guenons, patas monkeys, langurs, and proboscis monkeys.

(3) $50 for a member commonly referred to as a new world monkey belonging to the family cebidae, including but not limited to cebids, including capuchin monkeys, howlers, woolly monkeys, squirrel monkeys, night monkeys, titis, uakaris, or to the family callitrichidae, including but not limited to marmosets and tamarins.

f. $100 for a member of the order crocodilia, including but not limited to alligators, caimans, crocodiles, and gharials.

g. $50 for a member of the family varanidae of the order squamata, which are limited to water monitors and crocodile monitors.

h. $50 for a member of the family atractaspidae, including but not limited to mole vipers and burrowing asps.

i. $50 for a member of the family helodermatidae, including but not limited to beaded lizards and gila monsters.

j. $50 for a member of the family elapidae, voperidae, crotalidae, atractaspidae, or hydrophidae which are venomous, including but not limited to cobras, mambas, coral snakes, kraits, adders, vipers, rattlesnakes, copperheads, pit vipers, keelbacks, cottonmouths, and sea snakes.

k. $100 for a member of the superfamily henophidia, which is limited to reticulated pythons and anacondas.

l. $10 for swine which is a member of the species sus scrofa Linnaeus, including but not limited to swine commonly known as Russian boar or European boar of either sex.

77.7(2) The department shall collect either an original registration fee or a renewal registration fee. The renewal fee is one-half the amount of the original fee.
[**ARC 0949C**, IAB 8/21/13, effective 9/25/13]

21—77.8(717F) Continued ownership—records required. The person who continues to own or possess a dangerous wild animal must maintain health and ownership records for the dangerous wild animal for the life of the animal, including: deaths and cause of each death; the complete name, address and telephone number of the person to whom an animal was transferred or sold; the date the animal was transferred or sold; and the current location of each animal's records.
[**ARC 0949C**, IAB 8/21/13, effective 9/25/13]

21—77.9(717F) Continued ownership—enclosure required.

77.9(1) The person who continues to own or possess a dangerous wild animal must confine the dangerous wild animal in a primary enclosure on the person's premises. The primary enclosure should be of sound construction and maintained in good repair to protect the animal from injury. Construction materials and maintenance shall allow the animal to be kept clean. The animal should be housed or caged in a manner that allows the animal to perform the normal behavior patterns of its species and prevents disease, liberation, or accidental injury to the animal and the public. The animal should have adequate food, shelter, ventilation, and lighting for its species. Appropriate sanitation measures must be taken. Food supplies and bedding materials must be adequate, appropriate, and sanitary. Equipment must be available for the removal and disposal of waste materials to minimize vermin infestation, odors, and disease hazards.

77.9(2) The person must not allow the dangerous wild animal outside of the primary enclosure unless the dangerous wild animal is moved pursuant to any of the following:

a. To receive veterinary care from a licensed veterinarian.

b. To comply with the directions of the department or an animal warden.

c. To transfer ownership and possession of the dangerous wild animal to a wildlife sanctuary or provide for its destruction by euthanasia according to the American Veterinary Medical Association Panel on Euthanasia Guidelines.
[**ARC 0949C**, IAB 8/21/13, effective 9/25/13]

21—77.10(717F) Continued ownership—signs required. The person who continues to own or possess a dangerous wild animal must display at least one visible, readable sign with suitable wording on the person's premises where the dangerous wild animal is kept warning the public that the dangerous wild animal is confined there.
[**ARC 0949C**, IAB 8/21/13, effective 9/25/13]

21—77.11(717F) Escape notification required. The person who continues to own or possess a dangerous wild animal must immediately notify an animal warden or other local law enforcement official of any escape of a dangerous wild animal.
[**ARC 0949C**, IAB 8/21/13, effective 9/25/13]

21—77.12(717F) Relinquishment. If the person who continues to own or possess a dangerous wild animal is no longer able to care for the animal, both of the following shall apply:

1. The person must so notify the department, stating the planned disposition of the dangerous wild animal.

2. The person must dispose of the dangerous wild animal by transferring ownership and possession to a wildlife sanctuary or providing for its destruction by euthanasia according to the American Veterinary Medical Association Panel on Euthanasia Guidelines.
[**ARC 0949C**, IAB 8/21/13, effective 9/25/13]

21—77.13(717F) Seizure, custody and disposal.

77.13(1) Except as provided in subrule 77.13(2), the department shall seize a dangerous wild animal which is in the possession of a person if the person is not in compliance with the requirements of this chapter. An animal warden as defined in Iowa Code section 162.2, or an animal care provider or law enforcement officer as defined in Iowa Code section 717B.1, shall enforce this chapter as directed by the department.

77.13(2) Upon request, the department may provide that the person retain possession of the dangerous wild animal for not more than 14 days, upon conditions required by the department. During that period, the person shall take all necessary actions to comply with this chapter. The premises, housing facilities and records required by 2007 Iowa Acts, Senate Files 564 and 601, shall be open for inspection by authorized personnel of the department during normal business hours.

77.13(3) If the person fails to comply with the conditions of the department at any time or is not in compliance with this chapter following the 14-day period, the department shall seize the dangerous wild animal.

[**ARC 0949C**, IAB 8/21/13, effective 9/25/13]

21—77.14(717F) Exemptions. This chapter does not apply to any of the following:

1. An institution accredited or certified by the American Zoo and Aquarium Association.
2. A wildlife sanctuary.
3. A person who keeps falcons, if the person has been issued a falconry license by the department of natural resources pursuant to Iowa Code section 483A.1.
4. A person who owns or possesses a dangerous wild animal as an agricultural animal. The person shall not transfer the dangerous wild animal to another person, unless the person to whom the dangerous wild animal is transferred will own or possess it as an agricultural animal or the person is a wildlife sanctuary.
5. A person who owns or possesses a dangerous wild animal as an assistive animal. The person shall not transfer the dangerous wild animal to another person, unless the person to whom the dangerous wild animal is transferred will own or possess it as an assistive animal or the person is a wildlife sanctuary.
6. A person who harvests the dangerous wild animal as a hunter or trapper pursuant to state law and as regulated by the department of natural resources.
7. A person who has been issued a wildlife rehabilitation permit by the department of natural resources pursuant to Iowa Code section 481A.65.
8. A circus that obtains a permit from a city in which it will be temporarily operating, if the city issues permits.
9. A city.
10. A nonprofit corporation governed under Iowa Code chapter 504 that is an organization described in Section 501(c)(3) of the Internal Revenue Code and that is exempt from taxation under Section 501(a) of the Internal Revenue Code if the nonprofit corporation was a party to a contract executed with a city prior to July 1, 2007, the effective date of 2007 Iowa Acts, Senate Files 564 and 601, to provide for the exhibition of dangerous wild animals at a municipal zoo. The nonprofit corporation shall not transfer the dangerous wild animal to another person, unless the person to whom the dangerous wild animal is transferred is a wildlife sanctuary.
11. The state fair as provided in Iowa Code chapter 173 or any fair as provided in Iowa Code chapter 174.
12. A research facility.
13. A location operated by a person licensed to practice veterinary medicine pursuant to Iowa Code chapter 169. However, this paragraph shall not apply to a swine which is a member of the species sus scrofa Linnaeus, including but not limited to swine commonly known as Russian boar or European boar of either sex.
14. A pound as defined in Iowa Code section 162.2.
15. An animal shelter as defined in Iowa Code section 162.2.
16. A county conservation board as provided in Iowa Code chapter 350.

17. An employee of the department responsible for the administration of this chapter, an animal warden as defined in Iowa Code section 162.2, or an animal care provider or law enforcement officer as defined in Iowa Code section 717B.1.

18. A person temporarily transporting a dangerous wild animal through this state if the transit time is not more than 96 hours and the dangerous wild animal is maintained within a confined area sufficient to prevent its escape or injuring members of the traveling public.

19. A public agency which maintains permanent custody of a dangerous wild animal, if the person to whom the public agency assigns the duty to manage the custody of the dangerous wild animal complies with the provisions of 2007 Iowa Acts, Senate File 564, section 4.

20. A person who keeps a dangerous wild animal pursuant to both of the following conditions:

- The person is licensed by the United States Department of Agriculture as provided in 9 CFR Chapter 1.
- The person is registered by the department of agriculture and land stewardship. Upon a complaint filed with the department of agriculture and land stewardship, the department may inspect the premises or investigate the practices of the registered person and suspend or revoke the registration for the same causes and in the same manner as provided in Iowa Code section 162.12.

[**ARC 0949C**, IAB 8/21/13, effective 9/25/13]

These rules are intended to implement Iowa Code chapter 717F as amended by 2013 Iowa Acts, Senate File 247.

[Filed emergency 9/19/07 after Notice 8/15/07—published 10/10/07, effective 9/19/07]

[Filed ARC 0949C (Notice ARC 0786C, IAB 6/12/13), IAB 8/21/13, effective 9/25/13]

CHAPTERS 78 to 84
Reserved

CHAPTER 85
WEIGHTS AND MEASURES

[Appeared as Ch 14, 1973 IDR]
[Certain rules renumbered 5/3/78]
All tolerances and specifications for the weights and measures division were adopted from the U.S. Bureau of Standards Handbook II, 44 published September 1949.
[Prior to 7/27/88 see Agriculture Department 30—Ch 55]

WEIGHTS

21—85.1(215) "Sensibility reciprocal" defined. The term *"sensibility reciprocal"* is defined as to the weight required to move the position of equilibrium of the beam, pan, pointer or other indicating device of a scale, a definite amount.

This rule is intended to implement Iowa Code section 215.18.

21—85.2(215) "Platform scale" defined. Rescinded IAB 3/31/04, effective 5/5/04.

21—85.3(215) For vehicle, axle-load, livestock, animal, crane and railway track scales. Rescinded IAB 3/31/04, effective 5/5/04.

21—85.4 Reserved.

21—85.5(215) "Counter scale" defined. A *"counter scale"* is a scale of any type which is especially adopted on account of its compactness, light weight, moderate capacity and arrangements of parts for use upon a counter, bench, or table.

21—85.6(215) "Spring and computing scales" defined. A *"spring scale"* is a scale in which the weight indications depend upon the change of shape or dimensions of an elastic body or system of such bodies.

85.6(1) A *"computing scale"* is a scale which, in addition to indicating the weight, indicates the total price of the amount of commodity weighed for a series of unit prices and must be correct in both its weight and value indications.

85.6(2) All computing scales shall be equipped with weight indicators and charts on both the dealer's and customer's sides.

85.6(3) Tolerances for both the spring scale and the computing scale shall not be greater than that for counter scales.

This rule is intended to implement Iowa Code section 215.18.

21—85.7(215) "Automatic grain scale" defined. The *"automatic grain scale"* is one so constructed with a mechanical device that a stream of grain flowing into its hopper can be checked at any given weight, long enough to register said weight and dump the load. The garner above the scale should have at least three times the capacity of the scale to ensure a steady flow at all times.

On automatic-indicating scales. On a particular scale, the maintenance tolerances applied shall be not smaller than one-fourth the value of the minimum reading-face graduation; the acceptance tolerances applied shall be not smaller than one-eighth the value of the minimum reading-face graduation.

However, on a prepacking scale (see D.11, D.12) having graduated intervals of less than one-half ounce, the maintenance tolerances applied shall not be smaller than one-eighth ounce and the acceptance tolerances applied shall be not smaller than one-sixteenth ounce.

This rule is intended to implement Iowa Code section 215.18.

21—85.8(215) "Motor truck scales" defined. *"Motor truck scales"* are scales built by the manufacturer for the use of weighing commodities transported by motor truck.

This rule is intended to implement Iowa Code section 215.18.

21—85.9(215) "Livestock scales" defined. *"Livestock scales"* are scales which are constructed with stock racks, or scales which are being used to weigh livestock.

This rule is intended to implement Iowa Code section 215.18.

21—85.10(215) "Grain dump scales" defined. *"Grain dump scales"* are scales so constructed that the truck may be unloaded without being moved from the scale platform.

The above-mentioned scales must be approved by the department. This approval being based upon blueprints and specifications submitted for this purpose.

This rule is intended to implement Iowa Code section 215.18.

21—85.11(215) Scale pit.

85.11(1) In the construction of a scale pit, walls must be of reinforced concrete. A slab floor must be installed in the pit. The floor must be at least 12 inches thick with a minimum of grade 40 reinforcement rod running into all piers and sidewalls, installed according to the manufacturer's specifications. There shall be an approach at each end of the scale of not less than ten feet, and said approach shall be of reinforced concrete 12 inches thick on a level with the scale deck.

85.11(2) Electronic scales shall have a vertical clearance of not less than four feet from the floor line to the bottom of the I-beam of the scale bridge, thus providing adequate access for inspection and maintenance. The load-bearing supports of all scales installed in a fixed location shall be constructed to ensure the strength, rigidity and permanence required for proper scale performance.

This rule is intended to implement Iowa Code section 215.15.

21—85.12(215) Pitless scales. A person may install pitless electronic, self-contained and vehicle scales in a permanent location provided the following conditions for the construction are incorporated:

85.12(1) Scale installation applications and permits must be submitted to the department of agriculture and land stewardship the same as the pit scale installation, with specifications being furnished by the manufacturer, for approval.

85.12(2) Piers shall extend below the frost line or be set on solid bed rock; and they shall be of reinforced concrete.

85.12(3) A reinforced concrete slab the width of the scale, at least six inches thick, shall run full length under the scale. Slab and piers shall be tied together with reinforcement rod, with a minimum clearance of eight inches between floor and weighbridge.

85.12(4) Reinforced portland cement approaches at least 12 inches thick, ten feet long and as wide as the scale, shall be provided on each end in a level plane with the scale platform.

85.12(5) Scale shall be installed at an elevation to ensure adequate drainage away from scale.

85.12(6) Scale platform and indicator shall be protected from wind and other elements which could cause inaccurate operation of the scale.

This rule is intended to implement Iowa Code section 215.18.

21—85.13(215) Master weights. Master scale test weights used for checking scales after being overhauled must be sealed by the department of agriculture and land stewardship, division of weights and measures, as to their accuracy once each year. Said weights after being sealed are to be used only as master test weights.

This rule is intended to implement Iowa Code section 215.17.

21—85.14(215) Scale design. A scale shall be of such materials and construction that (1) it will support a load of its full nominal capacity without developing undue stresses or deflections, (2) it may reasonably be expected to withstand normal usage without undue impairment of accuracy or the correct functioning of parts, and (3) it will be reasonably permanent in adjustment.

85.14(1) *Stability of indications.* A scale shall be capable of repeating with reasonable precision its indications and recorded representations. This requirement shall be met irrespective of repeated manipulation of any scale element in a manner duplicating normal usage, including *(a)* displacement of

the indicating elements to the full extent allowed by the construction of the scale, *(b)* repeated operation of a locking device, and *(c)* repeated application or removal of unit weights.

85.14(2) *Interchange or reversal of parts.* Parts which may readily be interchanged or reversed in the course of normal usage shall be so constructed that their interchange or reversal will not materially affect the zero-load balance or the performance of the scale. Parts which may be interchanged or reversed in normal field assembly shall be *(a)* so constructed that their interchange or reversal will not affect the performance of the scale or *(b)* so marked as to show their proper positions.

85.14(3) *Pivots.* Pivots shall be made of hardened steel, except that agate may be used in prescription scales, and shall be firmly secured in position. Pivot knife-edges shall be sharp and straight and cone-pivot points shall be sharp.

85.14(4) *Position of equipment, primary or recording indicating elements (electronic weighing elements).* A device equipped with a primary or recording element shall be so positioned that its indications may be accurately read and the weighing operations may be observed from some reasonable "customer" position; the permissible distance between the equipment and a reasonable customer position shall be determined in each case upon the basis of individual circumstances, particularly the size and character of the indicating element; a window large enough should be placed in the building, and the installation should be so arranged as to afford an unobstructed view of the platform.

This rule is intended to implement Iowa Code section 215.18.

21—85.15(215) Weighbeams. All weighbeams, dials, or other mechanical weight-indicating elements must be placed on reinforced concrete footings or metal structural members. Concrete and metal must be of sufficient strength to keep mechanical weight-indicating elements in positive alignment with the lever system.

This rule is intended to implement Iowa Code section 215.18.

21—85.16(215) Beam box. Whenever a scale is equipped with a beam box, the beam uprights, shelf and cap must be made of channel irons or I-beams. The box covering the weighbeam may be constructed of wood or other material.

This rule is intended to implement Iowa Code section 215.18.

21—85.17(215) Beam rod. Rescinded IAB 3/31/04, effective 5/5/04.

21—85.18(215) Weight capacity. The amount of weight indicated on the beam, dial or other auxiliary weighing attachments shall not exceed the factory-rated capacity of the scale, and said capacity shall be stamped on the butt of the beam (fractional bar is not included).

85.18(1) *Auxiliary attachment.* If auxiliary attachment is used, the amount of the auxiliary attachment must be blocked from the beam.

85.18(2) *Normal position.* The normal balance position of the weighbeam of a beam scale shall be horizontal.

85.18(3) *Travel.* Rescinded IAB 3/31/04, effective 5/5/04.

85.18(4) *Weighbeam.* Rescinded IAB 3/31/04, effective 5/5/04.

85.18(5) *Poise stop.* Rescinded IAB 3/31/04, effective 5/5/04.

85.18(6) *Pawl.* Rescinded IAB 3/31/04, effective 5/5/04.

85.18(7) *Nominal capacity, marking.* Rescinded IAB 3/31/04, effective 5/5/04.

85.18(8) *Uncompensated spring scales.* A small capacity uncompensated spring scale shall be conspicuously marked to show that the scale is illegal for use in the retail sale of foodstuffs other than fruits and vegetables.

This rule is intended to implement Iowa Code section 215.16.

21—85.19(215) Provision for sealing coin slot. Provision shall be made on a coin-operated scale for applying a lead and wire seal in such a way that insertion of a coin in the coin slot will be prevented.

This rule is intended to implement Iowa Code section 215.18.

21—85.20(215) Stock racks. A livestock scale shall be equipped with a suitable enclosure, fitted with gates as required, within which livestock may be held on a scale platform; this rack shall be securely mounted on the scale platform and adequate clearances shall be maintained around the outside of the rack.

This rule is intended to implement Iowa Code section 215.18.

21—85.21(215) Lengthening of platforms. The length of the platform of a vehicle scale shall not be increased beyond the manufacturer's designed dimension except when the modification has been approved by competent scale-engineering authority, preferably that of the engineering department of the manufacturer of the scale, and by the weights and measures authority having jurisdiction over the scale.

This rule is intended to implement Iowa Code section 215.18.

21—85.22(215) Accessibility for testing purposes. A large capacity scale shall be so located, or such facilities for normal access thereto shall be provided that the test weights of the weights and measures official, in the denominations customarily provided, and in the amount deemed necessary by the weights and measures official for the proper testing of the scale, may readily be brought to the scale by the customary means; otherwise it shall be the responsibility of the scale owner or operator to supply such special facilities, including necessary labor, as may be required to transport the test weights to and from the scale, for testing purposes, as required by the weights and measures official.

This rule is intended to implement Iowa Code section 215.10.

21—85.23(215) Assistance in testing operations. If the design, construction or location of a large-capacity scale is such as to require a testing procedure involving special accessories or an abnormal amount of handling of test weights, such accessories or needed assistance in the form of labor shall be supplied by the owner or operator of the scale, as required by the weights and measures official.

This rule is intended to implement Iowa Code section 215.1.

21—85.24(215) Beam scale. One on which the weights of loads of various magnitude are indicated solely by means of one or more weighbeam bars either alone or in combination with counterpoise weights.

This rule is intended to implement Iowa Code section 215.18.

21—85.25(215) Spring scale. An automatic-indicating scale in which the counterforce is supplied by an elastic body or system of such bodies, the shape or dimensions of which are changed by applied loads. A "compensated" spring scale is one equipped with a device intended to compensate for changes in the elasticity of the spring or springs resulting from changes in temperature, or one so constructed as to be substantially independent of such changes; an "uncompensated" spring scale is one not so equipped or constructed. A "straight-face" spring scale is one in which the indicator is affixed to the spring without intervening mechanism and which indicates weight values on a straight graduated reading-face. (The use in a scale of metal bands or strips in lieu of pivots and bearings does not constitute the scale a "spring" scale.)

This rule is intended to implement Iowa Code section 215.18.

21—85.26(215) Weighbeam or beam. An element comprising one or more bars equipped with movable poises or means for applying counterpoise weights or both.

This rule is intended to implement Iowa Code section 215.18.

21—85.27(215) Livestock scale. For purposes of the application of requirements for SR tolerances and minimum graduations, a scale having a nominal capacity of 6,000 pounds or more and used primarily for weighing livestock standing on the scale platform. (An "animal scale" is a scale adapted to weighing single heads of livestock.)

This rule is intended to implement Iowa Code section 215.18.

SCALES

21—85.28(215) Wheel-load weighers and axle-load scales. The requirements for wheel-load weighers and axle-load scales apply only to such scales in official use for the enforcement of traffic in highway laws or for the collection of statistical information by government agencies.

This rule is intended to implement Iowa Code 215A.3.

21—85.29(215) Highway vehicle. Rescinded IAB 3/31/04, effective 5/5/04.

21—85.30 to **85.32** Reserved.

MEASURES

21—85.33(214A,208A) Motor fuel and antifreeze tests and standards. In the interest of uniformity, the tests and standards for motor fuel, including but not limited to renewable fuels such as ethanol blended gasoline, biodiesel, biodiesel blended fuel, and components such as an oxygenate, raffinate natural gasoline and motor vehicle antifreeze shall unless otherwise required by statute be those established by the American Society for Testing and Materials (ASTM) in effect on July 1, 2013, with the exception of ASTM D4814-13 for the distillation of gasoline for ethanol blended gasoline classified as higher than E-10 and up to E-50. Diesel fuel which does not comply with ASTM international specifications may be blended with biodiesel, additives or other diesel fuel so that the finished blended product does meet the applicable specifications. In addition, a motor fuel that contains more than one-half of 1 percent of methyl tertiary butyl ether (MTBE) by volume shall not be sold, offered for sale, or stored in Iowa.

This rule is intended to implement Iowa Code sections 208A.5, 208A.6, 214A.2 as amended by 2013 Iowa Acts, House File 458, and 215.18.

[**ARC 0953C**, IAB 8/21/13, effective 9/25/13]

21—85.34(215) Tolerances on petroleum products measuring devices. All pumps or meters at filling stations may have a tolerance of not over five cubic inches per five gallons, minus or plus. All pumps or measuring devices of a large capacity shall have a maintenance tolerance of 50 cubic inches, minus or plus, on a 50-gallon test. Add additional one-half cubic inch tolerance per gallon over and above a 50-gallon test. Acceptance tolerances on large capacity pumps and measuring devices shall be one-half the maintenance tolerances.

This rule is intended to implement Iowa Code sections 214.2 and 215.20.

21—85.35(215) Meter adjustment. If a meter is found to be incorrect and also capable of further adjustment, said meter shall be adjusted, rechecked and sealed. If a seal is broken for any cause other than by a state inspector, the department of agriculture and land stewardship shall be promptly notified of same.

85.35(1) Companies specializing in testing and repairing gasoline and fuel oil dispensing pumps or meters, shall be registered with the division of weights and measures, upon meeting requirements set forth by the department of agriculture and land stewardship.

85.35(2) In accordance with the contemplated revision of National Bureau of Standards Handbook 44-4th Edition, G-UR4.4 (Replacement of Security Seal), accredited repair and testing companies shall be authorized to affix a security seal, properly marked with the identification of such company.

85.35(3) If a meter is found to be inaccurate, “Repair and Placing in Service” card shall be left by the inspector.

85.35(4) After meter has been repaired and placed in service, the “Repair and Placing in Service” card must be returned to the Iowa Department of Agriculture and Land Stewardship, Weights and Measures Division.

This rule is intended to implement Iowa Code section 215.20.

21—85.36(215) Recording elements. All weighing or measuring devices shall be provided with appropriate recording or indicating elements, which shall be definite, accurate and easily read under any conditions of normal operation of the device. Graduations and a suitable indicator shall be provided in connection with indications and recorded representations designed to advance continuously. Graduations shall not be required in connection with indications or recorded representations designed to advance intermittently or with indications or recorded representations of the selector type.

This rule is intended to implement Iowa Code section 215.18.

21—85.37(215) Air eliminator. All gasoline or oil metering devices shall be equipped with an effective air eliminator to prevent passage of air or vapor through the meter. The vent from such eliminator shall not be closed or obstructed.

This rule is intended to implement Iowa Code section 215.18.

21—85.38(215) Delivery outlets. No means shall be provided by which any measured liquid can be diverted from the measuring chamber of the meter or the discharge line therefrom. However, two or more delivery outlets may be installed, if automatic means is provided to ensure that liquid can flow from only one such outlet at one time, and the direction of flow for which the mechanism may be set at any time is definitely and conspicuously indicated.

This rule is intended to implement Iowa Code section 215.18.

21—85.39(189,215) Weights and measures. The specifications, tolerances and regulations for commercial weighing and measuring devices, together with amendments thereto, as recommended by the National Institute of Standards and Technology and published in National Institute of Standards and Technology Handbook 44 amended or revised as of July 1, 2013, shall be the specifications, tolerances and regulations for commercial weighing and measuring devices in the state of Iowa, except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship and not rescinded.

The National Institute of Standards and Technology (NIST) Handbooks 130 and 133: Weights and Measures Law, Packaging and Labeling, Method of Sale, Type Evaluation, Checking the Net Contents of Packaged Goods, and Uniform Engine Fuels and Automotive Lubricants Regulation, and all supplements, as published by the National Institute of Standards and Technology amended or revised as of July 1, 2013, are adopted in their entirety by reference except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship.

This rule is intended to implement Iowa Code sections 189.9, 189.13, 189.17, 215.14, 215.18 and 215.23.

[**ARC 8292B**, IAB 11/18/09, effective 12/23/09; **ARC 0953C**, IAB 8/21/13, effective 9/25/13]

21—85.40(215) Inspection tag or mark. If a meter is found to be inaccurate, an appropriate "inaccurate" card and a "repair and placing in service" card shall be left with the meter.

85.40(1) The "inaccurate" card is to be retained by the LP-gas dealer after repair.

85.40(2) The "repair and placing in service" card is to be forwarded to weights and measures division of the Iowa department of agriculture and land stewardship.

This rule is intended to implement Iowa Code section 215.5.

21—85.41(215) Meter repair. If the meter has not been repaired within 30 days the meter will be condemned and a red condemned tag will be attached to the meter.

This rule is intended to implement Iowa Code section 215.5.

21—85.42(215) Security seal. In accordance with the contemplated revision of National Institute of Standards and Technology Handbook 44, Gur. 4.4 (Replacement of Security Seal), accredited repair and testing companies shall be authorized to affix a security seal, properly marked with the identification of such company.

This rule is intended to implement Iowa Code section 215.12.

21—85.43(215) LP-gas meter repairs. Companies specializing in testing and repairing LP-gas meters shall be registered with the division of weights and measures as accredited repair and testing agencies upon meeting the requirements set forth by the department of agriculture and land stewardship.

This rule is intended to implement Iowa Code section 215.20.

21—85.44(215) LP-gas delivery. In the delivery of LP-gas by commercial bulk trucks (bobtail) across state lines, it shall be mandatory for all trucks delivering products to be equipped with a meter that has been either tested by the state of Iowa or that carries the seal of an accredited meter service and proving company.

This rule is intended to implement Iowa Code section 215.20.

21—85.45(215) LP-gas meter registration. The location of all LP-gas liquid meters in retail trade shall be listed, by the owner, with the department of agriculture and land stewardship.

This rule is intended to implement Iowa Code section 215.20.

21—85.46(215) Reporting new LP-gas meters. Upon putting a new or used meter into service in the state of Iowa, the user shall report to the weights and measures division.

This rule is intended to implement Iowa Code section 215.20.

21—85.47 Rescinded, effective 11/27/85.

21—85.48(214A,215) Advertisement of the price of liquid petroleum products for retail use.

85.48(1) Nothing in this rule shall be deemed to require that the price per gallon or liter or any grade or kind of liquid petroleum product sold on the station premises be displayed or advertised except on the liquid petroleum metering distribution pumps.

85.48(2) Petroleum product retailers, if they elect to advertise the unit price of their petroleum products at or near the curb, storefront or billboard, shall display the price per gallon or liter. The advertised price shall equal the computer price settings shown on the metering pump or shall be displayed in a manner clear to the purchaser for discounts offered for cash payment.

85.48(3) Notwithstanding the provisions of subrule 85.48(2), cash only prices may be posted by the petroleum marketer on the following basis:

a. Cash only prices must be disclosed on the posted sign as "cash only" or similar unequivocal wording in lettering 3″ high and ¼″ in stroke when the whole number price being shown is 36″ or less in height; or in lettering at least 6″ high and ½″ in stroke when the whole number price is more than 36″ in height.

b. Cash prices posted or advertised must be available to all customers, regardless of type of service (e.g., full service or self-service); or grade of product (e.g., regular, unleaded, gasohol and diesel).

c. Cash and credit prices or discounts must be prominently displayed on the dispenser.

d. A chart showing applicable cash discounts expressed in terms of both the computed and posted price shall be available to the customer on the service station premises.

85.48(4) On all outside display signs, the whole number shall not be less than 6″ in height and not less than 3/8″ in stroke, and any fraction shall be at least one-third of the size of the whole number in both height and width.

85.48(5) The price must be complete, including taxes without any missing numerals or fractions in the price.

85.48(6) Price advertising signs shall identify the type of product (e.g., regular, unleaded, gasohol and diesel), in lettering at least 3″ high and ¼″ in stroke when the whole number price being shown is 36″ or less in height, or in lettering at least 6″ high and ½″ in stroke when the whole number price is more than 36″ in height.

85.48(7) A price advertising sign shall display, if in liters and may display if in gallons, the unit measure at least in letters of 3″ minimum.

85.48(8) Directional or informational signs for customer location of the type of service or product advertised shall be clearly and prominently displayed on the station premises in a manner not misleading to the public.

85.48(9) The advertising of other commodities or services offered for sale by petroleum retailers in such a way as to mislead the public with regard to petroleum product pricing shall be prohibited.

85.48(10) Weights and measures motor vehicle fuels decals. All motor vehicle fuel kept, offered or exposed for sale or sold at retail containing over 1 percent of a renewable fuel shall be identified with a decal located on front of the motor vehicle fuel pump and placed between 30″ and 50″ above the driveway level or in an alternative location approved by the department. The appearance of the decal shall conform to the following standards adopted by the renewable fuels and coproducts advisory committee:

a. The only two sizes of decals approved are the following:

(1) A design of 1.25″ by 4″.

(2) A design of 2″ by 6″.

b. All labels shall have the word "with" in letters a minimum of .1875″ high, and the name of the renewable fuel in letters a minimum of .5″ high.

c. The use of color, design and wording shall be approved by the renewable fuels and coproducts advisory committee. The coordinator may receive input from any party including the weights and measures bureau of the department in recommending the color, design, and wording. The advisory committee shall approve the color, design, and wording to promote the use of renewable fuels.

d. All black and white fuel pump stickers shall be replaced by approved colorful fuel pump decals effective July 1, 1995.

e. Biodiesel fuel containing 5 percent or less of biodiesel does not require the biodiesel label.

f. Biodiesel fuel containing more than 5 percent but not more than 20 percent of renewable fuel must indicate on the label whether biodiesel or biomass-based diesel is the renewable fuel contained in the product. The label must also indicate that the fuel contains biodiesel or biomass-based diesel in quantities greater than 5 percent but not more than 20 percent. A specific blend percentage is not required on the label.

g. Biodiesel fuel containing more than 20 percent renewable fuel must indicate on the label whether biodiesel or biomass-based diesel is the renewable fuel contained in the product. The label must also reflect the specific percentage of biodiesel or biomass-based diesel in the product.

85.48(11) Ethanol blended gasoline classified as higher than E-15 shall have a visible, legible "for flex fuel vehicle only" sticker on the pump or pump handle.

85.48(12) Ethanol blended gasoline classified as higher than E-10 and up to E-15 shall have on the pump the federal sticker required by the Environmental Protection Agency in 40 CFR Part 80 published August 25, 2011.

85.48(13) Rescinded IAB 3/11/09, effective 4/15/09.

85.48(14) Octane rating of fuel offered for sale shall be posted on the pump in a conspicuous place. The octane rating shall be posted for registered fuels. No octane rating shall be posted on the pump for ethanol blended gasoline classified as higher than E-15. The minimum octane rating for gasoline offered for sale by a retail dealer is 87 for regular grade gasoline and 90 for premium grade gasoline.

85.48(15) Any gasoline labeled as "leaded" shall be produced with the use of any lead additive or contain more than 0.05 grams of lead per gallon or more than 0.005 grams of phosphorus per gallon. As used in this subrule, "lead additive" means any substance containing lead or lead compounds.

85.48(16) Ethanol blended gasoline shall be designated E-xx where "xx" is the volume percent of ethanol in the ethanol gasoline. Ethanol blended gasoline formulated with a percentage of ethanol between 70 and 85 percent by volume shall be designated as E-85. Biodiesel fuel shall be designated as B-xx where "xx" is more than 20 percent renewable fuel by volume.

85.48(17) A wholesale dealer selling ethanol blended gasoline or biodiesel fuel to a purchaser shall provide the purchaser with a statement indicating the actual volume percentage present. The statement

may be on the sales slip provided or a similar document such as a bill of lading or invoice. This statement shall include the specific amount of biodiesel, even if the amount of renewable fuel is 5 percent or less.

This rule is intended to implement Iowa Code sections 214A.3, 214A.16 and 215.18.

[**ARC 7628B**, IAB 3/11/09, effective 4/15/09; **ARC 8434B**, IAB 12/30/09, effective 2/3/10; **ARC 0079C**, IAB 4/4/12, effective 3/16/12; **ARC 0953C**, IAB 8/21/13, effective 9/25/13]

21—85.49(214A,215) Gallonage determination for retail sales. The method of determining gallonage on gasoline or diesel motor vehicle fuel for retail sale shall be on a gross volume basis. Temperature correction or any deliberate methods of heating shall be prohibited.

This rule is intended to implement Iowa Code sections 214A.3 and 215.18.

21—85.50(214,214A,215) Blender pumps. Motor fuel blender pumps or blender pumps installed or modified after November 1, 2008, which sell both ethanol blended gasoline classified as higher than E-15 and gasoline need to have at least two hoses per pump.

This rule is intended to implement Iowa Code section 214A.2.

[**ARC 7628B**, IAB 3/11/09, effective 4/15/09; **ARC 0079C**, IAB 4/4/12, effective 3/16/12]

21—85.51 Reserved.

MOISTURE-MEASURING DEVICES

21—85.52(215A) Testing devices. All moisture-measuring devices will be tested against a measuring device which will be furnished by the department and all moisture-measuring devices will be inspected to determine whether they are in proper operational condition and supplied with the proper accessories.

This rule is intended to implement Iowa Code section 215A.2.

21—85.53(215A) Rejecting devices. Moisture-measuring devices may be rejected for any of the following reasons:

85.53(1) The moisture-measuring device tested is found to be out of tolerance with the measuring device used by the department by one of the inspectors so assigned by more than 0.7 percent on grain moisture content.

85.53(2) The person does not have available the latest charts for type of device being used.

85.53(3) The person does not have available the proper scale or scales and thermometers for use with the type of device being used.

85.53(4) The moisture-measuring device is not free from excessive dirt, debris, cracked glass or is not kept in good operational condition at all times.

This rule is intended to implement Iowa Code section 215A.6.

21—85.54(215,215A) Specifications and standards for moisture-measuring devices. The specifications and tolerances for moisture-measuring devices are those established by the United States Department of Agriculture as of November 15, 1971, in chapter XII of GR instruction 916-6, equipment manual, used by the federal grain inspection service; and those recommended by National Bureau of Standards and published in National Bureau of Standards Handbook 44 as of July 1, 1985.

This rule is intended to implement Iowa Code section 215A.3.

21—85.55 Renumbered as 55.28(215), IAC 12/4/85.

21—85.56 Renumbered as 55.29(215), IAC 12/4/85.

21—85.57(215) Testing high-moisture grain. When testing high-moisture grain the operator of a moisture-measuring device shall use the following procedure: Test each sample six times adding the six measurements thus obtained and dividing the total by six to obtain an average which shall be deemed to be the moisture content of such sample.

This rule is intended to implement Iowa Code section 215A.7.

21—85.58 to **85.62** Reserved.

HOPPER SCALES

21—85.63(215) Hopper scales. A "hopper scale" is a scale designed for weighing bulk commodities whose load-receiving element is a tank, box, or hopper mounted on a weighing element; and includes automatic hopper scales, grain hopper scales, and construction material hopper scales.

85.63(1) *Installation.* A hopper scale used for commercial purposes shall be so located, or such facilities for normal access thereto shall be so provided that the test weights of the weights and measures official, in the denominations customarily provided, and in the amount deemed necessary by the weights and measures official for the proper testing of the scale, may readily be brought to the scale by customary means; otherwise it shall be the responsibility of the scale owner or operator to supply such special facilities, as required by the weights and measures official. The hopper scale shall have extended angle irons with hooks 14 inches from edge to hopper, in all four corners, to allow the inspector to hook his chain and binder to 500# weight (or 1000# weight) for testing.

85.63(2) *Method of hopper scale testing.* The method to be used in testing the scale for weighing accuracy shall be by the suspension of standard test weights at each corner of the weighbridge, suspended from a point as near as possible over the center of the main bearing. A suitable permanent device to which the suspension equipment may be connected shall be properly located and placed on each corner of the weighbridge. There is to be no obstruction, such as machinery, spouting or insufficient wall clearance, etc., that will interfere with the free suspension of the weights.

85.63(3) *Approved by department.* Newly installed hopper scales must be approved by the department; this approval shall be based upon blueprints and specifications submitted for this purpose.

This rule is intended to implement Iowa Code sections 215.10 and 215.18.

[IDR 1952, p.20, 1954, 1958, 1962]
[Amended 11/18/63, 9/14/65, 12/14/65, 11/21/66, 11/15/67, 8/30/68, 9/10/69, 9/22/69, 9/15/70, 12/17/71, 3/15/73, 7/10/74]
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[Filed emergency 11/3/06—published 11/22/06, effective 11/3/06]

[Filed emergency 4/8/08—published 5/7/08, effective 4/8/08]
[Filed ARC 7628B (Notice ARC 7370B, IAB 11/19/08), IAB 3/11/09, effective 4/15/09]
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[Filed ARC 8434B (Notice ARC 8041B, IAB 8/12/09), IAB 12/30/09, effective 2/3/10]
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[Filed ARC 0953C (Notice ARC 0815C, IAB 6/26/13), IAB 8/21/13, effective 9/25/13]

CHAPTERS 86 to 89
Reserved

CHAPTER 90
STATE LICENSED WAREHOUSES AND WAREHOUSE OPERATORS

[Prior to 7/30/86, Commerce Commission [250], Ch 12]
[Prior to 7/27/88, 21—Ch 60]

21—90.1(203C) Application of rules. These rules are subject to such changes and modifications as the department of agriculture and land stewardship may from time to time deem advisable. These rules are subject to such waivers or variances as may be considered just and reasonable in individual cases, subject to the provisions of 21—Chapter 8.

This rule is intended to implement Iowa Code section 203C.5.

21—90.2(203C) Definitions. For this chapter, the following definitions apply:

"Bureau" means the grain warehouse bureau of the department of agriculture and land stewardship.

"Department" means the Iowa department of agriculture and land stewardship.

"Generally accepted accounting principles" means accounting principles generally accepted in the United States of America, in accordance with the U.S. Financial Accounting Standards Board, or international financial reporting standards, in accordance with the International Accounting Standards Board.

"Indemnity fund" means the Iowa grain depositors and sellers indemnity fund created in Iowa Code chapter 203D.

"Licensee" means a licensed warehouse operator.

"Person" means the same as defined in Iowa Code section 4.1.

"Provider" means a person approved by the department to maintain a secure electronic central filing system of electronic warehouse receipt records pursuant to Iowa Code section 203C.18.

"Provider agreement" means an agreement required by this chapter which is entered into between the department and a provider.

"Received" means the earliest of the following:

1. The date a state warehouse examiner acknowledges receipt.
2. The date stamped "received" in the grain warehouse bureau.
3. The date postmarked, if the item is properly addressed to the Grain Warehouse Bureau, Iowa Department of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319.

"United States Warehouse Act" means the United States Warehouse Act, 7 U.S.C. Ch. 10.

"USDA" means the United States Department of Agriculture and its divisions and agencies, including, but not limited to, the Farm Service Agency.

"USDA Provider Agreement" means the agreement entered into between the USDA and a provider and which is printed on USDA Form WA-460 and any addenda thereto.

"User agreement" means an agreement required by this chapter which is entered into between a provider and a warehouse operator licensed by the department pursuant to the provisions of Iowa Code chapter 203C.

[**ARC 7553B**, IAB 2/11/09, effective 3/18/09; **ARC 9388B**, IAB 2/23/11, effective 3/30/11; **ARC 0392C**, IAB 10/17/12, effective 11/21/12]

21—90.3(203C) Types of products to be warehoused. Products to be warehoused shall be divided into two general types or classes as follows:

90.3(1) Bulk grain, which is grain that is not contained in sacks.

90.3(2) Agricultural and farm consumable products other than bulk grain. Such products include those suitable for storage in quantity, canned agricultural products and products used in producing other agricultural products.

This rule is intended to implement Iowa Code section 203C.1.

21—90.4(203C,203D) Application for a warehouse operator license. Application to operate a licensed warehouse (Iowa Code chapter 203C) shall be made to the bureau on forms prescribed for that

purpose by the bureau. Forms are available from the bureau upon request. All information required by Iowa Code section 203C.7 shall be furnished. The bureau may require the applicant to file updated information if the information on the application is no longer current. The application, insurance certificate, financial statement, tariff, license fee, indemnity fund fee and background information on a person applying for the license and on the managers shall be on file before a license is issued. The bureau chief may require an inspection of the proposed facilities prior to the issuance of a warehouse operator license.

This rule is intended to implement Iowa Code sections 203C.6, 203C.7, 203C.12, 203C.15, 203C.28, 203C.33, 203D.3 and 203D.3A.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—90.5(203C) Warehouse operator license. A warehouse operator license shall specify the type and quantity of products which may be stored in a licensed warehouse. Separate class licenses bearing the same number may be issued to the same business entity authorizing the storage of bulk grain under one license and the storage of products other than bulk grain under the other license (Class 2 warehouse). The separate licenses may be for the same facilities provided the warehouse or warehouses described in the application are suitable for the safe storage of the products intended to be stored.

90.5(1) *Warehouse operator license—nontransferable.* Warehouse operator licenses are not transferable between different legal entities. Warehouse operator licenses may be amended to cover a name change of the same legal entity. The licensee shall give the bureau notice of a proposed name change. The bureau shall confirm the name change with the secretary of state or other governmental agency prior to amending the license.

90.5(2) *Surrender of license.* The license shall be surrendered to the bureau immediately upon cancellation, suspension, or revocation of such license.

This rule is intended to implement Iowa Code sections 203C.2, 203C.7, 203C.9 and 203C.16.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—90.6(203C) Posting of license. The warehouse operator license certificate, including the warehouse diagram, shall be posted at all times in a conspicuous location in the place of business. A license certificate shall be posted in each location where grain is delivered or weighed. Upon receipt of an amended license, the warehouse operator shall immediately post the amended license and remove the old license.

This rule is intended to implement Iowa Code section 203C.34.

[**ARC 7553B**, IAB 2/11/09, effective 3/18/09]

21—90.7(203C) Renewal, expiration and reinstatement of license—payment of license fee.

90.7(1) *Renewals.* The bureau shall send to each licensed warehouse operator written notice that the application, the license fee and the indemnity fund fee for annual renewal of the warehouse operator license shall be received in accordance with Iowa Code section 203C.37. If the bureau does not receive the application and fees by the due date, the license shall expire. A license that has expired may be reinstated within 30 days of the date of expiration conditioned on the applicant's meeting all statutory requirements and by the bureau's receipt of the following within 30 days of the expiration:

a. Completed application;

b. License and indemnity fund fees; and

c. The reinstatement fee prescribed in Iowa Code section 203C.33.

90.7(2) *Proration of fees.* Fees for license periods of less than one year shall be prorated on a month-to-month basis. Fees for license periods of less than one year shall be applicable only under the following circumstances:

a. When an application for a new license is filed; or

b. When the fiscal year of a license holder is changed.

This rule is intended to implement Iowa Code sections 203C.33 and 203C.37.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—90.8(203C) Financial statements.

90.8(1) *New license applicants.* To obtain a warehouse operator license, an applicant shall submit a financial statement that shall:

a. Be prepared within three months from the date of filing and comply with 90.8(2), paragraph *"a"* or *"b"*; or

b. Be prepared as of the applicant's usual fiscal year end and comply with 90.8(2), paragraph *"a"* or *"b,"* and the applicant has continuously been in business for one year or more, and the applicant has submitted any additional financial information required by the bureau; or

c. Be a forecasted financial statement prepared by a certified public accountant licensed in this state, and the applicant is a new business entity that is in the process of transferring funds into the business entity. An applicant who files a forecasted financial statement pursuant to this paragraph shall file a financial statement which complies with 90.8(2), paragraph *"a"* or *"b,"* within one month after the date the license is issued by the bureau.

90.8(2) *Financial statement requirements.* Financial statements filed pursuant to subrules 90.8(1), 90.8(3), 90.8(4) and 90.8(11) shall be prepared in accordance with generally accepted accounting principles and shall comply with either of the following:

a. Be accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. The bureau may accept a qualification in an opinion that is unavoidable by any audit procedure. Opinions that are qualified because of the limited audit procedure or because the scope of an audit is limited shall not be accepted by the bureau; or

b. Be accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant.

90.8(3) *Sole proprietorship financial statements.* An individual licensed as a sole proprietorship shall file a financial statement which conforms with the provisions of subrules 90.8(2) and 90.8(4) on the proprietorship business. The individual shall also file a personal statement of financial condition which conforms with the provisions of subrules 90.8(2) and 90.8(4). The personal statement of financial condition shall also disclose the historical cost basis for assets as provided in Iowa Code section 203C.6.

90.8(4) *Filing date of annual statements.* Every licensee shall prepare financial statements at the close of the licensee's designated fiscal year and shall file the statements and the bureau's financial information form with the bureau not later than three months thereafter. These financial statements shall be prepared in accordance with generally accepted accounting principles and shall consist, at a minimum, of a balance sheet, statement of income, statement of cash flow, and accompanying notes to the financial statements. The bureau shall notify every licensee during the month after the close of the licensee's fiscal year that the licensee's financial statement is due three months after the close of the licensee's fiscal year.

90.8(5) *Additional disclosures required in the financial statement.* Unless the following information is disclosed in the fiscal year end financial statements, the licensee's certified public accountant shall file with the financial statements a separate letter disclosing the information:

a. A reconciliation of differences in the grain obligations as shown in the financial statement and the daily position record.

b. Amount and kind of grain on collateral warehouse receipts.

c. Amount and kind of company-owned grain which is being stored in unlicensed facilities or which has been transferred to another warehouse.

d. Bushel and dollar amounts of all outstanding grain payables, including a breakdown of the bushels and dollars of each type of credit-sale contract.

e. Gross grain sales for the fiscal year.

f. Gross nongrain sales for the fiscal year.

g. Cost of all goods sold for the fiscal year.

h. Depreciation expense for the fiscal year.

i. Interest expense for the fiscal year.

j. Number of bushels of grain purchased under each grain dealer's license. For purposes of this paragraph, "purchases" shall mean all grain to which the grain dealer has obtained title during the grain dealer's fiscal year.

90.8(6) *Filing extension.*

a. The bureau chief may grant an extension of one month for the filing of financial statements upon receipt of the following:

(1) A letter from the warehouse operator's certified public accountant stating the reason for filing the extension request and that work has been done on preparing the financial statements.

(2) An affidavit from the warehouse operator stating that the warehouse operator meets the financial responsibility requirements of Iowa Code section 203C.6, or that the licensee shall file additional bond in an amount to cover any net worth deficiency as provided in Iowa Code section 203C.6, based upon the licensed certified public accountant's best estimate of the licensee's financial position.

b. Warehouse operators who file false affidavits under this rule may be prosecuted under Iowa Code section 203C.36. Subrule 90.8(6) does not apply to the filing of financial statements required under the provisions of subrules 90.8(10), 90.8(11) and 90.8(12).

90.8(7) *Asset valuation.* The licensee may submit to the bureau a written request for asset valuation. The written request shall be accompanied by the appraisal and shall have been prepared by a licensed appraiser in this state and shall list the appraiser's credentials. Before an appraisal will be accepted by the bureau, the licensee shall show a positive net worth. All appraisals are subject to approval by the bureau chief. The bureau chief shall notify the licensee within five working days if the appraisal is unacceptable. Any approved asset valuation may be used in any financial statements prepared by or for the licensee in accordance with subrule 90.8(2).

90.8(8) *Appraisals.* Competent appraisals on file with the bureau shall be valid for use in determining asset value for a maximum period of three years. Thereafter, a new appraisal for asset valuation shall be required and shall be used for a like period of time. In the event the certified public accountant expresses doubt as to the licensee's ability to continue as a going concern, the bureau shall not allow an appraisal to be used to meet net worth requirements. All assets included in the appraisal shall be depreciated by the bureau using the following schedule:

a. Buildings and attached equipment—15 years.

b. Rolling stock (trucks)—5 years.

c. Equipment—5 years.

90.8(9) *Assets allowed in meeting financial requirements.*

a. *Corporations, limited liability companies and partnerships.* When the bureau determines the net worth for corporations, limited liability companies and partnerships, related party assets that require financial disclosure per financial accounting standards shall be disallowed. These assets shall be excluded unless the licensee can show the bureau sufficient documentation to assure the bureau that the assets are collectible.

b. *Sole proprietors.* When the bureau determines the net worth for sole proprietors, related party assets shall be excluded unless the licensee can show the department sufficient documentation to explain why these assets should be included. Only that part of the value of an asset which is subject to execution shall be allowed by the bureau in determining net worth. When a liability associated with an exempt asset (whether the asset is included or not) exceeds the original cost (or fair market value after an appraisal approved by the bureau), such excess shall be shown as a liability with appropriate footnotes to the financial statement. An applicant or a licensed warehouse operator shall complete the bureau's financial information form regarding this matter and submit the form with the financial statements.

90.8(10) *Net worth deficiency monthly financial statements.* Every licensee who has a net worth deficiency and who has filed additional bond shall file monthly financial statements with the bureau by the end of the next month until the net worth meets the requirements of Iowa Code section 203C.6 for a minimum of three consecutive months. These financial statements shall contain a minimum of a balance sheet and statement of income and shall be prepared in accordance with generally accepted accounting principles.

90.8(11) *Good cause financial statement.* The bureau chief may require a licensee to file a financial statement which complies with paragraph 90.8(2)*"b"* within 45 days of notification by the bureau if one of the following conditions exists:

a. Quantity shortage;

b. Quality shortage;

c. Payment is made by use of a check or electronic funds transfer and a financial institution refuses payment because of insufficient moneys in the licensee's account;

d. Record-keeping violations;

e. Other documented evidence which indicates that the licensee's financial condition has deteriorated since the filing of the licensee's last financial statement; or

f. A high risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the warehouse operator based on a statistical model provided in Iowa Code section 203C.40.

90.8(12) *Additional information.* The bureau chief may require an applicant or licensee to provide the bureau with any other information reasonably related to the business of a warehouse operator and work papers supporting the financial statements.

90.8(13) *Penalty for failure to timely supply financial statements.* The department may suspend the license of any warehouse operator who fails to provide the required financial statements within the time limits prescribed by these rules.

This rule is intended to implement Iowa Code sections 203C.1, 203C.5, 203C.6 and 203C.7.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—90.9(203C) Bonds and irrevocable letters of credit. Bonds filed with the bureau shall be on forms prescribed by the bureau. Irrevocable letters of credit filed with the bureau shall be on the form prescribed by the bureau. Bonds and irrevocable letters of credit shall be written so as to provide funds to protect depositors having storage in the warehouse as described in the particular license issued to a warehouse operator.

90.9(1) *Agricultural products other than bulk grain.* The amount of bond or irrevocable letter of credit to be filed in connection with the storage of agricultural and farm consumable products other than bulk grain shall be determined in accordance with the provisions of Iowa Code section 203C.13. When the net worth of a licensee is less than that required by Iowa Code section 203C.13, the licensee may increase the bond or file an irrevocable letter of credit with the bureau to cover the net worth deficiency as provided by Iowa Code section 203C.13.

90.9(2) *Inadequate net worth—storage of bulk grain.* When the net worth of a licensee authorized to store bulk grain is less than that required by Iowa Code section 203C.6, the licensee may file a bond or an irrevocable letter of credit with the bureau to cover the net worth deficiency as provided by Iowa Code section 203C.6.

90.9(3) *Bond or irrevocable letters of credit as department may require.* In addition to the minimum amount as provided by Iowa Code section 203C.13 and in addition to an amount to cover the net worth deficiency as provided by Iowa Code section 203C.6, the bureau chief may require a bond or an irrevocable letter of credit to be filed in an amount determined by the department for any of the following reasons:

a. Quality deficiency in stored grain;

b. Quantity deficiency in stored grain;

c. Use of temporary storage facilities or emergency storage by licensee; or

d. Documented evidence of the excessive use of lost warehouse receipt release forms by the licensee.

90.9(4) *Minimum amount of indemnification.* The amount of bond, additional bond, or irrevocable letter of credit prescribed under subrule 90.9(1), 90.9(2) or 90.9(3) is the minimum amount that shall be accepted by the bureau. A bond or irrevocable letter of credit in a higher amount may be filed if the warehouse operator deems it advisable in the operation of the warehouse business.

90.9(5) *Quality and quantity deficiency bonds.* Quality and quantity deficiency bonds shall be for a minimum of 45 days.

90.9(6) *Replacement bond or irrevocable letter of credit.* The bureau shall send a written notice and information and forms for filing the required replacement bond or irrevocable letter of credit, unless the bond or irrevocable letter of credit is no longer necessary. If the licensee has not filed a replacement bond

or irrevocable letter of credit with the bureau within 60 days of receipt of the notice of cancellation, the department shall automatically suspend the warehouse operator license and cause the licensed warehouse to be inspected by the bureau. If the department does not receive a replacement bond or irrevocable letter of credit from the licensee within 30 days of the suspension of the license, the department shall automatically revoke the warehouse operator license and commence an examination of the licensee. When the licensee's failure to file a replacement bond or irrevocable letter of credit causes revocation of the warehouse operator license, the bureau chief shall give notice of such revocation to each holder of an outstanding warehouse receipt and all persons known to have grain retained in open storage.

90.9(7) *Cancellation of bond or irrevocable letter of credit.* The issuer shall send the cancellation notice to the bureau by certified mail. The notice shall be in accordance with the provisions of the bond or irrevocable letter of credit. The time period for notice of cancellation stated in the bond or irrevocable letter of credit commences on the date when the bureau receives the notice. The bureau shall send written acknowledgment of the cancellation of the bond or irrevocable letter of credit to the issuer and the principal.

This rule is intended to implement Iowa Code sections 203C.6, 203C.11, 203C.12 and 203C.13.

21—90.10(203C) Insurance. Each warehouse operator licensed by the department shall keep fully insured, for the current market value, against loss by fire, inherent explosion or windstorm, all agricultural products in storage in the warehouse and all agricultural products which have been deposited temporarily in the warehouse pending storage or for purposes other than storage. This insurance shall be carried in an insurance company or companies authorized to do business in this state and shall be provided by and carried in the name of the warehouse operator. Each policy providing such coverage must have attached thereto an Iowa warehouse endorsement form as prescribed by the department. An insurance policy may include more than one location, and a location may be insured by more than one policy.

90.10(1) *Certificate of insurance.* As evidence that insurance coverage has been provided, the licensee shall file with the department a certificate of insurance form as prescribed by the department.

a. Not more than one policy shall be included on one certificate of insurance.

b. Where one policy provides coverage for two or more licenses or locations and coverage is provided separately at each location, a separate certificate of insurance shall be executed for each license or location shown on the policy. Each certificate shall show the total amount of insurance provided by the policy for the license or locations for which the certificate is provided.

c. Where one policy provides coverage for two or more licenses or locations and coverage is provided on a blanket basis at all locations, one certificate of insurance shall be executed for the policy. The certificate shall show the amount of insurance provided by the policy.

90.10(2) *Cancellation of insurance.* When the department receives notice from an insurance company that the company is canceling the insurance of a licensed warehouse, the department shall send written notice to the warehouse operator. The notice shall explain the department's enforcement action that will result from the warehouse operator's noncompliance. The department shall suspend the warehouse operator license if the department does not receive proof of replacement insurance by the insurance cancellation date. The department shall immediately conduct an inspection of the licensed warehouse upon suspension of the license. If replacement insurance is not filed within 10 days following suspension, the department shall revoke the warehouse operator license. When the department revokes a license, the department shall notify each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage of the revocation. The department shall further notify each receipt holder and all known persons who have grain retained in open storage that the grain must be removed from the warehouse not later than the thirtieth day following the revocation. The notice shall be sent by ordinary mail to the last-known address of each person having grain in storage.

90.10(3) *Expiration of insurance.* The department shall send the warehouse operator a reminder letter 30 days prior to the effective date of the expiration of the insurance of a licensed warehouse. The notice shall explain the department's enforcement action that will result from the warehouse operator's noncompliance. The department shall suspend the warehouse operator license if replacement insurance

is not received by the department by the expiration date. The department shall immediately conduct an inspection of the licensed warehouse upon suspension of the license. If the licensee does not file replacement insurance within 10 days following suspension, the department shall revoke the warehouse operator license. When the department revokes a license, the department shall notify each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage that the license has been revoked. The department shall further notify each receipt holder and all persons who have grain retained in open storage that the grain must be removed from the warehouse not later than the thirtieth day following the revocation. The notice shall be sent by ordinary mail to the last-known address of each person having grain in storage.

90.10(4) *Insufficient insurance.* The department shall provide written notice to the warehouse operator when the department has evidence that the value of commodities in the warehouse is greater than the limit of liability of the insurance policy. The notice shall explain the department's enforcement action that will result from the warehouse operator's noncompliance. The department shall suspend the warehouse operator license if the department does not receive proof of sufficient insurance coverage within 30 days of the notice. The department shall immediately conduct an inspection of the licensed warehouse upon suspension of the license. If the warehouse operator does not provide proof of sufficient insurance coverage within 10 days of the license suspension, the department shall revoke the license. When the department revokes the license, the department shall notify each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage that the license has been revoked. The department shall further notify each receipt holder and all persons who have grain retained in open storage that the grain must be removed from the warehouse not later than the thirtieth day following the revocation. The notice shall be sent by ordinary mail to the last-known address of each person having grain in storage.

This rule is intended to implement Iowa Code section 203C.15.

[**ARC 0392C**, IAB 10/17/12, effective 11/21/12]

21—90.11(203C) Notice to the warehouse bureau.

90.11(1) The licensee shall notify the bureau prior to:

a. Change of ownership of a warehouse.

b. Change in name or business address of a warehouse or warehouse operator.

c. The use of additional storage facilities which are not covered under the warehouse operator license.

d. The use of any facility under the warehouse operator license for storage of a product other than that for which it is licensed.

e. The changing of the licensee's fiscal year.

f. Using any bin or facility which has had a structural change.

g. The ceasing of operations.

90.11(2) The licensee shall notify the bureau within 24 hours after the licensee knows or should have known any of the following:

a. Loss or damage to stored products or to licensed storage facilities;

b. Licensee's net worth falling below the amount required by Iowa Code section 203C.6 and if the amount of the deficiency is not covered by a net worth deficiency bond as required by Iowa Code section 203C.6; or

c. Any quality or quantity deficiency of grain.

90.11(3) The licensee shall notify the bureau within ten days after the licensee knows or should have known any of the following:

a. Termination of a lease on storage facilities, or the leasing of a facility under license to any other person;

b. The death of an individual or any member of a partnership operating a warehouse; or

c. Any change in management.

This rule is intended to implement Iowa Code sections 203C.2, 203C.6, 203C.8 and 203C.9.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—90.12(203C) Issuance of warehouse receipts. A warehouse receipt shall be issued no later than the close of the next business day following demand by the depositor or depositor's agent or, in absence of such demand, the warehouse receipt shall be issued within 12 months from date of deposit in the warehouse, unless the warehouse operator is in possession of a signed and dated statement from the depositor that the depositor does not want a warehouse receipt to be issued. Such waiver shall apply only to grain deposited in the warehouse prior to the date of the waiver.

90.12(1) *Waiver.* The waiver shall contain a minimum of the following information:

a. Depositor's name.

b. Depositor's signature.

c. Date of deposit.

d. Date of depositor's signature.

e. Number of bushels.

f. Type of commodity.

The waiver must be signed within 12 months of the first delivery of the grain under waiver. If a depositor signs a statement that no warehouse receipt need be issued, such grain shall then be deemed as open storage and shall remain a warehouse obligation. A copy of this statement shall be maintained in the warehouse operator's records. The original (white) warehouse receipt shall be given to the depositor upon demand. The depositor's copy (green) shall be given to the depositor upon issuance of the warehouse receipt. The warehouse operator's copy (yellow) shall be maintained by the warehouse operator in a separate file in numerical order while the warehouse receipt is outstanding.

90.12(2) *Unpriced grain deemed held for storage after 30 days.* Any grain received at any warehouse for which the actual sale price is not fixed and documented on the warehouse operator's records or for which payment is not made on the thirtieth day shall be construed to be grain held for storage within the meaning of Iowa Code chapter 203C. The 30-day provision is applicable only when there has been no commitment for storage by the depositor, or the warehouse operator fails to have a policy posted in a conspicuous location in the place of business. Grain shall be considered as storage in less than 30 days if the receiving warehouse operator has a policy specifying when such grain shall be considered as storage. Such policy shall be posted at all times in a conspicuous location in the place of business. Warehouse receipts shall be issued in accordance with the provisions of Iowa Code section 203C.18. Grain held in storage after the thirtieth day or after the time period less than 30 days in accordance with the warehouse operator's posted policy for which warehouse receipts have not been issued shall be considered as open storage. The warehouse operator's tariff charges shall apply to open storage from date of deposit. Open storage shall be considered as a storage obligation.

90.12(3) *Information on warehouse receipts.* Not more than one product, or grade, or value of product shall be shown on a warehouse receipt. All grade factors pertinent to determining grade shall be shown on warehouse receipts issued for bulk grain, and any other information pertinent to the product, stored under warehouse receipt, should clearly be stated under the heading "Remarks." The warehouse operator, in the inspection of the grain upon delivery, shall perform a sufficient amount of sampling of the grain to ensure a representative application of the grade factors to the grain. All warehouse receipts issued shall designate the person to whom the receipt is issued and whether it is issued negotiable or nonnegotiable.

a. All warehouse receipts shall be issued on an accurate and complete basis. All applicable areas shall be filled in. Any of the following errors shall be cause to cancel and reissue the warehouse receipt:

(1) Illegible changes or appearance of change in overall amount;

(2) Change in the type of grain; or

(3) Changing the warehouse receipt from negotiable to nonnegotiable or vice versa.

b. Any alterations not directly prohibited shall be made by strike-through and replacement. No correction material shall be used. The person making the change shall initial and date the change. All copies shall be altered identically.

90.12(4) *Restrictions on the issuance of collateral warehouse receipts.* Collateral receipts cannot be issued for grain represented by credit-sale contract except for the percentage of bushels paid for through advances to sellers on grain purchased by credit-sale contract. The amount and percentage of advances

shall be shown on the face of the credit-sale contract or on a listing which identifies the contracts and the amount of the advances.

This rule is intended to implement Iowa Code sections 203C.17 and 203C.18.

21—90.13(203C) Cancellation of warehouse receipts. Upon delivery of the product represented by a warehouse receipt, the original receipt shall be marked "canceled," signed or initialed, and dated upon the face thereof by the warehouse operator or an authorized agent. The warehouse operator shall then retain possession of the warehouse receipt in a separate numerical order of receipts canceled by the licensee but not yet marked with the warehouse bureau's stamp and shall present the receipt to be canceled with the department's stamp at the time of any inspection or examination of the warehouse records. Cancellation shall mean that the obligation is removed from the bureau's records. The warehouse operator shall, upon request of the bureau, forward any such warehouse receipts to the bureau's office to be canceled with the department's stamp. Before the bureau stamps the receipt "canceled" with the department's stamp, any negotiable receipts which have been used as collateral by the licensee shall have the lender's release date and signature on the reverse side indicating when the receipt was released.

90.13(1) *Partial delivery of negotiable warehouse receipted commodity.* If only a portion of the product represented by a negotiable warehouse receipt is delivered, such warehouse receipt shall be signed or initialed, dated and marked "canceled" by the warehouse operator or an authorized agent upon the face thereof. A new (or replacement) warehouse receipt shall be issued covering the balance of the product remaining in storage the same day as the original warehouse receipt is canceled. This replacement warehouse receipt, in the space provided under the "Remarks," shall be marked "Balance of warehouse receipt No. ____," and the canceled warehouse receipt number shall be inserted in that space.

90.13(2) *Voided warehouse receipts.* Original warehouse receipts voided on the day of issuance by the warehouse operator for any reason shall be so marked, signed or initialed, and dated and held to be stamped with the department's cancellation stamp in the same manner as any other warehouse receipt.

90.13(3) *Warehouse receipt cancellation procedure.*

a. The warehouse operator shall have the original warehouse receipt in possession.

b. The warehouse operator shall mark the face of the warehouse receipt "canceled," sign or initial and date it.

c. The purchase of grain from a warehouse receipt shall be recorded on a document that is numbered at the time of printing and that contains the following information:

(1) Seller's name;
(2) Warehouse receipt number;
(3) Number of bushels;
(4) Price;
(5) Items deducted from gross proceeds;
(6) Net value; and
(7) Check number, invoice reference, or credit-sale contract reference number.

One copy of the document shall be maintained by the licensee for inspection, and one copy shall be given to the seller.

90.13(4) *Surrender of warehouse receipts on cancellation, expiration, suspension or revocation of license.* When a warehouse operator license has expired or is canceled, suspended or revoked, all unused warehouse receipts under such license shall be surrendered to the bureau.

The bureau shall notify the warehouse operator that all outstanding warehouse receipts shall be returned to the bureau's office no later than 120 days from the date of cancellation, expiration, or revocation of the license.

90.13(5) *Purchase or return of grain, replacement receipt issued, or cancellation of outstanding receipts, upon cancellation, expiration, or revocation of warehouse operator license.* When a warehouse operator license has expired or is canceled or revoked, all stored grain shall be either purchased and payment made, or returned within 30 days to the holders of warehouse receipts or unpriced scale tickets, except when the warehouse is continuing operation under new ownership or when storage obligations are

assumed by another licensee. Upon completion of delivery to the receipt holder or the reissuance of the receipt under a new license, the warehouse operator shall immediately mark "canceled," sign or initial and date such receipt on the face of the original copy, and forward such receipt to the bureau's office to be stamped with the department's cancellation stamp. When the storage obligations are assumed by a new licensee from a warehouse whose license is expired or has been canceled or revoked, replacement warehouse receipts shall be issued.

90.13(6) *Delivery conditioned upon return of outstanding warehouse receipt.* No product represented by an outstanding warehouse receipt shall be delivered until the original outstanding warehouse receipt is returned to the warehouse operator. The receipt shall be held by the warehouse operator as an open warehouse receipt until the delivery is completed. If periodic partial delivery is made against a nonnegotiable warehouse receipt, the delivery shall be documented on the back of the original warehouse receipt or other method of documentation approved by the bureau showing the net balance in store. Original nonnegotiable warehouse receipts may be maintained in alphabetical or numerical order. If partial delivery is made against a negotiable warehouse receipt, the warehouse receipt shall be canceled and a replacement warehouse receipt issued for the balance in store.

90.13(7) *Cancellation of warehouse receipt conditioned on removal from storage, purchase and payment, reissuance of receipt, or execution of a credit-sale contract.* No warehouse receipt shall be canceled by the warehouse operator unless:

a. The product represented by the receipt has been removed from storage;

b. The product has been purchased and payment made;

c. A replacement receipt is issued at the time the receipt is canceled; or

d. The product represented by the receipt is purchased and a credit-sale contract is properly executed.

This rule is intended to implement Iowa Code sections 203C.16, 203C.17, 203C.18, 203C.34 and 203C.35.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—90.14(203C) Lost or destroyed receipt. If a warehouse receipt is lost or destroyed, one of three methods shall be used in canceling the receipt. The following procedures shall be adhered to:

90.14(1) *Depositor's lost warehouse receipt release.* If the depositor or warehouse receipt holder has lost the receipt and is either selling all of the grain to the warehouse operator or removing all of the grain from storage, a Lost Warehouse Receipt Release shall be used. The release shall be completed in duplicate and signed by the receipt holder and shall be notarized. Both copies shall be retained in the warehouse records in lieu of the original copy of the receipt, which shall be given to the bureau at the time of an examination. One copy of the release shall be filed with the bureau at the time of an examination.

90.14(2) *Bond for issuance of duplicate receipts.* If the depositor has lost a warehouse receipt and needs a duplicate warehouse receipt, the depositor shall obtain a bond made in favor of the warehouse operator in accordance with the provisions of Iowa Code section 554.7601 (Uniform Commercial Code). This bond shall be in the amount of at least double the market value of the commodity at the time of posting the bond. A copy of the bond shall also be filed with the bureau. Upon issuance of a duplicate receipt, it shall be marked "Duplicate of lost warehouse receipt No. ____," in the space provided under "Remarks," and the lost warehouse receipt number shall be inserted in that space. The bond shall be in the warehouse operator's possession prior to the issuance of a duplicate receipt.

90.14(3) *Licensee's lost warehouse receipt affidavit.* If a warehouse receipt has been lost or destroyed by the warehouse operator, the warehouse operator shall prepare an affidavit in duplicate, signed before a notary public, stating that the warehouse receipt was lost or destroyed on or about (date). The affidavit shall also state that after a diligent search was made, the warehouse receipt cannot be found and that no obligation is due any person under that warehouse receipt. The affidavit shall further state that if the lost receipt is found, it shall be forwarded immediately to the bureau for cancellation. If a depositor's name is on record under the warehouse receipt, the bureau may require that the warehouse operator also obtain a written statement from the depositor that confirms that the depositor has been paid for the grain or the depositor has received the grain back and that the depositor has no further claim

against said receipt. The affidavits shall be held in lieu of the original copy of the warehouse receipt. The original copy shall be given to the bureau at the time of an examination.

This rule is intended to implement Iowa Code section 203C.19.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—90.15(203C) Warehouse receipts.

90.15(1) *Warehouse receipt forms.* Warehouse receipt forms shall be 8.25 inches wide by 7 inches long or 8.5 inches wide by 11 inches long and shall be printed in not less than triplicate. The original receipt shall be white, and the weight of the paper shall not be less than 20-pound base; the warehouse operator's copy shall be yellow and the weight of the paper shall not be less than 16-pound base; and the owner's copy shall be green and the weight of the paper shall not be less than 16-pound base. Receipts issued for bulk grain and receipts issued for agricultural products other than bulk grain shall be in a form prescribed by the department. The bureau shall have control over the printing of warehouse receipts.

90.15(2) *Electronic warehouse receipts.* A warehouse operator licensed in accordance with the provisions of Iowa Code chapter 203C may contract with an independent provider to issue electronic warehouse receipts for grain and other agricultural products subject to the provisions of this chapter. The provider shall be approved by the department.

90.15(3) *Electronic warehouse receipt providers and provider agreements.* A provider shall be independent of any outside influence or bias in action or appearance. A provider shall enter into a provider agreement with the department prior to being approved by the department. A provider shall file and maintain electronic warehouse receipts only on behalf of licensed warehouse operators who contract with the provider for those services. The provider agreement shall be subject to, but not be limited to, the provisions of paragraphs *"a"* through *"k"* of this subrule.

a. Provider to be approved by the USDA. No provider shall be approved by the department unless the provider is first approved as an electronic warehouse receipt provider by the USDA pursuant to the provisions of 7 CFR Part 735. Upon department request, a provider shall provide a copy of the provider's executed USDA Form WA-460 and any addenda, and any other documentation requested by the department to confirm that the provider is a USDA-approved provider in good standing.

b. USDA action against providers. In the event that the USDA shall take action to deny, withdraw, suspend, reinstate or terminate a USDA Provider Agreement, the department shall automatically take the same action and the provider shall be subject to such action by the department. A provider shall notify the department of any such actions taken by the USDA.

c. Provider to service only licensed warehouse operators. A provider shall enter into user agreements under the terms of this rule only with warehouse operators licensed in accordance with the provisions of Iowa Code chapter 203C. A provider shall not issue electronic warehouse receipts for grain or other agricultural products on behalf of a warehouse operator in the state of Iowa unless the warehouse operator is licensed in accordance with the provisions of Iowa Code chapter 203C or the United States Warehouse Act.

d. Notice requirements for providers.

(1) When entering into a new user agreement, a provider shall provide written notice to the department.

(2) All notices to the USDA required by 7 CFR Part 735 and in the USDA Provider Agreement shall also be served upon the department except as specifically exempted in the provider agreement.

(3) In the user agreement, a provider shall include a notice to the warehouse operator that the data on the provider's central filing system is subject to disclosure to the department and the USDA.

e. Provisions to cease issuing electronic warehouse receipts. Upon notice by the department that a warehouse operator license issued under Iowa Code chapter 203C has expired or has been canceled, suspended or revoked, a provider shall prohibit the warehouse operator from issuing any electronic warehouse receipts until further notice from the department.

f. Department access to electronic warehouse receipt data. A provider shall allow the department unrestricted access to the central filing system for electronic warehouse receipts issued on behalf of warehouse operators licensed by the department. The electronic warehouse receipt data shall be

maintained for six years after cancellation of the receipts. Access shall be made available in a manner that allows interaction with department warehouse examinations. Access shall be free of any charge or costs to the department.

g. Information profile. Upon issuance of a new user agreement to a warehouse operator licensed under Iowa Code chapter 203C, the provider shall notify the department and request an information profile. The department shall provide an information profile about the warehouse operator to the provider. The information profile shall consist of identifying information unique to each warehouse operator and shall be contained within each electronic warehouse receipt issued by a warehouse operator. The information profile shall include all statements and content required for warehouse receipts by the laws of the state of Iowa and as required by the provisions of the USDA Form WA-460 and any addenda pursuant to paragraph *"a"* of this subrule. This information profile shall include, but not be limited to, the following:

(1) The warehouse operator's name;

(2) The type of business organization and the state under whose laws the business is organized;

(3) The location of the warehouse operator's corporate headquarters and the location of the warehouse;

(4) The warehouse operator's license number; and

(5) For grain warehouse receipts, the following statement: "The warehouse operator named herein, licensed under Iowa Code chapter 203C, has received for storage bulk grain of the amount, kind and grade, as determined in accordance with the official grain standards of the United States, for which this receipt is issued, subject to the provisions of Iowa Code chapters 203C and 203D and the applicable rules. Said grain is fully insured, unless otherwise allowed by law and noted within this receipt, by the above-named warehouse operator against loss or damage by fire, windstorm and inherent explosion."

h. Termination of provider agreement. The department or provider may terminate the provider agreement upon 60 days' written notice to the other party. The department shall terminate a provider agreement on less than 60 days' notice in accordance with paragraph *"b"* of this subrule. Upon termination of the provider agreement, the provider shall immediately surrender copies of the electronic data and paper records to the department for any electronic warehouse receipts contained within the central filing system. Such data and paper record copies, however, are limited to electronic warehouse receipts issued by warehouse operators licensed under the provisions of Iowa Code chapter 203C.

i. Authorization, jurisdiction and liability. A provider shall be authorized to transact business in the state of Iowa and shall consent to jurisdiction in the state of Iowa and venue in Polk County, Iowa. A provider shall be liable to the department for costs incurred by the department as a result of action taken in the event of a failure of the central filing system or any inability to provide the access required in paragraph *"f"* of this subrule.

j. Nonexclusive use. A warehouse operator shall not be required to issue warehouse receipts in electronic form.

k. Receiverships and indemnity fund claims—department as electronic warehouse receipt holder.

(1) A provider shall allow for the department and the grain indemnity fund board to be a sole or joint holder of an electronic warehouse receipt when the issuing warehouse operator's license has been revoked and either one or both of the following apply:

1. The electronic warehouse receipt has been surrendered to the department by a claimant for the proceeds of a grain receivership pursuant to Iowa Code chapter 203C.

2. The electronic warehouse receipt has been surrendered to the department or the grain indemnity fund board by a claimant for payment of a grain indemnity fund claim pursuant to Iowa Code chapter 203D.

(2) When an electronic receipt holder files a claim against a grain receivership or against the grain indemnity fund, the department shall obtain the consent and instruction of the holder to change the holder information on the provider's central filing system. The provider shall take any action ordered by the department in regard to an electronic warehouse receipt involved with a grain receivership or a grain indemnity fund claim. The department shall provide documentary evidence of the claim and any

resulting required action to the provider. The department may order any action including, but not limited to, the following:

1. Reducing the quantity and value of the product represented by an electronic receipt upon payment of partial value from either receivership proceeds or the grain indemnity fund;

2. Prohibiting an electronic warehouse receipt from being negotiated or otherwise transferred without the department's consent due to payment of partial value from either receivership proceeds or the grain indemnity fund;

3. Canceling a warehouse receipt upon payment of full value to a claimant from receivership proceeds, and issuing a replacement receipt to the department if needed.

90.15(4) *Electronic warehouse receipt users and agreements.* Prior to engaging in the issuance of electronic warehouse receipts, a warehouse operator shall enter into a user agreement with a provider approved by the department. All electronic warehouse receipts issued by the warehouse operator shall be issued through and filed in the provider's electronic central filing system. As used in this subrule, "warehouse operator" means a warehouse operator who has obtained a license for the operation of a warehouse under Iowa Code section 203C.6. The use of electronic warehouse receipts is subject to the provisions of paragraphs 90.15(3)*"a"* through *"g."*

a. Warehouse operator to use only one provider. A warehouse operator shall issue electronic warehouse receipts through only one provider.

b. Changing providers. Subject to the provisions of a user agreement in effect, a warehouse operator may change providers once per year. The provider shall follow the transfer terms specified in USDA Form WA-460 and any addenda pursuant to paragraph 90.15(3)*"a."* The warehouse operator shall notify the department of a change in provider.

c. Numbering of receipts—no duplication. Electronic warehouse receipts shall be numbered and shall be issued consecutively starting with the number specified to the provider by the department. A warehouse operator shall not at any time have an electronic warehouse receipt and a paper warehouse receipt outstanding for the same lot of grain.

d. Nonexclusive use. A warehouse operator shall not require a depositor to accept an electronic warehouse receipt in lieu of a paper warehouse receipt.

e. Receipt holder power of attorney. A warehouse operator or a third party may not handle electronic warehouse receipts on behalf of a depositor unless a written power of attorney to do so has been provided by the depositor. Such power of attorney shall be provided to the department for inspection and verification upon the department's request.

f. Issuance and cancellation of receipts. The provisions for issuance and cancellation of warehouse receipts found in rules 21—90.12(203C) and 21—90.13(203C) shall apply to electronic warehouse receipts except to the extent that the rules are not applicable to electronic warehouse receipts. A warehouse operator shall not cancel an electronic warehouse receipt unless the warehouse operator is the holder of the warehouse receipt.

This rule is intended to implement Iowa Code sections 203C.2, 203C.5, 203C.6 and 203C.18.

[**ARC 7553B**, IAB 2/11/09, effective 3/18/09; **ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—90.16(203C) Tariffs. Each warehouse operator, at the time of making application for a warehouse operator license, shall file a tariff with the bureau. The tariff shall be on a form prescribed by the bureau and furnished to the applicant upon request. The tariff shall contain rates to be charged for storage, receiving, and loadout of stored products. After being properly numbered and dated by the bureau, the tariff shall be returned to the licensee for posting in a conspicuous location. A copy of the tariff shall be posted in each location where grain is weighed and delivered.

90.16(1) *Application of tariff.* The tariff rates applicable to stored products shall be those as contained in the tariff on file with the bureau at the time the product is received for storage. The tariff rates shall be applicable on an annual basis from date of deposit. If a tariff is amended, the charges shall be applied in accordance with subrule 90.16(3). Tariff charges shall cease upon cancellation, expiration, or revocation of a warehouse operator license. Tariff charges shall continue in accordance with the rates as filed by the successor warehouse operator. In the determination of the applicable rates

to be applied under the successor warehouse operator's tariff, the date of deposit under the new tariff shall be the actual date of deposit. No charges shall apply to grain held for less than 30 days and for which no warehouse receipt has been issued unless the warehouse operator has a posted policy which provides for a shorter time period.

90.16(2) *Supplemental tariff.* The warehouse operator may file with the bureau a supplemental tariff that sets tariff rates for grain meeting special descriptive standards or characteristics. The supplemental tariff shall include the special descriptive standards or characteristics and the rates that will apply to grain meeting those standards or characteristics. The supplemental tariff shall be posted next to the regular warehouse tariff.

90.16(3) *Amending tariff.* The warehouse operator may amend a tariff by filing a new tariff with the bureau, including all supplemental tariffs. The amended tariff shall contain rates as specified by the warehouse operator. The previous tariff shall be posted and continue to apply on all products that are received prior to the effective date of the amended tariff until the anniversary date of deposit unless the new tariff is lower, in which case the amended tariff shall become effective immediately. The amended tariff shall apply to any products received after the effective date of the amendment. The amended tariff shall apply to any products stored under the previous tariff on the anniversary date of the storage period. The effective date of the amended tariff will be the date on which the tariff is received by the bureau or a specified later date.

90.16(4) *Documentation of tariff charges.* Documents on which storage is billed, including bushels and type of commodity, must contain a reference to each warehouse receipt or storage document.

This rule is intended to implement Iowa Code sections 203C.2, 203C.7, 203C.27 and 203C.28.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—90.17(203C) Records. A warehouse operator shall maintain complete and sufficient records to show all deposits, purchases, sales, storage obligations and loadouts of the warehouse.

90.17(1) *Maintaining warehouse receipts.* Unused warehouse receipts shall be maintained in numerical order. The warehouse operator's copy (yellow) of outstanding warehouse receipts and the original copy (white) of warehouse receipts canceled since the previous examination shall be maintained in separate numerical sequences.

90.17(2) *Daily position record.* The daily position record shall summarize one month's activity in a format approved by the bureau. The daily position record shall indicate at least the increases and decreases and ending balances on a daily basis for total stocks, open storage, warehouse-receipted, unpaid company-owned, and paid company-owned, and shall indicated the ending balance of total company-owned. The daily position record shall reflect the obligations in the appropriate columns. A separate daily position record shall be maintained:

a. For each kind and class of grain; and

b. For each type of commodity that is identity-preserved in licensed facilities.

All daily entries to the daily position record shall reflect transactions made through that day's close of business unless another time of day is elected by the licensee and applied by the licensee on a consistent basis.

90.17(3) *Scale tickets.* Unless the warehouse operator utilizes a computer system which sequentially numbers and prints scale weight tickets, every warehouse operator shall have prenumbered scale tickets.

Every scale ticket shall show, at a minimum, the following:

a. The warehouse operator's name and location where the grain was delivered;

b. Date;

c. Depositor's name;

d. Gross weight, tare weight, and delivered weight;

e. Type of product or commodity; and

f. An indication of whether product or commodity is being received or loaded out.

A copy of each ticket shall be maintained in numerical order by the warehouse operator as part of the records, unless the warehouse operator uses a computer system which sequentially numbers and prints scale tickets and the scale ticket information can be retrieved and reprinted by the computer

system. Such systems must be approved in writing by the warehouse bureau. A scale ticket printed at the time of weighing shall be the document of record. All copies of reprinted scale tickets shall be marked "duplicate." All scale ticket forms in the possession of a warehouse operator shall have been permanently and consecutively numbered at the time of printing. The licensee shall be responsible for providing a list of all scale tickets used at each location.

90.17(4) *Settlement sheets.* Unless the warehouse operator utilizes a computer system which sequentially numbers and prints settlement sheets as generated, every warehouse operator shall have prenumbered settlement sheets. All settlement sheets shall show, at a minimum, the following:

a. The warehouse operator's name and location;

b. The seller's name and address;

c. Date(s) of deliveries;

d. Scale ticket numbers;

e. Amount, kind and grade factors of the grain; and

f. Method of settlement:

(1) If priced, the price per bushel, the quantity of grain priced and the date of pricing.

(2) If paid for, the date, price per bushel, the quantity of grain paid for, the amount of payment and check number or electronic funds transfer number.

(3) If credit-sale contract, the contract type, date and number and the quantity of grain transferred to the contract.

(4) If warehouse receipt, the receipt number, date of issuance and quantity of grain transferred to the receipt.

(5) If removed from the warehouse, the delivery document numbers, dates and amounts of the shipments.

Copies of all settlement sheets shall be maintained in numerical or alphabetical order by the warehouse operator as part of the records, unless the warehouse operator uses a computer system approved in writing by the bureau which sequentially numbers and prints settlement sheets and the settlement sheets can be retrieved on and reprinted by the computer system. A copy of the settlement sheet shall be given to the depositor upon demand, upon the issuance of a credit-sale contract, upon the issuance of a warehouse receipt or upon the completion of returning the commodity to the depositor. Any settlement sheet used in the pricing of grain for the purpose of sale to the warehouse operator shall have the price shown on all copies of such settlement sheet. Deliveries and settlement transactions shall be posted to the settlement sheet on a daily basis unless a computer system utilized can generate a scale ticket summary sheet for each depositor.

90.17(5) *Multiple locations.* If the licensee operates multiple locations under one license, the branch locations may maintain a separate series of the following documents:

a. Scale tickets;

b. Settlement sheets;

c. Credit-sale contracts;

d. Warehouse receipts; and

e. Checks.

However, upon issuance, the warehouse operator's copy (yellow) of all warehouse receipts and a copy of each credit-sale contract shall be returned to the main location.

90.17(6) *Inspection.* For the purpose of inspection, the hours of 8 a.m. to 5 p.m., except Saturday, Sunday and holidays, shall be considered as ordinary business hours. All financial records, grain records and payment records shall be available for inspection by the bureau during ordinary business hours and any other time specified by the bureau in writing. All records shall be made available within the state of Iowa upon request.

90.17(7) *Retention of records.* All records shall be kept for a period of not less than six years. Such records shall be kept for the stated time period even if a license has expired or has been canceled or revoked.

90.17(8) *Grade factors on scale tickets.* All grade factors for determining the quality and grade of grain in accordance with the Official United States Standards for Grain shall be documented on scale tickets or supplemental records at time of deposit.

This rule is intended to implement Iowa Code sections 203C.2, 203C.17, and 203C.35.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—90.18(203C) Adjustment of records.

90.18(1) *Adjustment of records for operational shrink.* A consistent operational shrink shall be taken on grain handled and documented on a monthly basis in the warehouse records. An operational shrink is not required to be taken when there has been no movement of a particular kind of grain.

90.18(2) *Other record adjustments.* Any reduction of record obligation shall be justified. Any increase in adjustments of record obligation shall be made only upon department approval or request. An upward adjustment may be made to the records at any time that a total weigh-up for a particular kind of grain is made and all records of the weigh-up have been maintained for verification. The licensee may make upward adjustments for rail and barge shipments based upon actual unloaded weights when the origin weights were estimated. Outbound truck shipments must be weighed on the licensee's scale if one is available. If the outbound shipment cannot be weighed in a single draft, the licensee may adjust the record to reflect the unloaded weights. A warehouse operator may voluntarily adjust the records at the time of examination when the measured inventory exceeds the record obligation in an amount in excess of 1½ percent. All adjustments shall be readily identifiable in the daily position record. Unless the delivered weight is adjusted for and reflects dry bushels, all adjustments for moisture shall be shown in the adjustment column. A computer-generated scale ticket listing that shows gross weights and net weights will satisfy the requirements of this rule.

This rule is intended to implement Iowa Code sections 203C.2 and 203C.35.

21—90.19(203C) Shrinkage due to moisture. A person who, in connection with the receipt of grain for storage, processing, or sale, adjusts the scale weight of the grain to compensate for the moisture content of the grain; or to compensate for losses to be incurred during the handling, processing, or storage of grain shall do so in accordance with provisions of Iowa Code section 203C.25.

This rule is intended to implement Iowa Code section 203C.25.

21—90.20(203C) Monthly grain statements. A grain statement shall be prepared at the close of business at the end of each calendar month and filed with the bureau by the tenth of the following month. This grain statement shall be on a form or in a format prescribed by the bureau. The bureau shall furnish forms to the warehouse operator upon request. A grain statement shall be filed for each calendar month regardless of whether or not the warehouse operator has products in storage.

This rule is intended to implement Iowa Code section 203C.2.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—90.21(203C) Grain stored in another warehouse. Upon approval by the bureau, a warehouse operator may store grain in another licensed warehouse in accordance with Iowa Code section 203C.39 as amended by 2012 Iowa Acts, Senate File 2311, section 116.

90.21(1) *Decision criteria.* The department shall consider the following in deciding to approve or deny a warehouse operator's request to store grain in another licensed warehouse:

a. The other licensed warehouse is located in Iowa and is either licensed by the department pursuant to Iowa Code chapter 203C or licensed pursuant to the United States Warehouse Act.

b. The other licensed warehouse is located in another state and is licensed pursuant to the United States Warehouse Act.

c. The other licensed warehouse is located in another state and is licensed pursuant to that state's statutes and that state's warehouse license provides all of the following:

(1) Financial requirements and examination programs essentially equivalent to Iowa's;

(2) Insurance coverage equivalent to Iowa's; and

(3) Indemnification, surety bond coverage, letter of credit or other security satisfactory to the department.

90.21(2) *Notice and licensing.* Upon receipt of a written request from a warehouse operator to store a specified amount of grain in another warehouse and confirmation of compliance with Iowa Code section 203C.6, the bureau shall issue an amended license to the warehouse operator. The amended license shall show the number of bushels which the warehouse operator is authorized to store in another warehouse. The warehouse operator shall not store grain in another warehouse prior to the issuance of the amended warehouse operator license.

90.21(3) *Net worth requirement.* The number of bushels of grain to be stored in another warehouse shall be added to the warehouse operator's gross capacity. The warehouse operator must have sufficient net worth to cover the gross capacity or provide a deficiency bond or irrevocable letter of credit as provided for in Iowa Code section 203C.6. The net worth requirements of Iowa Code section 203C.6 shall not apply to transfers of grain between warehouses licensed by the same entity.

90.21(4) *Trust warehouse receipts.* A warehouse operator who stores grain in another warehouse shall obtain a nonnegotiable warehouse receipt for the grain stored. The receipt shall clearly show the following notation: "Held in Trust for the Depositors of (name of original receiving warehouse)". The warehouse receipt shall be on an official form as specified in 21—90.15(203C), an official United States Department of Agriculture authorized bonded warehouse receipt as provided for in the United States Warehouse Act or on an official form as specified in the regulations of the state in which the warehouse receipt is issued.

90.21(5) *Record keeping—daily position record.* Grain stored in another warehouse under the provisions of this rule shall be reflected in the total stocks section and the appropriate obligations section of the warehouse operator's daily position record.

90.21(6) *Record keeping—shipment records.* Grain shipped to another warehouse operator under the provisions of this rule shall be documented on scale tickets. The warehouse operator shall either clearly indicate "forwarded grain" on the scale ticket or maintain a supplementary record of such shipments. The warehouse operator shall at all times maintain a record of the amount of grain stored in another elevator.

90.21(7) *Monthly grain statement requirement.* On the monthly statements filed pursuant to rule 21—90.20(203C), a warehouse operator shall disclose the amount of each type of grain stored in another warehouse.

This rule is intended to implement Iowa Code sections 203C.2 and 203C.39.

[**ARC 0392C**, IAB 10/17/12, effective 11/21/12]

21—90.22(203C) Warehouse operator's obligation and storage. A warehouse operator shall at all times maintain sufficient quality and quantity of stored products in the warehouse to cover the obligations as examination of the records shall indicate. If, at the time of an examination, a shortage is determined, a warehouse operator shall purchase and make actual payment in the manner approved by the bureau for a sufficient quantity and quality of the commodity to fully cover the shortage by the end of the second business day after notice by the bureau, excluding weekends or holidays, unless the bureau chief receives within the same time period a confirmation from a surety company or financial institution for 100 percent bonding of the deficiency. Any shortage secured by 100 percent bonding within the allotted time period shall be covered in full within 30 days from the discovery of the shortage. A warehouse operator who does not have a sufficient quantity or quality of grain to satisfy the warehouse operator's obligation based on an examination by the department shall not purchase grain by credit-sale contract to correct the shortage of grain. The department may suspend the license of any licensee who has a shortage and who is unable to satisfy the requirements of this rule.

This rule is intended to implement Iowa Code sections 203C.1 and 203C.17.

21—90.23(203C) Storing of products. Bulk grain in storage shall be stored in such a manner that the amount of grain in the storage facility can be readily determined. A product other than bulk grain shall be stored in such a manner that it can be readily inspected and the amount and kind thereof determined.

The maintenance, conditioning, care, or surveillance shall be given to stored products as is required to maintain the quality, grade, and safe storage of the products. Nothing shall be placed or stored in a licensed facility that will in any way contaminate the stored products or cause any degrading of grade or value. Storage facilities shall not be overfilled. There shall be sufficient overhead airspace to provide adequate ventilation and to allow the examiner to readily determine the quality and quantity of the grain. The bureau chief may require the installation of overhead ventilation fans in facilities when in the bureau chief's judgment such fans are needed to preserve the quality of stored products. The bureau chief may require the installation of aeration equipment in storage facilities when it is deemed necessary to preserve the quality of stored products.

90.23(1) *Storage of contaminating products or more than one type of agricultural product.* Facilities may be licensed for both bulk grain and agricultural products other than bulk grain; however, if products of a contaminating nature are stored in the facility, the facility shall be removed from the license for any other agricultural products. If more than one type of an agricultural product is being stored in a facility, proper measures shall be implemented to keep such products from intermingling.

90.23(2) *Stored products in licensed facilities.* All stored products shall be maintained in licensed facilities.

This rule is intended to implement Iowa Code sections 203C.2, 203C.8 and 203C.16.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—90.24(203C) Facilities. No facility shall be considered suitable for the storage of bulk grain unless the warehouse has the necessary equipment such as grain leg, portable augers or vacuvators for handling, receiving, and loading out of grain.

90.24(1) *No connection between facilities.* No unlicensed facility shall be connected to a licensed facility unless prior approval is obtained from the bureau.

90.24(2) *Scale required.* All licensees shall have an approved scale for inbound deliveries made by depositors.

This rule is intended to implement Iowa Code sections 203C.2 and 203C.8.

21—90.25(203C) Maintenance of storage facilities. All licensed storage facilities shall be maintained in such manner as to be suitable for the proper and safe storage of the particular product or products to be stored therein. Safe and adequate means of ingress and egress to the various storage units and grounds of the warehouse complex shall be provided and maintained by the warehouse operator. Sufficient louvers, outlets, overhead ventilation fans, aeration ducts and fans or any combination of these shall be maintained in each storage facility to prevent deterioration or spoilage and to maintain proper and safe storage of stored products.

90.25(1) *Inspection safety specifications for ladders and lifts on storage units.* Storage units having entrances over 20 feet to a maximum of 100 feet above floor level shall be equipped with a fixed ladder, an attached circular or spiral stairway, an alternating tower-type stairway or a safe and adequate lift. Storage units having entrances in excess of 100 feet above floor level shall be equipped with an adequate electric lift. Catwalks or walkways between storage units may be provided in lieu of ladders or lifts between facilities. Rungs on fixed ladders shall be spaced not to exceed 1-foot centers, and there shall be sufficient space between the ladder rung and face of the structure to permit a safe foothold. Any structure required to have a fixed ladder shall have an approved safety cage which shall commence not less than 7 feet or more than 8 feet from ground level. Landing platforms shall be provided for each 30 feet of fixed ladder or fraction thereof for ladders constructed after December 31, 2005. Landing platforms shall be provided for each offset of fixed ladder sections regardless of the length of the ladder sections. Any facilities with a safety cable and belt hookup that were approved for licensing prior to September 1, 1992, shall continue to be approved provided they are maintained in a safe working order. Any facilities with a fixed ladder more than 20 feet in length, but not more than 24 feet in length, that were approved for licensing prior to December 31, 2005, shall continue to be approved provided they are maintained in a safe condition.

90.25(2) *Catwalks, walkways, landing platforms and stairs.* Catwalks, walkways and landing platforms shall be equipped with a top rail 42 inches from the floor and a middle rail. Catwalks, walkways and landing platforms constructed after September 1, 1992, must also be equipped with toeboards which are at least 4 inches in height and which are not more than ¼ inch from the floor. Stairways shall be equipped with handles which are not more than 34 inches nor less than 30 inches in height and of similar construction as catwalk or walkway rails. Catwalks, walkways, landing platforms, stairways, lifts and ladders shall be kept clean and free of grain and other matter which might endanger the safety of persons using them. Guardrails shall be placed around the entrance to any storage facility exceeding 30 feet above the floor, or around a landing platform below such entrance to a facility. At no time shall electrical lines be anchored on or within reach of a ladder or safety cage unless enclosed in conduit. All electrical lines in proximity of the inspection ladder, stairway, walkway or lift shall be enclosed in conduit.

90.25(3) *Removal of facilities from warehouse operator license.* Any storage facility which fails to meet the requirements of this rule shall be called to the attention of the warehouse operator. Failure of the warehouse operator to place the facility in a suitable condition within a reasonable length of time shall result in the elimination of the facility from coverage under the warehouse operator license in accordance with the provisions of Iowa Code section 203C.8. However, if in the bureau's judgment any facility is unsafe to gain ingress and egress at the time of an examination, the products stored in the facility may not be included in the inventory. Any facility which has deteriorated to the extent that it is unsuitable for storage shall be immediately removed from the warehouse operator license in accordance with the provisions of Iowa Code section 203C.8, until such time that the facility meets the requirements of this rule and has been reinspected.

This rule is intended to implement Iowa Code sections 203C.2 and 203C.8.

21—90.26(203C) Temporary grain storage facilities. A temporary grain storage facility may, in the discretion of the department, be approved and licensed on the following bases:

90.26(1) *License period.* A license for a temporary storage facility may be issued at any time but shall be effective for the storage of grain only from August 1 to May 1 of the following year. A temporary storage facility license shall expire each May 1 unless the licensee requests and obtains an extension in accordance with subrule 90.26(2).

90.26(2) *Extensions.* An extension of 90 days may be granted if all of the following requirements are satisfied:

a. The licensee has requested an original extension or an additional extension no later than 45 days prior to the expiration of the licensing period or extension then in effect.

b. The bureau has completed an examination of the licensee's temporary storage facility.

c. The licensee has paid the bureau for the cost of the examination of its temporary storage facility. The payment shall include the labor cost, the equipment cost, the sampling cost and any additional costs incurred by the bureau in examining a licensee's temporary storage facilities. Payment shall be made and received by the bureau before any extension may be granted.

d. Every temporary storage facility for which the department has granted an extension shall continue to meet all of the other requirements of rule 90.26(203C). Before an extension is granted, the bureau chief may require the filing of a bond or irrevocable letter of credit in an amount to be determined by the department.

90.26(3) *Restrictions on extensions.* The licensing period for a temporary storage facility may be extended beyond August 1. However, the extension of a licensing period for a temporary storage facility shall not result in the granting of a new August 1 to May 1 licensing period. As a result, a licensee shall be required to request additional extensions at least 45 days prior to the expiration of the extension then in effect.

90.26(4) *Expiration.* The warehouse operator shall either purchase the grain stored in the temporary storage facility or remove the grain from the temporary storage facility prior to May 1 or prior to the expiration of a granted extension.

90.26(5) *Specifications for temporary storage facilities.* Every temporary storage facility shall comply with the following specifications:

a. Each storage unit shall contain aeration equipment to provide at least .13 cubic feet of air per bushel per minute.

b. Each storage unit shall have an asphalt base, concrete base, pozzuolanic base, or a compacted limestone base which meets the following minimum specifications:

(1) Base shall be of a depth and compaction to permit trucks or other equipment, used in loading or unloading the pad, to move around over the base without breaking through or unduly scuffing the surface.

(2) Depth of limestone top shall not be less than four inches.

(3) Adequate slope and drainage away from the base shall be provided to prevent any water from standing or backing up under the grain. Base shall be at least six inches above surrounding area.

c. The angle of repose of the stored grain shall be maintained to provide sufficient drainage.

d. The storage unit shall be covered. The cover shall be of sufficient strength to resist tearing under normal expected conditions and to allow a person to walk on the cover without penetrating it.

e. All storage units shall have rigid sidewalls.

90.26(6) *Inspection for licensing.* Every temporary storage facility to be included under a warehouse operator license shall be inspected and licensed before any products to be stored are placed in the facility.

90.26(7) *Limitation.* Temporary licensed storage capacity may not exceed 50 percent of permanent licensed storage capacity. However, the department may issue a license for temporary storage capacity exceeding the temporary capacity limit of 50 percent for a licensing period ending on or before May 1.

90.26(8) *Removal from license.* The bureau chief or examiner shall issue written notice to the warehouse operator for any temporary storage facility which no longer meets the requirements of this rule. Failure of the warehouse operator to place the facility in a suitable condition within a reasonable length of time shall result in the elimination of the facility from coverage under the warehouse operator license. Any facility which has deteriorated to the extent that it is unsuitable for storage shall be immediately removed from the warehouse operator license until the time that the facility meets the requirements of this rule and has been reinspected.

90.26(9) *Moisture and quality.* Corn containing more than 14 percent moisture or soybeans containing more than 13 percent moisture shall not be stored in temporary facilities. Corn and soybeans which do not grade No. 2 or better using the Official United States Standards for Grain shall not be stored in a temporary storage facility.

90.26(10) *Periodic maintenance.* The warehouse operator will make observations of grain temperature, aeration outlet temperature and odor, condition of the cover and drainage as necessary to ensure the safe storage of the grain in a temporary storage facility. These observations shall be made at regular intervals.

This rule is intended to implement Iowa Code sections 203C.2, 203C.7, 203C.8, 203C.12, 203C.16, and 203C.18.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—90.27(203C) Emergency ground pile storage space. Emergency ground pile storage space may, in the discretion of the department, be approved and licensed for the storage of corn on the following bases:

90.27(1) *License period.* A license for emergency ground pile storage space shall be effective from August 1 to January 31 of the following year.

90.27(2) *Expiration.* The warehouse operator shall either purchase the grain stored in the emergency ground pile storage space or remove the corn from the emergency ground pile storage space prior to February 1. Any corn remaining in such space after this date will not be included in grain inventory measurements made by the department, and such corn may not be used to cover storage obligations.

90.27(3) *Bonding.* Before any corn can be placed in licensed emergency ground pile storage space, the department shall receive either an irrevocable letter of credit or a surety bond in the amount of $2 for each bushel to be placed in emergency ground pile storage space. The irrevocable letter of credit

or surety bond will expire on April 1. The issuer shall not cancel the irrevocable letter of credit or surety bond filed with the department under this rule on less than 45 days' notice by certified mail to the department and to the licensee. When the department receives notice from an issuer that the issuer has canceled the irrevocable letter of credit or surety bond, and the letter of credit or surety bond is still needed, the department shall automatically suspend the license if the department does not receive a replacement irrevocable letter of credit or surety bond within 30 days of the issuance of the notice of cancellation. If a replacement irrevocable letter of credit or surety bond is not filed within 10 days following the suspension, the department shall automatically revoke the warehouse operator's license.

90.27(4) *Specifications for emergency ground pile storage.* All emergency ground pile storage space shall have an asphalt base, concrete base, or a compacted limestone base which meets the following minimum specifications:

a. Base shall be of a depth and compaction to permit trucks or other equipment used in loading or unloading the pad to move around over the base without breaking through or unduly scuffing the surface.

b. Depth of limestone top shall be not less than four inches.

c. Adequate slope and drainage away from the base shall be provided to prevent any water from standing or backing up under the grain.

90.27(5) *Licensing.* All emergency ground pile storage space to be included under a warehouse operator license shall be licensed before any corn to be stored is placed in it.

90.27(6) *Limitation.* Emergency licensed ground pile storage space may not exceed 30 percent of permanent licensed storage capacity.

90.27(7) *Record keeping.* A separate daily position record shall be maintained on all corn placed in the emergency licensed ground pile storage space.

90.27(8) *Moisture and quality.* Corn containing more than 15 percent moisture shall not be stored in emergency ground pile storage space. Corn which does not grade No. 2 or better using the Official United States Standards for Grain shall not be stored in emergency ground pile storage space.

90.27(9) *Removal from license.* The bureau chief or examiner shall issue written notice to the warehouse operator for any emergency ground pile storage space which no longer meets the requirements of this rule. Failure of the warehouse operator to place the emergency ground pile storage space in a suitable condition within a reasonable length of time shall result in the elimination of emergency ground pile storage space from coverage under the warehouse operator license.

This rule is intended to implement Iowa Code sections 203C.2, 203C.7, 203C.8, 203C.12, 203C.16, and 203C.18.

21—90.28(203C) Polyethylene (polyvinyl) bag storage space. Polyvinyl bag storage space may, in the discretion of the department, be approved and licensed for the storage of corn on the following bases:

90.28(1) *License period.* A license for polyvinyl bag storage space shall be effective from August 1 to May 1 of the following year. A polyvinyl bag storage space license shall expire each May 1 unless the licensee requests and obtains an extension in accordance with subrule 90.28(2).

90.28(2) *Extensions.* An extension of 90 days may be granted if all of the following requirements are satisfied:

a. The licensee has requested an original extension or an additional extension no later than 45 days prior to the expiration of the licensing period or extension then in effect.

b. The bureau has completed an examination of the licensee's polyvinyl bag storage space.

c. The licensee has paid the bureau for the cost of the examination of the licensee's polyvinyl bag storage space. The payment shall include the equipment cost, sampling cost, labor cost and any additional costs incurred by the bureau in examining a licensee's polyvinyl bag storage space. Payment shall be made and received by the bureau before any extension may be granted.

90.28(3) *Restrictions on extensions.* The licensing period for polyvinyl bag storage space may be extended beyond August 1. However, the extension of a licensing period for polyvinyl bag storage space shall not result in the granting of a new August 1 to May 1 licensing period. As a result, a licensee shall be required to request additional extensions at least 45 days prior to the expiration of the extension then in effect.

90.28(4) *Expiration.* The warehouse operator shall either purchase the corn stored in the polyvinyl bag storage space or remove the corn from the polyvinyl bag storage space prior to May 1 or prior to the expiration of a granted extension.

90.28(5) *Specifications for polyvinyl bag storage space.* All polyvinyl bag storage space shall comply with the following specifications:

a. The polyvinyl bag shall be a minimum of 8.5 mil or thicker.

b. The polyvinyl bag shall be white.

c. The polyvinyl bag site shall be firm and free of objects that could puncture the polyvinyl bag. A gravel base will not be an approved surface.

d. The following are approved surfaces:

(1) Asphalt base.

(2) Concrete base.

(3) Compacted limestone base.

(4) On turf or hay ground that has been mowed to a height (not more than 2.5 inches) not to puncture the polyvinyl bag.

(5) Bladed dirt.

e. Adequate drainage away from the base shall be provided to prevent any water from standing or backing up under the polyvinyl bags.

f. The polyvinyl bag site shall be free of any spilled grain and tall grass.

g. The polyvinyl bag must be closed in accordance with the manufacturer's written instructions or so that no deterioration of the stored corn can occur.

90.28(6) *Inspection for licensing.* Polyvinyl bag storage space to be included under a warehouse operator license shall be inspected and licensed before any corn to be stored is placed into the bags.

90.28(7) *Limitations.* Polyvinyl bag storage space may not exceed 30 percent of permanent licensed storage capacity.

90.28(8) *Moisture and quality.* Corn containing more than 14 percent moisture shall not be stored in polyvinyl bags. Corn which does not grade No. 2 or better using the Official United States Standards for Grain shall not be stored in polyvinyl bags.

90.28(9) *Removal from license.* The bureau chief or examiner shall issue written notice to the warehouse operator for any polyvinyl bag which no longer meets the requirements of this rule. Failure of the warehouse operator to place the polyvinyl bag in a suitable condition within a reasonable length of time shall result in the elimination of the polyvinyl bag from coverage from the warehouse operator license. Any polyvinyl bag which has deteriorated to the extent that it is unsuitable for storage shall be immediately removed from the warehouse operator license until the time that the facility meets the requirements of this rule and has been reinspected.

90.28(10) *Periodic maintenance.* The warehouse operator will make such observations of the condition of the polyvinyl bags and the surface temperature of the corn as necessary to ensure the safe storage of the corn in polyvinyl bags. Such observations shall be made at regular intervals.

This rule is intended to implement Iowa Code sections 203C.2, 203C.7, 203C.8, 203C.12, 203C.16, and 203C.18.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—90.29(203C) Prioritization of inspections of warehouse operators. Warehouse operators with a probability of failure factor greater than 40 percent, as calculated by the statistical model, shall be examined at least twice in a 12-month period.

This rule is intended to implement Iowa Code sections 203C.2 and 203C.40.

21—90.30(203C) Department of agriculture and land stewardship enforcement procedures. The bureau shall follow a step-by-step enforcement policy to ensure consistent compliance with and application of this chapter. The department recognizes that violations of certain rules may have more serious ramifications; thus, the enforcement of those rules requires stricter policies. The enforcement

policies apply to any violation of this chapter unless enforcement provisions are specifically addressed in a particular rule or subrule.

90.30(1) If it is necessary to establish proof of a violation of statute or rule, the bureau shall conduct a special investigation of the licensee. The bureau may contact the warehouse operator, the warehouse operator's employees, or any other interested party to gain information for its investigation. The bureau, in its investigation of a licensee, may cause a special examination to occur if evidence of at least one of the following conditions is present:

a. Insufficient funds check or failed electronic funds transfer.

b. Stalled payment for grain.

c. Quantity deficiency.

d. Quality deficiency.

e. Incomplete or inaccurate records as specified in rule 90.17(203C).

The expense of such special examination shall be based on actual costs incurred by the bureau and may be assessed to the licensee. The costs shall include the labor, equipment, sampling and any additional costs incurred by the bureau. Payment shall be made as directed by the bureau.

90.30(2) Upon establishment of a rule violation by an examiner or the bureau, the bureau shall consider the following elements in determining the proper period of time within which to require a licensee to comply with the rules:

a. Gravity of the offense.

b. Likelihood of depositor loss.

c. Length of time within which a reasonable licensee in a similar circumstance should be able to comply with the rule.

90.30(3) The bureau chief may initiate license suspension or revocation proceedings against the licensee for any violation of these rules. The bureau chief shall consider the following factors in making the determination to initiate the suspension or revocation proceedings:

a. Likelihood of depositor loss.

b. Gravity of the offense.

c. Licensee's intent to violate the rule.

d. Licensee's record of violations of statute or rule.

e. Number of violations in the particular report.

90.30(4) The bureau chief may cause charges to be filed against the licensee for any violation of these rules. The bureau chief shall consider the following factors in making the determination to file charges:

a. Likelihood of depositor loss.

b. Gravity of the offense.

c. Licensee's intent to violate the rule.

d. Licensee's record of rule violations.

e. Number of violations in the particular report.

90.30(5) The bureau chief may initiate the assessment of civil penalties against the licensee for any violation of these rules. The bureau chief shall consider the following factors in making the determination to initiate the assessment of civil penalties:

a. Likelihood of depositor loss.

b. Gravity of the offense.

c. Licensee's intent to violate the rule.

d. Licensee's record of violations of statute or rule.

e. Number of violations in the particular report.

This rule is intended to implement Iowa Code sections 203C.2, 203C.10, 203C.36 and 203C.36A.

21—90.31(203C) Review proceedings. A warehouse operator or applicant may file a formal written complaint with the department if the warehouse operator or applicant contests any finding or decision

of the bureau chief. Any such complaints shall be resolved in contested case proceedings conducted pursuant to the applicable provisions of 21—Chapter 2.
[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

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[1] Applicable to Commerce Commission [250] Ch 12

CHAPTER 91
LICENSED GRAIN DEALERS

[Prior to 7/30/86, Commerce Commission [250], Ch 13]
[Prior to 7/27/88, 21—Ch 61]

21—91.1(203) Application of rules. These rules are subject to such changes and modifications as the department of agriculture and land stewardship may from time to time deem advisable. These rules are subject to such waivers or variances as may be considered just and reasonable in individual cases, subject to the provisions of 21—Chapter 8.

This rule is intended to implement Iowa Code section 203.2.

21—91.2(203) Definitions. For this chapter, the following definitions apply:

"Bureau" means the grain warehouse bureau of the department of agriculture and land stewardship.

"Department" means the Iowa department of agriculture and land stewardship.

"Generally accepted accounting principles" means accounting principles generally accepted in the United States of America, in accordance with the U.S. Financial Accounting Standards Board, or international financial reporting standards, in accordance with the International Accounting Standards Board.

"Indemnity fund" means the Iowa grain depositors and sellers indemnity fund created in Iowa Code chapter 203D.

"Licensee" means a licensed grain dealer.

"Person" means the same as defined in Iowa Code section 4.1.

"Provider" means a person approved by the department to maintain a secure electronic central filing system of electronic grain contract records.

"Provider agreement" means an agreement regarding electronic grain contracts which is entered into between the department and a provider.

"Received" means the earliest of the following:

1. The date a state warehouse examiner acknowledges receipt.
2. The date stamped "received" in the grain warehouse bureau.
3. The date postmarked, if the item is properly addressed, to the Grain Warehouse Bureau, Iowa Department of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319.

"USDA" means the United States Department of Agriculture and its divisions and agencies, including, but not limited to, the Farm Service Agency.

"USDA Provider Agreement" means the agreement entered into between the USDA and a provider and which is printed on USDA Form WA-490 and any addenda thereto.

"User agreement" means an agreement regarding electronic grain contracts which is entered into between a provider and a licensee.

[**ARC 7553B**, IAB 2/11/09, effective 3/18/09; **ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—91.3(203,203D) Application for a grain dealer license. Application for a grain dealer license (Iowa Code chapter 203) shall be made to the bureau on forms prescribed for that purpose by the bureau. Forms are available from the bureau upon request. All information required by Iowa Code chapter 203 shall be furnished. The bureau may require the applicant to file updated information if the information on the application is no longer current. The application, financial statement, license fee, indemnity fund fee and background information on a person applying for a license and on the managers shall be on file before a license is issued.

This rule is intended to implement Iowa Code sections 203.3, 203.5, 203D.3 and 203D.3A.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—91.4(203) Grain dealer license not transferable. A grain dealer license is not transferable between different legal entities. A grain dealer license may be amended to cover a name change of the same legal

entity. The licensee shall give the bureau notice of a proposed name change. The bureau shall confirm the name change with the secretary of state or other governmental agency prior to amending the license.

This rule is intended to implement Iowa Code section 203.7.

21—91.5(203) Posting of license. The grain dealer license certificate shall be posted at all times in a conspicuous location in the office or place of business of the grain dealer. A license certificate shall be posted in each location where grain is purchased or delivered.

This rule is intended to implement Iowa Code section 203.7.

[**ARC 7553B**, IAB 2/11/09, effective 3/18/09]

21—91.6(203) Surrender of license. The grain dealer license and all unused credit-sale contracts shall be forwarded to the bureau immediately upon cancellation, suspension, or revocation of such license. A grain dealer's letter requesting cancellation of the grain dealer license shall also state whether or not there are any unpaid obligations.

This rule is intended to implement Iowa Code sections 203.2, 203.3 and 203.7.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—91.7(203) Renewal, expiration and reinstatement of license—payment of license and indemnity fund fees.

91.7(1) *Renewals.* The bureau shall send to each licensed grain dealer written notice that the application, the license fee and the indemnity fund fee for annual renewal of the grain dealer license shall be received in accordance with Iowa Code section 203.5. If the bureau does not receive the application and fees by the due date, the license shall expire. A license that has expired may be reinstated within 30 days of the date of expiration conditioned on the applicant's meeting all statutory requirements and the bureau's receipt of the following within 30 days of the expiration:

a. Completed application;

b. License and indemnity fund fees; and

c. The reinstatement fee prescribed in Iowa Code section 203.6.

91.7(2) Fees for license periods of less than one year shall be prorated on a month-to-month basis. Fees for license periods of less than one year shall be applicable only under the following circumstances:

a. When an application for a new license is filed; or

b. When the fiscal year end of a license holder is changed.

This rule is intended to implement Iowa Code sections 203.5 and 203.6.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—91.8(203) Financial statements.

91.8(1) *New license applicants.* To obtain a grain dealer license, an applicant shall submit a financial statement that shall:

a. Be prepared within three months from the date of filing and comply with subrule 91.8(2), paragraph *"a"* or *"b"*; or

b. Be prepared as of the applicant's usual fiscal year and comply with subrule 91.8(2), paragraph *"a"* or *"b,"* and the applicant has continuously been in business for one year or more and the applicant has submitted any additional financial information required by the bureau; or

c. Be a forecasted financial statement prepared by a certified public accountant licensed in this state and the applicant is a new business entity that is in the process of transferring funds into the business entity. An applicant who files a forecasted financial statement pursuant to this paragraph shall file a financial statement which complies with subrule 91.8(2), paragraph *"a"* or *"b,"* within one month after the date the license is issued by the bureau.

91.8(2) *Financial statement requirements.* Financial statements filed pursuant to subrules 91.8(1), 91.8(3), 91.8(4) and 91.8(11) shall be prepared in accordance with generally accepted accounting principles and shall comply with either of the following:

a. Be accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. The bureau may accept a qualification in an opinion that is unavoidable

by any audit procedure. Opinions that are qualified because of the limited audit procedure or because the scope of an audit is limited shall not be accepted by the bureau; or

b. Be accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant.

91.8(3) *Sole proprietorship financial statements.* An individual licensed as a sole proprietorship shall file a financial statement which conforms with the provisions of subrules 91.8(2) and 91.8(4) on the proprietorship business. The individual shall also file a personal statement of financial condition which conforms with the provisions of subrules 91.8(2) and 91.8(4). The personal statement of financial condition shall also disclose the historical cost basis for assets as provided in Iowa Code section 203.3.

91.8(4) *Filing date of annual statements.* Every licensee shall prepare financial statements at the close of the licensee's designated fiscal year and shall file the statements and the bureau's financial information form with the bureau not later than three months thereafter. These financial statements shall be prepared in accordance with generally accepted accounting principles and shall consist, at a minimum, of a balance sheet, statement of income, statement of cash flow, and accompanying notes to the financial statements. The bureau shall notify every licensee during the month after the close of the licensee's fiscal year that the licensee's financial statements are due three months from the close of the licensee's fiscal year.

91.8(5) *Additional disclosures required in the financial statements.* Unless the following information is disclosed in the fiscal year end financial statements, the licensee's certified public accountant shall file with the financial statements a separate letter disclosing the information:

a. A reconciliation of differences in the grain obligations as shown in the financial statement and the daily position record.

b. Amount and kind of grain on collateral warehouse receipts.

c. Amount and kind of company-owned grain which is being stored in unlicensed facilities or which has been transferred to another warehouse.

d. Bushel and dollar amounts of all outstanding grain payables, including a breakdown of the bushels and dollars of each type of credit-sale contract.

e. Gross grain sales for the fiscal year.

f. Gross nongrain sales for the fiscal year.

g. Cost of all goods sold for the fiscal year.

h. Depreciation expense for the fiscal year.

i. Interest expense for the fiscal year.

j. Number of bushels of grain purchased under each grain dealer's license. For purposes of this paragraph, "purchases" shall mean all grain to which the grain dealer has obtained title during the grain dealer's fiscal year.

91.8(6) *Filing extension.*

a. An extension of one month may be granted by the bureau chief for the filing of financial statements upon receipt of the following:

(1) A letter from the grain dealer's certified public accountant stating the reason for filing the extension request and that work has been done on preparing the financial statements.

(2) An affidavit from the grain dealer stating that the grain dealer meets the financial responsibility requirements of Iowa Code sections 203.3 and 203.15, or that the licensee shall file additional bond in an amount to cover any net worth or current ratio deficiency as provided in Iowa Code sections 203.3 and 203.15, based upon the licensee's certified public accountant's best estimate of the licensee's financial position.

b. Grain dealers who file false affidavits under this rule may be prosecuted under Iowa Code section 203.11. Subrule 91.8(6) does not apply to the filing of financial statements required under the provisions of subrules 91.8(10), 91.8(11) and 91.8(12).

91.8(7) *Asset valuation.* The licensee may submit to the bureau a written request for asset valuation. The written request shall be accompanied by the appraisal and shall have been prepared by a licensed appraiser in this state and shall list the appraiser's credentials. Before an appraisal will be accepted by the bureau, the licensee shall show a positive net worth. All appraisals are subject to approval by the bureau

chief. The bureau chief shall notify the licensee within five working days if the appraisal is unacceptable. Any approved asset valuation may be used in any financial statements prepared by or for the licensee in accordance with subrule 91.8(2).

91.8(8) *Appraisals.* Competent appraisals on file with the bureau shall be valid for use in determining asset value for a maximum period of three years. Thereafter, a new appraisal for asset valuation shall be required and shall be used for a like period of time. In the event the certified public accountant expresses doubt as to the licensee's ability to continue as a going concern, the bureau shall not allow an appraisal to be used to meet net worth requirements. The bureau shall not allow an appraisal to be used to determine the percentage of total liabilities to total assets as it relates to subrule 91.17(2), paragraph *"e,"* concerning the suspension of a licensee's authorization to use credit-sale contracts. All assets included in the appraisal shall be depreciated by the bureau using the following schedule:

a. Buildings and attached equipment—15 years.

b. Rolling stock (trucks)—5 years.

c. Equipment—5 years.

91.8(9) *Assets allowed in meeting financial requirements.*

a. *Corporations, limited liability companies and partnerships.* When the bureau determines the net worth, current assets to current liabilities ratio and total debts to total assets ratio requirements for corporations, limited liability companies and partnerships, related party assets that require financial disclosure per financial accounting standards shall be disallowed. These assets shall be excluded unless the licensee can show the bureau sufficient documentation to assure the bureau that the assets are collectible. If assets are classified as current in the financial statements, the documentation shall also assure that the assets are collectible within one year.

b. *Sole proprietors.* When the bureau determines the net worth and current assets to current liabilities ratio requirements for sole proprietors, related party assets shall be excluded unless the licensee can show the department sufficient documentation to explain why these assets should be included. Only that part of the value of an asset which is subject to execution shall be allowed by the bureau in determining net worth and current assets to current liabilities ratio requirements. When a liability associated with an exempt asset (whether the asset is included or not) exceeds the original cost (or fair market value after an appraisal approved by the bureau), such excess shall be shown as a liability with appropriate footnotes to the financial statement. An applicant or a licensed warehouse operator shall complete the bureau's financial information form regarding this matter and submit the form with the financial statements.

91.8(10) *Net worth and current ratio deficiency monthly financial statements.* Every licensee who has a net worth or current ratio deficiency and who has filed additional bond shall file monthly financial statements with the bureau by the end of the next month until the licensee's net worth or current ratio meets the requirements of Iowa Code section 203.3 for a minimum of three consecutive months. These financial statements shall contain a minimum of a balance sheet and statement of income and shall be prepared in accordance with generally accepted accounting principles.

91.8(11) *Good cause financial statement.* The bureau chief may require a licensee to file a financial statement which complies with paragraph 91.8(2)*"b"* within 45 days of notification by the bureau if one of the following conditions exists:

a. Payment is made by use of a check or electronic funds transfer and a financial institution refuses payment because of insufficient moneys in the licensee's account;

b. Evidence of licensee requesting or delaying payment for grain without the use of a credit-sale contract for grain;

c. Other documented evidence which indicates that the licensee's financial condition has deteriorated since the filing of the licensee's last financial statement;

d. A high risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the grain dealer based on a statistical model provided in Iowa Code section 203.22; or

e. Record-keeping violations.

91.8(12) *Additional information.* The bureau chief may require an applicant or licensee to provide the bureau with any other information reasonably related to the business of a grain dealer and work papers supporting the financial statements.

91.8(13) *Penalty for failure to timely supply financial statements.* The department may suspend the license of any grain dealer who fails to provide the required financial statements within the time limits prescribed by these rules.

This rule is intended to implement Iowa Code sections 203.1, 203.2, 203.3, 203.6, and 203.15.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—91.9(203) Bonds and irrevocable letters of credit. Bonds filed with the bureau shall be on forms prescribed by the bureau. Irrevocable letters of credit issued to the bureau shall be on the form prescribed by the bureau. Bonds and irrevocable letters of credit shall be written so as to provide funds to protect producers who have sold grain to the licensed grain dealer.

91.9(1) *Deficiency bond or irrevocable letter of credit.* When the net worth or current ratio of a licensee is less than that required by Iowa Code section 203.3, the grain dealer may file a bond or an irrevocable letter of credit with the bureau to cover the deficiency as provided by and within the time prescribed in Iowa Code section 203.3. Bonds filed with the bureau shall be on the form prescribed and furnished by the bureau. Irrevocable letters of credit shall be on the form prescribed by the bureau. Bonds or irrevocable letters of credit shall be written so as to provide a source of funds to protect producers who have sold grain to the licensed grain dealer. Unless the licensee files the bond or irrevocable letter of credit within the prescribed time period, the grain dealer license shall be suspended. The licensee's failure to provide the bond or irrevocable letter of credit within ten days of suspension shall cause the license to be revoked.

91.9(2) *Time period to correct deficiency.* If a grain dealer has current assets equal to less than 50 percent of current liabilities and files a deficiency bond or irrevocable letter of credit as provided in Iowa Code section 203.3(5) within the 30-day period after the notice by the bureau, the grain dealer shall correct the deficiency other than by the use of a deficiency bond or irrevocable letter of credit within 30 days after the filing of the deficiency bond or irrevocable letter of credit. Failure to cure the deficiency other than by the use of a deficiency bond or irrevocable letter of credit within the 30 days shall cause the license to be suspended.

91.9(3) *Replacement bond or irrevocable letter of credit.* The bureau shall send written notice to the licensee notifying the licensee that the bond or irrevocable letter of credit shall be canceled on the date specified by the surety or issuer in its notice to the bureau. The bureau shall send a written notice and information and forms for filing the required replacement bond or irrevocable letter of credit. Replacement bond or irrevocable letter of credit shall be on file with the bureau prior to the time of cancellation of the bond or irrevocable letter of credit. The department shall suspend any grain dealer license from the time the grain dealer's bond or irrevocable letter of credit is canceled until the replacement bond or irrevocable letter of credit is on file with the department. Unless the bond or irrevocable letter of credit is no longer necessary, the department shall revoke the grain dealer's license if a replacement bond or irrevocable letter of credit is not received from the licensee within 30 days of suspension of the license.

91.9(4) *Cancellation of the bond or irrevocable letter of credit.* The issuer shall send a cancellation notice to the bureau by certified mail. The notice shall be in accordance with the provisions stated in the bond or irrevocable letter of credit. The time period for notice of cancellation stated in the bond or irrevocable letter of credit commences on the date when the bureau receives the notice. The bureau shall send written acknowledgment of notice of the cancellation of the bond or irrevocable letter of credit to the issuer and the principal.

This rule is intended to implement Iowa Code sections 203.3 and 203.4.

21—91.10(203) Payment. Payment for grain shall be made as provided by Iowa Code section 203.8. When a dealer has failed to make payment on demand of the seller and the failure has come to the attention of the bureau, the bureau chief shall request the dealer to make payment within 24 hours. The

request may be made verbally and confirmed by ordinary mail. The bureau chief may require the dealer to make payment with a cashier's check or money order if there is any evidence of financial instability. Absent a dispute between buyer and seller, the license may be suspended if the dealer fails to make timely payment as requested by the bureau chief. An insufficient funds check or failed electronic funds transfer shall not constitute payment under this rule.

This rule is intended to implement Iowa Code sections 203.2 and 203.8.

21—91.11(203) Books and records.

91.11(1) *General records.* A grain dealer shall maintain complete and sufficient records to show all purchases, sales, and payments for grain purchased.

91.11(2) *Daily position record.* Unless otherwise approved by the bureau, every grain dealer shall keep and maintain on a daily basis a grain position record on a form approved by the bureau. The daily position record shall summarize one month's activity in a format approved by the bureau. The daily position record shall indicate at least the increases and decreases and ending balances on a daily basis for unpaid company-owned. The daily position record shall reflect the obligations in the appropriate columns.

A separate daily position record shall be maintained for each kind and class of grain and each type of commodity that is identity-preserved. All daily entries to the daily position record shall reflect transactions made through that day's close of business unless another time of day is elected by the licensee and applied by the licensee on a consistent basis.

91.11(3) *Inspection.* For the purpose of inspection, the hours of 8 a.m. to 5 p.m., except Saturday, Sunday and holidays, shall be considered as ordinary business hours. All financial records, grain records and payment records shall be available for inspection by the bureau during ordinary business hours, and any other time specified by the bureau in writing. All records shall be made available within the state of Iowa upon request. Unless the bureau has been notified that the records would not be available for inspection, an examination fee may be assessed to the grain dealer if an examiner arrives at the licensee's location and the records are not available for inspection.

91.11(4) *Settlement sheets.* Unless the grain dealer utilizes a computer system which sequentially numbers settlement sheets as generated, every grain dealer shall have prenumbered settlement sheets. All settlement sheets shall show, at a minimum, the following:

a. The grain dealer's name and address;

b. Seller's name and address;

c. Date of deliveries;

d. Scale ticket numbers;

e. Amount, kind and grade factors of the grain; and

f. Method of settlement:

(1) If priced, the price per bushel, the quantity of grain priced and the date of pricing.

(2) If paid for, the date, price per bushel, the quantity of grain paid for, the amount of payment and check number or electronic funds transfer number.

(3) If credit-sale contract, the contract type, date and number and the quantity of grain transferred to the contract.

(4) If warehouse receipt, the receipt number, date and quantity of grain transferred to the receipt.

(5) If removed from the warehouse, the delivery document numbers, dates and amounts of the shipments.

Copies of all settlement sheets shall be maintained in alphabetical or numerical order by the dealer as part of the records, unless the dealer uses a computer system approved in writing by the bureau which sequentially numbers and prints settlement sheets and the settlement sheets can be retrieved on and reprinted by the computer system. A copy of the settlement sheet shall be given to the seller upon demand, upon payment or upon the issuance of a credit-sale contract. Any settlement sheet used in the pricing of grain for the purpose of sale to the grain dealer shall have the price shown on all copies of such settlement sheet. Deliveries and settlement transactions shall be posted to the settlement sheet on

a daily basis unless a computer system is utilized which can generate a scale ticket summary sheet for each depositor.

91.11(5) *Scale tickets.* If the dealer has a scale or regular access to a scale which can be used for weighing grain, the dealer shall use prenumbered scale tickets showing, at a minimum, the following:

a. Date.

b. The dealer's name and location.

c. Seller's name.

d. Gross weight, tare weight, and delivered weight.

e. Type of product or commodity.

f. An indication of whether the commodity is being received or loaded out.

One copy of each ticket shall be maintained in numerical order, unless the grain dealer uses a computer system approved in writing by the warehouse bureau which sequentially numbers and prints scale tickets and the scale ticket information and can be retrieved on and reprinted by the computer system. However, a ticket printed at the time of weighing shall be the document of record. All copies of reprinted scale tickets shall be marked "duplicate." All scale ticket forms in the possession of a grain dealer shall have been permanently and consecutively numbered at the time of printing. The licensee shall be responsible for providing a list of all scale tickets used at each location. Any scale ticket used in pricing grain for the purpose of sale to the grain dealer shall have the price shown on all copies of such ticket if priced at the time of delivery. If the dealer does not have a scale or regular access to a scale and purchases grain by having the grain custom weighed at various locations or at destination, the dealer shall maintain one copy of the scale ticket in daily order as part of the grain records.

91.11(6) *Direct shipment records.* When grain is delivered by a producer or the producer's agent to a third party in accordance with an agreement between the producer and the grain dealer and the grain is weighed at the destination or is custom weighed, the direct shipment is to be considered an obligation of the grain dealer on the date stated on the destination scale ticket, and the direct shipment shall be reflected in the daily position record on the date when the grain dealer is able to obtain the load weights. A grain dealer who also holds a warehouse operator license may maintain a separate daily position record for each kind of direct shipment grain. The grain dealer shall notify the bureau in writing if the grain dealer elects to maintain such a daily position record.

91.11(7) *Credit-sale contracts.* One copy of every outstanding credit-sale contract shall be maintained in numerical order as part of the records.

a. Required content. A credit-sale contract shall contain a minimum of the following:

(1) Buyer's name and location;

(2) Seller's name and address;

(3) The conditions of delivery;

(4) Amount and kind of grain delivered;

(5) Price per bushel or basis of value;

(6) The date payment is to be made;

(7) The duration of the credit-sale contract, which shall not exceed 12 months from the date the contract is executed;

(8) The wording "Credit-Sale Contract," which shall appear in the title or subtitle of the contract;

(9) Consecutive numbering at the time of printing; and

(10) Signature and date by both parties.

b. Notice of credit-sale contract acknowledgment. A licensed grain dealer who purchases grain by credit-sale contract shall obtain from the seller a signed acknowledgment stating that the seller has received notice that grain purchased by credit-sale contract is not protected by the grain depositors and sellers indemnity fund. Failure of the grain dealer to obtain the acknowledgment of the seller is a violation of Iowa Code section 203.15 and may result in license suspension or revocation under Iowa Code section 203.10. Failure of the grain dealer to obtain the acknowledgment does not alter the fact that the seller shall be unable to recover from the grain depositors and sellers indemnity fund any loss incurred under a credit-sale contract. The acknowledgment shall comply with one of the following:

(1) Be a separate form, which shall be prescribed by the bureau. The notice shall state that the seller has received notice that the grain is not protected by the grain depositors and sellers indemnity fund. A copy of the notice shall be attached to the grain dealer's copy and seller's copy of the credit-sale contract; or

(2) The grain dealer may add the following wording to the credit-sale contract directly above the signature of the buyer and seller in bold print of equal size or larger than the body of the contract: "By their signature hereto, the undersigned aver that the seller has been orally advised by the buyer that this transaction is not covered by the grain depositors and sellers indemnity fund"; or

(3) The grain dealer may add the following wording to the credit-sale contract directly above the signature of the buyer and seller in bold print of equal size or larger than the body of the contract: "By their signature hereto, the undersigned acknowledge that the seller has received notice that this credit-sale transaction is not protected by the grain depositors and sellers indemnity fund."

c. If someone other than the seller indicated on a credit-sale contract signs the contract, the grain dealer shall be able to provide the bureau with proof of business relationship between the indicated seller and the person who signed the contract. This document shall be signed by the person who produced the grain or caused the grain to be produced. The document is required for but not limited to contracts signed by the following:

(1) Landlord or tenant.

(2) Parent or child.

(3) Spouse.

(4) Siblings.

(5) Farm managers (may use a copy of the management agreement).

(6) Executors, trustees, administrators, etc. (may use a copy of court document of appointment).

(7) Corporate officers (other than the president), partners and members or officers of other legal entities.

If a contract is issued to two or more sellers, all must sign the contract.

d. A licensee's purchases of grain by credit-sale contract from a person licensed as a grain dealer in any jurisdiction are not subject to the requirements of 91.11(7). Any grain purchased from a grain dealer is not eligible for recovery from the grain depositors and sellers indemnity fund.

91.11(8) *Cancellation procedures for credit-sale contracts.*

a. One copy of each canceled credit-sale contract shall be maintained in separate numerical order from the outstanding credit-sale contracts as part of the records. The grain dealer shall either mark the face of the credit-sale contract with the word "Canceled," the check number, and date of payment or shall provide a numerically ordered listing that shows the contract numbers, check numbers and payment dates. Credit-sale contracts may only be marked "void" if errors are made on the day of issue; otherwise they are to be considered "canceled."

b. Partial payments. Advances and partial payments shall be noted on the face of the outstanding credit-sale contracts or by other method of documentation that shows the net balance and is approved by the bureau. The following information shall be noted:

(1) Amount of bushels paid;

(2) Date paid;

(3) Check number; and

(4) Remaining balance of the contract.

91.11(9) *Retention of records.* All records shall be kept for a period of not less than six years. Such records shall be kept for the stated time period even if a license has been canceled.

This rule is intended to implement Iowa Code sections 203.2, 203.9, 203.15, 203D.1, 203D.3 and 203D.6.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11; **ARC 0538C**, IAB 12/26/12, effective 1/30/13]

21—91.12(203) Assignment of contracts. Upon cancellation, expiration, suspension or revocation of the license, credit-sale contracts may be assigned to another grain dealer licensed under Iowa Code chapter 203 unless strictly prohibited in the terms of the credit-sale contract. The assignee shall notify

all affected producers in writing of the assignment. A copy of the assignment shall be forwarded to the bureau showing the contracts assigned and to whom they are assigned within 30 days of cancellation, expiration, suspension or revocation of the license. All credit-sale contracts shall be paid for or reassigned within 30 days of cancellation, expiration, or revocation of the license.

This rule is intended to implement Iowa Code sections 203.2 and 203.15.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—91.13(203) Filing of monthly grain statement and reports. A grain statement shall be prepared at the close of business at the end of each calendar month and filed with the bureau by the tenth of the following month. The grain statement shall be on a form or in a format prescribed by the bureau. The bureau shall furnish forms to the dealer upon request. A grain statement shall be filed for each calendar month regardless of whether or not the dealer has conducted any business during that period.

The bureau may require the dealer to file other types of reports, and the dealer shall file with the bureau any such report requested by the bureau within the time period as is specified by the bureau.

This rule is intended to implement Iowa Code section 203.2.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—91.14(203) Notice to the warehouse bureau.

91.14(1) The bureau shall be notified in writing prior to:

a. Change of ownership of the grain dealer.

b. Change of name or business address of the grain dealer.

c. Change of the grain dealer's fiscal year end.

d. The ceasing of operations.

91.14(2) The licensee shall notify the bureau within 24 hours after the licensee knows or should have known any of the following:

a. Licensee's net worth falling below the amount required by Iowa Code section 203.3 and if the amount of the deficiency is not covered by a net worth deficiency bond.

b. Licensee's current assets falling below the amount required by Iowa Code section 203.3 and the deficiency is not covered by a current ratio deficiency bond.

c. Class 2 licensee's grain purchases from producers exceed $500,000 during the licensee's fiscal year.

91.14(3) The licensee shall notify the bureau in writing within ten days after the licensee knows or should have known either of the following:

a. Change in management.

b. The death of an individual or member of a partnership licensed as a grain dealer.

This rule is intended to implement Iowa Code sections 203.2 and 203.3.

21—91.15(203) Shrinkage due to moisture. A person who, in connection with the receipt of grain for storage, processing or sale, adjusts the scale weight of the grain to compensate for the moisture content of the grain; or to compensate for losses to be incurred during the handling, processing, or storage of the grain shall do so in accordance with the provisions of Iowa Code section 203.20.

This rule is intended to implement Iowa Code section 203.20.

21—91.16(203) Requirements for Class 2 licensees. A Class 2 licensee whose purchases from producers during the fiscal year exceed $500,000, and who is thereby required by Iowa Code section 203.3 to apply for a Class 1 license, shall file the application with the bureau within 30 days after the purchases exceed $500,000.

This rule is intended to implement Iowa Code section 203.3.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—91.17(203) Requirements for licensees authorized to issue credit-sale contracts.

91.17(1) *Financial statements—audit or bond or irrevocable letter of credit.* A grain dealer shall not purchase grain by a credit-sale contract until the licensee complies with paragraph *"a"* or *"b."* If the

grain dealer elects to be authorized to issue credit-sale contracts under paragraph *"b,"* the grain dealer shall also comply with rule 21—91.8(203).

a. Financial statements filed pursuant to this rule shall be accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. The bureau may accept a qualification in an opinion that is unavoidable by any audit procedure. Opinions that are qualified because of the limited audit procedure or because the scope of an audit is limited shall not be accepted by the bureau. A sole proprietor who desires to be authorized to issue credit-sale contracts shall file a financial statement on the proprietorship business which is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state, and shall file a personal financial statement which conforms with the provisions of subrule 91.8(3).

b. The grain dealer bond or irrevocable letter of credit filed pursuant to this rule shall be in the amount of $100,000 payable to the department. Bonds or irrevocable letters of credit shall be on the forms prescribed and furnished by the bureau.

91.17(2) *Credit-sale contract net worth requirements.* When the grain dealer's net worth falls below the amount required by Iowa Code section 203.15(4), the grain dealer shall immediately cease purchasing grain by credit-sale contract. Failure to cease purchasing grain by credit-sale contract shall result in the suspension of the grain dealer license. Bonds or irrevocable letters of credit filed to correct the deficiency shall be on the forms prescribed and furnished by the bureau. The procedure for the filing of a deficiency bond or irrevocable letter of credit shall be the same as set forth in Iowa Code section 203.3. Bonds or irrevocable letters of credit shall be written so as to provide a source of funds to protect sellers who have sold grain by means of a credit-sale contract to the licensed grain dealer. Advances to sellers on grain purchased by credit-sale contract will be considered when the 50 cents per bushel net worth requirement is calculated. The amount and percentage of advances shall be shown on the face of the credit-sale contract or on a listing which identifies the contracts and the amount of the advance.

91.17(3) *Suspension of authorization to issue credit-sale contracts.* The department may suspend the right of a grain dealer to purchase grain by credit-sale contract based on any of the following conditions:

a. The grain dealer holding a federal or state warehouse operator license does not have a sufficient quantity or quality of grain to satisfy the warehouse operator's obligation based on an examination by the department or the United States Department of Agriculture.

b. Collateral receipts cannot be issued for grain represented by credit-sale contract except for the percentage of bushels paid for through advances to sellers on grain purchased by credit-sale contract. The amount and percentage of advances shall be shown on the face of the credit-sale contract or on a listing which identifies the contracts and the amount of the advances.

c. A grain dealer shall not purchase grain on credit-sale contracts during any time period in which the grain dealer's current assets are less than 100 percent of current liabilities, or in which the grain dealer's net worth is less than $75,000.

d. The grain dealer violates Iowa Code section 203.15.

e. The grain dealer's total liabilities are greater than 75 percent of the grain dealer's total assets. The valuation of fixed assets as stated by an approved appraisal on file with the bureau pursuant to subrule 91.8(8) will not be used to determine this percentage.

f. The grain dealer has made payment by use of an electronic funds transfer or a financial instrument which is a check, share draft, draft, or written order on a financial institution, and a financial institution refuses payment on the electronic funds transfer or on the financial instrument because of insufficient funds in a grain dealer's account.

g. The department discovers that a grain dealer has delayed payment for grain purchased since the department last inspected the grain dealer pursuant to Iowa Code section 203.9.

This rule is intended to implement Iowa Code section 203.15.

21—91.18(203) Department of agriculture and land stewardship enforcement procedures. The bureau shall follow a step-by-step enforcement policy to ensure consistent compliance with and application of this chapter. The department recognizes that violations of certain rules may have more serious ramifications; thus, the enforcement of those rules requires stricter policies. The enforcement

policies apply to any violation of this chapter unless enforcement provisions are specifically addressed in a particular rule or subrule.

91.18(1) If it is necessary to establish proof of a violation of statute or rule, the bureau shall conduct a special investigation of the licensee. The bureau may contact the licensed grain dealer, the grain dealer's employees, or any other interested party to gain information for the investigation. The bureau, in its investigation of a licensee, may cause a special examination to occur if evidence of at least one of the following conditions is present:

a. Insufficient funds check, or failed electronic funds transfer.

b. Stalled payment for grain.

c. Quantity deficiency.

d. Quality deficiency.

e. Incomplete or inaccurate records as specified in rule 21—91.11(203).

The expense of such special examination shall be based on actual costs incurred by the bureau and may be assessed to the licensee. The costs shall include the labor, travel and any other additional costs incurred by the bureau. Payment shall be made as directed by the bureau.

91.18(2) Upon establishment by the bureau of a violation of statute or rule, the bureau shall notify the licensee in writing that the licensee must be in compliance with the department's rules within a period of time to be established by the bureau. The bureau shall consider the following elements in determining the proper period of time within which to require a licensee to comply with the rules:

a. Likelihood of producer loss;

b. Gravity of the offense; and

c. Length of time within which a reasonable licensee in a similar circumstance should be able to comply with the rules.

91.18(3) The bureau chief may initiate license suspension or revocation proceedings against the licensee for any violation of these rules. The bureau chief shall consider the following factors in making the determination to initiate the suspension or revocation proceedings:

a. Likelihood of producer loss.

b. Gravity of the offense.

c. Licensee's intent to violate the rule.

d. Licensee's record of violations of statute or rule.

e. Number of violations in the particular report.

91.18(4) The bureau chief may cause charges to be filed against the licensee for any violation of these rules. The bureau chief shall consider the following factors in making the determination to file charges:

a. Likelihood of producer loss.

b. Gravity of the offense.

c. Licensee's intent to violate the rule.

d. Licensee's record of violations of statute or rule.

e. Number of violations in the particular report.

91.18(5) The bureau chief may initiate the assessment of civil penalties against the licensee for any violation of these rules. The bureau chief shall consider the following factors in making the determination to initiate the assessment of civil penalties:

a. Likelihood of producer loss.

b. Gravity of the offense.

c. Licensee's intent to violate the rule.

d. Licensee's record of violations of statute or rule.

e. Number of violations in the particular report.

This rule is intended to implement Iowa Code sections 203.2, 203.9, 203.10, 203.11 and 203.11A.

21—91.19(203) Review proceedings. A grain dealer licensee or applicant may file a formal written complaint with the department if the licensee or applicant contests the finding or decision of the bureau

chief. Any such complaint shall be resolved in contested case proceedings conducted pursuant to the applicable provisions of 21—Chapter 2.

21—91.20(203) Prioritization of inspections of grain dealers. Licensees with a probability of failure factor greater than 40 percent, as calculated by the statistical model, shall be examined at least twice in an 18-month period.

This rule is intended to implement Iowa Code section 203.22.

21—91.21(203) Claims against credit-sale contract bond.

91.21(1) *Persons who may file claims—time of filing.* These rules are applicable only in those instances where a bond has been filed to satisfy Iowa Code section 203.15. If a bond is on file with the department, a seller may file a claim with the bureau for satisfaction of a loss under the grain dealer's bond. A claim shall not be filed prior to the incurrence date, which is the earlier of the following:

a. The revocation, termination, or cancellation of the license of the grain dealer; or

b. The filing of a petition in bankruptcy by a grain dealer.

To be timely, a claim shall be filed within 120 days of the incurrence date.

91.21(2) *Notice.* The bureau shall cause notice of the opening of the claim period to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location, and in a newspaper of general circulation in the state. The notice shall state the name and address of the licensee and the claim incurrence date. The notice shall also state that any claims against the bond on account of the licensee shall be received by the bureau within 120 days after the incurrence date, and that the failure to make a timely claim relieves the department from liability to the claimant. This notice may be incorporated by the bureau with the notice required by Iowa Code section 203.12.

91.21(3) *Determination of eligible claims.* The bureau shall determine a claim to be eligible for payment if the bureau finds all of the following:

a. The claim was timely filed;

b. The claimant qualifies as a credit-sale contract seller;

c. A claim derives from a credit-sale contract transaction, if the claimant is a seller who delivered and transferred title of the grain to the grain dealer by credit-sale contract; and

d. There is adequate documentation to establish the existence of a credit-sale contract claim and to determine the amount of the loss.

91.21(4) *Value of loss—credit-sale contract claims.* The dollar value of a credit-sale contract claim incurred by a seller who has sold and delivered grain and who is a creditor of the licensed grain dealer for all or part of the value of the grain shall be based on the amount stated on the obligation on the date of sale. If the sold grain was unpriced, the value of the claim shall be presumed to be based upon the fair market price, free-on-board from the site of the grain dealer, that is being paid to producers for grain by the grain terminal operator or grain processor nearest the grain dealer on the date of the license revocation or cancellation or the filing of a petition in bankruptcy. If more than one date applies to a claim, the bureau may choose between the two. However, the bureau may accept an alternative valuation of a claim upon a showing of just cause by the seller. All sellers filing claims under this rule shall be bound by the value determined by the bureau. The value of the loss is the outstanding balance on the validated claim at the time of payment.

91.21(5) *Procedure—appeal.* The bureau shall provide for notice to each credit-sale contract seller upon the bureau's determination of eligibility and value of loss. Within 20 days of the notice, the credit-sale contract seller may file a petition for hearing for review of either determination with the district court in the county in which the credit-sale contract seller resides, or in Polk County.

91.21(6) *Payment of claims.* Upon a determination of the status of all credit-sale contract claims, and after the filing period has run, the bureau shall provide a report to all valid, timely filed credit-sale contract claimants. If there are no appeals filed pursuant to subrule 91.21(5), the bureau shall make

payment either in full or pro rata, in the event the value of the credit-sale contract claims is greater than the amount of the bonds.

This rule is intended to implement Iowa Code section 203.15.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—91.22(203) Electronic grain contracts. Subject to the provisions of this chapter, a licensee may issue electronic grain contracts using its own computer system or may contract with an independent provider to issue electronic grain contracts. If the licensee contracts with an independent provider, rules 21—91.22(203) through 21—91.26(203) shall apply. If the licensee issues electronic grain contracts using its own computer system, rules 21—91.22(203), 21—91.25(203) and 21—91.26(203) shall apply.

This rule is intended to implement Iowa Code sections 203.2 and 203.17.

[**ARC 7553B**, IAB 2/11/09, effective 3/18/09]

21—91.23(203) Electronic grain contract providers and provider agreements. A provider shall be independent of any outside influence or bias in action or appearance. A provider shall enter into a provider agreement with the department prior to being approved by the department. A provider shall issue and maintain electronic grain contracts only on behalf of licensees who contract with the provider for those services. The provider agreement shall be subject to, but not be limited to, the provisions of subrules 91.23(1) through 91.23(7).

91.23(1) *Provider to be approved by the USDA.* No provider shall be approved by the department unless the provider is first approved as a provider of "other electronic documents" by the USDA pursuant to the provisions of 7 CFR Part 735. Upon department request, a provider shall provide a copy of the provider's executed USDA Form WA-490 and any addenda, and any other documentation requested by the department to confirm that the provider is a USDA-approved provider in good standing.

91.23(2) *USDA action against providers.* In the event that the USDA shall take action to deny, withdraw, suspend, reinstate or terminate a USDA provider agreement, the department shall automatically take the same action and the provider shall be subject to such action by the department. A provider shall notify the department of any such actions taken by the USDA.

91.23(3) *Notice requirements for providers.*

a. When entering into a new user agreement, a provider shall provide written notice to the department.

b. All notices to the USDA required by 7 CFR Part 735 and by the USDA provider agreement shall also be served upon the department except as specifically exempted in the provider agreement.

c. In the user agreement, a provider shall include a notice to the licensee that the data on the provider's central filing system is subject to disclosure to the department and the USDA.

91.23(4) *Provisions to cease issuing electronic grain contracts.* Upon notice by the department that a grain dealer license issued under Iowa Code chapter 203 has expired or has been canceled, suspended or revoked, a provider shall prohibit the licensee from entering into any electronic grain contracts until further notice from the department. Upon notice by the department that a licensee has had its right to purchase grain by credit-sale contract suspended or denied under rule 21—91.17(203), a provider shall prohibit the licensee from entering into any electronic credit-sale grain contracts until further notice from the department.

91.23(5) *Department access to electronic grain contract data.* A provider shall allow the department unrestricted access to the central filing system for electronic grain contracts issued on behalf of licensees. The electronic grain contract data shall be maintained for six years after a contract has been canceled. Access shall be made available in a manner that allows interaction with department examinations. Access shall be free of any charge or costs to the department.

91.23(6) *Termination of provider agreement.* The department or provider may terminate the provider agreement upon 60 days' written notice to the other party. The department shall terminate a provider agreement on less than 60 days' notice in accordance with subrule 91.23(2). Upon termination of the provider agreement, the provider shall immediately surrender to the department copies of the electronic data and paper records for any electronic grain contracts contained within the central filing system. Such data and paper record copies, however, are limited to electronic grain contracts issued by licensees.

91.23(7) *Authorization, jurisdiction and liability.* A provider shall be authorized to transact business in the state of Iowa and shall consent to jurisdiction in the state of Iowa and venue in Polk County, Iowa. A provider shall be liable to the department for costs incurred by the department as a result of action taken in the event of a failure of the central filing system or any inability to provide the access required in subrule 91.23(5).

This rule is intended to implement Iowa Code sections 203.2, 203.15, and 203.17.

[**ARC 7553B**, IAB 2/11/09, effective 3/18/09; **ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—91.24(203) Electronic grain contract users and user agreements. Prior to engaging in the issuance of electronic grain contracts, a licensee shall enter into a user agreement with a provider approved by the department. All electronic grain contracts issued by the licensee shall be issued through and filed in the provider's electronic central filing system. The use of electronic grain contracts is subject to the provisions of subrules 91.23(1) through 91.23(5).

91.24(1) *Licensee to use only one provider.* A licensee shall issue electronic grain contracts through only one provider.

91.24(2) *Changing providers.* Subject to the provisions of a user agreement in effect, a licensee may change providers once per year. The provider shall follow the transfer terms specified in USDA Form WA-490 and any addenda pursuant to subrule 91.23(1). The licensee shall notify the department of a change in provider.

This rule is intended to implement Iowa Code sections 203.2 and 203.17.

[**ARC 7553B**, IAB 2/11/09, effective 3/18/09]

21—91.25(203) Electronic grain contracts—issuance and form. Electronic grain contracts shall comply with the provisions of Iowa Code chapters 203 and 554D.

91.25(1) *Agreement to conduct electronic transactions.* A licensee or the licensee's provider shall maintain complete and sufficient records to show agreement between the grain seller and the licensee to conduct electronic grain contract transactions. The records shall be presented to the department for inspection upon request. An electronic grain contract shall be capable of being printed or stored by both the licensee and the grain seller.

91.25(2) *Electronic signatures.* Sufficient security procedures shall be used by a licensee or the licensee's provider to reasonably ascertain that the electronic grain contract signature is the act of the grain seller. The security procedures shall be subject to the review of and approval by the department. A seller shall be allowed to sign an electronic grain contract only at the conclusion of all electronic grain contract terms and conditions.

91.25(3) *Numbering of electronic contracts—no duplication.* Electronic grain contracts shall be consecutively numbered as issued. A licensee shall not at any time have an electronic grain contract and a paper grain contract outstanding for the same lot of grain.

91.25(4) *Seller power of attorney.* A licensee or a third party may not handle electronic grain contracts on behalf of a seller unless a written power of attorney to do so has been provided by the seller. Such power of attorney shall be provided to the department for inspection and verification upon the department's request.

91.25(5) *Issuance, form, cancellation, and assignment of electronic credit-sale contracts.* The provisions for issuance, cancellation, and assignment of credit-sale contracts found in rules 21—91.11(203) and 21—91.12(203) shall apply to electronic credit-sale contracts except to the extent that the rules are not applicable to paperless credit-sale contracts.

91.25(6) *Authorization to issue electronic credit-sale contracts.* A licensee who issues electronic credit-sale contracts shall comply with all requirements of rule 21—91.17(203).

91.25(7) *Nonexclusive use.* A licensee shall not be required to issue grain contracts in electronic form.

This rule is intended to implement Iowa Code sections 203.2, 203.15, 203.17, 554D.106, 554D.110 and 554D.111.

[**ARC 7553B**, IAB 2/11/09, effective 3/18/09]

21—91.26(203) Security of a provider's electronic central filing system or a licensee's electronic database. Only authorized employees of the licensee shall have access to the provider's central filing system or the licensee's electronic database. A provider shall prevent unauthorized persons from gaining access to its central filing system. If a licensee uses its own computer database, the licensee shall maintain a backup of the database to ensure electronic grain contracts are not inadvertently lost.

This rule is intended to implement Iowa Code sections 203.2 and 203.17.

[**ARC 7553B**, IAB 2/11/09, effective 3/18/09]

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[Filed ARC 0538C (Notice ARC 0422C, IAB 10/31/12), IAB 12/26/12, effective 1/30/13]

CHAPTER 92
PARTICIPATION IN GRAIN INDEMNITY FUND

[Prior to 7/30/86, Commerce Commission (250), Ch l4]
[Prior to 7/27/88, 21—Ch 62]

21—92.1(203D) Mandatory participation in fund. All grain dealers and warehouse operators shall participate in the grain depositors and sellers indemnity fund (the fund) through the remission of the fees required in rule 21—92.2(203D). Failure to participate shall result in license suspension or revocation. As used in this chapter, "grain dealer" shall mean a licensed grain dealer pursuant to Iowa Code section 203.3 and "warehouse operator" shall mean a licensed warehouse operator pursuant to Iowa Code section 203C.6. "Licensee" shall mean either a licensed grain dealer or a licensed warehouse operator.
[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—92.2(203D) Required fees. Until the amounts are amended or waived by the grain indemnity fund board pursuant to Iowa Code section 203D.5, in accordance with Iowa Code chapter 17A, fees shall be assessed as follows:

92.2(1) A per-bushel fee on all purchased grain, in an amount of one-quarter cent per bushel, remitted by grain dealers. However, if the grain dealer provides documentation satisfactory to the department, the following transactions shall be excluded from the per-bushel fee:

a. Grain purchased from the United States government or any of its subdivisions or agencies.

b. Grain purchased from a person licensed as a grain dealer in any jurisdiction.

c. Grain purchased under a credit-sale contract.

92.2(2) An annual participation fee, remitted by licensees, as follows:

a. For grain dealers, a participation fee of fourteen thousandths of a cent per bushel on all purchased grain entered into the company-owned paid position during the grain dealer's last fiscal year. However, a grain dealer shall pay a minimum participation fee of $50. Redemptions of collateral warehouse receipts entered into the company-owned paid position shall not be considered as a purchase.

b. For warehouse operators, a participation fee of fourteen thousandths of a cent per bushel of bulk grain storage capacity, or $500, whichever is less. However, a warehouse operator shall pay a minimum participation fee of $50.

92.2(3) A grain dealer may pass on the cost of a per-bushel fee paid in accordance with 92.2(1) to the grain sellers by an itemized discount on the grain dealer's settlement sheet.

This rule is intended to implement Iowa Code sections 203D.3, 203D.3A and 203D.5.
[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—92.3(203D) New license applicants. Persons applying for a new grain dealer license or warehouse operator license shall pay a full annual participation fee in accordance with Iowa Code sections 203D.3A and 203D.5. This payment shall be made without regard to whether or not the grain indemnity fund board has otherwise waived or adjusted the per-bushel or participation fees for licenses. Payment of the fees shall be made before a new license is issued. A participation fee paid by an applicant shall be refunded if the license is not issued by the department. A participation fee paid by a grain dealer applicant shall be recalculated by the end of the first state fiscal quarter after completion of the grain dealer's first year of operation. The grain dealer participation fee shall be recalculated based upon all actual purchased grain entered into the company-owned paid position in the dealer's first year of operation. However, redemptions of collateral warehouse receipts entered in the company-owned paid position shall not be considered as a purchase. Underpayments shall be paid by the licensee in accordance with rule 21—92.4(203D), and overpayments shall be refunded by the department.

This rule is intended to implement Iowa Code sections 203D.3A and 203D.5.
[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—92.4(203D) Due date for payment of the per-bushel and participation fees.

92.4(1) *Quarterly payments.* The per-bushel fee and the participation fee installment payment established in Iowa Code section 203D.3A, as adjusted by rule 21—92.2(203D), and the quarterly report are due, except as provided in subrule 92.4(2), on the fifteenth day of the fiscal month succeeding

the fiscal quarter in which the fee accrued. The fiscal quarters are as follows: July 1 through September 30; October 1 through December 31; January 1 through March 31; and April 1 through June 30.

92.4(2) *Payments for licensees out of business.* If a grain dealer or warehouse operator license has expired or is revoked or canceled during the term of a fiscal quarter, the quarterly report and per-bushel fee for that quarter are due 15 days after the date of license expiration, revocation, or cancellation.

92.4(3) *Holidays.* If the due date determined under subrules 92.4(1) and 92.4(2) falls on a Saturday, Sunday, a legal holiday as provided in Iowa Code section 4.1(34), or a Monday following a Sunday which is a named legal holiday, the due date is the following day.

92.4(4) *Forms and payment.* The quarterly report shall be submitted on forms or in a format prescribed by the bureau. Required forms shall be provided by the grain warehouse bureau. The amount of the per-bushel fee, as calculated in the quarterly report, shall accompany the report. Checks shall be made payable to the Iowa Department of Agriculture and Land Stewardship (abbreviated as IDALS).

92.4(5) *"Receiving" defined.* The quarterly report and the per-bushel fee must be received on or by the due date to avoid penalty. For the purpose of this chapter, "received" means the earliest of the following:

a. The date a state warehouse examiner acknowledges receipt;

b. The date on which the report is stamped "received" in the warehouse bureau; or

c. The date on which the report is postmarked, if the item is properly addressed to the Grain Warehouse Bureau, Iowa Department of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code sections 203D.3 and 203D.3A.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—92.5(203D) Penalty for delinquent submission of per-bushel and participation fees.

92.5(1) *Delinquent payments defined.* In regard to the submission of the quarterly report, per-bushel fee and the participation fee installment payment, the licensee is deemed to be delinquent if any of the following apply:

a. The quarterly report and payment of the per-bushel fee due are not received on or before the due date.

b. The quarterly report and partial payment of the per-bushel fee due are received on or before the due date, but the underpayment exceeds the margin of error, which for this rule is the greater of $10 or 10 percent of the per-bushel fee due as determined by the warehouse bureau.

c. The quarterly report and partial payment of the per-bushel fee due are received on or before the due date, and the underpayment is within the margin of error provided, but the amount of the underpayment has not been received on or before the tenth day after the licensee is notified of the underpayment.

d. The participation fee installment payment is not received on or before the due date.

92.5(2) *Penalty amount.* The amount of penalty for a delinquent submission is the lesser of the amount of the deficiency or $10 per day for each day after the due date for the quarter in question, through the earlier of the date the underpayment is received or the date the licensee's license has expired or has been revoked or canceled. However, a delinquent payment is subject to a minimum penalty amount of $10.

92.5(3) *Penalty when no assessment is due.* If the licensee is delinquent because the quarterly report is not received until after the due date, but no per-bushel fee was due for that quarter, there is a one-day penalty of $10.

92.5(4) *License suspension and revocation for failure to pay.* If the delinquency is not cured within 30 days after the due date, the grain dealer's or warehouse operator's license shall be suspended. If the delinquency is not cured within 30 days after suspension, the license shall be revoked.

92.5(5) *Overpayments.* If, upon review of the quarterly report, the grain warehouse bureau determines that there has been an overpayment of $1 or more, the bureau shall issue a credit to

the licensee which may be applied against the amount of assessment due in succeeding quarters. Overpayments of less than $1 are negated.

This rule is intended to implement Iowa Code sections 203D.3 and 203D.3A.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—92.6(203D) Penalty for delinquent payment of per-bushel fee discovered during examination.

92.6(1) *Delinquent payments defined.* In regard to an underpayment discovered during the performance of an examination, the licensee is deemed to be delinquent if any of the following apply:

a. The underpayment for any quarter exceeds the margin of error, which for this rule is the greater of $100 or 50 percent of the per-bushel fee due for the quarter in question, as determined by the grain warehouse bureau.

b. The underpayment is within the margin of error provided, but the amount of the underpayment has not been received on or before the fifth day after the licensee is notified of the underpayment in the examiner's written report.

92.6(2) *Negated amounts.* Underpayments of less than $1 are negated and do not constitute delinquency.

92.6(3) *Penalty amount.* If the licensee is delinquent, the penalty is the lesser of the amount of the deficiency or $10 per day for each day after the due date for the quarter in question, through the earlier of the date the underpayment is received or the date the licensee's license has expired or has been revoked or canceled. However, a delinquent payment is subject to a minimum penalty amount of $10.

92.6(4) *License suspension and revocation for failure to pay.* If the underpayment is not received within 30 days after the date of the examiner's report, the grain dealer's or warehouse operator's license shall be suspended. If the underpayment is not received within 30 days after suspension, the license shall be revoked.

92.6(5) *Overpayments.* If, during the performance of any examination, the warehouse bureau determines that there has been an overpayment of $1 or more, the warehouse bureau shall issue a credit to the licensee which may be applied against the amount of assessment due in succeeding quarters. Overpayments of less than $1 are negated.

This rule is intended to implement Iowa Code sections 203D.3 and 203D.3A.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

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CHAPTER 93
GRAIN INDEMNITY FUND BOARD—ORGANIZATION AND OPERATIONS
[Prior to 7/27/88, 21—Ch 63]

21—93.1(203D) Location. The office of the grain indemnity fund board is located in the Wallace State Office Building, Des Moines, Iowa; telephone (515)281-5321; mailing address: Grain Indemnity Fund Board, c/o Grain Warehouse Bureau, Iowa Department of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code section 203D.4.

21—93.2(203D) The board. The grain indemnity fund board consists of seven members: the secretary of agriculture or the secretary's designee who shall serve as chairperson, the state treasurer or the state treasurer's designee who shall serve as treasurer, a representative of the banking industry and four representatives of the grain industry. Grain industry representatives shall consist of two grain producers, one representative of warehouse operators licensed in accordance with Iowa Code section 203C.6 and one representative of grain dealers licensed in accordance with Iowa Code section 203.3. Each industry representative shall be appointed by the governor from a list of three nominees made by the secretary of agriculture.

This rule is intended to implement Iowa Code section 203D.4.
[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—93.3(203D) Authority of the board. The board has authority to determine the amount and validity of claims made against the fund, to review and adjust the per-bushel fee and the grain dealer and warehouse operator participation fee, and to approve costs of administering the fund. In addition, the board has the authority to act as an advisor to the secretary of agriculture on administrative matters affecting the fund, and as a result the board will make only policy recommendations in regard to the areas of administration delegated to the department in Iowa Code chapter 203D.

This rule is intended to implement Iowa Code section 203D.4.
[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—93.4(203D) Meetings. Unless otherwise determined by the chairperson, the board will meet at 2 p.m. on the third Thursday of each month. In-person board meetings will generally be held in a conference room in the Henry A. Wallace building. Telephone conference call meetings may be permitted and will generally be hosted from the offices of the grain warehouse bureau of the Iowa department of agriculture and land stewardship in the Henry A. Wallace building. The establishment and public notice of meeting dates and locations are the responsibility of the chairperson, unless the majority of the members of the board eligible to vote request a meeting. In addition, the board will schedule meetings when circumstances require the board to address claims made against the fund and, for these meetings, establishment and public notice of meeting dates and locations are the responsibility of the chairperson.

93.4(1) *Agenda.* The tentative agenda is prepared by the chairperson in advance of the board meeting and will be mailed to board members in advance of the meeting date. A copy of the agenda will be mailed to those members of the public who request it and will be prominently posted at the board's office at least 24 hours before the meeting. Members of the public wishing to be scheduled on the board's agenda should notify the chairperson ten days in advance of the meeting and provide written materials explaining their reasons for wishing to address the board. In the case of a board meeting held to deal with claims against the fund, the filing of a written appeal under rule 21—94.9(203D) will satisfy the requirements of the preceding sentence. The chairperson shall have the authority to make all final decisions on the content and length of agenda items.

93.4(2) *General conduct of meetings.* The chairperson presides at all board meetings. Only individuals recognized by the presiding officer may address the board; in general, Robert's Rules of Order will govern the meeting unless otherwise stated in this chapter or by special action of the board.

In all discussions before the board, members of the public shall address any questions for the board to the presiding officer. Individual questioning of board members will not be allowed without the explicit consent of the presiding officer and the board members in question.

93.4(3) *Voting.* The board consists of seven members who are all eligible to vote on issues. A majority of board members shall constitute a quorum. The affirmative vote of four board members is necessary to carry an action.

93.4(4) *Public participation.* All meetings are open to the public in accordance with the open meetings law, Iowa Code chapter 21, except that portions of a meeting may be closed in accordance with the open meetings law. In the chairperson's discretion, a 15-minute public forum may be scheduled on each agenda of regularly scheduled meetings to allow the public, if necessary, an opportunity to address the board on any issue that may have arisen after the agenda was posted.

This rule is intended to implement Iowa Code sections 203D.4, 203D.5, 203D.5A and 203D.6.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—93.5(203D) Minutes. The minutes of all board meetings are recorded and kept by the grain warehouse bureau in the board's office.

This rule is intended to implement Iowa Code section 203D.4.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—93.6(203D) Board decisions. The actions of the board will be authoritatively recorded in the minutes of the board meeting at which the actions were taken. The board may adopt, amend, or repeal rules subject to Iowa Code chapter 17A to govern the operations of the board, to adjust or waive the per-bushel fee and the annual dealer-warehouse fee, and to govern the process of making claims against the fund. These rules shall be published by the department in the Iowa Administrative Code. The board may also recommend the adoption of other rules by the department relating to the fund. The content of any rules will be authoritatively established when they are published by the department in the Iowa Administrative Code.

This rule is intended to implement Iowa Code sections 203D.4, 203D.5, 203D.5A and 203D.6.

21—93.7(203D) Records. The records of all the business transacted and other information with respect to the activities of the board are public records and are on file in the board's office. All records including board minutes are available for inspection during regular business hours. Copies may be obtained at a cost of 25 cents per page.

This rule is intended to implement Iowa Code section 203D.4.

21—93.8(203D) Waiver of per-bushel and participation fees. Pursuant to Iowa Code section 203D.5, the per-bushel and participation fees are suspended until reinstated by rule or statute. To this extent, this rule supersedes rules 21—92.2(203D) and 21—92.4(203D). Further, this rule does not alter the requirement of Iowa Code section 203D.3A that new licensees must pay the participation fees for the first year, as set out in Iowa Code section 203D.3A and in rule 21—92.3(203D).

This rule is intended to implement Iowa Code sections 203D.3, 203D.3A, 203D.4 and 203D.5.

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CHAPTER 94
CLAIMS AGAINST THE GRAIN DEPOSITORS AND SELLERS INDEMNITY FUND

[Prior to 7/27/88, 21—Ch 64]

21—94.1(203D) Definitions.

"Covered transaction" means a transaction in which the claimant is a seller who transferred title to the grain to the grain dealer other than by credit-sale contract within six months of the incurrence date, or in which the claimant is a depositor who delivered the grain to the warehouse operator.

"Credit-sale contract" means a contract for the sale of grain pursuant to which the sale price is to be paid more than 30 days after the delivery of the grain to the buyer, or a contract which is titled as a credit-sale contract, including but not limited to those contracts commonly referred to as deferred-payment contracts, deferred-pricing contracts, and price-later contracts.

"Department" means the Iowa department of agriculture and land stewardship.

"Depositor" means a person who deposits grain in a state warehouse for storage, handling, or shipment, or who is the owner or legal holder of an outstanding state warehouse receipt, or who is lawfully entitled to possession of the grain.

"Grain dealer" shall mean a grain dealer licensed pursuant to Iowa Code section 203.3.

"Licensed warehouse" means a warehouse, the operation for which the department has issued a license in accordance with Iowa Code section 203C.6.

"Seller" means a person who sells grain which the person has produced or caused to be produced to a licensed grain dealer, but excludes a person who executes a credit-sale contract as a seller.

"Warehouse operator" means a licensed warehouse operator pursuant to Iowa Code section 203C.6.

"Warehouse receipt" means a warehouse receipt issued for bulk grain in accordance with Iowa Code chapter 203C.

[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—94.2(203D) By whom claims can be made. Claims shall be made only by a depositor or seller. Claims shall derive from a covered transaction. A claim shall not be made on grain which was initially eligible as a covered transaction but became not covered as a result of a new credit-sale contract transaction.

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21—94.3(203D) Procedure for filing claims. In regard to claims by a depositor or seller arising against a grain dealer or warehouse operator, a claim against the grain depositors and sellers indemnity fund may be filed with the Grain Warehouse Bureau (the bureau), Iowa Department of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319. The bureau shall create and provide a claim form. Use of the claim form shall be the exclusive manner of filing a claim against the fund. The claim shall include the following information:

1. The name and address of the grain dealer or warehouse operator against whom the claim arose;
2. The name, address, telephone number, and social security or tax identification number of the person making the claim;
3. The type and amount of grain involved;
4. The type of transaction involved;
5. Evidence of ownership;
6. Documentation of a demand on the obligation and a failure to honor the demand; and
7. A notarized signature by each person making the claim.

21—94.4(203D) Time limitations. A claim against the fund may be made for a covered transaction when either of the following incurrence dates occurs:

1. The expiration, revocation or cancellation of the license of a grain dealer or warehouse operator; or
2. The filing of a petition in bankruptcy by a grain dealer or warehouse operator.

A claim shall be filed within a claim period that begins on an incurrence date and ends 120 days after that incurrence date. A claim is not timely unless it is postmarked or delivered within 120 days after the incurrence.
[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—94.5(203D) Claims by depositors where bureau is receiver. In regard to claims by depositors arising against a warehouse operator whose license has expired or has been revoked or canceled and who has not filed a petition for bankruptcy and where the bureau has been appointed by the court as the receiver of the grain assets of the warehouse, a claim properly filed with the bureau as receiver within 120 days of the license expiration, revocation or cancellation also is deemed to be a properly filed claim against the fund.
[**ARC 9388B**, IAB 2/23/11, effective 3/30/11]

21—94.6(203D) Notice of claims. Within 30 days of the receipt of a claim, the bureau shall send notice of the claim to each member of the board.

21—94.7(203D) Report by bureau. When adequate information is available, the bureau shall make a report to the board of claims ready for determination, which report shall note the gross and net amount of each claim and the bureau's recommendations as to the validity and value of each claim. The bureau may report the claims ready for determination either as a class of listed claims relating to an identified licensee or individually, as may be appropriate.

21—94.8(203D) Determination of claims. The board shall review the report submitted by the bureau and may request additional information on a claim. The board shall determine the amount of the loss and the amount the claimant is validly entitled to from the fund within 90 days after the submission of the report to the board, unless the board finds good cause to delay the determination. "Good cause" includes the need for additional information on a claim. Notice of the board's determination shall be sent to each claimant by ordinary mail. The notice of the determination shall indicate the date when it is sent.

21—94.9(203D) Appeal from determination.

94.9(1) *Time limit for filing.* A claimant whose claim has been determined by the board may appeal the determination by filing an appeal with the board within 20 days of the date the notice of the determination was sent. Appeals shall include a statement as to the amount the appellant is contesting and as to the basis for appeal. The board's determination becomes final if there is no timely appeal.

94.9(2) *Board action on appeals.* Upon the timely filing of an appeal, the board shall schedule an evidentiary hearing or an opportunity for oral argument before the board on the appeal. The hearing or argument shall be scheduled no sooner than 15 days after notice of the hearing or oral argument is sent to the appellant by ordinary mail. If an evidentiary hearing is scheduled, the appellant may appear and submit evidence concerning the claim. The bureau may also appear and submit evidence. If the appellant fails to appear, the board may proceed in the appellant's absence. If a hearing or oral argument is held, the board shall prepare a written decision. The appellant shall be sent a copy of the board's decision by ordinary mail. The decision shall indicate the date when it is sent.

94.9(3) *Rehearing.* If a hearing was held on the appeal, the appellant may request a rehearing within 20 days of the date when the decision is sent. The request is deemed to have been denied unless the board grants the request within 20 days after the board's receipt of the request.

94.9(4) *Exclusive remedy.* The procedure provided by this rule is the exclusive administrative remedy in regard to the board's determinations as to the validity and amount of claims.

21—94.10(203D) Payment of valid claims—conflicting interests.

94.10(1) *Subrogation and payment.* If the board has validated all or part of a claim, the board shall authorize the chairperson or the chairperson's designee to facilitate payment from the fund to the claimant in the determined amount upon the claimant's execution of a subrogation of the fund to the rights of the

claimant and of an agreement to hold the fund harmless as against competing claims to the determined amount.

94.10(2) *Time limitation on claims.* A claim shall expire five years after the board determines a claim is payable if the claimant has failed to execute and return the subrogration and hold-harmless documents required by subrule 94.10(1). The fund is not liable for payment of expired claims.

94.10(3) *Joint payments and interpleader for conflicting claims.* If the board determines that a valid claim is subject to an interest by more than one depositor or seller, the board may order joint payment. If priority of interests in the validated claim is at issue, the board may bring an equitable action of interpleader against the conflicting parties pursuant to Iowa Rule of Civil Procedure 1.251, and may order the deposit of the determined amount with the court pursuant to Iowa Rule of Civil Procedure 1.253.

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These rules are intended to implement Iowa Code section 203D.6.

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CHAPTER 95
CIVIL PENALTIES

21—95.1(203,203C) Definitions. For the purpose of these rules, the following definitions shall apply:

"Contested case hearing" means an evidentiary hearing pursuant to Iowa Code chapter 17A.

"Department" means the grain warehouse bureau of the Iowa department of agriculture and land stewardship.

"Informal settlement" means an agreement between a licensee and the department which provides for sanctions for a violation of Iowa Code chapter 203 or 203C or the rules promulgated thereunder, but does not include a contested case hearing.

"Licensee" means a grain dealer or warehouse operator licensed under Iowa Code chapter 203 or 203C.

"Panel" means the grain industry peer review panel.

"Report" means the information provided by the department to the panel to assist in its review of cases involving proposed civil penalties.

"Review period" means the period of time during which the licensee may seek review of a proposed civil penalty by the panel.

21—95.2(203,203C) Grain industry peer review panel. The panel shall review cases of licensees subject to civil penalties for violations of Iowa Code chapter 203 or 203C or the rules promulgated thereunder. The decision to assess a civil penalty shall be made exclusively by the department. The panel's review shall be limited to the issues of whether a civil penalty should be assessed and the amount of the penalty. The panel will not determine whether a violation of law has occurred.

21—95.3(203,203C) Organization and location. The panel is located within the Iowa Department of Agriculture and Land Stewardship, Henry A. Wallace Building, Des Moines, Iowa 50319. The department's office hours are from 8 a.m. to 4:30 p.m., Monday through Friday.

21—95.4(203,203C) Membership. The panel shall consist of five members as set forth in Iowa Code Supplement section 203.11B.

21—95.5(203,203C) Staff. Staff assistance shall be provided through the department.

21—95.6(203,203C) Meetings. The panel shall meet annually to elect a chairperson but may meet at the call of the chairperson or upon written request to the chairperson of two or more members. All panel meetings shall comply with Iowa Code chapter 21. A quorum of three-fifths of the panel shall be present to transact business. Action by the panel requires a vote of a majority of those on the panel. Meetings follow Robert's Rules of Order. Minutes of each meeting shall be available from the department.

21—95.7(203,203C) Criteria for assessing civil penalties. Licensees who violate Iowa Code chapter 203 or 203C or the rules promulgated thereunder may be subject to civil penalties. In evaluating a violation to determine which cases may be appropriate for assessment of civil penalties, or for purposes of assessing civil penalties, the department shall consider, among other relevant factors, the following:

1. Economic benefits realized by the violator through noncompliance.
2. Willfulness or recklessness of the violation.
3. Actual or threatened damage to sellers or depositors.
4. Actual or potential costs incurred by the department in discovering and responding to the violation.
5. Remedial or corrective action taken by the licensee.
6. Previous history of noncompliance by the licensee.

The amount of civil penalty assessed shall not exceed $1500 per violation. Each day that a violation continues constitutes a separate violation.

21—95.8(203,203C) Notice of civil penalty assessment—informal settlement. The department shall give written notice to the licensee that it intends to seek assessment of a civil penalty. The notice shall describe the violation involved and set forth the amount of civil penalty sought by the department. The licensee shall have 14 days following receipt of the notice to request review of the amount of the civil penalty by the panel.

The department and the licensee may meet to discuss the case and the possibility of an informal settlement. If the parties reach an informal settlement, they may enter a joint stipulation providing for payment of an agreed-upon civil penalty and other sanctions. The joint stipulation is not reviewable by the panel.

21—95.9(203,203C) Panel review. The licensee may seek review of the proposed civil penalty by filing a request for review within 14 days of receipt of the notice of assessment. The request for review shall be served in writing by regular mail upon the chairperson of the panel and the department. The request for review shall contain a concise statement of the reasons why a civil penalty should not be assessed or why it should be assessed at a lesser amount than that proposed by the department. Within 7 days of receipt of the request for review, the department shall forward its report to the panel.

Within 14 days of receipt of the department's report, the chairperson shall schedule a meeting of the panel in Des Moines at the Henry A. Wallace Building or telephonically, and copies of the request for review and the department's report shall be provided to the panel.

21—95.10(203,203C) Scope of panel review. The panel shall confine its review to the licensee's request for review and the department's report. The department's investigative file or parts thereof may be made available upon request. The department shall also make available, upon request, records which are otherwise confidential under Iowa Code section 22.7, 203.16, or 203C.24. The review may be in closed session pursuant to Iowa Code section 21.5. The department's reports shall be considered confidential records. The panel members shall maintain the confidentiality of records made available to the panel.

The panel's review shall not be a contested case hearing. The panel shall not have power to examine or cross-examine witnesses, nor shall it have power to subpoena witnesses or documents.

21—95.11(203,203C) Panel response. The panel shall respond in writing to the licensee and the department within 30 days of meeting to review the proposed penalty. The panel's response may include recommendations that the proposed civil penalty be increased, decreased, that no penalty be assessed, or that conditions be placed upon the license.

If the licensee does not respond to the department's notice of proposed penalty, the department shall seek review of its proposed civil penalty by submitting its report to the panel. Upon receipt of the report, the chairperson shall schedule a meeting and the provisions of 21—95.9(203,203C) shall apply.

21—95.12(203,203C) Civil penalty assessment. If the licensee fails to pay the recommended civil penalty within 30 days of receipt of the panel's response, the department may seek either administrative or judicial assessment of the penalty. The amount of civil penalty sought shall not exceed that recommended by the panel. The panel's response may be used as evidence in an administrative hearing or civil case except to the extent that the response contains information considered confidential pursuant to Iowa Code section 22.7, 203.16, or 203C.24.

Upon finding that the licensee has violated Iowa Code chapter 203 or 203C or the rules promulgated thereunder, an order shall be issued assessing the civil penalty. The order shall recite the facts, the legal requirements violated, the rationale for assessment of the civil penalty and the date of issuance.

21—95.13(203,203C) Judicial assessment. The department may seek judicial assessment of civil penalties by requesting that the attorney general file an action in Iowa district court to seek assessment of the penalty. In requesting that the attorney general file an action seeking civil penalties, the department may also request that the attorney general seek other relief, such as issuance of an injunction.

21—95.14(203,203C) Civil penalty payment. A civil penalty shall be paid within 30 days from the date that an order or judgment for the penalty becomes final. In an administrative assessment, the order is not final until all judicial review processes are completed. In a judicial assessment, the judgment is not final until the right of appeal is exhausted.

A person who fails to timely pay a civil penalty shall pay, in addition to the penalty, interest at the rate of one and one-half percent on the unpaid balance of the assessed penalty for each month or part of a month that the penalty remains unpaid.

Moneys collected in civil penalties through settlement or administrative or judicial proceedings shall be deposited in the general fund of the state.

These rules are intended to implement Iowa Code Supplement sections 203.11A and 203C.36A.

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