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STEPHANIE A. HOFF
ADMINISTRATIVE CODE EDITOR

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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

Agriculture and Land Stewardship Department[21]

Replace Chapters 90 and 91

Economic Development Authority[261]

Replace Analysis

Replace Chapter 71

Replace Chapter 187

Educational Examiners Board[282]

Replace Chapter 13

Inspections and Appeals Department[481]

Replace Chapters 69 and 70

Child Advocacy Board[489]

Replace Analysis

Replace Chapter 4

Insert Chapter 5

Management Department[541]

Replace Analysis

Replace Chapter 1

Replace Chapters 5 to 8

Replace Chapter 10 with Reserved Chapter 10

Remove Reserved Chapters 13 and 14 and Chapter 15

Insert Reserved Chapters 13 to 15

County Finance Committee[547]

Replace Analysis

Replace Chapters 3 to 5

Revenue Department[701]

Replace Analysis

Replace Chapter 80

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) Other financial statements. The bureau chief may require a warehouse operator to submit financial statements on a monthly or quarterly basis to verify the operator's financial status or compliance with Iowa Code section 203C.6. These financial statements shall be filed with the bureau by the end of the next month and by the end of every month thereafter until no longer required by the bureau. 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(14) 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; ARC 1381C, IAB 3/19/14, effective 4/23/14]

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 vacuators 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(3), 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) *Other financial statements.* The bureau chief may require a grain dealer to submit financial statements on a monthly or quarterly basis to verify the grain dealer's financial status or compliance with Iowa Code section 203C.6. These financial statements shall be filed with the bureau by the end of the next month and by the end of every month thereafter until no longer required by the bureau. 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(14) *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; ARC 1381C, IAB 3/19/14, effective 4/23/14]

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.

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ECONOMIC DEVELOPMENT AUTHORITY[261]

[Created by 1986 Iowa Acts, chapter 1245]

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PART I

DEPARTMENT STRUCTURE

CHAPTER 1

ORGANIZATION

- 1.1(15) History and mission
- 1.2(15) Definitions
- 1.3(15) Economic development authority board
- 1.4(15) Authority structure
- 1.5(15) Information

CHAPTERS 2 and 3

Reserved

PART II

WORKFORCE DEVELOPMENT COORDINATION

CHAPTER 4

WORKFORCE DEVELOPMENT ACCOUNTABILITY SYSTEM

- 4.1(15) Purpose
- 4.2(15) Compilation of information

CHAPTER 5

IOWA INDUSTRIAL NEW JOBS TRAINING PROGRAM

- 5.1(15,260E) Authority
- 5.2(15,260E) Purpose
- 5.3(15,260E) Definitions
- 5.4(15,260E) Agreements
- 5.5(15,260E) Resolution on incremental property tax
- 5.6(15,260E) New jobs withholding credit
- 5.7(15,260E) Notice of intent to issue certificates
- 5.8(15,260E) Standby property tax levy
- 5.9(15,260E) Reporting
- 5.10(15,260E) Monitoring
- 5.11(15,260E) State administration
- 5.12(15,260E) Coordination with communities
- 5.13(15,76GA,SF2351) Supplemental 1½ percent withholding

CHAPTER 6

Reserved

CHAPTER 7

IOWA JOBS TRAINING PROGRAM

- 7.1(260F) Authority
- 7.2(260F) Purpose
- 7.3(260F) Definitions
- 7.4(260F) Program funding
- 7.5(260F) Funding for projects which include one business
- 7.6(260F) Funding for projects which include multiple businesses
- 7.7(260F) Funding for high technology apprenticeship programs
- 7.8(260F) Matching funds requirement

7.9(260F)	Use of program funds
7.10(260F)	Use of 260F earned interest
7.11(260F)	Application fee
7.12(260F)	Separate account
7.13(260F)	Eligible business
7.14(260F)	Ineligible business
7.15(260F)	Eligible employee
7.16(260F)	Ineligible employee
7.17(260F)	Entrepreneurial training
7.18(260F)	Agreement of intent
7.19(260F)	Project commencement date
7.20(260F)	Application process
7.21(260F)	Application scoring criteria
7.22(260F)	Training contract
7.23(260F)	Special requirements for community college consortium projects
7.24(260F)	Special requirements for community college-sponsored business network projects
7.25(260F)	Special requirements for department-sponsored business network projects
7.26(260F)	Special requirements for community college-sponsored high technology apprenticeship projects
7.27(260F)	Special requirements for department-sponsored high technology apprenticeship projects
7.28(81GA, HF868, HF809)	Special requirements for job retention program projects
7.29(81GA, HF868, HF809)	Special requirements for projects funded through the grow Iowa values fund
7.30(260F)	Events of default
7.31(260F)	Options and procedures on default
7.32(260F)	Remedies upon default
7.33(260F)	Return of unused funds
7.34(260F)	Open records
7.35(260F)	Required forms

CHAPTER 8

WORKFORCE DEVELOPMENT FUND

8.1(15,76GA, ch1180)	Purpose
8.2(15,76GA, ch1180)	Definitions
8.3(15,76GA, ch1180)	Workforce development fund account
8.4(15,76GA, ch1180)	Workforce development fund allocation
8.5(15,76GA, ch1180)	Workforce development fund reporting
8.6(15,76GA, ch1180)	Training and retraining programs for targeted industries
8.7(15,76GA, ch1180)	Projects under Iowa Code chapter 260F
8.8(15,76GA, chs1180, 1219)	Apprenticeship programs under Iowa Code section 260C.44 (including new or statewide building trades apprenticeship programs)
8.9(15,76GA, chs1180, 1219)	Innovative skill development activities
8.10(15,76GA, ch1180)	Negotiation and award
8.11(15,76GA, ch1180)	Administration
8.12(15,76GA, ch1180)	Training materials and equipment
8.13(15,76GA, ch1180)	Redistribution of funds

CHAPTER 9

WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT FUNDS

9.1(15G, 260C)	Purpose
9.2(15G, 260C)	Definitions

9.3(15G,260C)	Funds allocation
9.4(15G,260C)	Community college workforce and economic development plan and progress report
9.5(15G,260C)	Use of funds
9.6(15G,260C)	Approval of projects
9.7(15G,260C)	Community college workforce and economic development plan
9.8(15G,260C)	Reporting
9.9(15G,260C)	Annual progress report approval
9.10(15G,260C)	Options upon default or noncompliance

CHAPTER 10

Reserved

CHAPTER 11

CERTIFIED SCHOOL TO CAREER PROGRAM

11.1(15)	Purpose
11.2(15)	Definitions
11.3(15)	Certified program work site agreement
11.4(15)	Payroll expenditure refund

CHAPTERS 12 to 19

Reserved

CHAPTER 20

ACCELERATED CAREER EDUCATION (ACE) PROGRAM

DIVISION I - GENERAL PROVISIONS

20.1(260G)	Purpose
20.2(260G)	Definitions
20.3(260G)	ACE program eligibility and designation
20.4(260G)	Funding allocation
20.5(260G)	Eligible and ineligible business
20.6(260G)	Program agreements
20.7(260G)	Administration
20.8(260G)	Customer tracking system
20.9(260G)	Program costs recalculation

DIVISION II - CAPITAL COSTS COMPONENT

20.10 to 20.12	Reserved
----------------	----------

DIVISION III - PROGRAM JOB CREDITS

20.13(260G)	Threshold requirements—program job credits
20.14(260G)	Job credits allocation
20.15(260G)	Determination of job credits, notice, and certification
20.16(260G)	Evaluation criteria for quality assurance—program job credits
20.17(260G)	Committed funds

DIVISION IV - ACCELERATED CAREER EDUCATION GRANTS COMPONENT

20.18(260G) ACE program serving demand occupations

DIVISION V - WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT PROGRAM OPERATING COSTS

20.19(81GA, HF868, HF809) Grow Iowa values fund assistance

PART III

COMMUNITY DEVELOPMENT DIVISION

CHAPTER 21

DIVISION RESPONSIBILITIES

21.1(15) Mission

21.2(15) Division responsibilities

CHAPTER 22

Reserved

CHAPTER 23

IOWA COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

23.1(15) Purpose

23.2(15) Definitions

23.3(15) Eligible applicants

23.4(15) Allocation of funds

23.5(15) Common requirements for funding

23.6(15) Requirements for the competitive program

23.7(15) Requirements for the economic development set-aside fund

23.8(15) Requirements for the public facilities set-aside fund

23.9(15) Requirements for the career link program

23.10(15) Requirements for the contingency fund

23.11(15) Requirements for the housing fund program

23.12(15) Interim financing program

23.13 Reserved

23.14(15) Disaster recovery fund

23.15(15) Administration of a CDBG award

23.16(15) Requirements for the downtown revitalization fund

CHAPTER 24

EMERGENCY SHELTER GRANTS PROGRAM

24.1(PL100-628) Purpose

24.2(PL100-628) Definitions

24.3(PL100-628) Eligible applicants

24.4(PL100-628) Eligible activities

24.5(PL100-628) Ineligible activities

24.6(PL100-628) Application procedures

24.7(PL100-628) Application review process

24.8(PL100-628) Matching requirement

24.9(PL100-628) Grant awards

24.10(PL100-628) Restrictions placed on grantees

24.11(PL100-628) Compliance with applicable federal and state laws and regulations

24.12(PL100-628) Administration

CHAPTER 25

HOUSING FUND

25.1(15) Purpose

25.2(15) Definitions

- 25.3(15) Eligible applicants
- 25.4(15) Eligibility and forms of assistance
- 25.5(15) Application review
- 25.6(15) Minimum application requirements
- 25.7(15) Application review criteria
- 25.8(15) Allocation of funds
- 25.9(15) Administration of awards

CHAPTER 26

VARIANCE PROCEDURES FOR TAX INCREMENT FINANCING (TIF) HOUSING PROJECTS

- 26.1(403) Goals and objectives
- 26.2(403) Definitions
- 26.3(403) Requirements for benefit to low- and moderate-income families
- 26.4(403) Ability to request a variance
- 26.5(403) Variance request procedure
- 26.6(403) Criteria for review

CHAPTER 27

NEIGHBORHOOD STABILIZATION PROGRAM

- 27.1(15) Purpose
- 27.2(15) Definitions
- 27.3(15) Program eligibility
- 27.4(15) Allocation of funding
- 27.5(15) Application procedures
- 27.6(15) Plan and application review process
- 27.7(15) Award process
- 27.8(15) Project management

CHAPTER 28

LOCAL HOUSING ASSISTANCE PROGRAM

- 28.1(15) Purpose
- 28.2(15) Definitions
- 28.3(15) Eligible applicants
- 28.4(15) Eligible activities and forms of assistance
- 28.5(15) Application procedure
- 28.6(15) Minimum application requirements
- 28.7(15) Application review criteria
- 28.8(15) Allocation of funds
- 28.9(15) Administration of awards

CHAPTER 29

HOMELESS SHELTER OPERATION GRANTS PROGRAM

- 29.1(15) Purpose
- 29.2(15) Definitions
- 29.3(15) Eligible applicants
- 29.4(15) Eligible activities
- 29.5(15) Ineligible activities
- 29.6(15) Application procedures
- 29.7(15) Application review process
- 29.8(15) Matching requirement
- 29.9(15) Grant awards

- 29.10(15) Compliance with applicable federal and state laws and regulations
 29.11(15) Administration

CHAPTER 30
 JOB OPPORTUNITIES FOR
 PERSONS WITH DISABILITIES PROGRAM

- 30.1(76GA,SF2470) Purpose
 30.2(76GA,SF2470) Definitions
 30.3(76GA,SF2470) Eligible applicant
 30.4(76GA,SF2470) Project awards
 30.5(76GA,SF2470) Eligible and ineligible use of grant funds
 30.6(76GA,SF2470) General guidelines for applications
 30.7(76GA,SF2470) Review and award process
 30.8(76GA,SF2470) Program management

CHAPTER 31
 ECONOMIC DEVELOPMENT REGION INITIATIVES

- 31.1(81GA,HF868,HF809) Purpose
 31.2(81GA,HF868,HF809) Types of assistance
 31.3(81GA,HF868,HF809) Financial assistance
 31.4(81GA,HF868,HF809) Definitions

DIVISION I
 ECONOMIC DEVELOPMENT REGION INITIATIVE—FINANCIAL ASSISTANCE

- 31.5(81GA,HF868,HF809) Uses of funds under the economic development region initiative
 31.6(81GA,HF868,HF809) Application process
 31.7(81GA,HF868,HF809) Reporting requirements

DIVISION II
 ECONOMIC ENTERPRISE AREAS

- 31.8(81GA,HF868,HF809) Description
 31.9(81GA,HF868,HF809) Funding
 31.10(81GA,HF868,HF809) Eligible use of funds
 31.11(81GA,HF868,HF809) Application process
 31.12(81GA,HF868,HF809) Reporting requirements

DIVISION III
 BUSINESS ACCELERATORS

- 31.13(81GA,HF868,HF809) Description and purpose
 31.14(81GA,HF868,HF809) Definitions
 31.15(81GA,HF868,HF809) Requirements and qualifications for business accelerator entities
 31.16(81GA,HF868,HF809) Other considerations
 31.17(81GA,HF868,HF809) Application procedures
 31.18(81GA,HF868,HF809) Reporting

DIVISION IV
 SMALL BUSINESS DEVELOPMENT CENTERS

- 31.19(81GA,HF868,HF809) Small business development center assistance

DIVISION V
 IOWA BUSINESS RESOURCE CENTERS

- 31.20(81GA,HF868,HF809) Iowa business resource centers

CHAPTER 32
 TAX CREDITS FOR ECONOMIC DEVELOPMENT REGION REVOLVING LOAN FUND

- 32.1(81GA,HF868,HF809) Purpose
 32.2(81GA,HF868,HF809) Definitions

- 32.3(81GA, HF868, HF809) Allocation of funds
- 32.4(81GA, HF868, HF809) Credit amount
- 32.5(81GA, HF868, HF809) Eligible contributions
- 32.6(81GA, HF868, HF809) Requests for tax credits

CHAPTER 33

IOWA WINE AND BEER PROMOTION GRANT PROGRAM

- 33.1(15) Purpose
- 33.2(15) Definitions
- 33.3(15) Application and review processes

CHAPTER 34

WELCOME CENTER PROGRAM

- 34.1(72GA, HF540) Purpose
- 34.2 and 34.3 Reserved
- 34.4(72GA, HF540) Pilot projects

CHAPTER 35

REGIONAL TOURISM MARKETING GRANT PROGRAM

- 35.1(82GA, SF302) Purpose
- 35.2(82GA, SF302) Definitions
- 35.3(82GA, SF302) Eligible applicants
- 35.4(82GA, SF302) Use of funds
- 35.5(82GA, SF302) Application procedures and content
- 35.6(82GA, SF302) Application review and approval procedures
- 35.7(82GA, SF302) Funding of grants; contracting

CHAPTER 36

FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

- 36.1(15) Purpose
- 36.2(15) Definitions
- 36.3(15) Request for registration of a film, television, or video project
- 36.4(15) IDED list of registered film, television, or video projects
- 36.5(15) Contract administration
- 36.6(15) Benefits available
- 36.7(15) Qualified expenditure tax credit
- 36.8(15) Qualified investment tax credit
- 36.9(15) Reduction of gross income due to payments received from qualified expenditures in registered projects

CHAPTER 37

CITY DEVELOPMENT BOARD

- 37.1(368) Expenses, annual report and rules
- 37.2(17A) Forms

CHAPTER 38

REGIONAL SPORTS AUTHORITY DISTRICTS

- 38.1(15E) Definitions
- 38.2(15E) Program description
- 38.3(15E) Program eligibility and application requirements
- 38.4(15E) Application scoring and certification of districts
- 38.5(15E) Contract administration
- 38.6(15E) Expenses, records, and reimbursements

CHAPTER 39
IOWA MAIN STREET PROGRAM

39.1(15)	Purpose
39.2(15)	Definitions
39.3(15)	Program administration
39.4(15)	Eligible applicants
39.5	Reserved
39.6(15)	Selection
39.7(15)	Selection criteria
39.8	Reserved
39.9(15)	Performance reviews
39.10(15)	Noncompliance
39.11(15)	Forms

CHAPTER 40
IOWA JOBS MAIN STREET PROGRAM

40.1(83GA,SF2389)	Authority
40.2(83GA,SF2389)	Purpose
40.3(83GA,SF2389)	Definitions
40.4(83GA,SF2389)	Highest-priority list
40.5(83GA,SF2389)	Funding
40.6(83GA,SF2389)	Financial management
40.7(83GA,SF2389)	Reports
40.8(83GA,SF2389)	Signs
40.9(83GA,SF2389)	Noncompliance
40.10(83GA,SF2389)	Great places consideration

CHAPTER 41
COMMUNITY DEVELOPMENT FUND

41.1(79GA,HF718)	Purpose
41.2(79GA,HF718)	Program eligibility
41.3(79GA,HF718)	General policies for applications
41.4(79GA,HF718)	Application procedures
41.5(79GA,HF718)	Application contents
41.6(79GA,HF718)	Review process
41.7(79GA,HF718)	Award process
41.8(79GA,HF718)	Project management
41.9(79GA,HF718)	Performance reviews

CHAPTERS 42 and 43
Reserved

CHAPTER 44
COG ASSISTANCE

44.1(28H)	Purpose
44.2(28H)	Definitions
44.3(28H)	Eligibility
44.4(28H)	Eligible activities
44.5(28H)	Application procedure
44.6(28H)	Grant awards
44.7(28H)	Funding
44.8(28H)	Financial management standards
44.9(28H)	Record keeping and retention

- 44.10(28H) Progress reports
- 44.11(28H) Noncompliance
- 44.12(28H) Grant closeouts
- 44.13(28H) Compliance with state laws and regulations

CHAPTER 45

Reserved

CHAPTER 46

ENDOW IOWA GRANTS PROGRAM

- 46.1(81GA, HF868) Purpose
- 46.2(81GA, HF868) Definitions
- 46.3(81GA, HF868) Program procedures
- 46.4(81GA, HF868) Eligible applicants
- 46.5(81GA, HF868) Application and review criteria
- 46.6(81GA, HF868) Reporting requirements

CHAPTER 47

ENDOW IOWA TAX CREDITS

- 47.1(15E) Purpose
- 47.2(15E) Definitions
- 47.3(15E) Authorization of tax credits to taxpayers
- 47.4(15E) Distribution process and review criteria
- 47.5(15E) Reporting requirements

CHAPTERS 48 and 49

Reserved

PART IV

BUSINESS DEVELOPMENT DIVISION

CHAPTER 50

DIVISION RESPONSIBILITIES

- 50.1(15) Mission
- 50.2(15) Division responsibilities

CHAPTER 51

SELF-EMPLOYMENT LOAN PROGRAM

- 51.1(15) Transition

CHAPTER 52

Reserved

CHAPTER 53

COMMUNITY ECONOMIC BETTERMENT ACCOUNT (CEBA) PROGRAM

- 53.1(15) Purpose and administrative procedures
- 53.2(15) Definitions
- 53.3 Reserved
- 53.4(15) Eligible applicants
- 53.5(15) Provision of assistance
- 53.6(15) Application for assistance
- 53.7(15) Selection criteria
- 53.8(15) Small business gap financing
- 53.9(15) New business opportunities and new product development components
- 53.10(15) Venture project components

- 53.11(15) Modernization project component
- 53.12(15) Comprehensive management assistance and entrepreneurial development
- 53.13 to 53.17 Reserved
- 53.18(15,83GA,SF344) Applicability of CEBA program after July 1, 2009

CHAPTER 54

IOWA TARGETED SMALL BUSINESS PROCUREMENT PROGRAM

- 54.1(73) Purpose
- 54.2(73) Definitions
- 54.3(73) Preliminary procedures
- 54.4(73) Identification of targeted small businesses
- 54.5(73) IDED administration
- 54.6(73) Certification
- 54.7(73) Request for review of certification denial
- 54.8(73) Certification review board
- 54.9(73) Decertification
- 54.10(73) Notice of solicitation for bids
- 54.11 Reserved
- 54.12(73) Determination of ability to perform
- 54.13(73) Other procurement procedures
- 54.14(73) Reporting requirements
- 54.15(73) Maintenance of records

CHAPTER 55

TARGETED SMALL BUSINESS FINANCIAL ASSISTANCE PROGRAM

- 55.1(15) Targeted small business financial assistance program (TSBFAP)
- 55.2(15) Definitions
- 55.3(15) Eligibility requirements
- 55.4(15) Loan and grant program
- 55.5(15) Loan guarantee program
- 55.6(15) Award agreement
- 55.7(15) Monitoring and reporting for loan, grant, and loan guarantee programs

CHAPTER 56

EMPLOYEE STOCK OWNERSHIP PLAN (ESOP) FORMATION ASSISTANCE

- 56.1(85GA,HF648) Purpose
- 56.2(85GA,HF648) Definitions
- 56.3(85GA,HF648) Program description
- 56.4(85GA,HF648) Program eligibility, application scoring, and funding decisions
- 56.5(85GA,HF648) Contract required

CHAPTER 57

VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES
FINANCIAL ASSISTANCE PROGRAM (VAAPFAP)

- 57.1(15E) Purpose and administrative procedures
- 57.2(15E) Definitions
- 57.3(15E) General eligibility
- 57.4(15E) Program components and eligibility requirements
- 57.5(15E) Ineligible projects
- 57.6(15E) Awards
- 57.7(15E) Application procedure
- 57.8(15E) Review process
- 57.9 Reserved

- 57.10(15E) Evaluation and rating criteria
- 57.11 to 57.15 Reserved
- 57.16(15E,83GA,SF344) Applicability of VAAPFAP program after July 1, 2009

CHAPTER 58
NEW JOBS AND INCOME PROGRAM

- 58.1(15) Purpose
- 58.2(15) Definitions
- 58.3(15) Agreement prerequisites
- 58.4(15) Program benefits
- 58.5(15) Limitation on incentives
- 58.6(15) Application
- 58.7(15) Eligibility requirements
- 58.8(15) Ineligibility
- 58.9(15) Application
- 58.10(15) Department and board action
- 58.11(15) Agreement
- 58.12 Reserved
- 58.13(15) Compliance monitoring; notice of noncompliance and penalties
- 58.14(15) Repayment
- 58.15(15) Amendments
- 58.16(81GA,HF868) Applicability of new jobs and income program after July 1, 2005

CHAPTER 59
ENTERPRISE ZONE (EZ) PROGRAM

- 59.1(15E) Purpose and administrative procedures
- 59.2(15E) Definitions
- 59.3(15E) Enterprise zone certification
- 59.4(15E) Enterprise zone commission
- 59.5(15E) Eligibility and negotiations
- 59.6(15E) Eligible business
- 59.7 Reserved
- 59.8(15E) Eligible housing business
- 59.9 Reserved
- 59.10(15E) Commission review of businesses' applications
- 59.11(15E) Other commission responsibilities
- 59.12(15E) Department action on eligible applications

CHAPTER 60
ENTREPRENEURIAL VENTURES
ASSISTANCE (EVA) PROGRAM

- 60.1(15) Purpose and administrative procedures
- 60.2(15) Definitions
- 60.3(15) Eligibility requirements
- 60.4(15) Financial assistance
- 60.5(15) Technical assistance
- 60.6(15) Application process
- 60.7(15) Review criteria
- 60.8 and 60.9 Reserved
- 60.10(15,83GA,SF344) Applicability of EVA program after July 1, 2009

CHAPTER 61

PHYSICAL INFRASTRUCTURE ASSISTANCE PROGRAM (PIAP)

- 61.1(15E) Purpose and administrative procedures
- 61.2(15E) Eligible activities
- 61.3(15E) Eligibility requirements
- 61.4(15E) Application procedures
- 61.5(15E) Application review criteria, performance measures
- 61.6 Reserved
- 61.7(15E) Forms of assistance available; award amount
- 61.8 Reserved
- 61.9(15E) Applicability of PIAP program after July 1, 2009

CHAPTER 62

COGENERATION PILOT PROGRAM

- 62.1(80GA,HF391) Purpose
- 62.2(80GA,HF391) Eligible activities
- 62.3(80GA,HF391) Eligibility requirements
- 62.4(80GA,HF391) Application procedures
- 62.5(80GA,HF391) Application review
- 62.6(80GA,HF391) Award process
- 62.7(80GA,HF391) Annual progress report

CHAPTER 63

UNIVERSITY-BASED RESEARCH UTILIZATION PROGRAM

- 63.1(80GA,HF692,HF683) Purpose
- 63.2(80GA,HF692,HF683) Definitions
- 63.3(80GA,HF692,HF683) Business eligibility
- 63.4(80GA,HF692,HF683) Program benefits
- 63.5(80GA,HF692,HF683) Funding appropriation to the regents university
- 63.6(80GA,HF692,HF683) Business application
- 63.7(80GA,HF692,HF683) Application and award process
- 63.8(80GA,HF692,HF683) Program administration

CHAPTER 64

NEW CAPITAL INVESTMENT PROGRAM

- 64.1(80GA,HF677) Purpose
- 64.2(80GA,HF677) Definitions
- 64.3(80GA,HF677) Applying for benefits
- 64.4(80GA,HF677) Benefits
- 64.5(80GA,HF677) Agreement, compliance, and repayment provisions
- 64.6(80GA,HF677) Amendments
- 64.7(80GA,HF677) Other benefits
- 64.8(81GA,HF868) Applicability of new capital investment program after July 1, 2005

CHAPTER 65

BROWNFIELD AND GRAYFIELD REDEVELOPMENT

- 65.1(15) Purpose
- 65.2(15) Definitions
- 65.3(15) Eligible applicants
- 65.4(15) Eligible forms of assistance and limitations
- 65.5(15) Repayment to economic development authority
- 65.6(15) Application and award procedures
- 65.7(15) Application

65.8(15)	Application forms
65.9(15)	Application review criteria
65.10(15)	Administration of awards
65.11(15)	Redevelopment tax credit
65.12(15)	Review, approval, and repayment requirements of redevelopment tax credit

CHAPTER 66

ASSISTIVE DEVICE TAX CREDIT

66.1(78GA,ch1194)	Purpose
66.2(78GA,ch1194)	Definitions
66.3(78GA,ch1194)	Eligibility criteria
66.4(78GA,ch1194)	Application process
66.5(78GA,ch1194)	Review, decision and award process
66.6(78GA,ch1194)	Certification
66.7(78GA,ch1194)	Monitoring and misuse of funds
66.8(78GA,ch1194)	Tax credit

CHAPTER 67

LIFE SCIENCE ENTERPRISES

67.1(78GA,ch1197)	Purpose
67.2(78GA,ch1197)	Definitions
67.3(78GA,ch1197)	Filing of notice of intent
67.4(78GA,ch1197)	Filing of life science enterprise plan
67.5(78GA,ch1197)	Review by board
67.6(78GA,ch1197)	Life science enterprise land ownership exemption
67.7(78GA,ch1197)	Amendment of plan
67.8(78GA,ch1197)	Successor enterprise
67.9(78GA,ch1197)	Filing

CHAPTER 68

HIGH QUALITY JOBS PROGRAM (HQJP)

68.1(15)	Administrative procedures and definitions
68.2(15)	Eligibility requirements
68.3(15)	Application process and review
68.4(15)	Tax incentives
68.5(15)	Project completion assistance

CHAPTER 69

LOAN AND CREDIT GUARANTEE PROGRAM

69.1(15E,81GA,HF868)	Purpose
69.2(15E,81GA,HF868)	Definitions
69.3(15E,81GA,HF868)	Application and review process
69.4(15E,81GA,HF868)	Application approval or rejection
69.5(15E,81GA,HF868)	Terms and conditions
69.6(15E,81GA,HF868)	Administrative costs and program fees
69.7(15E,81GA,HF868)	Administration of guarantees
69.8(15E,83GA,SF344)	Applicability of LCG program after July 1, 2009

CHAPTER 70

PORT AUTHORITY GRANT PROGRAM

70.1(81GA,HF2782)	Purpose
70.2(81GA,HF2782)	Definitions
70.3(81GA,HF2782)	Program procedures

- 70.4(81GA, HF2782) Eligibility
- 70.5(81GA, HF2782) Application and review criteria
- 70.6(81GA, HF2782) Monitoring, reporting and follow-up

CHAPTER 71

TARGETED JOBS WITHHOLDING TAX CREDIT PROGRAM

- 71.1(403) Definitions
- 71.2(403) Eligibility requirements
- 71.3(403) Pilot project city application process and review
- 71.4(403) Withholding agreements
- 71.5(403) Project approval
- 71.6(403) Reporting requirements
- 71.7(403) Applicability

CHAPTER 72

IOWA EXPORT TRADE ASSISTANCE PROGRAM

- 72.1(78GA, ch197) Purpose
- 72.2(78GA, ch197) Definitions
- 72.3(78GA, ch197) Eligible applicants
- 72.4(78GA, ch197) Eligible reimbursements
- 72.5(78GA, ch197) Applications for assistance
- 72.6(78GA, ch197) Selection process
- 72.7(78GA, ch197) Limitations
- 72.8(78GA, ch197) Forms

CHAPTER 73

Reserved

CHAPTER 74

GROW IOWA VALUES FINANCIAL ASSISTANCE PROGRAM

- 74.1(83GA, SF344) Purpose and administrative procedures
- 74.2(83GA, SF344) 130 percent wage component
- 74.3(83GA, SF344) 100 percent wage component
- 74.4(83GA, SF344) Entrepreneurial component
- 74.5(83GA, SF344) Infrastructure component
- 74.6(83GA, SF344) Value-added agriculture component
- 74.7(83GA, SF344) Disaster recovery component
- 74.8(15) Applicability of the grow Iowa values financial assistance program on or after July 1, 2012

CHAPTER 75

OPPORTUNITIES AND THREATS PROGRAM

- 75.1(83GA, SF344) Purpose
- 75.2(83GA, SF344) Administrative procedures
- 75.3(83GA, SF344) Eligible applicants
- 75.4(83GA, SF344) Review criteria
- 75.5(83GA, SF344) Award criteria
- 75.6(15) Applicability of the opportunities and threats program on or after July 1, 2012

CHAPTER 76

AGGREGATE TAX CREDIT LIMIT FOR
CERTAIN ECONOMIC DEVELOPMENT PROGRAMS

- 76.1(83GA, SF483) Authority
- 76.2(83GA, SF483) Purpose

- 76.3(83GA,SF483) Definitions
- 76.4(83GA,SF483) Amount of the tax credit cap
- 76.5(83GA,SF483) Programs subject to the cap
- 76.6(83GA,SF483) Allocating the tax credit cap
- 76.7(83GA,SF483) Exceeding the cap
- 76.8(83GA,SF483) Reporting to the department of revenue

CHAPTER 77
SITE DEVELOPMENT PROGRAM

DIVISION I
GENERAL PROVISIONS

- 77.1(15E) Purposes
- 77.2(15E) Authority
- 77.3(15E) Definitions
- 77.4 to 77.10 Reserved

DIVISION II
CERTIFICATE OF READINESS

- 77.11(15E) Eligibility
- 77.12(15E) Application; review; approval
- 77.13(15E) Evaluation criteria
- 77.14(15E) Certificate of readiness
- 77.15 to 77.20 Reserved

DIVISION III
CONSULTATION

- 77.21(15E) Consultation

CHAPTER 78
SMALL BUSINESS DISASTER RECOVERY FINANCIAL ASSISTANCE PROGRAM

DIVISION I
2008 NATURAL DISASTER SMALL BUSINESS DISASTER RECOVERY
FINANCIAL ASSISTANCE PROGRAM

- 78.1(15) Purpose
- 78.2(15) Definitions
- 78.3(15) Distribution of funds to administrative entities
- 78.4(15) Eligible business
- 78.5(15) Eligible program activities; maximum amount of assistance
- 78.6(15) Allowable types of assistance to eligible businesses
- 78.7(15) Program administration and reporting
- 78.8 to 78.10 Reserved

DIVISION II
2010 IOWANS HELPING IOWANS BUSINESS ASSISTANCE PROGRAM

- 78.11(15) Purpose
- 78.12(15) Definitions
- 78.13(15) Eligible business
- 78.14(15) Eligible program activities; maximum amount of assistance
- 78.15(15) Distribution of funds; application
- 78.16(15) Form of assistance available to eligible businesses
- 78.17(15) Grants to administrative entities
- 78.18(15) Award; acceptance

CHAPTER 79

DISASTER RECOVERY BUSINESS RENTAL ASSISTANCE PROGRAM

- 79.1(15) Purpose
- 79.2(15) Definitions
- 79.3(15) Eligible business; application review
- 79.4(15) Eligible program activities; maximum amount of assistance
- 79.5(15) Distribution of funds to administrative entities
- 79.6(15) Program administration; reporting requirements

CHAPTER 80

IOWA SMALL BUSINESS LOAN PROGRAM

- 80.1(83GA,SF2389) Purpose
- 80.2(83GA,SF2389) Authority
- 80.3(83GA,SF2389) Definitions
- 80.4(83GA,SF2389) Administrator
- 80.5(83GA,SF2389) General loan terms
- 80.6(83GA,SF2389) Eligibility
- 80.7(83GA,SF2389) Application
- 80.8(83GA,SF2389) Application review
- 80.9(83GA,SF2389) Recommendation; loan agreement
- 80.10(83GA,SF2389) Repayment
- 80.11(83GA,SF2389) Default

CHAPTERS 81 to 100

Reserved

PART V

INNOVATION AND COMMERCIALIZATION ACTIVITIES

CHAPTER 101

MISSION AND RESPONSIBILITIES

- 101.1(15) Mission
- 101.2(15) Responsibilities

CHAPTER 102

ENTREPRENEUR INVESTMENT AWARDS PROGRAM

- 102.1(15E) Authority
- 102.2(15E) Purpose
- 102.3(15E) Definitions
- 102.4(15E) Program description, application procedures, and delegation of functions
- 102.5(15E) Program funding
- 102.6(15E) Eligibility requirements
- 102.7(15E) Contract and report information required

CHAPTER 103

INFORMATION TECHNOLOGY TRAINING PROGRAM

- 103.1(15,83GA,SF142) Authority—program termination and transition
- 103.2(15,83GA,SF142) Purpose
- 103.3(15,83GA,SF142) Definitions
- 103.4(15,83GA,SF142) Program funding
- 103.5(15,83GA,SF142) Matching funds requirement
- 103.6(15,83GA,SF142) Use of program funds
- 103.7(15,83GA,SF142) Eligible business
- 103.8(15,83GA,SF142) Ineligible business

- 103.9(15,83GA,SF142) Eligible employee
- 103.10(15,83GA,SF142) Ineligible employee
- 103.11(15,83GA,SF142) Application and review process
- 103.12(15,83GA,SF142) Application scoring criteria
- 103.13(15,83GA,SF142) Contract and reporting

CHAPTER 104

INNOVATIVE BUSINESSES INTERNSHIP PROGRAM

- 104.1(15) Authority
- 104.2(15) Purpose
- 104.3(15) Definitions
- 104.4(15) Program funding
- 104.5(15) Eligible business
- 104.6(15) Ineligible business
- 104.7(15) Eligible students
- 104.8(15) Ineligible students
- 104.9(15) Application submittal and review process
- 104.10(15) Application content and other requirements
- 104.11(15) Selection process
- 104.12(15) Application scoring criteria
- 104.13(15) Contract and reporting

CHAPTER 105

DEMONSTRATION FUND

- 105.1(15) Authority
- 105.2(15) Purpose
- 105.3(15) Definitions
- 105.4(15) Project funding
- 105.5(15) Matching funds requirement
- 105.6(15) Eligible applicants
- 105.7(15) Ineligible applicants
- 105.8(15) Application and review process
- 105.9(15) Application selection criteria
- 105.10(15) Contract and reporting

CHAPTER 106

SMALL BUSINESS INNOVATION RESEARCH AND TECHNOLOGY TRANSFER OUTREACH PROGRAM

- 106.1(15) Authority
- 106.2(15) Purpose and goals
- 106.3(15) Definitions
- 106.4(15) Program description, application procedures, and delegation of functions
- 106.5(15) Program funding
- 106.6(15) Eligibility requirements
- 106.7(15) Contract and report information required

CHAPTER 107

TARGETED INDUSTRIES NETWORKING FUND

- 107.1(82GA,ch122) Authority—fund termination and transition
- 107.2(82GA,ch122) Purpose
- 107.3(82GA,ch122) Definitions
- 107.4(82GA,ch122) Program funding
- 107.5(82GA,ch122) Eligible applicants

- 107.6(82GA,ch122) Application and review process
- 107.7(82GA,ch122) Application selection criteria
- 107.8(82GA,ch122) Contract and reporting

CHAPTER 108

ACCELERATION AND DEVELOPMENT OF INNOVATIVE IDEAS AND BUSINESSES

- 108.1(15) Authority
- 108.2(15) Purpose and description of program components
- 108.3(15) Definitions
- 108.4(15) Program description, application procedures, and delegation of functions
- 108.5(15) Program funding
- 108.6(15) Contract and report information required

CHAPTER 109

TARGETED INDUSTRIES CAREER AWARENESS FUND

- 109.1(82GA,ch122) Authority—fund termination and transition
- 109.2(82GA,ch122) Purpose
- 109.3(82GA,ch122) Definitions
- 109.4(82GA,ch122) Program funding
- 109.5(82GA,ch122) Matching funds requirement
- 109.6(82GA,ch122) Eligible applicants
- 109.7(82GA,ch122) Application and review process
- 109.8(82GA,ch122) Application selection criteria
- 109.9(82GA,ch122) Contract and reporting

CHAPTER 110

Reserved

CHAPTER 111

SUPPLY CHAIN DEVELOPMENT PROGRAM

- 111.1(15,83GA,SF142) Authority—program termination and transition
- 111.2(15,83GA,SF142) Purpose
- 111.3(15,83GA,SF142) Definitions
- 111.4(15,83GA,SF142) Program funding
- 111.5(15,83GA,SF142) Matching funds requirement
- 111.6(15,83GA,SF142) Eligible applicants
- 111.7(15,83GA,SF142) Ineligible applicants
- 111.8(15,83GA,SF142) Application process
- 111.9(15,83GA,SF142) Application selection criteria
- 111.10(15,83GA,SF142) Intellectual property
- 111.11(15,83GA,SF142) Contract and reporting

CHAPTER 112

Reserved

CHAPTER 113

COMMUNITY MICROENTERPRISE DEVELOPMENT ORGANIZATION GRANT PROGRAM

- 113.1(15) Purpose
- 113.2(15) Definitions
- 113.3(15) Program funding
- 113.4(15) Matching funds requirement
- 113.5(15) Eligible applicants
- 113.6(15) Application and review process

- 113.7(15) Application selection criteria
- 113.8(15) Contract and reporting

CHAPTER 114
IOWA INNOVATION COUNCIL

- 114.1(15) Authority
- 114.2(15) Purpose
- 114.3(15) Definitions
- 114.4(15) Iowa innovation council funding
- 114.5(15) Council membership
- 114.6(15) Responsibilities and deliverables
- 114.7(15) Executive committee
- 114.8(15) Application and review process for board-appointed council members
- 114.9(15) Voting
- 114.10(15) Meetings and commitment of time
- 114.11(15) Nonattendance
- 114.12(15) Council work groups
- 114.13(15) Reporting

CHAPTER 115
TAX CREDITS FOR INVESTMENTS IN QUALIFYING BUSINESSES AND
COMMUNITY-BASED SEED CAPITAL FUNDS

- 115.1(84GA,SF517) Tax credits for investments in qualifying businesses and community-based seed capital funds
- 115.2(84GA,SF517) Definitions
- 115.3(84GA,SF517) Cash investments required
- 115.4(84GA,SF517) Applying for an investment tax credit
- 115.5(84GA,SF517) Verification of qualifying businesses and community-based seed capital funds
- 115.6(84GA,SF517) Approval, issuance and distribution of investment tax credits
- 115.7(84GA,SF517) Claiming the tax credits
- 115.8(84GA,SF517) Notification to the department of revenue
- 115.9(84GA,SF517) Rescinding tax credits
- 115.10(84GA,SF517) Additional information

CHAPTER 116
TAX CREDITS FOR INVESTMENTS IN CERTIFIED INNOVATION FUNDS

- 116.1(15E) Tax credit for investments in certified innovation funds
- 116.2(15E) Definitions
- 116.3(15E) Certification of innovation funds
- 116.4(15E) Maintenance, reporting, and revocation of certification
- 116.5(15E) Application for the investment tax credit certificate
- 116.6(15E) Approval, issuance and distribution of investment tax credits
- 116.7(15E) Transferability of the tax credit
- 116.8(15E) Vested right in the tax credit
- 116.9(15E) Claiming the tax credits
- 116.10(15E) Notification to the department of revenue
- 116.11(15E) Additional information

CHAPTER 117
SSBCI DEMONSTRATION FUND

- 117.1(84GA,HF590) Authority
- 117.2(84GA,HF590) Purposes, goals, and promotion
- 117.3(84GA,HF590) Definitions

117.4(84GA,HF590)	Project funding
117.5(84GA,HF590)	Leverage of financial assistance required
117.6(84GA,HF590)	Eligible applicants
117.7(84GA,HF590)	Ineligible applicants
117.8(84GA,HF590)	Application and review process
117.9(84GA,HF590)	Application selection criteria
117.10(84GA,HF590)	Contract and reporting

CHAPTERS 118 to 162

Reserved

PART VI

ADMINISTRATION DIVISION

CHAPTER 163

DIVISION RESPONSIBILITIES

163.1(15)	Mission
163.2(15)	Structure

CHAPTER 164

USE OF MARKETING LOGO

164.1(15)	Purpose and limitation
164.2(15)	Definitions
164.3(15)	Guidelines
164.4(15)	Review and approval of applications
164.5(15)	Licensing agreement; use of logo
164.6(15)	Denial or suspension of use of logo
164.7(15)	Request for hearing
164.8(15)	Requests for information

CHAPTER 165

ALLOCATION OF GROW IOWA VALUES FUND

165.1(15G,83GA,SF344)	Purpose
165.2(15G,83GA,SF344)	Definitions
165.3(15G,83GA,SF344)	Grow Iowa values fund (2009)
165.4(15G,83GA,SF344)	Allocation of annual appropriation for grow Iowa values fund moneys—\$50M
165.5(15G,83GA,SF344)	Board allocation of other moneys in fund
165.6(15G,83GA,SF344)	Annual fiscal year allocations by board
165.7(15)	Applicability of the grow Iowa values financial assistance program on or after July 1, 2012

CHAPTERS 166 to 170

Reserved

PART VII

ADDITIONAL APPLICATION REQUIREMENTS AND PROCEDURES

CHAPTER 171

SUPPLEMENTAL CREDIT OR POINTS

171.1(15A)	Applicability
171.2(15A)	Brownfield areas, blighted areas and distressed areas
171.3(15A)	Good neighbor agreements
171.4(82GA,HF647)	Iowa great places agreements

CHAPTER 172
ENVIRONMENTAL LAW COMPLIANCE; VIOLATIONS OF LAW

- 172.1(15A) Environmental law compliance
172.2(15A) Violations of law

CHAPTER 173
STANDARD DEFINITIONS

- 173.1(15) Applicability
173.2(15) Definitions

CHAPTER 174
WAGE, BENEFIT, AND INVESTMENT REQUIREMENTS

- 174.1(15) Applicability
174.2(15) Qualifying wage threshold calculations
174.3(15) Qualifying wage threshold requirements—prior to July 1, 2009
174.4 Reserved
174.5(15) Qualifying wage threshold requirements—on or after July 1, 2009, and on or before June 30, 2012
174.6(15) Qualifying wage threshold requirements—effective on or after July 1, 2012
174.7(15) Job obligations
174.8(15) Benefit requirements—prior to July 1, 2009
174.9(15) Sufficient benefits requirement—on or after July 1, 2009
174.10(15) Capital investment, qualifying investment for tax credit programs, and investment qualifying for tax credits

CHAPTER 175
APPLICATION REVIEW AND APPROVAL PROCEDURES

- 175.1(15) Applicability
175.2(15) Application procedures for programs administered by the authority
175.3(15) Standard program requirements
175.4(15) Review and approval of applications
175.5(15) Local match requirements for project awards

CHAPTERS 176 to 186
Reserved

PART VIII
LEGAL AND COMPLIANCE

CHAPTER 187
CONTRACTING

- 187.1(15) Applicability
187.2(15) Contract required
187.3(15) Project completion date and maintenance period completion date
187.4(15) Contract and award amendment approval procedures
187.5(15) Default

CHAPTER 188
CONTRACT COMPLIANCE AND JOB COUNTING

- 188.1(15) Applicability
188.2(15) Contract compliance
188.3(15) Job counting and tracking
188.4(15) Business's employment base
188.5(15) Job counting using base employment analysis
188.6(15) Wage determination for contract compliance purposes

CHAPTER 189
ANNUAL REPORTING

- 189.1(15) Annual reporting by businesses required (for period ending June 30)
189.2(15) January 31 report by authority to legislature

CHAPTERS 190 to 194
Reserved

PART IX
UNIFORM PROCEDURES: RECORDS, RULE MAKING, DECLARATORY ORDERS, RULE WAIVERS

CHAPTER 195
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

- 195.1(17A,22) Statement of policy, purpose and scope of chapter
195.2(17A,22) Definitions
195.3(17A,22) Requests for access to records
195.4(17A,22) Access to confidential records
195.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination
195.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records
195.7(17A,22) Consent to disclosure by the subject of a confidential record
195.8(17A,22) Notice to suppliers of information
195.9(17A,22) Disclosures without the consent of the subject
195.10(17A,22) Routine use
195.11(17A,22) Consensual disclosure of confidential records
195.12(17A,22) Release to subject
195.13(17A,22) Availability of records
195.14(17A,22) Personally identifiable information
195.15(17A,22) Other groups of records

CHAPTER 196
DEPARTMENT PROCEDURE FOR RULE MAKING

- 196.1(17A) Applicability
196.2(17A) Advice on possible rules before notice of proposed rule adoption
196.3(17A) Public rule-making docket
196.4(17A) Notice of proposed rule making
196.5(17A) Public participation
196.6(17A) Regulatory analysis
196.7(17A,25B) Fiscal impact statement
196.8(17A) Time and manner of rule adoption
196.9(17A) Variance between adopted rule and published notice of proposed rule adoption
196.10(17A) Exemptions from public rule-making procedures
196.11(17A) Concise statement of reasons
196.12(17A) Contents, style, and form of rule
196.13(17A) Department rule-making record
196.14(17A) Filing of rules
196.15(17A) Effectiveness of rules prior to publication
196.16(17A) Review by department of rules
196.17(17A) Written criticisms of department rules

CHAPTER 197
PETITION FOR RULE MAKING

- 197.1(17A) Petition for rule making
- 197.2(17A) Briefs
- 197.3(17A) Inquiries
- 197.4(17A) Department consideration

CHAPTER 198
PETITION FOR DECLARATORY ORDER

- 198.1(17A) Petition for declaratory order
- 198.2(17A) Notice of petition
- 198.3(17A) Intervention
- 198.4(17A) Briefs
- 198.5(17A) Inquiries
- 198.6(17A) Service and filing of petitions and other papers
- 198.7(17A) Consideration
- 198.8(17A) Action on petition
- 198.9(17A) Refusal to issue order
- 198.10(17A) Contents of declaratory order—effective date
- 198.11(17A) Copies of orders
- 198.12(17A) Effect of a declaratory order

CHAPTER 199
UNIFORM WAIVER AND VARIANCE RULES

- 199.1(ExecOrd11) Applicability
- 199.2(ExecOrd11) Director/board discretion
- 199.3(ExecOrd11) Requester's responsibilities in filing a waiver or variance petition
- 199.4(ExecOrd11) Notice
- 199.5(ExecOrd11) Department responsibilities regarding petition for waiver or variance
- 199.6(ExecOrd11) Public availability
- 199.7(ExecOrd11) Voiding or cancellation
- 199.8(ExecOrd11) Violations
- 199.9(ExecOrd11) Defense
- 199.10(ExecOrd11,17A) Appeals

PART X
COMMUNITY ATTRACTION AND INVESTMENT PROGRAMS

CHAPTER 200
REINVESTMENT DISTRICTS PROGRAM

- 200.1(15J) Purpose
- 200.2(15J) Definitions
- 200.3(15J) Program overview
- 200.4(15J) Preapplication process
- 200.5(15J) Program eligibility and application requirements
- 200.6(15J) Application scoring and determination of benefits
- 200.7(15J) Final application and approval process
- 200.8(15J) Adoption of ordinance and use of funds
- 200.9(15J) Plan amendments and reporting
- 200.10(15J) Cessation of deposits, district dissolution, and revenue rules

CHAPTERS 201 to 210
Reserved

CHAPTER 211
COMMUNITY ATTRACTION AND
TOURISM DEVELOPMENT (CATD) PROGRAMS

DIVISION I
GENERAL PROVISIONS

211.1(15F)	Purpose
211.2(15F)	Definitions
211.3(15F)	Program components
211.4(15F)	Eligible applicants
211.5(15F)	Eligible projects and forms of assistance
211.6(15F)	Ineligible projects
211.7(15F)	Threshold application requirements
211.8(15F)	Application review criteria
211.9(15F)	Application procedure
211.10(15F)	Administration
211.11 to 211.49	Reserved

DIVISION II
COMMUNITY ATTRACTION AND TOURISM (CAT) FUND

211.50(15F)	Applicability
211.51(15F)	Allocation of funds
211.52 to 211.100	Reserved

DIVISION III
RIVER ENHANCEMENT COMMUNITY ATTRACTION AND TOURISM (RECAT) FUND

211.101(15F)	Applicability
211.102(15F)	Allocation of funds

DIVISION IV
CAT AND RECAT WAIVERS

211.103(15F)	Procedures for waiver of local or private matching moneys
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CHAPTER 212
VISION IOWA PROGRAM

212.1(15F)	Purpose
212.2(15F)	Definitions
212.3(15F)	Allocation of funds
212.4(15F)	Eligible applicants
212.5(15F)	Eligible projects and forms of assistance
212.6(15F)	Ineligible projects
212.7(15F)	Threshold application requirements
212.8(15F)	Application review criteria
212.9(15F)	Application procedure
212.10(15F)	Administration of awards

CHAPTER 213
VISION IOWA BOARD: UNIFORM WAIVER
AND VARIANCE RULES

213.1(17A,ExecOrd11)	Applicability
213.2(17A,ExecOrd11)	Board discretion
213.3(17A,ExecOrd11)	Requester's responsibilities in filing a waiver or variance petition
213.4(17A,ExecOrd11)	Notice
213.5(17A,ExecOrd11)	Board responsibilities regarding petition for waiver or variance
213.6(17A,ExecOrd11)	Public availability
213.7(17A,ExecOrd11)	Voiding or cancellation

213.8(17A,ExecOrd11) Violations
 213.9(17A,ExecOrd11) Defense
 213.10(17A,ExecOrd11) Appeals

CHAPTERS 214 to 299

Reserved

PART XI

RENEWABLE FUEL INFRASTRUCTURE BOARD

CHAPTERS 300 to 310

Reserved

CHAPTER 311

RENEWABLE FUEL INFRASTRUCTURE BOARD—ORGANIZATION

311.1(15G) Definitions
 311.2(15G) Renewable fuel infrastructure board

CHAPTER 312

RENEWABLE FUEL INFRASTRUCTURE PROGRAM FOR
 RETAIL MOTOR FUEL SITES

312.1(15G) Purpose
 312.2(15G) Eligible applicants

CHAPTER 313

RENEWABLE FUEL INFRASTRUCTURE PROGRAM FOR
 BIODIESEL TERMINAL GRANTS

313.1(15G) Purpose
 313.2(15G) Eligible applicants

CHAPTER 314

RENEWABLE FUEL INFRASTRUCTURE PROGRAM ADMINISTRATION

314.1(15G) Allocation of awards by congressional district
 314.2(15G) Form of award available; award amount
 314.3(15G) Application process
 314.4(15G) Review process
 314.5(15G) Contract administration

CHAPTERS 315 to 399

Reserved

PART XII

ENERGY DIVISION

CHAPTER 400

RULES APPLICABLE TO PART XII

400.1(84GA,HF590) Definitions
 400.2(84GA,HF590) Purpose, administrative information, and implementation

CHAPTER 401

ADMINISTRATION OF FINANCIAL ASSISTANCE

401.1(84GA,HF590) Purpose
 401.2(84GA,HF590) Appropriations
 401.3(84GA,HF590) Control of fund assets
 401.4(84GA,HF590) Allocation of fund moneys
 401.5(84GA,HF590) Eligible applicants

401.6(84GA,HF590)	Eligibility criteria for financial assistance
401.7(84GA,HF590)	Forms of assistance
401.8(84GA,HF590)	Application process
401.9(84GA,HF590)	Confidentiality
401.10(84GA,HF590)	Contents of full application
401.11(84GA,HF590)	Selection criteria
401.12(84GA,HF590)	Contract administration

CHAPTER 402

ENERGY EFFICIENCY COMMUNITY GRANT PROGRAM

402.1(84GA,HF590)	Purpose
402.2(84GA,HF590)	Definitions
402.3(84GA,HF590)	Requests for applications
402.4(84GA,HF590)	Geographic distribution
402.5(84GA,HF590)	Criteria for review
402.6(84GA,HF590)	Project approval and award of funds

CHAPTERS 403 to 409

Reserved

PART XIII

IOWA BROADBAND DEPLOYMENT GOVERNANCE BOARD

CHAPTER 410

BOARD STRUCTURE AND PROCEDURES

410.1(83GA,SF376)	Purpose
410.2(83GA,SF376)	Definitions
410.3(83GA,SF376)	Iowa broadband deployment governance board
410.4(83GA,SF376)	Board duties
410.5(83GA,SF376)	Board and committee procedures
410.6(83GA,SF376)	Conflicts of interest

CHAPTER 411

IOWA BROADBAND DEPLOYMENT PROGRAM

411.1(83GA,SF376)	Purpose
411.2(83GA,SF376)	Definitions
411.3(83GA,SF376)	Eligible applicants
411.4(83GA,SF376)	Forms of assistance
411.5(83GA,SF376)	Threshold application requirements
411.6(83GA,SF376)	Application process
411.7(83GA,SF376)	Application review procedures
411.8(83GA,SF376)	Administration of awards

CHAPTER 412

FAIR INFORMATION PRACTICES, WAIVER AND VARIANCE,
AND PETITION FOR RULE MAKING

412.1(83GA,SF376)	Fair information practices
412.2(83GA,SF376)	Waiver and variance
412.3(83GA,SF376)	Petition for rule making

CHAPTER 71
TARGETED JOBS WITHHOLDING TAX CREDIT PROGRAM

261—71.1(403) Definitions.

“*Act*” means Iowa Code section 403.19A.

“*Authority*” means the economic development authority.

“*Award date*” means the same as defined in 261—Chapter 173.

“*Base employment level*” means the same as defined in 261—Chapter 173.

“*Board*” means the members of the authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Business*” means an enterprise that is located in this state and that is operated for profit and under a single management. “Business” includes professional services and industrial enterprises, including but not limited to medical treatment facilities, manufacturing facilities, corporate headquarters, and research facilities. “Business” does not include a retail operation, a government entity, or a business which closes or substantially reduces its operation in one area of this state and relocates substantially the same operation to another area of this state.

“*Countywide average wage*” means the average that the authority calculates using the most current four quarters of wage and employment information as provided in the quarterly covered wage and employment data report as provided by the department of workforce development. Agricultural/mining and governmental employment categories are deleted in compiling the wage information.

“*Created job*” means the same as defined in 261—Chapter 173.

“*Due diligence committee*” or “*DDC*” means the due diligence committee organized by the board pursuant to 261—Chapter 1.

“*Employee*” means the individual employed in a targeted job that is subject to a withholding agreement.

“*Employer*” means a business creating or retaining targeted jobs in a pilot project city pursuant to a withholding agreement.

“*Employer’s taxable capital investment*” means a capital investment in real property, including but not limited to the purchase of land and existing buildings and building construction included in the project, that is subject to taxation by the local taxing authority.

“*Full-time equivalent job*” or “*full-time*” means the same as defined in 261—Chapter 173.

“*Local financial support*” or “*local match*” means cash or in-kind contributions to be used for the project from a private donor, a business, or the pilot project city. “Cash” includes but is not limited to loans, forgivable loans or grants. “In-kind contributions” means contributions directly related to the project and includes but is not limited to the construction of private or public infrastructure or other amenities and improvements.

“*Pilot project city*” means a city that has applied and been approved as a pilot project city pursuant to rule 261—71.2(403).

“*Project initiation*” means the same as defined in 261—Chapter 173.

“*Qualifying investment*” means a capital investment in real property including the purchase price of land and existing buildings, site preparation, building construction, and long-term lease costs. “Qualifying investment” also means a capital investment in depreciable assets. For purposes of this paragraph, “long-term lease costs” means those costs incurred or expected to be incurred under a lease during the duration of a withholding agreement, provided that the cumulative cost for that period does not exceed the cost of the land and the third-party developer’s costs to build or renovate the building for the approved business.

“*Retained job*” means a full-time equivalent position in existence at the time an employer applies to the authority for approval of a withholding agreement and which remains continuously filled and which is at risk of elimination if the project for which the employer is seeking assistance under the withholding agreement does not proceed. For the purposes of this definition, a position “at risk of elimination” includes a position that would be relocated out of state.

“*Targeted job*” means a job in a business which is or will be located in a pilot project city that pays a wage at least equal to the countywide average wage. “Targeted job” includes new or retained jobs from Iowa business expansions or retentions within the city limits of the pilot project city and those jobs resulting from established out-of-state businesses, as defined by the authority, that are moving to or expanding in Iowa.

“*Urban renewal area*” means the same as defined in Iowa Code section 403.17.

“*Withholding agreement*” means an agreement authorized in rule 261—71.4(403) between a pilot project city, the authority, and an employer concerning the targeted jobs withholding tax credit and that includes an application for a project that is the subject of a withholding agreement.

[ARC 7561B, IAB 2/11/09, effective 3/18/09 (See Delay note at end of chapter); ARC 7848B, IAB 6/17/09, effective 7/1/09; ARC 8147B, IAB 9/23/09, effective 10/28/09; ARC 1373C, IAB 3/19/14, effective 2/24/14]

261—71.2(403) Eligibility requirements. An eligible city may apply to the authority to be designated as a pilot project city. An eligible city is a city that contains three or more census tracts and is located in a county meeting one of the following requirements:

1. A county that borders Nebraska.
2. A county that borders South Dakota.
3. A county that borders a state other than Nebraska or South Dakota.

[ARC 7561B, IAB 2/11/09, effective 3/18/09 (See Delay note at end of chapter); ARC 1373C, IAB 3/19/14, effective 2/24/14]

261—71.3(403) Pilot project city application process and review.

71.3(1) Application. The authority shall develop a standardized application and make the application available to eligible cities. The application procedures are as follows:

a. An eligible city seeking approval as a pilot project city will submit an application to the authority. The authority shall determine if the application is complete.

b. The authority will review the application and consider the following criteria:

(1) Need for pilot project status. The city shall demonstrate why status as a pilot project city is necessary, including how the city will utilize the program to attract and retain employers.

(2) Planned and current projects. The city shall provide information on planned and current economic development projects that are taking place or will take place in a pilot project city. The city shall demonstrate its ability to enter into a withholding agreement with an eligible business within one year of the city’s approval as a pilot project city.

(3) Use of withholding funds. If approved as a pilot project city, the city shall indicate how the city plans to utilize withholding funds generated from the program. The city shall provide an estimate of the number of withholding agreements the city anticipates executing, the amount of withholding funds the city expects to generate as a result of the program, and the investment to be leveraged by use of the program.

(4) Matching funds. The city shall identify its ability to provide matching funds for projects involving withholding credits, including the potential sources of matching funds.

c. A resolution of support from the city applying for approval as a pilot project city is required as part of the application. This resolution shall include approval of the submission of the application to the authority for status as a pilot project city.

d. The authority may request additional information from a city that is applying for pilot project city status or may use other resources to obtain the needed information.

e. Applications filed on or after October 1, 2006, shall not be considered.

71.3(2) Approval of applications. The authority shall approve four eligible pilot project cities: one pursuant to 71.2“1,” one pursuant to 71.2“2,” and two pursuant to 71.2“3.” If more than two cities meeting the requirements of 71.2“3” apply to be designated as a pilot project city, the department of management, in consultation with the authority, shall determine which two cities hold the most potential to create new jobs or generate the greatest capital in their areas. Authority staff will prepare a recommendation for each of the cities to be approved as pilot project cities. The board will make the final decision to approve, defer or deny applications. Once applications are approved by the board, all communities applying for pilot project city status will be notified of the status of their applications.

71.3(3) Status as a pilot project city. If a pilot project city does not enter into a withholding agreement within one year of its approval as a pilot project city, the city shall lose its status as a pilot project city. Upon such occurrence, the authority shall take applications from other eligible cities to replace that city. Another city shall be designated within six months.

[ARC 7561B, IAB 2/11/09, effective 3/18/09 (See Delay note at end of chapter); ARC 1373C, IAB 3/19/14, effective 2/24/14]

261—71.4(403) Withholding agreements.

71.4(1) Designated account. An approved pilot project city may provide by city resolution for the deposit of funds generated through withholding agreements into a designated withholding project fund under the targeted jobs withholding tax credit program.

71.4(2) Entering into a withholding agreement.

a. Agreement between a pilot project city, the authority, and a business. The authority and a pilot project city may enter into a withholding agreement with a business locating to the community from another state that is creating or retaining targeted jobs in a pilot project city. The authority and a pilot project city may enter into a withholding agreement with a business currently located in Iowa only if the business is creating or retaining at least ten jobs or making a qualifying investment of at least \$500,000 within the pilot project city.

b. Total amount of withholding tax credits. The withholding agreement shall provide for the total amount of withholding tax credits awarded, as negotiated by the economic development authority, the pilot project city, and the employer. An agreement shall not provide for an amount of withholding tax credits that exceeds the amount of qualifying investment made in the project.

c. Ineligibility if there is competition between pilot project city and non-pilot project city. A withholding agreement shall not be entered into with an employer not already located in a pilot project city when another Iowa community is competing for the same project and both the pilot project city and the other Iowa community are seeking assistance from the authority.

d. Option of a business to enter into withholding agreement. A business shall not be obligated to enter into a withholding agreement with a pilot project city and the authority.

e. Sunset date. A pilot project city and the authority shall not enter into a withholding agreement with a business after June 30, 2018.

f. Board approval of withholding agreements. Prior to entering into a withholding agreement with a business, a pilot project city shall request board approval of the withholding agreement. The process for requesting approval from the board is described in subrule 71.5(1).

71.4(3) Required components of a withholding agreement. A withholding agreement shall be disclosed to the public and shall contain all of the following:

a. A copy of the adopted local development agreement between the pilot project city and employer that outlines local incentives or assistance for the project using urban renewal or urban revitalization incentives, if applicable, and how withholding funds generated by the city will be used.

b. A list of all other incentives or financial assistance the business has requested or is receiving from other federal, state, or local economic development programs including loans, grants, forgivable loans, and tax credits.

c. The amount of assistance provided by the pilot project city for the project.

d. Documentation of the approval of the project by local participating authorities.

e. The total amount of withholding tax credits awarded.

f. The total number of created and retained jobs included in the project.

g. The required countywide average wage.

h. The total qualifying investment included in the project.

i. The total required matching local financial support for the project.

71.4(4) Length of withholding agreements. A withholding agreement may have a term of up to ten years, as negotiated by the authority, the pilot project city, and the employer. A withholding agreement specifying a term of years or a total amount of withholding credits shall either terminate upon the expiration of the term of years specified in the agreement or upon the award of the total amount of withholding credits specified in the agreement, whichever occurs first.

71.4(5) *Withholding generated through the program.*

a. Once a pilot project city, the authority, and an employer have entered into a withholding agreement, an amount equal to 3 percent of the gross wages paid by the business to each employee under a withholding agreement shall be credited from the payment made by the employer pursuant to Iowa Code section 422.16. If the amount of withholding by the employer is less than 3 percent of the gross wages paid to the employees covered by the withholding agreement, the employer shall receive a credit against other withholding taxes due by the employer or may carry the credit forward for up to ten years or until depleted, whichever occurs first.

b. The employer shall submit the amount of the credit quarterly, in the same manner as withholding payments are made to the department of revenue, to the pilot project city.

c. An employee whose wages are subject to a withholding agreement shall receive full credit for the amount withheld under the targeted jobs withholding tax credit program as provided in Iowa Code section 422.16.

71.4(6) *Use of withholding funds.* A pilot project city shall allocate the withholding funds into a designated withholding project fund for the project. All funds deposited shall be used or pledged by the pilot project city for a project related to the employer pursuant to the withholding agreement.

71.4(7) *Local match requirement.* The intent of the program is to require a pilot project city to contribute to projects that result in an increase in the city's tax collections. If a pilot project city realizes an increase in tax revenues due to the project, then the pilot project city is required to contribute at least 10 percent of the required local match. For example, if a project includes the purchase and remodeling of a building that results in increased tax collections to the pilot project city by an amount equal to 10 percent of the total amount of the withholding tax credit award, then the pilot project city is required to contribute at least 10 percent of the required local match for the project. In cases in which a project would include the purchase of a building but there is no increase in tax collections to the pilot project city, the pilot project city is not required to contribute to the required local match.

a. A pilot project city entering into a withholding agreement shall arrange for matching local financial support for the project. The local match required shall be in an amount equal to one dollar for every one dollar of withholding tax credit received by the pilot project city.

b. If the project, when completed, will increase the amount of an employer's taxable capital investment by an amount equal to at least 10 percent of the amount of withholding tax credit dollars received by the pilot project city, then the pilot project city shall itself contribute at least 10 percent of the local match amount computed under paragraph "a."

c. If the project, when completed, will not increase the amount of the employer's taxable capital investment by an amount equal to at least 10 percent of the amount of withholding tax credit dollars received by the pilot project city, then the pilot project city shall not be required to make a contribution to the local match.

d. A pilot project city's contribution, if any, to the local match may include the dollar value of any new tax abatement provided by the city to the business for new construction. For purposes of this paragraph, new construction includes building additions, remodeling, renovations, and updates.

71.4(8) *Termination of a withholding agreement.* Following the termination of a withholding agreement, the employer credits shall cease and any funds received by the pilot project city after the agreement has been terminated shall be remitted to the state treasurer to be deposited in the general fund of the state. The pilot project city shall notify the department of revenue within 30 days of the termination of the withholding agreement. If the authority, following an 18-month performance period beginning on the date the withholding agreement is approved by the board, determines that the employer does not meet the requirements of the withholding agreement relating to retaining jobs, if applicable, the agreement shall be terminated by the authority and the pilot project city and any withholding credits for the employer shall cease. If the authority, following a three-year performance period beginning on the date the withholding agreement is approved by the board, determines that the employer has not met or is incapable of meeting the requirements of the withholding agreement relating to creating jobs, if applicable, or the requirement of the withholding agreement relating to the qualifying investment prior

to the end of the withholding agreement, the authority may reduce the future benefits to the employer under the agreement or negotiate with the other parties to terminate the agreement early.

71.4(9) Participation in other programs. An employer may participate in the Iowa industrial new jobs training program under Iowa Code section 260E.5 or may claim a supplemental withholding credit under Iowa Code section 15E.197, at the same time the employer is participating in the targeted jobs withholding tax credit program. The withholding credit under section 260E.5 and the supplemental withholding credit under section 15E.197 shall be collected and disbursed prior to the collection and disbursement of the withholding credit under the targeted jobs withholding tax credit program.

[**ARC 7561B**, IAB 2/11/09, effective 3/18/09 (See Delay note at end of chapter); **ARC 7847B**, IAB 6/17/09, effective 5/21/09; **ARC 7848B**, IAB 6/17/09, effective 7/1/09; **ARC 8147B**, IAB 9/23/09, effective 10/28/09; **ARC 1373C**, IAB 3/19/14, effective 2/24/14]

261—71.5(403) Project approval.

71.5(1) Request for board approval of withholding agreement.

a. Request for approval form. Prior to entering into a withholding agreement with an employer and the authority, a pilot project city must receive approval from the board, on behalf of the authority. The authority shall develop a standardized form to be used by pilot project cities to request board approval of a proposed withholding agreement. To request board approval of a proposed withholding agreement, a pilot project city shall submit the standardized form to the authority with the following information:

(1) A general description of the project, including how the pilot project city will utilize withholding funds generated by the project.

(2) Base employment of the number of full-time equivalent positions at a business as established by the authority and the pilot project city, using the business's payroll records, as of the date that a business files an application with a pilot project city for financial assistance under the program.

(3) Information regarding the number of targeted jobs in the project, the wages of the targeted jobs, and the types of jobs created by the project.

(4) A budget for the project, showing the total project cost, the amount of local matching funds committed to the project, and the amount of withholding funds the pilot project city will receive from the project.

(5) A letter or resolution of support from the local government showing support for the project.

b. Timing of submittal. Requests for board approval of a proposed withholding agreement may be submitted at any time. The authority will review requests for approval of a proposed withholding agreement in as timely a manner as possible.

c. Board action on requests for approval. The board, on behalf of the authority, may approve or deny a withholding agreement according to the provisions of this chapter. Each withholding agreement and the total amount of the withholding credits allowed under the withholding agreement shall be approved by the board after taking into account the incentives or assistance received by or to be received by the employer under other economic development programs. The board shall only deny a withholding agreement if the agreement fails to meet the requirements as stated in subrule 71.4(2) and paragraph 71.6(1) "b" or the local match requirement as stated in subrule 71.4(7) or if an employer is not in good standing as to prior or existing agreements with the authority. The board shall have the authority to negotiate a withholding agreement and may suggest changes to any of the terms of the withholding agreement, including the total amount of withholding credits. A pilot project city and employer will be notified in writing of the board's decision regarding the proposed withholding agreement.

71.5(2) Certification to the department of revenue.

a. The employer shall certify to the department of revenue that the targeted jobs withholding tax credit is in accordance with the withholding agreement and shall provide other information the department of revenue may require.

b. A pilot project city shall certify to the department of revenue the amount of the targeted jobs withholding tax credit an employer has remitted to the city and shall provide other information the department of revenue may require.

c. Notice of any withholding agreement shall be provided promptly to the department of revenue following its execution between a pilot project city and an employer.

[ARC 7561B, IAB 2/11/09, effective 3/18/09 (See Delay note at end of chapter); ARC 7847B, IAB 6/17/09, effective 5/21/09; ARC 7848B, IAB 6/17/09, effective 7/1/09; ARC 8147B, IAB 9/23/09, effective 10/28/09; ARC 1373C, IAB 3/19/14, effective 2/24/14]

261—71.6(403) Reporting requirements.

71.6(1) Required reports.

a. At the time the pilot project city submits its budget to the department of management, the pilot project city shall submit to the department of management and the authority a description of the activities involving the use of withholding agreements. The description shall include, but not be limited to, the following:

(1) The total number of targeted jobs associated with withholding agreements and the wages of those targeted jobs.

(2) A breakdown of the number of targeted jobs that are associated with Iowa business expansions or retentions within the city limits of the pilot project city and the number of targeted jobs resulting from out-of-state businesses moving to or expanding in Iowa.

(3) The number of withholding agreements and the amount of withholding credits associated with those agreements.

(4) The types of businesses that entered into withholding agreements with the city and the types of businesses that declined the city's proposal to enter into a withholding agreement with the city.

b. Pursuant to rules adopted by the authority, the pilot project city shall provide to the authority information documenting the compliance of each employer with each requirement of the withholding agreement, including but not limited to the number of jobs created or retained, the wages associated with the targeted jobs, and the amount of investment made by the employer. The pilot project city shall provide this information annually by September 1. The authority shall, in response to receiving such information from the pilot project city, assess the level of compliance by each employer and provide to the pilot project city recommendations for either maintaining employer compliance with the withholding agreement or terminating the agreement for noncompliance under subrule 71.4(8). The authority shall also provide each such assessment and recommendation report to the department of revenue.

c. The employer, in conjunction with the pilot project city, shall provide information documenting the total amount of payments and receipts from the withholding project fund under the withholding agreement, including all agreements between the pilot project city and the employer to suspend, abate, exempt, rebate, refund, or reimburse property taxes, to provide a grant for property taxes, to provide a grant not related to property taxes, or to make a direct payment of taxes. The employer and the pilot project city shall submit this information to the authority annually by September 1 covering the prior fiscal year (July 1 to June 30). The authority shall verify the information provided and determine whether the pilot project city and the employer are in compliance with Iowa Code section 403.19A and this chapter. The authority will verify job creation or retention using the method described in 261—Chapter 188.

d. The authority may request additional reports from pilot project cities as necessary to determine the status of the targeted jobs withholding tax credit program.

e. The authority shall make, at minimum, an annual on-site monitoring visit to each pilot project city to verify the documented information. The pilot project city shall provide the following:

(1) Payroll records that correspond to the quarterly report provided by the pilot project city for the department of revenue;

(2) Information substantiating the total amount of qualifying investment made in the project;

(3) Information substantiating the total amount of local financial support made in the project;

(4) Payments and receipts as described in paragraph 71.6(1)“c.”

71.6(2) Annual report. As required by Iowa Code section 15.104(9)“k,” the authority shall include in its annual report information about the targeted jobs withholding tax credit program. This report is due on January 31 of each year.

[ARC 7561B, IAB 2/11/09, effective 3/18/09 (See Delay note at end of chapter); ARC 7848B, IAB 6/17/09, effective 7/1/09; ARC 8147B, IAB 9/23/09, effective 10/28/09; ARC 1373C, IAB 3/19/14, effective 2/24/14]

261—71.7(403) Applicability.

71.7(1) Except as provided in rule 261—71.2(403), this chapter applies to withholding agreements entered into on or after July 1, 2013, in accordance with 2013 Iowa Code section 403.19A as amended by 2013 Iowa Acts, Senate File 433. Withholding agreements entered into prior to July 1, 2013, shall be governed by this chapter as it existed prior to the enactment of 2013 Iowa Acts, Senate File 433.

71.7(2) Paragraph 71.6(1) “b” applies to withholding agreements entered into prior to July 1, 2013, or entered into on or after July 1, 2013.

71.7(3) The authority will work with pilot project cities and businesses to amend existing agreements to reflect the requirements of subrule 71.7(2) of this rule.

[ARC 1373C, IAB 3/19/14, effective 2/24/14]

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

[Filed emergency 7/19/06—published 8/16/06, effective 7/19/06]

[Filed 9/22/06, Notice 8/16/06—published 10/11/06, effective 11/15/06]

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[Editorial change: IAC Supplement 3/25/09]

[Filed Emergency ARC 7847B, IAB 6/17/09, effective 5/21/09]

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[Filed Emergency After Notice ARC 1373C (Notice ARC 1248C, IAB 12/25/13), IAB 3/19/14, effective 2/24/14]

¹ The March 18, 2009, effective date of **ARC 7561B** was delayed 70 days by the Administrative Rules Review Committee at its meeting held March 6, 2009.

PART VIII
LEGAL AND COMPLIANCE

CHAPTER 187
CONTRACTING

[Prior to 7/4/07, see 261—Ch 168, div VI]

261—187.1(15) Applicability. This chapter is applicable to the programs identified in 261—173.1(15).

261—187.2(15) Contract required.

187.2(1) Notice of award. Successful applicants will be notified in writing of an award of assistance, including any conditions and terms of the approval.

187.2(2) Contract required. The authority shall prepare a contract, which includes, but is not limited to, a description of the project to be completed by the business; the jobs to be created or retained; length of the project completion period and maintenance project completion period; the project completion date and maintenance period completion date; conditions to disbursement; a requirement for annual reporting to the authority; and the repayment requirements of the business or other penalties imposed on the business in the event the business does not fulfill its obligations described in the contract and other specific repayment provisions (“clawback provisions”) to be established on a project-by-project basis.

187.2(3) Contract-signing deadline. Successful applicants will be required to execute an agreement with the authority within 120 days of the authority’s or board’s approval of an award. Failure to do so may result in action by the entity that approved the award (the authority or the board) to rescind the award. The 120-day time limit may be extended by the final decision maker that approved the award (the authority or the board) for good cause shown.

[ARC 7970B, IAB 7/15/09, effective 7/1/09; ARC 8145B, IAB 9/23/09, effective 10/28/09; ARC 0442C, IAB 11/14/12, effective 12/19/12]

261—187.3(15) Project completion date and maintenance period completion date.

187.3(1) Projects shall be completed by the project completion date and maintained through the end of the maintenance date. The contract will establish the duration of the project period and maintenance period. Requests to change the project completion date and the maintenance period completion date shall follow the process for an amended award or contract as described in rule 261—187.4(15).

187.3(2) Projects receiving assistance from programs covered by this chapter shall conform to the time periods established by this rule.

187.3(3) By the project completion date, a recipient shall have completed the project as required by the contract. The jobs and project shall be maintained through the end of the maintenance period completion date. The project completion date is calculated by the authority from the end of the month during which an award is made. For example, if an award is made on June 13, 2007, the three-year project completion date will be calculated from June 30, 2007. The project completion date for this award would be June 30, 2010. The maintenance period completion date would be June 30, 2012.

187.3(4) The following table describes, by program, the length of the project completion period and the maintenance period:

Program	Project Completion Period	Maintenance Period	Total Contract Length
Grow Iowa Values Financial Assistance Program (all components)	3 years	2 more years	5 years
High Quality Jobs Program	3 years	2 more years	5 years
Enterprise Zone Program	3 years	2 more years	5 years

187.3(5) Notwithstanding the standard project completion period and maintenance period lengths described in subrule 187.3(4), the authority may vary the length of the periods provided that the project

completion period will not be less than three years and the total contract length will not be less than five years.

[ARC 7970B, IAB 7/15/09, effective 7/1/09; ARC 8145B, IAB 9/23/09, effective 10/28/09; ARC 0442C, IAB 11/14/12, effective 12/19/12]

261—187.4(15) Contract and award amendment approval procedures.

187.4(1) General rule. Generally, the final decision maker that approved the initial award shall approve any amendments or changes to that award.

187.4(2) Contract amendments.

a. General. In general, the amendment process for both awards and contracts mirrors the application process. That is, the same entity that recommended the initial application will also recommend the amendment, and the same entity that had final approval of the initial application will have final approval of the amendment. As with awards, contract amendments must comply with the statutory requirements for each individual program or funding source and the applicable administrative rules. In general, the amendment process begins with review of an amendment request by authority staff. After review by staff, the amendment may be sent to a committee for further recommendation followed by final action on the amendment by the board or by the director, as the case may be. The director may take action on any amendment that is not specifically identified as requiring board action. The authority's various programs and the amendment procedures are described in paragraph 187.4(2) "c," which contains the applicable recommending and approving entities by funding source and program.

b. Key to table. ACE – The accelerated career education program job credits authorized under Iowa Code chapter 260G.

ASSISTIVE – The assistive device tax credits authorized in Iowa Code section 422.33.

BRN – The brownfield redevelopment advisory council established in Iowa Code section 15.294.

BROWN – Redevelopment tax credits for brownfield and grayfield sites and the brownfield redevelopment fund as established in Iowa Code chapter 15.

CDBG – Federal community development block grant funded programs.

DDC – Due diligence committee organized by the board pursuant to 261—Chapter 1.

EDSA – The economic development set aside component of the CDBG program established in 261—Chapter 23.

ETAP – The export trade assistance program established in 261—Chapter 72.

EZ – Enterprise zone program as established in Iowa Code chapter 15E, including both the business and housing development tax credits.

FILM – The film and video project promotion program tax credits available under the now repealed Iowa Code section 15.393.

GIVF – The grow Iowa values fund and financial assistance program established pursuant to the now repealed Iowa Code chapter 15G, including all prior versions and funding sources of the program.

HQJP – High quality jobs program, as established in Iowa Code chapter 15, including both tax incentives and project completion assistance.

INNOVATION – Programs related to innovation, commercialization, and targeted industries development, including the programs described in Iowa Code section 15.411 and the program rules in 261—Part V.

LCG – Loan and credit guarantee program as established in the now repealed Iowa Code chapter 15E, division XX.

NSP – Neighborhood stabilization program as established in 261—Chapter 27.

TCC – Technology commercialization committee organized by the board pursuant to 261—Chapter 1.

TJWTC – Targeted jobs withholding tax credit program for pilot project cities established in Iowa Code section 403.19A.

TSB – Targeted small business advisory council established in Iowa Code section 15.247(8).

TSB LOAN – The targeted small business financial assistance program established in Iowa Code section 15.247.

c. Recommendation and approval entities for state and federal programs. The contract amendment process for tax incentives, project completion assistance, other financial assistance, or other benefits under the authority's various programs is as follows:

PROGRAM	STATE/FEDERAL	RECOMMENDATION BY	FINAL DECISION BY
HQJP	State	DDC	Board
GIVF	State	DDC	Board
EZ (Business)	State	DDC	Board
EZ (Housing)	State		Director
INNOVATION	State	TCC	Board
LCG	State	DDC	Board
FILM	State		Director
ASSISTIVE	State		Director
EDSA	Federal	DDC	Board
CDBG	Federal		Director
NSP	Federal		Director
HOME	Federal		Director
BROWN	State	BRN	Director
TSB LOAN	State	TSB	Director
ETAP	State		Director
ACE	State		Director
TJWTC	State		Director

d. Exception. Notwithstanding paragraph 187.4(2)“c,” the director may approve contract amendments for the targeted industries internship program consistent with Iowa Code section 15.106C without board approval.

187.4(3) Amendments and other requests the authority is authorized to implement. The authority is authorized by the board to take action on nonsubstantive changes, including but not limited to the following:

- a.* Recipient name, address and similar changes.
- b.* Collateral changes that are the same or better security than originally approved by the board or director (e.g., securing a letter of credit to replace a UCC blanket filing) or collateral changes that do not materially and substantially impact the authority's security.
- c.* Line item budget changes that do not reduce overall total project costs.
- d.* Loan repayment amounts or due dates that do not extend the final due date of a loan.

[ARC 7970B, IAB 7/15/09, effective 7/1/09; ARC 8145B, IAB 9/23/09, effective 10/28/09; ARC 0442C, IAB 11/14/12, effective 12/19/12]

261—187.5(15) Default.

187.5(1) Events of default. The authority may, for cause, determine that a recipient is in default under the terms of the contract. The reasons for which the authority may determine that the recipient is in default of the contract include, but are not limited to, any of the following:

- a.* Any material representation or warranty made by the recipient in connection with the application that was incorrect in any material respect when made.
- b.* A material change in the business ownership or structure that occurs without prior written disclosure and the permission of the authority.
- c.* A relocation or abandonment of the business or jobs created or retained through the project.
- d.* Expenditure of funds for purposes not described in the application or authorized in the agreement.
- e.* Failure of the recipient to make timely payments under the terms of the agreement, note or other obligation.

- f. Failure of the recipient to fulfill its job obligations.
- g. Failure of the recipient to comply with wage or benefit packages.
- h. Failure of the recipient to perform or comply with the terms and conditions of the contract.
- i. Failure of the recipient to comply with any applicable state rules or regulations.
- j. Failure of the recipient to file the required annual report.

187.5(2) Layoffs or closures. If a recipient experiences a layoff within the state or closes any of its facilities within the state prior to receiving the incentives and assistance, the authority may reduce or eliminate all or a portion of the incentives and assistance. If a business experiences a layoff within the state or closes any of its facilities within the state after executing a contract to receive the incentives and assistance, the authority may consider this an event of default and the business may be subject to repayment of all or a portion of the incentives and assistance that it has received.

187.5(3) Authority actions upon default—direct financial assistance programs.

a. The authority will take prompt, appropriate, and aggressive debt collection action to recover any funds misspent by recipients.

b. If the authority determines that the recipient is in default, the authority may seek recovery of all program funds plus interest, assess penalties, negotiate alternative repayment schedules, suspend or discontinue collection efforts, and take other appropriate action as the board deems necessary.

c. Determination of appropriate repayment plan. Upon determination that the recipient has not met the contract obligations, the authority will notify the recipient of the amount to be repaid to the authority. If the enforcement of such penalties would endanger the viability of the recipient, the board may extend the term of the loan to ensure payback, stability, and survival of the recipient. In certain instances, additional flexibility in a repayment plan may be necessary to ensure payback, stability, and survival of the recipient. Flexibility in a repayment plan may include, but is not limited to, deferring principal payments or collecting monthly payments below the amortized amount. In these cases, review and approval by the board, committee or director, as applicable, are necessary before the authority may finalize the repayment plan with the recipient.

d. The authority shall attempt to collect the amount owed. Negotiated settlements, write-offs or discontinuance of collection efforts is subject to final review and approval by the board, committee or director, as applicable, and described in paragraph 187.5(3) "f."

e. If the authority or board refers defaulted contracts to outside counsel for collection, then the terms of the agreement between the authority and the outside counsel regarding scope of counsel's authorization to accept settlements shall apply. No additional approvals by the board, committee or director shall be required.

f. The table below describes the approval procedures that shall be followed for all negotiated settlements, write-offs or discontinuance of collection efforts for state direct financial assistance programs, federal programs, and other programs administered by the authority.

PROGRAM	STATE/FEDERAL	RECOMMENDATION BY	FINAL DECISION BY
HQJP	State	DDC	Board
GIVF	State	DDC	Board
EZ (Business)	State	DDC	Board
EZ (Housing)	State		Director
INNOVATION	State	TCC	Board
LCG	State	DDC	Board
FILM	State		Director
ASSISTIVE	State		Director
EDSA	Federal	DDC	Board
CDBG	Federal		Director
NSP	Federal		Director

HOME	Federal		Director
BROWN	State	BRN	Director
TSB LOAN	State	TSB	Director
ETAP	State		Director
ACE	State		Director
TJWTC	State	DDC	Board

187.5(4) Authority actions upon default—tax credit programs. Collection efforts for tax credit programs are handled by the local community that approved the local tax incentive and the Iowa department of revenue, the state agency responsible for the state tax incentives.

a. Repayment. If an eligible business or eligible housing business has received incentives or assistance under the EZ program or the HQJP and fails to meet and maintain any one of the requirements of the program or applicable rules, the business is subject to repayment of all or a portion of the incentives and assistance that it has received.

b. Calculation of repayment due for a business. If the authority, in consultation with the city or county, determines that a business has failed in any year to meet any one of the requirements of the tax credit program, the business is subject to repayment of all or a portion of the amount of incentives received.

(1) Job creation. If a business does not meet its job creation requirement or fails to maintain the required number of jobs, repayment shall be calculated as follows:

1. If the business has met 50 percent or less of the requirement, the business shall pay the same percentage in benefits as the business failed to create in jobs.

2. If the business has met more than 50 percent but not more than 75 percent of the requirement, the business shall pay one-half of the percentage in benefits as the business failed to create in jobs.

3. If the business has met more than 75 percent but not more than 90 percent of the requirement, the business shall pay one-quarter of the percentage in benefits as the business failed to create in jobs.

4. If the business has not met the minimum job creation requirements for the tax credit program, the business shall repay all of the incentives and assistance that it has received.

(2) Wages and benefits. If a business fails to comply with the wage or benefit requirements for the tax credit program, the business shall not receive incentives or assistance for each year during which the business is not in compliance.

(3) Capital investment. If a business does not meet the capital investment requirement, repayment shall be calculated as follows:

1. If the business has met 50 percent or less of the requirement, the business shall pay the same percentage in benefits as the business failed to invest.

2. If the business has met more than 50 percent but not more than 75 percent of the requirement, the business shall pay one-half of the percentage in benefits as the business failed to invest.

3. If the business has met more than 75 percent but not more than 90 percent of the requirement, the business shall pay one-quarter of the percentage in benefits as the business failed to invest.

4. If the business has not met the minimum investment requirement for the tax credit program, the business shall repay all of the incentives and assistance that it has received.

c. Department of revenue; county/city recovery. Once it has been established, through the business's annual certification, monitoring, audit or otherwise, that the business is required to repay all or a portion of the incentives received, the department of revenue and the city or county, as appropriate, shall collect the amount owed. The city or county, as applicable, shall have the authority to take action to recover the value of taxes not collected as a result of the exemption provided by the community to the business. The department of revenue shall have the authority to recover the value of state taxes or incentives provided under Iowa Code section 15E.193A or 15E.196. The value of state incentives provided under Iowa Code section 15E.193A or 15E.196 includes applicable interest and penalties.

d. Layoffs or closures. If an eligible business experiences a layoff within the state or closes any of its facilities within the state prior to receiving the incentives and assistance, the authority may reduce

or eliminate all or a portion of the incentives and assistance. If a business experiences a layoff within the state or closes any of its facilities within the state after receiving the incentives and assistance, the business shall be subject to repayment of all or a portion of the incentives and assistance that it has received.

e. Extensions. If an eligible business or eligible housing business fails to meet its requirements under the Act, these rules, or the agreement described in rule 261—187.2(15), the authority, in consultation with the city or county, may elect to grant the business a one-year extension period to meet the requirements.

[ARC 7970B, IAB 7/15/09, effective 7/1/09; ARC 8145B, IAB 9/23/09, effective 10/28/09; ARC 0442C, IAB 11/14/12, effective 12/19/12; ARC 1373C, IAB 3/19/14, effective 2/24/14]

These rules are intended to implement Iowa Code chapters 15 and 15E and 2011 Iowa Code Supplement chapter 15G, subchapter I.

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CHAPTER 13
ISSUANCE OF TEACHER LICENSES AND ENDORSEMENTS

[Prior to 1/14/09, see Educational Examiners Board[282] Ch 14]

282—13.1(272) All applicants desiring Iowa licensure. Licenses are issued upon application filed on a form provided by the board of educational examiners and upon completion of the following:

13.1(1) *National criminal history background check.* An initial applicant will be required to submit a completed fingerprint packet that accompanies the application to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet will be assessed to the applicant.

13.1(2) *Iowa division of criminal investigation background check.* An Iowa division of criminal investigation background check will be conducted on initial applicants. The fee for the evaluation of the DCI background check will be assessed to the applicant.

13.1(3) *Temporary permits.* The executive director may issue a temporary permit to an applicant for any type of license, certification, or authorization issued by the board, after receipt of a fully completed application; determination that the applicant meets all applicable prerequisites for issuance of the license, certification, or authorization; and satisfactory evaluation of the Iowa criminal history background check. The temporary permit shall serve as evidence of the applicant's authorization to hold a position in Iowa schools, pending the satisfactory completion of the national criminal history background check. The temporary permit shall expire upon issuance of the requested license, certification, or authorization or 90 days from the date of issuance of the permit, whichever occurs first, unless the temporary permit is extended upon a finding of good cause by the executive director.

[ARC 0563C, IAB 1/23/13, effective 1/1/13]

282—13.2(272) Applicants from recognized Iowa institutions. An applicant for initial licensure shall complete either the teacher, administrator, or school service personnel preparation program from a recognized Iowa institution or an alternative program recognized by the Iowa board of educational examiners. A recognized Iowa institution is one which has its program of preparation approved by the state board of education according to standards established by said board, or an alternative program recognized by the state board of educational examiners. Applicants shall complete the requirements set out in rule 282—13.1(272) and shall also have the recommendation for the specific license and endorsement(s) or the specific endorsement(s) from the designated recommending official at the recognized education institution where the preparation was completed.

282—13.3(272) Applicants from non-Iowa institutions.

13.3(1) *Requirements for applicants from non-Iowa institutions.* An applicant for licensure who completes the teacher, administrator, or school service personnel preparation program from a non-Iowa institution shall verify the requirements of either subrule 13.18(4) or 13.18(5).

13.3(2) *Requirements for applicants from non-Iowa traditional teacher preparation programs.* Provided all requirements for Iowa licensure have been met through a state-approved regionally accredited teacher education program at the graduate or undergraduate level in which college or university credits were given and student teaching was required, the applicant shall:

a. Provide a recommendation for the specific license and endorsement(s) from the designated recommending official at the recognized institution where the preparation was completed, and

b. Submit a copy of a valid or expired regular teaching certificate or license exclusive of a temporary, emergency or substitute license or certificate, and

c. Provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013. If the teacher preparation program was completed prior to January 1, 2013, the applicant must provide verification of successfully passing the mandated assessment(s) in the state in which the applicant is currently licensed or must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education.

13.3(3) Requirements for applicants from out-of-state nontraditional teacher preparation programs. An applicant who holds a valid license from another state and whose preparation was completed through a state-approved nontraditional teacher preparation program must:

- a. Hold a baccalaureate degree with a minimum cumulative grade point average of 2.50 on a 4.0 scale from a regionally accredited institution.
- b. Provide a valid or expired out-of-state teaching license based on a state-approved nontraditional teacher preparation program.
- c. Provide a recommendation from a regionally accredited institution, department of education, or a state's standards board indicating the completion of an approved nontraditional teacher preparation program.
- d. Provide an official institutional transcript(s) to be analyzed for the requirements necessary for full Iowa licensure based on 13.9(4) "a"(1) to (7), 13.9(4) "c"(1) to (5), 13.18(2), 282—13.28(272), and 282—14.2(272).
- e. Meet the recency requirements listed in 13.10(3).
- f. Provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the nontraditional teacher preparation program was completed on or after January 1, 2013. If the nontraditional teacher preparation program was completed prior to January 1, 2013, the applicant must provide verification from the state licensing agency/department in the state where the nontraditional teacher preparation program was completed indicating that the applicant has successfully passed that state's mandated assessment(s) or must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education.
- g. Complete a student teaching or internship experience or verify three years of teaching experience.
- h. If through a transcript analysis the professional education core requirements set forth in 13.9(4) "a"(1) to (7), 13.9(4) "c"(1) to (5), and 13.18(2) and the content endorsement requirements pursuant to 282—13.28(272) may be identified by course titles, published course descriptions, and grades, then the transcripts will be reviewed to determine the applicant's eligibility for an Iowa teaching license. However, if the professional education core requirements of 13.9(4) "a"(1) to (7), 13.9(4) "c"(1) to (5), and 13.18(2) and the content endorsement requirements cannot be reviewed in this manner, a portfolio review and evaluation process will be utilized.

13.3(4) Portfolio review and evaluation process. An applicant whose professional education core requirements pursuant to 13.9(4) "a"(1) to (7), 13.9(4) "c"(1) to (5), and 13.18(2) or whose content endorsement requirements for special education (282—subrule 14.2(2)) could not be reviewed through transcript analysis may submit to the board a portfolio in the approved format for review and evaluation.

- a. An applicant must demonstrate proficiency in seven of the nine standards in the Iowa professional education core, set forth in 13.18(4) "a" to "i," to be eligible to receive a license.
- b. An applicant must have completed at least 75 percent of the endorsement requirements through a two- or four-year institution in order for the endorsement to be included on the license. An applicant who does not have at least 75 percent of one content endorsement area as described in 282—13.28(272) completed will not be issued a license.
- c. An applicant must meet with the board of educational examiners to answer any of the board's questions concerning the portfolio.
- d. Any deficiencies in the professional education core as set forth in 13.18(4) "a" to "i" or in the special education content endorsement area that are identified during the portfolio review and evaluation process shall be met through coursework with course credits completed at a state-approved, regionally accredited institution or through courses approved by the executive director. Other content deficiencies may be met through coursework in a two- or four-year institution in which course credits are given.

13.3(5) Definitions.

"Nontraditional" means any method of teacher preparation that falls outside the traditional method of preparing teachers, that provides at least a one- or two-year sequenced program of instruction taught

at regionally accredited and state-approved colleges or universities, that includes commonly recognized pedagogy classes being taught for course credit, and that requires a student teaching component.

“Proficiency,” for the purposes of 13.3(4) *“a,”* means that an applicant has passed all parts of the standard.

“Recognized non-Iowa teacher preparation institution” means an institution that is state-approved and is accredited by the regional accrediting agency for the territory in which the institution is located.

13.3(6) Requirements for applicants whose preparation was completed through out-of-state teacher preparation programs and who have attained National Board Certification. An applicant who holds a valid license from another state and who has attained National Board Certification must:

a. Hold a baccalaureate degree with a minimum cumulative grade point average of 2.50 on a 4.0 scale from an accredited institution.

b. Provide a valid out-of-state teaching license based on a state-approved teacher preparation program.

c. Provide a recommendation from a regionally accredited institution, a state department of education, or a state’s standards board indicating the completion of a state-approved teacher preparation program.

d. Provide an official institutional transcript(s).

e. Meet the recency requirements listed in 13.10(3).

f. Provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013. If the teacher preparation program was completed prior to January 1, 2013, the applicant must provide verification of successfully passing the mandated assessment(s) in the state in which the applicant is currently licensed or pass the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education.

g. Provide valid, current National Board Certification. If through a transcript analysis the professional education core requirements set forth in 13.18(4) *“a”* to *“m”* and 13.18(5), the content endorsement requirements set forth in 282—13.26(272) to 282—13.28(272) and 282—14.2(272), and the Iowa requirements are not met, the applicant may be eligible for the equivalent Iowa endorsement areas, as designated by the Iowa board of educational examiners, based on the National Board Certification.

[ARC 8139B, IAB 9/9/09, effective 10/14/09; ARC 8610B, IAB 3/10/10, effective 4/14/10; ARC 0563C, IAB 1/23/13, effective 1/1/13; ARC 0867C, IAB 7/24/13, effective 8/28/13; ARC 1166C, IAB 11/13/13, effective 12/18/13]

282—13.4(272) Applicants from foreign institutions. An applicant for initial licensure whose preparation was completed in a foreign institution must obtain a course-by-course credential evaluation report completed by one of the board-approved credential evaluation services and then file this report with the Iowa board of educational examiners for a determination of eligibility for licensure. After receiving the notification of eligibility by the Iowa board of educational examiners, the applicant must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education.

[ARC 0563C, IAB 1/23/13, effective 1/1/13]

282—13.5(272) Teacher licenses. A license may be issued to applicants who fulfill the general requirements set out in subrule 13.5(1) and the specific requirements set out for each license.

13.5(1) General requirements. The applicant shall:

a. Have a baccalaureate degree from a regionally accredited institution.

b. Have completed a state-approved teacher education program which meets the requirements of the professional education core.

c. Have completed an approved human relations component.

d. Have completed the exceptional learner component.

e. Have completed the requirements for one of the basic teaching endorsements.

f. Meet the recency requirement of subrule 13.10(3).

13.5(2) *Renewal requirements.* Renewal requirements for teacher licenses are set out in 282—Chapter 20.

282—13.6(272) Specific requirements for an initial license. An initial license valid for two years may be issued to an applicant who meets the general requirements set forth in subrule 13.5(1).

282—13.7(272) Specific requirements for a standard license. A standard license valid for five years may be issued to an applicant who:

1. Meets the general requirements set forth in subrule 13.5(1), and
2. Shows evidence of successful completion of a state-approved mentoring and induction program by meeting the Iowa teaching standards as determined by a comprehensive evaluation and two years' successful teaching experience. In lieu of completion of an Iowa state-approved mentoring and induction program, the applicant must provide evidence of three years' successful teaching experience in an Iowa nonpublic school or three years' successful teaching experience in an out-of-state K-12 educational setting.

282—13.8(272) Specific requirements for a master educator's license. A master educator's license is valid for five years and may be issued to an applicant who:

1. Is the holder of or is eligible for a standard license as set out in rule 282—13.7(272), and
 2. Verifies five years of successful teaching experience, and
 3. Completes one of the following options:
 - Master's degree from a regionally accredited college or university in a recognized endorsement area, or
 - Master's degree from a regionally accredited college or university in curriculum, effective teaching, or a similar degree program which has a focus on school curriculum or instruction.
- [ARC 1168C, IAB 11/13/13, effective 12/18/13]

282—13.9(272) Teacher intern license.

13.9(1) *Authorization.* The teacher intern is authorized to teach in grades 7 to 12.

13.9(2) *Term.* The term of the teacher intern license will be one school year. This license is nonrenewable. The fee for the teacher intern license is in 282—Chapter 12.

13.9(3) *Teacher intern requirements.* A teacher intern license shall be issued upon application, provided that the following requirements have been met. The applicant shall:

- a. Hold a baccalaureate degree with a minimum cumulative grade point average of 2.50 on a 4.0 scale from a regionally accredited institution or meet the admission criteria set forth in 281—subrule 77.11(2).
- b. Meet the requirements of at least one of the board's secondary (5-12) teaching endorsements listed in rule 282—13.28(272).
- c. Possess a minimum of three years of postbaccalaureate work experience. An authorized official at a college or university with an approved teacher intern program will evaluate this experience.
- d. Successfully complete the teacher intern program requirements listed in subrule 13.9(4) and approved by the state board of education.
- e. Successfully pass a basic skills test at the level approved by the teacher education institution.

13.9(4) *Program requirements.* The teacher intern shall:

- a. Complete the following requirements prior to the internship year:
 - (1) Learning environment/classroom management. The intern uses an understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation.
 - (2) Instructional planning. The intern plans instruction based upon knowledge of subject matter, students, the community, curriculum goals, and state curriculum models.
 - (3) Instructional strategies. The intern understands and uses a variety of instructional strategies to encourage students' development of critical thinking, problem solving, and performance skills.

(4) Student learning. The intern understands how students learn and develop and provides learning opportunities that support intellectual, career, social, and personal development.

(5) Diverse learners. The intern understands how students differ in their approaches to learning and creates instructional opportunities that are equitable and are adaptable to diverse learners.

(6) Collaboration, ethics and relationships. The intern fosters relationships with parents, school colleagues, and organizations in the larger community to support students' learning and development.

(7) Assessment. The intern understands and uses formal and informal assessment strategies to evaluate the continuous intellectual, social, and physical development of the learner.

(8) Field experiences that provide opportunities for interaction with students in an environment that supports learning in context. These experiences shall total at least 50 contact hours in the field prior to the beginning of the academic year of the candidate's initial employment as a teacher intern.

b. Complete four semester hours of a teacher intern seminar during the teacher internship year to include support and extension of coursework from the teacher intern program.

c. Complete the coursework and competencies in the following areas:

(1) Foundations, reflection, and professional development. The intern continually evaluates the effects of the practitioner's choices and actions on students, parents, and other professionals in the learning community and actively seeks out opportunities to grow professionally.

(2) Communication. The intern uses knowledge of effective verbal, nonverbal, and media communication techniques, and other forms of symbolic representation, to foster active inquiry and collaboration and to support interaction in the classroom.

(3) Exceptional learner program, which must include preparation that contributes to the education of individuals with disabilities and the gifted and talented.

(4) Preparation in the integration of reading strategies into the content area.

(5) Computer technology related to instruction.

(6) An advanced study of the items set forth in 13.9(4) "a"(1) to (7) above.

13.9(5) Local school district requirements. The local school district shall:

a. Provide an offer of employment to an individual who has been evaluated by a college or university for eligibility or acceptance in the teacher intern program.

b. Participate in a mentoring and induction program.

c. Provide a district mentor for the teacher intern.

d. Provide other support and supervision, as needed, to maximize the opportunity for the teacher intern to succeed.

e. Not overload the teacher intern with extracurricular duties not directly related to the teacher intern's teaching assignment.

f. Provide evidence to the board from a licensed evaluator that the teacher intern is participating in a mentoring and induction program.

g. At the board's request, provide information including, but not limited to, the teacher intern selection and preparation program, institutional support, local school district mentor, and local school district support.

13.9(6) Requirements to convert the teacher intern license to the initial license.

a. An initial license shall be issued upon application provided that the teacher intern has met all of the following requirements:

(1) Successful completion of the coursework and competencies in the teacher intern program approved by the state board of education.

(2) Verification from a licensed evaluator that the teacher intern served successfully for a minimum of 160 days.

(3) Verification from a licensed evaluator that the teacher intern is participating in a mentoring and induction program and is being assessed on the Iowa teaching standards.

(4) Recommendation by a college or university offering an approved teacher intern program that the individual is eligible for an initial license.

(5) At the board's request, the teacher intern shall provide to the board information including, but not limited to, the teacher intern selection and preparation program, institutional support, local school district mentor, and local school district support.

b. The teacher intern year will count as one of the years that is needed for the teacher intern to convert the initial license to the standard license if the conditions listed in paragraph 13.9(6) "a" have been met.

13.9(7) *Requirements to obtain the initial license if the teacher intern does not complete the internship year.*

a. An initial license shall be issued upon application provided that the teacher intern has met the requirements for one of the following options:

(1) Option #1:

1. Successful completion of the coursework and competencies in the teacher intern program approved by the state board of education; and

2. Verification by a college or university that the teacher intern successfully completed the college's or university's state-approved student teaching requirements; and

3. Recommendation by a college or university offering an approved teacher intern program that the individual is eligible for an initial license.

(2) Option #2:

1. Successful completion of the coursework and competencies in the teacher intern program approved by the state board of education; and

2. Verification by the approved teacher intern program that the teacher intern successfully completed 40 days of paid substitute teaching; and

3. Verification by the teacher intern program that the teacher intern successfully completed 40 days of co-teaching; and

4. Recommendation by the approved teacher intern program that the individual is eligible for an initial license.

b. At the board's request, the teacher intern shall provide to the board information including, but not limited to, the teacher intern selection and preparation program, institutional support, local school district mentor, and local school district support.

13.9(8) *Requirements to extend the teacher intern license if the teacher intern does not complete all of the education coursework during the term of the teacher intern license.*

a. A one-year extension of the teacher intern license may be issued upon application provided that the teacher intern has met both of the following requirements:

(1) Successful completion of 160 days of teaching experience during the teacher internship.

(2) Verification by the recommending official at the approved teacher intern program that the teacher intern has not completed all of the coursework required for the initial license.

b. Only one year of teaching experience during the term of the teacher intern license or the extension of a teacher intern license may be used to convert the teacher intern license to a standard teaching license.

13.9(9) *Requirements to obtain a teacher intern license if teaching in an international school. A teacher intern candidate shall:*

a. Hold a baccalaureate degree from an accredited institution.

b. Meet the requirements of at least one of the board's secondary (5-12) teaching endorsements listed in rule 282—13.28(272).

c. Successfully complete the teacher intern program requirements listed in 13.9(4) "a"(1) to (7), 13.9(4) "b" and 13.9(4) "c"(1) to (6) through a four-year college or university and approved by the state board of education.

13.9(10) *Requirements to convert the teacher intern license to the initial license if teaching in an international school. An initial license shall be issued upon application provided that the teacher intern has met all of the following requirements:*

a. Successful completion of the coursework and competencies in the teacher intern program approved by the state board of education.

b. Verification that the teacher intern served successfully for a minimum of 160 days.
 [ARC 8688B, IAB 4/7/10, effective 5/12/10; ARC 9925B, IAB 12/14/11, effective 1/18/12; ARC 0698C, IAB 5/1/13, effective 6/5/13; ARC 0865C, IAB 7/24/13, effective 8/28/13; ARC 1374C, IAB 3/19/14, effective 4/23/14]

282—13.10(272) Specific requirements for a Class A license. A nonrenewable Class A license valid for one year may be issued to an individual who has completed a teacher education program under any one of the following conditions:

13.10(1) Professional core requirements. The individual has not completed all of the required courses in the professional core, 13.18(4) “a” through “j.”

13.10(2) Human relations component. The individual has not completed an approved human relations component.

13.10(3) Recency. The individual meets the requirements for a valid license, but has had fewer than 160 days of teaching experience during the five-year period immediately preceding the date of application or has not completed six semester hours of college credit from a recognized institution within the five-year period. To obtain the desired license, the applicant must complete recent credits and, where recent credits are required, these credits shall be taken in professional education or in the applicant’s endorsement area(s).

13.10(4) Degree not granted until next regular commencement. Rescinded IAB 9/9/09, effective 10/14/09.

13.10(5) Based on an expired Iowa certificate or license, exclusive of a Class A or Class B license.

a. The holder of an expired license, exclusive of a Class A or Class B license, shall be eligible to receive a Class A license upon application. This license shall be endorsed for the type of service authorized by the expired license on which it is based.

b. The holder of an expired license who is currently under contract with an Iowa educational unit (area education agency/local education agency/local school district) and who does not meet the renewal requirements for the license held shall be required to secure the signature of the superintendent or designee before the license will be issued.

13.10(6) Based on a mentoring and induction program. An applicant may be eligible for a Class A license if the school district, after conducting a comprehensive evaluation, recommends and verifies that the applicant shall participate in the mentoring program for a third year.

13.10(7) Based on an administrative decision. The executive director is authorized to issue a Class A license to an applicant whose services are needed to fill positions in unique need circumstances.

[ARC 7987B, IAB 7/29/09, effective 9/2/09; ARC 8134B, IAB 9/9/09, effective 10/14/09; ARC 8957B, IAB 7/28/10, effective 9/1/10]

282—13.11(272) Specific requirements for a Class B license. A Class B license, which is valid for two years and which is nonrenewable, may be issued to an individual under the following conditions:

13.11(1) Endorsement in progress. The individual has a valid initial, standard, master educator, permanent professional, Class A (one-year extension of an initial, standard, or master educator), exchange, or professional service license and one or more endorsements but is seeking to obtain some other endorsement. A Class B license may be issued if requested by an employer and if the individual seeking to obtain some other endorsement has completed at least two-thirds of the requirements, or one-half of the content requirements in a state-designated shortage area, leading to completion of all requirements for the endorsement. A Class B license may not be issued for the driver’s education endorsement.

13.11(2) Program of study for special education endorsement. The college or university must outline the program of study necessary to meet the special education endorsement requirements. This program of study must be attached to the application.

13.11(3) Request for exception. A school district administrator may file a written request with the board for an exception to the minimum content requirements on the basis of documented need and benefit to the instructional program. The board will review the request and provide a written decision either approving or denying the request.

13.11(4) Provisional occupational license. If an individual is eligible for a provisional occupational license but has not met all of the experience requirements, a Class B license may be issued while the individual earns the necessary experience.

13.11(5) Expiration. This license will expire on June 30 of the fiscal year in which it was issued plus one year.

[ARC 7987B, IAB 7/29/09, effective 9/2/09; ARC 8133B, IAB 9/9/09, effective 10/14/09; ARC 9207B, IAB 11/3/10, effective 12/8/10; ARC 9573B, IAB 6/29/11, effective 8/3/11]

282—13.12(272) Specific requirements for a Class C license. Rescinded IAB 7/29/09, effective 9/2/09.

282—13.13(272) Specific requirements for a Class D occupational license. Rescinded IAB 7/29/09, effective 9/2/09.

282—13.14(272) Specific requirements for a Class E license. A nonrenewable license valid for one year may be issued to an individual as follows:

13.14(1) Expired license. Based on an expired Class A, Class B, or teacher exchange license, the holder of the expired license shall be eligible to receive a Class E license upon application and submission of all required materials.

13.14(2) Application. The application process will require transcripts of coursework completed during the term of the expired license, a program of study indicating the coursework necessary to obtain full licensure, and registration for coursework to be completed during the term of the Class E license. The Class E license will be denied if the applicant has not completed any coursework during the term of the Class A or Class B license unless extenuating circumstances are verified.

[ARC 7987B, IAB 7/29/09, effective 9/2/09]

282—13.15(272) Specific requirements for a Class G license. A nonrenewable Class G license valid for one year may be issued to an individual who must complete a school counseling practicum or internship in an approved program in preparation for the professional school counselor endorsement. The Class G license may be issued under the following limited conditions:

1. Verification of a baccalaureate degree from a regionally accredited institution.
2. Verification from the institution that the individual is admitted and enrolled in a school counseling program.
3. Verification that the individual has completed the coursework and competencies required prior to the practicum or internship.
4. Written documentation of the requirements listed in “1” to “3” above, provided by the official at the institution where the individual is completing the approved school counseling program and forwarded to the Iowa board of educational examiners with the application form for licensure.

[ARC 1328C, IAB 2/19/14, effective 3/26/14]

282—13.16(272) Specific requirements for a substitute teacher’s license.

13.16(1) Substitute teacher requirements. A substitute teacher’s license may be issued to an individual who provides verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013, and who:

- a. Has completed a traditional teacher preparation program and been the holder of, or presently holds, a license in Iowa; or holds or held a regular teacher’s license or certificate in another state, exclusive of temporary, emergency, or substitute certificate or license; or
- b. Has successfully completed all requirements of an approved teacher education program, but did not apply for an Iowa teacher’s license at the time of completion of the approved program; or
- c. Holds a valid or expired teaching certificate based on a nontraditional teacher preparation program, is able to verify three years of teaching experience, and provides passing scores on tests mandated by the state that issued the certificate. The license issued will contain a disclaimer stating that the holder of this license may not be eligible for full Iowa teaching licensure.

13.16(2) *Validity.* A substitute license is valid for five years and for not more than 90 days of teaching in one assignment during any one school year. A school district administrator may file a written request with the board for an extension of the 90-day limit in one assignment on the basis of documented need and benefit to the instructional program. The board will review the request and provide a written decision either approving or denying the request.

13.16(3) *Authorization.* The holder of a substitute license is authorized to teach in any school system in any position in which a regularly licensed teacher was employed to begin the school year except in the driver's education classroom. In addition to the authority inherent in the initial, standard, master educator, professional administrator, two-year exchange, and permanent professional licenses and the endorsement(s) held, the holder of one of these regular licenses may substitute on the same basis as the holder of a substitute license while the regular license is in effect.

[ARC 9205B, IAB 11/3/10, effective 12/8/10; ARC 9206B, IAB 11/3/10, effective 12/8/10; ARC 0605C, IAB 2/20/13, effective 3/27/13; ARC 1324C, IAB 2/19/14, effective 3/26/14]

282—13.17(272) *Specific requirements for exchange licenses.* An applicant seeking Iowa licensure who completes the teacher preparation program from a recognized non-Iowa institution shall verify the requirements of subrules 13.18(4) and 13.18(5) through traditional course-based preparation program and transcript review. A recognized non-Iowa teacher preparation institution is one that is state-approved and is accredited by the regional accrediting agency for the territory in which the institution is located. Applicants for nontraditional exchange licenses are not required to have received their preparation through regionally approved teacher education programs.

13.17(1) *One-year teacher exchange license.*

a. For an applicant applying under 13.3(2), a one-year nonrenewable exchange license may be issued to the applicant under the following conditions:

(1) The applicant has completed a state-approved, regionally accredited teacher education program; and

(2) The applicant has the recommendation for the specific license and endorsement(s) from the designated recommending official at the recognized non-Iowa institution where the preparation was completed; and

(3) The applicant holds and submits a copy of a valid and current certificate or license in the state in which the preparation was completed or in which the applicant is currently teaching, exclusive of a temporary, emergency or substitute license or certificate;

1. Reserved.

2. If the applicant submits verification that the applicant has applied for and will receive the applicant's first teaching license and is waiting for the processing or printing of a valid and current out-of-state license, a regional exchange license may be issued and the lack of a valid and current out-of-state license will be listed as a deficiency; and

(4) The applicant must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013. If the teacher preparation program was completed prior to January 1, 2013, the applicant must provide verification of successfully passing the mandated assessment(s) in the state in which the applicant is currently licensed or must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education; and

(5) Each exchange license shall be limited to the area(s) and level(s) of instruction as determined by an analysis of the application, the transcripts and the license or certificate held in the state in which the basic preparation for licensure was completed or of the application and the credential evaluation report. The applicant must have completed at least 75 percent of the endorsement requirements through a two- or four-year institution in order for the endorsement to be included on the exchange license; and

(6) The applicant is not subject to any pending disciplinary proceedings in any state or country; and

(7) The applicant complies with all requirements with regard to application processes and payment of licensure fees.

b. After the term of the exchange license has expired, the applicant may apply to be fully licensed if the applicant has completed all requirements and is eligible for full licensure.

13.17(2) Two-year nontraditional exchange license. For an applicant applying under 13.3(3) and 13.3(4), a two-year nontraditional teacher exchange license may be issued to the applicant from state-approved preparation programs, under the following conditions:

a. The applicant has met the requirements of 13.3(4)“a” and “b.”

b. The applicant has met the requirements of 13.17(1)“a”(3) through (7).

c. To convert the two-year nontraditional exchange license, the applicant must meet all deficiencies as well as meet the Iowa teaching standards as determined by a comprehensive evaluation by a licensed evaluator, and the applicant shall have two years of successful teaching experience in Iowa. The evaluator may recommend extending the license for a third year to meet Iowa teaching standards.

d. The license may be extended to meet the requirements for two years of successful teaching in Iowa with proof of employment.

13.17(3) International teacher exchange license.

a. A nonrenewable international exchange license may be issued to an applicant under the following conditions:

(1) The applicant has completed a teacher education program in another country; and

(2) The applicant is not subject to any pending disciplinary proceedings in any state or country; and

(3) The applicant complies with all requirements with regard to application processes and payment of licensure fees; and

(4) The applicant is a participant in a teacher exchange program administered through the Iowa department of education, the U.S. Department of Education, or the U.S. Department of State.

b. Each exchange license shall be limited to the area(s) and level(s) of instruction as determined by an analysis of the application and the credential evaluation report.

c. This license shall not exceed three years.

d. After the term of the exchange license has expired, the applicant may apply to be fully licensed if the applicant has completed all requirements and is eligible for full licensure.

13.17(4) Military exchange license.

a. *Spouses of active duty military applying under 13.3(2).* A three-year nonrenewable military exchange license may be issued to the applicant under the following conditions:

(1) The applicant has completed a traditional teacher preparation program at a regionally accredited and state-approved two- or four-year college.

(2) The applicant is the holder of a valid and current or an expired teaching license from another state.

(3) The applicant provides verification of the applicant’s connection to or the applicant’s spouse’s connection to the military by providing a copy of current military orders with either a marriage license or a copy of a military ID card for the applicant’s spouse.

(4) This license may be converted to a one-year regional exchange license upon application and payment of fees.

b. *Recent veterans (retired or discharged within the past five years as of the date of application) or their spouses applying under 13.3(2).* A five-year teaching license or a one-year exchange license may be issued to an applicant who meets the requirements of 13.17(4)“a”(1) and (2). A veteran must provide a copy of the veteran’s DD 214. A spouse must provide a copy of the veteran spouse’s DD 214 and the couple’s marriage license.

c. *Spouses of active duty military, recent veterans or recent veterans’ spouses applying under 13.3(3).* If the applicant has completed a nontraditional teacher preparation program but is not eligible for a teaching license, the applicant will be issued a substitute license, and the initial review for the portfolio review process will be completed by board staff. An applicant must provide verification of connection to the military outlined in 13.17(4)“a”(3) or 13.17(4)“b.”

d. Fees. Fees for the background check, evaluation and license issued pursuant to 13.17(4) will be limited to the fee outlined in rule 282—12.1(272), paragraph “2.”

[ARC 8138B, IAB 9/9/09, effective 10/14/09; ARC 8604B, IAB 3/10/10, effective 4/14/10; ARC 9072B, IAB 9/8/10, effective 10/13/10; ARC 9840B, IAB 11/2/11, effective 12/7/11; ARC 0563C, IAB 1/23/13, effective 1/1/13; ARC 0868C, IAB 7/24/13, effective 8/28/13; ARC 1166C, IAB 11/13/13, effective 12/18/13; ARC 1323C, IAB 2/19/14, effective 3/26/14]

282—13.18(272) General requirements for an original teaching subject area endorsement. Following are the general requirements for the issuance of a license with an endorsement.

13.18(1) Baccalaureate degree from a regionally accredited institution.

13.18(2) Completion of an approved human relations component.

13.18(3) Completion of the exceptional learner program, which must include preparation that contributes to the education of individuals with disabilities and the gifted and talented.

13.18(4) Professional education core. Completed coursework or evidence of competency in:

a. Student learning. The practitioner understands how students learn and develop, and provides learning opportunities that support intellectual, career, social and personal development.

b. Diverse learners. The practitioner understands how students differ in their approaches to learning and creates instructional opportunities that are equitable and are adaptable to diverse learners.

c. Instructional planning. The practitioner plans instruction based upon knowledge of subject matter, students, the community, curriculum goals, and state curriculum models.

d. Instructional strategies. The practitioner understands and uses a variety of instructional strategies to encourage students’ development of critical thinking, problem solving, and performance skills.

e. Learning environment/classroom management. The practitioner uses an understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation.

f. Communication. The practitioner uses knowledge of effective verbal, nonverbal, and media communication techniques, and other forms of symbolic representation, to foster active inquiry, collaboration, and support interaction in the classroom.

g. Assessment. The practitioner understands and uses formal and informal assessment strategies to evaluate the continuous intellectual, social, and physical development of the learner.

h. Foundations, reflection and professional development. The practitioner continually evaluates the effects of the practitioner’s choices and actions on students, parents, and other professionals in the learning community, and actively seeks out opportunities to grow professionally.

i. Collaboration, ethics and relationships. The practitioner fosters relationships with parents, school colleagues, and organizations in the larger community to support students’ learning and development.

j. Computer technology related to instruction.

k. Completion of pre-student teaching field-based experiences.

l. Methods of teaching with an emphasis on the subject and grade level endorsement desired.

m. Student teaching in the subject area and grade level endorsement desired.

n. Preparation in reading programs, including reading recovery, and integration of reading strategies into content area methods coursework.

13.18(5) Content/subject matter specialization. The practitioner understands the central concepts, tools of inquiry, and structure of the discipline(s) the practitioner teaches and creates learning experiences that make these aspects of subject matter meaningful for students. This is evidenced by completion of a 30-semester-hour teaching major which must minimally include the requirements for at least one of the basic endorsement areas, special education teaching endorsements, or secondary level occupational endorsements.

282—13.19(272) NCATE-accredited programs. Rescinded IAB 6/17/09, effective 7/22/09.

282—13.20 Reserved.

282—13.21(272) Human relations requirements for practitioner licensure. Preparation in human relations shall be included in programs leading to teacher licensure. Human relations study shall include interpersonal and intergroup relations and shall contribute to the development of sensitivity to and understanding of the values, beliefs, lifestyles and attitudes of individuals and the diverse groups found in a pluralistic society.

13.21(1) Beginning on or after August 31, 1980, each applicant for an initial practitioner's license shall have completed the human relations requirement.

13.21(2) On or after August 31, 1980, each applicant for the renewal of a practitioner's license shall have completed an approved human relations requirement.

13.21(3) Credit for the human relations requirement shall be given for licensed persons who can give evidence that they have completed a human relations program which meets board of educational examiners criteria (see rule 282—13.22(272)).

[ARC 0026C, IAB 3/7/12, effective 4/11/12]

282—13.22(272) Development of human relations components. Human relations components shall be developed by teacher preparation institutions. In-service human relations components may also be developed by educational agencies other than teacher preparation institutions, as approved by the board of educational examiners.

13.22(1) Advisory committee. Education agencies developing human relations components shall give evidence that in the development of their programs they were assisted by an advisory committee. The advisory committee shall consist of equal representation of various minority and majority groups.

13.22(2) Standards for approved components. Human relations components will be approved by the board of educational examiners upon submission of evidence that the components are designed to develop the ability of participants to:

- a. Be aware of and understand the values, lifestyles, history, and contributions of various identifiable subgroups in our society.
- b. Recognize and deal with dehumanizing biases such as sexism, racism, prejudice, and discrimination and become aware of the impact that such biases have on interpersonal relations.
- c. Translate knowledge of human relations into attitudes, skills, and techniques which will result in favorable learning experiences for students.
- d. Recognize the ways in which dehumanizing biases may be reflected in instructional materials.
- e. Respect human diversity and the rights of each individual.
- f. Relate effectively to other individuals and various subgroups other than one's own.

13.22(3) Evaluation. Educational agencies providing the human relations components shall indicate the means to be utilized for evaluation.

282—13.23 to 13.25 Reserved.

282—13.26(272) Requirements for elementary endorsements.

13.26(1) Teacher—prekindergarten-kindergarten.

a. *Authorization.* The holder of this endorsement is authorized to teach at the prekindergarten/ kindergarten level.

b. *Program requirements.*

- (1) Degree—baccalaureate, and
- (2) Completion of an approved human relations program, and
- (3) Completion of the professional education core. See subrule 13.18(3).

c. *Content.*

- (1) Human growth and development: infancy and early childhood, unless completed as part of the professional education core. See subrule 13.18(4).
- (2) Curriculum development and methodology for young children.
- (3) Child-family-school-community relationships (community agencies).
- (4) Guidance of young children three to six years of age.

- (5) Organization of prekindergarten-kindergarten programs.
- (6) Child and family nutrition.
- (7) Language development and learning.
- (8) Kindergarten: programs and curriculum development.

13.26(2) Teacher—prekindergarten through grade three.

a. Authorization. The holder of this endorsement is authorized to teach children from birth through grade three.

b. Program requirements.

- (1) Degree—baccalaureate.
- (2) Completion of an approved human relations program.
- (3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).
- (4) Highly qualified teacher (HQT) status. Applicants from non-Iowa institutions who have completed the requirements for this endorsement must verify their HQT status. The board shall determine the test and the minimum passing score for HQT status. Verification must be provided through one of the following:

1. Written verification from the department of education in the state in which the applicant completed the elementary teacher preparation program that the applicant has achieved HQT status in that state; or

2. Written verification from the department of education in the state where the applicant is currently teaching that the applicant has achieved HQT status in that state; or

3. Submission of the official test score report indicating the applicant has met the qualifying score for licensure in the state in which the applicant completed the elementary teacher preparation program; or

4. Obtaining the qualifying score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment of the federal highly qualified teacher legislation (June 2006). This option may also be utilized by applicants from outside the United States.

5. For applicants who have completed the requirements for one of the Iowa elementary endorsements, verification of HQT status by meeting the minimum score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment of the federal highly qualified teacher legislation (June 2006). This option may also be utilized by applicants who have been teaching outside the United States.

c. Content.

- (1) Child growth and development with emphasis on cognitive, language, physical, social, and emotional development, both typical and atypical, for infants and toddlers, preprimary, and primary school children (grades one through three), unless combined as part of the professional education core. See subrule 13.18(4) of the licensure rules for the professional core.

- (2) Historical, philosophical, and social foundations of early childhood education.

- (3) Developmentally appropriate curriculum with emphasis on integrated multicultural and nonsexist content including language, mathematics, science, social studies, health, safety, nutrition, visual and expressive arts, social skills, higher-thinking skills, and developmentally appropriate methodology, including adaptations for individual needs, for infants and toddlers, preprimary, and primary school children.

- (4) Characteristics of play and creativity, and their contributions to the cognitive, language, physical, social and emotional development and learning of infants and toddlers, preprimary, and primary school children.

- (5) Classroom organization and individual interactions to create positive learning environments for infants and toddlers, preprimary, and primary school children based on child development theory emphasizing guidance techniques.

- (6) Observation and application of developmentally appropriate assessments for infants and toddlers, preprimary, and primary school children recognizing, referring, and making adaptations for children who are at risk or who have exceptional educational needs and talents.

(7) Home-school-community relationships and interactions designed to promote and support parent, family and community involvement, and interagency collaboration.

(8) Family systems, cultural diversity, and factors which place families at risk.

(9) Child and family health and nutrition.

(10) Advocacy, legislation, and public policy as they affect children and families.

(11) Administration of child care programs to include staff and program development and supervision and evaluation of support staff.

(12) Pre-student teaching field experience with three age levels in infant and toddler, preprimary, and primary programs, with no less than 100 clock hours, and in different settings, such as rural and urban, socioeconomic status, cultural diversity, program types, and program sponsorship.

(13) Student teaching experiences with two different age levels, one before kindergarten and one from kindergarten through grade three.

13.26(3) Teacher—prekindergarten through grade three, including special education.

a. Authorization. The holder of this endorsement is authorized to teach children from birth through grade three.

b. Program requirements.

(1) Degree—baccalaureate, and

(2) Completion of an approved human relations program, and

(3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

(4) Highly qualified teacher (HQT) status. Applicants from non-Iowa institutions who have completed the requirements for this endorsement must verify their HQT status. The board shall determine the test and the minimum passing score for HQT status. Verification must be provided through one of the following:

1. Written verification from the department of education in the state in which the applicant completed the elementary teacher preparation program that the applicant has achieved HQT status in that state; or

2. Written verification from the department of education in the state where the applicant is currently teaching that the applicant has achieved HQT status in that state; or

3. Submission of the official test score report indicating the applicant has met the qualifying score for licensure in the state in which the applicant completed the elementary teacher preparation program; or

4. Obtaining the qualifying score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment of the federal highly qualified teacher legislation (June 2006). This option may also be utilized by applicants from outside the United States.

5. For applicants who have completed the requirements for one of the Iowa elementary endorsements, verification of HQT status by meeting the minimum score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment of the federal highly qualified teacher legislation (June 2006). This option may also be utilized by applicants who have been teaching outside the United States.

c. Content.

(1) Child growth and development.

1. Understand the nature of child growth and development for infants and toddlers (birth through age 2), preprimary (age 3 through age 5) and primary school children (age 6 through age 8), both typical and atypical, in areas of cognition, language development, physical motor, social-emotional, aesthetics, and adaptive behavior.

2. Understand individual differences in development and learning including risk factors, developmental variations and developmental patterns of specific disabilities and special abilities.

3. Recognize that children are best understood in the contexts of family, culture and society and that cultural and linguistic diversity influences development and learning.

(2) Developmentally appropriate learning environment and curriculum implementation.

1. Establish learning environments with social support, from the teacher and from other students, for all children to meet their optimal potential, with a climate characterized by mutual respect, encouraging and valuing the efforts of all regardless of proficiency.

2. Appropriately use informal and formal assessment to monitor development of children and to plan and evaluate curriculum and teaching practices to meet individual needs of children and families.

3. Plan, implement, and continuously evaluate developmentally and individually appropriate curriculum goals, content, and teaching practices for infants, toddlers, preprimary and primary children based on the needs and interests of individual children, their families and community.

4. Use both child-initiated and teacher-directed instructional methods, including strategies such as small and large group projects, unstructured and structured play, systematic instruction, group discussion and cooperative decision making.

5. Develop and implement integrated learning experiences for home-, center- and school-based environments for infants, toddlers, preprimary and primary children.

6. Develop and implement integrated learning experiences that facilitate cognition, communication, social and physical development of infants and toddlers within the context of parent-child and caregiver-child relationships.

7. Develop and implement learning experiences for preprimary and primary children with focus on multicultural and nonsexist content that includes development of responsibility, aesthetic and artistic development, physical development and well-being, cognitive development, and emotional and social development.

8. Develop and implement learning experiences for infants, toddlers, preprimary, and primary children with a focus on language, mathematics, science, social studies, visual and expressive arts, social skills, higher-thinking skills, and developmentally appropriate methodology.

9. Develop adaptations and accommodations for infants, toddlers, preprimary, and primary children to meet their individual needs.

10. Adapt materials, equipment, the environment, programs and use of human resources to meet social, cognitive, physical motor, communication, and medical needs of children and diverse learning needs.

- (3) Health, safety and nutrition.

1. Design and implement physically and psychologically safe and healthy indoor and outdoor environments to promote development and learning.

2. Promote nutritional practices that support cognitive, social, cultural and physical development of young children.

3. Implement appropriate appraisal and management of health concerns of young children including procedures for children with special health care needs.

4. Recognize signs of emotional distress, physical and mental abuse and neglect in young children and understand mandatory reporting procedures.

5. Demonstrate proficiency in infant-child cardiopulmonary resuscitation, emergency procedures and first aid.

- (4) Family and community collaboration.

1. Apply theories and knowledge of dynamic roles and relationships within and between families, schools, and communities.

2. Assist families in identifying resources, priorities, and concerns in relation to the child's development.

3. Link families, based on identified needs, priorities and concerns, with a variety of resources.

4. Use communication, problem-solving and help-giving skills in collaboration with families and other professionals to support the development, learning and well-being of young children.

5. Participate as an effective member of a team with other professionals and families to develop and implement learning plans and environments for young children.

- (5) Professionalism.

1. Understand legislation and public policy that affect all young children, with and without disabilities, and their families.

2. Understand legal aspects, historical, philosophical, and social foundations of early childhood education and special education.

3. Understand principles of administration, organization and operation of programs for children from birth to age 8 and their families, including staff and program development, supervision and evaluation of staff, and continuing improvement of programs and services.

4. Identify current trends and issues of the profession to inform and improve practices and advocate for quality programs for young children and their families.

5. Adhere to professional and ethical codes.

6. Engage in reflective inquiry and demonstration of professional self-knowledge.

(6) Pre-student teaching field experiences. Complete 100 clock hours of pre-student teaching field experience with three age levels in infant and toddler, preprimary, and primary programs and in different settings, such as rural and urban, encompassing differing socioeconomic status, ability levels, cultural and linguistic diversity and program types and sponsorship.

(7) Student teaching. Complete a supervised student teaching experience of a total of at least 12 weeks in at least two different classrooms which include children with and without disabilities in two of three age levels: infant and toddler, preprimary, and primary.

13.26(4) Teacher—elementary classroom.

a. *Authorization.* The holder of this endorsement is authorized to teach in kindergarten and grades one through six.

b. *Program requirements.*

(1) Degree—baccalaureate, and

(2) Completion of an approved human relations component, and

(3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

(4) Highly qualified teacher (HQT) status. Applicants from non-Iowa institutions who have completed the requirements for this endorsement must verify their HQT status. The board shall determine the test and the minimum passing score for HQT status. Verification must be provided through one of the following:

1. Written verification from the department of education in the state in which the applicant completed the elementary teacher preparation program that the applicant has achieved HQT status in that state; or

2. Written verification from the department of education in the state where the applicant is currently teaching that the applicant has achieved HQT status in that state; or

3. Submission of the official test score report indicating the applicant has met the qualifying score for licensure in the state in which the applicant completed the elementary teacher preparation program; or

4. Obtaining the qualifying score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment of the federal highly qualified teacher legislation (June 2006). This option may also be utilized by applicants from outside the United States.

5. For applicants who have completed the requirements for one of the Iowa elementary endorsements, verification of HQT status by meeting the minimum score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment of the federal highly qualified teacher legislation (June 2006). This option may also be utilized by applicants who have been teaching outside the United States.

c. *Content.*

(1) Child growth and development with emphasis on the emotional, physical and mental characteristics of elementary age children, unless completed as part of the professional education core. See subrule 13.18(4).

(2) Methods and materials of teaching elementary language arts.

(3) Methods and materials of teaching elementary reading.

(4) Elementary curriculum (methods and materials).

(5) Methods and materials of teaching elementary mathematics.

- (6) Methods and materials of teaching elementary science.
- (7) Children's literature.
- (8) Methods and materials of teaching elementary social studies.
- (9) Methods and materials in two of the following areas:
 - 1. Methods and materials of teaching elementary health.
 - 2. Methods and materials of teaching elementary physical education.
 - 3. Methods and materials of teaching elementary art.
 - 4. Methods and materials of teaching elementary music.
- (10) Pre-student teaching field experience in at least two different grades.
- (11) A field of specialization in a single discipline or a formal interdisciplinary program of at least 12 semester hours.

13.26(5) Teacher—elementary classroom. Effective September 1, 2015, the following requirements apply to persons who wish to teach in the elementary classroom:

a. Authorization. The holder of this endorsement is authorized to teach in kindergarten and grades one through six.

b. Program requirements.

- (1) Degree—baccalaureate, and
- (2) Completion of an approved human relations component, and
- (3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).
- (4) Highly qualified teacher (HQT) status. Applicants from non-Iowa institutions who have completed the requirements for this endorsement must verify their HQT status. The board shall determine the test and the minimum passing score for HQT status. Verification must be provided through one of the following:

1. Written verification from the department of education in the state in which the applicant completed the elementary teacher preparation program that the applicant has achieved HQT status in that state; or

2. Written verification from the department of education in the state where the applicant is currently teaching that the applicant has achieved HQT status in that state; or

3. Submission of the official test score report indicating the applicant has met the qualifying score for licensure in the state in which the applicant completed the elementary teacher preparation program; or

4. Verification that the applicant has obtained the qualifying score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment in June 2006 of the federal highly qualified teacher provisions of the Individuals with Disabilities Education Act (IDEA). This option may also be utilized by applicants from outside the United States.

5. For applicants who have completed the requirements for one of the Iowa elementary endorsements, verification of HQT status by meeting the minimum score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment in June 2006 of the federal highly qualified teacher provisions of IDEA. This option may also be utilized by applicants who have been teaching outside the United States.

c. Content.

(1) Child growth and development with emphasis on the emotional, physical and mental characteristics of elementary age children, unless completed as part of the professional education core. See subrule 13.18(4).

(2) At least 9 semester hours in literacy which must include:

1. Content:

- Children's literature;
- Oral and written communication skills for the twenty-first century.

2. Methods:

- Assessment, diagnosis and evaluation of student learning in literacy;

- Integration of the language arts (to include reading, writing, speaking, viewing, and listening);
 - Integration of technology in teaching and student learning in literacy;
 - Current best-practice, research-based approaches of literacy instruction;
 - Classroom management as it applies to literacy methods;
 - Pre-student teaching clinical experience in teaching literacy.
- (3) At least 9 semester hours in mathematics which must include:
1. Content:
 - Numbers and operations;
 - Algebra/number patterns;
 - Geometry;
 - Measurement;
 - Data analysis/probability.
 2. Methods:
 - Assessment, diagnosis and evaluation of student learning in mathematics;
 - Current best-practice, research-based instructional methods in mathematical processes (to include problem solving; reasoning; communication; the ability to recognize, make and apply connections; integration of manipulatives; the ability to construct and to apply multiple connected representations; and the application of content to real world experiences);
 - Integration of technology in teaching and student learning in mathematics;
 - Classroom management as it applies to mathematics methods;
 - Pre-student teaching clinical experience in teaching mathematics.
- (4) At least 9 semester hours in social sciences which must include:
1. Content:
 - History;
 - Geography;
 - Political science/civic literacy;
 - Economics;
 - Behavioral sciences.
 2. Methods:
 - Current best-practice, research-based approaches to the teaching and learning of social sciences;
 - Integration of technology in teaching and student learning in social sciences;
 - Classroom management as it applies to social science methods.
- (5) At least 9 semester hours in science which must include:
1. Content:
 - Physical science;
 - Earth/space science;
 - Life science.
 2. Methods:
 - Current best-practice, research-based methods of inquiry-based teaching and learning of science;
 - Integration of technology in teaching and student learning in science;
 - Classroom management as it applies to science methods.
- (6) At least 3 semester hours to include all of the following:
1. Methods of teaching elementary physical education, health, and wellness;
 2. Methods of teaching visual arts for the elementary classroom;
 3. Methods of teaching performance arts for the elementary classroom.
- (7) Pre-student teaching field experience in at least two different grade levels to include one primary and one intermediate placement.
- (8) A field of specialization in a single discipline or a formal interdisciplinary program of at least 12 semester hours.

[ARC 8400B, IAB 12/16/09, effective 1/20/10; ARC 8401B, IAB 12/16/09, effective 1/20/10; ARC 8402B, IAB 12/16/09, effective 1/20/10; ARC 8607B, IAB 3/10/10, effective 4/14/10; ARC 0446C, IAB 11/14/12, effective 12/19/12]

282—13.27(272) Requirements for middle school endorsements.

13.27(1) Authorization. The holder of this endorsement is authorized to teach in the two concentration areas in which the specific requirements have been completed as well as in other subject areas in grades five through eight which are not the core content areas. The holder is not authorized to teach art, industrial arts, music, reading, physical education and special education.

13.27(2) Program requirements.

a. Be the holder of a currently valid Iowa teacher's license with either the general elementary endorsement or one of the subject matter secondary level endorsements set out in rule 282—13.28(272) or 282—subrules 17.1(1) and 17.1(3).

b. A minimum of 9 semester hours of required coursework in the following:

(1) Coursework in the growth and development of the middle school age child, specifically addressing the social, emotional, physical and cognitive characteristics and needs of middle school age children in addition to related studies completed as part of the professional education core in subrule 13.18(4).

(2) Coursework in middle school design, curriculum, instruction, and assessment including, but not limited to, interdisciplinary instruction, teaming, and differentiated instruction in addition to related studies completed as part of the professional education core in subrule 13.18(4).

(3) Coursework to prepare middle school teachers in literacy (reading, writing, listening and speaking) strategies for students in grades five through eight and in methods to include these strategies throughout the curriculum.

c. Thirty hours of middle school field experiences included in the coursework requirements listed in 13.27(2)“b”(1) to (3).

13.27(3) Concentration areas. To obtain this endorsement, the applicant must complete the coursework requirements in two of the following content areas:

a. Social studies concentration. The social studies concentration requires 12 semester hours of coursework in social studies to include coursework in United States history, world history, government and geography.

b. Mathematics concentration. The mathematics concentration requires 12 semester hours in mathematics to include coursework in algebra.

c. Science concentration. The science concentration requires 12 semester hours in science to include coursework in life science, earth science, and physical science.

d. Language arts concentration. The language arts concentration requires 12 semester hours in language arts to include coursework in composition, language usage, speech, young adult literature, and literature across cultures.

282—13.28(272) Minimum content requirements for teaching endorsements.

13.28(1) Agriculture. 5-12. Completion of 24 semester credit hours in agriculture and agriculture education to include:

a. Foundations of vocational and career education.

b. Planning and implementing courses and curriculum.

c. Methods and techniques of instruction to include evaluation of programs and students.

d. Coordination of cooperative education programs.

e. Coursework in each of the following areas and at least three semester credit hours in five of the following areas:

(1) Agribusiness systems.

(2) Power, structural, and technical systems.

(3) Plant systems.

(4) Animal systems.

(5) Natural resources systems.

(6) Environmental service systems.

(7) Food products and processing systems.

13.28(2) Art. K-8 or 5-12. Completion of 24 semester hours in art to include coursework in art history, studio art, and two- and three-dimensional art.

13.28(3) Business—all. 5-12. Completion of 30 semester hours in business to include 6 semester hours in accounting, 3 semester hours in business law to include contract law, 3 semester hours in computer and technical applications in business, 6 semester hours in marketing to include consumer studies, 3 semester hours in management, 6 semester hours in economics, and 3 semester hours in business communications to include formatting, language usage, and oral presentation. Coursework in entrepreneurship and in financial literacy may be a part of, or in addition to, the coursework listed above. Individuals who were licensed in Iowa prior to October 1, 1988, and were allowed to teach marketing without completing the endorsement requirements must complete the endorsement requirements by July 1, 2010, in order to teach or continue to teach marketing. A waiver provision is available through the board of educational examiners for individuals who have been successfully teaching marketing.

13.28(4) Driver education. 5-12. Completion of 9 semester hours in driver education to include coursework in accident prevention that includes drug and alcohol abuse; vehicle safety; and behind-the-wheel driving.

13.28(5) English/language arts.

a. K-8. Completion of 24 semester hours in English and language arts to include coursework in oral communication, written communication, language development, reading, children's literature, creative drama or oral interpretation of literature, and American literature.

b. 5-12. Completion of 24 semester hours in English to include coursework in oral communication, written communication, language development, reading, American literature, English literature and adolescent literature.

13.28(6) Language arts. 5-12. Completion of 40 semester hours in language arts to include coursework in the following areas:

a. Written communication.

(1) Develops a wide range of strategies and appropriately uses writing process elements (e.g., brainstorming, free-writing, first draft, group response, continued drafting, editing, and self-reflection) to communicate with different audiences for a variety of purposes.

(2) Develops knowledge of language structure (e.g., grammar), language conventions (e.g., spelling and punctuation), media techniques, figurative language and genre to create, critique, and discuss print and nonprint texts.

b. Oral communication.

(1) Understands oral language, listening, and nonverbal communication skills; knows how to analyze communication interactions; and applies related knowledge and skills to teach students to become competent communicators in varied contexts.

(2) Understands the communication process and related theories, knows the purpose and function of communication and understands how to apply this knowledge to teach students to make appropriate and effective choices as senders and receivers of messages in varied contexts.

c. Language development.

(1) Understands inclusive and appropriate language, patterns and dialects across cultures, ethnic groups, geographic regions and social roles.

(2) Develops strategies to improve competency in the English language arts and understanding of content across the curriculum for students whose first language is not English.

d. Young adult literature, American literature, and world literature.

(1) Reads, comprehends, and analyzes a wide range of texts to build an understanding of self as well as the cultures of the United States and the world in order to acquire new information, to respond to the needs and demands of society and the workplace, and for personal fulfillment. Among these texts are fiction and nonfiction, graphic novels, classic and contemporary works, young adult literature, and nonprint texts.

(2) Reads a wide range of literature from many periods in many genres to build an understanding of the many dimensions (e.g., philosophical, ethical, aesthetic) of human experience.

(3) Applies a wide range of strategies to comprehend, interpret, evaluate, and appreciate texts. Draws on prior experience, interactions with other readers and writers, knowledge of word meaning and of other texts, word identification strategies, and an understanding of textual features (e.g., sound-letter correspondence, sentence structure, context, graphics).

(4) Participates as a knowledgeable, reflective, creative, and critical member of a variety of literacy communities.

e. Creative voice.

(1) Understands the art of oral interpretation and how to provide opportunities for students to develop and apply oral interpretation skills in individual and group performances for a variety of audiences, purposes and occasions.

(2) Understands the basic skills of theatre production including acting, stage movement, and basic stage design.

f. Argumentation/debate.

(1) Understands concepts and principles of classical and contemporary rhetoric and is able to plan, prepare, organize, deliver and evaluate speeches and presentations.

(2) Understands argumentation and debate and how to provide students with opportunities to apply skills and strategies for argumentation and debate in a variety of formats and contexts.

g. Journalism.

(1) Understands ethical standards and major legal issues including First Amendment rights and responsibilities relevant to varied communication content. Utilizes strategies to teach students about the importance of freedom of speech in a democratic society and the rights and responsibilities of communicators.

(2) Understands the writing process as it relates to journalism (e.g., brainstorming, questioning, reporting, gathering and synthesizing information, writing, editing, and evaluating the final media product).

(3) Understands a variety of forms of journalistic writing (e.g., news, sports, features, opinion, Web-based) and the appropriate styles (e.g., Associated Press, multiple sources with attribution, punctuation) and additional forms unique to journalism (e.g., headlines, cutlines, and/or visual presentations).

h. Mass media production.

(1) Understands the role of the media in a democracy and the importance of preserving that role.

(2) Understands how to interpret and analyze various types of mass media messages in order for students to become critical consumers.

(3) Develops the technological skills needed to package media products effectively using various forms of journalistic design with a range of visual and auditory methods.

i. Reading strategies (if not completed as part of the professional education core requirements).

(1) Uses a variety of skills and strategies to comprehend and interpret complex fiction, nonfiction and informational text.

(2) Reads for a variety of purposes and across content areas.

13.28(7) Foreign language. K-8 and 5-12. Completion of 24 semester hours in each foreign language for which endorsement is sought.

13.28(8) Health. K-8 and 5-12. Completion of 24 semester hours in health to include coursework in public or community health, personal wellness, substance abuse, family life education, mental/emotional health, and human nutrition. A current certificate of CPR training is required in addition to the coursework requirements.

For holders of physical education or family and consumer science endorsements, completion of 18 credit hours in health to include coursework in public or community health, personal wellness, substance abuse, family life education, mental/emotional health, and human nutrition. A current certificate of CPR training is required in addition to the coursework requirements.

13.28(9) Family and consumer sciences—general. 5-12. Completion of 24 semester hours in family and consumer sciences to include coursework in lifespan development, parenting and child development education, family studies, consumer resource management, textiles or apparel design and merchandising,

housing, foods and nutrition, and foundations of career and technical education as related to family and consumer sciences.

13.28(10) *Industrial technology.* 5-12. Completion of 24 semester hours in industrial technology to include coursework in manufacturing, construction, energy and power, graphic communications and transportation. The coursework is to include at least 6 semester hours in three different areas.

13.28(11) *Journalism.* 5-12. Completion of 15 semester hours in journalism to include coursework in writing, editing, production and visual communications.

13.28(12) *Mathematics.*

a. K-8. Completion of 24 semester hours in mathematics to include coursework in algebra, geometry, number theory, measurement, computer programming, and probability and statistics.

b. 5-12.

(1) Completion of 24 semester hours in mathematics to include a linear algebra or an abstract (modern) algebra course, a geometry course, a two-course sequence in calculus, a computer programming course, a probability and statistics course, and coursework in discrete mathematics.

(2) For holders of the physics 5-12 endorsement, completion of 17 semester hours in mathematics to include a geometry course, a two-course sequence in calculus, a probability and statistics course, and coursework in discrete mathematics.

(3) For holders of the all science 9-12 endorsement, completion of 17 semester hours in mathematics to include a geometry course, a two-course sequence in calculus, a probability and statistics course, and coursework in discrete mathematics.

c. 5-8 algebra for high school credit. For a 5-8 algebra for high school credit endorsement, hold either the K-8 mathematics or middle school mathematics endorsement and complete a college algebra or linear algebra class. This endorsement allows the holder to teach algebra to grades 5-8 for high school credit.

13.28(13) *Music.*

a. K-8. Completion of 24 semester hours in music to include coursework in music theory (at least two courses), music history, and applied music, and a methods course in each of the following: general, choral, and instrumental music.

b. 5-12. Completion of 24 semester hours in music to include coursework in music theory (at least two courses), music history (at least two courses), applied music, and conducting, and a methods course in each of the following: general, choral, and instrumental music.

13.28(14) *Physical education.*

a. K-8. Completion of 24 semester hours in physical education to include coursework in human anatomy, human physiology, movement education, adaptive physical education, personal wellness, human growth and development of children related to physical education, and first aid and emergency care. A current certificate of CPR training is required in addition to the coursework requirements.

b. 5-12. Completion of 24 semester hours in physical education to include coursework in human anatomy, kinesiology, human physiology, human growth and development related to maturational and motor learning, adaptive physical education, curriculum and administration of physical education, personal wellness, and first aid and emergency care. A current certificate of CPR training is required in addition to the coursework requirements.

13.28(15) *Reading.*

a. K-8 requirements. Completion of 24 semester hours in reading to include all of the following requirements:

(1) Foundations of reading. This requirement includes the following competencies:

1. The practitioner demonstrates knowledge of the psychological, sociocultural, and linguistic foundations of reading and writing processes and instruction.

2. The practitioner demonstrates knowledge of a range of research pertaining to reading, writing, and learning, including scientifically based reading research, and knowledge of histories of reading. The range of research encompasses research traditions from the fields of the social sciences and other paradigms appropriate for informing practice.

3. The practitioner demonstrates knowledge of the major components of reading, such as phonemic awareness, word identification, phonics, vocabulary, fluency, and comprehension, and effectively integrates curricular standards with student interests, motivation, and background knowledge.

(2) Reading in the content areas. This requirement includes the following competencies:

1. The practitioner demonstrates knowledge of text structure and the dimensions of content area vocabulary and comprehension, including literal, interpretive, critical, and evaluative.

2. The practitioner provides content area instruction in reading and writing that effectively uses a variety of research-based strategies and practices.

(3) Practicum. This requirement includes the following competencies:

1. The practitioner works with licensed professionals who observe, evaluate, and provide feedback on the practitioner's knowledge, dispositions, and performance of the teaching of reading and writing.

2. The practitioner effectively uses reading and writing strategies, materials, and assessments based upon appropriate reading and writing research and works with colleagues and families in the support of children's reading and writing development.

(4) Language development. This requirement includes the following competency: The practitioner uses knowledge of language development and acquisition of reading skills (birth through sixth grade), and the variations related to cultural and linguistic diversity to provide effective instruction in reading and writing.

(5) Oral communication. This requirement includes the following competencies:

1. The practitioner has knowledge of the unique needs and backgrounds of students with language differences and delays.

2. The practitioner uses effective strategies for facilitating the learning of Standard English by all learners.

(6) Written communication. This requirement includes the following competency: The practitioner uses knowledge of reading-writing-speaking connections; the writing process; the stages of spelling development; the different types of writing, such as narrative, expressive, persuasive, informational and descriptive; and the connections between oral and written language development to effectively teach writing as communication.

(7) Reading assessment, diagnosis and evaluation. This requirement includes the following competencies:

1. The practitioner uses knowledge of a variety of instruments, procedures, and practices that range from individual to group and from formal to informal to alternative for the identification of students' reading proficiencies and needs, for planning and revising instruction for all students, and for communicating the results of ongoing assessments to all stakeholders.

2. The practitioner demonstrates awareness of policies and procedures related to special programs, including Title I.

(8) Children's nonfiction and fiction. This requirement includes the following competency: The practitioner uses knowledge of children's literature for:

1. Modeling the reading and writing of varied genres, including fiction and nonfiction; technology- and media-based information; and nonprint materials;

2. Motivating through the use of texts at multiple levels, representing broad interests, and reflecting varied cultures, linguistic backgrounds, and perspectives; and

3. Matching text complexities to the proficiencies and needs of readers.

(9) Reading instructional strategies. This requirement includes the following competency: The practitioner uses knowledge of a range of research-based strategies and instructional technology for designing and delivering effective instruction across the curriculum, for grouping students, and for selecting materials appropriate for learners at various stages of reading and writing development and from varied cultural and linguistic backgrounds.

b. 5-12 requirements. Completion of 24 semester hours in reading to include all of the following requirements:

(1) Foundations of reading. This requirement includes the following competencies:

1. The practitioner demonstrates knowledge of the psychological, sociocultural, and linguistic foundations of reading and writing processes and instruction.

2. The practitioner demonstrates knowledge of a range of research pertaining to reading, writing, and learning, including scientifically based reading research, and knowledge of histories of reading. The range of research encompasses research traditions from the fields of the social sciences and other paradigms appropriate for informing practice.

3. The practitioner demonstrates knowledge of the major components of reading such as phonemic awareness, word identification, phonics, vocabulary, fluency, and comprehension, and integrates curricular standards with student interests, motivation, and background knowledge.

(2) Reading in the content areas. This requirement includes the following competencies:

1. The practitioner demonstrates knowledge of text structure and the dimensions of content area vocabulary and comprehension, including literal, interpretive, critical, and evaluative.

2. The practitioner provides content area instruction in reading and writing that effectively uses a variety of research-based strategies and practices.

(3) Practicum. This requirement includes the following competencies:

1. The practitioner works with licensed professionals who observe, evaluate, and provide feedback on the practitioner's knowledge, dispositions, and performance of the teaching of reading and writing.

2. The practitioner effectively uses reading and writing strategies, materials, and assessments based upon appropriate reading and writing research, and works with colleagues and families in the support of students' reading and writing development.

(4) Language development. This requirement includes the following competency: The practitioner uses knowledge of the relationship of language acquisition and language development with the acquisition and development of reading skills, and the variations related to cultural and linguistic diversity to provide effective instruction in reading and writing.

(5) Oral communication. This requirement includes the following competency: The practitioner demonstrates knowledge of the unique needs and backgrounds of students with language differences and uses effective strategies for facilitating the learning of Standard English by all learners.

(6) Written communication. This requirement includes the following competency: The practitioner uses knowledge of reading-writing-speaking connections to teach the skills and processes necessary for writing narrative, expressive, persuasive, informational, and descriptive texts, including text structures and mechanics such as grammar, usage, and spelling.

(7) Reading assessment, diagnosis and evaluation. This requirement includes the following competencies:

1. The practitioner uses knowledge of a variety of instruments, procedures, and practices that range from individual to group and from formal to informal to alternative for the identification of students' reading proficiencies and needs, for planning and revising instruction for all students, and for communicating the results of ongoing assessments to all stakeholders.

2. The practitioner demonstrates awareness of policies and procedures related to special programs.

(8) Adolescent or young adult nonfiction and fiction. This requirement includes the following competency: The practitioner uses knowledge of adolescent or young adult literature for:

1. Modeling the reading and writing of varied genres, including fiction and nonfiction; technology and media-based information; and nonprint materials;

2. Motivating through the use of texts at multiple levels, representing broad interests, and reflecting varied cultures, linguistic backgrounds and perspectives; and

3. Matching text complexities to the proficiencies and needs of readers.

(9) Reading instructional strategies. This requirement includes the following competency: The practitioner uses knowledge of a range of research-based strategies and instructional technology for designing and delivering instruction across the curriculum, for grouping students, and for selecting materials appropriate for learners at various stages of reading and writing development and from varied cultural and linguistic backgrounds.

13.28(16) Reading specialist. K-12. The applicant must have met the requirements for the standard license and a teaching endorsement, and present evidence of at least one year of experience which included the teaching of reading as a significant part of the responsibility.

a. Authorization. The holder of this endorsement is authorized to serve as a reading specialist in kindergarten and grades one through twelve.

b. Program requirements. Degree—master's.

c. Content. Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. This sequence is to be at least 27 semester hours to include the following:

- (1) Educational psychology/human growth and development.
- (2) Educational measurement and evaluation.
- (3) Foundations of reading.
- (4) Diagnosis of reading problems.
- (5) Remedial reading.
- (6) Psychology of reading.
- (7) Language learning and reading disabilities.
- (8) Practicum in reading.
- (9) Administration and supervision of reading programs at the elementary and secondary levels.

13.28(17) Science.

a. Science—basic. K-8.

(1) Required coursework. Completion of at least 24 semester hours in science to include 12 hours in physical sciences, 6 hours in biology, and 6 hours in earth/space sciences.

(2) Pedagogy competencies.

1. Understand the nature of scientific inquiry, its central role in science, and how to use the skills and processes of scientific inquiry.

2. Understand the fundamental facts and concepts in major science disciplines.

3. Be able to make conceptual connections within and across science disciplines, as well as to mathematics, technology, and other school subjects.

4. Be able to use scientific understanding when dealing with personal and societal issues.

b. Biological science. 5-12. Completion of 24 semester hours in biological science or 30 semester hours in the broad area of science to include 15 semester hours in biological science.

c. Chemistry. 5-12. Completion of 24 semester hours in chemistry or 30 semester hours in the broad area of science to include 15 semester hours in chemistry.

d. Earth science. 5-12. Completion of 24 semester hours in earth science or 30 semester hours in the broad area of science to include 15 semester hours in earth science.

e. Basic science. 5-12. Completion of 24 semester hours of credit in science to include the following:

(1) Six semester hours of credit in earth and space science to include the following essential concepts and skills:

1. Understand and apply knowledge of energy in the earth system.

2. Understand and apply knowledge of geochemical cycles.

(2) Six semester hours of credit in life science/biological science to include the following essential concepts and skills:

1. Understand and apply knowledge of the cell.

2. Understand and apply knowledge of the molecular basis of heredity.

3. Understand and apply knowledge of the interdependence of organisms.

4. Understand and apply knowledge of matter, energy, and organization in living systems.

5. Understand and apply knowledge of the behavior of organisms.

(3) Six semester hours of credit in physics/physical science to include the following essential concepts and skills:

1. Understand and apply knowledge of the structure of atoms.

2. Understand and apply knowledge of the structure and properties of matter.

3. Understand and apply knowledge of motions and forces.
 4. Understand and apply knowledge of interactions of energy and matter.
 - (4) Six semester hours of credit in chemistry to include the following essential concepts and skills:
 1. Understand and apply knowledge of chemical reactions.
 2. Be able to design and conduct scientific investigations.
 - f. *Physical science.* Rescinded IAB 11/14/12, effective 12/19/12.
 - g. *Physics.*
 - (1) 5-12. Completion of 24 semester hours in physics or 30 semester hours in the broad area of science to include 15 semester hours in physics.
 - (2) For holders of the mathematics 5-12 endorsement, completion of:
 1. 12 credits of physics to include coursework in mechanics, electricity, and magnetism; and
 2. A methods class that includes inquiry-based instruction, resource management, and laboratory safety.
 - (3) For holders of the chemistry 5-12 endorsement, completion of 12 credits of physics to include coursework in mechanics, electricity, and magnetism.
 - h. *All science I.* Rescinded IAB 11/14/12, effective 12/19/12.
 - i. *All science. 5-12.*
 - (1) Completion of 36 semester hours of credit in science to include the following:
 1. Nine semester hours of credit in earth and space science to include the following essential concepts and skills:
 - Understand and apply knowledge of energy in the earth system.
 - Understand and apply knowledge of geochemical cycles.
 - Understand and apply knowledge of the origin and evolution of the earth system.
 - Understand and apply knowledge of the origin and evolution of the universe.
 2. Nine semester hours of credit in life science/biological science to include the following essential concepts and skills:
 - Understand and apply knowledge of the cell.
 - Understand and apply knowledge of the molecular basis of heredity.
 - Understand and apply knowledge of the interdependence of organisms.
 - Understand and apply knowledge of matter, energy, and organization in living systems.
 - Understand and apply knowledge of the behavior of organisms.
 - Understand and apply knowledge of biological evolution.
 3. Nine semester hours of credit in physics/physical science to include the following essential concepts and skills:
 - Understand and apply knowledge of the structure of atoms.
 - Understand and apply knowledge of the structure and properties of matter.
 - Understand and apply knowledge of motions and forces.
 - Understand and apply knowledge of interactions of energy and matter.
 - Understand and apply knowledge of conservation of energy and increase in disorder.
 4. Nine semester hours of credit in chemistry to include the following essential concepts and skills:
 - Understand and apply knowledge of chemical reactions.
 - Be able to design and conduct scientific investigations.
 - (2) Pedagogy competencies.
 1. Understand the nature of scientific inquiry, its central role in science, and how to use the skills and processes of scientific inquiry.
 2. Understand the fundamental facts and concepts in major science disciplines.
 3. Be able to make conceptual connections within and across science disciplines, as well as to mathematics, technology, and other school subjects.
 4. Be able to use scientific understanding when dealing with personal and societal issues.
- 13.28(18) Social sciences.**
- a. *American government. 5-12.* Completion of 24 semester hours in American government or 30 semester hours in the broad area of social sciences to include 15 semester hours in American government.

b. American history. 5-12. Completion of 24 semester hours in American history or 30 semester hours in the broad area of social sciences to include 15 semester hours in American history.

c. Anthropology. 5-12. Completion of 24 semester hours in anthropology or 30 semester hours in the broad area of social sciences to include 15 semester hours in anthropology.

d. Economics. 5-12. Completion of 24 semester hours in economics or 30 semester hours in the broad area of social sciences to include 15 semester hours in economics, or 30 semester hours in the broad area of business to include 15 semester hours in economics.

e. Geography. 5-12. Completion of 24 semester hours in geography or 30 semester hours in the broad area of social sciences to include 15 semester hours in geography.

f. History. K-8. Completion of 24 semester hours in history to include at least 9 semester hours in American history and 9 semester hours in world history.

g. Psychology. 5-12. Completion of 24 semester hours in psychology or 30 semester hours in the broad area of social sciences to include 15 semester hours in psychology.

h. Social studies. K-8. Completion of 24 semester hours in social studies, to include coursework from at least three of these areas: history, sociology, economics, American government, psychology and geography.

i. Sociology. 5-12. Completion of 24 semester hours in sociology or 30 semester hours in the broad area of social sciences to include 15 semester hours in sociology.

j. World history. 5-12. Completion of 24 semester hours in world history or 30 semester hours in the broad area of social sciences to include 15 semester hours in world history.

k. All social sciences. 5-12. Completion of 51 semester hours in the social sciences to include 9 semester hours in each of American and world history, 9 semester hours in government, 6 semester hours in sociology, 6 semester hours in psychology other than educational psychology, 6 semester hours in geography, and 6 semester hours in economics.

13.28(19) *Speech communication/theatre.*

a. K-8. Completion of 20 semester hours in speech communication/theatre to include coursework in speech communication, creative drama or theatre, and oral interpretation.

b. 5-12. Completion of 24 semester hours in speech communication/theatre to include coursework in speech communication, oral interpretation, creative drama or theatre, argumentation and debate, and mass media communication.

13.28(20) *English as a second language (ESL).* K-12.

a. Authorization. The holder of this endorsement is authorized to teach English as a second language in kindergarten and grades one through twelve.

b. Program requirements.

- (1) Degree—baccalaureate, and
- (2) Completion of an approved human relations program, and
- (3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

c. Content. Completion of 18 semester hours of coursework in English as a second language to include the following:

- (1) Knowledge of pedagogy to include the following:
 1. Methods and curriculum to include the following:
 - Bilingual and ESL methods.
 - Literacy in native and second language.
 - Methods for subject matter content.
 - Adaptation and modification of curriculum.
 2. Assessment to include language proficiency and academic content.
- (2) Knowledge of linguistics to include the following:
 1. Psycholinguistics and sociolinguistics.
 2. Language acquisition and proficiency to include the following:
 - Knowledge of first and second language proficiency.
 - Knowledge of first and second language acquisition.
 - Language to include structure and grammar of English.

(3) Knowledge of cultural and linguistic diversity to include the following:

1. History.
2. Theory, models, and research.
3. Policy and legislation.

(4) Current issues with transient populations.

d. Other. Individuals who were licensed in Iowa prior to October 1, 1988, and were allowed to teach English as a second language without completing the endorsement requirements must complete the endorsement requirements by July 1, 2012, in order to teach or continue to teach English as a second language. A waiver provision is available through the board of educational examiners for individuals who have been successfully teaching English as a second language.

13.28(21) Elementary school teacher librarian.

a. Authorization. The holder of this endorsement is authorized to serve as a teacher librarian in kindergarten and grades one through eight.

b. Program requirements.

- (1) Degree—baccalaureate.
- (2) Completion of an approved human relations program.
- (3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

c. Content—prior to September 1, 2012. The following requirements apply for endorsements issued prior to September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

- (1) Knowledge of materials and literature in all formats for elementary children.
- (2) Selection, utilization and evaluation of library resources and equipment.
- (3) Design and production of instructional materials.
- (4) Acquisition, cataloging and classification of library materials.
- (5) Information literacy, reference services and networking.
- (6) Planning, evaluation and administration of school library programs.
- (7) Practicum in an elementary school media center/library.

d. Content—effective on and after September 1, 2012. The following requirements apply for endorsements issued on and after September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

(1) Literacy and reading. This requirement includes the following competencies:

1. Practitioners collaborate with other teachers to integrate developmentally appropriate literature in multiple formats to support literacy in children.

2. Practitioners demonstrate knowledge of resources and strategies to foster leisure reading and model personal enjoyment of reading among children, based on familiarity with selection tools and current trends in literature for children.

(2) Information and knowledge. This requirement includes the following competencies:

1. Practitioners teach multiple strategies to locate, analyze, evaluate, and ethically use information in the context of inquiry-based learning.

2. Practitioners advocate for flexible and open access to library resources, both physical and virtual.

3. Practitioners uphold and promote the legal and ethical codes of their profession, including privacy, confidentiality, freedom and equity of access to information.

4. Practitioners use skills and knowledge to assess reference sources, services, and tools in order to mediate between information needs and resources to assist learners in determining what they need.

5. Practitioners model and facilitate authentic learning with current and emerging digital tools for locating, analyzing, evaluating and ethically using information resources to support research, learning, creating, and communicating in a digital society.

6. Practitioners demonstrate knowledge of creative and innovative uses of technologies to engage students and facilitate higher-level thinking.

7. Practitioners develop an articulated information literacy curriculum grounded in research related to the information search process.

(3) Program administration and leadership. This requirement includes the following competencies:

1. Practitioners evaluate and select print, nonprint, and digital resources using professional selection tools and evaluation criteria to develop and manage a quality collection designed to meet the diverse curricular, personal, and professional needs of the educational community.

2. Practitioners demonstrate knowledge necessary to organize the library collections according to current standard library cataloging and classification principles.

3. Practitioners develop policies and procedures to support ethical use of information, intellectual freedom, selection and reconsideration of library materials, and the privacy of users.

4. Practitioners develop strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program.

(4) Practicum. This requirement includes the following competencies:

1. Practitioners apply knowledge of learning styles, stages of human growth and development, and cultural influences of learning at the elementary level.

2. Practitioners implement the principles of effective teaching and learning that contribute to an active, inquiry-based approach to learning in a digital environment at the elementary level.

3. Practitioners understand the teacher librarian role in curriculum development and the school improvement process at the elementary level.

4. Practitioners collaborate to integrate information literacy and emerging technologies into content area curricula at the elementary level.

13.28(22) Secondary school teacher librarian.

a. Authorization. The holder of this endorsement is authorized to serve as a teacher librarian in grades five through twelve.

b. Program requirements.

- (1) Degree—baccalaureate.

- (2) Completion of an approved human relations program.

- (3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

c. Content—prior to September 1, 2012. The following requirements apply for endorsements issued prior to September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

- (1) Knowledge of materials and literature in all formats for adolescents.

- (2) Selection, utilization and evaluation of library resources and equipment.

- (3) Design and production of instructional materials.

- (4) Acquisition, cataloging and classification of library materials.

- (5) Information literacy, reference services and networking.

- (6) Planning, evaluation and administration of school library programs.

- (7) Practicum in a secondary school media center/library.

d. Content—effective on and after September 1, 2012. The following requirements apply for endorsements issued on and after September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

- (1) Literacy and reading. This requirement includes the following competencies:

1. Practitioners collaborate with other teachers to integrate developmentally appropriate literature in multiple formats to support literacy in young adults.

2. Practitioners demonstrate knowledge of resources and strategies to foster leisure reading and model personal enjoyment of reading among young adults, based on familiarity with selection tools and current trends in literature for young adults.

- (2) Information and knowledge. This requirement includes the following competencies:

1. Practitioners teach multiple strategies to locate, analyze, evaluate, and ethically use information in the context of inquiry-based learning.

2. Practitioners advocate for flexible and open access to library resources, both physical and virtual.

3. Practitioners uphold and promote the legal and ethical codes of their profession, including privacy, confidentiality, freedom and equity of access to information.

4. Practitioners use skills and knowledge to assess reference sources, services, and tools in order to mediate between information needs and resources to assist learners in determining what they need.

5. Practitioners model and facilitate authentic learning with current and emerging digital tools for locating, analyzing, evaluating and ethically using information resources to support research, learning, creating, and communicating in a digital society.

6. Practitioners demonstrate knowledge of creative and innovative uses of technologies to engage students and facilitate higher-level thinking.

7. Practitioners develop an articulated information literacy curriculum grounded in research related to the information search process.

(3) Program administration and leadership. This requirement includes the following competencies:

1. Practitioners evaluate and select print, nonprint, and digital resources using professional selection tools and evaluation criteria to develop and manage a quality collection designed to meet the diverse curricular, personal, and professional needs of the educational community.

2. Practitioners demonstrate knowledge necessary to organize the library collections according to current standard library cataloging and classification principles.

3. Practitioners develop policies and procedures to support ethical use of information, intellectual freedom, selection and reconsideration of library materials, and the privacy of users.

4. Practitioners develop strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program.

(4) Practicum. This requirement includes the following competencies:

1. Practitioners apply knowledge of learning styles, stages of human growth and development, and cultural influences of learning at the secondary level.

2. Practitioners implement the principles of effective teaching and learning that contribute to an active, inquiry-based approach to learning in a digital environment at the secondary level.

3. Practitioners understand the teacher librarian role in curriculum development and the school improvement process at the secondary level.

4. Practitioners collaborate to integrate information literacy and emerging technologies into content area curricula at the secondary level.

13.28(23) School teacher librarian. PK-12.

a. Authorization. The holder of this endorsement is authorized to serve as a teacher librarian in prekindergarten through grade twelve. The applicant must be the holder of or eligible for the initial license.

b. Program requirements. Degree—master's.

c. Content—prior to September 1, 2012. The following requirements apply for endorsements issued prior to September 1, 2012. Completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements. This sequence is to be at least 30 semester hours in school library coursework, to include the following:

(1) Planning, evaluation and administration of school library programs.

(2) Curriculum development and teaching and learning strategies.

(3) Instructional development and communication theory.

(4) Selection, evaluation and utilization of library resources and equipment.

(5) Acquisition, cataloging and classification of library materials.

(6) Design and production of instructional materials.

(7) Methods for instruction and integration of information literacy skills into the school curriculum.

(8) Information literacy, reference services and networking.

(9) Knowledge of materials and literature in all formats for elementary children and adolescents.

(10) Reading, listening and viewing guidance.

(11) Utilization and application of computer technology.

(12) Practicum at both the elementary and secondary levels.

(13) Research in library and information science.

d. Content—effective on and after September 1, 2012. The following requirements apply for endorsements issued on and after September 1, 2012. Completion of a sequence of courses and

experiences which may have been part of, or in addition to, the degree requirements. This sequence is to be at least 30 semester hours in school library coursework, to include the following:

(1) Literacy and reading. This requirement includes the following competencies:

1. Practitioners collaborate with other teachers to integrate developmentally appropriate literature in multiple formats to support literacy for youth of all ages.

2. Practitioners demonstrate knowledge of resources and strategies to foster leisure reading and model personal enjoyment of reading, based on familiarity with selection tools and current trends in literature for youth of all ages.

3. Practitioners understand how to develop a collection of reading and informational materials in print and digital formats that supports the diverse developmental, cultural, social and linguistic needs of all learners and their communities.

4. Practitioners model and teach reading comprehension strategies to create meaning from text for youth of all ages.

(2) Information and knowledge. This requirement includes the following competencies:

1. Practitioners teach multiple strategies to locate, analyze, evaluate, and ethically use information in the context of inquiry-based learning.

2. Practitioners advocate for flexible and open access to library resources, both physical and virtual.

3. Practitioners uphold and promote the legal and ethical codes of their profession, including privacy, confidentiality, freedom and equity of access to information.

4. Practitioners use skills and knowledge to assess reference sources, services, and tools in order to mediate between information needs and resources to assist learners in determining what they need.

5. Practitioners model and facilitate authentic learning with current and emerging digital tools for locating, analyzing, evaluating and ethically using information resources to support research, learning, creating, and communicating in a digital society.

6. Practitioners demonstrate knowledge of creative and innovative uses of technologies to engage students and facilitate higher-level thinking.

7. Practitioners develop an articulated information literacy curriculum grounded in research related to the information search process.

8. Practitioners understand the process of collecting, interpreting, and using data to develop new knowledge to improve the school library program.

9. Practitioners employ the methods of research in library and information science.

(3) Program administration and leadership. This requirement includes the following competencies:

1. Practitioners evaluate and select print, nonprint, and digital resources using professional selection tools and evaluation criteria to develop and manage a quality collection designed to meet the diverse curricular, personal, and professional needs of the educational community.

2. Practitioners demonstrate knowledge necessary to organize the library collections according to current standard library cataloging and classification principles.

3. Practitioners develop policies and procedures to support ethical use of information, intellectual freedom, selection and reconsideration of library materials, and the privacy of users of all ages.

4. Practitioners develop strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program.

5. Practitioners demonstrate knowledge of best practices related to planning, budgeting (including alternative funding), organizing, and evaluating human and information resources and facilities to ensure equitable access.

6. Practitioners understand strategic planning to ensure that the school library program addresses the needs of diverse communities.

7. Practitioners advocate for school library and information programs, resources, and services among stakeholders.

8. Practitioners promote initiatives and partnerships to further the mission and goals of the school library program.

(4) Practicum. This requirement includes the following competencies:

1. Practitioners apply knowledge of learning styles, stages of human growth and development, and cultural influences of learning at the elementary and secondary levels.
2. Practitioners implement the principles of effective teaching and learning that contribute to an active, inquiry-based approach to learning in a digital environment at the elementary and secondary levels.
3. Practitioners understand the teacher librarian role in curriculum development and the school improvement process at the elementary and secondary levels.
4. Practitioners collaborate to integrate information literacy and emerging technologies into content area curricula.

13.28(24) Talented and gifted teacher.

a. Authorization. The holder of this endorsement is authorized to serve as a teacher or a coordinator of programs for the talented and gifted from the prekindergarten level through grade twelve. This authorization does not permit general classroom teaching at any level except that level or area for which the holder is eligible or holds the specific endorsement.

b. Program requirements—content. Completion of 12 undergraduate or graduate semester hours of coursework in the area of the talented and gifted to include the following:

- (1) Psychology of the gifted.
 1. Social needs.
 2. Emotional needs.
- (2) Programming for the gifted.
 1. Prekindergarten-12 identification.
 2. Differentiation strategies.
 3. Collaborative teaching skills.
 4. Program goals and performance measures.
 5. Program evaluation.
- (3) Practicum experience in gifted programs.

NOTE: Teachers in specific subject areas will not be required to hold this endorsement if they teach gifted students in their respective endorsement areas.

c. Other. Individuals who were licensed in Iowa prior to August 31, 1995, and were allowed to teach talented and gifted classes without completing the endorsement requirements must complete the endorsement requirements by July 1, 2012, in order to teach or continue to teach talented and gifted classes. A waiver provision is provided through the board of educational examiners for individuals who have been successfully teaching students who are talented and gifted.

13.28(25) American Sign Language endorsement.

a. Authorization. The holder of this endorsement is authorized to teach American Sign Language in kindergarten and grades one through twelve.

b. Program requirements.

- (1) Degree—baccalaureate.
- (2) Completion of an approved human relations program.
- (3) Completion of the professional education core.

c. Content. Completion of 18 semester hours of coursework in American Sign Language to include the following:

- (1) Second language acquisition.
- (2) Sociology of the deaf community.
- (3) Linguistic structure of American Sign Language.
- (4) Language teaching methodology specific to American Sign Language.
- (5) Teaching the culture of deaf people.
- (6) Assessment of students in an American Sign Language program.

d. Other. Be the holder of or be eligible for one other teaching endorsement listed in rules 282—13.26(272) and 282—13.27(272) and this rule.

13.28(26) Elementary professional school counselor.

a. Authorization. The holder of this endorsement is authorized to serve as a professional school counselor in kindergarten and grades one through eight.

b. Program requirements. Master's degree from an accredited institution of higher education.

c. Content. Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include the following:

(1) Nature and needs of individuals at all developmental levels.

1. Develop strategies for facilitating development through the transition from childhood to adolescence and from adolescence to young adulthood.

2. Apply knowledge of learning and personality development to assist students in developing their full potential.

(2) Social and cultural foundations.

1. Demonstrate awareness of and sensitivity to the unique social, cultural, and economic circumstances of students and their racial/ethnic, gender, age, physical, and learning differences.

2. Demonstrate sensitivity to the nature and the functioning of the student within the family, school and community contexts.

3. Demonstrate the counseling and consultation skills needed to facilitate informed and appropriate action in response to the needs of students.

(3) Fostering of relationships.

1. Employ effective counseling and consultation skills with students, parents, colleagues, administrators, and others.

2. Communicate effectively with parents, colleagues, students and administrators.

3. Counsel students in the areas of personal, social, academic, and career development.

4. Assist families in helping their children address the personal, social, and emotional concerns and problems that may impede educational progress.

5. Implement developmentally appropriate counseling interventions with children and adolescents.

6. Demonstrate the ability to negotiate and move individuals and groups toward consensus or conflict resolution or both.

7. Refer students for specialized help when appropriate.

8. Value the well-being of the students as paramount in the counseling relationship.

(4) Group work.

1. Implement developmentally appropriate interventions involving group dynamics, counseling theories, group counseling methods and skills, and other group work approaches.

2. Apply knowledge of group counseling in implementing appropriate group processes for elementary, middle school, and secondary students.

(5) Career development, education, and postsecondary planning.

1. Assist students in the assessment of their individual strengths, weaknesses, and differences, including those that relate to academic achievement and future plans.

2. Apply knowledge of career assessment and career choice programs.

3. Implement occupational and educational placement, follow-up and evaluation.

4. Develop a counseling network and provide resources for use by students in personalizing the exploration of postsecondary educational opportunities.

(6) Assessment and evaluation.

1. Demonstrate individual and group approaches to assessment and evaluation.

2. Demonstrate an understanding of the proper administration and uses of standardized tests.

3. Apply knowledge of test administration, scoring, and measurement concerns.

4. Apply evaluation procedures for monitoring student achievement.

5. Apply assessment information in program design and program modifications to address students' needs.

6. Apply knowledge of legal and ethical issues related to assessment and student records.

(7) Professional orientation.

1. Apply knowledge of history, roles, organizational structures, ethics, standards, and credentialing.

2. Maintain a high level of professional knowledge and skills.

3. Apply knowledge of professional and ethical standards to the practice of school counseling.

4. Articulate the professional school counselor role to school personnel, parents, community, and students.

- (8) School counseling skills.

1. Design, implement, and evaluate a comprehensive, developmental school counseling program.

2. Implement and evaluate specific strategies designed to meet program goals and objectives.

3. Consult and coordinate efforts with resource persons, specialists, businesses, and agencies outside the school to promote program objectives.

4. Provide information appropriate to the particular educational transition and assist students in understanding the relationship that their curricular experiences and academic achievements will have on subsequent educational opportunities.

5. Assist parents and families in order to provide a supportive environment in which students can become effective learners and achieve success in pursuit of appropriate educational goals.

6. Provide training, orientation, and consultation assistance to faculty, administrators, staff, and school officials to assist them in responding to the social, emotional, and educational development of all students.

7. Collaborate with teachers, administrators, and other educators in ensuring that appropriate educational experiences are provided that allow all students to achieve success.

8. Assist in the process of identifying and addressing the needs of the exceptional student.

9. Apply knowledge of legal and ethical issues related to child abuse and mandatory reporting.

10. Advocate for the educational needs of students and work to ensure that these needs are addressed at every level of the school experience.

11. Promote use of school counseling and educational and career planning activities and programs involving the total school community to provide a positive school climate.

- (9) Classroom management.

1. Apply effective classroom management strategies as demonstrated in delivery of classroom and large group school counseling curriculum.

2. Consult with teachers and parents about effective classroom management and behavior management strategies.

- (10) Curriculum.

1. Write classroom lessons including objectives, learning activities, and discussion questions.

2. Utilize various methods of evaluating what students have learned in classroom lessons.

3. Demonstrate competency in conducting classroom and other large group activities, utilizing an effective lesson plan design, engaging students in the learning process, and employing age-appropriate classroom management strategies.

4. Design a classroom unit of developmentally appropriate learning experiences.

5. Demonstrate knowledge in writing standards and benchmarks for curriculum.

- (11) Learning theory.

1. Identify and consult with teachers about how to create a positive learning environment utilizing such factors as effective classroom management strategies, building a sense of community in the classroom, and cooperative learning experiences.

2. Identify and consult with teachers regarding teaching strategies designed to motivate students using small group learning activities, experiential learning activities, student mentoring programs, and shared decision-making opportunities.

3. Demonstrate knowledge of child and adolescent development and identify developmentally appropriate teaching and learning strategies.

- (12) Teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with elementary and middle school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the

supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group counseling, developmental classroom guidance, and consultation.

13.28(27) Secondary professional school counselor.

a. Authorization. The holder of this endorsement is authorized to serve as a professional school counselor in grades five through twelve.

b. Program requirements. Master's degree from an accredited institution of higher education.

c. Content. Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include:

(1) The competencies listed in subparagraphs 13.28(26) "c"(1) to (11).

(2) The teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with middle and secondary school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group work, developmental classroom guidance, and consultation.

13.28(28) School nurse endorsement. The school nurse endorsement does not authorize general classroom teaching, although it does authorize the holder to teach health at all grade levels. Alternatively, a nurse may obtain a statement of professional recognition (SPR) from the board of educational examiners, in accordance with the provisions set out in 282—Chapter 16, Statements of Professional Recognition (SPR).

a. Authorization. The holder of this endorsement is authorized to provide service as a school nurse at the prekindergarten and kindergarten levels and in grades one through twelve.

b. Program requirements.

(1) Degree—baccalaureate, and

(2) Completion of an approved human relations program, and

(3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

c. Content.

(1) Organization and administration of school nurse services including the appraisal of the health needs of children and youth.

(2) School-community relationships and resources/coordination of school and community resources to serve the health needs of children and youth.

(3) Knowledge and understanding of the health needs of exceptional children.

(4) Health education.

d. Other. Hold a license as a registered nurse issued by the Iowa board of nursing.

13.28(29) Athletic coach. K-12. An applicant for the coaching endorsement must hold a teacher's license with one of the teaching endorsements.

a. Authorization. The holder of this endorsement may serve as a head coach or an assistant coach in kindergarten and grades one through twelve.

b. Program requirements.

(1) One semester hour college or university course in the structure and function of the human body in relation to physical activity, and

(2) One semester hour college or university course in human growth and development of children and youth as related to physical activity, and

(3) Two semester hour college or university course in athletic conditioning, care and prevention of injuries and first aid as related to physical activity, and

(4) One semester hour college or university course in the theory of coaching interscholastic athletics, and

(5) Successful completion of the concussion training approved by the Iowa High School Athletic Association or Iowa Girls High School Athletic Union.

13.28(30) Content specialist endorsement. The applicant must have met the requirements for the standard license and a teaching endorsement.

a. Authorization. The holder of this endorsement is authorized to serve as a content specialist in kindergarten and grades one through twelve in the specific content listed on the authorization.

b. Requirements.

(1) Hold a master's degree in the content area or complete 30 semester hours of college course work in the content area.

(2) Complete 15 semester hours of credit in professional development in three or more of the following areas:

1. Using research-based content teaching strategies;
2. Integrating appropriate technology into the learning experiences for the specific content;
3. Engaging the learner in the content through knowledge of learner needs and interests;
4. Using reflective thinking to solve problems in the content area;
5. Making data-driven decisions in the content area;
6. Utilizing project-based learning in the content area;
7. Developing critical thinking skills in the content area;
8. Forming partnerships to collaborate with content experts within the community;
9. Relating content with other content areas;
10. Facilitating content learning in large and small teams;
11. Implementing response to intervention (RTI) to close achievement gaps in the content area.

(3) Complete an internship, externship, or professional experience for a minimum of 90 contact hours in the content area.

13.28(31) Engineering. 5-12.

a. Completion of 24 semester hours in engineering coursework.

b. Methods and strategies of STEM instruction or methods of teaching science or mathematics.

13.28(32) STEM.

a. K-8.

(1) Authorization. The holder of this endorsement is authorized to teach science, mathematics, and integrated STEM courses in kindergarten through grade eight.

(2) Program requirements. Be the holder of the teacher—elementary classroom endorsement.

(3) Content.

1. Completion of a minimum of 12 semester hours of college-level science.

2. Completion of a minimum of 12 semester hours of college-level math (or the completion of Calculus I) to include coursework in computer programming.

3. Completion of a minimum of 3 semester hours of coursework in content or pedagogy of engineering and technological design that includes engineering design processes or programming logic and problem-solving models and that may be met through either of the following:

- Engineering and technological design courses for education majors;
- Technology or engineering content coursework.

4. Completion of a minimum of 6 semester hours of required coursework in STEM curriculum and methods to include the following essential concepts and skills:

- Comparing and contrasting the nature and goals of each of the STEM disciplines;
- Promoting learning through purposeful, authentic, real-world connections;
- Integration of content and context of each of the STEM disciplines;
- Interdisciplinary/transdisciplinary approaches to teaching (including but not limited to problem-based learning and project-based learning);
- Curriculum and standards mapping;
- Engaging subject-matter experts (including but not limited to colleagues, parents, higher education faculty/students, business partners, and informal education agencies) in STEM experiences in and out of the classroom;
- Assessment of integrative learning approaches;
- Information literacy skills in STEM;
- Processes of science and scientific inquiry;
- Mathematical problem-solving models;

- Communicating to a variety of audiences;
 - Classroom management in project-based classrooms;
 - Instructional strategies for the inclusive classroom;
 - Computational thinking;
 - Mathematical and technological modeling.
5. Completion of a STEM field experience of a minimum of 30 contact hours that may be met through the following:
- Completing a STEM research experience;
 - Participating in a STEM internship at a STEM business or informal education organization; or
 - Leading a STEM extracurricular activity.
- b. 5-8.
- (1) Authorization. The holder of this endorsement is authorized to teach science, mathematics, and integrated STEM courses in grades five through eight.
- (2) Program requirements. Be the holder of a 5-12 science, mathematics, or industrial technology endorsement or 5-8 middle school mathematics or science endorsement.
- (3) Content.
1. Completion of a minimum of 12 semester hours of college-level science.
 2. Completion of a minimum of 12 semester hours of college-level math (or the completion of Calculus I) to include coursework in computer programming.
 3. Completion of a minimum of 3 semester hours of coursework in content or pedagogy of engineering and technological design that includes engineering design processes or programming logic and problem-solving models and that may be met through either of the following:
 - Engineering and technological design courses for education majors;
 - Technology or engineering content coursework.
 4. Completion of a minimum of 6 semester hours of required coursework in STEM curriculum and methods to include the following essential concepts and skills:
 - Comparing and contrasting the nature and goals of each of the STEM disciplines;
 - Promoting learning through purposeful, authentic, real-world connections;
 - Integration of content and context of each of the STEM disciplines;
 - Interdisciplinary/transdisciplinary approaches to teaching (including but not limited to problem-based learning and project-based learning);
 - Curriculum and standards mapping;
 - Engaging subject-matter experts (including but not limited to colleagues, parents, higher education faculty/students, business partners, and informal education agencies) in STEM experiences in and out of the classroom;
 - Assessment of integrative learning approaches;
 - Information literacy skills in STEM;
 - Processes of science and scientific inquiry;
 - Mathematical problem-solving models;
 - Communicating to a variety of audiences;
 - Classroom management in project-based classrooms;
 - Instructional strategies for the inclusive classroom;
 - Computational thinking;
 - Mathematical and technological modeling.
 5. Completion of a STEM field experience of a minimum of 30 contact hours that may be met through the following:
 - Completing a STEM research experience;
 - Participating in a STEM internship at a STEM business or informal education organization; or
 - Leading a STEM extracurricular activity.
- c. *Specialist K-12.*
- (1) Authorization. The holder of this endorsement is authorized to serve as a STEM specialist in kindergarten and grades one through twelve.

(2) Program requirements.

1. The applicant must have met the requirements for a standard Iowa teaching license and a teaching endorsement in mathematics, science, engineering, industrial technology, or agriculture.

2. The applicant must hold a master's degree from a regionally accredited institution. The master's degree must be in math, science, engineering or technology or another area with at least 12 hours of college-level science and at least 12 hours of college-level math (or completion of Calculus I) to include coursework in computer programming.

(3) Content.

1. Completion of a minimum of 3 semester hours of coursework in content or pedagogy of engineering and technological design that includes engineering design processes or programming logic and problem-solving models and that may be met through either of the following:

- Engineering and technological design courses for education majors;
- Technology or engineering content coursework.

2. Completion of 9 semester hours in professional development to include the following essential concepts and skills:

- STEM curriculum and methods:
 - Comparing and contrasting the nature and goals of each of the STEM disciplines;
 - Promoting learning through purposeful, authentic, real-world connections;
 - Integration of content and context of each of the STEM disciplines;
 - Interdisciplinary/transdisciplinary approaches to teaching (including but not limited to problem-based learning and project-based learning);
 - Curriculum/standards mapping;
 - Assessment of integrative learning approaches;
 - Information literacy skills in STEM;
 - Processes of science/scientific inquiry;
 - Mathematical problem-solving models;
 - Classroom management in project-based classrooms;
 - Instructional strategies for the inclusive classroom;
 - Computational thinking;
 - Mathematical and technological modeling.
- STEM experiential learning:
 - Engaging subject-matter experts (including but not limited to colleagues, parents, higher education faculty/students, business partners, and informal education agencies) in STEM experiences in and out of the classroom;
 - STEM research experiences;
 - STEM internship at a STEM business or informal education organization;
 - STEM extracurricular activity;
 - Communicating to a variety of audiences.
- Leadership in STEM:
 - STEM curriculum development and assessment;
 - Curriculum mapping;
 - Assessment of student engagement;
 - STEM across the curriculum;
 - Research on best practices in STEM;
 - STEM curriculum accessibility for all students.

3. Completion of an internship/externship professional experience or prior professional experience in STEM for a minimum of 90 contact hours.

[ARC 7986B, IAB 7/29/09, effective 9/2/09; ARC 8248B, IAB 11/4/09, effective 10/12/09; ARC 8403B, IAB 12/16/09, effective 1/20/10; ARC 9070B, IAB 9/8/10, effective 10/13/10; ARC 9071B, IAB 9/8/10, effective 10/13/10; ARC 9210B, IAB 11/3/10, effective 12/8/10; ARC 9211B, IAB 11/3/10, effective 12/8/10; ARC 9212B, IAB 11/3/10, effective 12/8/10; ARC 9838B, IAB 11/2/11, effective 12/7/11; ARC 9839B, IAB 11/2/11, effective 12/7/11; ARC 0448C, IAB 11/14/12, effective 12/19/12; ARC 0449C, IAB 11/14/12, effective 12/19/12; ARC 0866C, IAB 7/24/13, effective 8/28/13; ARC 0875C, IAB 7/24/13, effective 8/28/13; ARC 0986C, IAB 9/4/13, effective 10/9/13; ARC 1085C, IAB 10/16/13, effective 11/20/13; ARC 1171C, IAB 11/13/13, effective 12/18/13; ARC 1328C, IAB 2/19/14, effective 3/26/14; ARC 1327C, IAB 2/19/14, effective 3/26/14]

282—13.29(272) Adding, removing or reinstating a teaching endorsement.

13.29(1) Adding an endorsement. After the issuance of a teaching license, an individual may add other endorsements to that license upon proper application, provided current requirements for that endorsement have been met. An updated license with expiration date unchanged from the original or renewed license will be prepared.

a. Options. To add an endorsement, the applicant must follow one of these options:

(1) Option 1. Receive the Iowa teacher education institution's recommendation that the current approved program requirements for the endorsement have been met.

(2) Option 2. Receive verification from the Iowa teacher education institution that the minimum state requirements for the endorsement have been met in lieu of the institution's approved program.

(3) Option 3. Receive verification from a state-approved and regionally accredited institution that the Iowa minimum requirements for the endorsement have been met.

(4) Option 4. Apply for a review of the transcripts by the board of educational examiners' staff to determine if all Iowa requirements have been met. The applicant must submit documentation that all of the Iowa requirements have been met by filing transcripts and supporting documentation for review. The fee for the transcript evaluation is in 282—Chapter 12. This fee shall be in addition to the fee for adding the endorsement.

b. Additional requirements for adding an endorsement.

(1) In addition to meeting the requirements listed in rules 282—13.18(272) and 282—13.28(272), applicants for endorsements shall have completed a methods class appropriate for teaching the general subject area of the endorsement added.

(2) Practitioners who are adding an elementary or early childhood endorsement and have not student taught on the elementary or early childhood level shall complete a teaching practicum appropriate for teaching at the level of the new endorsement.

(3) Practitioners who are adding a secondary teaching endorsement and have not student taught on the secondary level shall complete a teaching practicum appropriate for teaching at the level of the new endorsement.

(4) Practitioners holding the K-8 endorsement in the content area of the 5-12 endorsement being added may satisfy the requirement for the secondary methods class and the teaching practicum by completing all required coursework and presenting verification of competence. This verification of competence shall be signed by a licensed evaluator who has observed and formally evaluated the performance of the applicant at the secondary level. This verification of competence may be submitted at any time during the term of the Class B license. The practitioner must obtain a Class B license while practicing with the 5-12 endorsement.

13.29(2) Removal of an endorsement; reinstatement of removed endorsement.

a. Removal of an endorsement. A practitioner may remove an endorsement from the practitioner's license as follows:

(1) To remove an endorsement, the practitioner shall meet the following conditions:

1. A practitioner who holds a standard or master educator license is eligible to request removal of an endorsement from the license if the practitioner has not taught in the subject or assignment area of the endorsement in the five years prior to the request for removal of the endorsement, and

2. The practitioner must submit a notarized written application form furnished by the board of educational examiners to remove an endorsement at the time of licensure renewal (licensure renewal is limited to one calendar year prior to the expiration date of the current license), and

3. The application must be signed by the superintendent or designee in the district in which the practitioner is under contract. The superintendent's signature shall serve as notification and acknowledgment of the practitioner's intent to remove an endorsement from the practitioner's license. The absence of the superintendent's or designee's signature does not impede the removal process.

(2) The endorsement shall be removed from the license at the time of application.

(3) If a practitioner is not employed and submits an application, the provisions of 13.29(2) "a"(1)"3" shall not be required.

(4) If a practitioner submits an application that does not meet the criteria listed in 13.29(2)“a”(1)“1” to “3,” the application will be rendered void and the practitioner will forfeit the processing fee.

(5) The executive director has the authority to approve or deny the request for removal. Any denial is subject to the appeal process set forth in rule 282—11.35(272).

b. Reinstatement of a removed endorsement.

(1) If the practitioner wants to add the removed endorsement at a future date, all coursework for the endorsement must be completed within the five years preceding the application to add the endorsement.

(2) The practitioner must meet the current endorsement requirements when making application.

[ARC 8248B, IAB 11/4/09, effective 10/12/09]

282—13.30(272) Licenses—issue dates, corrections, duplicates, and fraud.

13.30(1) Issue date on original license. A license is valid only from and after the date of issuance.

13.30(2) Correcting licenses. If a licensee notifies board staff of a typographical or clerical error on the license within 30 days of the date of the board’s mailing of a license, a corrected license shall be issued without charge to the licensee. If notification of a typographical or clerical error is made more than 30 days after the date of the board’s mailing of a license, a corrected license shall be issued upon receipt of the fee for issuance of a duplicate license. For purposes of this rule, typographical or clerical errors include misspellings, errors in the expiration date of a license, errors in the type of license issued, and the omission or misidentification of the endorsements for which application was made. A licensee requesting the addition of an endorsement not included on the initial application must submit a new application and the appropriate application fee.

13.30(3) Duplicate licenses. Upon application and payment of the fee set out in 282—Chapter 12, a duplicate license shall be issued.

13.30(4) Fraud in procurement or renewal of licenses. Fraud in procurement or renewal of a license or falsifying records for licensure purposes will constitute grounds for filing a complaint with the board of educational examiners.

These rules are intended to implement Iowa Code chapter 272.

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CHAPTER 69
ASSISTED LIVING PROGRAMS

481—69.1(231C) Definitions. In addition to the definitions in 481—Chapter 67 and Iowa Code chapter 231C, the following definitions apply.

“Accredited” means that the program has received accreditation from an accreditation entity recognized in subrule 69.14(1).

“Applicable requirements” means Iowa Code chapter 231C, this chapter, and 481—Chapter 67 and includes any other applicable administrative rules and provisions of the Iowa Code.

“Assisted living” or *“program”* means provision of housing with services, which may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living, to three or more tenants in a physical structure which provides a homelike environment. “Assisted living” also includes encouragement of family involvement, tenant self-direction, and tenant participation in decisions that emphasize choice, dignity, privacy, individuality, shared risk, and independence. “Assisted living” includes the provision of housing and assistance with instrumental activities of daily living only if personal care or health-related care is also included. “Assisted living” includes 24 hours per day response staff to meet scheduled and unscheduled or unpredictable needs in a manner that promotes maximum dignity and independence and provides supervision, safety, and security.

“CARF” means the Commission on Accreditation of Rehabilitation Facilities.

“Cognitive disorder” means a disorder characterized by cognitive dysfunction presumed to be the result of illness that does not meet the criteria for dementia, delirium, or amnesic disorder.

“Dementia-specific assisted living program” means an assisted living program certified under this chapter that:

1. Serves fewer than 55 tenants and has 5 or more tenants who have dementia between Stages 4 and 7 on the Global Deterioration Scale, or
2. Serves 55 or more tenants and 10 percent or more of the tenants have dementia between Stages 4 and 7 on the Global Deterioration Scale, or
3. Holds itself out as providing specialized care for persons with dementia, such as Alzheimer’s disease, in a dedicated setting.

“Dwelling unit” means an apartment, group of rooms or single room which is occupied as separate living quarters or, if vacant, is intended for occupancy as separate living quarters, in which a tenant can live and sleep separately from any other persons in the building, and which has direct access from the outside of the building or through a common hall.

“In the proximate area” means located within a five minutes or less response time.

“Maximal assistance with activities of daily living” means routine total dependence on staff for the performance of a minimum of four activities of daily living for a period that exceeds 21 days.

“Medically unstable” means that a tenant has a condition or conditions:

1. Indicating physiological frailty as determined by the program’s staff in consultation with a physician or physician extender;
2. Resulting in three or more significant hospitalizations within a consecutive three-month period for more than observation; and
3. Requiring frequent supervision of the tenant for more than 21 days by a registered nurse.

For example, a tenant who has a condition such as congestive heart failure which results in three or more significant hospitalizations during a quarter and which requires that the tenant receive frequent supervision may be considered medically unstable.

“Nonaccredited” means that the program has been certified under the provisions of this chapter but has not received accreditation from an accreditation entity recognized in subrule 69.14(1).

“Unmanageable incontinence” means a condition that requires staff provision of total care for an incontinent tenant who lacks the ability to assist in bladder or bowel continence care.

“*Unmanageable verbal abuse*” means repeated verbalizations against tenants or staff that persist despite all interventions and that negatively affect the program. “Unmanageable verbal abuse” includes but is not limited to threats, frequent use of profane language, or unwelcome sexually oriented remarks. [ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.2(231C) Program certification. A program may obtain certification by meeting all applicable requirements. In addition, a program may be voluntarily accredited by a recognized accreditation entity. For the purpose of these rules, certification is equivalent to licensure.

69.2(1) Posting requirements. A program’s current certificate shall be visibly displayed within the designated operation area of the program. In addition, the latest monitoring report, state fire marshal report, and food establishment inspections report issued pursuant to Iowa Code chapter 137F shall be made available to the public by the program upon request.

69.2(2) Dementia-specific programs and door alarms. If a program meets the definition of a dementia-specific assisted living program during two sequential certification monitorings, the program shall meet all requirements for a dementia-specific program, including the requirements set forth in rule 481—69.30(231C), subrules 69.29(2) and 69.29(4), paragraph 69.35(1) “d,” and subrule 69.32(2), which includes the requirements relating to door alarms. [ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.3(231C) Certification of a nonaccredited program—application process.

69.3(1) The applicant shall complete an application packet obtained from the department. Application materials may be obtained from the health facilities division Web site at https://dia-hfd.iowa.gov/DIA_HFD/Home.do; by mail from the Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by telephone at (515)281-6325.

69.3(2) The applicant shall submit one copy of the completed application and all supporting documentation to the department at the above address at least 90 calendar days prior to the expected date of beginning operation.

69.3(3) The appropriate fee as stated in Iowa Code section 231C.18 shall accompany each application and be payable by check or money order to the Department of Inspections and Appeals. Fees are nonrefundable.

69.3(4) The department shall consider the application when all supporting documents and fees are received.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.4(231C) Nonaccredited program—application content. An application for certification or recertification of a nonaccredited program shall include the following:

69.4(1) A list that includes the names, addresses, and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors and trustees and of the designated manager, as well as stockholders, partners or any individuals who have greater than a 5 percent equity interest in the program. The program shall notify the department of any changes in the list within ten working days of the change.

69.4(2) A statement affirming that the individuals listed in subrule 69.4(1) have not been convicted of a felony or serious misdemeanor or found in violation of the dependent adult abuse code in any state.

69.4(3) A statement disclosing whether any of the individuals listed in subrule 69.4(1) have or have had an ownership interest in an assisted living program, adult day services program, elder group home, home health agency, licensed health care facility as defined in Iowa Code section 135C.1 or licensed hospital as defined in Iowa Code section 135B.1, or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1), which has been closed in any state due to removal of program, agency, or facility licensure, certification, or registration or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services for participants to prevent abuse or neglect.

69.4(4) The policy and procedure for evaluation of each tenant. A copy of the evaluation tool or tools to be used to identify the functional, cognitive and health status of each tenant shall be included.

69.4(5) The policy and procedure for service plans.

69.4(6) The policy and procedure for addressing medication needs of tenants.

69.4(7) The policy and procedure for accidents and emergency response.

69.4(8) The policies and procedures for food service, including those relating to staffing, nutrition, menu planning, therapeutic diets, and food preparation, service and storage.

69.4(9) The policy and procedure for activities.

69.4(10) The policy and procedure for transportation.

69.4(11) The policy and procedure for staffing and training.

69.4(12) The policy and procedure for emergencies, including natural disasters. The policy and procedure shall include an evacuation plan and procedures for notifying legal representatives in emergency situations as applicable.

69.4(13) The policy and procedure for managing risk and upholding tenant autonomy when tenant decision making results in poor outcomes for the tenant or others.

69.4(14) The policy and procedure for reporting incidents including dependent adult abuse as required in rule 481—67.2(231B,231C,231D).

69.4(15) The policy and procedure related to life safety requirements for a dementia-specific program as required by subrule 69.32(2).

69.4(16) The tenant occupancy agreement and all attachments.

69.4(17) If the program contracts for personal care or health-related care services from a certified home health agency, a mental health center or a licensed health care facility, a copy of that entity's current license or certification.

69.4(18) A copy of the state license for the entity that provides food service, whether the entity is the program or an outside entity or a combination of both.

69.4(19) The fee set forth in Iowa Code section 231C.18.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.5(231C) Initial certification process for a nonaccredited program.

69.5(1) Upon receipt of all completed documentation, including state fire marshal approval and structural and evacuation review approval, the department shall determine whether or not the proposed program meets applicable requirements.

69.5(2) If, based upon the review of the complete application including all required supporting documents, the department determines the proposed program meets the requirements for certification, a provisional certification shall be issued to the program to begin operation and accept tenants.

69.5(3) Within 180 calendar days following issuance of provisional certification, the department shall conduct a monitoring to determine the program's compliance with applicable requirements.

69.5(4) If a regulatory insufficiency is identified as a result of the monitoring, the process in rule 481—67.10(17A,231B,231C,231D) shall be followed.

69.5(5) The department shall make a final certification decision based on the results of the monitoring and review of an acceptable plan of correction.

69.5(6) The department shall notify the program of a final certification decision within 10 working days following the finalization of the monitoring report or receipt of an acceptable plan of correction, whichever is applicable.

69.5(7) If the decision is to continue certification, the department shall issue a full two-year certification effective from the date of the original provisional certification.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.6(231C) Expiration of the certification of a nonaccredited program.

69.6(1) Unless conditionally issued, suspended or revoked, certification of a program shall expire at the end of the time period specified on the certificate.

69.6(2) The department shall send recertification application materials to each program at least 120 calendar days prior to expiration of the program's certification.
[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.7(231C) Recertification process for a nonaccredited program. To obtain recertification, a program shall:

69.7(1) Submit one copy of the completed application, including the information required in rule 481—69.4(231C), associated documentation, and the recertification fee as listed in Iowa Code section 231C.18 to the department at the address stated in subrule 69.3(1) at least 90 calendar days prior to the expiration of the program's certification. The program need not submit policies and procedures that have been previously submitted to the department and remain unchanged. The program shall provide a list of the policies and procedures that have been previously submitted and are not being resubmitted.

69.7(2) Submit additional documentation that each of the following has been inspected by a qualified professional and found to be maintained in conformance with the manufacturer's recommendations and nationally recognized standards: heating system, cooling system, water heater, electrical system, plumbing, sewage system, artificial lighting, and ventilation system; and, if located on site, garbage disposal, kitchen appliances, washing machines and dryers, and elevators.
[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.8(231C) Notification of recertification for a nonaccredited program.

69.8(1) The department shall review the application and associated documentation and fees. If the application is incomplete, the department shall contact the program to request the additional information. After all finalized documentation is received, including state fire marshal approval, the department shall determine the program's compliance with applicable requirements.

69.8(2) The department shall conduct a monitoring of the program between 60 and 90 days prior to expiration of the program's certification.

69.8(3) If a regulatory insufficiency is identified as a result of the monitoring, the process in rule 481—67.10(17A,231B,231C,231D) shall be followed.

69.8(4) If no regulatory insufficiency is identified as a result of the monitoring, the department shall issue a report of the findings with the final recertification decision.

69.8(5) If the decision is to recertify, the department shall issue the program a two-year certification effective from the date of the expiration of the previous certification.

69.8(6) If the decision is to deny recertification, the department shall issue a notice of denial and provide the program the opportunity for a hearing pursuant to rule 481—67.13(17A,231B,231C,231D).

69.8(7) If the department is unable to recertify a program through no fault of the program, the department shall issue to the program a time-limited extension of certification of no longer than one year.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.9(231C) Certification or recertification of an accredited program—application process.

69.9(1) An applicant for certification or recertification of a program accredited by a recognized accrediting entity shall:

a. Submit a completed application packet obtained from the department. Application materials may be obtained from the health facilities division Web site at https://dia-hfd.iowa.gov/DIA_HFD/Home.do; by mail from the Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by telephone at (515)281-6325.

b. Submit a copy of the current accreditation outcome from the recognized accrediting entity.

c. Apply for certification or recertification within 90 calendar days following verification of compliance with life safety requirements pursuant to this chapter.

d. Maintain compliance with life safety requirements pursuant to this chapter.

e. Submit the appropriate fees as set forth in Iowa Code section 231C.18.

69.9(2) The department shall not consider an application until it is complete and includes all supporting documentation and the appropriate fees.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.10(231C) Certification or recertification of an accredited program—application content. An application for certification or recertification of an accredited program shall include the following:

69.10(1) A list that includes the names, addresses and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors, and trustees and of the designated manager, as well as stockholders, partners or any individuals who have greater than a 5 percent equity interest in the program. The program shall notify the department of any changes in the list within ten working days of the change.

69.10(2) A statement affirming that the individuals listed in subrule 69.10(1) have not been convicted of a felony or serious misdemeanor or found in violation of the dependent adult abuse code in any state.

69.10(3) A statement disclosing whether any of the individuals listed in subrule 69.10(1) have or have had an ownership interest in a program, adult day services program, elder group home, home health agency, licensed health care facility as defined under Iowa Code section 135C.1 or licensed hospital as defined under Iowa Code section 135B.1 or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1), which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services for tenants to prevent abuse or neglect.

69.10(4) A copy of the current accreditation outcome from the recognized accrediting entity.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.11(231C) Initial certification process for an accredited program.

69.11(1) Within 20 working days of receiving all finalized documentation, including state fire marshal approval, the department shall determine and notify the accredited program whether or not the accredited program meets applicable requirements and whether or not certification will be issued.

69.11(2) If the decision is to certify, a certification shall be issued for the term of the accreditation not to exceed three years, unless the certification is conditionally issued, suspended or revoked by either the department or the recognized accrediting entity.

69.11(3) If the decision is to deny certification, the department shall provide the applicant an opportunity for hearing in accordance with rule 481—67.13(17A,231B,231C,231D).

69.11(4) Unless conditionally issued, suspended or revoked, certification for a program shall expire at the end of the time period specified on the certificate.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.12(231C) Recertification process for an accredited program.

69.12(1) The department shall send recertification application materials to each program at least 120 calendar days prior to expiration of the program's certification.

69.12(2) To obtain recertification, an accredited program shall submit one copy of the completed application, associated documentation, and the administrative fee as stated in Iowa Code section 231C.18 to the department at the address stated in subrule 69.9(1) at least 90 calendar days prior to the expiration of the program's certification.

69.12(3) Within 20 working days of receiving all finalized documentation, including state fire marshal approval, the department shall determine the program's compliance with applicable requirements and make a recertification decision.

69.12(4) The department shall notify the accredited program within 10 working days of the final recertification decision.

a. If the decision is to recertify, a full certification shall be issued for the term of the accreditation not to exceed three years, unless the certification is conditionally issued, suspended or revoked by either the department or the recognized accrediting entity.

b. If the decision is to deny recertification, the department shall provide the applicant an opportunity for hearing in accordance with rule 481—67.13(17A,231B,231C,231D).

69.12(5) If the department is unable to recertify a program through no fault of the program, the department shall issue to the program a time-limited extension of certification of no longer than one year.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.13(231C) Listing of all certified programs. The department shall maintain a list of all certified programs, which is available online at https://dia-hfd.iowa.gov/DIA_HFD/Home.do under the “Entities Book” tab.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.14(231C) Recognized accrediting entity.

69.14(1) The department designates CARF as a recognized accrediting entity for programs.

69.14(2) To apply for designation by the department as a recognized accrediting entity for programs, an accrediting entity shall submit a letter of request, and its standards shall, at minimum, meet the applicable requirements for programs.

69.14(3) The designation shall remain in effect for as long as the accreditation standards continue to meet, at minimum, the applicable requirements for programs.

69.14(4) An accrediting entity shall provide annually to the department, at no cost, a current edition of the applicable standards manual and survey preparation guide, and training thereon, within 120 working days after the publications are released.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.15(231C) Requirements for an accredited program. Each accredited program that is certified by the department shall:

69.15(1) Provide the department a copy of all survey reports including outcomes, quality improvement plans and annual conformance to quality reports generated or received, as applicable, within ten working days of receipt of the reports.

69.15(2) Notify the department by the most expeditious means possible of all credible reports of alleged improper or inappropriate conduct or conditions within the program and any actions taken by the accrediting entity with respect thereto.

69.15(3) Notify the department immediately of the expiration, suspension, revocation or other loss of the program’s accreditation.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.16(231C) Maintenance of program accreditation.

69.16(1) An accredited program shall continue to be recognized for certification by the department if both of the following requirements are met:

a. The program complies with the requirements outlined in rule 481—69.15(231C).

b. The program maintains its voluntary accreditation status for the duration of the time-limited certification period.

69.16(2) A program that does not maintain its voluntary accreditation status must become certified by the department prior to any lapse in accreditation.

69.16(3) A program that does not maintain its voluntary accreditation status and is not certified by the department prior to any lapse in voluntary accreditation shall cease operation as a program.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.17(231C) Transfer of certification.

69.17(1) Certification, unless conditionally issued, suspended or revoked, may be transferable to a new owner of a program. If the program’s certification has been conditionally issued, the new owner must receive approval from the department prior to transfer of the certification.

69.17(2) The new owner is required to notify the department in writing within 30 calendar days prior to the change in ownership. The notice shall include assurance that the new owner meets all applicable requirements for programs.

69.17(3) The department may conduct a monitoring within 90 days following a change in the program's ownership or management corporation to ensure that the program complies with applicable requirements. If a regulatory insufficiency is found, the department shall take any necessary enforcement action authorized by applicable requirements.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.18(231C) Structural and life safety reviews of a building for a new program.

69.18(1) Before a building is constructed or remodeled for use in a new program, the department shall review the blueprints for compliance with requirements pursuant to this chapter. Construction or remodeling includes new construction, remodeling of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

69.18(2) A program applicant shall submit to the department blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231C.18 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

69.18(3) Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

69.18(4) The department shall review the blueprints and notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

69.18(5) The Iowa-licensed architect or Iowa-licensed engineer shall respond to the department to state how any noncompliance will be resolved.

69.18(6) Upon final notification by the department that the blueprints meet structural and life safety requirements, construction or remodeling of the building may commence.

69.18(7) The department shall schedule an on-site visit of the building site with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the construction or remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for certification.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.19(231C) Structural and life safety review prior to the remodeling of a building for a certified program.

69.19(1) Before a building for a certified program is remodeled, the department shall review the blueprints for compliance with requirements set forth in rule 481—69.35(231C). Remodeling includes modification of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

69.19(2) A certified program shall submit to the department blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231C.18 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

69.19(3) Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

69.19(4) The department shall review the blueprints within 20 working days of receipt and immediately notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

69.19(5) The Iowa-licensed architect or Iowa-licensed engineer shall respond to the department in 20 working days to state how any noncompliance will be resolved.

69.19(6) Upon final notification by the department that the blueprints meet structural and life safety requirements, remodeling of the building may commence.

69.19(7) The department shall schedule an on-site visit of the building with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the remodeling process to ensure compliance

with the approved blueprints. Any noncompliance must be resolved prior to approval for continued certification or recertification of the program.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.20(231C) Cessation of program operation.

69.20(1) If a certified program ceases operation, which includes seeking decertification, at any time prior to expiration of the program's certification, the program shall submit the certificate to the department. The program shall provide, at least 90 days in advance of cessation, which includes seeking decertification, unless there is some type of emergency, written notification to the department and the tenant advocate of the date on which the program will cease operation, which includes seeking decertification.

69.20(2) If a certified program plans to cease operation, which includes seeking decertification, at the time the program's certification expires, the program shall provide written notice of this fact to the department and the tenant advocate at least 90 days prior to expiration of the certification.

69.20(3) At the time a program decides to cease operation, which includes seeking decertification, the program shall submit a plan to the department and make arrangements for the safe and orderly transfer or transition of all tenants within the 90-day period specified by subrule 69.20(2).

69.20(4) The department may conduct a monitoring during the 90-day period to ensure the safety of tenants during the transfer process or transition process.

69.20(5) The department may conduct an on-site visit to verify that the program has ceased operation as a certified program in accordance with the notice provided by the program.

69.20(6) When a program ceases operation, which includes seeking decertification, tenant advocates shall be allowed by the program to privately meet with tenants to provide education and service options.
[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.21(231C) Occupancy agreement.

69.21(1) The occupancy agreement shall be in 12-point type or larger, shall be written in plain language using commonly understood terms and shall be easy for the tenant or the tenant's legal representative to understand.

69.21(2) In addition to the requirements of Iowa Code section 231C.5, the written occupancy agreement shall include, but not be limited to, the following information in the body of the agreement or in the supporting documents and attachments:

- a. The telephone number for filing a complaint with the department.
- b. The telephone number for the office of the tenant advocate.
- c. The telephone number for reporting dependent adult abuse.
- d. A copy of the program's statement on tenants' rights.
- e. A statement that the tenant landlord law applies to assisted living programs.
- f. A statement that the program will notify the tenant at least 90 days in advance of any planned program cessation, which includes voluntary decertification, except in cases of emergency.

69.21(3) The occupancy agreement shall be reviewed and updated as necessary to reflect any change in services or financial arrangements.

69.21(4) A copy of the occupancy agreement shall be provided to the tenant or the tenant's legal representative, if any, and a copy shall be kept by the program.

69.21(5) A copy of the most current occupancy agreement shall be made available to the general public upon request. The basic marketing material shall include a statement that a copy of the occupancy agreement is available to all persons upon request.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.22(231C) Evaluation of tenant.

69.22(1) *Evaluation prior to occupancy.* A program shall evaluate each prospective tenant's functional, cognitive and health status prior to the tenant's signing the occupancy agreement and taking occupancy of a dwelling unit in order to determine the tenant's eligibility for the program, including whether the services needed are available. The cognitive evaluation shall utilize a scored, objective

tool. When the score from the cognitive evaluation indicates moderate cognitive decline and risk, the Global Deterioration Scale shall be used at all subsequent intervals, if applicable. If the tenant subsequently returns to the tenant's mildly cognitively impaired state, the program may discontinue the GDS and revert to a scored cognitive screening tool. The evaluation shall be conducted by a health care professional or human service professional.

69.22(2) *Evaluation within 30 days of occupancy and with significant change.* A program shall evaluate each tenant's functional, cognitive and health status within 30 days of occupancy. A program shall also evaluate each tenant's functional, cognitive and health status as needed with significant change, but not less than annually, to determine the tenant's continued eligibility for the program and to determine any changes to services needed. The evaluation shall be conducted by a health care professional or human service professional. A licensed practical nurse may complete the evaluation via nurse delegation when the tenant has not exhibited a significant change.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.23(231C) Criteria for admission and retention of tenants.

69.23(1) *Persons who may not be admitted or retained.* A program shall not knowingly admit or retain a tenant who:

- a. Is bed-bound; or
 - b. Requires routine, two-person assistance with standing, transfer or evacuation; or
 - c. Is dangerous to self or other tenants or staff, including but not limited to a tenant who:
 - (1) Despite intervention chronically elopes, is sexually or physically aggressive or abusive, or displays unmanageable verbal abuse or aggression; or
 - (2) Displays behavior that places another tenant at risk; or
 - d. Is in an acute stage of alcoholism, drug addiction, or uncontrolled mental illness; or
 - e. Is under the age of 18; or
 - f. Requires more than part-time or intermittent health-related care; or
 - g. Has unmanageable incontinence on a routine basis despite an individualized toileting program;
- or
- h. Is medically unstable; or
 - i. Requires maximal assistance with activities of daily living.

69.23(2) *Disclosure of additional occupancy and transfer criteria.* A program may have additional occupancy or transfer criteria if the criteria are disclosed in the written occupancy agreement prior to the tenant's occupancy.

69.23(3) *Assistance with transfer from the program.* A program shall provide assistance to a tenant and the tenant's legal representative, if applicable, to ensure a safe and orderly transfer from the program when the tenant exceeds the program's criteria for admission and retention.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.24(231C) Involuntary transfer from the program.

69.24(1) *Program initiation of transfer.* If a program initiates the involuntary transfer of a tenant and the action is not the result of a monitoring, including a complaint investigation or program-reported incident investigation, by the department and if the tenant or tenant's legal representative contests the transfer, the following procedures shall apply:

- a. The program shall notify the tenant or tenant's legal representative, in accordance with the occupancy agreement, of the need to transfer the tenant and of the reason for the transfer and shall include the contact information for the tenant advocate.
- b. The program shall immediately provide to the tenant advocate, by certified mail, a copy of the notification and notify the tenant's treating physician, if any.
- c. Pursuant to statute, the tenant advocate shall offer the notified tenant or tenant's legal representative assistance with the program's internal appeal process. The tenant or tenant's legal representative is not required to accept the assistance of the tenant advocate.
- d. If, following the internal appeal process, the program upholds the transfer decision, the tenant or tenant's legal representative may utilize other remedies authorized by law to contest the transfer.

69.24(2) *Transfer pursuant to results of monitoring or complaint or program-reported incident investigation by the department.* If one or more tenants are identified as exceeding the admission and retention criteria for tenants and need to be transferred as a result of a monitoring or a complaint or program-reported incident investigation conducted by the department, the following procedures shall apply:

a. Notification of the program. Within 20 working days of the monitoring or complaint or program-reported incident investigation, the department shall notify the program, in writing, of the identification of any tenant who exceeds admission and retention criteria.

b. Notification of others. Each identified tenant, the tenant's legal representative, if applicable, and other providers of services to the tenant shall be notified of their opportunity to provide responses including: specific input, written comment, information, and documentation directly addressing any agreement or disagreement with the identification. All responses shall be provided to the department within 10 days of receipt of the notice.

c. Program agreement with the department's finding. If the program agrees with the department's finding and the program begins involuntary transfer proceedings, the program's internal appeal process in subrule 69.24(1) shall be utilized for appeals.

d. Program disagreement with the department's finding. If the program does not agree with the department's finding that the tenant exceeds admission and retention criteria, the program may collect and submit all responses to the department, including those from other interested parties. In the program's response, the program shall identify the tenant, list the known responses from others, and note the program's agreement or disagreement with the responses from others. The program's response shall be submitted to the department within 10 working days of the receipt of the notice. Submission of a response does not eliminate the applicable requirements, including submission of a plan of correction under 481—subrule 67.10(5). Other persons may also submit information directly to the department.

(1) *Consideration of response.* Within 10 working days of receipt of the program's response for each identified tenant, the department shall consider the response and make a final finding regarding the continued retention of a tenant.

(2) *Amending the regulatory insufficiency.* If the department's determination is to amend the regulatory insufficiency based on the response, the department shall modify the report of findings.

(3) *Retaining regulatory insufficiency.* If the department retains the regulatory insufficiency, the department shall review the plan of correction in accordance with this chapter and 481—Chapter 67. The department shall notify the program of the opportunity to appeal the report findings as they relate to the admission and retention decision. In addition, the department shall provide to the tenant or the tenant's legal representative the contact information for the tenant advocate. A copy of the final report shall also be sent to the tenant advocate.

(4) *Effect of the filing of an appeal.* If an appeal is filed, the tenant who exceeds admission and retention criteria shall be allowed to continue living at the program until all administrative appeals have been exhausted. Appeals filed that relate to the tenant's exceeding admission and retention criteria shall be heard within 30 days of receipt, and appropriate services to meet the tenant's needs shall be provided during that period of time.

(5) *Request for waiver of criteria for retention of a tenant in a program.* To allow a tenant to remain in the program, the program may request a waiver of criteria for retention of a tenant pursuant to rule 481—67.7(231B,231C,231D) from the department within 10 working days of the receipt of the report. [ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.25(231C) Tenant documents.

69.25(1) Documentation for each tenant shall be maintained by the program and shall include:

a. An occupancy record including the tenant's name, birth date, and home address; identification numbers; date of occupancy; name, address and telephone number of health professional(s); diagnosis; and names, addresses and telephone numbers of family members, friends or other designated people to contact in the event of illness or an emergency;

b. Application forms;

- c.* The initial evaluations and updates;
- d.* A nutritional assessment as necessary;
- e.* The initial individual service plan and updates;
- f.* Signed authorizations for permission to release medical information, photographs, or other media information as necessary;
- g.* A signed authorization for the tenant to receive emergency medical care as necessary;
- h.* A signed managed risk policy and signed managed risk consensus agreements, if any;
- i.* When any personal or health-related care is delegated to the program, the medical information sheet; documentation of health professionals' orders, such as those for treatment, therapy, and medication; and nurses' notes written by exception;
- j.* Medication lists, which shall be maintained in conformance with 481—subrule 67.5(4);
- k.* Advance health care directives as applicable;
- l.* A complete copy of the tenant's occupancy agreement, including any updates;
- m.* A written acknowledgment that the tenant or the tenant's legal representative, if applicable, has been fully informed of the tenant's rights;
- n.* A copy of guardianship, durable power of attorney for health care, power of attorney, or conservatorship or other documentation of a legal representative;
- o.* Incident reports involving the tenant, including but not limited to those related to medication errors, accidents, falls, and elopements (such reports shall be maintained by the program but need not be included in the tenant's medical record);
- p.* A copy of waivers of admission or retention criteria, if any;
- q.* When the tenant is unable to advocate on the tenant's own behalf or the tenant has multiple service providers, including hospice care providers, accurate documentation of the completion of routine personal or health-related care is required on task sheets. If tasks are doctor-ordered, the tasks shall be part of the medication administration records (MARs); and
- r.* Authorizations for the release of information, if any.

69.25(2) The program records relating to a tenant shall be retained for a minimum of three years after the transfer or death of the tenant.

69.25(3) All records shall be protected from loss, damage and unauthorized use.
[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.26(231C) Service plans.

69.26(1) A service plan shall be developed for each tenant based on the evaluations conducted in accordance with subrules 69.22(1) and 69.22(2) and shall be designed to meet the specific service needs of the individual tenant. The service plan shall subsequently be updated at least annually and whenever changes are needed.

69.26(2) Prior to the tenant's signing the occupancy agreement and taking occupancy of a dwelling unit, a preliminary service plan shall be developed by a health care professional or human service professional in consultation with the tenant and, at the tenant's request, with other individuals identified by the tenant, and, if applicable, with the tenant's legal representative. All persons who develop the plan and the tenant or the tenant's legal representative shall sign the plan.

69.26(3) When a tenant needs personal care or health-related care, the service plan shall be updated within 30 days of the tenant's occupancy and as needed with significant change, but not less than annually.

a. If a significant change triggers the review and update of the service plan, the updated service plan shall be signed and dated by all parties.

b. If a significant change does not exist, the program may, after nurse review, add minor discretionary changes to the service plan without a comprehensive evaluation and without obtaining signatures on the service plan.

c. If a significant change relates to a recurring or chronic condition, a previous evaluation and service plan of the recurring condition may be utilized without new signatures being obtained. For example, with chronic exacerbation of a urinary tract infection, nurse review is adequate to institute the previously written evaluation and service plan.

69.26(4) The service plan shall be individualized and shall indicate, at a minimum:

- a. The tenant's identified needs and preferences for assistance;
- b. Any services and care to be provided pursuant to the occupancy agreement;
- c. The service provider(s), if other than the program, including but not limited to providers of hospice care, home health care, occupational therapy, and physical therapy;
- d. For tenants who are unable to plan their own activities, including tenants with dementia, planned and spontaneous activities based on the tenant's abilities and personal interests; and
- e. Preferences, if any, of the tenant or the tenant's legal representative for nursing facility care, if the need for nursing facility care presents itself during the assisted living program occupancy.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.27(231C) Nurse review. If a tenant does not receive personal or health-related care, but an observed significant change in the tenant's condition occurs, a nurse review shall be conducted. If a tenant receives personal or health-related care, the program shall provide for a registered nurse or a licensed practical nurse via nurse delegation:

69.27(1) To monitor, at least every 90 days, or after a significant change in the tenant's condition, any tenant who receives program-administered prescription medications for adverse reactions to the medications and to make appropriate interventions or referrals, and to ensure that the prescription medication orders are current and that the prescription medications are administered consistent with such orders; and

69.27(2) To ensure that health care professionals' orders are current for tenants who receive health care professional-directed care from the program; and

69.27(3) To assess and document the health status of each tenant, to make recommendations and referrals as appropriate, and to monitor progress relating to previous recommendations at least every 90 days and whenever there are changes in the tenant's health status; and

69.27(4) To provide the program with written documentation of the activities under the service plan, as set forth in rule 481—69.26(231C), showing the time, date and signature.

NOTE: Refer to Table A at the end of this chapter. If the program does not provide personal or health-related care to a tenant, nurse review is not required.
[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.28(231C) Food service.

69.28(1) The program shall provide or coordinate with other community providers to provide a hot or other appropriate meal(s) at least once a day or shall make arrangements for the availability of meals.

69.28(2) Meals and snacks provided by the program but not prepared on site shall be obtained from or provided by an entity that meets the standards of state and local health laws and ordinances concerning the preparation and serving of food.

69.28(3) Menus shall be planned to provide the following percentage of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences based on the number of meals provided by the program:

- a. A minimum of 33 $\frac{1}{3}$ percent if the program provides one meal per day;
- b. A minimum of 66 $\frac{2}{3}$ percent if the program provides two meals per day; and
- c. One hundred percent if the program provides three meals per day.

69.28(4) Therapeutic diets may be provided by a program. If therapeutic diets are provided, they shall be prescribed by a physician, physician assistant, or advanced registered nurse practitioner. A current copy of the Iowa Simplified Diet Manual published by the Iowa Dietetic Association shall be available and used in the planning and serving of therapeutic diets. A licensed dietitian shall be responsible for writing and approving the therapeutic menu and for reviewing procedures for food preparation and service for therapeutic diets.

69.28(5) Personnel who are employed by or contract with the program and who are responsible for food preparation or service, or both food preparation and service, shall have an orientation on sanitation and safe food handling prior to handling food and shall have annual in-service training on food protection.

a. In addition to the requirements above, a minimum of one person directly responsible for food preparation shall have successfully completed a state-approved food protection program by:

- (1) Obtaining certification as a dietary manager; or
- (2) Obtaining certification as a food protection professional; or
- (3) Successfully completing a course meeting the requirements for a food protection program

included in the Food Code adopted pursuant to Iowa Code chapter 137F. Another course may be substituted if the course's curriculum includes substantially similar competencies to a course that meets the requirements of the Food Code and the provider of the course files with the department a statement indicating that the course provides substantially similar instruction as it relates to sanitation and safe food handling.

b. If the person is in the process of completing a course or certification listed in paragraph "*a.*" the requirement relating to completion of a state-approved food protection program shall be considered to have been met.

69.28(6) Programs engaged in the preparation and service of meals and snacks shall meet the standards of state and local health laws and ordinances pertaining to the preparation and service of food and shall be licensed pursuant to Iowa Code chapter 137F. The department will not require the program to be licensed as a food establishment if the program limits food activities to the following:

a. All main meals and planned menu items must be prepared offsite and transferred to the program kitchen for service to tenants.

b. Baked goods that do not require temperature control for safety and single-service juice or milk may be stored in the program's kitchen and provided as part of a continental breakfast.

c. Ingredients used for food-related activities with tenants may be stored in the program's kitchen. Tenant activities may include the preparation and cooking of food items in the program's kitchen if the activity occurs on an irregular or sporadic basis and the items prepared are not part of the program's menu.

d. Appropriately trained staff may prepare in the program's kitchen individual quantities of tenant-requested menu-substitution food items that require limited or no preparation, such as peanut butter or cheese sandwiches or a single-service can of soup. The food items necessary to prepare the menu substitution may be stored in the program's kitchen. These food items may not be cooked in the program's kitchen but may be reheated in a microwave. A two- or four-slice toaster may be used for tenant-requested menu-substitution items, but no bare-hand contact is permitted.

e. Tenants may take food items left over from a meal back to their apartments. The program may not store leftovers in the program's kitchen.

f. Warewashing may be done in the program's kitchen as long as the program utilizes a commercial dishwasher and documents daily testing of sanitizer chemical ppm and proper water temperatures. Verification by the department of these practices may be conducted during on-site visits.

69.28(7) Programs may have an on-site dietitian. Programs may secure menus and a dietitian through other methods.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 1376C, IAB 3/19/14, effective 4/23/14]

481—69.29(231C) Staffing. In addition to the general staffing requirements in rule 481—67.9(231B,231C,231D), the following requirements apply to staffing in programs.

69.29(1) Each tenant shall have access to a 24-hour personal emergency response system that automatically identifies the tenant in distress and can be activated with one touch.

69.29(2) In lieu of providing access to a personal emergency response system, a program serving one or more tenants with cognitive disorder or dementia shall follow a system, program, or written staff procedures that address how the program will respond to the emergency needs of the tenant(s).

69.29(3) The owner or management corporation of the program is responsible for ensuring that all personnel employed by or contracting with the program receive training appropriate to assigned tasks and target population.

69.29(4) A dementia-specific assisted living program shall have one or more staff persons who monitor tenants as indicated in each tenant's service plan. The staff shall be awake and on duty 24

hours a day on site and in the proximate area. The staff shall check on tenants as indicated in the tenants' service plans.

69.29(5) All programs employing a new program manager after January 1, 2010, shall require the manager within six months of hire to complete an assisted living management class whose curriculum includes at least six hours of training specifically related to Iowa rules and laws on assisted living programs. Managers who have completed a similar training prior to January 1, 2010, shall not be required to complete additional training to meet this requirement.

69.29(6) All programs employing a new delegating nurse after January 1, 2010, shall require the delegating nurse within six months of hire to complete an assisted living manager class or assisted living nursing class whose curriculum includes at least six hours of training specifically related to Iowa rules and laws on assisted living. A minimum of one delegating nurse from each program must complete the training. If there are multiple delegating nurses and only one delegating nurse completes the training, the delegating nurse who completes the training shall train the other delegating nurses in the Iowa rules and laws on assisted living. As of January 1, 2011, all programs shall have a minimum of one delegating nurse who has completed the training described in this subrule.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.30(231C) Dementia-specific education for program personnel.

69.30(1) All personnel employed by or contracting with a dementia-specific program shall receive a minimum of eight hours of dementia-specific education and training within 30 days of either employment or the beginning date of the contract, as applicable.

69.30(2) The dementia-specific education or training shall include, at a minimum, the following:

- a. An explanation of Alzheimer's disease and related disorders;
- b. The program's specialized dementia care philosophy and program;
- c. Skills for communicating with persons with dementia;
- d. Skills for communicating with family and friends of persons with dementia;
- e. An explanation of family issues such as role reversal, grief and loss, guilt, relinquishing the care-giving role, and family dynamics;
- f. The importance of planned and spontaneous activities;
- g. Skills in providing assistance with instrumental activities of daily living;
- h. The importance of the service plan and social history information;
- i. Skills in working with challenging tenants;
- j. Techniques for simplifying, cueing, and redirecting;
- k. Staff support and stress reduction; and
- l. Medication management and nonpharmacological interventions.

69.30(3) All personnel employed by or contracting with a dementia-specific program shall receive a minimum of two hours of dementia-specific continuing education annually. Direct-contact personnel shall receive a minimum of eight hours of dementia-specific continuing education annually.

69.30(4) An employee or contractor who provides documentation of completion of a dementia-specific education or training program within the past 12 months shall be exempt from the education and training requirement of subrule 69.30(1).

69.30(5) Dementia-specific training shall include hands-on training and may include any of the following: classroom instruction, Web-based training, and case studies of tenants in the program.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.31(231C) Managed risk policy and managed risk consensus agreements. The program shall have a managed risk policy. The managed risk policy shall be provided to the tenant along with the occupancy agreement. The managed risk policy shall include the following:

69.31(1) An acknowledgment of the shared responsibility for identifying and meeting the needs of the tenant and the process for managing risk and for upholding tenant autonomy when tenant decision making results in poor outcomes for the tenant or others; and

69.31(2) A consensus-based process to address specific risk situations. Program staff and the tenant shall participate in the process. The result of the consensus-based process may be a managed risk

consensus agreement. The managed risk consensus agreement shall include the signature of the tenant and the signatures of all others who participated in the process. The managed risk consensus agreement shall be included in the tenant's file.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.32(231C) Life safety—emergency policies and procedures and structural safety requirements.

69.32(1) The program shall submit to the department and follow written emergency policies and procedures, which shall include the following:

- a. An emergency plan, which shall include procedures for natural disasters (identify where the plan is located for easy reference);
- b. Fire safety procedures;
- c. Other general or personal emergency procedures;
- d. Provisions for amending or revising the emergency plan;
- e. Provisions for periodic training of all employees;
- f. Procedures for fire drills;
- g. Regulations regarding smoking;
- h. Monitoring and testing of smoke-control systems;
- i. Tenant evacuation procedures; and
- j. Procedures for reporting and documentation.

69.32(2) An operating alarm system shall be connected to each exit door in a dementia-specific program. A program serving a person(s) with cognitive disorder or dementia, whether in a general or dementia-specific setting, shall have:

- a. Written procedures regarding alarm systems and appropriate staff response when a tenant's service plan indicates a risk of elopement or a tenant exhibits wandering behavior.
- b. Written procedures regarding appropriate staff response if a tenant with cognitive disorder or dementia is missing.

69.32(3) The program's structure and procedures and the facility in which a program is located shall meet the requirements adopted for assisted living programs in administrative rules promulgated by the state fire marshal. Approval of the state fire marshal indicating that the building is in compliance with these requirements is necessary for certification of a program.

69.32(4) The program shall have the means to control the maximum temperature of water at sources accessible by a tenant to prevent scalding and shall control the maximum water temperature for tenants with cognitive impairment or dementia or at a tenant's request.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.33(231C) Transportation. When transportation services are provided directly or under contract with the program:

69.33(1) The vehicle shall be accessible and appropriate to the tenants who use it, with consideration for any physical disabilities and impairments.

69.33(2) Every tenant transported shall have a seat in the vehicle, except for a tenant who remains in a wheelchair during transport.

69.33(3) Vehicles shall have adequate seat belts and securing devices for ambulatory and wheelchair-using passengers.

69.33(4) Wheelchairs shall be secured when the vehicle is in motion.

69.33(5) During loading and unloading of a tenant, the driver shall be in the proximate area of the tenants in a vehicle.

69.33(6) The driver shall have a valid and appropriate Iowa driver's license or commercial driver's license as required by law for the vehicle being utilized for transport. If the driver is licensed in another state, the license shall be valid and appropriate for the vehicle being utilized for transport. The driver shall meet any state or federal requirements for licensure or certification for the vehicle operated.

69.33(7) Each vehicle shall have a first-aid kit, fire extinguisher, safety triangles and a device for two-way communication.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.34(231C) Activities.

69.34(1) The program shall provide appropriate activities for each tenant. Activities shall reflect individual differences in age, health status, sensory deficits, lifestyle, ethnic and cultural beliefs, religious beliefs, values, experiences, needs, interests, abilities and skills by providing opportunities for a variety of types and levels of involvement.

69.34(2) Activities shall be planned to support the tenant's service plan and shall be consistent with the program statement and occupancy policies.

69.34(3) A written schedule of activities shall be developed at least monthly and made available to tenants and their legal representatives.

69.34(4) Tenants shall be given the opportunity to choose their levels of participation in all activities offered in the program.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.35(231C) Structural requirements.

69.35(1) General requirements.

a. The structure of the program shall be designed and operated to meet the needs of the tenants.

b. The buildings and grounds shall be well-maintained, clean, safe and sanitary.

c. Programs shall have private dwelling units with a single-action, lockable entrance door.

d. A program serving persons with cognitive impairment or dementia, whether in a general or dementia-specific setting, shall have the means to disable or remove the lock on an entrance door and shall disable or remove the lock if its presence presents a danger to the health and safety of the tenant.

e. The structure in which a program is housed shall be built, at a minimum, of Type V (111) construction as provided in Section 22.3.1.3.3 and Sections 6.2.1A to 6.2.2 of NFPA 101, Life Safety Code, 2003 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, or as required in administrative rules promulgated by the state fire marshal.

f. Programs may have individual cooking facilities within the private dwelling units. Any program serving persons with cognitive impairment or dementia, whether in a general or dementia-specific setting, shall have the means to disable or easily remove appliances and shall disable or remove them if their presence presents a danger to the health and safety of the tenant or others.

69.35(2) Programs certified prior to July 4, 2001. Facilities for programs certified prior to July 4, 2001, shall meet the following requirements:

a. Each dwelling unit shall have at least one room that shall have not less than 120 square feet of floor area. Other habitable rooms shall have an area of not less than 70 square feet.

b. Each dwelling unit shall have not less than 190 square feet of floor area, excluding bathrooms.

c. A dwelling unit used for double occupancy shall have not less than 290 square feet of floor area, excluding bathrooms.

d. The program shall have a minimum of 15 square feet of common area per tenant.

69.35(3) New construction built on or after July 4, 2001. Programs operated in new construction built on or after July 4, 2001, shall meet the following requirements:

a. Each dwelling unit shall have at least one room that shall have not less than 120 square feet of floor area. Other habitable rooms shall have an area of not less than 70 square feet.

b. Each dwelling unit used for single occupancy shall have a total square footage of not less than 240 square feet of floor area, excluding bathrooms and door swing.

c. A dwelling unit used for double occupancy shall have a total square footage of not less than 340 square feet of floor area, excluding bathrooms and door swing.

d. Each dwelling unit shall contain a bathroom, including but not limited to a toilet, sink and bathing facilities. A program serving persons with cognitive impairment or dementia, whether in a general or dementia-specific setting, shall have the means to disable or remove the sink or bathing facility

water control and shall disable or remove the water control if its presence presents a danger to the health and safety of the tenant.

e. The program shall have a minimum of 25 square feet of common space per tenant.

f. Self-closing doors are not required for individual dwelling units, whether in a general or dementia-specific setting, unless the authority with jurisdiction determines that the level of hazard has increased to require the installation of closure hardware (for example, presence of a stove, range or oven).

69.35(4) *Structure being converted to or remodeled for use by a program on or after July 4, 2001.* A program operating in a structure that was converted or remodeled for use for a program on or after July 4, 2001, shall meet the following requirements:

a. Each dwelling unit shall have at least one room that has not less than 120 square feet of floor area. Other habitable rooms shall have an area of not less than 70 square feet.

b. Each dwelling unit used for single occupancy shall have a total square footage of not less than 190 square feet of floor area, excluding bathrooms and door swing.

c. A dwelling unit used for double occupancy shall have a total square footage of not less than 290 square feet of floor area, excluding bathrooms and door swing.

d. The program shall have dedicated for use by tenants a minimum of 15 square feet of common area per tenant.

e. Each dwelling unit shall have a bathroom, including but not limited to a toilet, sink and bathing facility.

f. Each sleeping room shall have a minimum of 5.7 square feet of operable window. Waiver of this requirement may be granted by the state fire marshal or designee.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.36(231C) Dwelling units in dementia-specific programs. Dementia-specific programs are exempt from the requirements in subrules 69.35(2) to 69.35(4) as follows:

69.36(1) For a program built in a family or neighborhood design:

a. Each dwelling unit used for single occupancy shall have a total square footage of not less than 150 square feet of floor area, excluding a bathroom; and

b. Each dwelling unit used for double occupancy shall have a total square footage of not less than 250 square feet of floor area, excluding a bathroom.

69.36(2) Dementia-specific programs may choose not to provide bathing facilities in the dwelling units.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.37(231C) Landlord and tenant Act. Iowa Code chapter 562A, the uniform residential landlord and tenant Act, shall apply to programs under this chapter.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.38(83GA,SF203) Identification of veteran's benefit eligibility.

69.38(1) Within 30 days of a tenant's admission to an assisted living program that receives reimbursement through the medical assistance program under Iowa Code chapter 249A, the program shall ask the tenant or the tenant's personal representative whether the tenant is a veteran or whether the tenant is the spouse, widow, or dependent of a veteran and shall document the response.

69.38(2) If the program determines that the tenant may be a veteran or the spouse, widow, or dependent of a veteran, the program shall report the tenant's name along with the name of the veteran, if applicable, as well as the name of the contact person for this information, to the Iowa department of veterans affairs. When appropriate, the program may also report such information to the Iowa department of human services.

CHAPTER 70
ADULT DAY SERVICES

481—70.1(231D) Definitions. In addition to the definitions in 481—Chapter 67 and Iowa Code chapter 231D, the following definitions apply.

“*Accredited*” means that the program has received accreditation from an accreditation entity recognized in subrule 70.14(1).

“*Adult day services*” or “*adult day services program*” or “*program*” means an organized program providing a variety of health-related care, social services, and other related support services for 16 hours or less in a 24-hour period to two or more persons with a functional impairment on a regularly scheduled, contractual basis.

“*Applicable requirements*” means Iowa Code chapter 231D, this chapter, and 481—Chapter 67 and includes any other applicable administrative rules and provisions of the Iowa Code.

“*CARF*” means the Commission on Accreditation of Rehabilitation Facilities.

“*Cognitive disorder*” means a disorder characterized by cognitive dysfunction presumed to be the result of illness that does not meet criteria for dementia, delirium, or amnesic disorder.

“*Contractual agreement*” means a written agreement between the program and the participant or legal representative.

“*Dementia-specific adult day services program*” means an adult day services program certified under this chapter that:

1. Serves fewer than 55 participants and has 5 or more participants who have dementia between Stages 4 and 7 on the Global Deterioration Scale, or
2. Serves 55 or more participants and 10 percent or more of the participants have dementia between Stages 4 and 7 on the Global Deterioration Scale, or
3. Holds itself out as providing specialized care for persons with dementia, such as Alzheimer’s disease, in a dedicated setting.

“*Functional impairment*” means a psychological, cognitive, or physical impairment that creates an inability to perform personal and instrumental activities of daily living and associated tasks and that necessitates some form of supervision or assistance or both.

“*Maximal assistance with activities of daily living*” means routine total dependence on staff for the performance of a minimum of four activities of daily living for a period that exceeds 21 days.

“*Medically unstable*” means that a participant has a condition or conditions:

1. Indicating physiological frailty as determined by the program’s staff in consultation with a physician or physician extender;
2. Resulting in three or more significant hospitalizations within a consecutive three-month period for more than observation; and
3. Requiring frequent supervision of the participant for more than 21 days by a registered nurse.

For example, a participant who has a condition such as congestive heart failure which results in three or more significant hospitalizations during a quarter and which requires that the participant receive frequent supervision may be considered medically unstable.

“*Nonaccredited*” means that the program has been certified under the provisions of this chapter but has not received accreditation from the accreditation entity recognized in subrule 70.14(1).

“*Participant*” means an individual who is the recipient of services provided by an adult day services program.

“*Participant’s legal representative*” means a person appointed by the court to act on behalf of a participant, or a person acting pursuant to a power of attorney.

“*Unmanageable incontinence*” means a condition that requires staff provision of total care for an incontinent participant who lacks the ability to assist in bladder or bowel continence care.

“*Unmanageable verbal abuse*” means repeated verbalizations against participants or staff that persist despite all interventions and negatively affect the program. “Unmanageable verbal abuse” includes but is not limited to threats, frequent use of profane language, or unwelcome sexually oriented remarks.

“*Visiting day(s)*” means up to 16 hours in a two-day period during which a person may visit a program prior to admission for the purpose of assessing eligibility for the program and personal satisfaction.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.2(231D) Program certification. A program may obtain certification by meeting all applicable requirements. In addition, a program may be voluntarily accredited by a recognized accreditation entity. For the purpose of these rules, certification is equivalent to licensure.

70.2(1) Posting requirements. A program’s current certificate shall be visibly displayed within the designated operation area of the program. In addition, the latest monitoring report, state fire marshal report, and food establishment inspections report issued pursuant to Iowa Code chapter 137F shall be made available to the public by the program upon request.

70.2(2) Dementia-specific programs and door alarms. If a program meets the definition of a dementia-specific adult day services program during two sequential certification monitorings, the program shall meet all requirements for a dementia-specific program, including the requirements set forth in rule 481—70.30(231D) and in subrule 70.32(2), which includes the requirements relating to door alarms.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.3(231D) Certification of a nonaccredited program—application process.

70.3(1) The applicant shall complete an application packet obtained from the department. Application materials may be obtained from the health facilities division Web site at https://dia-hfd.iowa.gov/DIA_HFD/Home.do; by mail from the Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by telephone at (515)281-6325.

70.3(2) The applicant shall submit one copy of the completed application and all supporting documentation to the department at the above address at least 90 calendar days prior to the expected date of beginning operation.

70.3(3) The appropriate fee as stated in Iowa Code section 231D.4 shall accompany each application and be payable by check or money order to the Department of Inspections and Appeals. Fees are nonrefundable.

70.3(4) The department shall consider the application when all supporting documents and fees are received.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.4(231D) Nonaccredited program—application content. An application for certification or recertification of a nonaccredited program shall include the following:

70.4(1) A list that includes the names, addresses, and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors and trustees and of the designated manager, as well as stockholders, partners or any individuals who have greater than a 5 percent equity interest in the program. The program shall notify the department of any changes in the list within ten working days of the change.

70.4(2) A statement affirming that the individuals listed in subrule 70.4(1) have not been convicted of a felony or serious misdemeanor or found in violation of the dependent adult abuse code in any state.

70.4(3) A statement disclosing whether any of the individuals listed in subrule 70.4(1) have or have had an ownership interest in an adult day services program, assisted living program, elder group home, home health agency, licensed health care facility as defined in Iowa Code section 135C.1 or licensed hospital as defined in Iowa Code section 135B.1 or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1), which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services for participants to prevent abuse or neglect.

70.4(4) The policy and procedure for evaluation of each participant. A copy of the evaluation tool or tools to be used to identify the functional, cognitive and health status of each participant shall be included.

70.4(5) The policy and procedure for service plans.

70.4(6) The policy and procedure for addressing medication needs of participants.

70.4(7) The policy and procedure for accidents and emergency response.

70.4(8) The policies and procedures for food service, including those relating to staffing, nutrition, menu planning, therapeutic diets, and food preparation, service and storage.

70.4(9) The policy and procedure for activities.

70.4(10) The policy and procedure for transportation.

70.4(11) The policy and procedure for staffing and training.

70.4(12) The policy and procedure for emergencies, including natural disasters. The policy and procedure shall include an evacuation plan and procedures for notifying legal representatives in emergency situations as applicable.

70.4(13) The policy and procedure for managing risk and upholding participant autonomy when participant decision making results in poor outcomes for the participant or others.

70.4(14) The policy and procedure for reporting incidents including dependent adult abuse as required in rule 481—67.2(231B,231C,231D).

70.4(15) The policy and procedure related to life safety requirements for a dementia-specific program as required by subrule 70.32(2).

70.4(16) The participant contractual agreement and all attachments.

70.4(17) If the program contracts for personal care or health-related care services from a certified home health agency, a mental health center or a licensed health care facility, a copy of that entity's current license or certification.

70.4(18) A copy of the state license for the entity that provides food service, whether the entity is the program or an outside entity or a combination of both.

70.4(19) The fee set forth in Iowa Code section 231D.4.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.5(231D) Initial certification process for a nonaccredited program.

70.5(1) Upon receipt of all completed documentation, including state fire marshal approval and structural and evacuation review approval, the department shall determine whether the proposed program meets applicable requirements.

70.5(2) If, based upon the review of the complete application, including all required supporting documents, the department determines the proposed program meets the requirements for certification, a provisional certification shall be issued to the program to begin operation and accept participants.

70.5(3) Within 180 calendar days following issuance of provisional certification, the department shall conduct a monitoring to determine the program's compliance with applicable requirements.

70.5(4) If a regulatory insufficiency is identified as a result of the monitoring, the process in rule 481—67.10(17A,231B,231C,231D) shall be followed.

70.5(5) The department shall make a final certification decision based on the results of the monitoring and review of an acceptable plan of correction.

70.5(6) The department shall notify the program of a final certification decision within 10 working days following the finalization of the monitoring report or receipt of an acceptable plan of correction, whichever is applicable.

70.5(7) If the decision is to continue certification, the department shall issue a full two-year certification effective from the date of the original provisional certification.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.6(231D) Expiration of the certification of a nonaccredited program.

70.6(1) Unless conditionally issued, suspended or revoked, certification of a program shall expire at the end of the time period specified on the certificate.

70.6(2) The department shall send recertification application materials to each program at least 120 calendar days prior to expiration of the program's certification.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.7(231D) Recertification process for a nonaccredited program. To obtain recertification, a program shall:

70.7(1) Submit one copy of the completed application, including the information required in rule 481—70.4(231D), associated documentation, and the recertification fee as listed in Iowa Code section 231D.4 to the department at the address stated in subrule 70.3(1) at least 90 calendar days prior to the expiration of the program's certification. The program need not submit policies and procedures that have been previously submitted to the department and remain unchanged. The program shall provide a list of the policies and procedures that have been previously submitted and are not being resubmitted.

70.7(2) Submit additional documentation that each of the following has been inspected by a qualified professional and found to be maintained in conformance with the manufacturer's recommendations and nationally recognized standards: heating system, cooling system, water heater, electrical system, plumbing, sewage system, artificial lighting, and ventilation system; and, if located on site, garbage disposal, kitchen appliances, washing machines and dryers, and elevators.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.8(231D) Notification of recertification for a nonaccredited program.

70.8(1) The department shall review the application and associated documentation and fees. If the application is incomplete, the department shall contact the program to request the additional information. After all finalized documentation is received, including state fire marshal approval, the department shall determine the program's compliance with applicable requirements.

70.8(2) The department shall conduct a monitoring of the program between 60 and 90 days prior to expiration of the program's certification.

70.8(3) If a regulatory insufficiency is identified as a result of the monitoring, the process in rule 481—67.10(17A,231B,231C,231D) shall be followed.

70.8(4) If no regulatory insufficiency is identified as a result of the monitoring, the department shall issue a report of the findings with the final recertification decision.

70.8(5) If the decision is to recertify, the department shall issue the program a two-year certification effective from the date of the expiration of the previous certification.

70.8(6) If the decision is to deny recertification, the department shall issue a notice of denial and provide the program the opportunity for a hearing pursuant to rule 481—67.13(17A,231B,231C,231D).

70.8(7) If the department is unable to recertify a program through no fault of the program, the department shall issue to the program a time-limited extension of certification of no longer than one year.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.9(231D) Certification or recertification of an accredited program—application process.

70.9(1) An applicant for certification or recertification of a program accredited by a recognized accrediting entity shall:

a. Submit a completed application packet obtained from the department. Application materials may be obtained from the health facilities division Web site at https://dia-hfd.iowa.gov/DIA_HFD/Home.do; by mail from the Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by telephone at (515)281-6325.

b. Submit a copy of the current accreditation outcome from the recognized accrediting entity.

c. Apply for certification or recertification within 90 calendar days following verification of compliance with life safety requirements pursuant to this chapter.

d. Maintain compliance with life safety requirements pursuant to this chapter.

e. Submit the appropriate fees as set forth in Iowa Code section 231D.4.

70.9(2) The department shall not consider an application until it is complete and includes all supporting documentation and the appropriate fees.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.10(231D) Certification or recertification of an accredited program—application content. An application for certification or recertification of an accredited program shall include the following:

70.10(1) A list that includes the names, addresses and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors, and trustees and of the designated manager, as well as stockholders, partners or any individuals who have greater than a 5 percent equity interest in the program. The program shall notify the department of any changes in the list within ten working days of the change.

70.10(2) A statement affirming that the individuals listed in subrule 70.10(1) have not been convicted of a felony or serious misdemeanor or found in violation of the dependent adult abuse code in any state.

70.10(3) A statement disclosing whether any of the individuals listed in subrule 70.10(1) have or have had an ownership interest in an adult day services program, assisted living program, elder group home, home health agency, licensed health care facility as defined under Iowa Code section 135C.1 or licensed hospital as defined under Iowa Code section 135B.1 or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1), which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services for participants to prevent abuse or neglect.

70.10(4) A copy of the current accreditation outcome from the recognized accrediting entity.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.11(231D) Initial certification process for an accredited program.

70.11(1) Within 20 working days of receiving all finalized documentation, including state fire marshal approval, the department shall determine and notify the accredited program whether the accredited program meets applicable requirements and whether certification will be issued.

70.11(2) If the decision is to certify, a certification shall be issued for the term of the accreditation not to exceed three years, unless the certification is conditionally issued, suspended or revoked by either the department or the recognized accrediting entity.

70.11(3) If the decision is to deny certification, the department shall provide the applicant an opportunity for hearing in accordance with rule 481—67.13(17A,231B,231C,231D).

70.11(4) Unless conditionally issued, suspended or revoked, certification for a program shall expire at the end of the time period specified on the certificate.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.12(231D) Recertification process for an accredited program.

70.12(1) The department shall send recertification application materials to each program at least 120 calendar days prior to expiration of the program's certification.

70.12(2) To obtain recertification, an accredited program shall submit one copy of the completed application, associated documentation, and the administrative fee as stated in Iowa Code section 231D.4 to the department at the address stated in subrule 70.9(1) at least 90 calendar days prior to the expiration of the program's certification.

70.12(3) Within 20 working days of receiving all finalized documentation, including state fire marshal approval, the department shall determine the program's compliance with applicable requirements and make a recertification decision.

70.12(4) The department shall notify the accredited program within 10 working days of the final recertification decision.

a. If the decision is to recertify, a full certification shall be issued for the term of the accreditation not to exceed three years, unless the certification is conditionally issued, suspended or revoked by either the department or the recognized accrediting entity.

b. If the decision is to deny recertification, the department shall provide the applicant an opportunity for hearing in accordance with rule 481—67.13(17A,231B,231C,231D).

70.12(5) If the department is unable to recertify a program through no fault of the program, the department shall issue to the program a time-limited extension of certification of no longer than one year.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.13(231D) Listing of all certified programs. The department shall maintain a list of all certified programs, which is available online at https://dia-hfd.iowa.gov/DIA_HFD/Home.do, under the “Entities Book” tab.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.14(231D) Recognized accrediting entity.

70.14(1) The department designates CARF as a recognized accrediting entity for programs.

70.14(2) To apply for designation by the department as a recognized accrediting entity for programs, an accrediting entity shall submit a letter of request, and its standards shall, at minimum, meet the applicable requirements for programs.

70.14(3) The designation shall remain in effect for as long as the accreditation standards continue to meet, at minimum, the applicable requirements for programs.

70.14(4) An accrediting entity shall provide annually to the department, at no cost, a current edition of the applicable standards manual and survey preparation guide, and training thereon, within 120 working days after the publications are released.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.15(231D) Requirements for an accredited program. Each accredited program that is certified by the department shall:

70.15(1) Provide the department a copy of all survey reports including outcomes, quality improvement plans and annual conformance to quality reports generated or received, as applicable, within ten working days of receipt of the reports.

70.15(2) Notify the department by the most expeditious means possible of all credible reports of alleged improper or inappropriate conduct or conditions within the program and any actions taken by the accrediting entity with respect thereto.

70.15(3) Notify the department immediately of the expiration, suspension, revocation or other loss of the program’s accreditation.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.16(231D) Maintenance of program accreditation.

70.16(1) An accredited program shall continue to be recognized for certification by the department if both of the following requirements are met:

a. The program complies with the requirements outlined in rule 481—70.15(231D).

b. The program maintains its voluntary accreditation status for the duration of the time-limited certification period.

70.16(2) A program that does not maintain its voluntary accreditation status must become certified by the department prior to any lapse in accreditation.

70.16(3) A program that does not maintain its voluntary accreditation status and is not certified by the department prior to any lapse in voluntary accreditation shall cease operation as a program.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.17(231D) Transfer of certification.

70.17(1) Certification, unless conditionally issued, suspended or revoked, may be transferable to a new owner of a program. If the program's certification has been conditionally issued, the new owner must receive approval from the department prior to transfer of the certification.

70.17(2) The new owner is required to notify the department in writing within 30 calendar days prior to the change in ownership. The notice shall include assurance that the new owner meets all applicable requirements for programs.

70.17(3) The department may conduct a monitoring within 90 days following a change in the program's ownership or management corporation to ensure that the program complies with applicable requirements. If a regulatory insufficiency is found, the department shall take any necessary enforcement action authorized by applicable requirements.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.18(231D) Structural and life safety reviews of a building for a new program.

70.18(1) Before a building is constructed or remodeled for use in a new program, the department shall review the blueprints for compliance with requirements pursuant to this chapter. Construction or remodeling includes new construction, remodeling of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

70.18(2) A program applicant shall submit to the department blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231D.4 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

70.18(3) Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

70.18(4) The department shall review the blueprints and notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

70.18(5) The Iowa-licensed architect or Iowa-licensed engineer shall respond to the department to state how any noncompliance will be resolved.

70.18(6) Upon final notification by the department that the blueprints meet structural and life safety requirements, construction or remodeling of the building may commence.

70.18(7) The department shall schedule an on-site visit of the building site with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the construction or remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for certification.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.19(231D) Structural and life safety review prior to the remodeling of a building for a certified program.

70.19(1) Before a building for a certified program is remodeled, the department shall review the blueprints for compliance with requirements set forth in rule 481—70.35(231D). Remodeling includes modification of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

70.19(2) A certified program shall submit to the department blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231D.4 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

70.19(3) Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

70.19(4) The department shall review the blueprints within 20 working days of receipt and immediately notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

70.19(5) The Iowa-licensed architect or Iowa-licensed engineer shall respond to the department in 20 working days to state how any noncompliance will be resolved.

70.19(6) Upon final notification by the department that the blueprints meet structural and life safety requirements, remodeling of the building may commence.

70.19(7) The department shall schedule an on-site visit of the building with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for continued certification or recertification of the program.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.20(231D) Cessation of program operation.

70.20(1) If a certified program ceases operation, which includes seeking decertification, at any time prior to expiration of the program's certification, the program shall submit the certificate to the department. The program shall provide, at least 90 days in advance of cessation, which includes seeking decertification, unless there is some type of emergency, written notification to the department of the date on which the program will cease operation, which includes seeking decertification.

70.20(2) If a certified program plans to cease operation, which includes seeking decertification, at the time the program's certification expires, the program shall provide written notice of this fact to the department at least 90 days prior to expiration of the certification.

70.20(3) At the time a program decides to cease operation, which includes seeking decertification, the program shall submit a plan to the department and make arrangements for the safe and orderly discharge or transition of all participants within the 90-day period specified by subrule 70.20(2).

70.20(4) The department may conduct a monitoring during the 90-day period to ensure the safety of participants during the discharge process or transition process.

70.20(5) The department may conduct an on-site visit to verify that the program has ceased operation as a certified program in accordance with the notice provided by the program.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.21(231D) Contractual agreement.

70.21(1) The contractual agreement shall be in 12-point type or larger, shall be written in plain language using commonly understood terms and shall be easy for the participant or the participant's legal representative to understand.

70.21(2) In addition to the requirements of Iowa Code section 231D.17, the written contractual agreement shall include, but not be limited to, the following information in the body of the agreement or in the supporting documents and attachments:

- a. The telephone number for filing a complaint with the department.
- b. The telephone number for reporting dependent adult abuse.
- c. A copy of the program's statement on participants' rights.
- d. A statement that the program will notify the participant at least 90 days in advance of any planned program cessation, which includes voluntary decertification, except in cases of emergency.
- e. A copy of the program's admission and discharge criteria.

70.21(3) The contractual agreement shall be reviewed and updated as necessary to reflect any change in services or financial arrangements.

70.21(4) A copy of the contractual agreement shall be provided to the participant or the participant's legal representative, if any, and a copy shall be kept by the program.

70.21(5) A copy of the most current contractual agreement shall be made available to the general public upon request. The basic marketing material shall include a statement that a copy of the contractual agreement is available to all persons upon request.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.22(231D) Evaluation of participant.

70.22(1) *Evaluation prior to participation.* A program shall evaluate each prospective participant's functional, cognitive and health status prior to the participant's signing the contractual agreement and participating in the program, with the exception of visiting day(s), to determine the participant's eligibility for the program, including whether the services needed are available. The cognitive

evaluation shall be appropriate to the population served. When the cognitive evaluation indicates moderate cognitive decline and risk, the Global Deterioration Scale shall be used at all subsequent intervals, if applicable. If the participant subsequently returns to the participant's mildly cognitively impaired state, the program may discontinue the GDS and revert to a scored cognitive screening tool. The evaluation shall be conducted by a health care professional or human service professional.

70.22(2) *Evaluation within 30 days of participation and with significant change.* A program shall evaluate each participant's functional, cognitive and health status within 30 days of the participant's beginning participation in the program. A program shall also evaluate each participant's functional, cognitive and health status as needed with significant change, but not less than annually, to determine the participant's continued eligibility for the program and to determine any changes to services needed. The evaluation shall be conducted by a health care professional or human service professional. A licensed practical nurse may complete the evaluation via nurse delegation when the participant has not exhibited a significant change.

70.22(3) *Requirements for visiting day(s).* Evaluation of the participant is not required during visiting day(s), but the program shall provide the participant or the participant's legal representative with a written explanation of the expectations for the visiting day(s).

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.23(231D) Criteria for admission and retention of participants.

70.23(1) *Persons who may not be admitted or retained.* A program shall not knowingly admit or retain a participant who:

- a. Is bed-bound; or
 - b. Requires routine, three-person assistance with standing, transfer or evacuation; or
 - c. Is dangerous to self or other participants or staff, including but not limited to a participant who:
 - (1) Despite intervention chronically elopes, is sexually or physically aggressive or abusive, or displays unmanageable verbal abuse or aggression; or
 - (2) Displays behavior that places another participant at risk; or
 - d. Is in an acute stage of alcoholism, drug addiction, or uncontrolled mental illness; or
 - e. Is under the age of 18; or
 - f. Requires more than part-time or intermittent health-related care; or
 - g. Has unmanageable incontinence on a routine basis despite an individualized toileting program;
- or
- h. Is medically unstable; or
 - i. Requires maximal assistance with activities of daily living.

70.23(2) *Disclosure of additional participation and discharge criteria.* A program may have additional participation or discharge criteria if the criteria are disclosed in the written contractual agreement prior to the participant's participation in the program.

70.23(3) *Assistance with discharge from the program.* A program shall provide assistance to a participant and the participant's legal representative, if applicable, to ensure a safe and orderly discharge from the program when the participant exceeds the program's criteria for admission and retention.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.24(231D) Involuntary discharge from the program.

70.24(1) *Program initiation of discharge.* If a program initiates the involuntary discharge of a participant and the action is not the result of a monitoring, including a complaint investigation or program-reported incident investigation, by the department and if the participant or participant's legal representative contests the discharge, the following procedures shall apply:

- a. The program shall notify the participant or participant's legal representative, in accordance with the contractual agreement, of the need to discharge the participant and of the reason for the discharge.
- b. If, following the internal appeal process, the program upholds the discharge decision, the participant or participant's legal representative may utilize other remedies authorized by law to contest the discharge.

70.24(2) *Discharge pursuant to results of monitoring or complaint or program-reported incident investigation by the department.* If one or more participants are identified as exceeding the admission and retention criteria for participants and need to be discharged as a result of a monitoring or a complaint or program-reported incident investigation conducted by the department, the following procedures shall apply:

a. Notification of the program. Within 20 working days of the monitoring or complaint or program-reported incident investigation, the department shall notify the program, in writing, of the identification of any participant who exceeds admission and retention criteria.

b. Notification of others. Each identified participant, the participant's legal representative, if applicable, and other providers of services to the participant shall be notified of their opportunity to provide responses including: specific input, written comment, information, and documentation directly addressing any agreement or disagreement with the identification. All responses shall be provided to the department within 10 days of receipt of the notice.

c. Program agreement with the department's finding. If the program agrees with the department's finding and the program begins involuntary discharge proceedings, the program's internal appeal process in subrule 70.24(1) shall be utilized for appeals.

d. Program disagreement with the department's finding. If the program does not agree with the department's finding that the participant exceeds admission and retention criteria, the program may collect and submit all responses to the department, including those from other interested parties. In the program's response, the program shall identify the participant, list the known responses from others, and note the program's agreement or disagreement with the responses from others. The program's response shall be submitted to the department within 10 working days of the receipt of the notice. Submission of a response does not eliminate the applicable requirements, including submission of a plan of correction under 481—subrule 67.10(5). Other persons may also submit information directly to the department.

(1) *Consideration of response.* Within 10 working days of receipt of the program's response for each identified participant, the department shall consider the response and make a final finding regarding the continued retention of a participant.

(2) *Amending the regulatory insufficiency.* If the department's determination is to amend the regulatory insufficiency based on the response, the department shall modify the report of findings.

(3) *Retaining regulatory insufficiency.* If the department retains the regulatory insufficiency, the department shall review the plan of correction in accordance with this chapter and 481—Chapter 67. The department shall notify the program of the opportunity to appeal the report findings as they relate to the admission and retention decision.

(4) *Effect of the filing of an appeal.* If an appeal is filed, the participant who exceeds admission and retention criteria shall be allowed to continue to participate in the program until all administrative appeals have been exhausted. Appeals filed that relate to the participant's exceeding admission and retention criteria shall be heard within 30 days of receipt, and appropriate services to meet the participant's needs shall be provided during that period of time.

(5) *Request for waiver of criteria for retention of a participant in a program.* To allow a participant to continue to participate in the program, the program may request a waiver of criteria for retention of a participant pursuant to rule 481—67.7(231B,231C,231D) from the department within 10 working days of the receipt of the report.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.25(231D) Participant documents.

70.25(1) Documentation for each participant shall be maintained by the program and shall include:

a. A participation record including the participant's name, birth date, and home address; identification numbers; date of beginning participation; name, address and telephone number of health professional(s); diagnosis; and names, addresses and telephone numbers of family members, friends or other designated people to contact in the event of illness or an emergency;

b. Application forms;

c. The initial evaluations and updates;

- d.* A nutritional assessment as necessary;
- e.* The initial individual service plan and updates;
- f.* Signed authorizations for permission to release medical information, photographs, or other media information as necessary;
- g.* A signed authorization for the participant to receive emergency medical care as necessary;
- h.* A signed managed risk policy and signed managed risk consensus agreements, if any;
- i.* When any personal or health-related care is delegated to the program, the medical information sheet; documentation of health professionals' orders, such as those for treatment, therapy, and medication; and nurses' notes written by exception;
- j.* Medication lists, which shall be maintained in conformance with 481—subrule 67.5(4);
- k.* Advance health care directives as applicable;
- l.* A complete copy of the participant's contractual agreement, including any updates;
- m.* A written acknowledgment that the participant or the participant's legal representative, if applicable, has been fully informed of the participant's rights;
- n.* A copy of guardianship, durable power of attorney for health care, power of attorney, or conservatorship or other documentation of a legal representative;
- o.* Incident reports involving the participant, including but not limited to those related to medication errors, accidents, falls, and elopements (such reports shall be maintained by the program but need not be included in the participant's medical record);
- p.* A copy of waivers of admission or retention criteria, if any;
- q.* When the participant is unable to advocate on the participant's own behalf or the participant has multiple service providers, including hospice care providers, accurate documentation of the completion of routine personal or health-related care is required on task sheets. If tasks are doctor-ordered, the tasks shall be part of the medication administration records (MARs); and
- r.* Authorizations for the release of information, if any.

70.25(2) The program records relating to a participant shall be retained for a minimum of three years after the discharge or death of the participant.

70.25(3) All records shall be protected from loss, damage and unauthorized use.
[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.26(231D) Service plans.

70.26(1) A service plan shall be developed for each participant based on the evaluations conducted in accordance with subrules 70.22(1) and 70.22(2) and shall be designed to meet the specific service needs of the individual participant. The service plan shall subsequently be updated at least annually and whenever changes are needed.

70.26(2) Prior to the participant's signing the contractual agreement and participating in the program, a preliminary service plan shall be developed by a health care professional or human service professional in consultation with the participant and, at the participant's request, with other individuals identified by the participant, and, if applicable, with the participant's legal representative. All persons who develop the plan and the participant or the participant's legal representative shall sign the plan.

70.26(3) When a participant needs personal care or health-related care, the service plan shall be updated within 30 days of the participant's participation and as needed with significant change, but not less than annually.

a. If a significant change triggers the review and update of the service plan, the updated service plan shall be signed and dated by all parties.

b. If a significant change does not exist, the program may, after nurse review, add minor discretionary changes to the service plan without a comprehensive evaluation and without obtaining signatures on the service plan.

c. If a significant change relates to a recurring or chronic condition, a previous evaluation and service plan of the recurring condition may be utilized without new signatures being obtained. For example, with chronic exacerbation of a urinary tract infection, nurse review is adequate to institute the previously written evaluation and service plan.

70.26(4) The service plan shall be individualized and shall indicate, at a minimum:

- a. The participant's identified needs and preferences for assistance;
- b. Any services and care to be provided pursuant to the contractual agreement;
- c. The service provider(s), if other than the program, including but not limited to providers of hospice care, home health care, occupational therapy, and physical therapy; and
- d. For participants who are unable to plan their own activities, including participants with dementia, planned and spontaneous activities based on the participant's abilities and personal interests.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.27(231D) Nurse review. If a participant does not receive personal or health-related care, but an observed significant change in the participant's condition occurs, a nurse review shall be conducted. If a participant receives personal or health-related care, the program shall provide for a registered nurse or a licensed practical nurse via nurse delegation:

70.27(1) To monitor, at least every 90 days, or after a significant change in the participant's condition, any participant who receives program-administered prescription medications for adverse reactions to the medications and to make appropriate interventions or referrals, and to ensure that the prescription medication orders are current and that the prescription medications are administered consistent with such orders; and

70.27(2) To ensure that health care professionals' orders are current for participants who receive health care professional-directed care from the program; and

70.27(3) To assess and document the health status of each participant, to make recommendations and referrals as appropriate, and to monitor progress relating to previous recommendations at least every 90 days and whenever there are changes in the participant's health status; and

70.27(4) To provide the program with written documentation of the activities under the service plan, as set forth in rule 481—70.26(231D), showing the time, date and signature.

NOTE: Refer to Table A at the end of this chapter. If the program does not provide personal or health-related care to a participant, nurse review is not required.
[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.28(231D) Food service.

70.28(1) The program shall provide or coordinate with other community providers to provide a hot or other appropriate meal(s) at least once a day or shall make arrangements for the availability of meals, unless otherwise noted in the contractual agreement.

70.28(2) Meals and snacks provided by the program but not prepared on site shall be obtained from or provided by an entity that meets the standards of state and local health laws and ordinances concerning the preparation and serving of food.

70.28(3) Menus shall be planned to provide the following percentage of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences based on the number of meals provided by the program:

- a. A minimum of 33½ percent if the program provides one meal per day;
- b. A minimum of 66⅔ percent if the program provides two meals per day; and
- c. One hundred percent if the program provides three meals per day.

70.28(4) Therapeutic diets may be provided by a program. If therapeutic diets are provided, they shall be prescribed by a physician, physician assistant, or advanced registered nurse practitioner. A current copy of the Iowa Simplified Diet Manual published by the Iowa Dietetic Association shall be available and used in the planning and serving of therapeutic diets. A licensed dietitian shall be responsible for writing and approving the therapeutic menu and for reviewing procedures for food preparation and service for therapeutic diets.

70.28(5) Personnel who are employed by or contract with the program and who are responsible for food preparation or service, or both food preparation and service, shall have an orientation on sanitation and safe food handling prior to handling food and shall have annual in-service training on food protection.

a. In addition to the requirements above, a minimum of one person directly responsible for food preparation shall have successfully completed a state-approved food protection program by:

(1) Obtaining certification as a dietary manager; or
 (2) Obtaining certification as a food protection professional; or
 (3) Successfully completing a course meeting the requirements for a food protection program included in the Food Code adopted pursuant to Iowa Code chapter 137F. Another course may be substituted if the course's curriculum includes substantially similar competencies to a course that meets the requirements of the Food Code and the provider of the course files with the department a statement indicating that the course provides substantially similar instruction as it relates to sanitation and safe food handling.

b. If the person is in the process of completing a course or certification listed in paragraph “*a.*,” the requirement relating to completion of a state-approved food protection program shall be considered to have been met.

70.28(6) Programs engaged in the preparation and service of meals and snacks shall meet the standards of state and local health laws and ordinances pertaining to the preparation and service of food and shall be licensed pursuant to Iowa Code chapter 137F. The department will not require the program to be licensed as a food establishment if the program limits food activities to the following:

a. All main meals and planned menu items must be prepared offsite and transferred to the program kitchen for service to participants.

b. Baked goods that do not require temperature control for safety and single-service juice or milk may be stored in the program's kitchen and provided as part of a continental breakfast.

c. Ingredients used for food-related activities with participants may be stored in the program's kitchen. Participant activities may include the preparation and cooking of food items in the program's kitchen if the activity occurs on an irregular or sporadic basis and the items prepared are not part of the program's menu.

d. Appropriately trained staff may prepare in the program's kitchen individual quantities of participant-requested menu-substitution food items that require limited or no preparation, such as peanut butter or cheese sandwiches or a single-service can of soup. The food items necessary to prepare the menu substitution may be stored in the program's kitchen. These food items may not be cooked in the program's kitchen but may be reheated in a microwave. A two- or four-slice toaster may be used for participant-requested menu-substitution items, but no bare-hand contact is permitted.

e. Warewashing may be done in the program's kitchen as long as the program utilizes a commercial dishwasher and documents daily testing of sanitizer chemical ppm and proper water temperatures. Verification by the department of these practices may be conducted during on-site visits.

70.28(7) Programs may have an on-site dietitian. Programs may secure menus and a dietitian through other methods.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 1376C, IAB 3/19/14, effective 4/23/14]

481—70.29(231D) Staffing. In addition to the general staffing requirements in rule 481—67.9(231B,231C,231D), the following requirements apply to staffing in programs.

70.29(1) No fewer than two staff persons who monitor participants shall be awake and on duty during all hours of operation when two or more participants are participating in the program.

70.29(2) The owner or management corporation of the program is responsible for ensuring that all personnel employed by or contracting with the program receive training appropriate to assigned tasks and target population.

70.29(3) A program that serves one or more participants with cognitive disorders or dementia shall follow written procedures that address how the program will respond to the emergency needs of the participants.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.30(231D) Dementia-specific education for program personnel.

70.30(1) All personnel employed by or contracting with a dementia-specific program shall receive a minimum of eight hours of dementia-specific education and training within 30 days of either employment or the beginning date of the contract, as applicable.

70.30(2) The dementia-specific education or training shall include, at a minimum, the following:

- a. An explanation of Alzheimer's disease and related disorders;
- b. The program's specialized dementia care philosophy and program;
- c. Skills for communicating with persons with dementia;
- d. Skills for communicating with family and friends of persons with dementia;
- e. An explanation of family issues such as role reversal, grief and loss, guilt, relinquishing the care-giving role, and family dynamics;
- f. The importance of planned and spontaneous activities;
- g. Skills in providing assistance with instrumental activities of daily living;
- h. The importance of the service plan and social history information;
- i. Skills in working with challenging participants;
- j. Techniques for simplifying, cueing, and redirecting;
- k. Staff support and stress reduction; and
- l. Medication management and nonpharmacological interventions.

70.30(3) All personnel employed by or contracting with a dementia-specific program shall receive a minimum of two hours of dementia-specific continuing education annually. Direct-contact personnel shall receive a minimum of eight hours of dementia-specific continuing education annually.

70.30(4) An employee or contractor who provides documentation of completion of a dementia-specific education or training program within the past 12 months shall be exempt from the education and training requirement of subrule 70.30(1).

70.30(5) Dementia-specific training shall include hands-on training and may include any of the following: classroom instruction, Web-based training, and case studies of participants in the program.
[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.31(231D) Managed risk policy and managed risk consensus agreements. The program shall have a managed risk policy. The managed risk policy shall be provided to the participant along with the contractual agreement. The managed risk policy shall include the following:

70.31(1) An acknowledgment of the shared responsibility for identifying and meeting the needs of the participant and the process for managing risk and for upholding participant autonomy when participant decision making results in poor outcomes for the participant or others; and

70.31(2) A consensus-based process to address specific risk situations. Program staff and the participant shall participate in the process. The result of the consensus-based process may be a managed risk consensus agreement. The managed risk consensus agreement shall include the signature of the participant and the signatures of all others who participated in the process. The managed risk consensus agreement shall be included in the participant's file.
[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.32(231D) Life safety—emergency policies and procedures and structural safety requirements.

70.32(1) The program shall submit to the department and follow written emergency policies and procedures, which shall include the following:

- a. An emergency plan, which shall include procedures for natural disasters (identify where the plan is located for easy reference);
- b. Fire safety procedures;
- c. Other general or personal emergency procedures;
- d. Provisions for amending or revising the emergency plan;
- e. Provisions for periodic training of all employees;
- f. Procedures for fire drills;
- g. Regulations regarding smoking;
- h. Monitoring and testing of smoke-control systems;
- i. Participant evacuation procedures; and
- j. Procedures for reporting and documentation.

70.32(2) An operating alarm system shall be connected to each exit door in a dementia-specific program. A program serving a person(s) with cognitive disorder or dementia, whether in a general or dementia-specific setting, shall have:

a. Written procedures regarding alarm systems and appropriate staff response when a participant's service plan indicates a risk of elopement or a participant exhibits wandering behavior.

b. Written procedures regarding appropriate staff response if a participant with cognitive disorder or dementia is missing.

70.32(3) The program's structure and procedures and the facility in which a program is located shall meet the requirements adopted for adult day services programs in administrative rules promulgated by the state fire marshal. Approval of the state fire marshal indicating that the building is in compliance with these requirements is necessary for certification of a program.

70.32(4) The program shall have the means to control the maximum temperature of water at sources accessible by a participant to prevent scalding and shall control the maximum water temperature for participants with cognitive impairment or dementia or at a participant's request.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.33(231D) Transportation. When transportation services are provided directly or under contract with the program:

70.33(1) The vehicle shall be accessible and appropriate to the participants who use it, with consideration for any physical disabilities and impairments.

70.33(2) Every participant transported shall have a seat in the vehicle, except for a participant who remains in a wheelchair during transport.

70.33(3) Vehicles shall have adequate seat belts and securing devices for ambulatory and wheelchair-using passengers.

70.33(4) Wheelchairs shall be secured when the vehicle is in motion.

70.33(5) During loading and unloading of a participant, the driver shall be in the proximate area of the participants in a vehicle.

70.33(6) The driver shall have a valid and appropriate Iowa driver's license or commercial driver's license as required by law for the vehicle being utilized for transport. If the driver is licensed in another state, the license shall be valid and appropriate for the vehicle being utilized for transport. The driver shall meet any state or federal requirements for licensure or certification for the vehicle operated.

70.33(7) Each vehicle shall have a first-aid kit, fire extinguisher, safety triangles and a device for two-way communication.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.34(231D) Activities.

70.34(1) The program shall provide appropriate activities for each participant. Activities shall reflect individual differences in age, health status, sensory deficits, lifestyle, ethnic and cultural beliefs, religious beliefs, values, experiences, needs, interests, abilities and skills by providing opportunities for a variety of types and levels of involvement.

70.34(2) Activities shall be planned to support the participant's service plan and shall be consistent with the program statement and participation policies.

70.34(3) A written schedule of activities shall be developed at least monthly and made available to participants and their legal representatives.

70.34(4) Participants shall be given the opportunity to choose their levels of participation in all activities offered in the program.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.35(231D) Structural requirements.

70.35(1) The structure, equipment and physical environment of the program shall be designed and operated to meet the needs of the participants. The building, grounds and equipment shall be well-maintained, clean, safe and sanitary.

70.35(2) There shall be at least one toilet for every ten participants and staff members.

70.35(3) Toilets and bathing and toileting appliances shall be equipped for use by participants with multiple disabilities.

70.35(4) There shall be a ratio of at least one hand-washing sink for every two toilets. The sink(s) shall be proximate to the toilets. Hand-washing facilities shall be readily accessible to participants and staff.

70.35(5) Shower and tub areas, if provided, shall be equipped with grab bars and slip-resistant surfaces.

70.35(6) Signaling emergency call devices shall be installed or placed in all bathroom areas, restroom stalls and showers, if any.

70.35(7) A telephone shall be available to participants to make and receive calls in a private manner and for emergency purposes.

70.35(8) A storage area(s) shall be provided for storage of program supplies and participants' possessions, which shall be stored in such a manner that, when not in use, will prevent personal injury to participants and staff.

70.35(9) The program shall provide a separate area to permit privacy for evaluations and to isolate participants who become ill.

70.35(10) The program shall meet other building and public safety codes, including:

- a. The Americans with Disabilities Act.
- b. Applicable regulations of the Occupational Safety and Health Administration.
- c. Rules pertaining to accessibility contained in the state building code in 661—Chapter 302 and provisions of the state building code relating to persons with disabilities.
- d. Other applicable provisions of the state building code and local building codes.

70.35(11) The program shall meet the requirements in subrule 70.32(4).

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.36(231D) Identification of veteran's benefit eligibility.

70.36(1) Within 30 days of a participant's participation in an adult day services program that receives reimbursement through the medical assistance program under Iowa Code chapter 249A, the program shall ask the participant or the participant's personal representative whether the participant is a veteran or whether the participant is the spouse, widow or dependent of a veteran and shall document the response.

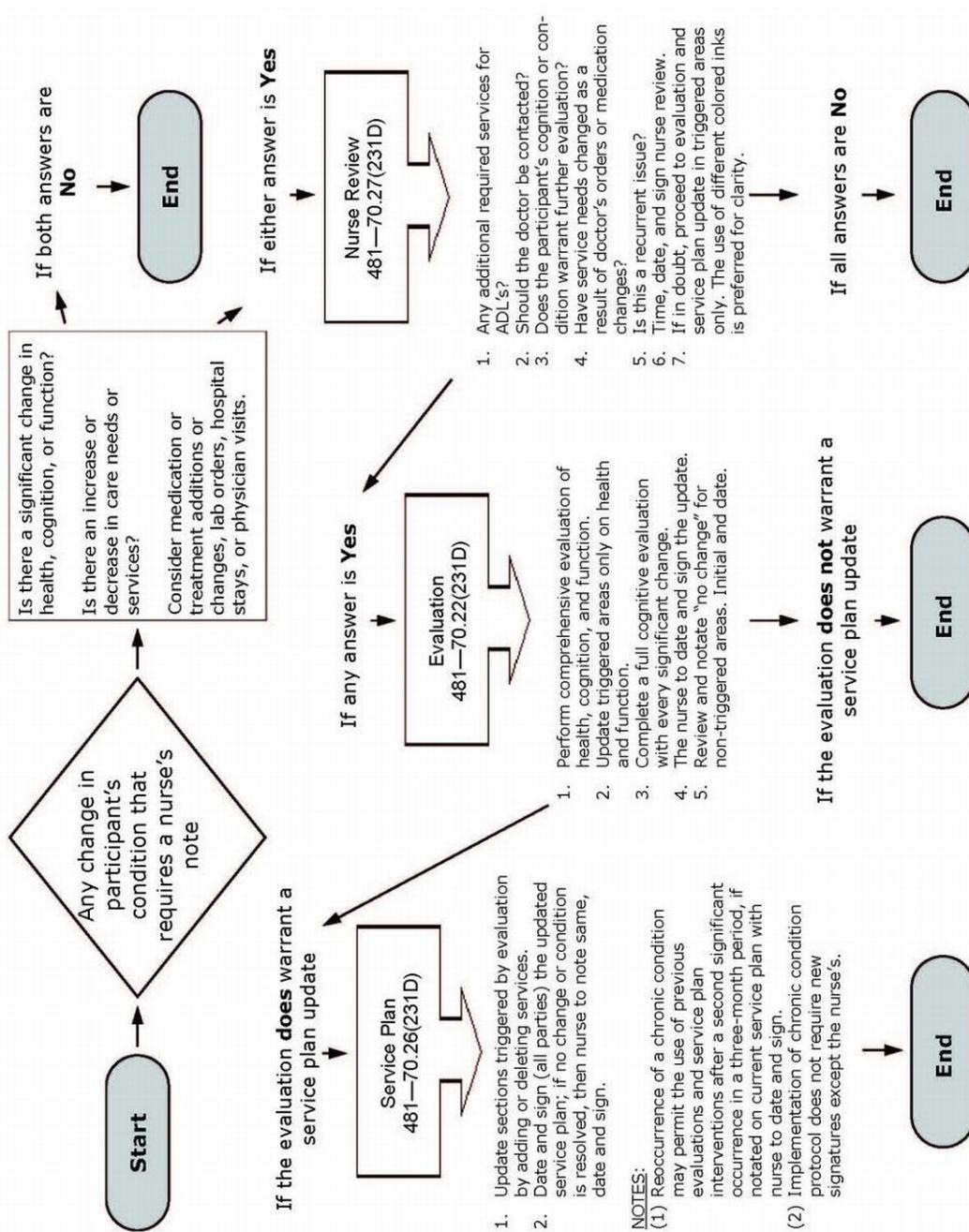
70.36(2) If the program determines that the participant may be a veteran or the spouse, widow, or dependent of a veteran, the program shall report the participant's name along with the name of the veteran, if applicable, as well as the name of the contact person for this information, to the Iowa department of veterans affairs. When appropriate, the program may also report such information to the Iowa department of human services.

70.36(3) If a participant is eligible for benefits through the U.S. Department of Veterans Affairs or other third-party payor, the program first shall seek reimbursement from the identified payor source before seeking reimbursement from the medical assistance program established under Iowa Code chapter 249A.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

These rules are intended to implement Iowa Code chapter 231D.

Table A



[Filed ARC 8177B (Notice ARC 7959B, IAB 7/15/09), IAB 9/23/09, effective 1/1/10]
 [Filed ARC 1376C (Notice ARC 1291C, IAB 1/22/14), IAB 3/19/14, effective 4/23/14]

CHILD ADVOCACY BOARD[489]

[Prior to 3/23/88, see Foster Care Review Board, State[445];
transferred to Inspections and Appeals Department “umbrella” pursuant to 1986 Iowa Acts, chapter 1245, section 549]
[Former Foster Care Review Board[489] renamed Child Advocacy Board[489] by 2002 Iowa Acts, chapter 1162]

CHAPTER 1

PURPOSE AND FUNCTION

1.1(237) Purpose

CHAPTER 2

RULES AND OPERATION FOR THE BOARD

2.1(237) Membership and term
2.2(237) Director
2.3(237) Foster care registry
2.4(237) Training
2.5(237) Confidentiality of records—penalty

CHAPTER 3

LOCAL FOSTER CARE REVIEW BOARDS

3.1(237) Local boards
3.2(237) Membership
3.3(237) Removal of a local board member
3.4(237) Duties of local board
3.5(237) Local board coordinator
3.6(237) Children eligible for review

CHAPTER 4

COURT APPOINTED SPECIAL ADVOCATE PROGRAM

4.1(237) Purpose
4.2(237) Program requirements
4.3(237) Training
4.4(237) Adherence to national guidelines
4.5(237) Children eligible for assignment of a court appointed special advocate
4.6(237) Annual program report

CHAPTER 5

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

(Uniform Rules)

5.1(22) Definitions
5.3(22) Requests for access to records
5.6(22) Procedure by which a subject may have additions, dissents, or objections entered into the record
5.9(22) Disclosures without the consent of the subject
5.10(22) Routine use
5.11(22) Consensual disclosure of confidential records
5.12(22) Release to subject
5.13(22) Availability of records
5.14(22) Personally identifiable information

CHAPTER 4
COURT APPOINTED SPECIAL ADVOCATE PROGRAM

489—4.1(237) Purpose. The child advocacy board is required by Iowa Code section 237.18 to establish procedures and protocols for administering the court appointed special advocate program.

4.1(1) Definitions.

“Administrator” means the person selected by the child advocacy board to lead, direct and manage the staff and programs established by the board.

“Certified,” when used as a descriptor of a court appointed special advocate, means that an applicant has been determined by the child advocacy board to have the required qualifications to become a court appointed special advocate and has completed the application requirements, background checks, screening and selection process and training established pursuant to the rules in this chapter.

“Coordinator” means the staff member of the child advocacy board who is responsible for planning and implementation of the court appointed special advocate program in a county or cluster of counties in the state.

“Court appointed special advocate” or *“CASA”* or *“advocate”* means a person who has volunteered and is duly certified by the child advocacy board for participation in the court appointed special advocate program and appointed by the court to represent the interest of a child in any judicial proceeding to which the child is a party or is called as a witness or relating to any dispositional order involving the child resulting from the proceeding. Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the duties of a court appointed special advocate with respect to a child pursuant to Iowa Code section 232.2(22) *“b”* shall include the following:

1. Conducting in-person interviews with the child, if the child’s age is appropriate for the interview, and interviewing each parent, guardian, or other person having custody of the child, if authorized by counsel.
2. Conducting interviews with the child, if the child’s age is appropriate for the interview, prior to any court-ordered hearing.
3. Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child, including each time placement is changed.
4. Interviewing any person providing medical, mental health, social, educational, or other services to the child, before any hearing referred to in paragraph “2” of this definition.
5. Obtaining firsthand knowledge, if possible, of the facts, circumstances, and parties involved in the matter in which the person is appointed.
6. Attending any hearings in the matter in which the person is appointed.
7. If the child is required to have a transition plan developed in accordance with the child’s case permanency plan and subject to review and approval of a transition committee under Iowa Code section 235.7, assisting the transition committee in development of the transition plan.

4.1(2) Program mission. The court appointed special advocate (CASA) program certifies and guides trained community volunteers to serve as an effective voice in court for abused and neglected children, strengthening efforts to ensure that each child is living in a safe, permanent and nurturing home.

4.1(3) Program goal. The CASA program will provide certified advocates for every abused and neglected child for whom an advocate is authorized by an Iowa court.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18.
[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—4.2(237) Program requirements.

4.2(1) Operation requirements.

a. The state board delegates responsibility to the administrator to hire, train and manage sufficient CASA coordinators throughout the state to plan and coordinate a CASA program in every county of the state. The administrator shall determine the number of court appointed special advocates or coaches an individual coordinator may supervise and coach.

b. The coordinator is responsible for recruiting, screening, selecting, training and supervising a sufficient number of court appointed special advocates to serve every child for whom a district court judge assigns the coordinator to provide a CASA.

c. If the number of CASA volunteers required for the county or counties for which the coordinator is responsible exceeds the number approved pursuant to paragraph 4.2(1)“a,” the coordinator shall recruit a sufficient number of CASA coaches to supervise and coach the CASA volunteers needed to meet the court’s requirements.

d. A CASA coach shall supervise and coach up to ten CASA volunteers at any given time. If the CASA coach has an individual CASA assignment, the coordinator may further limit the number of additional CASA volunteers supervised by the coach.

e. The coordinator accepts case appointments from the local judge and assigns an advocate to each case to which a CASA is appointed. When the local organizational structure includes a CASA coach, the coach is consulted in the decision about the appointment.

f. The CASA selection is made in a manner that provides the best match available between the knowledge, skills, abilities, availability and preferences of the advocate and the needs and preferences of the child. The assignments shall be made in a manner that avoids conflicts of interest, risk to the child’s or advocate’s safety and jeopardy to the program’s integrity.

g. Upon selection of the CASA who will serve on an individual case, the court and all interested parties are notified of the selection.

h. The selected CASA continues to serve on the case until the assignment is terminated by the court.

4.2(2) CASA advocate and coach qualifications. Potential coaches and advocates shall meet the following qualifications:

- a. Have a genuine interest in advocating for children and their rights and needs.
- b. Have time available and a schedule which allows completion of mandatory duties.
- c. Commit initially to a one-year case assignment as a CASA and understand that a CASA is expected to continue case responsibilities until the case or the assignment is terminated by the court.
- d. Have the ability to interact with people involved in the child welfare system.
- e. Have the ability to communicate effectively both in verbal and written presentations.
- f. Be at least 19 years of age or older.
- g. Not be a person employed by the state board or the department of human services, the department of inspections and appeals, the district court, or an agency with which the department of human services contracts for services for children.

4.2(3) Additional qualifications for CASA coaches. In addition to meeting all requirements in subrule 4.2(2), a CASA coach shall have served for two years as a CASA advocate on assigned cases and shall be in good standing. The administrator may approve comparable alternate experience for a coach.

4.2(4) Application requirements. A CASA coach candidate is invited by a coordinator to serve in the role of coach. A coach candidate who is in good standing as a CASA has no additional application requirements. A coach candidate who has received approval for alternate comparable experience and any CASA applicant shall complete the following requirements:

- a. Submit a program application to the program office.
- b. Provide the names and addresses of at least three nonrelative personal references.
- c. Participate in at least one personal interview with the local coordinator.
- d. Complete mandatory CASA preservice training, consisting of a minimum of 30 hours of course time.
- e. Take a confidentiality oath, administered by the presiding juvenile court judge, or designee, for whom the CASA will be performing official duties.
- f. Authorize a release of information for the CASA program to conduct a complete criminal history check of the applicant’s background, including division of criminal investigation, Federal Bureau of Investigation, motor vehicles division, child abuse registry and sex offender registry checks. Applicants who refuse to sign required background check releases will not be considered for acceptance into the CASA program. The following criteria are applied when a background check yields a finding:

(1) Any applicant found to have been convicted of, or having charges pending for, a felony or misdemeanor involving a sex offense, child abuse or neglect or related acts that would pose a risk to children or to program credibility is not accepted as an advocate.

(2) An applicant with a documented criminal domestic abuse, child physical abuse, or child sexual abuse offense or child physical or sexual abuse documented on the abuse will not be approved.

(3) An applicant found to be convicted of other types of misdemeanors or felonies that would not pose a risk to children or program credibility may be approved by the administrator after review in consultation with the coordinator.

(4) A coordinator may request an exception from the administrator if an applicant has a negative background check finding. Examples of offenses that may qualify for an exception include an operating while intoxicated offense older than four years, with documented completion of successful treatment; a drug offense older than eight years, with documented completion of successful treatment; and a felony conviction of truth and veracity offenses more than ten years old.

4.2(5) *Volunteer selection protocol.* The state board delegates responsibility to the administrator to establish in the program's policy and procedures manual complete direction for weighing all application qualifications and requirements to determine final selection of applicants to become CASA and CASA coach volunteers.

4.2(6) *Staff responsibilities specific to the court appointed special advocate program.*

a. The program administrator who reports to the child advocacy board is responsible for the following duties and may delegate the duties to designated staff:

- (1) Manage the program statewide.
- (2) Establish and modify the program policy and procedures manual and the program training curriculum and resources needed for program operation.
- (3) Supervise local programs operated by the program coordinators.
- (4) Prepare program reports and updates, including expansion recommendations for the state board.
- (5) Prepare annual program reports to the governor, general assembly and courts.
- (6) Initiate and maintain contact with judicial districts regarding a change in or expansion of the CASA program.

b. The program liaison, under the direction of the administrator, directs and coordinates implementation of the program by carrying out the following duties:

- (1) Supervise and evaluate the work of program coordinators and field support staff and administer personnel and related policies and procedures for the field.
- (2) Represent the best interests of the program with the department of human services, the courts, and allied agencies on behalf of the CASA program.
- (3) Develop performance standards for program coordinators and field support staff.
- (4) Analyze data and prepare local and statewide reports on CASA program performance in the field and take corrective action as needed to resolve problems and achieve goals.

c. When the coordinator assigns both a CASA coach and advocate to serve a child, the coordinator shall carry out the following coach oversight duties:

- (1) Recruit, screen, interview, train and support coaches.
- (2) Meet with coaches at least monthly to review cases and, as needed, to assign each case to an advocate.
- (3) Organize discovery on a new case and set up a file for the coach and advocate.
- (4) Meet with coaches to discuss any problems and plans involving advocates.
- (5) Conduct 60-day and annual reviews of coaches' work.
- (6) Notify coaches of conferences, seminars and meetings that will provide developmental opportunities.
- (7) Provide ongoing coaching, support and encouragement to coaches, who in turn will assist the advocates in working with the children to whom they are assigned.
- (8) Before distributing them to the appropriate parties, complete the final edit of court reports written by advocates and edited by coaches.
- (9) Attend court hearings as needed by coaches or advocates.

- (10) Provide help as needed to coaches and advocates when they are closing a case.
 - (11) Become a subject matter expert in one specialized area and provide assistance statewide to coaches and advocates who have questions about the topic.
 - (12) Maintain professional relationships with the court, the department of human services, attorneys, and other service providers.
 - (13) Provide the link between administrator and program liaison and local coaches and advocates.
- d.* Upon receipt of court authorization to designate an advocate only to serve a child, the coordinator shall carry out the following duties related to oversight of the advocate:
- (1) Assign the advocate to the case.
 - (2) Inform the advocate of the assignment and verify the advocate's acceptance of the case.
 - (3) Prepare initial discovery documents and review them with the advocate, making note of important documents.
 - (4) Track court hearings and confirm the advocate's attendance.
 - (5) Maintain familiarity with CASA policies and procedures.
 - (6) To obtain case updates and address any issues, maintain monthly contact with advocates who have cases; remind advocates to keep their contact log entries and training hours up to date and to timely submit court reports.
 - (7) Maintain log of current cases and contacts with advocates.
 - (8) On a daily basis, check e-mails for updates and give timely approval to pending contact logs and court reports.
 - (9) Review and edit court reports and send to interested parties.
 - (10) Be available to attend court hearings with advocates or on their behalf, and document actions taken.
 - (11) Attend required training and educational opportunities to enhance skills.
- e.* When a CASA coach has been assigned to oversee an advocate, the coach provides coaching and support to the advocate to ensure that each child involved receives sound advocacy and early permanency planning. The responsibilities of the coach include:
- (1) Support and coach up to ten advocates in their work with children.
 - (2) Together with the coordinator, assign advocates to cases.
 - (3) Inform advocates of assignment and verify their acceptance of the case.
 - (4) Receive initial discovery documents from the coordinator and review them with advocates, making note of important documents.
 - (5) Report to the coordinator monthly, or as needed, to discuss advocate progress, cases and other issues that have arisen.
 - (6) Notify the coordinator of critical events in a case.
 - (7) Track court hearings and confirm advocates' attendance.
 - (8) Consult with the coordinator regarding any advocate performance concerns.
 - (9) Maintain familiarity with CASA policies and procedures.
 - (10) To obtain case updates and address any issues, maintain monthly contact with advocates who have cases; remind advocates to keep their contact log entries and training hours up to date and to timely submit court reports.
 - (11) Maintain log of current cases and contacts with advocates.
 - (12) On a daily basis, check e-mails for updates and give timely approval to pending contact logs and court reports.
 - (13) Review and edit court reports and send them to the coordinator for final review and dissemination.
 - (14) Be available to attend court hearings with advocates or on their behalf, and document actions taken.
 - (15) If unavailable, schedule coverage by contacting the coordinator, who can provide assistance.
 - (16) Attend required training and educational opportunities to enhance skills.
- f.* A CASA advocate is a trained community volunteer appointed by the court to speak in the best interests of children who have been neglected or abused. The CASA has the following responsibilities:

- (1) Agree to take a case as recommended by the coordinator or coach and to maintain confidentiality of all information regarding the case.
- (2) Independently review all documents and records for the case and interview the child, parents, social workers, teachers and others to gain an understanding of the situation and the child's needs.
- (3) Observe the child at least once a month; if this is not feasible, document the reason.
- (4) Maintain regular contact with the child's legal counsel, department of human services workers and other persons with personal knowledge or direct involvement in the child's case; advise the child's legal counsel, or any other legal party, of any changes that might require modification of a court order.
- (5) When feasible, attend all preplacement and placement review staffings regarding the child.
- (6) Identify and request appropriate evaluation, examinations, and testing of the child.
- (7) Write a report of findings and make fact-based recommendations in a court report. The report shall include the results of the CASA's initial investigation of the child's case, including but not limited to recommendations regarding placement of the child and other recommendations based on the best interests of the child. The CASA shall submit subsequent reports detailing the continuing situation of the child's case as long as the child remains under the jurisdiction of the court. The CASA shall prepare other reports as required by the court and submit them to the coordinator or coach, who will make suggestions for improvement. Final review of the advocate's report is completed by the coordinator prior to dissemination of the report to the court and all interested parties.
- (8) Review motions, pleadings, court orders and notices, prior to attending a hearing.
- (9) Attend court hearings to advocate for the child's best interests and provide testimony when necessary.
- (10) Inform the court promptly of important developments in the case.
- (11) Maintain complete records of the case, including appointments, interviews and information gathered about the child and the child's environment.
- (12) Submit monthly case updates to the coach or coordinator.
- (13) Return case files to the program upon case closure.
- (14) Seek ways to continually improve knowledge and skills.

4.2(7) *Establishing additional procedures and protocols.*

- a. The state board is responsible under the statute for establishment of procedures and protocols which must be consistent with the provisions of the statute.
- b. Responsibility is delegated by the state board to the administrator to establish and submit to the board for approval a program policy and procedures manual which provides detailed guidance to child advocacy board staff and volunteers on application of these rules and the statutes that govern the operation of the court appointed special advocate program.
- c. Child advocacy board staff and volunteers are required to comply with the protocols and procedures established by the state board and the provisions of the policy and procedures manual established by the administrator and approved by the board.
- d. Day-to-day implementation of program policy is delegated by the state board to administrative staff. Staff is responsible for bringing questions about policy issues to the state board for clarification or changes of state policy.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18.

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—4.3(237) Training. All child advocacy board staff, state board members, court appointed special advocates, and court appointed special advocate coaches shall complete preservice and ongoing in-service training.

4.3(1) *Preservice training.* Court appointed special advocates and CASA coaches shall complete successfully a minimum of 30 hours of preservice training prior to final selection as a child advocacy volunteer. The training shall include, but is not limited to, the following content areas:

- a. The role of the volunteer CASA coach and advocate;
- b. The applicable laws, the child protection system and the role of the court;
- c. Cultural awareness when working with vulnerable children and families;

- d. Understanding family factors that affect safety, permanency and well-being of children in need of assistance;
- e. Understanding of child development and the social, emotional, psychological, educational, attachment, transition and resiliency needs of children and youth;
- f. Communication, collaboration and dealing with conflict as a CASA program volunteer;
- g. Gathering of information in the CASA program volunteer role;
- h. Meeting expectations for case monitoring and reporting; and
- i. Use of supervision, coaching and other supports to enable effective practice.

4.3(2) Ongoing education. Every CASA and CASA coach shall complete a minimum of 12 hours of in-service training or education annually. This training or education shall include required training sessions for all volunteers whenever it is determined essential to achieve program goals or individual child outcomes by the state board or administrator. The local coordinator shall require specific training sessions or courses for an individual CASA or CASA coach volunteer whenever doing so is necessary to meet the volunteer's development needs or the needs of a specific child being served. Each volunteer may select the remaining portion of the required annual training hours from a list of training offerings approved by the coordinator or from alternative offerings provided that prior approval by the coordinator is obtained.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18.
[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—4.4(237) Adherence to national guidelines. The National Court Appointed Special Advocate Association has established a national quality assurance system for CASA programs. The primary goal of the system is to strengthen CASA organizations and support their efforts to provide high-quality child advocacy and achieve the maximum level of excellence. The national CASA self-assessment tools, one for state organizations and another for local programs, are used once every four years to measure compliance with quality standards. The quality standards cover organizational mission; governance, ethics and compliance with laws and regulations; planning, assessment and evaluation; human resource management; financial and risk management; public relations; quality assurance; national CASA affiliation; new organization development; and inclusiveness and diversity. The child advocacy board has participated in this rigorous self-assessment process and has obtained certification of compliance with the standards. The board shall continue to maintain compliance with the standards and, within the limits of available funding, shall deploy resources to maintain compliance in the future.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18.
[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—4.5(237) Children eligible for assignment of a court appointed special advocate. The court appointed special advocate program serves any child for whom the court appoints a court appointed special advocate.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18.
[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—4.6(237) Annual program report. The child advocacy board shall issue an annual report to the general assembly, the governor and the supreme court. The report shall provide information about the number of volunteers providing service through the court appointed special advocate program, the number of children served by the program, and the benefits children and their families have obtained from the program.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18.
[ARC 1375C, IAB 3/19/14, effective 4/23/14]

[Filed ARC 1375C (Notice ARC 1285C, IAB 1/8/14), IAB 3/19/14, effective 4/23/14]

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The foster care review board adopts, with the following amendments and exceptions, 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.

489—5.1(22) Definitions. As used in this chapter:

“Agency.” In lieu of the words “(official or body issuing these rules)”, insert “foster care review board”.

“Custodian.” In lieu of “the agency”, insert “an agency”. Insert, “The originating agency, if any, is the custodian of records which are used to carry out functions of the originating agency.”

“Originating agency” means the government agency which has authority over and custody of records and for whom the department is performing a service.

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—5.3(22) Requests for access to records.

5.3(1) Location of record. In lieu of “(insert agency head)”, insert “director”. In lieu of “(insert agency name and address)”, insert “Director, Foster Care Review Board, Lucas State Office Building, Des Moines, Iowa 50319”.

5.3(2) Office hours. In lieu of “(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)”, insert “8 a.m. to 4:30 p.m. Monday through Friday, except legal holidays”.

5.3(7) Fees.

c. Supervisory fee. In lieu of “(specify time period)”, insert “one hour”.

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—5.6(22) Procedure by which a subject may have additions, dissents, or objections entered into the record. In lieu of the words “(designate office)”, insert “the originating agency, or to the director’s office”.

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—5.9(22) Disclosures without the consent of the subject.

5.9(1) Open records are routinely disclosed without the consent of the subject.

5.9(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 489—5.10(22) or in the notice for a particular 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.

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—5.10(22) Routine use. “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.

To the extent allowed by law, the following uses are considered routine uses of all agency records:

1. Disclosure to those officers, employees, agents, and foster care review board members defined in Iowa Code section 237.18 of the agency or the originating 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.
2. 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.
3. 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.
4. 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.
5. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—5.11(22) Consensual disclosure of confidential records.

5.11(1) *Consent to disclosure by a subject individual.* The subject may consent in writing to agency disclosure of confidential records as provided in rule 489—5.7(22).

5.11(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 be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

5.11(3) *Obtaining information from a third party.* The foster care review board requests personally identifiable information from third parties during the course of its authorized reviews. Requests to third parties for this information involve the release of confidential identifying information.

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—5.12(22) Release to subject.

5.12(1) A written request to review confidential records may be filed by the subject of the record. 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).
- b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.
- c. Peace officer investigative reports may be withheld from the subject, except as required by the Iowa Code. (Iowa Code section 22.7(5))
- d. Others authorized by law.

5.12(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.

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—5.13(22) Availability of records.

5.13(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

5.13(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.
 - c. Exempt records 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 department staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by department 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.
 (Iowa Code sections 17A.2 and 17A.3)
 - g. Case records and files of the children in care.
 - h. The Foster Care Registry which is a computerized tracking system of the children in care.
 - i. Any other records made confidential by law.
- Iowa Code section 237.21 contains specific authority.

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

489—5.14(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. 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. The record systems maintained by the agency are:

1. Files are maintained by the child’s name in the foster care review board offices. Those files are kept in locked filing cabinets. (Iowa Code section 237.18(2)“a”)
2. The Foster Care Registry (Iowa Code section 237.17) is a computerized tracking system of the children reported to the foster care review board. The information of each case is personally identifiable by name.
3. Personnel files for each employee of the foster care review board. These may be confidential pursuant to Iowa Code section 22.7(11).

[ARC 1375C, IAB 3/19/14, effective 4/23/14]

These rules are intended to implement Iowa Code sections 237.15 to 237.22, 22.11, and 22.7.

[Filed emergency 8/19/88 after Notice 3/23/88—published 9/7/88, effective 8/19/88]

[Filed ARC 1375C (Notice ARC 1285C, IAB 1/8/14), IAB 3/19/14, effective 4/23/14]

MANAGEMENT DEPARTMENT[541]

[Created by 1986 Iowa Acts, chapter 1245, section 103]

Divisions under this "umbrella" include: Appeal Board, State[543], City Finance Committee[545], and County Finance Committee[547].

CHAPTER 1 ORGANIZATION AND OPERATION

- 1.1(8) Purpose
- 1.2(8) Scope of the rules
- 1.3(8) Waiver
- 1.4(8) Duties of the department
- 1.5(8) Definitions
- 1.6(8) Central office and communications

CHAPTERS 2 and 3 Reserved

CHAPTER 4 CONTRACT COMPLIANCE

- 4.1(19B) Responsibilities
- 4.2(19B) Purpose and scope
- 4.3(19B) Policy
- 4.4(19B) Definitions
- 4.5(19B) Contract compliance
- 4.6(19B) Monitoring
- 4.7(19B) Sanctions
- 4.8(19B) Reporting

CHAPTER 5 PETITIONS FOR RULE MAKING (Uniform Rules)

- 5.1(17A) Petition for rule making
- 5.3(17A) Inquiries

CHAPTER 6 DECLARATORY ORDERS (Uniform Rules)

- 6.1(17A) Petition for declaratory order
- 6.2(17A) Notice of petition
- 6.3(17A) Intervention
- 6.4(17A) Briefs
- 6.5(17A) Inquiries
- 6.6(17A) Service and filing of petitions and other papers
- 6.7(17A) Consideration
- 6.8(17A) Action on petition
- 6.9(17A) Refusal to issue order
- 6.12(17A) Effect of a declaratory order

CHAPTER 7 AGENCY PROCEDURE FOR RULE MAKING (Uniform Rules)

- 7.5(17A) Public participation
- 7.6(17A) Regulatory analysis

- 7.10(17A) Exemptions from public rule-making procedures
- 7.11(17A) Concise statement of reasons

CHAPTER 8

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

(Uniform Rules)

- 8.1(17A,22) Definitions
- 8.2(17A,22) Public record retention and access
- 8.3(17A,22) Requests for access to records
- 8.9(17A,22) Disclosures without the consent of the subject
- 8.10(17A,22) Routine use
- 8.11(17A,22) Consensual disclosure of confidential records
- 8.12(17A,22) Release to subject
- 8.13(17A,22) Availability of records
- 8.14 Reserved
- 8.15(17A,22) Other records
- 8.16(17A,22) Applicability

CHAPTER 9

FISCAL OVERSIGHT OF THE EARLY CHILDHOOD IOWA INITIATIVE

- 9.1(256I) Definitions
- 9.2(256I) Purpose
- 9.3(256I) Scope of the rules
- 9.4(256I) Fiscal oversight

CHAPTER 10

Reserved

CHAPTER 11

GRANTS ENTERPRISE MANAGEMENT SYSTEM

- 11.1(80GA,SF438) Purpose
- 11.2(80GA,SF438) Definitions
- 11.3(80GA,SF438) GEMS coordinator
- 11.4(80GA,SF438) Grants network
- 11.5(80GA,SF438) GEMS competitive grants review system

CHAPTER 12

DAS CUSTOMER COUNCIL

- 12.1(82GA,SF2400) Definitions
- 12.2(82GA,SF2400) Purpose
- 12.3(82GA,SF2400) Utility determination
- 12.4(82GA,SF2400) Customer council established
- 12.5(82GA,SF2400) Customer council membership
- 12.6(82GA,SF2400) Organization of customer council
- 12.7(82GA,SF2400) Powers and duties of customer council
- 12.8(82GA,SF2400) Customer input
- 12.9(82GA,SF2400) Annual service listing

CHAPTER 1
ORGANIZATION AND OPERATION

541—1.1(8) Purpose. This chapter describes the organization and operation of the department of management (hereafter referred to as the “department”), including the coordination of the policy planning, management of interagency programs, economic reports and program development.

541—1.2(8) Scope of the rules. The rules for the department are promulgated under Iowa Code chapter 8 and 1986 Iowa Acts, chapter 1245, sections 101 to 121, and shall apply to all matters before the department. No rule shall, in any way, relieve a person affected by or subject to these rules, or any person affected by or subject to the rules promulgated by the various divisions of the department from any duty under the law of this state.

541—1.3(8) Waiver. The purpose of these rules is to facilitate the business before the department and to promote a just resolution of controversies. Consistent with this purpose, the application of any of these rules, unless otherwise provided for by law, may be waived by the department to prevent undue hardship to a party, to a departmental proceeding, or to a person transacting business with the department. The reasons for granting a waiver of an administrative rule shall be stated in writing and shall be made a part of the record of the proceeding or a part of the departmental file in other matters.

541—1.4(8) Duties of the department. The department of management plans, develops, and recommends policy decisions for management of state government; administers local budget laws (cities, counties, and schools); oversees and ensures compliance with affirmative action; implements policies through coordination and budget processes; and monitors and evaluates the consistent, efficient, and effective operation of state government. The department consists of budgeting, planning and early childhood operations and the following agencies or boards: state appeal board, city finance committee, county finance committee, and early childhood Iowa state board.

[ARC 1371C, IAB 3/19/14, effective 4/23/14]

541—1.5(8) Definitions.

“*City budget*” means the budget adopted by city officials which incorporates specified requirements as stated in Iowa Code section 384.16.

“*Contract compliance director*” means the individual designated to oversee and impose sanctions in connection with state programs emphasizing equal opportunity through affirmative action, contract compliance policies and procurement set-aside requirements.

“*County budget*” means the budget adopted by the board of supervisors pursuant to Iowa Code chapter 331.

“*Department*” means the department of management.

“*Director*” means the director of the department of management as appointed by the governor and subject to senate confirmation.

1.5(1) State appeal board—fees. The state appeal board considers the protests of local government budgets, as well as all general and tort claims against the state, as interpreted by the three members: treasurer of state, auditor of state and director of the department of management which implements proper procedures as assigned by Iowa Code chapter 24.

The processing fee for filing a general claim with the state appeal board is \$5 which shall be billed and paid quarterly by the state agency which incurred the liability of the claim. This fee shall not be reimbursable from the vendor to the state agency.

1.5(2) Criminal and juvenile justice planning agency. Rescinded IAB 9/1/93, effective 8/9/93.

1.5(3) City finance committee. The city finance committee promulgates rules relating to city budget amendments, establishes guidelines for the capital improvement program, reviews and comments on city budgets and conducts studies of municipal revenues and expenditures as specified in Iowa Code section 384.15.

1.5(4) *County finance committee.* The county finance committee establishes guidelines for program budgeting and accounting, reviews and comments on county budgets, and conducts studies of county revenues and expenditures. In addition, the committee performs other duties as assigned by law pursuant to Iowa Code section 333A.4.

1.5(5) *Iowa advisory commission on intergovernmental relations.* Rescinded IAB 9/1/93, effective 8/9/93.

This rule is intended to implement Iowa Code sections 8.6 and 25.1.
[ARC 1371C, IAB 3/19/14, effective 4/23/14]

541—1.6(8) Central office and communications. Correspondence and communications with the department of management shall be addressed or directed to the department's office located at Department of Management, 1007 East Grand Avenue, State Capitol, Room 13, Des Moines, Iowa 50319-0015; telephone (515)281-3322.

1.6(1) Correspondence and communication with the state board of appeals shall be addressed to its central office at Department of Management, 1007 East Grand Avenue, State Capitol, Room 13, Des Moines, Iowa 50319-0015; telephone (515)281-3322.

1.6(2) Correspondence and communications with the county finance committee shall be addressed to Department of Management, 1007 East Grand Avenue, State Capitol, Room 13, Des Moines, Iowa 50319-0015; telephone (515)281-3322.

1.6(3) Correspondence and communications with the city finance committee shall be addressed to Department of Management, 1007 East Grand Avenue, State Capitol, Room 13, Des Moines, Iowa 50319-0015; telephone (515)281-3322.

[ARC 1371C, IAB 3/19/14, effective 4/23/14]

541—1.7(8) Access to official records and information. Rescinded IAB 2/2/05, effective 3/9/05.

541—1.8(8) Access to data in the personnel management information system. Rescinded IAB 2/2/05, effective 3/9/05.

These rules are intended to implement Iowa Code sections 8.6 and 25.1.

[Filed 10/1/87, Notice 5/20/87—published 10/21/87, effective 11/25/87]

[Filed 9/27/88, Notice 5/4/88—published 10/19/88, effective 11/23/88]

[Filed emergency 8/9/93—published 9/1/93, effective 8/9/93]

[Filed emergency 10/8/93—published 10/27/93, effective 10/8/93]

[Filed 1/3/05, Notice 11/24/04—published 2/2/05, effective 3/9/05]

[Filed ARC 1371C (Notice ARC 1124C, IAB 10/16/13), IAB 3/19/14, effective 4/23/14]

CHAPTER 5
PETITIONS FOR RULE MAKING

PREAMBLE

The department of management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to petitions for rule making which are published on the Iowa general assembly's Web site at <https://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf>.
[ARC 1371C, IAB 3/19/14, effective 4/23/14]

541—5.1(17A) Petition for rule making. In lieu of the words “designate office,” insert “1007 East Grand Avenue, State Capitol, Room 13, Des Moines, Iowa 50319-0015.” In lieu of the words “AGENCY NAME,” the heading on the petition form should read:

BEFORE THE DEPARTMENT OF MANAGEMENT

[ARC 1371C, IAB 3/19/14, effective 4/23/14]

541—5.3(17A) Inquiries. In lieu of the words “designate official by full title and address,” insert “Director, Department of Management, 1007 East Grand Avenue, State Capitol, Room 13, Des Moines, Iowa 50319-0015.”

[ARC 1371C, IAB 3/19/14, effective 4/23/14]

These rules are intended to implement Iowa Code section 8.6 and chapter 17A.

[Filed 10/1/87, Notice 5/20/87—published 10/21/87, effective 11/25/87]

[Filed ARC 1371C (Notice ARC 1124C, IAB 10/16/13), IAB 3/19/14, effective 4/23/14]

CHAPTER 6
DECLARATORY ORDERS

PREAMBLE

The department of management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to declaratory orders which are published on the Iowa general assembly's Web site at <https://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf>.
[ARC 1371C, IAB 3/19/14, effective 4/23/14]

541—6.1(17A) Petition for declaratory order. In lieu of the words “(designate agency)”, insert “department”. In lieu of the words “(designate office)”, insert “the Director’s Office, Department of Management, 1007 East Grand Avenue, State Capitol, Room 13, Des Moines, Iowa 50319-0015”. In lieu of the words “(AGENCY NAME)”, the heading on the petition form should read:

BEFORE THE DEPARTMENT OF MANAGEMENT

[ARC 1371C, IAB 3/19/14, effective 4/23/14]

541—6.2(17A) Notice of petition. In lieu of the words “ ___ days (15 or less)”, insert “15 days”. In lieu of the words “(designate agency)”, insert “the department”.

541—6.3(17A) Intervention.

6.3(1) In lieu of the words “within ___ days”, insert “within 15 days”. Strike the words “(after time for notice under X.2(17A))”. In lieu of the number “X.8(17A)”, insert “6.8(17A)”.

6.3(2) In lieu of the words “(designate agency)”, insert “the department”.

6.3(3) In lieu of the words “(designate office)”, insert “the Director’s Office, Department of Management, 1007 East Grand Avenue, State Capitol, Room 13, Des Moines, Iowa 50319-0015”. In lieu of the words “(designate agency)”, insert “department”. In lieu of the words “(AGENCY NAME)”, the heading on the petition form should read:

BEFORE THE DEPARTMENT OF MANAGEMENT

[ARC 1371C, IAB 3/19/14, effective 4/23/14]

541—6.4(17A) Briefs. In lieu of the words “(designate agency)”, insert “department”.

541—6.5(17A) Inquiries. In lieu of the words “(designate official by full title and address)”, insert “the Director, Department of Management, 1007 East Grand Avenue, State Capitol, Room 13, Des Moines, Iowa 50319-0015”.

[ARC 1371C, IAB 3/19/14, effective 4/23/14]

541—6.6(17A) Service and filing of petitions and other papers.

6.6(2) In lieu of the words “(specify office and address)”, insert “the Director’s Office, Department of Management, 1007 East Grand Avenue, State Capitol, Room 13, Des Moines, Iowa 50319-0015”. In lieu of the words “(agency name)”, insert “department”.

6.6(3) In lieu of the words “(uniform rule on contested cases X.12(17A))”, insert “rule 481—10.12(17A)”.

[ARC 1371C, IAB 3/19/14, effective 4/23/14]

541—6.7(17A) Consideration. In lieu of the words “(designate agency)”, insert “department”.

541—6.8(17A) Action on petition.

6.8(1) In lieu of the words “(designate agency head)”, insert “director”.

6.8(2) In lieu of the words “(contested case uniform rule X.2(17A))”, insert “rule 481—10.1(10A)”.

541—6.9(17A) Refusal to issue order.

6.9(1) In lieu of the words “(designate agency)”, insert “department”.

541—6.12(17A) Effect of a declaratory order. In lieu of the words “(designate agency)”, insert “department”.

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

[Filed 10/1/87, Notice 5/20/87—published 10/21/87, effective 11/25/87]

[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]

[Filed ARC 1371C (Notice ARC 1124C, IAB 10/16/13), IAB 3/19/14, effective 4/23/14]

CHAPTER 7
AGENCY PROCEDURE FOR RULE MAKING

PREAMBLE

The department of management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to agency procedure for rule making which are published on the Iowa general assembly's Web site at <https://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf>.

[ARC 1371C, IAB 3/19/14, effective 4/23/14]

541—7.5(17A) Public participation.

7.5(1) *Written comments.* In lieu of the words “identify office and address,” insert “Department of Management, 1007 East Grand Avenue, Room 13, State Capitol, Des Moines, Iowa 50319-0015.”

7.5(5) *Accessibility.* In lieu of the words “(designate office and telephone number)”, insert “the department of management at (515)281-3322”.

[ARC 1371C, IAB 3/19/14, effective 4/23/14]

541—7.6(17A) Regulatory analysis.

7.6(2) *Mailing list.* In lieu of the words “designate office,” insert “Department of Management, 1007 East Grand Avenue, Room 13, State Capitol, Des Moines, Iowa 50319-0015.”

[ARC 1371C, IAB 3/19/14, effective 4/23/14]

541—7.10(17A) Exemptions from public rule-making procedures.

7.10(2) *Categories exempt.* In lieu of the words “(List here narrowly drawn classes of rules where such an exemption is justified and a brief statement of the reasons for exempting each of them)”, insert the following:

“a. Rules which are mandated by federal law or regulation in any situation where the department has no option but to adopt specified rules or where federal funding is contingent upon the adoption of the rules;

“b. Rules which implement recent legislation when a statute provides for an effective date which does not allow for the usual notice and public participation requirements;

“c. Rules which confer a benefit or remove a restriction on the public or some segment of the public;

“d. Rules which are necessary because of imminent peril to the public health, safety or welfare; and

“e. Nonsubstantive rules intended to correct typographical errors, incorrect citations, or other errors in existing rules.”

541—7.11(17A) Concise statement of reasons.

7.11(1) *General.* In lieu of the words “specify office and address,” insert “Department of Management, 1007 East Grand Avenue, Room 13, State Capitol, Des Moines, Iowa 50319-0015.”

[ARC 1371C, IAB 3/19/14, effective 4/23/14]

These rules are intended to implement Iowa Code chapter 17A and Iowa Code section 25B.6.

[Filed 10/1/87, Notice 5/20/87—published 10/21/87, effective 11/25/87]

[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]

[Filed ARC 1371C (Notice ARC 1124C, IAB 10/16/13), IAB 3/19/14, effective 4/23/14]

CHAPTER 8
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

PREAMBLE

The department of management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to public records and fair information practices which are published on the Iowa general assembly's Web site at <https://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf>.
[ARC 1371C, IAB 3/19/14, effective 4/23/14]

541—8.1(17A,22) Definitions. As used in this chapter:

“*Agency*.” In lieu of the words “(official or body issuing these rules)” insert “department of management”.

“*Confidential record*” means a record that is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public and records or information contained in records that are specified as confidential by Iowa Code section 22.7, Iowa Code chapter 8, or another provision of law.

“*Nonincidental retrieval or supervisory service*” means services provided by the department's staff (or staff from the department of administrative services) to persons requesting access to public documents, which exceed 20 hours in duration.

“*Nonproprietary records*” means those records which are in the possession of the department but which are generated for the purposes of other units of government.

“*Open record*” means a record other than a confidential record.

“*Public record*” means a record as defined in Iowa Code section 22.1. A public record includes both “confidential” and “open” records.

541—8.2(17A,22) Public record retention and access.

8.2(1) Record policy. The department of management is committed to ensuring that the workings of the department are open to public inspection. To that end, a public record in the custody of the department will be maintained and archived through a standard record retention policy, with public access to be given in full compliance with applicable provisions of law.

The record retention program will provide economy and efficiency in the creation, organization, administrative use, maintenance, security, availability, and disposition of public records to ensure that a needless record will not be created or retained, and a valuable record will be preserved, as provided under Iowa law. The department will preserve the integrity of public records, and reply to all open records requests in a timely, responsive, and efficient manner in full compliance with applicable provisions of law.

8.2(2) Record retention requirements. Every record made or received under the authority of, or coming into the custody, control, or possession of, department of management personnel, in connection with the transaction of official business of state government, and that has sufficient legal, fiscal, administrative, or historical value shall be retained in accordance with Iowa law. The director of the department of management shall designate a records retention officer to oversee the department's record retention program and to serve as the primary point of contact with the state archives.

The department will follow the records retention protocol that is established by the Iowa records retention commission. The department of management records officer shall select retention mechanisms that are designed to implement the commission protocol and arrange for training for the department's personnel on each selected mechanism.

8.2(3) Confidential records. Confidential records may be withheld, and confidential information within an otherwise open record may be redacted prior to a record's release for public examination and copying. If a confidential record is withheld from examination and copying, or confidential information within an otherwise open record is redacted, the department of management will identify

the document(s) and cite the applicable provision of law that supports the decision to withhold the confidential information from public examination.

541—8.3(17A,22) Requests for access to records.

8.3(1) *Open records.* Open records will be available to the public during customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday (except holidays). Immediate access to records may be affected by a good-faith effort to verify the scope of the records requested and to determine whether any of the records or information contained therein is confidential in nature.

In the event circumstances prolong a timely response, the department will notify the requester at once and attempt an alternate arrangement to provide the response in a manner satisfactory to the requester. For nonproprietary records, the department is only a repository and is not the “lawful custodian” of the records under the meaning of Iowa Code chapter 22. Nonproprietary records shall be provided only to the unit of state government which is the lawful custodian of such records under Iowa Code chapter 22.

8.3(2) *Requesting records.* Requests for access to a public record may be made by mail, electronically, by telephone or in person. A request for access to a public record should be made to the director, who shall be responsible for implementing the requirements of public records laws inside the department.

a. A person who submits a request for public records shall provide the person’s name, address, and telephone number in order to facilitate effective communication with the department regarding the request.

b. Mail requests shall be addressed to: Director, Department of Management, 1007 East Grand Avenue, State Capitol, Room 13, Des Moines, Iowa 50319-0015.

c. Electronic requests shall include the term “Public Records Request” in the subject field, and should be sent to the director’s E-mail address as found on the department’s Web site at www.dom.state.ia.us.

d. Telephone requests should be made to (515)281-3322.

e. A person who submits a request orally will receive a verification letter or electronic communication, whichever is preferred by the requester, from the department verifying the specific scope of the search requested. The verification letter or electronic communication will be transmitted before the request for documents is processed.

In the event that a request cannot be fulfilled within a reasonable time, the requester will be so notified and an estimated completion date will be provided.

8.3(3) *Record identification.* Requests for access to a public record shall identify the particular public record to which access is requested by name or description in order to identify efficiently the desired record.

a. The requester’s description should specify:

(1) The particular type of record sought.

(2) The particular time period to be searched by start and end date.

(3) The author or recipient, or both, of the record requested, to the extent possible.

(4) To the extent possible, the particular records medium to be searched (i.e., letters, memoranda, reports, recordings).

(5) Any other pertinent information that will assist the department in locating the record requested.

b. The requester shall specify if the request applies to a record stored in an electronic form and shall list the search terms to be used.

8.3(4) *Record search.* Department of management personnel should direct public records requests to the director for docketing and processing. Before a search is conducted, the director may contact the requester if there are questions concerning the scope of the record request. The department of management shall employ a staff member who is proficient in conducting electronic records searches within the department. This individual will be responsible for conducting all searches for electronic records that are accessible inside the department of management.

a. Upon receipt of a request for access to a public record, the department will promptly take all reasonable steps to preserve a public record while the request is pending.

b. Every public record that is gathered pursuant to a records request will be examined to determine whether the record is confidential and for completeness in response to the request.

c. Every record that is presented to the public for review shall be attached to a transmittal letter that specifies the manner in which the records search was performed.

d. Questions by the public regarding the scope of a records search or requests for an expanded search should be submitted to the director in writing.

8.3(5) Fees. A fee for time spent retrieving an open record or supervising the public examination of an open record, or both, may be charged to the requester of the record in an amount equal to the actual cost of time spent providing nonincidental retrieval or supervisory services, or both, as provided under applicable law. Whenever possible, an estimate of fees will be provided to the requester before a search is initiated.

a. The actual cost for nonincidental retrieval or supervisory services, or both, may vary according to the nature of the search that is specified by the requester. However, the fees for nonincidental retrieval or supervisory services, or both, performed by department of management staff pursuant to a request for records that are accessible inside the department of management will ordinarily be set at \$15 per hour. The fees for department of management records that are accessible only with the assistance of department of administrative services or state archives personnel will be based on the fee structure that is established by those agencies. Requesters are generally billed for fees after their request has been processed. However, if total fees are expected to exceed \$250, the department of management may require payment in advance of processing.

b. Photocopies of open records located in the department office will be provided at no charge for the first 25 pages, and \$0.20 cents per page for each additional page.

[ARC 1371C, IAB 3/19/14, effective 4/23/14]

541—8.9(17A,22) Disclosures without the consent of the subject.

8.9(1) Open records are routinely disclosed without the consent of the subject.

8.9(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 541—8.10(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.

541—8.10(17A,22) Routine use.

8.10(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.

8.10(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.

541—8.11(17A,22) Consensual disclosure of confidential records.

8.11(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 541—8.7(17A,22).

8.11(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.

541—8.12(17A,22) Release to subject.

8.12(1) 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.

8.12(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.

541—8.13(17A,22) Availability of records.

8.13(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

8.13(2) *Confidential records.* The department of management may withhold information reflecting departmental budget recommendations for the following fiscal year until it is made public by the governor.

8.13(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.

541—8.14(17A,22) Personally identifiable information. Rescinded IAB 2/2/05, effective 3/9/05.

541—8.15(17A,22) Other records. The agency maintains a variety of records which do not generally contain information pertaining to named individuals. The agency maintains the following records, not heretofore listed, which do not generally contain personally identifiable or confidential information: Annual reports, press releases, budget information (following presentation by the governor), receipt statements, revenue information, newsletters, public meeting agendas and minutes, budget information

relating to cities, counties or school districts, state revenue forecasts, policy information as recommended to the governor, progress review materials and targeted small business compliance reports.

541—8.16(17A,22) Applicability. This chapter does not:

1. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.
2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the rules of another agency.
4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.
5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.

These rules are intended to implement Iowa Code section 22.11.

[Filed emergency 8/19/88 after Notice 6/15/88—published 9/7/88, effective 8/19/88]

[Filed 1/3/05, Notice 11/24/04—published 2/2/05, effective 3/9/05]

[Filed ARC 1371C (Notice ARC 1124C, IAB 10/16/13), IAB 3/19/14, effective 4/23/14]

CHAPTER 10
IOWA TARGETED SMALL BUSINESS INTERIM GUIDELINES
Rescinded **ARC 1371C**, IAB 3/19/14, effective 4/23/14

CHAPTERS 13 and 14
Reserved

CHAPTER 15
LOCAL GOVERNMENT INNOVATION FUND COMMITTEE
Rescinded **ARC 1371C**, IAB 3/19/14, effective 4/23/14

COUNTY FINANCE COMMITTEE[547]

Rules transferred from agency number 292 to 547 under the "umbrella" of Management Department pursuant to 1986 Iowa Acts, chapter 1245, section 116.

CHAPTER 1 DEFINITIONS

1.1(333A) Applicability

CHAPTER 2 ORGANIZATION AND ADMINISTRATION

2.1(333A) Description
2.2(333A) Meetings
2.3(333A) Secretary's duties
2.4(333A) Compensation
2.5(333A) Adoption, amendment and repeal of administrative rules
2.6(333A) Petition for adoption, amendment or repeal of a rule

CHAPTER 3 STUDIES AND REPORTS

3.1(333A) Description

CHAPTER 4 COUNTY BUDGETS

4.1(331) Definitions
4.2(331) Budget summary
4.3(331) Budget supplemental details
4.4(331) Budget amendments

CHAPTER 5 ANNUAL FINANCIAL REPORTS

5.1(331) Responsibility
5.2(331) Report summary
5.3(331) Report details
5.4(331) Generally accepted accounting principles

CHAPTER 6 PETITIONS FOR RULE MAKING (Uniform Rules)

6.1(17A) Petition for rule making
6.3(17A) Inquiries

CHAPTER 7 DECLARATORY ORDERS (Uniform Rules)

7.1(17A) Petition for declaratory order
7.2(17A) Notice of petition
7.3(17A) Intervention
7.4(17A) Briefs
7.5(17A) Inquiries
7.6(17A) Service and filing of petitions and other papers
7.7(17A) Consideration
7.8(17A) Action on petition
7.9(17A) Refusal to issue order
7.12(17A) Effect of a declaratory order

CHAPTER 8
AGENCY PROCEDURE FOR RULE MAKING
(Uniform Rules)

- 8.5(17A) Public participation
- 8.6(17A) Regulatory analysis
- 8.10(17A) Exemptions from public rule-making procedures
- 8.11(17A) Concise statement of reasons

CHAPTER 9
PUBLIC RECORDS AND FAIR
INFORMATION PRACTICES
(Uniform Rules)

- 9.1(17A,22) Definitions
- 9.3(17A,22) Requests for access to records
- 9.9(17A,22) Disclosures without the consent of the subject
- 9.10(17A,22) Routine use
- 9.11(17A,22) Consensual disclosure of confidential records
- 9.12(17A,22) Release to subject
- 9.13(17A,22) Availability of records
- 9.14(17A,22) Personally identifiable information
- 9.15(17A,22) Data processing system
- 9.16(17A,22) Other records
- 9.17(17A,22) Applicability

CHAPTER 3
STUDIES AND REPORTS
[Prior to 5/4/88, see County Finance Committee[292] Ch 3]

547—3.1(333A) Description.

3.1(1) In an attempt to provide complete and accurate financial information of county government, all studies, reports and designed forms shall, where practicable, use the recommendations of the Governmental Accounting Standards Board; shall be applicable to every county in the state of Iowa; and shall be capable of producing data essential to the general public and the legislative and governing bodies of this state.

3.1(2) Guidelines, comments, recommendations and proposed legislation issued by this committee shall have the approval of not less than five members of the committee.

[ARC 1372C, IAB 3/19/14, effective 4/23/14]

This rule is intended to implement Iowa Code section 333A.2.

[Filed 10/31/79, Notice 9/19/79—published 11/28/79, effective 1/2/80]

[Filed emergency 4/15/88—published 5/4/88, effective 4/15/88]

[Filed ARC 1372C (Notice ARC 1136C, IAB 10/30/13), IAB 3/19/14, effective 4/23/14]

CHAPTER 4
COUNTY BUDGETS

[Prior to 5/4/88, see County Finance Committee[292] Ch 4]

547—4.1(331) Definitions.

4.1(1) “*Class of proposed expenditures*” (also known as “functions”) means any one of the following major areas of county services:

- a. Public safety and legal services.
- b. Physical health and social services.
- c. Mental health, intellectual disabilities, and developmental disabilities.
- d. County environment and education.
- e. Roads and transportation.
- f. Governmental services to residents.
- g. Administration.
- h. Nonprogram services.
- i. Debt service.
- j. Capital projects.

4.1(2) “*Sources of revenue from other than property taxation*” means any one of the following eight major sources of county revenues:

- a. Penalties and interest on taxes.
- b. Other county taxes.
- c. Intergovernmental revenues.
- d. Licenses and permits.
- e. Charges for service.
- f. Use of money and property.
- g. Fines, forfeits and defaults.
- h. Miscellaneous revenues.

[ARC 1372C, IAB 3/19/14, effective 4/23/14]

547—4.2(331) Budget summary.

4.2(1) *Fund type.* The summary of the proposed budget, as required by Iowa Code section 331.434, subsection 3, shall include for each major fund type:

- a. The amount required for each class of proposed expenditures, as defined in subrule 4.1(1).
- b. Property tax levies, estimated credits to taxpayers, and net current and delinquent property taxes.
- c. The amounts anticipated from sources of revenue from other than property taxation, as defined in subrule 4.1(2).
- d. Beginning and ending fund balances.
- e. Other financing sources and uses.
- f. Comparisons of the above amounts with similar amounts for each of the two preceding years.

4.2(2) *Required information in public notice.* If the county board of supervisors intends to certify additions to either of the basic property tax levies under the provisions of Iowa Code section 331.426, the public notice of hearing on the budget must include the additional information required by section 331.426, subsection 2. Such information shall be provided on forms prescribed by the county finance committee through the director of the department of management and must be published in all official newspapers of the county. The publication shall not appear on a page containing classified advertisements or other types of legal notices.

547—4.3(331) Budget supplemental details.

4.3(1) *Reporting forms.* The budget, as required by Iowa Code section 331.434, subsection 1, shall provide supplemental details for county revenues by fund and source, and supplemental details for county expenditures by fund and function. The county finance committee through the director of the department of management will prescribe the forms to be used for reporting supplemental details.

4.3(2) Worksheets. County budget worksheets shall also indicate the amount of proposed expenditures by department and object.

547—4.4(331) Budget amendments. Any increase in the totals for any class of proposed expenditures, as defined in subrule 4.1(1), after the original budget has been finally adopted, shall require the preparation and adoption of a budget amendment in the same manner as the original budget, as provided in Iowa Code section 331.434. The county finance committee through the director of the department of management will prescribe the forms to be used for budget amendments.

These rules are intended to implement Iowa Code sections 331.426, 331.434 and 331.435.

[Filed emergency 11/18/83—published 12/7/83, effective 11/18/83]

[Filed emergency 4/15/88—published 5/4/88, effective 4/15/88]

[Filed ARC 1372C (Notice ARC 1136C, IAB 10/30/13), IAB 3/19/14, effective 4/23/14]

CHAPTER 5
ANNUAL FINANCIAL REPORTS
[Prior to 5/4/88, see County Finance Committee[292] Ch 5]

547—5.1(331) Responsibility. The preparation of the reports and plans required under rules 547—5.2(331), 547—5.3(331), and 547—5.4(331) shall be the responsibility of the board of supervisors, appropriately assisted by other county officials and employees.

547—5.2(331) Report summary. The summary of the annual financial report, as required by Iowa Code section 331.403, subsection 1, shall include for each major fund type:

1. The amounts of each class of expenditures, as defined in 547—subrule 4.1(1).
2. Property tax levies, credits to taxpayers, and net current and delinquent property tax collections.
3. The amounts from sources of revenue other than property taxation, as defined in 547—subrule 4.1(2).
4. Beginning and ending fund balances.
5. Other financing sources and uses.
6. Comparisons of the above amounts with budgeted amounts, as amended.

547—5.3(331) Report details.

5.3(1) Report of results of operations. The report of the results of operations, as required by Iowa Code section 331.403, subsection 1, shall provide details for county revenues by fund and source, and details for county expenditures by fund and function.

5.3(2) Report of financial condition. The report of financial condition, as required by Iowa Code section 331.403, subsection 1, shall provide details for the assets, deferred outflows, liabilities, deferred inflows, and fund balances of the various county funds.

5.3(3) Other details. The committee may prescribe that additional information, including but not limited to details for county expenditures by department and object, shall be included in the report details.

5.3(4) Reporting forms. The committee through the director of the department of management shall prescribe the forms to be used for reporting annual financial report details.
[ARC 1372C, IAB 3/19/14, effective 4/23/14]

547—5.4(331) Generally accepted accounting principles.

5.4(1) Compliance. The annual financial report summary and report details shall be prepared in conformity with generally accepted accounting principles.

5.4(2) Waiver. Rescinded IAB 3/19/14, effective 4/23/14.
[ARC 1372C, IAB 3/19/14, effective 4/23/14]

547—5.5(331) Resubmission of plan. Rescinded ARC 1372C, IAB 3/19/14, effective 4/23/14.

These rules are intended to implement Iowa Code section 333A.4.

[Filed 3/28/85, Notice 10/10/84—published 4/24/85, effective 5/29/85]

[Filed emergency 4/15/88—published 5/4/88, effective 4/15/88]

[Filed ARC 1372C (Notice ARC 1136C, IAB 10/30/13), IAB 3/19/14, effective 4/23/14]

REVENUE DEPARTMENT[701]

Created by 1986 Iowa Acts, Chapter 1245.

CHAPTER 1

STATE BOARD OF TAX REVIEW—ADMINISTRATION

- 1.1(17A,421) Establishment, membership and location of the state board of tax review
- 1.2(421,17A) Powers and duties of the state board
- 1.3(421,17A) Powers and duties not subject to the jurisdiction of the state board

CHAPTER 2

STATE BOARD OF TAX REVIEW—CONDUCT OF APPEALS AND RULES OF PRACTICE AND PROCEDURE

DIVISION I APPELLATE CASES

GENERAL RULES OF PRACTICE AND PROCEDURE FOR FINAL CONTESTED CASE DECISIONS OF OR ATTRIBUTABLE TO THE DIRECTOR OF REVENUE

- 2.1(421,17A) Definitions
- 2.2(421,17A) Appeal and jurisdiction
- 2.3(421,17A) Form of appeal
- 2.4(421,17A) Certification by director
- 2.5(421,17A) Motions
- 2.6(421,17A) Answer
- 2.7(421,17A) Docketing
- 2.8(421,17A) Filing of papers
- 2.9(421,17A) Hearing an appeal
- 2.10(17A,421) Appearances by appellant
- 2.11(421,17A) Authority of state board to issue procedural orders
- 2.12(421,17A) Continuances
- 2.13(17A,421) Place of hearing
- 2.14(17A,421) Members participating
- 2.15(17A,421) Presiding officer
- 2.16(17A,421) Appeals of state board decisions

DIVISION II ORIGINAL JURISDICTION

RULES GOVERNING CONTESTED CASE PROCEEDINGS IN WHICH THE STATE BOARD HAS ORIGINAL JURISDICTION TO COMMENCE A CONTESTED CASE PROCEEDING

- 2.17(421,17A) Applicability and scope
- 2.18(17A) Definitions
- 2.19(421,17A) Time requirements
- 2.20(421,17A) Notice of appeal
- 2.21(421,17A) Form of appeal
- 2.22(421,17A) Certification by director
- 2.23(421,17A) Answer
- 2.24(421,17A) Docketing
- 2.25(421,17A) Appearances by appellant
- 2.26(421,17A) Place of hearing
- 2.27(421,17A) Transcript of hearing
- 2.28(421,17A) Requests for contested case proceeding
- 2.29(421,17A) Notice of hearing
- 2.30(17A) Presiding officer

2.31(421,17A)	Transfer of case for hearing or appeal
2.32(421,17A)	Waiver of procedures
2.33(421,17A)	Telephone proceedings
2.34(17A,421)	Disqualifications of a presiding officer
2.35(421,17A)	Consolidation and severance
2.36(17A)	Service and filing of pleadings and other papers
2.37(421,17A)	Discovery
2.38(421,17A)	Subpoenas
2.39(421,17A)	Motions
2.40(421,17A)	Prehearing conference
2.41(421,17A)	Continuances
2.42(17A)	Withdrawals
2.43(421,17A)	Intervention
2.44(421,17A)	Hearing procedures
2.45(421,17A)	Evidence
2.46(421,17A)	Default or dismissal
2.47(421,17A)	Ex parte communication
2.48(421,17A)	Recording costs
2.49(421,17A)	Interlocutory appeals
2.50(421,17A)	Final decision
2.51(421,17A)	Applications for rehearing
2.52(421,17A)	Stays of agency and board actions
2.53(421,17A)	No factual dispute contested case
2.54(421,17A)	Appeal and review of a state board decision

CHAPTER 3

VOLUNTARY DISCLOSURE PROGRAM

3.1(421,422,423)	Voluntary disclosure program
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CHAPTER 4

MULTILEVEL MARKETER AGREEMENTS

4.1(421)	Multilevel marketers—in general
----------	---------------------------------

CHAPTER 5

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

(Uniform Rules)

5.1(17A,22)	Definitions
5.3(17A,22)	Requests for access to records
5.6(17A,22)	Procedure by which additions, dissents, or objections may be entered into certain records
5.9(17A,22)	Disclosures without the consent of the subject
5.10(17A,22)	Routine use
5.11(17A,22)	Consensual disclosure of confidential records
5.12(17A,22)	Release to subject
5.13(17A,22)	Availability of records
5.14(17A,22)	Personally identifiable information
5.15(17A,22)	Other groups of records
5.16(17A,22)	Applicability

TITLE I
ADMINISTRATIONCHAPTER 6
ORGANIZATION, PUBLIC INSPECTION

- 6.1(17A) Establishment, organization, general course and method of operations, methods by which and location where the public may obtain information or make submissions or requests
- 6.2(17A) Public inspection
- 6.3(17A) Examination of records
- 6.4(17A) Copies of proposed rules
- 6.5(17A) Regulatory analysis procedures
- 6.6(422) Retention of records and returns by the department
- 6.7(68B) Consent to sell
- 6.8(421) Tax return extension in disaster areas

CHAPTER 7
PRACTICE AND PROCEDURE BEFORE THE DEPARTMENT OF REVENUE

- 7.1(421,17A) Applicability and scope of rules
- 7.2(421,17A) Definitions
- 7.3(17A) Business hours
- 7.4(17A) Computation of time, filing of documents
- 7.5(17A) Form and style of papers
- 7.6(17A) Persons authorized to represent themselves or others
- 7.7(17A) Resolution of tax liability
- 7.8(17A) Protest
- 7.9(17A) Identifying details
- 7.10(17A) Docket
- 7.11(17A) Informal procedures and dismissals of protests
- 7.12(17A) Answer
- 7.13(17A) Subpoenas
- 7.14(17A) Commencement of contested case proceedings
- 7.15(17A) Discovery
- 7.16(17A) Prehearing conference
- 7.17(17A) Contested case proceedings
- 7.18(17A) Interventions
- 7.19(17A) Record and transcript
- 7.20(17A) Application for rehearing
- 7.21(17A) Service
- 7.22(17A) Ex parte communications and disqualification
- 7.23(17A) Licenses
- 7.24(17A) Declaratory order—in general
- 7.25(17A) Department procedure for rule making
- 7.26(17A) Public inquiries on rule making and the rule-making records
- 7.27(17A) Criticism of rules
- 7.28(17A) Waiver or variance of certain department rules
- 7.29(17A) Petition for rule making
- 7.30(9C,91C) Procedure for nonlocal business entity bond forfeitures
- 7.31(421) Abatement of unpaid tax
- 7.32(421) Time and place of taxpayer interviews
- 7.33(421) Mailing to the last-known address

- 7.34(421) Power of attorney
 7.35(421) Taxpayer designation of tax type and period to which voluntary payments are to be applied

CHAPTER 8
 FORMS AND COMMUNICATIONS

- 8.1(17A) Definitions
 8.2(17A) Official forms
 8.3(17A) Substitution of official forms
 8.4(17A) Description of forms
 8.5(422) Electronic filing of Iowa income tax returns

CHAPTER 9
 FILING AND EXTENSION OF TAX LIENS
 AND CHARGING OFF UNCOLLECTIBLE TAX ACCOUNTS

- 9.1(422,423) Definitions
 9.2(422,423) Lien attaches
 9.3(422,423) Purpose of filing
 9.4(422,423) Place of filing
 9.5(422,423) Time of filing
 9.6(422,423) Period of lien
 9.7(422,423) Fees

CHAPTER 10
 INTEREST, PENALTY, EXCEPTIONS TO PENALTY, AND JEOPARDY ASSESSMENTS

- 10.1(421) Definitions
 10.2(421) Interest
 10.3(422,423,450,452A) Interest on refunds and unpaid tax
 10.4(421) Frivolous return penalty
 10.5(421) Improper receipt of credit or refund
 10.6(421) Penalties
 10.7(421) Waiver of penalty—definitions
 10.8(421) Penalty exceptions
 10.9(421) Notice of penalty exception for one late return in a three-year period
 10.10 to 10.19 Reserved

RETAIL SALES

- 10.20 to 10.29 Reserved

USE

- 10.30 to 10.39 Reserved

INDIVIDUAL INCOME

- 10.40 to 10.49 Reserved

WITHHOLDING

- 10.50 to 10.55 Reserved

CORPORATE

- 10.56 to 10.65 Reserved

FINANCIAL INSTITUTIONS

- 10.66 to 10.70 Reserved

MOTOR FUEL

10.71(452A) Penalty and enforcement provisions
 10.72(452A) Interest
 10.73 to 10.75 Reserved

CIGARETTES AND TOBACCO

10.76(453A) Penalties
 10.77(453A) Interest
 10.78 Reserved
 10.79(453A) Request for statutory exception to penalty
 10.80 to 10.84 Reserved

INHERITANCE

10.85 to 10.89 Reserved

IOWA ESTATE

10.90 to 10.95 Reserved

GENERATION SKIPPING

10.96 to 10.100 Reserved

FIDUCIARY INCOME

10.101 to 10.109 Reserved

HOTEL AND MOTEL

10.110 to 10.114 Reserved

ALL TAXES

10.115(421) Application of payments to penalty, interest, and then tax due for payments made on or after January 1, 1995, unless otherwise designated by the taxpayer

JEOPARDY ASSESSMENTS

10.116(422,453B) Jeopardy assessments
 10.117(422,453B) Procedure for posting bond
 10.118(422,453B) Time limits
 10.119(422,453B) Amount of bond
 10.120(422,453B) Posting of bond
 10.121(422,453B) Order
 10.122(422,453B) Director's order
 10.123(422,453B) Type of bond
 10.124(422,453B) Form of surety bond
 10.125(422,453B) Duration of the bond
 10.126(422,453B) Exoneration of the bond

TITLE II
EXCISECHAPTER 11
ADMINISTRATION

11.1(422,423) Definitions
 11.2(422,423) Statute of limitations
 11.3(422,423) Credentials and receipts
 11.4(422,423) Retailers required to keep records
 11.5(422,423) Audit of records
 11.6(422,423) Billings
 11.7(422,423) Collections
 11.8(422,423) No property exempt from distress and sale

- 11.9(422,423) Information confidential
- 11.10(423) Bonding procedure

CHAPTER 12

FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST

- 12.1(422) Returns and payment of tax
- 12.2(422,423) Remittances
- 12.3(422) Permits and negotiated rate agreements
- 12.4(422) Nonpermit holders
- 12.5(422,423) Regular permit holders responsible for collection of tax
- 12.6(422,423) Sale of business
- 12.7(422) Bankruptcy, insolvency or assignment for benefit of creditors
- 12.8(422) Vending machines and other coin-operated devices
- 12.9(422) Claim for refund of tax
- 12.10(423) Audit limitation for certain services
- 12.11 Reserved
- 12.12(422) Extension of time for filing
- 12.13(422) Determination of filing status
- 12.14(422,423) Immediate successor liability for unpaid tax
- 12.15(422,423) Officers and partners—personal liability for unpaid tax
- 12.16(422) Show sponsor liability
- 12.17(422) Purchaser liability for unpaid sales tax
- 12.18(423) Biodiesel production refund
- 12.19(15) Sales and use tax refund for eligible businesses

CHAPTER 13

PERMITS

- 13.1(422) Retail sales tax permit required
- 13.2(422) Application for permit
- 13.3(422) Permit not transferable—sale of business
- 13.4(422) Permit—consolidated return optional
- 13.5(422) Retailers operating a temporary business
- 13.6(422) Reinstatement of canceled permit
- 13.7(422) Reinstatement of revoked permit
- 13.8(422) Withdrawal of permit
- 13.9(422) Loss or destruction of permit
- 13.10(422) Change of location
- 13.11(422) Change of ownership
- 13.12(422) Permit posting
- 13.13(422) Trustees, receivers, executors and administrators
- 13.14(422) Vending machines and other coin-operated devices
- 13.15(422) Other amusements
- 13.16(422) Substantially delinquent tax—denial of permit
- 13.17(422) Substantially delinquent tax—revocation of permit

CHAPTER 14

COMPUTATION OF TAX

- 14.1(422) Tax not to be included in price
- 14.2(422,423,77GA, ch1130) Retail bracket system for state sales and local option sales and service tax
- 14.3(422,423) Taxation of transactions due to rate change

CHAPTER 15

DETERMINATION OF A SALE AND SALE PRICE

15.1(422)	Conditional sales to be included in gross sales
15.2(422,423)	Repossessed goods
15.3(422,423)	Exemption certificates, direct pay permits, fuel used in processing, and beer and wine wholesalers
15.4(422,423)	Bad debts
15.5(422,423)	Recovery of bad debts by collection agency or attorney
15.6(422,423)	Discounts, rebates and coupons
15.7	Reserved
15.8(422,423)	Returned merchandise
15.9(422)	Goods damaged in transit
15.10(422)	Consignment sales
15.11(422,423)	Leased departments
15.12(422,423)	Excise tax included in and excluded from gross receipts
15.13(422,423)	Freight, other transportation charges, and exclusions from the exemption applicable to these services
15.14(422,423)	Installation charges when tangible personal property is sold at retail
15.15(422)	Premiums and gifts
15.16(422)	Gift certificates
15.17(422,423)	Finance charge
15.18(422,423)	Coins and other currency exchanged at greater than face value
15.19(422,423)	Trade-ins
15.20(422,423)	Corporate mergers which do not involve taxable sales of tangible personal property or services

CHAPTER 16

TAXABLE SALES

16.1(422)	Tax imposed
16.2(422)	Used or secondhand tangible personal property
16.3(422,423)	Tangible personal property used or consumed by the manufacturer thereof
16.4(422,423)	Patterns, dies, jigs, tools, and manufacturing or printing aids
16.5(422,423)	Explosives used in mines, quarries and elsewhere
16.6(422,423)	Electrotypes, types, zinc etchings, halftones, stereotypes, color process plates and wood mounts
16.7	Reserved
16.8(422,423)	Wholesalers and jobbers selling at retail
16.9(422,423)	Materials and supplies sold to retail stores
16.10(422,423)	Sales to certain corporations organized under federal statutes
16.11(422,423)	Paper plates, paper cups, paper dishes, paper napkins, paper, wooden or plastic spoons and forks and straws
16.12(422)	Tangible personal property purchased for resale but incidentally consumed by the purchaser
16.13(422)	Property furnished without charge by employers to employees
16.14(422)	Sales in interstate commerce—goods delivered into this state
16.15(422)	Owners or operators of buildings
16.16(422,423)	Tangible personal property made to order
16.17(422,423)	Blacksmith and machine shops
16.18(422,423)	Sales of signs at retail
16.19(422,423)	Products sold by cooperatives to members or patrons
16.20(422,423)	Municipal utilities, investor-owned utilities, or municipal or rural electrification cooperatives or associations

16.21(422,423)	Sale of pets
16.22(422,423)	Sales on layaway
16.23(422)	Meal tickets, coupon books, and merchandise cards
16.24(422,423)	Truckers engaged in retail business
16.25(422,423)	Foreign truckers selling at retail in Iowa
16.26(422)	Admissions to amusements, athletic events, commercial amusement enterprises, fairs, and games
16.27 and 16.28	Reserved
16.29(422)	Rental of personal property in connection with the operation of amusements
16.30(422)	Commercial amusement enterprises—companies or persons which contract to furnish show for fixed fee
16.31	Reserved
16.32(422)	River steamboats
16.33(422)	Pawnbrokers
16.34(422,423)	Druggists and pharmacists
16.35(422,423)	Memorial stones
16.36(422)	Communication services furnished by hotel to its guests
16.37(422)	Private clubs
16.38	Reserved
16.39(422)	Athletic events
16.40(422,423)	Iowa dental laboratories
16.41(422,423)	Dental supply houses
16.42(422)	News distributors and magazine distributors
16.43(422,423)	Magazine subscriptions by independent dealers
16.44(422,423)	Sales by finance companies
16.45(422,423)	Sale of baling wire and baling twine
16.46(422,423)	Snowmobiles and motorboats
16.47(422)	Conditional sales contracts
16.48(422,423)	Carpeting and other floor coverings
16.49(422,423)	Bowling
16.50(422,423)	Various special problems relating to public utilities
16.51(422,423)	Sales of services treated as sales of tangible personal property
16.52(422,423)	Sales of prepaid merchandise cards

CHAPTER 17
EXEMPT SALES

17.1(422,423)	Gross receipts expended for educational, religious, and charitable purposes
17.2(422)	Fuel used in processing—when exempt
17.3(422,423)	Processing exemptions
17.4(422,423)	Commercial fertilizer and agricultural limestone
17.5(422,423)	Sales to the American Red Cross, the Coast Guard Auxiliary, Navy-Marine Corps Relief Society, and U.S.O
17.6(422,423)	Sales of vehicles subject to registration—new and used—by dealers
17.7(422,423)	Sales to certain federal corporations
17.8(422)	Sales in interstate commerce—goods transported or shipped from this state
17.9(422,423)	Sales of breeding livestock, fowl and certain other property used in agricultural production
17.10(422,423)	Materials used for seed inoculations
17.11(422,423)	Educational institution
17.12(422)	Coat or hat checkrooms
17.13(422,423)	Railroad rolling stock
17.14(422,423)	Chemicals, solvents, sorbents, or reagents used in processing

17.15(422,423)	Demurrage charges
17.16(422,423)	Sale of a draft horse
17.17(422,423)	Beverage container deposits
17.18(422,423)	Films, video tapes and other media, exempt rental and sale
17.19(422,423)	Gross receipts from the sale or rental of tangible personal property or from services performed, rendered, or furnished to certain nonprofit corporations exempt from tax
17.20(422)	Raffles
17.21(422)	Exempt sales of prizes
17.22(422,423)	Modular homes
17.23(422,423)	Sales to other states and their political subdivisions
17.24(422)	Nonprofit private museums
17.25(422,423)	Exempt sales by excursion boat licensees
17.26(422,423)	Bedding for agricultural livestock or fowl
17.27(422,423)	Statewide notification center service exemption
17.28(422,423)	State fair and fair societies
17.29(422,423)	Reciprocal shipment of wines
17.30(422,423)	Nonprofit organ procurement organizations
17.31(422,423)	Sale of electricity to water companies
17.32(422)	Food and beverages sold by certain organizations are exempt
17.33(422,423)	Sales of building materials, supplies and equipment to not-for-profit rural water districts
17.34(422,423)	Sales to hospices
17.35(422,423)	Sales of livestock ear tags
17.36(422,423)	Sale or rental of information services
17.37(422,423)	Temporary exemption from sales tax on certain utilities
17.38(422,423)	State sales tax phase-out on energies
17.39(422,423)	Art centers
17.40(422,423)	Community action agencies
17.41(422,423)	Legislative service bureau

CHAPTER 18

TAXABLE AND EXEMPT SALES DETERMINED BY METHOD
OF TRANSACTION OR USAGE

18.1(422,423)	Tangible personal property purchased from the United States government
18.2(422,423)	Sales of butane, propane and other like gases in cylinder drums, etc.
18.3(422,423)	Chemical compounds used to treat water
18.4(422)	Mortgages and trustees
18.5(422,423)	Sales to agencies or instrumentalities of federal, state, county and municipal government
18.6(422,423)	Relief agencies
18.7(422,423)	Containers, including packing cases, shipping cases, wrapping material and similar items
18.8(422)	Auctioneers
18.9(422)	Sales by farmers
18.10(422,423)	Florists
18.11(422,423)	Landscaping materials
18.12(422,423)	Hatcheries
18.13(422,423)	Sales by the state of Iowa, its agencies and instrumentalities
18.14(422,423)	Sales of livestock and poultry feeds
18.15(422,423)	Student fraternities and sororities
18.16(422,423)	Photographers and photostaters

18.17(422,423)	Gravel and stone
18.18(422,423)	Sale of ice
18.19(422,423)	Antiques, curios, old coins or collector's postage stamps
18.20(422,423)	Communication services
18.21(422,423)	Morticians or funeral directors
18.22(422,423)	Physicians, dentists, surgeons, ophthalmologists, oculists, optometrists, and opticians
18.23(422)	Veterinarians
18.24(422,423)	Hospitals, infirmaries and sanitariums
18.25(422,423)	Warranties and maintenance contracts
18.26(422)	Service charge and gratuity
18.27(422)	Advertising agencies, commercial artists, and designers
18.28(422,423)	Casual sales
18.29(422,423)	Processing, a definition of the word, its beginning and completion characterized with specific examples of processing
18.30(422)	Taxation of American Indians
18.31(422,423)	Tangible personal property purchased by one who is engaged in the performance of a service
18.32(422,423)	Sale, transfer or exchange of tangible personal property or taxable enumerated services between affiliated corporations
18.33(422,423)	Printers' and publishers' supplies exemption with retroactive effective date
18.34(422,423)	Automatic data processing
18.35(422,423)	Drainage tile
18.36(422,423)	True leases and purchases of tangible personal property by lessors
18.37(422,423)	Motor fuel, special fuel, aviation fuels and gasoline
18.38(422,423)	Urban transit systems
18.39(422,423)	Sales or services rendered, furnished, or performed by a county or city
18.40(422,423)	Renting of rooms
18.41(422,423)	Envelopes for advertising
18.42(422,423)	Newspapers, free newspapers and shoppers' guides
18.43(422,423)	Written contract
18.44(422,423)	Sale or rental of farm machinery and equipment
18.45(422,423)	Sale or rental of computers, industrial machinery and equipment; refund of and exemption from tax paid for periods prior to July 1, 1997
18.46(422,423)	Automotive fluids
18.47(422,423)	Maintenance or repair of fabric or clothing
18.48(422,423)	Sale or rental of farm machinery, equipment, replacement parts, and repairs used in livestock, dairy, or plant production
18.49(422,423)	Aircraft sales, rental, component parts, and services exemptions prior to, on, and after July 1, 1999
18.50(422,423)	Property used by a lending organization
18.51(422,423)	Sales to nonprofit legal aid organizations
18.52(422,423)	Irrigation equipment used in farming operations
18.53(422,423)	Sales to persons engaged in the consumer rental purchase business
18.54(422,423)	Sales of advertising material
18.55(422,423)	Drop shipment sales
18.56(422,423)	Wind energy conversion property
18.57(422,423)	Exemptions applicable to the production of flowering, ornamental, and vegetable plants
18.58(422,423)	Exempt sales or rentals of computers, industrial machinery and equipment, and exempt sales of fuel and electricity on and after July 1, 1997
18.59(422,423)	Exempt sales to nonprofit hospitals

- 18.60(422,423) Exempt sales of gases used in the manufacturing process
- 18.61(422,423) Exclusion from tax for property delivered by certain media

CHAPTER 19

SALES AND USE TAX ON CONSTRUCTION ACTIVITIES

- 19.1(422,423) General information
- 19.2(422,423) Contractors are consumers of building materials, supplies, and equipment by statute
- 19.3(422,423) Sales of building materials, supplies, and equipment to contractors, subcontractors, builders or owners
- 19.4(422,423) Contractors, subcontractors or builders who are retailers
- 19.5(422,423) Building materials, supplies, and equipment used in the performance of construction contracts within and outside Iowa
- 19.6(422,423) Prefabricated structures
- 19.7(422,423) Types of construction contracts
- 19.8(422,423) Machinery and equipment sales contracts with installation
- 19.9(422,423) Construction contracts with equipment sales (mixed contracts)
- 19.10(422,423) Distinguishing machinery and equipment from real property
- 19.11(422,423) Tangible personal property which becomes structures
- 19.12(422,423) Construction contracts with tax exempt entities
- 19.13(422,423) Tax on enumerated services
- 19.14(422,423) Transportation cost
- 19.15(422,423) Start-up charges
- 19.16(422,423) Liability of subcontractors
- 19.17(422,423) Liability of sponsors
- 19.18(422,423) Withholding
- 19.19(422,423) Resale certificates
- 19.20(423) Reporting for use tax

CHAPTER 20

FOODS FOR HUMAN CONSUMPTION, PRESCRIPTION DRUGS, INSULIN,
HYPODERMIC SYRINGES, DIABETIC TESTING MATERIALS, PROSTHETIC,
ORTHOTIC OR ORTHOPEDIC DEVICES

- 20.1(422,423) Foods for human consumption
- 20.2(422,423) Food coupon rules
- 20.3(422,423) Nonparticipating retailer in the food coupon program
- 20.4(422,423) Determination of eligible foods
- 20.5(422,423) Meals and prepared food
- 20.6(422,423) Vending machines
- 20.7(422,423) Prescription drugs and devices
- 20.8(422,423) Exempt sales of nonprescription medical devices, other than prosthetic devices
- 20.9(422,423) Prosthetic, orthotic and orthopedic devices
- 20.10(422,423) Sales and rentals covered by Medicaid and Medicare
- 20.11(422,423) Reporting
- 20.12(422,423) Exempt sales of clothing and footwear during two-day period in August

CHAPTERS 21 to 25

Reserved

TITLE III
SALES TAX ON SERVICESCHAPTER 26
SALES AND USE TAX ON SERVICES

26.1(422)	Definition and scope
26.2(422)	Enumerated services exempt
26.3(422)	Alteration and garment repair
26.4(422)	Armored car
26.5(422)	Vehicle repair
26.6(422)	Battery, tire and allied
26.7(422)	Investment counseling
26.8(422)	Bank and financial institution service charges
26.9(422)	Barber and beauty
26.10(422)	Boat repair
26.11(422)	Car and vehicle wash and wax
26.12(422)	Carpentry
26.13(422)	Roof, shingle and glass repair
26.14(422)	Dance schools and dance studios
26.15(422)	Dry cleaning, pressing, dyeing and laundering
26.16(422)	Electrical and electronic repair and installation
26.17(422)	Engraving, photography and retouching
26.18(422,423)	Equipment and tangible personal property rental
26.19(422)	Excavating and grading
26.20(422)	Farm implement repair of all kinds
26.21(422)	Flying service
26.22(422)	Furniture, rug, upholstery, repair and cleaning
26.23(422)	Fur storage and repair
26.24(422)	Golf and country clubs and all commercial recreation
26.25(422)	House and building moving
26.26(422)	Household appliance, television and radio repair
26.27(422)	Jewelry and watch repair
26.28(422)	Machine operators
26.29(422)	Machine repair of all kinds
26.30(422)	Motor repair
26.31(422)	Motorcycle, scooter and bicycle repair
26.32(422)	Oilers and lubricators
26.33(422)	Office and business machine repair
26.34(422)	Painting, papering and interior decorating
26.35(422)	Parking facilities
26.36(422)	Pipe fitting and plumbing
26.37(422)	Wood preparation
26.38(422)	Private employment agency, executive search agency
26.39(422)	Printing and binding
26.40(422)	Sewing and stitching
26.41(422)	Shoe repair and shoeshine
26.42(422)	Storage warehousing, storage locker, and storage warehousing of raw agricultural products and household goods
26.43(422,423)	Telephone answering service
26.44(422)	Test laboratories
26.45(422)	Termite, bug, roach, and pest eradicators
26.46(422)	Tin and sheet metal repair

26.47(422)	Turkish baths, massage, and reducing salons
26.48(422)	Vulcanizing, recapping or retreading
26.49	Reserved
26.50(422)	Weighing
26.51(422)	Welding
26.52(422)	Well drilling
26.53(422)	Wrapping, packing and packaging of merchandise other than processed meat, fish, fowl and vegetables
26.54(422)	Wrecking service
26.55(422)	Wrecker and towing
26.56(422)	Cable and pay television
26.57(422)	Camera repair
26.58(422)	Campgrounds
26.59(422)	Gun repair
26.60(422)	Janitorial and building maintenance or cleaning
26.61(422)	Lawn care
26.62(422)	Landscaping
26.63(422)	Pet grooming
26.64(422)	Reflexology
26.65(422)	Tanning beds and tanning salons
26.66(422)	Tree trimming and removal
26.67(422)	Water conditioning and softening
26.68(422)	Motor vehicle, recreational vehicle and recreational boat rental
26.69(422)	Security and detective services
26.70	Reserved
26.71(422,423)	Solid waste collection and disposal services
26.72(422,423)	Sewage services
26.73	Reserved
26.74(422,423)	Aircraft rental
26.75(422,423)	Sign construction and installation
26.76(422,423)	Swimming pool cleaning and maintenance
26.77(422,423)	Taxidermy
26.78(422,423)	Mini-storage
26.79(422,423)	Dating services
26.80(422,423)	Limousine service
26.81(422)	Sales of bundled services contracts

CHAPTER 27

AUTOMOBILE RENTAL EXCISE TAX

27.1(422,422C,423)	Definitions and characterizations
27.2(422,422C,423)	Tax imposed upon rental of automobiles
27.3(422,422C,423)	Lessor's obligation to collect tax
27.4(422,422C,423)	Administration of tax

TITLE IV
USECHAPTER 28
DEFINITIONS

28.1(423)	Taxable use defined
28.2(423)	Processing of property defined
28.3(423)	Purchase price defined
28.4(423)	Retailer maintaining a place of business in this state defined

CHAPTER 29
CERTIFICATES

- 29.1(423) Certificate of registration
- 29.2(423) Cancellation of certificate of registration
- 29.3(423) Certificates of resale, direct pay permits, or processing

CHAPTER 30
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST

- 30.1(423) Liability for use tax and denial and revocation of permit
- 30.2(423) Measure of use tax
- 30.3(421,423) Consumer's use tax return
- 30.4(423) Retailer's use tax return
- 30.5(423) Collection requirements of registered retailers
- 30.6(423) Bracket system to be used by registered vendors
- 30.7(423) Sales tax or use tax paid to another state
- 30.8(423) Registered retailers selling tangible personal property on a conditional sale contract basis
- 30.9(423) Registered vendors repossessing goods sold on a conditional sale contract basis
- 30.10(423) Penalties for late filing of a monthly tax deposit or use tax returns
- 30.11(423) Claim for refund of use tax
- 30.12(423) Extension of time for filing

CHAPTER 31
RECEIPTS SUBJECT TO USE TAX

- 31.1(423) Transactions consummated outside this state
- 31.2(423) Goods coming into this state
- 31.3(423) Sales by federal government or agencies to consumers
- 31.4(423) Sales for lease of vehicles subject to registration—taxation and exemptions
- 31.5(423) Motor vehicle use tax on long-term leases
- 31.6(423) Sales of aircraft subject to registration
- 31.7(423) Communication services

CHAPTER 32
RECEIPTS EXEMPT FROM USE TAX

- 32.1(423) Tangible personal property and taxable services subject to sales tax
- 32.2(423) Sales tax exemptions applicable to use tax
- 32.3(423) Mobile homes and manufactured housing
- 32.4(423) Exemption for vehicles used in interstate commerce
- 32.5(423) Exemption for transactions if sales tax paid
- 32.6(423) Exemption for ships, barges, and other waterborne vessels
- 32.7(423) Exemption for containers
- 32.8(423) Exemption for building materials used outside this state
- 32.9(423) Exemption for vehicles subject to registration
- 32.10(423) Exemption for vehicles operated under Iowa Code chapter 326
- 32.11(423) Exemption for vehicles purchased for rental or lease
- 32.12(423) Exemption for vehicles previously purchased for rental
- 32.13(423) Exempt use of aircraft on and after July 1, 1999

CHAPTER 33
RECEIPTS SUBJECT TO USE TAX DEPENDING ON
METHOD OF TRANSACTION

- 33.1 Reserved
- 33.2(423) Federal manufacturer's or retailer's excise tax

- 33.3(423) Fuel consumed in creating power, heat or steam for processing or generating electric current
- 33.4(423) Repair of tangible personal property outside the state of Iowa
- 33.5(423) Taxation of American Indians
- 33.6(422,423) Exemption for property used in Iowa only in interstate commerce
- 33.7(423) Property used to manufacture certain vehicles to be leased
- 33.8(423) Out-of-state rental of vehicles subject to registration subsequently used in Iowa
- 33.9(423) Sales of mobile homes, manufactured housing, and related property and services
- 33.10(423) Tax imposed on the use of manufactured housing as tangible personal property and as real estate

CHAPTER 34

VEHICLES SUBJECT TO REGISTRATION

- 34.1(422,423) Definitions
- 34.2(423) County treasurer shall collect tax
- 34.3(423) Returned vehicles and tax refunded by manufacturers
- 34.4(423) Use tax collections required
- 34.5(423) Exemptions
- 34.6(423) Vehicles subject to registration received as gifts or prizes
- 34.7(423) Titling of used foreign vehicles by dealers
- 34.8(423) Dealer's retail sales tax returns
- 34.9(423) Affidavit forms
- 34.10(423) Exempt and taxable purchases of vehicles for taxable rental
- 34.11(423) Manufacturer's refund of use tax to a consumer, lessor, or lessee of a defective motor vehicle
- 34.12(423) Government payments for a motor vehicle which do not involve government purchases of the same
- 34.13(423) Transfers of vehicles resulting from corporate mergers and other types of corporate transfers
- 34.14(423) Refund of use tax paid on the purchase of a motor vehicle
- 34.15(423) Registration by manufacturers
- 34.16(423) Rebates
- 34.17(321,423) Repossession of a vehicle
- 34.18(423) Federal excise tax
- 34.19(423) Claiming an exemption from Iowa tax
- 34.20(423) Affidavit forms
- 34.21(423) Insurance companies

CHAPTERS 35 and 36

Reserved

CHAPTER 37

UNDERGROUND STORAGE TANK RULES

INCORPORATED BY REFERENCE

- 37.1(424) Rules incorporated

TITLE V
INDIVIDUAL

CHAPTER 38

ADMINISTRATION

- 38.1(422) Definitions
- 38.2(422) Statute of limitations
- 38.3(422) Retention of records

38.4(422)	Authority for deductions
38.5(422)	Jeopardy assessments
38.6(422)	Information deemed confidential
38.7(422)	Power of attorney
38.8(422)	Delegations to audit and examine
38.9(422)	Bonding procedure
38.10(422)	Indexation
38.11(422)	Appeals of notices of assessment and notices of denial of taxpayer's refund claims
38.12(422)	Indexation of the optional standard deduction for inflation
38.13(422)	Reciprocal tax agreements
38.14(422)	Information returns for reporting income payments to the department of revenue
38.15(422)	Relief of innocent spouse for substantial understatement of tax attributable to other spouse
38.16(422)	Preparation of taxpayers' returns by department employees
38.17(422)	Resident determination
38.18(422)	Tax treatment of income repaid in current tax year which had been reported on prior Iowa individual income tax return
38.19(422)	Indication of dependent child health care coverage on tax return

CHAPTER 39

FILING RETURN AND PAYMENT OF TAX

39.1(422)	Who must file
39.2(422)	Time and place for filing
39.3(422)	Form for filing
39.4(422)	Filing status
39.5(422)	Payment of tax
39.6(422)	Minimum tax
39.7(422)	Tax on lump-sum distributions
39.8(422)	State income tax limited to taxpayer's net worth immediately before the distressed sale
39.9(422)	Special tax computation for all low-income taxpayers except single taxpayers
39.10(422)	Election to report excess income from sale or exchange of livestock due to drought in the next tax year
39.11(422)	Forgiveness of tax for an individual whose federal income tax was forgiven because the individual was killed outside the United States due to military or terroristic action
39.12(422)	Tax benefits for persons in the armed forces deployed outside the United States
39.13	Reserved
39.14(422)	Tax benefits for persons serving in support of the Bosnia-Herzegovina hazardous duty area
39.15(422)	Special tax computation for taxpayers who are 65 years of age or older

CHAPTER 40

DETERMINATION OF NET INCOME

40.1(422)	Net income defined
40.2(422)	Interest and dividends from federal securities
40.3(422)	Interest and dividends from foreign securities, and securities of state and their political subdivisions
40.4	Reserved
40.5(422)	Military pay
40.6(422)	Interest and dividend income
40.7(422)	Current year capital gains and losses

40.8(422)	Gains and losses on property acquired before January 1, 1934
40.9(422)	Work opportunity tax credit and alcohol and cellulosic biofuel fuels credit
40.10 and 40.11	Reserved
40.12(422)	Income from partnerships or limited liability companies
40.13(422)	Subchapter "S" income
40.14(422)	Contract sales
40.15(422)	Reporting of incomes by married taxpayers who file a joint federal return but elect to file separately for Iowa income tax purposes
40.16(422)	Income of nonresidents
40.17(422)	Income of part-year residents
40.18(422)	Net operating loss carrybacks and carryovers
40.19(422)	Casualty losses
40.20(422)	Adjustments to prior years
40.21(422)	Additional deduction for wages paid or accrued for work done in Iowa by certain individuals
40.22(422)	Disability income exclusion
40.23(422)	Social security benefits
40.24(99E)	Lottery prizes
40.25 and 40.26	Reserved
40.27(422)	Incomes from distressed sales of qualifying taxpayers
40.28	Reserved
40.29(422)	Intangible drilling costs
40.30(422)	Percentage depletion
40.31(422)	Away-from-home expenses of state legislators
40.32(422)	Interest and dividends from regulated investment companies which are exempt from federal income tax
40.33	Reserved
40.34(422)	Exemption of restitution payments for persons of Japanese ancestry
40.35(422)	Exemption of Agent Orange settlement proceeds received by disabled veterans or beneficiaries of disabled veterans
40.36(422)	Exemption of interest earned on bonds issued to finance beginning farmer loan program
40.37(422)	Exemption of interest from bonds issued by the Iowa comprehensive petroleum underground storage tank fund board
40.38(422)	Capital gain deduction or exclusion for certain types of net capital gains
40.39(422)	Exemption of interest from bonds or notes issued to fund the E911 emergency telephone system
40.40(422)	Exemption of active-duty military pay of national guard personnel and armed forces reserve personnel received for services related to operation desert shield
40.41	Reserved
40.42(422)	Depreciation of speculative shell buildings
40.43(422)	Retroactive exemption for payments received for providing unskilled in-home health care services to a relative
40.44(422,541A)	Individual development accounts
40.45(422)	Exemption for distributions from pensions, annuities, individual retirement accounts, or deferred compensation plans received by nonresidents of Iowa
40.46(422)	Taxation of compensation of nonresident members of professional athletic teams
40.47(422)	Partial exclusion of pensions and other retirement benefits for disabled individuals, individuals who are 55 years of age or older, surviving spouses, and survivors
40.48(422)	Health insurance premiums deduction
40.49(422)	Employer social security credit for tips
40.50(422)	Computing state taxable amounts of pension benefits from state pension plans

40.51(422)	Exemption of active-duty military pay of national guard personnel and armed forces military reserve personnel for overseas services pursuant to military orders for peacekeeping in the Bosnia-Herzegovina area
40.52(422)	Mutual funds
40.53(422)	Deduction for contributions by taxpayers to the Iowa educational savings plan trust and addition to income for refunds of contributions previously deducted
40.54(422)	Roth individual retirement accounts
40.55(422)	Exemption of income payments for victims of the Holocaust and heirs of victims
40.56(422)	Taxation of income from the sale of obligations of the state of Iowa and its political subdivisions
40.57(422)	Installment sales by taxpayers using the accrual method of accounting
40.58(422)	Exclusion of distributions from retirement plans by national guard members and members of military reserve forces of the United States
40.59	Reserved
40.60(422)	Additional first-year depreciation allowance
40.61(422)	Exclusion of active duty pay of national guard members and armed forces military reserve members for service under orders for Operation Iraqi Freedom, Operation Noble Eagle, Operation Enduring Freedom or Operation New Dawn
40.62(422)	Deduction for overnight expenses not reimbursed for travel away from home of more than 100 miles for performance of service as a member of the national guard or armed forces military reserve
40.63(422)	Exclusion of income from military student loan repayments
40.64(422)	Exclusion of death gratuity payable to an eligible survivor of a member of the armed forces, including a member of a reserve component of the armed forces who has died while on active duty
40.65(422)	Section 179 expensing
40.66(422)	Deduction for certain unreimbursed expenses relating to a human organ transplant
40.67(422)	Deduction for alternative motor vehicles
40.68(422)	Injured veterans grant program
40.69(422)	Exclusion of ordinary or capital gain income realized as a result of involuntary conversion of property due to eminent domain
40.70(422)	Exclusion of income from sale, rental or furnishing of tangible personal property or services directly related to production of film, television or video projects
40.71(422)	Exclusion for certain victim compensation payments
40.72(422)	Exclusion of Vietnam Conflict veterans bonus
40.73(422)	Exclusion for health care benefits of nonqualified tax dependents
40.74(422)	Exclusion for AmeriCorps Segal Education Award
40.75(422)	Exclusion of certain amounts received from Iowa veterans trust fund
40.76(422)	Exemption of active duty pay for armed forces, armed forces military reserve, or the national guard
40.77(422)	Exclusion of biodiesel production refund
40.78(422)	Allowance of certain deductions for 2008 tax year
40.79(422)	Special filing provisions related to 2010 tax changes

CHAPTER 41

DETERMINATION OF TAXABLE INCOME

41.1(422)	Verification of deductions required
41.2(422)	Federal rulings and regulations
41.3(422)	Federal income tax deduction and federal refund
41.4(422)	Optional standard deduction
41.5(422)	Itemized deductions
41.6(422)	Itemized deductions—separate returns by spouses

41.7(422)	Itemized deductions—part-year residents
41.8(422)	Itemized deductions—nonresidents
41.9(422)	Annualizing income
41.10(422)	Income tax averaging
41.11(422)	Reduction in state itemized deductions for certain high-income taxpayers
41.12(422)	Deduction for home mortgage interest for taxpayers with mortgage interest credit
41.13(422)	Iowa income taxes and Iowa tax refund

CHAPTER 42

ADJUSTMENTS TO COMPUTED TAX AND TAX CREDITS

42.1(257,422)	School district surtax
42.2(422D)	Emergency medical services income surtax
42.3(422)	Exemption credits
42.4(422)	Tuition and textbook credit for expenses incurred for dependents attending grades kindergarten through 12 in Iowa
42.5(422)	Nonresident and part-year resident credit
42.6(422)	Out-of-state tax credits
42.7(422)	Out-of-state tax credit for minimum tax
42.8(422)	Withholding and estimated tax credits
42.9(422)	Motor fuel credit
42.10(422)	Alternative minimum tax credit for minimum tax paid in a prior tax year
42.11(15,422)	Research activities credit
42.12(422)	New jobs credit
42.13(422)	Earned income credit
42.14(15)	Investment tax credit—new jobs and income program and enterprise zone program
42.15(422)	Child and dependent care credit
42.16(422)	Franchise tax credit
42.17(15E)	Eligible housing business tax credit
42.18(422)	Assistive device tax credit
42.19(404A,422)	Historic preservation and cultural and entertainment district tax credit
42.20(422)	Ethanol blended gasoline tax credit
42.21(15E)	Eligible development business investment tax credit
42.22(15E,422)	Venture capital credits
42.23(15)	New capital investment program tax credits
42.24(15E,422)	Endow Iowa tax credit
42.25(422)	Soy-based cutting tool oil tax credit
42.26(15I,422)	Wage-benefits tax credit
42.27(422,476B)	Wind energy production tax credit
42.28(422,476C)	Renewable energy tax credit
42.29(15)	High quality job creation program
42.30(15E,422)	Economic development region revolving fund tax credit
42.31(422)	Early childhood development tax credit
42.32(422)	School tuition organization tax credit
42.33(422)	E-85 gasoline promotion tax credit
42.34(422)	Biodiesel blended fuel tax credit
42.35(422)	Soy-based transformer fluid tax credit
42.36(175,422)	Agricultural assets transfer tax credit and custom farming contract tax credit
42.37(15,422)	Film qualified expenditure tax credit
42.38(15,422)	Film investment tax credit
42.39(422)	Ethanol promotion tax credit
42.40(422)	Charitable conservation contribution tax credit
42.41(15,422)	Redevelopment tax credit

- 42.42(15) High quality jobs program
- 42.43(16,422) Disaster recovery housing project tax credit
- 42.44(422) Deduction of credits
- 42.45(15) Aggregate tax credit limit for certain economic development programs
- 42.46(422) E-15 plus gasoline promotion tax credit
- 42.47(422) Geothermal heat pump tax credit
- 42.48(422) Solar energy system tax credit
- 42.49(422) Volunteer fire fighter and volunteer emergency medical services personnel tax credit
- 42.50(422) Taxpayers trust fund tax credit
- 42.51(422,85GA,SF452) From farm to food donation tax credit

CHAPTER 43
ASSESSMENTS AND REFUNDS

- 43.1(422) Notice of discrepancies
- 43.2(422) Notice of assessment, supplemental assessments and refund adjustments
- 43.3(422) Overpayments of tax
- 43.4(68A,422,456A) Optional designations of funds by taxpayer
- 43.5(422) Abatement of tax
- 43.6 and 43.7 Reserved
- 43.8(422) Livestock production credit refunds for corporate taxpayers and individual taxpayers

CHAPTER 44
PENALTY AND INTEREST

- 44.1(422) Penalty
- 44.2(422) Computation of interest on unpaid tax
- 44.3(422) Computation of interest on refunds resulting from net operating losses
- 44.4(422) Computation of interest on overpayments

CHAPTER 45
PARTNERSHIPS

- 45.1(422) General rule
- 45.2(422) Partnership returns
- 45.3(422) Contents of partnership return
- 45.4(422) Distribution and taxation of partnership income

CHAPTER 46
WITHHOLDING

- 46.1(422) Who must withhold
- 46.2(422) Computation of amount withheld
- 46.3(422) Forms, returns and reports
- 46.4(422) Withholding on nonresidents
- 46.5(422) Penalty and interest
- 46.6(422) Withholding tax credit to workforce development fund
- 46.7(422) ACE training program credits from withholding
- 46.8(260E) New job tax credit from withholding
- 46.9(15) Supplemental new jobs credit from withholding and alternative credit for housing assistance programs
- 46.10(403) Targeted jobs withholding tax credit

CHAPTER 47
Reserved

CHAPTER 48
COMPOSITE RETURNS

48.1(422)	Composite returns
48.2(422)	Definitions
48.3(422)	Filing requirements
48.4	Reserved
48.5(422)	Composite return required by director
48.6(422)	Determination of composite Iowa income
48.7(422)	Determination of composite Iowa tax
48.8(422)	Estimated tax
48.9(422)	Time and place for filing

CHAPTER 49
ESTIMATED INCOME TAX FOR INDIVIDUALS

49.1(422)	Who must pay estimated income tax
49.2(422)	Time for filing and payment of tax
49.3(422)	Estimated tax for nonresidents
49.4(422)	Special estimated tax periods
49.5(422)	Reporting forms
49.6(422)	Penalty—underpayment of estimated tax
49.7(422)	Estimated tax carryforwards and how the carryforward amounts are affected under different circumstances

CHAPTER 50
APPORTIONMENT OF INCOME FOR RESIDENT
SHAREHOLDERS OF S CORPORATIONS

50.1(422)	Apportionment of income for resident shareholders of S corporations
50.2	Reserved
50.3(422)	Distributions
50.4(422)	Computation of net S corporation income
50.5(422)	Computation of federal tax on S corporation income
50.6(422)	Income allocable to Iowa
50.7(422)	Credit for taxes paid to another state
50.8 and 50.9	Reserved
50.10(422)	Example for tax periods beginning on or after January 1, 2002

TITLE VI
CORPORATION

CHAPTER 51
ADMINISTRATION

51.1(422)	Definitions
51.2(422)	Statutes of limitation
51.3(422)	Retention of records
51.4(422)	Cancellation of authority to do business
51.5(422)	Authority for deductions
51.6(422)	Jeopardy assessments
51.7(422)	Information confidential
51.8(422)	Power of attorney
51.9(422)	Delegation of authority to audit and examine

CHAPTER 52
FILING RETURNS, PAYMENT OF TAX,
PENALTY AND INTEREST, AND TAX CREDITS

52.1(422)	Who must file
52.2(422)	Time and place for filing return
52.3(422)	Form for filing
52.4(422)	Payment of tax
52.5(422)	Minimum tax
52.6(422)	Motor fuel credit
52.7(422)	Research activities credit
52.8(422)	New jobs credit
52.9	Reserved
52.10(15)	New jobs and income program tax credits
52.11(422)	Refunds and overpayments
52.12(422)	Deduction of credits
52.13(422)	Livestock production credits
52.14(15E)	Enterprise zone tax credits
52.15(15E)	Eligible housing business tax credit
52.16(422)	Franchise tax credit
52.17(422)	Assistive device tax credit
52.18(404A,422)	Historic preservation and cultural and entertainment district tax credit
52.19(422)	Ethanol blended gasoline tax credit
52.20(15E)	Eligible development business investment tax credit
52.21(15E,422)	Venture capital credits
52.22(15)	New capital investment program tax credits
52.23(15E,422)	Endow Iowa tax credit
52.24(422)	Soy-based cutting tool oil tax credit
52.25(15I,422)	Wage-benefits tax credit
52.26(422,476B)	Wind energy production tax credit
52.27(422,476C)	Renewable energy tax credit
52.28(15)	High quality job creation program
52.29(15E,422)	Economic development region revolving fund tax credit
52.30(422)	E-85 gasoline promotion tax credit
52.31(422)	Biodiesel blended fuel tax credit
52.32(422)	Soy-based transformer fluid tax credit
52.33(175,422)	Agricultural assets transfer tax credit and custom farming contract tax credit
52.34(15,422)	Film qualified expenditure tax credit
52.35(15,422)	Film investment tax credit
52.36(422)	Ethanol promotion tax credit
52.37(422)	Charitable conservation contribution tax credit
52.38(422)	School tuition organization tax credit
52.39(15,422)	Redevelopment tax credit
52.40(15)	High quality jobs program
52.41(15)	Aggregate tax credit limit for certain economic development programs
52.42(16,422)	Disaster recovery housing project tax credit
52.43(422)	E-15 plus gasoline promotion tax credit
52.44(422)	Solar energy system tax credit
52.45(422,85GA,SF452)	From farm to food donation tax credit

CHAPTER 53
DETERMINATION OF NET INCOME

53.1(422)	Computation of net income for corporations
53.2(422)	Net operating loss carrybacks and carryovers
53.3(422)	Capital loss carryback
53.4(422)	Net operating and capital loss carrybacks and carryovers
53.5(422)	Interest and dividends from federal securities
53.6(422)	Interest and dividends from foreign securities, and securities of state and their political subdivisions
53.7(422)	Safe harbor leases
53.8(422)	Additions to federal taxable income
53.9(422)	Gains and losses on property acquired before January 1, 1934
53.10(422)	Work opportunity tax credit and alcohol and cellulosic biofuel fuels credit
53.11(422)	Additional deduction for wages paid or accrued for work done in Iowa by certain individuals
53.12(422)	Federal income tax deduction
53.13(422)	Iowa income taxes and Iowa tax refund
53.14(422)	Method of accounting, accounting period
53.15(422)	Consolidated returns
53.16(422)	Federal rulings and regulations
53.17(422)	Depreciation of speculative shell buildings
53.18(422)	Deduction of multipurpose vehicle registration fee
53.19(422)	Deduction of foreign dividends
53.20(422)	Employer social security credit for tips
53.21(422)	Deduction for contributions made to the endowment fund of the Iowa educational savings plan trust
53.22(422)	Additional first-year depreciation allowance
53.23(422)	Section 179 expensing
53.24(422)	Exclusion of ordinary or capital gain income realized as a result of involuntary conversion of property due to eminent domain
53.25(422)	Exclusion of income from sale, rental or furnishing of tangible personal property or services directly related to production of film, television, or video projects
53.26(422)	Exclusion of biodiesel production refund

CHAPTER 54
ALLOCATION AND APPORTIONMENT

54.1(422)	Basis of corporate tax
54.2(422)	Allocation or apportionment of investment income
54.3(422)	Application of related expense to allocable interest, dividends, rents and royalties—tax periods beginning on or after January 1, 1978
54.4(422)	Net gains and losses from the sale of assets
54.5(422)	Where income is derived from the manufacture or sale of tangible personal property
54.6(422)	Apportionment of income derived from business other than the manufacture or sale of tangible personal property
54.7(422)	Apportionment of income of transportation, communications, and certain public utilities corporations
54.8(422)	Apportionment of income derived from more than one business activity carried on within a single corporate structure
54.9(422)	Allocation and apportionment of income in special cases

CHAPTER 55
ASSESSMENTS, REFUNDS, APPEALS

- 55.1(422) Notice of discrepancies
- 55.2(422) Notice of assessment
- 55.3(422) Refund of overpaid tax
- 55.4(421) Abatement of tax
- 55.5(422) Protests

CHAPTER 56
ESTIMATED TAX FOR CORPORATIONS

- 56.1(422) Who must pay estimated tax
- 56.2(422) Time for filing and payment of tax
- 56.3(422) Special estimate periods
- 56.4(422) Reporting forms
- 56.5(422) Penalties
- 56.6(422) Overpayment of estimated tax

TITLE VII
FRANCHISE

CHAPTER 57
ADMINISTRATION

- 57.1(422) Definitions
- 57.2(422) Statutes of limitation
- 57.3(422) Retention of records
- 57.4(422) Authority for deductions
- 57.5(422) Jeopardy assessments
- 57.6(422) Information deemed confidential
- 57.7(422) Power of attorney
- 57.8(422) Delegation to audit and examine

CHAPTER 58
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST,
AND TAX CREDITS

- 58.1(422) Who must file
- 58.2(422) Time and place for filing return
- 58.3(422) Form for filing
- 58.4(422) Payment of tax
- 58.5(422) Minimum tax
- 58.6(422) Refunds and overpayments
- 58.7(422) Allocation of franchise tax revenues
- 58.8(15E) Eligible housing business tax credit
- 58.9(15E) Eligible development business investment tax credit
- 58.10(422) Historic preservation and cultural and entertainment district tax credit
- 58.11(15E,422) Venture capital credits
- 58.12(15) New capital investment program tax credits
- 58.13(15E,422) Endow Iowa tax credit
- 58.14(15I,422) Wage-benefits tax credit
- 58.15(422,476B) Wind energy production tax credit
- 58.16(422,476C) Renewable energy tax credit
- 58.17(15) High quality job creation program
- 58.18(15E,422) Economic development region revolving fund tax credit
- 58.19(15,422) Film qualified expenditure tax credit

58.20(15,422) Film investment tax credit
 58.21(15) High quality jobs program

CHAPTER 59

DETERMINATION OF NET INCOME

59.1(422) Computation of net income for financial institutions
 59.2(422) Net operating loss carrybacks and carryovers
 59.3(422) Capital loss carryback
 59.4(422) Net operating and capital loss carrybacks and carryovers
 59.5(422) Interest and dividends from federal securities
 59.6(422) Interest and dividends from foreign securities and securities of states and other political subdivisions
 59.7(422) Safe harbor leases
 59.8(422) Additional deduction for wages paid or accrued for work done in Iowa by certain individuals
 59.9(422) Work opportunity tax credit
 59.10 Reserved
 59.11(422) Gains and losses on property acquired before January 1, 1934
 59.12(422) Federal income tax deduction
 59.13(422) Iowa franchise taxes
 59.14(422) Method of accounting, accounting period
 59.15(422) Consolidated returns
 59.16(422) Federal rulings and regulations
 59.17(15E,422) Charitable contributions relating to the endow Iowa tax credit
 59.18(422) Depreciation of speculative shell buildings
 59.19(422) Deduction of multipurpose vehicle registration fee
 59.20(422) Disallowance of expenses to carry an investment subsidiary for tax years which begin on or after January 1, 1995
 59.21(422) S corporation and limited liability company financial institutions
 59.22(422) Deduction for contributions made to the endowment fund of the Iowa educational savings plan trust
 59.23(422) Additional first-year depreciation allowance
 59.24(422) Section 179 expensing

ALLOCATION AND APPORTIONMENT

59.25(422) Basis of franchise tax
 59.26(422) Allocation and apportionment
 59.27(422) Net gains and losses from the sale of assets
 59.28(422) Apportionment factor
 59.29(422) Allocation and apportionment of income in special cases

CHAPTER 60

ASSESSMENTS, REFUNDS, APPEALS

60.1(422) Notice of discrepancies
 60.2(422) Notice of assessment
 60.3(422) Refund of overpaid tax
 60.4(421) Abatement of tax
 60.5(422) Protests

CHAPTER 61

ESTIMATED TAX FOR FINANCIAL INSTITUTIONS

61.1(422) Who must pay estimated tax
 61.2(422) Time for filing and payment of tax

- 61.3(422) Special estimate periods
- 61.4(422) Reporting forms
- 61.5(422) Penalties
- 61.6(422) Overpayment of estimated tax

CHAPTERS 62 to 66

Reserved

TITLE VIII
MOTOR FUEL

CHAPTER 67

ADMINISTRATION

- 67.1(452A) Definitions
- 67.2(452A) Statute of limitations, supplemental assessments and refund adjustments
- 67.3(452A) Taxpayers required to keep records
- 67.4(452A) Audit—costs
- 67.5(452A) Estimate gallonage
- 67.6(452A) Timely filing of returns, reports, remittances, applications, or requests
- 67.7(452A) Extension of time to file
- 67.8(452A) Penalty and interest
- 67.9(452A) Penalty and enforcement provisions
- 67.10(452A) Application of remittance
- 67.11(452A) Reports, returns, records—variations
- 67.12(452A) Form of invoice
- 67.13(452A) Credit card invoices
- 67.14(452A) Original invoice retained by purchaser—certified copy if lost
- 67.15(452A) Taxes erroneously or illegally collected
- 67.16(452A) Credentials and receipts
- 67.17(452A) Information confidential
- 67.18(452A) Delegation to audit and examine
- 67.19(452A) Practice and procedure before the department of revenue
- 67.20(452A) Time for filing protest
- 67.21(452A) Bonding procedure
- 67.22(452A) Tax refund offset
- 67.23(452A) Supplier, restrictive supplier, importer, exporter, blender, dealer, or user licenses
- 67.24(452A) Reinstatement of license canceled for cause
- 67.25(452A) Fuel used in implements of husbandry
- 67.26(452A) Excess tax collected
- 67.27(452A) Retailer gallons report

CHAPTER 68

MOTOR FUEL AND UNDYED SPECIAL FUEL

- 68.1(452A) Definitions
- 68.2(452A) Tax rates—time tax attaches—responsible party
- 68.3(452A) Exemption
- 68.4(452A) Ethanol blended gasoline taxation—nonterminal location
- 68.5(452A) Tax returns—computations
- 68.6(452A) Distribution allowance
- 68.7(452A) Supplier credit—uncollectible account
- 68.8(452A) Refunds
- 68.9(452A) Claim for refund—payment of claim
- 68.10(452A) Refund permit
- 68.11(452A) Revocation of refund permit

68.12(452A)	Income tax credit in lieu of refund
68.13(452A)	Reduction of refund—sales tax
68.14(452A)	Terminal withdrawals—meters
68.15(452A)	Terminal and nonterminal storage facility reports and records
68.16(452A)	Method of reporting taxable gallonage
68.17(452A)	Transportation reports
68.18(452A)	Bill of lading or manifest requirements

CHAPTER 69

LIQUEFIED PETROLEUM GAS—
COMPRESSED NATURAL GAS

69.1(452A)	Definitions
69.2(452A)	Tax rates—time tax attaches—responsible party—payment of the tax
69.3(452A)	Penalty and interest
69.4(452A)	Bonding procedure
69.5(452A)	Persons authorized to place L.P.G. or C.N.G. in the fuel supply tank of a motor vehicle
69.6(452A)	Requirements to be licensed
69.7(452A)	Licensed metered pumps
69.8(452A)	Single license for each location
69.9(452A)	Dealer's and user's license nonassignable
69.10(452A)	Separate storage—bulk sales—highway use
69.11(452A)	Combined storage—bulk sales—highway sales or use
69.12(452A)	Exemption certificates
69.13(452A)	L.P.G. sold to the state of Iowa, its political subdivisions, contract carriers under contract with public schools to transport pupils or regional transit systems
69.14(452A)	Refunds
69.15(452A)	Notice of meter seal breakage
69.16(452A)	Location of records—L.P.G. or C.N.G. users and dealers

TITLE IX
PROPERTY

CHAPTER 70

REPLACEMENT TAX AND STATEWIDE PROPERTY TAX

DIVISION I
REPLACEMENT TAX

70.1(437A)	Who must file return
70.2(437A)	Time and place for filing return
70.3(437A)	Form for filing
70.4(437A)	Payment of tax
70.5(437A)	Statute of limitations
70.6(437A)	Billings
70.7(437A)	Refunds
70.8(437A)	Abatement of tax
70.9(437A)	Taxpayers required to keep records
70.10(437A)	Credentials
70.11(437A)	Audit of records
70.12(437A)	Collections/reimbursements
70.13(437A)	Information confidential

DIVISION II
STATEWIDE PROPERTY TAX

70.14(437A)	Who must file return
70.15(437A)	Time and place for filing return
70.16(437A)	Form for filing
70.17(437A)	Payment of tax
70.18(437A)	Statute of limitations
70.19(437A)	Billings
70.20(437A)	Refunds
70.21(437A)	Abatement of tax
70.22(437A)	Taxpayers required to keep records
70.23(437A)	Credentials
70.24(437A)	Audit of records

CHAPTER 71

ASSESSMENT PRACTICES AND EQUALIZATION

71.1(405,427A,428,441,499B)	Classification of real estate
71.2(421,428,441)	Assessment and valuation of real estate
71.3(421,428,441)	Valuation of agricultural real estate
71.4(421,428,441)	Valuation of residential real estate
71.5(421,428,441)	Valuation of commercial real estate
71.6(421,428,441)	Valuation of industrial land and buildings
71.7(421,427A,428,441)	Valuation of industrial machinery
71.8(428,441)	Abstract of assessment
71.9(428,441)	Reconciliation report
71.10(421)	Assessment/sales ratio study
71.11(441)	Equalization of assessments by class of property
71.12(441)	Determination of aggregate actual values
71.13(441)	Tentative equalization notices
71.14(441)	Hearings before the director
71.15(441)	Final equalization order
71.16(441)	Alternative method of implementing equalization orders
71.17(441)	Special session of boards of review
71.18(441)	Judgment of assessors and local boards of review
71.19(441)	Conference boards
71.20(441)	Board of review
71.21(421,17A)	Property assessment appeal board
71.22(428,441)	Assessors
71.23 and 71.24	Reserved
71.25(441,443)	Omitted assessments
71.26(441)	Assessor compliance

CHAPTER 72

EXAMINATION AND CERTIFICATION OF ASSESSORS AND DEPUTY ASSESSORS

72.1(441)	Application for examination
72.2(441)	Examinations
72.3(441)	Equivalent of high school diploma
72.4(441)	Appraisal-related experience
72.5(441)	Regular certification
72.6(441)	Temporary certification
72.7	Reserved
72.8(441)	Deputy assessors—regular certification
72.9	Reserved

72.10(441)	Appointment of deputy assessors
72.11(441)	Special examinations
72.12(441)	Register of eligible candidates
72.13(441)	Course of study for provisional appointees
72.14(441)	Examining board
72.15(441)	Appointment of assessor
72.16(441)	Reappointment of assessor
72.17(441)	Removal of assessor
72.18(421,441)	Courses offered by the department of revenue

CHAPTER 73

PROPERTY TAX CREDIT AND RENT REIMBURSEMENT

73.1(425)	Eligible claimants
73.2(425)	Separate homesteads—husband and wife property tax credit
73.3(425)	Dual claims
73.4(425)	Multipurpose building
73.5(425)	Multidwelling
73.6(425)	Income
73.7(425)	Joint tenancy
73.8(425)	Amended claim
73.9(425)	Simultaneous homesteads
73.10(425)	Confidential information
73.11(425)	Mobile, modular, and manufactured homes
73.12(425)	Totally disabled
73.13(425)	Nursing homes
73.14(425)	Household
73.15(425)	Homestead
73.16(425)	Household income
73.17(425)	Timely filing of claims
73.18(425)	Separate homestead—husband and wife rent reimbursements
73.19(425)	Gross rent/rent constituting property taxes paid
73.20(425)	Leased land
73.21(425)	Property: taxable status
73.22(425)	Special assessments
73.23(425)	Suspended, delinquent, or canceled taxes
73.24(425)	Income: spouse
73.25(425)	Common law marriage
73.26	Reserved
73.27(425)	Special assessment credit
73.28(425)	Credit applied
73.29(425)	Deceased claimant
73.30(425)	Audit of claim
73.31(425)	Extension of time for filing a claim
73.32(425)	Annual adjustment factor
73.33(425)	Proration of claims
73.34(425)	Unreasonable hardship

CHAPTER 74

MOBILE, MODULAR, AND MANUFACTURED HOME TAX

74.1(435)	Definitions
74.2(435)	Movement of home to another county
74.3(435)	Sale of home

74.4(435)	Reduced tax rate
74.5(435)	Taxation—real estate
74.6(435)	Taxation—square footage
74.7(435)	Audit by department of revenue
74.8(435)	Collection of tax

CHAPTER 75

PROPERTY TAX ADMINISTRATION

75.1(441)	Tax year
75.2(445)	Partial payment of tax
75.3(445)	When delinquent
75.4(446)	Payment of subsequent year taxes by purchaser
75.5(428,433,434,437,437A,438,85GA,SF451)	Central assessment confidentiality
75.6(446)	Tax sale
75.7(445)	Refund of tax
75.8(614)	Delinquent property taxes

CHAPTER 76

DETERMINATION OF VALUE OF RAILROAD COMPANIES

76.1(434)	Definitions of terms
76.2(434)	Filing of annual reports
76.3(434)	Comparable sales
76.4(434)	Stock and debt approach to unit value
76.5(434)	Income capitalization approach to unit value
76.6(434)	Cost approach to unit value
76.7(434)	Correlation
76.8(434)	Allocation of unit value to state
76.9(434)	Exclusions

CHAPTER 77

DETERMINATION OF VALUE OF UTILITY COMPANIES

77.1(428,433,437,438)	Definition of terms
77.2(428,433,437,438)	Filing of annual reports
77.3(428,433,437,438)	Comparable sales
77.4(428,433,437,438)	Stock and debt approach to unit value
77.5(428,433,437,438)	Income capitalization approach to unit value
77.6(428,433,437,438)	Cost approach to unit value
77.7(428,433,437,438)	Correlation
77.8(428,433,437,438)	Allocation of unit value to state

CHAPTER 78

REPLACEMENT TAX AND STATEWIDE PROPERTY
TAX ON RATE-REGULATED WATER UTILITIES

REPLACEMENT TAX

78.1(85GA,SF451)	Who must file return
78.2(85GA,SF451)	Time and place for filing return
78.3(85GA,SF451)	Form for filing
78.4(85GA,SF451)	Payment of tax
78.5(85GA,SF451)	Statute of limitations
78.6(85GA,SF451)	Billings
78.7(85GA,SF451)	Refunds
78.8(85GA,SF451)	Abatement of tax
78.9(85GA,SF451)	Taxpayers required to keep records

- 78.10(85GA,SF451) Credentials
- 78.11(85GA,SF451) Audit of records
- 78.12(85GA,SF451) Information confidential

STATEWIDE PROPERTY TAX

- 78.13(85GA,SF451) Who must file return
- 78.14(85GA,SF451) Time and place for filing return
- 78.15(85GA,SF451) Form for filing
- 78.16(85GA,SF451) Payment of tax
- 78.17(85GA,SF451) Statute of limitations
- 78.18(85GA,SF451) Billings
- 78.19(85GA,SF451) Refunds
- 78.20(85GA,SF451) Abatement of tax
- 78.21(85GA,SF451) Taxpayers required to keep records
- 78.22(85GA,SF451) Credentials
- 78.23(85GA,SF451) Audit of records

CHAPTER 79

REAL ESTATE TRANSFER TAX AND DECLARATIONS OF VALUE

- 79.1(428A) Real estate transfer tax: Responsibility of county recorders
- 79.2(428A) Taxable status of real estate transfers
- 79.3(428A) Declarations of value: Responsibility of county recorders and city and county assessors
- 79.4(428A) Certain transfers of agricultural realty
- 79.5(428A) Form completion and filing requirements
- 79.6(428A) Public access to declarations of value

CHAPTER 80

PROPERTY TAX CREDITS AND EXEMPTIONS

- 80.1(425) Homestead tax credit
- 80.2(22,35,426A) Military service tax exemption
- 80.3(427) Pollution control and recycling property tax exemption
- 80.4(427) Low-rent housing for the elderly and persons with disabilities
- 80.5(427) Speculative shell buildings
- 80.6(427B) Industrial property tax exemption
- 80.7(427B) Assessment of computers and industrial machinery and equipment
- 80.8(404) Urban revitalization partial exemption
- 80.9(427C,441) Forest and fruit-tree reservations
- 80.10(427B) Underground storage tanks
- 80.11(425A) Family farm tax credit
- 80.12(427) Methane gas conversion property
- 80.13(427B,476B) Wind energy conversion property
- 80.14(427) Mobile home park storm shelter
- 80.15(427) Barn and one-room schoolhouse preservation
- 80.16(426) Agricultural land tax credit
- 80.17(427) Indian housing property
- 80.18(427) Property used in value-added agricultural product operations
- 80.19(427) Dwelling unit property within certain cities
- 80.20(427) Nursing facilities
- 80.21(368) Annexation of property by a city
- 80.22(427) Port authority
- 80.23(427A) Concrete batch plants and hot mix asphalt facilities
- 80.24(427) Airport property

80.25(427A)	Car wash equipment
80.26(427)	Web search portal and data center business property
80.27(427)	Privately owned libraries and art galleries
80.28(404B)	Disaster revitalization area
80.29(427)	Geothermal heating and cooling systems installed on property classified as residential
80.30(426C)	Business property tax credit
80.31 to 80.48	Reserved
80.49(441)	Commercial and industrial property tax replacement—county replacement claims
80.50(427,441)	Responsibility of local assessors
80.51(441)	Responsibility of local boards of review
80.52(427)	Responsibility of director of revenue
80.53(427)	Application for exemption
80.54(427)	Partial exemptions
80.55(427,441)	Taxable status of property
80.56(427)	Abatement of taxes

TITLE X
CIGARETTES AND TOBACCO

CHAPTER 81
ADMINISTRATION

81.1(453A)	Definitions
81.2(453A)	Credentials and receipts
81.3(453A)	Examination of records
81.4(453A)	Records
81.5(453A)	Form of invoice
81.6(453A)	Audit of records—cost, supplemental assessments and refund adjustments
81.7(453A)	Bonds
81.8(98)	Penalties
81.9(98)	Interest
81.10(98)	Waiver of penalty or interest
81.11(453A)	Appeal—practice and procedure before the department
81.12(453A)	Permit—license revocation
81.13(453A)	Permit applications and denials
81.14(453A)	Confidential information
81.15(98)	Request for waiver of penalty
81.16(453A)	Inventory tax

CHAPTER 82
CIGARETTE TAX

82.1(453A)	Permits required
82.2(453A)	Partial year permits—payment—refund—exchange
82.3(453A)	Bond requirements
82.4(453A)	Cigarette tax—attachment—exemption—exclusivity of tax
82.5(453A)	Cigarette tax stamps
82.6(453A)	Banks authorized to sell stamps—requirements—restrictions
82.7(453A)	Purchase of cigarette tax stamps—discount
82.8(453A)	Affixing stamps
82.9(453A)	Reports
82.10(453A)	Manufacturer's samples
82.11(453A)	Refund of tax—unused and destroyed stamps

CHAPTER 83
TOBACCO TAX

83.1(453A)	Licenses
83.2(453A)	Distributor bond
83.3(453A)	Tax on tobacco products
83.4(453A)	Tax on little cigars
83.5(453A)	Distributor discount
83.6(453A)	Distributor returns
83.7(453A)	Consumer's return
83.8(453A)	Transporter's report
83.9(453A)	Free samples
83.10(453A)	Credits and refunds of taxes
83.11(453A)	Sales exempt from tax
83.12(81GA,HF339)	Retail permits required
83.13(81GA,HF339)	Permit issuance fee
83.14(81GA,HF339)	Refunds of permit fee
83.15(81GA,HF339)	Application for permit
83.16(81GA,HF339)	Records and reports
83.17(81GA,HF339)	Penalties

CHAPTER 84
UNFAIR CIGARETTE SALES

84.1(421B)	Definitions
84.2(421B)	Minimum price
84.3(421B)	Combination sales
84.4(421B)	Retail redemption of coupons
84.5(421B)	Exempt sales
84.6(421B)	Notification of manufacturer's price increase
84.7(421B)	Permit revocation

CHAPTER 85
TOBACCO MASTER SETTLEMENT AGREEMENT

DIVISION I
TOBACCO MASTER SETTLEMENT AGREEMENT

85.1(453C)	National uniform tobacco settlement
85.2(453C)	Definitions
85.3(453C)	Report required
85.4(453C)	Report information
85.5(453C)	Record-keeping requirement
85.6(453C)	Confidentiality
85.7 to 85.20	Reserved

DIVISION II
TOBACCO PRODUCT MANUFACTURERS' OBLIGATIONS AND PROCEDURES

85.21(80GA,SF375)	Definitions
85.22(80GA,SF375)	Directory of tobacco product manufacturers

TITLE XI
INHERITANCE, ESTATE, GENERATION SKIPPING, AND FIDUCIARY INCOME TAX

CHAPTER 86
INHERITANCE TAX

86.1(450)	Administration
86.2(450)	Inheritance tax returns and payment of tax

86.3(450)	Audits, assessments and refunds
86.4(450)	Appeals
86.5(450)	Gross estate
86.6(450)	The net estate
86.7(450)	Life estate, remainder and annuity tables—in general
86.8(450B)	Special use valuation
86.9(450)	Market value in the ordinary course of trade
86.10(450)	Alternate valuation date
86.11(450)	Valuation—special problem areas
86.12(450)	The inheritance tax clearance
86.13(450)	No lien on the surviving spouse's share of the estate
86.14(450)	Computation of shares
86.15(450)	Applicability

CHAPTER 87
IOWA ESTATE TAX

87.1(451)	Administration
87.2(451)	Confidential and nonconfidential information
87.3(451)	Tax imposed, tax returns, and tax due
87.4(451)	Audits, assessments and refunds
87.5(451)	Appeals
87.6(451)	Applicable rules

CHAPTER 88
GENERATION SKIPPING TRANSFER TAX

88.1(450A)	Administration
88.2(450A)	Confidential and nonconfidential information
88.3(450A)	Tax imposed, tax due and tax returns
88.4(450A)	Audits, assessments and refunds
88.5(450A)	Appeals
88.6(450A)	Generation skipping transfers prior to Public Law 99-514

CHAPTER 89
FIDUCIARY INCOME TAX

89.1(422)	Administration
89.2(422)	Confidentiality
89.3(422)	Situs of trusts
89.4(422)	Fiduciary returns and payment of the tax
89.5(422)	Extension of time to file and pay the tax
89.6(422)	Penalties
89.7(422)	Interest or refunds on net operating loss carrybacks
89.8(422)	Reportable income and deductions
89.9(422)	Audits, assessments and refunds
89.10(422)	The income tax certificate of acquittance
89.11(422)	Appeals to the director

CHAPTER 90
Reserved

TITLE XII
*MARIJUANA AND CONTROLLED
SUBSTANCES STAMP TAX*

CHAPTER 91
ADMINISTRATION OF MARIJUANA AND
CONTROLLED SUBSTANCES STAMP TAX

- 91.1(453B) Marijuana and controlled substances stamp tax
- 91.2(453B) Sales of stamps
- 91.3(453B) Refunds pertaining to unused stamps

CHAPTERS 92 to 96
Reserved

TITLE XIII

CHAPTERS 97 to 101
Reserved

TITLE XIV
HOTEL AND MOTEL TAX

CHAPTER 102
Reserved

CHAPTER 103
STATE-IMPOSED AND LOCALLY IMPOSED HOTEL AND
MOTEL TAXES—ADMINISTRATION

- 103.1(423A) Definitions, administration, and imposition
- 103.2(423A) Statute of limitations, supplemental assessments and refund adjustments
- 103.3(423A) Credentials and receipts
- 103.4(423A) Retailers required to keep records
- 103.5(423A) Audit of records
- 103.6(423A) Billings
- 103.7(423A) Collections
- 103.8(423A) No property exempt from distress and sale
- 103.9(423A) Information confidential
- 103.10(423A) Bonding procedure
- 103.11(423A) Sales tax
- 103.12(423A) Judicial review
- 103.13(423A) Registration
- 103.14(423A) Notification
- 103.15(423A) Certification of funds

CHAPTER 104
HOTEL AND MOTEL—
FILING RETURNS, PAYMENT OF TAX, PENALTY, AND INTEREST

- 104.1(423A) Returns, time for filing
- 104.2(423A) Remittances
- 104.3(423A) Permits
- 104.4(423A) Sale of business
- 104.5(423A) Bankruptcy, insolvency or assignment for benefit of creditors
- 104.6(423A) Claim for refund of tax
- 104.7(423A) Application of payments
- 104.8(423A) Interest and penalty
- 104.9(423A) Request for waiver of penalty

- 104.10(423A) Extension of time for filing
- 104.11(421,423A) Personal liability of corporate officers and partners for unpaid tax
- 104.12(421,423A) Good faith exception for successor liability

CHAPTER 105

LOCALLY IMPOSED HOTEL AND MOTEL TAX

- 105.1(423A) Local option
- 105.2(423A) Tax rate
- 105.3(423A) Tax base
- 105.4(423A) Imposition dates
- 105.5(423A) Adding or absorbing tax
- 105.6(423A) Termination dates

CHAPTER 106

Reserved

TITLE XV
*LOCAL OPTION SALES AND
SERVICE TAX*

CHAPTER 107

LOCAL OPTION SALES AND SERVICE TAX

- 107.1(422B) Definitions
- 107.2(422B) Local option sales and service tax
- 107.3(422B) Transactions subject to and excluded from local option sales tax
- 107.4(422B) Transactions subject to and excluded from local option service tax
- 107.5(422B) Single contracts for taxable services performed partly within and partly outside of an area of a county imposing the local option service tax
- 107.6(422B) Motor vehicle, recreational vehicle, and recreational boat rental subject to local option service tax
- 107.7(422B) Special rules regarding utility payments
- 107.8(423B) Contacts with county necessary to impose collection obligation upon a retailer
- 107.9(423B,423E) Sales not subject to local option tax, including transactions subject to Iowa use tax
- 107.10(422B) Local option sales and service tax payments to local governments
- 107.11(422B) Procedure if county of receipt's origins is unknown
- 107.12(422B) Computation of local option tax due from mixed sales on excursion boats
- 107.13(421,422B) Officers and partners, personal liability for unpaid tax
- 107.14(422B) Local option sales and service tax imposed by a city
- 107.15(422B) Application of payments
- 107.16(422B) Construction contractor refunds
- 107.17(422B,422E) Discretionary application of local option tax revenues

CHAPTER 108

LOCAL OPTION SCHOOL INFRASTRUCTURE
SALES AND SERVICE TAX

- 108.1(422E) Definitions
- 108.2(422E) Authorization, rate of tax, imposition, use of revenues, and administration
- 108.3(422E) Collection of the tax
- 108.4(422E) Similarities to the local option sales and service tax imposed in Iowa Code chapter 422B and 701—Chapter 107
- 108.5(422E) Sales not subject to local option tax, including transactions subject to Iowa use tax
- 108.6(422E) Deposits of receipts
- 108.7(422E) Local option school infrastructure sales and service tax payments to school districts

108.8(422E) Construction contract refunds
 108.9(422E) 28E agreements

CHAPTER 109

NEW SCHOOL INFRASTRUCTURE LOCAL OPTION SALES AND SERVICES TAX—
 EFFECTIVE ON OR AFTER APRIL 1, 2003, THROUGH FISCAL YEARS
 ENDING DECEMBER 31, 2022

109.1(422E) Use of revenues and definitions
 109.2(422E) Imposition of tax
 109.3(422E) Application of law
 109.4(422E) Collection of tax and distribution
 109.5(422E) Insufficient funds
 109.6(422E) Use of revenues by the school district
 109.7(422E) Bonds
 109.8(422E) 28E agreements

CHAPTERS 110 to 119

Reserved

TITLE XVI

REASSESSMENT EXPENSE FUND

CHAPTER 120

REASSESSMENT EXPENSE FUND

120.1(421) Reassessment expense fund
 120.2(421) Application for loan
 120.3(421) Criteria for granting loan

CHAPTER 121

Reserved

TITLE XVII

ASSESSOR CONTINUING EDUCATION

CHAPTER 122

ADMINISTRATION

122.1(441) Establishment
 122.2(441) General operation
 122.3(441) Location
 122.4(441) Purpose

CHAPTER 123

CERTIFICATION

123.1(441) General
 123.2(441) Confidentiality
 123.3(441) Certification of assessors
 123.4(441) Certification of deputy assessors
 123.5(441) Type of credit
 123.6(441) Retaking examination
 123.7(441) Instructor credit
 123.8(441) Conference board and assessor notification
 123.9(441) Director of revenue notification

CHAPTER 124
COURSES

- 124.1(441) Course selection
- 124.2(441) Scheduling of courses
- 124.3(441) Petitioning to add, delete or modify courses
- 124.4(441) Course participation
- 124.5(441) Retaking a course
- 124.6(441) Continuing education program for assessors

CHAPTER 125
REVIEW OF AGENCY ACTION

- 125.1(441) Decisions final
- 125.2(441) Grievance and appeal procedures

CHAPTERS 126 to 149
Reserved

TITLE XVIII
DEBT COLLECTION

CHAPTER 150
FEDERAL OFFSET FOR IOWA INCOME TAX OBLIGATIONS

- 150.1(421,26USC6402) Purpose and general application of offset of a federal tax overpayment to collect an Iowa income tax obligation
- 150.2(421,26USC6402) Definitions
- 150.3(421,26USC6402) Prerequisites for requesting a federal offset
- 150.4(421,26USC6402) Procedure after submission of evidence
- 150.5(421,26USC6402) Notice by Iowa to the Secretary to request federal offset
- 150.6(421,26USC6402) Erroneous payments to Iowa
- 150.7(421,26USC6402) Correcting and updating notice to the Secretary

CHAPTER 151
COLLECTION OF DEBTS OWED THE STATE
OF IOWA OR A STATE AGENCY

- 151.1(421) Definitions
- 151.2(421) Scope and purpose
- 151.3(421) Participation guidelines
- 151.4(421) Duties of the agency
- 151.5(421) Duties of the department—performance of collection
- 151.6(421) Payment of collected amounts
- 151.7(421) Reimbursement for collection of liabilities
- 151.8(421) Confidentiality of information
- 151.9(421) Subpoena of records from public or private utility companies

CHAPTER 152
DEBT COLLECTION AND SELLING OF PROPERTY
TO COLLECT DELINQUENT DEBTS

- 152.1(421,422,626,642) Definitions
- 152.2(421,422,626,642) Sale of property
- 152.3(421,422,626,642) Means of sale

CHAPTER 153
LICENSE SANCTIONS FOR COLLECTION OF DEBTS OWED THE STATE OF IOWA OR
A STATE AGENCY

153.1(272D)	Definitions
153.2(272D)	Purpose and use
153.3(272D)	Challenge to issuance of certificate of noncompliance
153.4(272D)	Use of information
153.5(272D)	Notice to person of potential sanction of license
153.6(272D)	Conference
153.7(272D)	Issuance of certificate of noncompliance
153.8(272D)	Stay of certificate of noncompliance
153.9(272D)	Written agreements
153.10(272D)	Decision of the unit
153.11(272D)	Withdrawal of certificate of noncompliance
153.12(272D)	Certificate of noncompliance to licensing authority
153.13(272D)	Requirements of the licensing authority
153.14(272D)	District court hearing

CHAPTER 154
CHALLENGES TO ADMINISTRATIVE LEVIES AND
PUBLICATION OF NAMES OF DEBTORS

154.1(421)	Definitions
154.2(421)	Administrative levies
154.3(421)	Challenges to administrative levies
154.4(421)	Form and time of challenge
154.5(421)	Issues that may be raised
154.6(421)	Review of challenge
154.7(421)	Actions where there is a mistake of fact
154.8(421)	Action if there is not a mistake of fact
154.9 to 154.15	Reserved
154.16(421)	List for publication
154.17(421)	Names to be published
154.18(421)	Release of information

CHAPTERS 155 to 210
Reserved

TITLE XIX
STREAMLINED SALES AND USE TAX RULES

CHAPTER 211
DEFINITIONS

211.1(423)	Definitions
------------	-------------

CHAPTER 212
ELEMENTS INCLUDED IN AND EXCLUDED
FROM A TAXABLE SALE AND SALES PRICE

212.1(423)	Tax not to be included in price
212.2(423)	Finance charge
212.3(423)	Retailers' discounts, trade discounts, rebates and coupons
212.4(423)	Excise tax included in and excluded from sales price
212.5(423)	Trade-ins
212.6(423)	Installation charges when tangible personal property is sold at retail

- 212.7(423) Service charge and gratuity
- 212.8(423) Payment from a third party

CHAPTER 213

MISCELLANEOUS TAXABLE SALES

- 213.1(423) Tax imposed
- 213.2(423) Athletic events
- 213.3(423) Conditional sales contracts
- 213.4(423) The sales price of sales of butane, propane and other like gases in cylinder drums, etc.
- 213.5(423) Antiques, curios, old coins, collector's postage stamps, and currency exchanged for greater than face value
- 213.6(423) Communication services furnished by hotel to its guests
- 213.7(423) Consignment sales
- 213.8(423) Electrotypes, types, zinc etchings, halftones, stereotypes, color process plates, wood mounts and art productions
- 213.9(423) Explosives used in mines, quarries and elsewhere
- 213.10(423) Sales on layaway
- 213.11(423) Memorial stones
- 213.12(423) Creditors and trustees
- 213.13(423) Sale of pets
- 213.14(423) Redemption of meal tickets, coupon books and merchandise cards as a taxable sale
- 213.15(423) Rental of personal property in connection with the operation of amusements
- 213.16(423) Repossessed goods
- 213.17(423) Sales of signs at retail
- 213.18(423) Tangible personal property made to order
- 213.19(423) Used or secondhand tangible personal property
- 213.20(423) Carpeting and other floor coverings
- 213.21(423) Goods damaged in transit
- 213.22(423) Snowmobiles, motorboats, and certain other vehicles
- 213.23(423) Photographers and photostaters
- 213.24(423) Sale, transfer or exchange of tangible personal property or taxable enumerated services between affiliated corporations
- 213.25(423) Urban transit systems

CHAPTER 214

MISCELLANEOUS NONTAXABLE TRANSACTIONS

- 214.1(423) Corporate mergers which do not involve taxable sales of tangible personal property or services
- 214.2(423) Sales of prepaid merchandise cards
- 214.3(423) Demurrage charges
- 214.4(423) Beverage container deposits
- 214.5(423) Exempt sales by excursion boat licensees
- 214.6(423) Advertising agencies, commercial artists and designers as an agent or as a nonagent of a client

CHAPTERS 215 to 218

Reserved

CHAPTER 219

SALES AND USE TAX ON CONSTRUCTION ACTIVITIES

- 219.1(423) General information
- 219.2(423) Contractors—consumers of building materials, supplies, and equipment by statute

219.3(423)	Sales of building materials, supplies, and equipment to contractors, subcontractors, builders or owners
219.4(423)	Contractors, subcontractors or builders who are retailers
219.5(423)	Building materials, supplies, and equipment used in the performance of construction contracts within and outside Iowa
219.6(423)	Tangible personal property used or consumed by the manufacturer thereof
219.7(423)	Prefabricated structures
219.8(423)	Types of construction contracts
219.9(423)	Machinery and equipment sales contracts with installation
219.10(423)	Construction contracts with equipment sales (mixed contracts)
219.11(423)	Distinguishing machinery and equipment from real property
219.12(423)	Tangible personal property which becomes structures
219.13(423)	Tax on enumerated services
219.14(423)	Transportation cost
219.15(423)	Start-up charges
219.16(423)	Liability of subcontractors
219.17(423)	Liability of sponsors
219.18(423)	Withholding
219.19(423)	Resale certificates
219.20(423)	Reporting for use tax
219.21(423)	Exempt sale, lease, or rental of equipment used by contractors, subcontractors, or builders

CHAPTERS 220 to 222

Reserved

CHAPTER 223

SOURCING OF TAXABLE SERVICES

223.1(423)	Definitions
223.2(423)	General sourcing rules for taxable services
223.3(423)	First use of services performed on tangible personal property
223.4(423)	Sourcing rules for personal care services

CHAPTER 224

TELECOMMUNICATION SERVICES

224.1(423)	Taxable telecommunication service and ancillary service
224.2(423)	Definitions
224.3(423)	Imposition of tax
224.4(423)	Exempt from the tax
224.5(423)	Bundled transactions in telecommunication service
224.6(423)	Sourcing telecommunication service
224.7(423)	General billing issues
224.8(34A)	Prepaid wireless E911 surcharge
224.9(423)	State sales tax exemption for central office equipment and transmission equipment

CHAPTER 225

RESALE AND PROCESSING EXEMPTIONS PRIMARILY
OF BENEFIT TO RETAILERS

225.1(423)	Paper or plastic plates, cups, and dishes, paper napkins, wooden or plastic spoons and forks, and straws
225.2(423)	A service purchased for resale
225.3(423)	Services used in the repair or reconditioning of certain tangible personal property

- 225.4(423) Tangible personal property purchased by a person engaged in the performance of a service
- 225.5(423) Maintenance or repair of fabric or clothing
- 225.6(423) The sales price from the leasing of all tangible personal property subject to tax
- 225.7(423) Certain inputs used in taxable vehicle wash and wax services

CHAPTER 226

AGRICULTURAL RULES

- 226.1(423) Sale or rental of farm machinery and equipment and items used in agricultural production that are attached to a self-propelled implement of husbandry
- 226.2(423) Packaging material used in agricultural production
- 226.3(423) Irrigation equipment used in agricultural production
- 226.4(423) Sale of a draft horse
- 226.5(423) Veterinary services
- 226.6(423) Commercial fertilizer and agricultural limestone
- 226.7(423) Sales of breeding livestock
- 226.8(423) Domesticated fowl
- 226.9(423) Agricultural health promotion items
- 226.10(423) Drainage tile
- 226.11(423) Materials used for seed inoculations
- 226.12(423) Fuel used in agricultural production
- 226.13(423) Water used in agricultural production
- 226.14(423) Bedding for agricultural livestock or fowl
- 226.15(423) Sales by farmers
- 226.16(423) Sales of livestock (including domesticated fowl) feeds
- 226.17(423) Farm machinery, equipment, and replacement parts used in livestock or dairy production
- 226.18(423) Machinery, equipment, and replacement parts used in the production of flowering, ornamental, and vegetable plants
- 226.19(423) Nonexclusive lists

CHAPTERS 227 to 229

Reserved

CHAPTER 230

EXEMPTIONS PRIMARILY BENEFITING MANUFACTURERS AND
OTHER PERSONS ENGAGED IN PROCESSING

- 230.1 Reserved
- 230.2(423) Carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and taxable services used in processing
- 230.3(423) Services used in processing
- 230.4(423) Chemicals, solvents, sorbents, or reagents used in processing
- 230.5(423) Exempt sales of gases used in the manufacturing process
- 230.6(423) Sale of electricity to water companies
- 230.7(423) Wind energy conversion property
- 230.8(423) Exempt sales or rentals of core making and mold making equipment, and sand handling equipment
- 230.9(423) Chemical compounds used to treat water
- 230.10(423) Exclusive web search portal business and its exemption
- 230.11(423) Web search portal business and its exemption
- 230.12(423) Large data center business exemption
- 230.13(423) Data center business sales and use tax refunds

CHAPTER 231

EXEMPTIONS PRIMARILY OF BENEFIT TO CONSUMERS

231.1(423)	Newspapers, free newspapers and shoppers' guides
231.2(423)	Motor fuel, special fuel, aviation fuels and gasoline
231.3(423)	Sales of food and food ingredients
231.4(423)	Sales of candy
231.5(423)	Sales of prepared food
231.6(423)	Prescription drugs, medical devices, oxygen, and insulin
231.7(423)	Exempt sales of other medical devices which are not prosthetic devices
231.8(423)	Prosthetic devices, durable medical equipment, and mobility enhancing equipment
231.9(423)	Raffles
231.10(423)	Exempt sales of prizes
231.11(423)	Modular homes
231.12(423)	Access to on-line computer service
231.13(423)	Sale or rental of information services
231.14(423)	Exclusion from tax for property delivered by certain media
231.15(423)	Exempt sales of clothing and footwear during two-day period in August
231.16(423)	State sales tax phase-out on energies

CHAPTERS 232 to 234

Reserved

CHAPTER 235

REBATE OF IOWA SALES TAX PAID

235.1(423)	Sanctioned automobile racetrack facilities
235.2(423)	Sanctioned baseball and softball tournament facility and movie site

CHAPTERS 236 and 237

Reserved

CHAPTER 238

FLOOD MITIGATION PROGRAM

238.1(418)	Flood mitigation program
238.2(418)	Definitions
238.3(418)	Sales tax increment calculation
238.4(418)	Sales tax increment fund

CHAPTER 239

LOCAL OPTION SALES TAX URBAN RENEWAL PROJECTS

239.1(423B)	Urban renewal project
239.2(423B)	Definitions
239.3(423B)	Establishing sales and revenue growth
239.4(423B)	Requirements for cities adopting an ordinance
239.5(423B)	Identification of retail establishments
239.6(423B)	Calculation of base year taxable sales amount
239.7(423B)	Determination of tax growth increment amount
239.8(423B)	Distribution of tax base and growth increment amounts
239.9(423B)	Examples
239.10(423B)	Ordinance term

CHAPTER 240
RULES NECESSARY TO IMPLEMENT THE STREAMLINED SALES
AND USE TAX AGREEMENT

- 240.1(423) Allowing use of the lowest tax rate within a database area and use of the tax rate for a five-digit area when a nine-digit zip code cannot be used
- 240.2(423) Permissible categories of exemptions
- 240.3(423) Requirement of uniformity in the filing of returns and remittance of funds
- 240.4(423) Allocation of bad debts
- 240.5(423) Purchaser refund procedures
- 240.6(423) Relief from liability for reliance on taxability matrix
- 240.7(423) Effective dates of taxation rate increases or decreases when certain services are furnished
- 240.8(423) Prospective application of defining “retail sale” to include a lease or rental

CHAPTER 241
EXCISE TAXES NOT GOVERNED BY THE STREAMLINED SALES AND
USE TAX AGREEMENT

- 241.1(423A,423D) Purpose of the chapter
- 241.2(423A,423D) Director’s administration

DIVISION I
STATE-IMPOSED HOTEL AND MOTEL TAX

- 241.3(423A) Definitions
- 241.4(423A) Imposition of tax
- 241.5(423A) Exemptions

DIVISION II
EXCISE TAX ON SPECIFIC CONSTRUCTION MACHINERY AND EQUIPMENT

- 241.6(423D) Definitions
- 241.7(423D) Tax imposed
- 241.8(423D) Exemption

CHAPTER 80
PROPERTY TAX CREDITS AND EXEMPTIONS
[Prior to 12/17/86, Revenue Department[730]]

701—80.1(425) Homestead tax credit.

80.1(1) Application for credit.

a. No homestead tax credit shall be allowed unless the first application for homestead tax credit is signed by the owner of the property or the owner's qualified designee and filed with the city or county assessor on or before July 1 of the current assessment year. (1946 O.A.G. 37) Once filed, the claim for credit is applicable to subsequent years and no further filing shall be required provided the homestead is owned and occupied by the claimant or the claimant's spouse on July 1 of each year and, in addition, the claimant or the claimant's spouse occupies the homestead for at least six months during each calendar year in which the fiscal year for which the credit is claimed begins. It is not a requirement that the six-month period of time be consecutive. If the credit is disallowed and the claimant failed to give written notice to the assessor that the claimant ceased to use the property as a homestead, a civil penalty equal to 5 percent of the amount of the disallowed credit shall be assessed against the claimant in addition to the amount of credit allowed. The assessor, county auditor, and county board of supervisors shall act on the claim in accordance with Iowa Code section 425.3. A claim filed after July 1 of any calendar year applies to the following assessment year.

b. In the event July 1 falls on either a Saturday or Sunday, applications for the homestead tax credit may be filed the following Monday.

c. In the event July 1 falls on either a Saturday or Sunday, applications submitted by mail shall be accepted if postmarked on the following Monday.

d. An assessor may not refuse to accept an application for homestead tax credit. If it is the opinion of the assessor that a homestead tax credit should not be allowed, the assessor shall accept the application for credit and recommend disallowance.

e. If the owner of the homestead is on active duty in the armed forces of this state or of the United States, or is 65 years of age or older or is disabled, the application for homestead tax credit may be signed and delivered by a member of the owner's family or the owner's guardian, conservator or designated attorney-in-fact. For purposes of this rule, any person related to the owner by blood, marriage or adoption shall be considered a member of the owner's family.

f. If a person makes a false application for credit with fraudulent intent to obtain the credit, the person is guilty of a fraudulent practice and the claim shall be disallowed. If the credit has been paid, the amount of the credit plus a penalty equal to 25 percent of the amount of the disallowed credit and interest shall be collected by the county treasurer.

g. For purposes of the homestead tax credit statute, the occupancy of the homestead may constitute actual occupancy or constructive occupancy. However, more than one homestead cannot be simultaneously occupied by the claimant and multiple simultaneous homestead tax credits are not allowable. (Op. St. Bd. Tax Rev. No. 212, February 29, 1980.) Generally, a homestead is occupied by the claimant if the premises constitute the claimant's usual place of abode. Once the claimant's occupancy of the homestead is established, such occupancy is not lost merely because the claimant, for some valid reason, is temporarily absent from the homestead premises with an intention of returning thereto (1952 O.A.G. 78).

80.1(2) Eligibility for credit.

a. If homestead property is owned jointly by persons who are not related or formerly related by blood, marriage or adoption, no homestead tax credit shall be allowed unless all the owners actually occupy the homestead property on July 1 of each year. (1944 O.A.G. 26; Letter O.A.G. October 18, 1941)

b. No homestead tax credit shall be allowed if the homestead property is owned or listed and assessed to a corporation, other than a family farm corporation, partnership, company or any other business or nonbusiness organization. (1938 O.A.G. 441; *Verne Deskin v. Briggs*, State Board of Tax Review, No. 24, February 1, 1972)

c. A person acquiring homestead property under a contract of purchase remains eligible for a homestead tax credit even though such person has assigned his or her equity in the homestead property as security for a loan. (1960 O.A.G. 263)

d. A person occupying homestead property pursuant to Iowa Code chapter 499A or 499B is eligible for a homestead tax credit. (1978 O.A.G. 78-2-5; 1979 O.A.G. 79-12-2)

e. A person who has a life estate interest in homestead property shall be eligible for a homestead tax credit, provided the remainderman is related or formerly related to the life estate holder by blood, marriage or adoption or the reversionary interest is held by a nonprofit corporation organized under Iowa Code chapter 504A. (1938 O.A.G. 193)

f. A homestead tax credit may not be allowed upon a mobile home which is not assessed as real estate. (1962 O.A.G. 450)

g. A person occupying homestead property under a trust agreement is considered the owner of the property for purposes of the homestead tax credit. (1962 O.A.G. 434)

h. A remainder is not eligible to receive a homestead tax credit until expiration of the life estate to which such person has the remainder interest. (1938 O.A.G. 305)

i. In order for a person occupying homestead property under a contract of purchase to be eligible for a homestead tax credit, the contract of purchase must be recorded in the office of the county recorder where the property is located. A recorded memorandum or summary of the actual contract of purchase is not sufficient evidence of ownership to qualify a person for a homestead tax credit.

j. An owner of homestead property who is in the military service or confined in a nursing home, extended-care facility or hospital shall be considered as occupying the property during the period of service or confinement. The fact that the owner rents the property during the period of military service is immaterial to the granting of the homestead tax credit. (1942 O.A.G. 45) However, no homestead tax credit shall be allowed if the owner received a profit for the use of the property from another person while such owner is confined in a nursing home, extended-care facility or hospital.

k. A person owning a homestead dwelling located upon land owned by another person or entity is not eligible for a homestead tax credit. (1942 O.A.G. 160, O.A.G. 82-4-9) This rule is not applicable to a person owning a homestead dwelling pursuant to Iowa Code chapter 499B or a person owning a homestead dwelling on land owned by a community land trust pursuant to 42 U.S.C. Section 12773.

l. An heir occupying homestead property that is part of an estate in the process of administration is considered an owner of the property and is eligible for the homestead credit. (1938 O.A.G. 272)

80.1(3) Disabled veteran's homestead tax credit. The disabled veteran's homestead tax credit may be claimed by any person who acquired homestead property under 38 U.S.C. Sections 21.801 and 21.802 or Sections 2101 and 2102 provided the veteran's annual income and that of the veteran's spouse do not exceed \$35,000. The amount of the credit is equal to the entire amount of tax payable on the homestead. Even though this financial assistance is available to disabled veterans on only one homestead during their lifetime, the credit may be claimed upon the acquisition of other homesteads for which no financial assistance is available providing all qualifications have been met.

80.1(4) Application of credit.

a. Except as provided in 80.1(1) "a," if the homestead property is conveyed to another person prior to July 1 of any year, the new owner must file a claim for credit on or before July 1 to obtain the credit for that year. If the property is conveyed on or after July 1, the credit shall remain with the property for that year provided the previous owner was entitled to the credit. However, when the property is transferred as part of a distribution made pursuant to Iowa Code chapter 598 (Dissolution of Marriage) the transferee spouse retaining ownership and occupancy of the homestead is not required to refile for the credit.

b. A homestead tax credit may be allowed even though the property taxes levied against the homestead property have been suspended by the board of supervisors. (1938 O.A.G. 288)

c. A homestead tax credit shall not be allowed if the property taxes levied against the homestead property have been canceled or remitted by the board of supervisors. (1956 O.A.G. 78)

d. Only one homestead tax credit can be allowed per legally described tract of land. For purposes of this rule, a legally described tract of land shall mean all land contained in a single legal description. (1962 O.A.G. 435)

e. If the owner of homestead property is also eligible for a military service tax exemption and claims the exemption on the homestead property, the military service tax exemption shall be applied prior to the homestead tax credit when computing net property tax. (*Ryan v. State Tax Commission*, 235 Iowa 222, 16 N.W.2d 215)

f. If the homestead property contains two dwelling houses and one of the dwelling houses and a portion of the land is sold after a valid application for homestead tax credit has been filed, the assessor shall prorate the assessment so as to allow the seller a homestead tax credit on that portion of the property which is retained and also allow the purchaser a homestead tax credit on that portion of the property which is purchased, provided the purchaser files a valid application for homestead tax credit by July 1 of the claim year.

g. A homestead tax credit shall be allowed against the assessed value of the land on which a dwelling house did not exist as of January 1 of the year in which the credit is claimed provided a dwelling house is owned and occupied by the claimant on July 1 of that year.

h. The county treasurer shall, pursuant to Iowa Code section 25B.7, be required to extend to the claimant only that portion of the credit estimated by the department to be funded by the state appropriation.

This rule is intended to implement Iowa Code chapter 425 as amended by 2006 Iowa Acts, House File 2794.

701—80.2(22,35,426A) Military service tax exemption.

80.2(1) Application for exemption.

a. No military service tax exemption shall be allowed unless the first application for the military service tax exemption is signed by the owner of the property or the owner's qualified designee and filed with the city or county assessor on or before July 1 of the current assessment year (1970 O.A.G. 437). Once filed, the claim for exemption is applicable to subsequent years and no further filing shall be required provided the claimant or the claimant's spouse owns the property on July 1 of each year. The assessor, county auditor, and county board of supervisors shall act on the claim in accordance with Iowa Code section 426A.14. A claim filed after July 1 of any calendar year applies to the following assessment year.

b. In the event July 1 falls on either a Saturday or Sunday, applications for the military service tax exemption may be filed the following Monday.

c. In the event July 1 falls on either a Saturday or Sunday, applications submitted by mail shall be accepted if postmarked on the following Monday.

d. An assessor may not refuse to accept an application for a military service tax exemption. If it is the opinion of the assessor that a military service tax exemption should not be allowed, the assessor shall accept the application for exemption and recommend disallowance.

e. If the owner of the property is on active duty in the armed forces of this state or of the United States, or is 65 years of age or older or is disabled, the application for military service tax exemption may be signed and delivered by a member of the owner's family or the owner's guardian, conservator or designated attorney-in-fact. For purposes of this rule, any person related to the owner by blood, marriage or adoption shall be considered a member of the owner's family.

80.2(2) Eligibility for exemption.

a. A person who was discharged from the draft is not considered a veteran of the military service and is not entitled to a military service tax exemption. (1942 O.A.G. 79)

b. A military service tax exemption shall not be allowed to a person whose only service in the military was with a foreign government. (1932 O.A.G. 242; 1942 O.A.G. 79)

c. Former members of the United States armed forces, including members of the Coast Guard, who were on active duty for less than 18 months must have served on active duty during one of the war or conflict time periods enumerated in Iowa Code Supplement section 35.1. If former members were on active duty for at least 18 months, it is not necessary that their service be performed during one of the war or conflict time periods. Former members who opted to serve five years in the reserve forces of the United States qualify if any portion of their enlistment would have occurred during the Korean

Conflict (June 25, 1950, to January 31, 1955). There is no minimum number of days a former member of the armed forces of the United States must have served on active duty if the service was performed during one of the war or conflict time periods, nor is there a minimum number of days a former member of the armed forces of the United States must have served on active duty if the person was honorably discharged because of a service-related injury sustained while on active duty.

Former and current members of the Iowa national guard and reserve forces of the United States need not have performed any active duty if they served at least 20 years. Otherwise, they must have been activated for federal duty, for purposes other than training, for a minimum of 90 days. Also, it is not a requirement for a member of the Iowa national guard or a reservist to have performed service within a designated war or conflict time period.

d. With the exception of members of the Iowa national guard and members of the reserve forces of the United States who have served at least 20 years and continue to serve, a military service tax exemption shall not be allowed unless the veteran has received a complete and final separation from active duty service. (*Jones v. Iowa State Tax Commission*, 247 Iowa 530, 74 N.W.2d 563, 567-1956; *In re Douglas A. Coyle*, State Board of Tax Review, No. 197, August 14, 1979; 1976 O.A.G. 44)

e. As used in Iowa Code subsection 426A.12(3), the term minor child means a person less than 18 years of age or less than 21 years of age and enrolled as a full-time student at an educational institution.

f. A veteran of more than one qualifying war period is entitled to only one military service tax exemption, which shall be the greater of the two exemptions. (1946 O.A.G. 71)

g. The person claiming a military service tax exemption must be an Iowa resident. However, the veteran need not be an Iowa resident if such person's exemption is claimed by a qualified individual enumerated in Iowa Code section 426A.12. (1942 O.A.G. 140)

h. A person who has a life estate interest in property may claim a military service tax exemption on such property. (1946 O.A.G. 155; 1976 O.A.G. 125)

i. A remainder is not eligible to receive a military service tax exemption on property to which a remainder interest is held until expiration of the life estate. (1946 O.A.G. 155)

j. A military service tax exemption shall not be allowed on a mobile home which is not assessed as real estate. (1962 O.A.G. 450)

k. A divorced person may not claim the military service tax exemption of a former spouse who qualifies for the exemption. (Letter O.A.G. August 8, 1961)

l. A surviving spouse of a qualified veteran, upon remarriage, loses the right to claim the deceased veteran's military exemption as the surviving spouse is no longer an unremarried surviving spouse of the qualified veteran. (1950 O.A.G. 44)

m. An annulled marriage is considered to have never taken place and the parties to such a marriage are restored to their former status. Neither party to an annulled marriage can thereafter be considered a spouse or surviving spouse of the other party for purposes of receiving the military service tax exemption. (Op. Att'y. Gen. 61-8-10(L))

n. No military service tax exemption shall be allowed on property that is owned by a corporation, except for a family farm corporation where a shareholder occupies a homestead as defined in Iowa Code section 425.11(1), partnership, company or any other business or nonbusiness organization. (1938 O.A.G. 441)

o. In the event both a husband and wife are qualified veterans, they may each claim their military service tax exemption on their jointly owned property. (1946 O.A.G. 154) If property is solely owned by one spouse, the owner spouse may claim both exemptions on the property providing the nonowner spouse's exemption is not claimed on other property.

p. No military service tax exemption shall be allowed if on July 1 of the claim year, the claimant or the claimant's unremarried surviving spouse is no longer the owner of the property upon which the exemption was claimed.

q. A person shall not be denied a military service tax exemption even though the property upon which the exemption is claimed has been pledged to another person as security for a loan. (1960 O.A.G. 263)

r. A qualified veteran who has conveyed property to a trustee shall be eligible to receive a military service tax exemption on such property providing the trust agreement gives the claimant a beneficial interest in the property. (1962 O.A.G. 434)

s. A person owning property pursuant to Iowa Code chapter 499A or 499B is eligible for a military service tax exemption. (1978 O.A.G. 78-2-5; 1979 O.A.G. 79-12-2)

t. The person claiming the exemption shall have recorded in the office of the county recorder evidence of property ownership and either the military certificate of satisfactory service or, for a current member of the Iowa national guard or a member of the reserve forces of the United States, the veteran's retirement points accounting statement issued by the armed forces of the United States or the state adjutant general. The military certificate of satisfactory service shall be considered a confidential record pursuant to Iowa Code section 22.7.

u. An heir of property that is part of an estate in the process of administration is considered an owner of the property and is eligible for the military exemption.

80.2(3) Application of exemption.

a. When the owner of homestead property is also eligible for a military service tax exemption and claims the exemption on the homestead property, the military service tax exemption shall be applied prior to the homestead tax credit when computing net property tax. (*Ryan v. State Tax Commission*, 235 Iowa 222, 16 N.W.2d 215)

b. If a portion of the property upon which a valid military service tax exemption was claimed is sold on or before July 1 of the year in which the exemption is claimed, the seller shall be allowed a military service tax exemption on that portion of the property which is retained by the seller on July 1. The purchaser is also eligible to receive a military service tax exemption on that portion of the property which was purchased, provided the purchaser is qualified for the exemptions and files a valid application for the exemption on or before July 1 of the claim year.

c. A military service tax exemption may be allowed even though the taxes levied on the property upon which the exemption is claimed have been suspended by the board of supervisors. (1938 O.A.G. 288)

d. A military service tax exemption shall not be allowed if the taxes levied on the property upon which the exemption is claimed have been canceled or remitted by the board of supervisors. (1956 O.A.G. 78)

e. The county treasurer shall, pursuant to Iowa Code section 25B.7, be required to extend to the claimant only that portion of the exemption estimated by the department to be funded by the state appropriation.

This rule is intended to implement Iowa Code sections 22.7, 35.1, and 35.2 and chapter 426A.
[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.3(427) Pollution control and recycling property tax exemption.

80.3(1) To secure an exemption for pollution control or recycling property, an application must be filed with the assessing authority on or before February 1 of the assessment year for which the exemption is first claimed. It is the responsibility of the taxpayer to secure the necessary certification from the department of natural resources in sufficient time to file the application for exemption with the assessing authority on or before February 1. An exemption for new pollution control or recycling property can be secured by filing an application with the assessing authority by February 1 of the assessment year following the year in which the property is installed or constructed. If no application is timely filed in that year, the property will first qualify for exemption in any subsequent year in which an application is filed with the assessing authority on or before February 1.

80.3(2) In the event February 1 falls on either a Saturday or Sunday, applications for the exemption may be filed the following Monday.

80.3(3) In the event February 1 falls on either a Saturday or Sunday, applications submitted by mail shall be accepted if postmarked on the following Monday.

80.3(4) No exemption shall be allowed unless the application is signed by the owner of the property or the owner's qualified designee.

80.3(5) An assessor may not refuse to accept an application for a pollution control exemption if timely filed and if the necessary certification has been obtained from the department of natural resources.

80.3(6) The sale, transfer, or lease of property does not affect its eligibility for exemption as long as the requirements of Iowa Code subsection 427.1(19) and rule 701—80.3(427), Iowa Administrative Code, are satisfied.

80.3(7) No exemption shall be allowed unless the department of natural resources has certified that the primary use of the property for which the taxpayer is seeking an exemption is to control or abate air or water pollution or to enhance the quality of any air or water in this state or that the primary use of the property is for recycling. Recycling property is property used primarily in the manufacturing process and resulting directly in the conversion of waste glass, waste plastic, wastepaper products, waste paperboard, or waste wood products into new raw materials or products composed primarily of recycled material.

80.3(8) In the event that qualified property is assessed as a unit with other property not having a pollution control or recycling function, the exemption shall be limited to the increase in the assessed valuation of the unit which is attributable to the pollution control or recycling property.

EXAMPLE

Valuation of unit with pollution control or recycling property	\$100,000
Valuation of unit without pollution control or recycling property	<u>50,000</u>
Allowable amount of exemption	\$ 50,000

80.3(9) The value of property to be exempt from taxation shall be the fair and reasonable market value of such property as of January 1 of each year for which the exemption is claimed, rather than the original cost of such property.

80.3(10) An assessor shall not exempt property from taxation without first assessing the property for taxation and subsequently receiving an application for tax exemption from the taxpayer.

This rule is intended to implement Iowa Code Supplement section 427.1(19) as amended by 2006 Iowa Acts, House File 2633, and Iowa Code sections 427.1(18) and 441.21(1)(i).
[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.4(427) Low-rent housing for the elderly and persons with disabilities.

80.4(1) As used in Iowa Code subsection 427.1(21), the term “nonprofit organization” means an organization, no part of the net income of which is distributable to its members, directors or officers.

80.4(2) As used in Iowa Code subsection 427.1(21), the term “low-rent housing” means housing the rent for which is less than that being received or which could be received for similar properties on the open market in the same assessing jurisdiction. Federal rent subsidies received by the occupant shall be excluded in determining whether the rental fee charged meets this definition.

80.4(3) As used in Iowa Code subsection 427.1(21), the term “elderly” means any person at least 62 years of age.

80.4(4) As used in Iowa Code subsection 427.1(21), the term “persons with physical or mental disabilities” means a person whose physical or mental condition is such that the person is unable to engage in substantial gainful employment.

80.4(5) The exemption granted in Iowa Code subsection 427.1(21) extends only to property which is owned and operated, or controlled, by a nonprofit organization recognized as such by the Internal Revenue Service. Property owned and operated, or controlled, by a private person is not eligible for exemption under Iowa Code subsection 427.1(21).

80.4(6) The income of persons living in housing eligible for exemption under Iowa Code subsection 427.1(21) shall not be considered in determining the property’s taxable status.

80.4(7) An organization seeking an exemption under Iowa Code subsection 427.1(21) shall file a statement with the local assessor pursuant to Iowa Code subsection 427.1(14).

80.4(8) The exemption authorized by Iowa Code subsection 427.1(21) extends only until the final payment due date of the borrower’s original low-rent housing development mortgage on the property or

until the borrower's original low-rent housing development mortgage is paid in full or expires, whichever is sooner. If the original mortgage is refinanced, the exemption shall apply only until what would have been the final payment due date under the original mortgage or until the refinanced mortgage is paid in full or expires, whichever is sooner. This exemption for refinanced projects applies to those projects refinanced on or after January 1, 2005.

80.4(9) In complying with the requirements of Iowa Code subsection 427.1(14), the provisions of rule 701—78.4(427) shall apply.

80.4(10) In determining the taxable status of property for which an exemption is claimed under Iowa Code subsection 427.1(21), the appropriate assessor shall follow rules 701—78.1(427,441) to 701—78.5(427).

80.4(11) If a portion of a structure is used to provide low-rent housing units to elderly persons and persons with disabilities and the other portion is used to provide housing to persons who are not elderly or disabled, the exemption for the property on which the structure is located shall be limited to that portion of the structure used to provide housing to the elderly and disabled. Vacant units and projects under construction that are designated for use to provide housing to elderly and disabled persons shall be considered as being used to provide housing to elderly and disabled persons. The valuation exempted shall bear the same relationship to the total value of the property as the area of the structure used to provide low-rent housing for the elderly and persons with disabilities bears to the total area of the structure unless a better method for determining the exempt valuation is available. The valuation of the land shall be exempted in the same proportion.

80.4(12) The property tax exemption provided in Iowa Code subsection 427.1(21) shall be based upon occupancy by elderly or persons with disabilities as of July 1 of the assessment year. However, nothing in this subrule shall prevent the taxation of such property in accordance with the provisions of Iowa Code section 427.19.

This rule is intended to implement Iowa Code section 427.1(14) and Supplement section 427.1(21). [ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.5(427) Speculative shell buildings.

80.5(1) *Authority of city council and board of supervisors.* A city council or county board of supervisors may enact an ordinance granting property tax exemptions for value added as a result of new construction of speculative shell buildings or additions to existing buildings or structures, or may exempt the value of an existing building or structure being reconstructed or renovated and the value of the land on which the building or structure is located, if the reconstruction or renovation constitutes complete replacement or refitting of an existing building or structure owned by community development organizations, not-for-profit cooperative associations under Iowa Code chapter 499A, or for-profit entities. See Iowa Code Supplement section 427.1(27) as amended by 2008 Iowa Acts, Senate File 2419, for definitions. The value added exemption for new construction includes reconstruction and renovation constituting complete replacement or refitting of existing buildings and structures if the reconstruction or renovation is required due to economic obsolescence, or to implement industry standards in order to competitively manufacture or process products, or to market a building or structure as a speculative shell building. The exemption for reconstruction or renovation not constituting new construction does not have to meet these requirements but has to meet only the requirements set forth in the definition of a speculative shell building. The council or board in the ordinance authorizing the exemption shall specify if the exemption will be allowed to community development organizations, not-for-profit cooperative associations under Iowa Code chapter 499B, or for-profit entities, and the length of time the exemption is to be allowed.

80.5(2) *Eligibility for exemption.* The value added by new construction, reconstruction, or renovation and first assessed prior to January 1 of the calendar year in which an ordinance authorizing a tax exemption becomes effective is not eligible for exemption. However, the value added as of January 1 of the calendar year in which the ordinance becomes effective is eligible for exemption if the ordinance is in effect on February 1 of that calendar year. This subrule does not apply to new construction projects having received prior approval. For reconstruction and renovation projects not

constituting new construction, the ordinance authorizing the exemption must be in effect by February 1 of the year the project commences for the exemption to be allowable in the subsequent assessment year.

80.5(3) Application for exemption.

a. A community development organization, not-for-profit cooperative association, or for-profit entity must file an application for exemption with the assessor between January 1 and February 1, inclusive, of the year in which the value added for new construction is first assessed for the exemption to be allowable for that assessment year. For reconstruction and renovation projects not constituting new construction, an application for exemption must be filed by February 1 of the assessment year in which the project commences for the exemption to be allowable the following assessment year. If approved, no application for exemption is required to be filed in subsequent years for the value added exemption or the reconstruction or renovation exemption not constituting new construction. An application cannot be filed if a valid ordinance has not been enacted. If an application is not filed by February 1 of the year in which the value added for new construction is first assessed, the organization, association, or entity cannot receive, in subsequent years, the exemption for that value added. However, if the organization, association, or entity has received prior approval, the application must be filed by February 1 of the year in which the total value added for the new construction is first assessed.

b. If February 1 falls on either a Saturday or Sunday, applications for exemption may be filed the following Monday.

c. Applications submitted by mail must be accepted if postmarked on or before February 1 or, if February 1 falls on either a Saturday or Sunday, a postmark date of the following Monday is acceptable.

80.5(4) Prior approval. To obtain prior approval for a project, the proposal of the organization, association, or entity must be approved by a specific ordinance addressing the proposal and passed by the city council or board of supervisors. The original ordinance providing for the exemption does not constitute the granting of prior approval for a project. If an organization, association, or entity has obtained a prior approval ordinance from a city council or board of supervisors, the exemption for new construction cannot be obtained until the year in which all value added for the completed project is first assessed. Reconstruction and renovation projects constituting new construction must receive prior approval to qualify for exemption. Reconstruction and renovation projects that do not constitute new construction need not receive prior approval.

80.5(5) Termination of exemption. The exemption continues until the property is leased or sold, the time period for the exemption specified in the ordinance elapses, or the exemption is terminated by ordinance of the city council or board of supervisors. If the ordinance authorizing the exemption is repealed, all existing exemptions continue until their expiration and any projects having received prior approval for exemption for new construction are to be granted an exemption upon completion of the project. If the shell building or any portion of the shell building is leased or sold, the exemption for new construction shall not be allowed on that portion of the shell building leased or sold in subsequent years. If the shell building or any portion of the shell building is leased or sold, the exemption for reconstruction or renovation not constituting new construction shall not be allowed on that portion of the shell building leased or sold and a proportionate share of the land on which the shell building is located in subsequent years.

This rule is intended to implement Iowa Code Supplement section 427.1(27) as amended by 2008 Iowa Acts, Senate File 2419.

701—80.6(427B) Industrial property tax exemption.

80.6(1) Authority of city council and board of supervisors. A partial exemption ordinance enacted pursuant to Iowa Code section 427B.1 shall be available to all qualifying property. A city council or county board of supervisors does not have the authority to enact an ordinance granting a partial exemption to only certain qualifying properties (1980 O.A.G. 639). As used in this rule, the term “qualifying property” means property classified and assessed as real estate pursuant to 701—subrule 71.1(6), warehouses and distribution centers, research service facilities, and owner-operated cattle facilities. “Warehouse” means a building or structure used as a public warehouse for the storage of goods pursuant to Iowa Code sections 554.7101 to 554.7603, except that it does not mean a building

or structure used primarily to store raw agricultural products or from which goods are sold at retail. “Distribution center” means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods. A “research service facility” is one or more buildings devoted primarily to research and development activities or corporate research services. Research and development activities include, but are not limited to, the design and production or manufacture of prototype products for experimental use. A research service facility does not have as its primary purpose the providing of on-site services to the public. “Owner-operated cattle facility” means a building or structure used primarily in the raising of cattle and which is operated by the person owning the facility.

80.6(2) *Prior approval.* Only upon enactment of a partial property tax exemption ordinance in accordance with Iowa Code section 427B.1 may a city council or board of supervisors enact a prior approval ordinance for pending individual projects in accordance with Iowa Code section 427B.4. To obtain prior approval for a project, a property owner’s proposal must be approved by a specific ordinance addressing the proposal and passed by the city council or board of supervisors. The original ordinance providing for the partial exemption does not constitute the granting of prior approval for a project. Also, prior approval for a project can only be granted by ordinance of the city council or board of supervisors; an official or representative of a city or county does not have the independent authority to grant prior approval for a project. If a taxpayer has obtained a prior approval ordinance from a city council or board of supervisors, the partial exemption cannot be obtained until the year in which all value added for the project is first assessed. (1980 O.A.G. 639)

80.6(3) *Repeal of ordinance.* A new construction project having received prior approval for exemption in accordance with subrule 80.6(2) shall be granted such exemption upon completion of the project even if the city council or board of supervisors subsequently repeals the ordinance passed in accordance with Iowa Code section 427B.1. (1980 O.A.G. 639)

80.6(4) *Annexation of property previously granted exemption.* A partial property tax exemption which has been granted and is in existence shall not be discontinued or disallowed in the event that the property upon which such exemption has been previously granted is located in an area which is subsequently annexed by a city or becomes subject to the jurisdiction of a county in which an ordinance has not been passed by the city council or county board of supervisors allowing such exemptions within that jurisdiction. The existing exemption shall continue until its expiration.

80.6(5) *Eligibility for exemption.*

a. The value added by new construction or reconstruction and first assessed prior to January 1 of the calendar year in which an ordinance authorizing a partial property tax exemption becomes effective, and new machinery and equipment assessed as real estate acquired and utilized prior to January 1 of the calendar year in which the ordinance or resolution becomes effective, are not eligible for exemption. However, the value added as of January 1 of the calendar year in which the ordinance becomes effective is eligible for exemption if the ordinance is in effect prior to February 1 of that calendar year and if all other eligibility and application requirements are satisfied.

EXAMPLE 1: A \$1,000,000 new construction project on qualifying property is begun in July 1984. \$500,000 in value of the partially completed project is completed in 1984 and first assessed as of January 1, 1985. The project is completed in 1985 adding an additional value of \$500,000 which is first assessed as of January 1, 1986, bringing the total assessed value of the completed project to \$1,000,000 as of the January 1, 1986, assessment.

A city ordinance authorizing the partial exemption program is passed and becomes effective January 15, 1987. This project is not eligible for a property tax exemption for any value added as a result of the new construction project.

EXAMPLE 2: Assuming the same factual situation as in Example 1, except that the ordinance authorizing the partial exemption program becomes effective on January 15, 1986, the \$500,000 in assessed value added as of the January 1, 1986, assessment is eligible for the partial exemption if an application is filed with the assessor between January 1 and February 1, 1986, inclusive.

EXAMPLE 3: Assuming the same factual situation as in Example 1, except that the ordinance authorizing the partial exemption program becomes effective on February 15, 1986. Since the statutory application filing deadline is February 1, no value added and first assessed as of January 1, 1986, is eligible for a partial exemption. The project in this example would receive no exemption for any value added as a result of the new construction.

This subrule does not apply to new construction projects having received prior approval in accordance with subrule 80.6(2).

b. New machinery and equipment assessed as real estate shall be eligible for partial exemption only if used primarily in the manufacturing process. For example, computer equipment used primarily to maintain payroll records would not be eligible for exemption, whereas computer equipment utilized primarily to control or monitor actual product assembly would be eligible.

c. If any other property tax exemption is granted for the same assessment year for all or any of the property which has been granted a partial exemption, the partial property tax exemption shall be disallowed for the year in which the other exemption is actually received.

d. Only qualifying property is eligible to receive the partial property tax exemption (O.A.G. 81-2-18).

e. A taxpayer cannot receive the partial property tax exemption for industrial machinery or equipment if the machinery or equipment was previously assessed in the state of Iowa. Industrial machinery and equipment previously used in another state may qualify for the partial exemption if all criteria for receiving the partial exemption are satisfied.

f. Industrial machinery and equipment is eligible to receive the partial property tax exemption if it changes the existing operational status other than by merely maintaining or expanding the existing operational status. This rule applies whether the machinery and equipment is placed in a new building, an existing building, or a reconstructed building. If new machinery is used to produce an existing product more efficiently or to produce merely a more advanced version of the existing product, the existing operational status would only be maintained or expanded and the machinery would not be eligible for the exemption. However, if the new machinery produces a product distinctly different from that currently produced, the existing operational status has been changed.

80.6(6) *Application for exemption.*

a. An eligible property owner shall file an application for exemption with the assessor between January 1 and February 1, inclusive, of the year for which the value added is first assessed for tax purposes. The amount of “actual value added” shall be the difference between the assessed value of the property on January 1 of the year value is added to the property and the assessed value of the property the following assessment year. An application cannot be filed if a valid ordinance has not been enacted in accordance with Iowa Code section 427B.1 (O.A.G. 82-3-5). If an application is not filed by February 1 of the year for which the value added is first assessed, the taxpayer cannot receive in subsequent years the partial exemption for that value added (O.A.G. 82-1-17). However, if a taxpayer has received prior approval in accordance with Iowa Code section 427B.4 and subrule 80.6(2), the application is to be filed by not later than February 1 of the year for which the total value added is first assessed as the approved completed project.

b. In the event that February 1 falls on either a Saturday or Sunday, applications for the industrial property tax exemption may be filed the following Monday.

c. Applications submitted by mail shall be accepted if postmarked on or before February 1, or in the event that February 1 falls on either a Saturday or Sunday, a postmark date of the following Monday shall be accepted.

80.6(7) *Change in use of property.* If property ceases to be used as qualifying property, no partial exemption shall be allowed as of January 1 of the year following the calendar year in which the change in use takes place or for subsequent years. If property under construction ceases to be constructed for use as qualifying property, no partial exemption shall be allowed as of January 1 of the year following the calendar year in which this cessation occurs. However, such a change in the use of the property

does not affect the validity of any partial exemption received for the property while it was used or under construction as qualifying property.

This rule is intended to implement Iowa Code sections 427B.1 to 427B.7.
[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.7(427B) Assessment of computers and industrial machinery and equipment.

80.7(1) Computers and industrial machinery and equipment are to be assessed at 30 percent of the property's net acquisition cost through the 1998 assessment year, 22 percent of the net acquisition cost in the 1999 assessment year, 14 percent of the net acquisition cost in the 2000 assessment year, and 6 percent of the net acquisition cost in the 2001 assessment year. The property will be exempt from tax beginning with the 2002 assessment year.

Computers and industrial machinery and equipment acquired after December 31, 1993, and not previously assessed in Iowa, are exempt from tax.

Computers and industrial machinery and equipment assessed pursuant to Iowa Code section 427B.17 are not eligible to receive the partial property tax exemption under Iowa Code sections 427B.1 to 427B.7.

80.7(2) Computers assessed under Iowa Code section 427A.1(1)“j” are limited to the percent of the computer's net acquisition cost as provided in Iowa Code section 427B.17 regardless of the classification of the real estate in which the computer is located.

80.7(3) For computers and industrial machinery and equipment, the net acquisition cost shall be the acquired cost of the property.

80.7(4) Computation of taxpayer's value. Assume a machine is acquired at a net acquisition cost of \$10,000. Assume also that the actual depreciated value of the machine is \$9,000. The value on which taxes would be levied would be limited to \$3,000 ($\$10,000 \times .30$). This percent will change over the course of the phaseout of the tax.

80.7(5) If all or a portion of the value of property assessed pursuant to Iowa Code section 427B.17 is eligible to receive an exemption from taxation, the amount of value to be exempt shall be subtracted from the net acquisition cost of the property before the taxpayer's value prescribed in Iowa Code section 427B.17 is determined. For example, if property has a net acquisition cost of \$30,000 and is eligible to receive a pollution exemption for \$15,000 of value, the taxable net acquisition cost would be \$15,000 and the taxpayer's value would be \$4,500 ($\$15,000 \times .30$). This percent will change over the course of the phaseout of the tax.

80.7(6) In the event the actual depreciated fair market value of property assessed pursuant to Iowa Code section 427B.17 is less than the valuation determined as a percent of the net acquisition cost of the property as provided in Iowa Code section 427B.17, the taxpayer's assessed value would be equal to the actual depreciated fair market value of the property.

80.7(7) Property ineligible for phaseout and exemption. Computers and industrial machinery and equipment, the taxes on which are used to fund a new jobs training project approved on or before June 30, 1995, do not qualify for the exemption provided in Iowa Code section 427B.17(2) nor the phaseout contained in Iowa Code section 427B.17(3) until the assessment year following the calendar year in which the funding obligations have been retired, refinanced, or refunded. At that time, the property will be subject to phaseout if acquired prior to January 1, 1994, or exempt from tax if acquired after December 31, 1993, and not previously assessed in Iowa. See subrule 80.7(1). The community college must notify the assessor by February 15 of each assessment year if the community college will be using a taxpayer's machinery and equipment taxes to finance a project that year. In any year in which the community college does rely on a taxpayer's machinery and equipment taxes for funding, the phaseout and exemption will not apply to that taxpayer that year.

80.7(8) County replacement.

a. For fiscal years beginning July 1, 1996, and ending June 30, 2001, the county replacement amount shall be equal to the difference between the assessed value of computers and industrial machinery and equipment as of January 1 of the previous calendar year and the assessed value of such property as of January 1, 1994, multiplied by the tax levy rate for that fiscal year. If there is an increase in valuation (the January 1, 1994, value is less), there will be no replacement for that fiscal year.

b. For fiscal years beginning July 1, 2001, and ending June 30, 2004, the county replacement amount shall be equal to the difference between the assessed value of computers and industrial machinery and equipment as of January 1 of the previous calendar year and the assessed value of such property as of January 1, 1994, less, if any, the increase in the assessed value of commercial and industrial property as of January 1 of the previous calendar year and the assessed value of such property as of January 1, 1994, multiplied by the tax levy rate for that fiscal year. If the calculation results in a negative amount, there will be no replacement for that fiscal year.

c. The replacement amounts shall be determined for each taxing district and a replacement claim summarizing the total amounts for the county prepared and submitted by the county auditor to the department of revenue by September 1 of each year. The department shall pay the replacement amount to the county treasurer in September and March of each year.

d. No replacement is allowable if a community college elects not to fund a new jobs training project with a tax on computers and industrial machinery and equipment.

This rule is intended to implement Iowa Code chapter 427B as amended by 2003 Iowa Acts, Senate File 453.

701—80.8(404) Urban revitalization partial exemption.

80.8(1) Area designated. An area containing only one building or structure cannot be designated as an urban revitalization area (1980 O.A.G. 786).

80.8(2) Prior approval. To obtain prior approval for a project, a property owner's proposal must be approved by a specific resolution addressing the proposal and passed by the city council or county board of supervisors. The original ordinance providing for the urban revitalization area does not constitute the granting of prior approval for any particular project. Also, prior approval for a project can only be granted by resolution of the city council or county board of supervisors; an official or representative of a city or county does not have the independent authority to grant prior approval for a project.

80.8(3) Eligibility for exemption. Improvements made as a result of a project begun more than one year prior to a city's or county's adoption of an urban revitalization ordinance are not eligible to receive the partial exemption even though some of the improvements are added during the time the area was designated as an urban revitalization area. For a project commenced within one year prior to the adoption of an urban revitalization ordinance, the partial exemption can be allowed only for those improvements constructed on or after the effective date of the ordinance. (1982 O.A.G. 358)

80.8(4) Minimum value added. Once the minimum value added required by Iowa Code section 404.3(7) has been assessed, any amount of additional value added to the property in subsequent years is eligible for the partial exemption. The value added subject to partial exemption for the first year for which an exemption is claimed and allowed shall include value added to the property for a previous year even if the value added in the previous year was not by itself sufficient to qualify for the partial exemption.

For example, assume that an urban revitalization project is begun on commercial property having an actual value of \$50,000 as of January 1, 1984. As a result of improvements made during 1984, the actual value of the property as of January 1, 1985, is determined to be \$55,000. Additional improvements made during 1985 increase the actual value of the property to \$70,000 for the 1986 assessment. In this example, no partial exemption can be allowed for 1985 since the value added for that year is less than 15 percent of the actual value of the property prior to construction of the improvements. A partial exemption can be allowed for 1986 and subsequent years for the \$20,000 value added in both 1985 and 1986, providing a valid application for the partial exemption is filed between January 1, 1986, and February 1, 1986, inclusive.

80.8(5) Application for partial exemption.

a. *Prior approval.* If a taxpayer has secured a prior approval resolution from the city council or the county board of supervisors, the partial exemption cannot be obtained until the year in which all value added for the project is first assessed. A partial exemption can be allowed only if an application is filed between January 1 and February 1, inclusive, of the year in which all value added for the project is first assessed. If an application is not filed during that period, no partial exemption can be allowed for that

year or any subsequent year. The submission to the city council or the county board of supervisors of a proposal to receive prior approval does not by itself constitute an application for the partial exemption.

For example, assume a city council or county board of supervisors approves a prior approval resolution in April 1984 for a revitalization project to be completed in September 1986. Assuming all construction on the project is completed in 1986, no partial exemption can be allowed until 1987 since that would be the year in which all value added for the project is first assessed. To receive the partial exemption, a valid application would have to be filed between January 1, 1987, and February 1, 1987, inclusive.

b. No prior approval. If a project has not received a prior approval resolution, a taxpayer has the option of receiving the partial exemption beginning with any year in which value is added to the property or waiting until all value added to the property is first assessed in its entirety. To secure a partial exemption prior to the completion of the project, an application must be filed between January 1 and February 1, inclusive, in each year for which the exemption is claimed.

For example, assume a revitalization project is begun in June 1984 and completed in September 1985, that no prior approval resolution for the project has been approved, and that a ten-year exemption period has been selected. Assume further that as a result of construction on the project, value is added for the assessment years 1985 and 1986. If an application is filed between January 1, 1985, and February 1, 1985, inclusive, a partial exemption could be allowed for the value added for 1985 beginning with the 1985 assessment and ending with the 1994 assessment. If an application is filed between January 1, 1986, and February 1, 1986, inclusive, a partial exemption could be allowed for the value added for 1986 beginning with the 1986 assessment and ending with the 1995 assessment. The partial exemption allowable for the years 1986 through 1995 would be against the value added for 1986 as a result of improvements made during calendar year 1985.

In the example above, the taxpayer may elect not to file an application for the partial exemption in 1985. In this situation, if an application is filed between January 1, 1986, and February 1, 1986, inclusive, a partial exemption could be allowed for the total value added for 1985 and 1986 and would apply to assessments for the years 1986 through 1995.

c. Filing deadline. If February 1 falls on a Saturday or Sunday, an application for the partial exemption may be filed the following Monday. Applications submitted by mail must be postmarked on or before February 1, or on or before the following Monday if February 1 falls on a Saturday or Sunday.

d. Extended filing deadline. The exemption is allowable for the total number of years in the exemption schedule if a claim for exemption is filed within two years of the original February 1 filing deadline. The city council or county board of supervisors may by resolution provide that an application for the partial exemption can be filed by February 1 of any assessment year the area is designated as an urban revitalization area. The exemption shall be allowed for the same number of years remaining in the exemption schedule selected as would have been remaining had the claim for exemption been timely filed.

80.8(6) Value exempt. The partial exemption allowed for a year in which an application is filed shall apply to the value added and first assessed for that year and any value added to the project and assessed for a preceding year or years and for which a partial exemption had not been received.

80.8(7) Minimum assessment. The partial exemption shall apply only to the value added in excess of the actual value of the property as of the year immediately preceding the year in which value added was first assessed. If the actual value of the property is reduced for any year during the period in which the partial exemption applies, any reduction in value resulting from the partial exemption shall not reduce the assessment of the property below its actual value as of January 1 of the assessment year immediately preceding the year in which value added was first assessed. This subrule applies regardless of whether the reduction in actual value is made by the assessor, the board of review, a court order, or an equalization order of the director of revenue.

80.8(8) Value added. As used in this rule, the term "value added" means the amount of increase in the actual value of real estate directly attributable to improvements made as part of a revitalization project. The amount of "actual value added" shall be the difference between the assessed value of the property on

January 1 of the year value is added to the property and the assessed value of the property the following assessment year. "Value added" does not include any increase in actual (market) value attributable to that portion of the real estate assessed prior to the year in which revitalization improvements are first assessed. The sales price of the property rather than the assessed value of the property may be used in determining the percentage increase required to qualify for exemption if the improvements were begun within one year of the date the property was purchased.

80.8(9) *Repeal of ordinance.* An urban revitalization project which has received proper prior approval shall be eligible to receive the partial exemption following completion of the project even if the city council or county board of supervisors subsequently repeals the urban revitalization ordinance before improvements in the project are first assessed (1980 O.A.G. 639).

This rule is intended to implement Iowa Code chapter 404 as amended by 2002 Iowa Acts, House File 2622.

[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.9(427C,441) Forest and fruit-tree reservations.

80.9(1) *Determination of eligibility for exemption.* Property for which an application for exemption as a forest or fruit-tree reservation has been filed shall be inspected by the assessor or county conservation board. The county board of supervisors designates whether all inspections in the county are to be made by the assessor, including any city assessor, or by the county conservation board. When appropriate, aerial photographs may be used in place of an on-site inspection of the property. The assessment or exemption of the property is to be based upon criteria established by the state conservation commission and findings obtained by the inspection of the property or the examination of aerial photographs of the property.

80.9(2) *Application for exemption.*

a. An application for exemption must be filed with the appropriate assessor between January 1 and February 1, inclusive, of the assessment year for which the exemption is first claimed. If the inspection of the property is to be made by the county conservation board, the assessor shall forward the application to the board for its recommendation. Once the application has been accepted, the exemption is applicable to the current and subsequent assessment years and no further application shall be required so long as the property remains eligible for the exemption.

b. If February 1 falls on a Saturday or Sunday, an application for exemption may be filed the following Monday.

c. An application shall be considered to be timely filed if postmarked on or before February 1 or the following Monday if February 1 falls on a Saturday or Sunday.

80.9(3) *Notification to property owner.* If the property is to be inspected by the county conservation board, the board shall make every effort to submit its recommendation to the assessor in sufficient time for the assessor to notify the claimant by April 15. The assessor shall notify the claimant by April 15 of the disposition of the application for exemption. If because of the date on which an application is filed a determination of eligibility for the exemption cannot be made in sufficient time for notification to be made by April 15, the assessor shall assess the property and notify the property owner of the inability to act on the application. The notification shall contain the actual value and classification of the property and a statement of the claimant's right of appeal to the local board of review.

80.9(4) *Appeal of eligibility determination.* If a property for which a claim for exemption as a forest or fruit-tree reservation is assessed for taxation, the property owner may appeal the assessment to the board of review under Iowa Code section 441.37.

80.9(5) *Valuation of property.* For each assessment year for which property is exempt as a forest or fruit-tree reservation, the assessor shall determine the actual value and classification that would apply to the property were it assessed for taxation that year. In any year for which the actual value or classification of property so determined is changed, the assessor shall notify the property owner pursuant to Iowa Code sections 441.23, 441.26 and 441.28.

80.9(6) Recapture tax.

a. Assessment of property. If the county conservation board or the assessor determines a property has ceased to meet the eligibility criteria established by the state conservation commission, the property shall be assessed for taxation and subject to the recapture tax. The property shall be subject to taxes levied against the assessment made as of January 1 of the calendar year in which the property ceased to qualify for exemption. In addition, the property shall be subject to the tax which would have been levied against the assessment made as of January 1 of each of the five preceding calendar years for which the property received an exemption.

b. Assessment procedure. If the determination that a property has ceased to be eligible for exemption is made by the assessor by April 15, the assessor shall notify the property owner of the assessment as of January 1 of the year in which the determination is made in accordance with Iowa Code sections 441.23, 441.26, and 441.28. The assessment of the property for any of the five preceding years and for the current year, if timely notice by April 15 cannot be given, shall be by means of an omitted assessment as provided in Iowa Code section 443.6 (*Talley v. Brown*, 146 Iowa 360, 125 N.W. 243(1910)). Appeal of the omitted assessment may be taken pursuant to Iowa Code sections 443.7 and 443.8.

c. Computation of tax. The county auditor shall compute the tax liability for each year for which an assessment has been made pursuant to subrule 80.9(6), paragraph “b.” The tax liability shall be the amount of tax that would have been levied against each year’s assessment had the property not received the exemption. In computing the tax, the valuations established by the assessor shall be adjusted to reflect any equalization order or assessment limitation percentage applicable to each year’s assessment.

d. Entry on tax list. The tax liability levied against assessments made as of January 1 of any year preceding the calendar year in which the property ceased to qualify for exemption shall be entered on the tax list for taxes levied against all assessments made as of January 1 of the year immediately preceding the calendar year in which the property ceased to qualify for exemption. However, if those taxes have already been certified to the county treasurer, the recapture taxes shall be entered on the tax list for taxes levied against assessments made as of January 1 of the year in which the property ceased to qualify for exemption. The tax against the assessment made as of January 1 of the year in which the property ceased to qualify for exemption shall be levied at the time taxes are levied against all assessments made as of that date.

e. Delinquencies. Recapture taxes shall not become delinquent until the time when all other unpaid taxes entered on the same tax list become delinquent.

f. Exceptions to recapture tax.

(1) Fruit-tree or forest reservations. Property which has received an exemption as a fruit-tree or forest reservation is not subject to the recapture tax if the property is maintained as a fruit-tree or forest reservation for at least five full calendar years following the last calendar year for which the property was exempt as a fruit-tree or forest reservation.

(2) Property which has been owned by the same person or the person’s direct descendants or antecedents for at least ten years prior to the time the property ceases to qualify for exemption shall not be subject to the recapture tax.

(3) Property described in subparagraphs 80.9(6)“f”(1) and 80.9(6)“f”(2) is subject to assessment as of January 1 of the calendar year in which the property ceases to qualify for exemption.

This rule is intended to implement Iowa Code chapter 427C as amended by 2001 Iowa Acts, House File 736, and Iowa Code section 441.22.

[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.10(427B) Underground storage tanks.

80.10(1) Authority of city councils and county boards of supervisors. A city council or county board of supervisors may provide by ordinance to grant property tax credits to small business owners for payment of underground storage tank cleanup costs. The ordinance is to designate the period of time over which the credit is to be granted (not to exceed ten years) and the percentage of credit to be granted each

year. If the ordinance is repealed, existing credits are to continue through their designated expiration date. A small business means a business with gross receipts of less than \$500,000 per year.

80.10(2) Application for credit. The small business owner is required to file an application for credit with the respective city council or county board of supervisors by September 30 of the year following the calendar year in which cleanup costs were paid and each succeeding year the credit is applicable. The application for credit shall be prescribed by the director of revenue and shall contain, but not be limited to, the small business owner's cleanup costs and gross receipts for the most recent tax year.

80.10(3) Allowance of credit. Credits granted by a county board of supervisors are applicable only to property located outside the corporate limits of a city and credits granted by a city council are only applicable to property located within the corporate limits of the city. The amount of the credit granted cannot exceed the small business owner's cleanup costs nor the amount of city or county taxes paid on the property where the underground storage tank is located for any fiscal year the credit is applicable. Upon approval of the application for credit, the city council or county board of supervisors shall direct its city clerk or county treasurer to reimburse the small business owner in the amount of the designated credit.

This rule is intended to implement Iowa Code sections 427B.20 to 427B.22.

701—80.11(425A) Family farm tax credit.

80.11(1) Eligibility for credit. Generally, the family farm tax credit is only intended to benefit tracts of agricultural land that are owned by certain individuals or enumerated legal entities if the owner or other specified persons are actively engaged in farming.

a. In order for a tract of land to qualify for the family farm tax credit, the following three criteria must be satisfied:

(1) The tract of land must be an "eligible tract of agricultural land" as defined in Iowa Code subsection 425A.2(5). This means the tract must be ten acres or more or contiguous to a tract of more than ten acres and used in good faith for agricultural or horticultural purposes. More than half of the acres in the tract must be devoted to the production of crops or livestock by a designated person. Contiguous tracts under the same legal ownership and located within the same county are considered one tract. Only tracts of land that are classified as agricultural real estate qualify for the credit.

(2) The tract of land must be owned by:

1. An individual or persons related or formerly related to each other, or
2. A partnership where all the partners are related or formerly related to each other, or
3. A family farm corporation as defined in Iowa Code subsection 9H.1(8), or
4. An authorized farm corporation as defined in Iowa Code subsection 9H.1(3).

The ownership criteria must be met on June 30 of the fiscal year prior to the fiscal year in which the application for credit is filed. For example, the ownership criteria must be met on June 30, 1990, for applications for credit filed in 1990.

(3) A designated person must be "actively engaged in farming" the tract during the fiscal year prior to the fiscal year in which the application for credit is filed. If the tract is owned by an individual or related persons, the designated person who is actively engaged in farming must be an owner of the tract, the owner's spouse, or the owner's relative within the third degree of consanguinity or their spouses. This includes the owner's child, stepchild, grandchild, great-grandchild, parent, grandparent, great-grandparent, brother, sister, uncle, aunt, niece, or nephew or their spouses. The only step relative that may qualify as a designated person is a stepchild. If the owner of the tract is a partnership, the designated person who is actively engaged in farming must be a partner or a partner's spouse. If the owner of the tract of land is a family farm corporation, the designated person who is actively engaged in farming must be a family member who is a shareholder of the family farm corporation or the shareholder's spouse. If the owner of the tract of land is an authorized farm corporation, the designated person who is actively engaged in farming must be the shareholder who owns at least 51 percent of the stock of the authorized farm corporation or that shareholder's spouse.

If the owner is an individual who leases the land to a family farm corporation or partnership, a shareholder of the corporation or a partner of the partnership shall be considered a designated person if

the combined stock of the family farm corporation or the combined partnership interest owned by the owner, the owner's spouse and persons related to the owner within the third degree of consanguinity and their spouses is equal to at least 51 percent of the stock of the family farm corporation or the ownership interest in the partnership.

b. In order to be "actively engaged in farming" the designated person must be personally involved in the production of crops or livestock on the "eligible tract" on a regular, continuous and substantial basis. Personal involvement in the production of crops or livestock includes not only field activities such as soil preparation and testing, planting, fertilizing, spraying, inspecting, cultivating and harvesting but also managerial decision-making activities relating to hybrid selection, crop rotation planning, crop selection, equipment purchases and marketing strategies. Personal involvement in the production of crops or livestock also includes activities pertaining to crop insurance selection, loan selection, and financial record maintenance and preparation. A person performing activities in the capacity of a lessor, whether under a cash or crop-share lease and whether under a written or oral lease, is not actively engaged in farming on the area of the tract covered by the lease.

c. Tracts subject to a federal program pertaining to agricultural land. In lieu of satisfying the "actively engaged in farming" test, a designated person may demonstrate that the person was in general control of the tract which was subject to a federal program pertaining to agricultural land during the prior fiscal year. This alternative test is intended to apply in circumstances where the active farming criteria cannot be met because the land is in the Conservation Reserve Program (commonly referred to as the CRP) or a program substantially similar to the 0/92 option where the tract has been taken out of production.

d. The following examples illustrate family farm tax credit eligibility under various circumstances:

EXAMPLE 1. A and B jointly own land and were both personally involved in the farming operation. They are not related. No credit is allowable because it is a requirement that individual owners be related. If A and B were brothers, the land would qualify for the credit.

EXAMPLE 2. A owns the land and is retired. A leased the land to B, his son. B was personally involved in the farming operation. The land is eligible for the credit even though a lease arrangement existed because the actively engaged in farming requirement can be satisfied through the activities of the owner's spouse, or the owner's relative within the third degree of consanguinity or the relative's spouse. See paragraph "a," subparagraph (3), of this subrule. No credit would be allowable if A and B were not related.

EXAMPLE 3. A owns two contiguous 40-acre tracts. A farmed all of one tract but only 15 acres of the other tract. The other 25 acres of the second tract were leased to a nondesignated person. Both tracts qualify for the credit because contiguous tracts under the same legal ownership are considered one tract and more than half of the total of 80 acres ($40 + 15 = 55$) were farmed by A.

EXAMPLE 4. The land is owned by a partnership in which the partners A, B, C and D are brothers. A and B farm the land but C and D have no involvement in the farming operation. The land is eligible for the credit because it makes no difference what level of involvement each partner had nor does it matter that one or more of the partners were not personally involved in the farming operation. The only requirement for qualifying for the credit is that at least one of the partners or one of the partners' spouses was personally involved in the farming operation. No credit would be allowable if all the partners were not related to each other.

EXAMPLE 5. The land is owned by a family farm corporation in which the stock is owned equally by A, B and C. A and B are brothers but not related to C. All three partners were personally involved in the farming operation. The land qualifies for the credit because it is only a requirement that a family member who is a shareholder in the family farm corporation be involved in the farming operation. The land would qualify for the credit even if B was not involved in the farming operation. However, no credit would be allowable if only C was involved in the farming operation.

EXAMPLE 6. The land is owned by an authorized farm corporation in which 60 percent of the stock is owned by A and 40 percent of the stock is owned by B. Both A and B were personally involved in the farming operation. The credit is allowable as long as the stockholder who owns at least 51 percent of

the stock was personally involved in the farming operation. No credit would be allowable if A was not personally involved in the farming operation.

80.11(2) *Application for credit.* To obtain the credit, the owner must file an application for credit with the assessor by November 1. If the claim for credit is approved, no further filing shall be required provided the ownership and the designated person actively engaged in farming the property remain the same during successive years. A new application for credit shall be required only if the property is sold or the designated person changes. The county board of supervisors shall review all claims and make a determination as to eligibility. The claimant may appeal a decision of the board to district court by giving written notice to the board within 20 days of the board's notice.

80.11(3) *Application of credit.* The county auditor shall certify to the department of revenue by April 1 the total amount of family farm tax credits due the county. The county auditor shall apply the credit to each eligible tract of land in an amount equal to the school district tax rate which is in excess of \$5.40 multiplied by the taxable value of the eligible tract.

80.11(4) *Penalty.* The owner shall provide written notice to the assessor if the designated person changes. Failure to do so shall result in the owner's being liable for the amount of the credit plus a penalty equal to 5 percent of the amount of the credit granted.

This rule is intended to implement Iowa Code chapter 425A as amended by 2001 Iowa Acts, House Files 712 and 713.

701—80.12(427) Methane gas conversion property.

80.12(1) *Application for exemption.* An application for exemption is required to be filed with the appropriate assessing authority by February 1 of each year. The assessed value of the property is to be prorated to reflect the appropriate amount of exemption if the property used to convert the methane gas to energy also uses another fuel. The first year exemption shall be equal to the estimated ratio that the methane gas consumed bears to the total fuel consumed times the assessed value of the property. The exemption for subsequent years shall be based on the actual ratio for the previous year.

80.12(2) *Eligibility for exemption.* To qualify for exemption, the property must be used either in an operation that decomposes waste and converts it to methane gas or other gases produced as a byproduct of waste decomposition, then collects the gases and converts them to energy; or in an operation that collects waste in order to decompose it to produce methane gas or other gases for conversion into energy. The exemption applies to both property used in connection with, or in conjunction with, a publicly owned sanitary landfill and to property not used in connection with, or in conjunction with, a publicly owned sanitary landfill.

The exemption for property not used in an operation connected with, or in conjunction with, a publicly owned sanitary landfill is limited to property originally placed in operation on or after January 1, 2008, and on or before December 31, 2012, and will be available for the ten-year period following the date the property was originally placed in operation.

This rule is intended to implement Iowa Code section 427.1(29) as amended by 2009 Iowa Acts, Senate File 478, section 224.

[ARC 7726B, IAB 4/22/09, effective 5/27/09; ARC 8358B, IAB 12/2/09, effective 1/6/10]

701—80.13(427B,476B) Wind energy conversion property.

80.13(1) *Special valuation allowed by ordinance.* A city council or county board of supervisors may provide by ordinance for the special valuation of wind energy conversion property. If the ordinance is repealed, the special valuation applies through the nineteenth assessment year following the first year the property was assessed. Once the ordinance has been repealed and the special valuation is no longer applicable, the property must be valued at market value rather than at 30 percent of net acquisition cost. The special valuation applies to property first assessed on or after the effective date of the ordinance. The local assessor must value the property in accordance with the schedule provided in Iowa Code section 427B.26(2). The property qualifies for special valuation provided the taxpayer files a declaration of intent with the local assessor by February 1 of the assessment year in which the property is first assessed for tax to have the property locally assessed. The property must not be assessed until the assessment

year following the year the entire wind plant is completed. A wind plant is completed when it is placed in service.

80.13(2) *Special valuation not allowed by ordinance.* If a city council or county board of supervisors has not passed an ordinance providing for the special valuation of wind energy conversion property, the property is to be assessed by the department of revenue for a period of 12 years, and the taxes payable on the facilities are to be paid to the department at the same time as regular property taxes. The owner of the facility must file an annual report with the department by May 1 of each year during the 12-year assessment period, and the department must certify the assessed value of the facility by November 1 of each year to the county auditor. The board of supervisors must notify the county treasurer to state on the tax statement that the property taxes are to be paid to the department. The board must also notify the department of those facilities that are required to pay the property taxes to the department. The department must notify the county treasurer of the date the taxes were paid within five business days of receipt, and the notification is authorization for the county treasurer to mark the record as paid in the county system.

This rule is intended to implement Iowa Code section 427B.26 and chapter 476B as amended by 2009 Iowa Acts, Senate File 456, sections 2 and 4.

[ARC 7726B, IAB 4/22/09, effective 5/27/09; ARC 8358B, IAB 12/2/09, effective 1/6/10]

701—80.14(427) Mobile home park storm shelter.

80.14(1) *Application for exemption.* An application for exemption must be filed with the assessing authority by February 1 of the first year the exemption is requested. Applications for exemption are not required in subsequent years if the property remains eligible for exemption.

80.14(2) *Eligibility for exemption.* The structure must be located in a mobile home park as defined in Iowa Code section 435.1.

80.14(3) *Valuation exempted.* If the structure is used exclusively as a storm shelter, it shall be fully exempt from taxation. If the structure is not used exclusively as a storm shelter, the exemption shall be limited to 50 percent of the structure's commercial valuation.

This rule is intended to implement Iowa Code Supplement section 427.1(30).

701—80.15(427) Barn and one-room schoolhouse preservation. The increase in value added to a farm structure constructed prior to 1937 or one-room schoolhouse as a result of improvements made is exempt from tax. An application must be filed with the assessor by February 1 of the first assessment year only and the exemption is to continue as long as the structure continues to be used as a barn or in the case of a one-room schoolhouse is not used for dwelling purposes. A "barn" is an agricultural structure that is used for the storage of farm products or feed or the housing of farm animals, poultry, or farm equipment.

This rule is intended to implement Iowa Code sections 427.1(31) and 427.1(32) as amended by 2000 Iowa Acts, House File 2560.

701—80.16(426) Agricultural land tax credit.

80.16(1) *Eligibility for credit.* The credit shall be allowed on land in tracts of ten acres or more, or land of less than ten acres if part of other land of more than ten acres, and used for agricultural or horticultural purposes.

80.16(2) *Application for credit.* No application for credit is required.

80.16(3) *Application of credit.* The county auditor shall certify to the department of revenue by April 1 the total amount of agricultural land tax credits due the county. The county auditor shall apply the credit to each eligible tract of land in an amount equal to the school district tax rate which is in excess of \$5.40 multiplied by the taxable value of the eligible tract.

This rule is intended to implement Iowa Code chapter 426 as amended by 2001 Iowa Acts, House File 713.

701—80.17(427) Indian housing property. Property owned and operated by an Indian housing authority, as defined in 24 CFR 950.102, is exempt from taxation provided the exemption has been

approved by the city council or county board of supervisors, whichever is applicable, and a valid claim for exemption has been filed pursuant to Iowa Code section 427.1(14) by February 1.

This rule is intended to implement Iowa Code section 427.1 as amended by 2001 Iowa Acts, Senate File 449.

701—80.18(427) Property used in value-added agricultural product operations. Fixtures used for cooking, refrigeration, or freezing of value-added agricultural products used in value-added agricultural processing or used in direct support of value-added agricultural processing are exempt from tax. Direct support includes storage by public refrigerated warehouses for processors of value-added agricultural products prior to the start of the value-added agricultural processing operation. The exemption does not apply to fixtures used primarily for retail sale or display. If the taxpayer is a retailer, there is a presumption that the fixtures are being used primarily for retail sale or display. The exemption applies only to fixtures that are attached in a manner set forth in Iowa Code section 427A.1(2).

The following definitions apply to this rule:

“*Fixture*” means property which was originally personal property but which by being physically attached to the realty becomes part of the realty and upon removal does not destroy the property to which it is attached.

“*Value-added agricultural processing*” means an operation whereby an agricultural product is subjected to some special treatment by artificial or natural means which changes its form, context, or condition, and results in a marketable agricultural product to be sold at retail. These operations are commonly associated with fabricating, compounding, germinating, or manufacturing.

“*Value-added agricultural product*” means an agricultural product which, through a series of activities or processes, may be sold at a higher price than its original purchase price.

This rule is intended to implement Iowa Code section 427A.1 as amended by 2001 Iowa Acts, House File 715.

701—80.19(427) Dwelling unit property within certain cities. Dwelling unit property owned and managed by a nonprofit community housing development organization that owns and manages more than 150 dwelling units in a city with a population of more than 110,000 is exempt from tax. The organization must be recognized by the state and the federal government pursuant to criteria contained in the HOME program of the federal National Affordable Housing Act of 1990 and must be exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code. The exemption does not extend to dwelling units located outside the city. The organization must file an application for exemption with the assessing authority not later than February 1 of the assessment year. Applications for exemption are not required in successive years if the property continues to qualify for the exemption.

This rule is intended to implement Iowa Code Supplement section 427.1(21A) as amended by 2006 Iowa Acts, House File 2792.

701—80.20(427) Nursing facilities. If the assessor determines that property is being used for a charitable purpose pursuant to Iowa Code section 427.1(8), it shall be fully exempt from tax if it is licensed under Iowa Code section 135C.1(13) by the department of inspections and appeals, exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, and a valid application for exemption has been filed with the assessor by February 1 of the assessment year.

This rule is intended to implement Iowa Code Supplement section 427.1(14).

701—80.21(368) Annexation of property by a city. A city council may provide a partial tax exemption from city taxes against annexed property for a period of ten years. The exemption schedule is contained in Iowa Code Supplement section 368.11(3) “*m*.” All property owners included in the annexed area must receive the exemption if the city elects to allow the exemption.

This rule is intended to implement Iowa Code Supplement section 368.11(3) “*m*” as amended by 2006 Iowa Acts, House File 2794.

701—80.22(427) Port authority. The property of a port authority created pursuant to Iowa Code Supplement section 28J.2 when devoted to public use and not held for pecuniary profit is exempt from taxation.

This rule is intended to implement Iowa Code Supplement section 427.1(34).

701—80.23(427A) Concrete batch plants and hot mix asphalt facilities. A concrete batch plant includes the machinery, equipment, and fixtures used at a concrete mixing facility to process cement dry additive and other raw materials into concrete. A hot mix asphalt facility is any facility used to manufacture hot mix asphalt by heating and drying aggregate and mixing it with asphalt cements. These facilities shall not be assessed and taxed as real property regardless of the property's attachment to real estate. The land on which the facilities are located is taxable.

This rule is intended to implement Iowa Code section 427A.1 as amended by 2006 Iowa Acts, Senate File 2391.

701—80.24(427) Airport property. Property owned by a city or county at an airport and leased to a fixed base operator providing aeronautical services to the public is exempt from taxation.

This rule is intended to implement Iowa Code section 427.1(2) as amended by 2006 Iowa Acts, House File 2794.

701—80.25(427A) Car wash equipment. Property that is equipment used for the washing, waxing, drying, or vacuuming of motor vehicles and point-of-sale equipment necessary for the purchase of car wash services shall not be assessed and taxed as real property.

This rule is intended to implement Iowa Code section 427A.1 as amended by 2006 Iowa Acts, House File 2794.

701—80.26(427) Web search portal and data center business property. This exemption includes computers and equipment necessary for the maintenance and operation of a web search portal or data center business, including cooling systems, cooling towers, and other temperature control infrastructure; power infrastructure for transformation, distribution, or management of electricity, including but not limited to exterior dedicated business-owned substations, and power distribution systems which are not subject to assessment under Iowa Code chapter 437A; back-up power generation systems, battery systems, and related infrastructure; and racking systems, cabling, and trays. The exemption does not apply to land, buildings, and improvements. The web search portal or data center business must meet the requirements contained in Iowa Code section 423.3, subsection 92, subsection 93, or subsection 95, for the exemption to be allowable. The owner of the property must file a claim for exemption with the assessor by February 1 of the first year the exemption is claimed. Claims for exemption in successive years will be required only for property additions.

This rule is intended to implement Iowa Code sections 427.1(35) and 427.1(36) and section 427.1 as amended by 2009 Iowa Acts, Senate File 478, section 200.

[ARC 8358B, IAB 12/2/09, effective 1/6/10]

701—80.27(427) Privately owned libraries and art galleries. Claims for exemption for libraries and art galleries owned and kept by private individuals, associations, or corporations for public use and not for private profit must be filed with the local assessor by February 1 of the first year the exemption is requested. Once the exemption is granted, the exemption shall continue to be granted for subsequent assessment years without further filing of claims as long as the property continues to be used as a library or art gallery for public use and not for private profit.

This rule is intended to implement Iowa Code Supplement section 427.1(7) as amended by 2008 Iowa Acts, Senate File 2400.

701—80.28(404B) Disaster revitalization area. The governing body of a city or county may, by ordinance, designate an area of the city or county a disaster revitalization area if that area is within a county or portion of a county in which the governor has proclaimed a disaster emergency or the

United States president has declared a major disaster. All real property within a disaster revitalization area is eligible to receive a 100 percent exemption from taxation on the increase in assessed value of the property if the increase in assessed value is attributable to revitalization of the property occurring between May 25, 2008, and December 31, 2013. The amount of increase in value shall be the difference between the assessed value of the property on January 1, 2007, and the assessed value of the property on January 1, 2010, and subsequent assessment years. The exemption is for a period not to exceed five years, starting with an assessment year beginning on or after January 1, 2010. A city or county may adopt a tax exemption percentage different from the 100 percent exemption. The different percentage adopted must not allow a greater exemption, but may allow a smaller exemption. If the homeowner elects to take the exemption provided in this rule, the homeowner may not claim any other value-added exemption. An application must be filed for each revitalization project resulting in increased assessed value for which an exemption is claimed. The application for exemption must be filed by the owner of the property with the local assessor by February 1 of the first assessment year for which the exemption is requested. After the tax exemption is granted, the exemption will continue for succeeding years without the taxpayer's having to file an application for exemption unless additional revitalization projects occur on the property. The ordinance must expire or be repealed no later than December 31, 2016.

This rule is intended to implement 2009 Iowa Acts, Senate File 457, sections 23 to 30.
[ARC 8358B, IAB 12/2/09, effective 1/6/10]

701—80.29(427) Geothermal heating and cooling systems installed on property classified as residential.

80.29(1) *In general.* An exemption from property tax shall be allowed for any value added to property by any new construction or refitted installation of a geothermal heating or cooling system if the geothermal heating or cooling system is constructed or installed on or after July 1, 2012, on property classified as residential. The exemption shall also be allowed for a residential dwelling on agricultural land. The exemption does not have to be claimed the year subsequent to the year the geothermal system is constructed or installed. However, every individual claiming the exemption under this rule shall file with the appropriate assessor, not later than February 1 of the year for which the exemption is requested, an application for exemption. The assessor shall then allow or disallow the exemption.

Upon the filing and allowance of the claim, the claim shall be allowed on the property for ten consecutive years without further filing as long as the property continues to be classified as residential. However, if the property ceases to be classified as residential or if the geothermal heating and cooling system ceases to exist before the ten years have expired, no exemption is allowed for the year in which the change in classification took place or for any subsequent years. The exemption amount shall remain fixed at the same amount that was allowed in the first year the exemption was allowed.

The property tax exemption applies to any value added by the addition of mechanical, electrical, plumbing, ductwork, or other equipment, labor, and expenses included in or required for the construction or installation of the geothermal system that would not have been included in the home if not for the installation of the geothermal heating and cooling system. Additionally, the proportionate value of any well field associated with the system and attributable to the owner is exempt.

80.29(2) *Calculation of value added.* As used in this rule, the terms “any value added” and “value added” mean the amount of increase in the actual assessed value of the property that is directly attributable to the new construction or refit installation of a geothermal heating or cooling system as of the first year for which the geothermal heating and cooling system is actually assessed. “Any value added” does not include speculative or indirect increases in value which, for example, may be attributable to reductions in energy consumption or reductions in the negative impact to the environment. “Any value added” does not include changes in value which are attributable to general housing market fluctuations. Cost of the new construction or refit installation of the geothermal heating or cooling system is not determinative of the value added to a property. In the event the exemption is not filed in the same year the geothermal heating and cooling system is first assessed, the amount of the exemption, upon filing, shall be the same amount as it would have been had the exemption been filed in the year the geothermal heating and cooling system was first assessed.

In the case of new construction and refit installation of a geothermal heating or cooling system, the value added is the value that would not have been included in the home if not for the construction or refit installation of the geothermal heating and cooling system. That is, the value of mechanical, electrical, plumbing, ductwork, or other equipment, labor, and expenses that would have been included with a standard heating and cooling system shall not be considered in calculating the value added. To measure the value added by a geothermal heating and cooling system, the assessor shall compute the difference between the assessed value of the residential property if the property were outfitted with a non-geothermal (standard) heating and cooling system and the assessed value of the property outfitted with the geothermal system. In the case that the new construction or refit installation takes more than one year, the assessor shall make the comparison in the year the new construction or refit installation is completed.

EXAMPLE A: Mrs. Smith wants to upgrade her current standard heating and cooling system in her home with a geothermal system. The geothermal system installation is completed on August 1, 2012. On January 22, 2013, Mrs. Smith files a claim for exemption for the value added to her property that is directly attributable to the refit installation of the geothermal system. To determine the value added that is directly attributable to the geothermal system, the assessor shall compare the value of the home as though it was outfitted with the standard heating and cooling system which was upgraded with the value of the home outfitted with the geothermal heating and cooling system; the difference between the two values is the exemption amount. That exemption amount will remain fixed for the next ten years, until Mrs. Smith's home ceases to be classified as residential, or until the geothermal system ceases to exist, whichever occurs first. For years subsequent to 2013, any increase in the value of Mrs. Smith's home beyond the assessed value of the home outfitted with the geothermal heating and cooling system is not attributable to the geothermal system and is subject to property tax. The property tax exemption amount for the geothermal heating and cooling system will remain the same as the first year for which the exemption was received even if the assessed value of Mrs. Smith's home drops.

EXAMPLE B: Same facts as Example A, except that on January 1 of year seven, Mrs. Smith's home is reclassified as commercial property. No property tax exemption is allowed for the value added by the geothermal system for year seven or any subsequent years.

EXAMPLE C: Mr. Larson is building a new home and plans to construct a new geothermal system in lieu of a standard heating and cooling system. The home and geothermal system are completed on October 24, 2012. To determine the value added that is directly attributable to the installation of the geothermal system, the assessor shall assess the home as though it had been outfitted with a standard heating and cooling system and compare that value with the assessed value of the home outfitted with the geothermal heating and cooling system. The difference between the two amounts is the value added that is directly attributable to the geothermal system and is the exemption amount. In 2013, the assessed value of Mr. Larson's home with a standard heating and cooling system is \$200,000. The assessed value of Mr. Larson's home with the geothermal system is \$210,000. Therefore, the value added to the property that is directly attributable to the geothermal system is \$10,000. Mr. Larson may claim an exemption amount of \$10,000 starting in assessment year 2013. Mr. Larson does not lose the exemption if he fails to claim the exemption by February 1, 2013; he may claim the exemption in any year subsequent to the completion of the construction of the home. An exemption amount of \$10,000 will continue for ten consecutive years after the exemption is claimed, until the property ceases to be classified as residential, or until the geothermal system ceases to exist, whichever occurs first.

EXAMPLE D: Same facts as Example C, except that Mr. Larson claims the exemption in 2019. The exemption amount in 2019, and the nine subsequent years, is the value added in the year the geothermal heating and cooling system was first assessed; here, \$10,000 in 2013. The value added and exemption amount is not calculated in the year Mr. Larson claims the exemption. The \$10,000 exemption will then continue until 2028, until the property ceases to be classified as residential or until the geothermal system ceases to exist, whichever occurs first.

This rule is intended to implement Iowa Code section 427.1.
[ARC 0467C, IAB 11/28/12, effective 1/2/13]

701—80.30(426C) Business property tax credit.

80.30(1) Definitions. For purposes of this rule, the following definitions shall govern.

“*Contiguous parcels*” means any of the following:

1. Parcels that share a common boundary. There is a rebuttable presumption that parcels separated by a roadway, alley, or waterway do not share a common boundary. The burden of proof shall be upon the property owners to provide evidence or verification that parcels separated by a roadway, alley, or waterway share a common boundary. Parcels owned to the middle of a road, waterway, alley, or railway in fee simple title are considered to share a common boundary.

2. Parcels within the same building or structure regardless of whether the parcels share a common boundary.

3. Permanent improvements to the land that are situated on one or more parcels of land that are assessed and taxed separately from the permanent improvements if the parcels of land upon which the permanent improvements are situated share a common boundary. This arrangement is more commonly referred to as buildings or permanent improvements that are taxed as buildings upon leased land.

“*Dwelling unit*” means an apartment, group of rooms, or single room that is occupied as separate living quarters, or, if vacant, is intended for occupancy as separate living quarters, in which a tenant can live and sleep separately from any other persons in the building. A vacant dwelling unit that does not have active utility services is not considered to be intended for occupancy. Dwelling units do not include hotels, motels, inns, or other buildings where rooms are rented for less than one month.

“*Multiresidential property*” means, for valuations established on or after January 1, 2015, any of the following types of property:

1. Mobile home park as defined in Iowa Code section 435.1.

2. Manufactured home community and land-leased community as defined in Iowa Code sections 335.30A and 414.28A and 2013 Iowa Acts, chapter 123, section 28.

3. Assisted living facility as defined in Iowa Code section 231C.2. Assisted living facility also includes:

- A health care facility as defined in Iowa Code section 135C.1;
- A child foster care facility under Iowa Code chapter 237; or
- Property used for a hospice program as defined in Iowa Code section 135J.1.

4. Property primarily used or intended for human habitation containing three or more separate dwelling units.

5. That portion of a building that is used or intended for human habitation and a proportionate share of the land upon which the building is situated, regardless of the number of dwelling units located in the building, if the use for human habitation is not the primary use of the building and such building is not otherwise classified as residential property.

Multiresidential property does not include hotels, motels, inns, or other buildings where rooms or dwelling units are usually rented for less than one month.

“*Parcel*” means each separate item shown on the tax list, manufactured or mobile home tax list, schedule of assessment, or schedule of rate change or charge. For fiscal years beginning on or after January 1, 2016, “parcel” also means that portion of a parcel assigned to be commercial property, industrial property, or railway property pursuant to 2013 Iowa Acts, chapter 123, section 28.

“*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.

“*Property unit*” means contiguous parcels all of which are located within the same county, with the same property tax classification, are owned by the same person, and are operated by that person for a common use and purpose.

80.30(2) In general. Except as provided in subrule 80.30(8), for property taxes due and payable in fiscal years beginning on and after July 1, 2014, one business property tax credit is available to each parcel classified and taxed as commercial property, industrial property, or railway property unless the parcel is part of a property unit for which a business property tax credit is claimed. For property taxes due and payable in fiscal years beginning on and after July 1, 2014, one business property tax credit is

available to each property unit made up of property assessed as commercial property, industrial property, or railway property.

80.30(3) Application for credit.

a. Notwithstanding paragraph 80.30(3) “*b*,” for a business property tax credit against property taxes due and payable during the fiscal year beginning July 1, 2014, the claim for credit shall be received in the office of the applicable city or county assessor not later than January 15, 2014.

b. For a business property tax credit against property taxes due and payable during fiscal years beginning on and after July 1, 2015, no business property tax credit shall be allowed unless the first application for business property tax credit is received in the office of the applicable city or county assessor on or before March 15 preceding the fiscal year during which the credit first is claimed. For example, the first application for a business property tax credit against property taxes due and payable during the fiscal year beginning July 1, 2016, must be received in the office of the applicable city or county assessor on or before March 15, 2016.

c. A claim filed after the filing deadlines set forth in paragraphs 80.30(3) “*a*” and 80.30(3) “*b*” will be applied against property taxes due and payable for the following year.

d. Once filed, the claim for credit is applicable to subsequent years, and no further filing shall be required as long as the parcel or property unit satisfies the requirements of the credit. If the parcel or property unit ceases to qualify for the credit, the owner shall provide written notice to the assessor by the date for filing claims in paragraph 80.30(3) “*b*” following the date on which the parcel or property unit ceases to qualify for the credit. When all or a portion of a parcel or property unit that is allowed a credit is sold or transferred or ownership otherwise changes, the buyer, transferee, or new owner who wishes to receive the credit shall refile the claim for credit. When a portion of a parcel or property unit that is allowed a credit is sold or transferred or ownership otherwise changes, the owner of the portion of the parcel or property unit for which ownership did not change shall refile the claim for credit.

e. In the event March 15 falls on either a Saturday or Sunday, applications for the business property tax credit may be received in the office of the applicable city or county assessor the following Monday.

f. In the event March 15 falls on a state holiday, applications for the business property tax credit may be received in the office of the applicable city or county assessor the following business day.

g. For assessment years 2013, 2014, and 2015, Table 1 shows the applicable claim receipt deadlines and the taxes toward which the claim applies.

Table 1

	Assessment Year 2013	Assessment Year 2014	Assessment Year 2015
Claim Receipt Deadline	January 15, 2014	March 16, 2015*	March 15, 2016
For Taxes Payable	September 2014 & March 2015	September 2015 & March 2016	September 2016 & March 2017

* March 15, 2015, falls on a Sunday.

h. An assessor may not refuse to accept an application for business property tax credit. Assessors shall remit claims for credit to the county auditor with a recommendation to allow or disallow the claim. If it is the opinion of the assessor that a business property tax credit should not be allowed, the assessor’s recommendation to the county auditor shall include in writing the reasons for recommending disallowance.

i. Upon receipt from the assessor of the claims and recommendations, the county auditor shall forward the claims to the board of supervisors. The board shall allow or disallow the claims. If the board disallows a claim for credit, the board shall send written notice by mail to the claimant at the claimant’s last-known address. The written notice shall state the reasons for disallowing the claim for

the credit. Notwithstanding the foregoing, the board is not required to send notice that a claim for credit is disallowed if the claimant voluntarily withdraws the claim.

80.30(4) Appeals.

a. Initial appeal. Any person whose claim is disallowed by the board of supervisors may appeal that action to the district court of the county in which the parcel or property unit is located. Notice of appeal must be given to the county auditor within 20 days from the date on which the notification of disallowance was mailed by the board of supervisors.

b. Reversal. If the board of supervisors' disallowance of the claim for credit is reversed upon appeal, the credit shall be allowed on the applicable parcel or property unit. The director of revenue, the county auditor, and the county treasurer shall provide the credit and change their books and records accordingly. If the claimant has paid one or both of the installments of the tax payable in the year or years in question, the county treasurer shall remit the amount of the credit to the claimant and submit a request to the department for reimbursement from the business property tax credit fund. The amounts payable as credits awarded on appeal shall be allocated and paid from the balance remaining in the business property tax credit fund established in Iowa Code section 426C.2.

80.30(5) Audit.

a. Authority and period. The director of revenue may audit any credit provided under 2013 Iowa Acts, chapter 123. However, the director shall not adjust a credit allowed more than three years from October 31 of the year in which the claim for credit was filed.

b. Recalculation or denial. If an audit reveals that the amount of the credit was incorrectly calculated or that the credit should not have been allowed, the director shall recalculate the credit, if applicable, and notify both the claimant and the county auditor of the recalculation and the reasons it is being made.

c. Recapture. If the credit has already been paid, the director shall notify the claimant, the county treasurer, and the applicable assessor of the recalculation or denial of the credit. If the claimant still owns the parcel or property unit for which the credit was claimed, the county treasurer shall collect the tax owed in the same manner as other due and payable property taxes are collected. If the claimant no longer owns the parcel or property unit for which the credit was claimed, the department may recover the amount of tax owed by filing a lien under Iowa Code section 422.26 or by issuing a jeopardy assessment under Iowa Code section 422.30. Upon collection, the amount of the erroneously allowed credit shall be deposited in the business property tax credit fund.

d. Appeal of recalculation or denial. The claimant or the board of supervisors may appeal any decision of the director to the state board of tax review. The state board shall review the director's decision in accordance with Iowa Code section 421.1, subsection 5. The claimant, the board of supervisors, and the director may all seek judicial review of the state board of tax review's decision pursuant to the provisions of Iowa Code chapter 17A.

e. False claim and penalty. Any person who makes a false claim for the purpose of obtaining a credit or who knowingly receives the credit without being legally entitled to it is guilty of a fraudulent practice. The claim for a credit for such a person shall be disallowed, and the director shall send a notice of disallowance. If the credit has been paid, the amount shall be recovered in the manner described in paragraph 80.30(5) "c."

80.30(6) Property eligible for credit.

a. Eligible parcels.

(1) Except as provided in subrule 80.30(8), individual parcels or multiple parcels that comprise a property unit that is classified and taxed as commercial property, industrial property, or railway property under Iowa Code chapter 434 are eligible for the business property tax credit for the unit.

(2) Parcels that, in part, would satisfy the requirements for classification as multiresidential property as defined in 2013 Iowa Acts, chapter 123, section 28, where the primary use of the building is not for human habitation with three or more units and the building is not otherwise classified as a residential property are eligible for the business property tax credit against valuations established prior to January 1, 2015.

b. Eligible property units. Except as provided in subrule 80.30(8), only property units made up of property assessed and taxed as commercial property, industrial property, or railway property under Iowa Code chapter 434 are eligible for the business property tax credit. To be eligible as a property unit, all of the parcels that make up the property unit must be:

- (1) Located within the same county;
- (2) The same property classification;
- (3) Owned by the same person;
- (4) Contiguous as defined in subrule 80.30(1); and
- (5) Operated by that person for a common use and purpose.

c. Taxable status of parcels and property units.

(1) A parcel that is fully exempt from property tax is not eligible to receive the business property tax credit. A property unit that is comprised of one or more parcels that are fully exempt from property tax is not eligible to receive the business property tax credit.

(2) An application for the business property tax credit shall be denied if a parcel or parcels are fully exempt from property tax at the time the application for credit is filed with the city or county assessor.

(3) Determination of eligibility of parcel or property unit based on taxable status.

1. The taxable status of the property on July 1 of the assessment year shall determine the eligibility of the parcel or property unit to receive the credit. If the parcel or property unit becomes exempt from property tax prior to July 1 of the assessment year, the credit shall be disallowed. If the parcel or property unit was taxable on July 1 of the assessment year, but becomes exempt after July 1, the parcel or property unit may receive the credit only in the prorated amount that corresponds to the amount of tax paid in that fiscal year, if any.

2. The assessor shall give notice to the auditor of partial credits allowed due to a change in taxable status of a parcel or property unit. The auditor shall update the auditor's file and give notice on forms prescribed by the department to the department of revenue of partial credits allowed due to a change in taxable status of a parcel or property unit.

(4) The owner of any parcel or property unit that has been granted the credit but becomes exempt from property tax prior to July 1 of the assessment year shall provide written notice to the city or county assessor by the date for filing claims.

(5) The taxable portion of any partially exempted property shall receive the credit only in an amount applicable to the taxable portion.

80.30(7) Common use and purpose. Whether parcels are operated for a common use and purpose depends on all the facts and circumstances of each set of parcels. The following nonexclusive examples illustrate common use and purpose.

EXAMPLE 1. ABC Properties is in the business of building, owning, leasing, and managing large retail spaces. ABC builds and owns a large shopping mall that covers contiguous parcels, all of which are located within the same county. Although the retail establishments that lease retail space in the shopping mall offer different products and services, the shopping mall is owned and operated by ABC for the common use and purpose of being a lessor. Thus, the parcels that make up the mall are eligible as a single property unit.

EXAMPLE 2. John's LLC owns four commercial parcels located within the same building, and they are, therefore, contiguous as defined in subrule 80.30(1). John's owns and operates two parcels as a beauty parlor. John's rents the other two parcels to a bicycle shop. The four parcels, together, do not have a common use and purpose. However, the two parcels used by John's as an owner-operator of the beauty parlor business are operated with the common use and purpose of providing beauty services and are eligible as one property unit. The two parcels that John's rents to the bicycle shop are operated with the common use and purpose of being rented out for profit as a landlord and are eligible as a second property unit.

80.30(8) Property ineligible for credit. All of the following are not eligible to receive a business property tax credit or to be part of a property unit that receives the business property tax credit:

- a. Property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code, as amended, and that is subject to assessment procedures relating to Section 42 property under Iowa Code section 441.21, subsection 2, for the applicable assessment year.
- b. Mobile home park as defined in Iowa Code section 435.1.
- c. Manufactured home community and land-leased community as defined in Iowa Code sections 335.30A and 414.28A and 2013 Iowa Acts, chapter 123, section 28.
- d. Assisted living facility as defined in Iowa Code section 231C.2. Assisted living facility also includes:
 - (1) A health care facility as defined in Iowa Code section 135C.1;
 - (2) A child foster care facility under Iowa Code chapter 237; or
 - (3) Property used for a hospice program as defined in Iowa Code section 135J.1.
- e. Property primarily used or intended for human habitation with three or more separate dwelling units.

80.30(9) Application of credit.

- a. A person may claim and receive one business property tax credit for each eligible parcel unless the parcel is part of a property unit for which a credit is claimed.
- b. A person may claim and receive one business property tax credit for each property unit.
- c. A credit approved for a property unit shall be allocated to the several parcels within the property unit in the proportion that each parcel's total amount of property taxes due and payable bears to the total amount of property taxes due and payable on the property unit.
- d. The classification of property used to determine eligibility for the business property tax credit shall be the classification of the property for the assessment year used to calculate the taxes due and payable in the fiscal year for which the credit is claimed.
- e. Once filed and allowed, the credit shall continue to be allowed on the parcel or property unit for successive years without further filing of an application unless the parcel or property unit ceases to qualify for the credit under Iowa Code chapter 421C.
- f. When all or a portion of a parcel or property unit is sold or transferred or ownership otherwise changes, the new owner must reapply for the credit. The owner of the portion of a parcel or property unit that did not change shall also reapply for the credit.
- g. The following noninclusive examples illustrate the application of the business property tax credit under various circumstances.

EXAMPLE 1. On February 13, 2015, Mr. Jones files with his county assessor an application for the business property tax credit for taxes due and payable in the fiscal year beginning July 1, 2015. The property that Mr. Jones claims is eligible for the credit is a single parcel that is classified as commercial property. The property is not rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code. The property is not a mobile home park, manufactured home community, land-leased community, or assisted living facility nor is it primarily used or intended for human habitation with three or more separate dwelling units. Therefore, Mr. Jones' application should be approved as a credit against the taxes due and payable in the fiscal year beginning July 1, 2015.

EXAMPLE 2. Same facts as in EXAMPLE 1, but Mr. Jones files his application on March 17, 2015. Mr. Jones' application should be approved, but the credit will be against taxes due and payable in the fiscal year beginning July 1, 2016.

EXAMPLE 3. Davidoff LLC owns two parcels of land, both of which are classified as industrial property. Each parcel is being operated for a common use and purpose. The parcels are separated by a road. If Davidoff owns the property parcels to the middle of the road in fee simple title, the parcels are considered contiguous and would qualify as a unit, and Davidoff would be eligible for a single business property tax credit. If a third party, including the state, a municipality, or other government entity, owned the road in fee simple title, the parcels would not be considered contiguous, and Davidoff would be eligible for two separate business property tax credits.

EXAMPLE 4. In Madison County, Iowa, there is a wind farm that consists of four wind turbines that are taxed separately as permanent improvements to the land. All the wind turbines are owned by Windy LLC. The turbines sit upon four parcels of land that share a common boundary. Each parcel of land is

owned by a different owner. The four wind turbines are contiguous because the wind turbines are taxed as permanent improvements to the land, they are situated upon four parcels of land that share a common boundary, and the land is assessed and taxed separately from the wind turbines. The four wind turbines qualify as a property unit and would be eligible for one business property tax credit.

80.30(10) Calculation of credit.

a. Auditor certification. On or before June 30 of each year, the county auditor shall certify to the department the following:

- (1) The claims allowed by the board of supervisors in that county;
- (2) The actual value, prior to the imposition of any applicable assessment limitations, of the parcels and property units for which credits were allowed in that county; and
- (3) The information applicable to the location of the parcels and property units.

b. Department process and methodology.

(1) Department of management information. The department shall obtain from the department of management tax district and applicable consolidated rates.

(2) Initial amount of actual value. For each parcel or property unit certified by the county auditor, the department shall calculate, for each fiscal year, an initial amount of actual value to use for determining the amount of credit for each such parcel or property unit that provides the maximum possible credit according to the credit formula and limitations prescribed by Iowa Code section 426C.3(5). The department shall also calculate the initial amount of actual value so as to provide that the total dollar amount of credits against the taxes due and payable in the fiscal year equals 98 percent of the moneys in the business property tax credit fund following the deposit of the appropriation for the fiscal year, including any interest or earnings that have been credited to the fund.

(3) Credit amount. The amount of the credit shall be calculated as follows:

Step 1. Determine the lesser of the actual value calculated in paragraph 80.30(10) "a" and the initial value calculated in subparagraph 80.30(10) "b"(2).

Step 2. Multiply the amount determined in Step 1 by the difference between the assessment limitation percentage applicable to the parcel or property unit under Iowa Code section 441.21(5) and the assessment limitation applicable to residential property under Iowa Code section 441.21(4). For purposes of this calculation, such difference shall be stated as a percentage.

Step 3. Divide the product of Steps 1 and 2 by \$1000.

Step 4. Multiply the quotient obtained in Step 3 by the consolidated levy rate or average consolidated levy rate per \$1000 of taxable value applicable to the parcel or property unit for the fiscal year for which the credit is claimed as certified by the county auditor under Iowa Code section 426C.3(5).

(4) Allocation to parcels. The business property tax credit approved for a property unit shall be allocated to the several parcels within the property unit in the proportion that each parcel's total amount of property taxes due and payable bears to the total amount of property taxes due and payable on the property unit.

(5) Limitation on information. Notwithstanding the foregoing, the department's calculations shall be based upon the certified information it has received by June 30 of each fiscal year. Any information, whether certified or uncertified, received after June 30 of each fiscal year will not be included in the department's credit calculations for the applicable fiscal year.

This rule is intended to implement Iowa Code chapter 426C.

[ARC 1382C, IAB 3/19/14, effective 4/23/14]

701—80.31 to 80.48 Reserved.

701—80.49(441) Commercial and industrial property tax replacement—county replacement claims. For each fiscal year beginning on or after July 1, 2014, the department of revenue shall pay to the county treasurer an amount equal to the amount of the commercial and industrial property tax replacement claims in the county. For fiscal years beginning on or after July 1, 2017, if an amount appropriated for a fiscal year is insufficient to pay all replacement claims, the director of revenue shall

prorate the payment of replacement claims to the county treasurers and shall notify the county auditors of the pro rata percentage on or before September 30.

80.49(1) For each taxing district, the commercial and industrial property tax replacement claim amount is determined by multiplying the amounts calculated in 80.49(1) “a” and “b” and dividing the resultant amount by \$1,000.

a. The difference between the assessed valuation of all commercial property and industrial property for the assessment year used to calculate taxes which are due and payable in the applicable fiscal year and the actual value of all commercial property and industrial property that is subject to assessment and taxation for the same assessment year; and

b. The tax levy rate per \$1,000 of assessed value of each taxing district for that fiscal year.

80.49(2) Reporting requirements.

a. On or before July 1 of each fiscal year beginning on or after July 1, 2014, the assessor shall report to the county auditor the total actual value of all commercial and industrial property in the county that is subject to assessment and taxation for the assessment year used to calculate the taxes due and payable in that fiscal year.

b. On or before September 1 of each fiscal year beginning on or after July 1, 2014, the county auditor shall, based upon the information in the report required to be provided in paragraph “a” of this subrule, prepare and submit a statement to the department of revenue which lists, for each taxing district in the county, the information required in 80.49(1).

c. The department shall pay the replacement amount to the county treasurer in two installments in September and March of each year.

d. The county treasurer shall apportion the replacement claim payments among the eligible taxing districts in the county.

[ARC 1332C, IAB 2/19/14, effective 3/26/14]

701—80.50(427,441) Responsibility of local assessors.

80.50(1) The assessor shall determine the taxable status of all property. If an application for exemption is required to be filed, the assessor shall consider the information contained in the application in determining the taxable status of the property. The assessor may also request from any property owner or claimant any additional information necessary to the determination of the taxable status of the property. For property subject to Iowa Code subsection 427.1(14), the assessor shall not base the determination of the taxable status of property solely on the statement of objects or purposes of the organization, institution, or society seeking an exemption. The use of the property rather than the objects or purposes of the organization, institution, or society shall be the controlling factor in determining the taxable status of property. (*Evangelical Lutheran G.S. Society v. Board of Review of Des Moines*, 200 N.W.2d 509; *Northwest Community Hospital v. Board of Review of Des Moines*, 229 N.W.2d 738.)

80.50(2) In determining the taxable status of property, the assessor shall construe the appropriate exemption statute and these rules in a strict manner. If there exists any doubt as to the taxable status of property, the property shall be subject to taxation. The burden shall be upon the claimant to show that the exemption should be granted. (*Evangelical Lutheran G.S. Society v. Board of Review of Des Moines*, 200 N.W.2d 509; *Southside Church of Christ of Des Moines v. Des Moines Board of Review*, 243 N.W.2d 650; *Aerie 1287, Fraternal Order of Eagles v. Holland*, 226 N.W.2d 22.)

80.50(3) If the assessor determines that all or part of a property is subject to taxation, the assessor shall notify the taxpayer by the issuance of an assessment roll as provided in Iowa Code sections 441.26 and 441.27. If the assessor determines that property has been erroneously exempted from taxation, the assessor shall revoke the exemption for the current assessment year but not for prior assessment years.

80.50(4) The assessor’s determination of the taxable status of property may be appealed to the local board of review pursuant to Iowa Code section 441.37.

This rule is intended to implement Iowa Code chapter 427 and sections 441.17(11), 441.26, and 441.27.

[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.51(441) Responsibility of local boards of review.

80.51(1) If the board of review determines that property has been erroneously exempted from taxation, the board of review shall revoke the exemption for the current assessment year, but not for prior assessment years, and shall give notice to the taxpayer as provided in Iowa Code section 441.36.

80.51(2) If the board of review acts in response to a protest arising from an assessor's determination of the taxable status of property, the board of review shall notify the taxpayer of its disposition of the protest in accordance with the provisions of Iowa Code section 441.37.

This rule is intended to implement Iowa Code sections 441.35, 441.36, and 441.37.
[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.52(427) Responsibility of director of revenue. The director may revoke or modify an exemption on property if the exemption is found to have been erroneously granted by the local taxing officials. Any taxpayer or taxing district may request that the director revoke or modify an exemption, or the director may on the director's own determination revoke or modify an exemption. The director may revoke or modify an exemption for the tax year commencing in the tax year in which the request is made to the director or for the tax year commencing in the tax year in which the director's own motion is filed. The director shall hold a hearing on the appropriateness of the exemption prior to issuing an order for revocation or modification. The director's order to revoke or modify an exemption may be appealed in accordance with Iowa Code chapter 17A or in the district court of the county in which the property is located.

This rule is intended to implement Iowa Code section 427.1(16).
[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.53(427) Application for exemption.

80.53(1) Each society or organization seeking an exemption under Iowa Code subsection 427.1(5), 427.1(8), 427.1(21), or 427.1(33) shall file with the appropriate assessor a statement containing the following information:

- a. The legal description of the property for which an exemption is requested.
- b. The use of all portions of the property, including the percentage of space not used for the appropriate objects of the society or organization and the percentage of time such space is so utilized.
- c. A financial statement showing the income derived and the expenses incurred in the operation of the property.
- d. The name of the organization seeking the exemption.
- e. If the exemption is sought under Iowa Code subsection 427.1(8), the appropriate objects of the society or organization.
- f. The book and page number on which is recorded the contract of purchase or the deed to the property and any lease by which the property is held.
- g. An oath that no persistent violations of the laws of the state of Iowa will be permitted or have been permitted on such property.
- h. The signature of the president or other responsible official of the society or organization showing that information contained in the claim has been verified under oath as correct.

80.53(2) The statement of objects and uses required by Iowa Code subsection 427.1(14) shall be filed only on forms prescribed by the director of revenue and made available by assessors.

80.53(3) Applications for exemptions required under Iowa Code subsection 427.1(14) must be filed with the assessor not later than February 1 of the year for which the exemption is requested.

80.53(4) If a properly completed application is not filed by February 1 of the assessment year for which the exemption would apply, no exemption shall be allowed against the property for that year (1964 O.A.G. 437).

This rule is intended to implement Iowa Code section 427.1, subsections 5, 8, 14, 19 to 24, 27, and 29 to 33.
[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.54(427) Partial exemptions. In the event a portion of property is determined to be subject to taxation and a portion of the property exempt from taxation, the taxable value of the property shall be an amount which bears the same relationship to the total value of the entire property as the area of the portion subject to taxation bears to the area of the entire property. If a portion of a structure is subject to taxation, a proportionate amount of the value assigned to the land upon which the structure is located shall also be subject to taxation.

This rule is intended to implement Iowa Code subsection 427.1(14).
[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.55(427,441) Taxable status of property.

80.55(1) The status of property on July 1 of the fiscal year which commences during the assessment year determines eligibility of the property for exemption in situations where no claim is required to be filed to procure a tax exemption. If the property is in a taxable status on July 1, no exemption is allowable for that fiscal year. If the property is in an exempt status on July 1, no taxes are to be levied against the property during that fiscal year. Exceptions to this rule are as follows:

a. Land acquired by the state of Iowa or a political subdivision thereof after July 1 in connection with the establishment, improvement, or maintenance of a public road shall be taxable for that portion of the fiscal year in which the property was privately owned.

b. All current and delinquent tax liabilities are to be canceled and no future taxes levied against property acquired by the United States or its instrumentalities, regardless of the date of acquisition, unless the United States Congress has authorized the taxation of specific federally owned property (1980 O.A.G. 80-1-19). The following exceptions apply:

(1) Property owned by the Federal Housing Authority (FHA) and property owned by the Federal Land Bank Association are subject to taxation, and any tax liabilities existing at the time of the acquisition are not to be canceled (1982 O.A.G. 82-1-16; 12 USCS §2055).

(2) Existing tax liabilities against property acquired by the Small Business Administration are not to be canceled if the acquisition takes place after the date of levy. However, no taxes are to be levied if the acquisition takes place prior to the levy date or for subsequent fiscal years in which the Small Business Administration owns the property on July 1 (15 USCS §646).

c. Land owned by the state and leased by the department of corrections or the department of human services pursuant to Iowa Code section 904.302, 904.705, or 904.706 to an entity that is not exempt from property tax is subject to taxation for the term of the lease. This provision applies to leases entered into on or after July 1, 2003. The lessor shall file a copy of the lease with the county assessor of the county where the land is located.

80.55(2) The status of property during the fiscal year for which an exemption was claimed determines eligibility of the property for exemption in situations where a claim is required to be filed to procure a tax exemption. If the property is used for an appropriate purpose for which an exemption is allowable for all of the fiscal year for which the exemption is claimed, no taxes are to be levied against the property during that fiscal year. If the property for which an exemption has been claimed and received is used for an appropriate purpose for which an exemption is allowable for only a portion of the fiscal year for which the exemption is claimed, the taxes shall be prorated in accordance with the period of time the property was in a taxable status during the fiscal year.

This rule is intended to implement Iowa Code sections 427.1(1), 427.1(2), 427.2, 427.18, and 427.19.
[ARC 7726B, IAB 4/22/09, effective 5/27/09]

701—80.56(427) Abatement of taxes. The board of supervisors may abate the taxes levied against property acquired by gift or purchase if the property was acquired after the deadline for filing a claim for property tax exemption if the property would have been exempt under Iowa Code section 427.1, subsection 7, 8, or 9, if a timely claim had been filed.

This rule is intended to implement Iowa Code section 427.3.
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