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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.

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NEIGHBORHOOD STABILIZATION PROGRAM

261—27.1(15) Purpose. The purpose of the neighborhood stabilization program is to prevent or reduce the decline of neighborhoods caused by abandoned and foreclosed homes, primarily by providing assistance for the redevelopment of the abandoned and foreclosed properties.

[ARC 7709B, IAB 4/8/09, effective 3/20/09]

261—27.2(15) Definitions. When used in this chapter, unless the context otherwise requires:

“*Act*” or “*HERA*” means Title III of Division B of the Housing and Economic Recovery Act of 2008, as amended by the American Recovery and Reinvestment Act of 2009.

“*Activity*” means a discrete category of work as determined to be eligible under program guidelines.

“*Blighted structure*” means a structure exhibiting objectively determinable signs of deterioration sufficient to constitute a threat to public health, safety or welfare.

“*CDBG*” means the community development block grant program, authorized by Title I of the Housing and Community Development Act of 1974, as amended as of February 28, 2009.

“*Contract*” means the document executed between IDED and a recipient and all other instruments or documents executed by a recipient or otherwise required in connection with the contract, including the NSP plan or application together with any related submittal documents.

“*Entitlement community*” means principal cities of metropolitan statistical areas (MSAs); other metropolitan cities with populations of at least 50,000; and qualified urban counties with populations of at least 200,000 (excluding the population of entitled cities).

“*Foreclosed property*” means a home or residential property for which any mortgage or tax foreclosure with respect to such property is complete, and the title of such property has transferred to the appropriate person as determined under the mortgage or tax foreclosure proceeding.

“*Home*” means any type of permanent residential dwelling unit including, but not limited to, detached single-family structures, townhouses, condominium units, multifamily rental apartments (covering the entire property), and manufactured homes which are treated under state law as real estate and not personal property.

“*HUD*” means the federal Department of Housing and Urban Development.

“*IDED*” means the Iowa department of economic development established in Iowa Code chapter 15.

“*Land bank*” means any governmental or nongovernmental nonprofit entity established, at least in part, to assemble, temporarily manage, and dispose of homes and residential properties that have been foreclosed upon.

“*Low-income household*” means a household earning no more than 50 percent of the area median income as defined by HUD.

“*Low-income person*” means a member of a low-income household as defined above.

“*Low-, moderate-, and middle-income household*” or “*LMMH*” means a household earning no more than 120 percent of the area median income as defined by HUD.

“*Low-, moderate-, and middle-income person*” means a member of a low-, moderate-, and middle-income household as defined above.

“*Non-entitlement community*” means a unit of general local government which does not receive CDBG funds directly from HUD as part of the entitlement program (entitlement cities and urban counties). Non-entitlement areas are cities with populations of less than 50,000 (except cities that are designated principal cities of metropolitan statistical areas) and counties with populations of less than 200,000.

“*Residential property*” means, collectively, homes and vacant land currently designated for residential use, such as through a zoning ordinance.

[ARC 7709B, IAB 4/8/09, effective 3/20/09]

261—27.3(15) Program eligibility.

27.3(1) Eligible applicants. Eligible applicants are those communities within the state with the greatest need, as determined by IDED using the methodology specified by HUD, which would include the following factors: areas with the greatest percentage of home foreclosures, areas with the highest percentage of homes financed by a subprime mortgage-related loan, and areas likely to face a significant rise in the rate of home foreclosures.

27.3(2) Eligible activities. Eligible activities, as limited by federal law and regulation, are the following:

a. Financing mechanisms for the purchase and redevelopment of foreclosed homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers;

b. Purchase and rehabilitation of homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties;

c. Establishment and operation of land banks for homes and residential properties that have been foreclosed upon;

d. Demolition of blighted structures;

e. Redevelopment of demolished or vacant properties.

[ARC 7709B, IAB 4/8/09, effective 3/20/09]

261—27.4(15) Allocation of funding. IDED will allocate the available federal funding between the large entitlement communities and the smaller non-entitlement communities based on measurable statistics relating to the three factors required by federal law relating to the determination of need as described in 27.3(1). After that division of funding has been determined, IDED will determine an amount to be allocated to each of the entitlement communities, based upon the need factors for each of the respective communities. If allocation results in an amount of funding to a community or communities that is too small to result in an effective program, IDED may reallocate those funds to the other entitlement communities according to the percentages calculated based on the need factors. The funding available to the smaller non-entitlement communities will be distributed on a competitive basis, upon receipt and review of applications from each community. The maximum award to a non-entitlement community will be \$1 million.

[ARC 7709B, IAB 4/8/09, effective 3/20/09]

261—27.5(15) Application procedures.

27.5(1) Application procedures for entitlement communities. Eligible entitlement communities shall submit to IDED a neighborhood stabilization plan that provides details on their proposed activities, includes a project budget, and demonstrates compliance with federal rules and regulations governing the program.

27.5(2) Application procedures for non-entitlement communities. Non-entitlement communities requesting funds must complete an application similar in content to the plan submitted by the entitlement communities.

27.5(3) Application/plan contents. The plan submitted by the entitlement communities, and the application submitted by the non-entitlement communities, shall include at least the following information:

a. General project description;

b. Budget for all activities;

c. Projected start and end dates;

d. Demonstration of how the project will meet all federal requirements, including the requirements to benefit households with incomes of less than 120 percent of area median income and that at least 25 percent of the funding will benefit households with incomes of less than 50 percent of area median income;

e. Targeted geographical area of the community for the proposed activities;

f. Additional detail on each of the separate proposed activities.

[ARC 7709B, IAB 4/8/09, effective 3/20/09]

261—27.6(15) Plan and application review process.

27.6(1) Entitlement communities. IDEED will review each plan from an entitlement community to ensure that the proposed activities are eligible activities and that the plan as proposed is in conformance with federal law and regulations. Plans that meet both tests will be approved.

27.6(2) Non-entitlement communities. Applications from non-entitlement communities will be reviewed on a competitive basis. Each application will be reviewed, rated, and ranked by an IDEED review committee on the following factors:

- a. Need for assistance;
- b. Impact of the proposed activities;
- c. Degree of targeting of the activities within the community;
- d. Timeliness of the proposed project;
- e. Degree to which green development concepts are incorporated into the proposal.

[ARC 7709B, IAB 4/8/09, effective 3/20/09]

261—27.7(15) Award process. Upon award decisions, each community that submitted a plan or an application will be notified in writing of the department's decision. Successful applicants will be required to execute a contract with IDEED, which will include the proposed activities and budget, the terms of fund disbursement, the reporting requirements, and the federal and state compliance requirements.

[ARC 7709B, IAB 4/8/09, effective 3/20/09]

261—27.8(15) Project management.

27.8(1) Requests for funds. Recipients shall submit requests for funds in the manner and on forms prescribed by IDEED.

27.8(2) Record keeping and retention. Recipients shall retain all financial records, supporting documents and all other records pertinent to the NSP activities for five years after contract closeout. Representatives of IDEED shall have access to all records belonging to or in use by recipients pertaining to NSP funds.

27.8(3) Performance reports and reviews. Recipients shall submit performance reports to IDEED in the manner and on forms prescribed by IDEED. Reports shall assess the use of funds and progress of activities. IDEED may perform any reviews or field inspections necessary to ensure recipient performance.

27.8(4) Amendments to contracts. Any substantive change to a contract shall be considered an amendment. Such changes would include time extensions, budget revisions and significant alteration of the funded activities that change the scope, location, objectives or scale of the approved activity. Amendments must be requested in writing by a recipient and are not considered valid until approved in writing by IDEED following the procedure specified in the contract between a recipient and IDEED.

27.8(5) Contract closeout. Upon contract expiration, IDEED will initiate contract closeout procedures.

27.8(6) Compliance with federal, state and local laws and regulations. Recipients shall comply with all applicable laws and rules, including the applicable federal CDBG and HERA regulations, any provisions of the Iowa Code governing activities performed under this program, and with applicable local regulations.

27.8(7) Remedies for noncompliance. At any time before contract closeout, IDEED may, for cause, find that a recipient is not in compliance with the requirements of this program. At IDEED's discretion, remedies for noncompliance may include penalties up to and including the return of program funds to IDEED. Reasons for a finding of noncompliance include, but are not limited to, the recipient's use of funds for activities not described in the contract, the recipient's failure to complete funded activities in a timely manner, the recipient's failure to comply with applicable state or local rules or regulations, or the lack of a continuing capacity of the recipient to carry out the approved activity in a timely manner.

27.8(8) Appeals process for findings of noncompliance. Appeals will be entertained in instances where it is alleged that IDEED staff participated in a decision which was unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to IDEED. Appeals should be addressed to the division administrator of the division of community development. Appeals shall be in writing and submitted to IDEED within 15 days of receipt of the finding of noncompliance. The appeal shall include

reasons why the decision should be reconsidered. The director will make the final decision on all appeals.

[ARC 7709B, IAB 4/8/09, effective 3/20/09]

These rules are intended to implement Iowa Code sections 15.108(11) and 15.109 and the Housing and Economic Recovery Act of 2008.

[Filed Emergency ARC 7709B, IAB 4/8/09, effective 3/20/09]

CHAPTER 79
DISASTER RECOVERY BUSINESS RENTAL ASSISTANCE PROGRAM

261—79.1(15) Purpose. The purpose of the disaster recovery business rental assistance program is to provide financial assistance to a business located in or planning to locate in a business rental space that was physically damaged by the 2008 natural disaster(s). Assistance will be in the form of rental assistance to help offset building rental lease payments for a maximum of six months, not to exceed a total award amount of \$50,000. In-home businesses are not eligible for funds pursuant to this chapter.
[ARC 7708B, IAB 4/8/09, effective 3/20/09]

261—79.2(15) Definitions.

“Administrative entity” means a selected city that administers a local disaster recovery program or a council of government as established in Iowa Code section 28H.1.

“Business” means a corporation, a professional corporation, a limited liability company, a partnership, a sole proprietorship, or a nonprofit corporation.

“Department” means the Iowa department of economic development established by Iowa Code chapter 15.

“Disaster-damaged space” means a business rental space that was physically damaged by the 2008 natural disaster(s). This definition includes upper stories of a building that was physically damaged in the basement or ground floor, or both, as well as a building constructed at the same site to replace a building that was destroyed due to damage resulting from the 2008 natural disaster(s). In-home businesses are not eligible for funds pursuant to this chapter.

“Physically damaged” for the purpose of this program means physical damage caused by flooding, including overland flow, or physical damage caused by tornado. Damage caused by sanitary or storm sewer backup is not included unless the department determines that such damage was a direct result of the 2008 natural disaster(s).

[ARC 7708B, IAB 4/8/09, effective 3/20/09]

261—79.3(15) Eligible business; application review.

79.3(1) An eligible business is a business that:

- a. Is located in or planning to locate in a business rental space that was physically damaged by the 2008 natural disaster(s); and
- b. Has entered into or intends to enter into a minimum one-year, market-rate lease.

79.3(2) Applications received from businesses located in or planning to locate in a building in which the only damage incurred was a result of sanitary or storm sewer backup are subject to review by the department to determine eligibility. Factors used by the department to determine eligibility include, but are not limited to, review of insurance claims filed, damage to critical infrastructure and review of prior sanitary or storm sewer backup.

79.3(3) Applications received from businesses located in or planning to locate in a building that is zoned residential are subject to review by the department to determine eligibility. Factors used by the department to determine eligibility include, but are not limited to, review of the rental lease agreement, business plan and community comprehensive plan.

[ARC 7708B, IAB 4/8/09, effective 3/20/09]

261—79.4(15) Eligible program activities; maximum amount of assistance.

79.4(1) An eligible business may apply for rental assistance to help offset building rental lease payments for a maximum of six months.

79.4(2) The maximum amount of program funds available for rental assistance per business is the equivalent of six months’ rent up to a maximum of \$50,000.

[ARC 7708B, IAB 4/8/09, effective 3/20/09]

261—79.5(15) Distribution of funds to administrative entities.

79.5(1) *Types of financial assistance available.* An administrative entity shall provide financial assistance to an eligible business in compliance with the terms and conditions described in this rule. An

administrative entity may award funds in the form of a forgivable loan to a business that has entered into a minimum one-year, market-rate lease agreement. A forgivable loan is a loan that will be forgiven if the business remains open for the duration of the six-month period for which rental assistance is awarded.

79.5(2) Allocation of funds by an administrative entity. Applications will be processed by an administrative entity. Funds will be distributed upon request to the department from an administrative entity. The department will process requests for funds as received from an administrative entity no more frequently than once per week per administrative entity.

79.5(3) Program termination. Funds for this program shall be available through April 30, 2010.
[ARC 7708B, IAB 4/8/09, effective 3/20/09]

261—79.6(15) Program administration; reporting requirements. Each local administrative entity shall enter into a contract with an eligible business to provide assistance. The contract shall include terms and conditions that meet the requirements of these rules as well as provisions to require repayment if funds are not used in compliance with the program. Each local administrative entity shall provide oversight and contract administration to ensure that the recipients of program funds are meeting the contract requirements. Each local administrative entity shall collect data and submit reports to the department about the program in the form and content required by law.
[ARC 7708B, IAB 4/8/09, effective 3/20/09]

These rules are intended to implement Iowa Code section 15.109.

[Filed Emergency ARC 7708B, IAB 4/8/09, effective 3/20/09]

CHAPTERS 80 to 100
Reserved

CHAPTER 12
LOW-INCOME HOUSING TAX CREDITS

265—12.1(16) Qualified allocation plan. The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program 2009 Second Amended Qualified Allocation Plan shall be the qualified allocation plan for the allocation of 2009 low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.52. The qualified allocation plan includes the plan, application, and the application instructions. The qualified allocation plan is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The qualified allocation plan does not include any amendments or editions created subsequent to September 3, 2008.

265—12.2(16) Location of copies of the plan. The qualified allocation plan can be reviewed and copied in its entirety on the authority's Web site at <http://www.iowafinanceauthority.gov>. Copies of the qualified allocation plan, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority's Web site. The plan incorporates by reference IRC Section 42 and the regulations in effect as of September 3, 2008. Additionally, the plan incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's Web site.

265—12.3(16) Compliance manual. The Low Income Housing Tax Credit Program Compliance Monitoring Manual, dated January 31, 2009, is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

[ARC 7700B, IAB 4/8/09, effective 3/19/09]

265—12.4(16) Location of copies of the manual. The compliance manual can be reviewed and copied in its entirety on the authority's Web site at www.iowafinanceauthority.gov. Copies of the compliance manual shall be deposited with the administrative rules coordinator and at the state law library. The compliance manual incorporates by reference IRC Section 42 and the regulations in effect as of February 27, 2009. Additionally, the compliance manual incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and links to these statutes, regulations and rules are on the authority's Web site. Copies are available from the authority upon request at no charge.

[ARC 7700B, IAB 4/8/09, effective 3/19/09]

These rules are intended to implement Iowa Code section 16.52.

[Filed 6/23/88, Notice 12/30/87—published 7/13/88, effective 8/17/88]

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[Filed 12/10/08, Notice 11/5/08—published 12/31/08, effective 2/4/09]

[Filed Emergency ARC 7700B, IAB 4/8/09, effective 3/19/09]

CHAPTER 30
QUALIFIED MIDWESTERN DISASTER AREA BOND ALLOCATION

265—30.1(16) General. The governor has appointed the executive director of the Iowa finance authority as the governor's designee responsible for administration of the law which establishes procedures for allocating the authority to issue up to a specified amount of qualified midwestern disaster area ("MDA") bonds as defined in Section 1400N of the Internal Revenue Code, as amended by the Heartland Disaster Tax Relief Act ("Act") of 2008. The Act was passed in response to the disasters attributable to the severe storms, tornadoes, and flooding that gave rise to any of the presidential declarations of a major disaster on or after May 20, 2008, and before August 1, 2008, under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act and that were determined by the President to warrant individual or individual and public assistance from the federal government under such Act with respect to damages attributable to such severe storms, tornadoes, or flooding (collectively, "disasters"). The Act limits the aggregate face amount of bonds that may be designated as MDA bonds. The role of the governor's designee is to allocate on behalf of particular projects authorization to issue specified allotments of MDA bonds from the total aggregate face amount permitted under the Act. The authority to issue up to a specified face amount of MDA bonds, as allocated to a particular project pursuant to this chapter, may be referred to herein as an "allotment." Procedures set out in the Act and in these rules shall be followed in allocating allotments for the various purposes authorized by the Act. The allotments shall be allocated among all eligible applicants for those various purposes in accordance with the Act, Executive Order Number 9, and these rules.

[ARC 7703B, IAB 4/8/09, effective 5/13/09]

265—30.2(16) Forms. Information and forms necessary for compliance with provisions of the law are available upon request from the Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. The telephone number of the authority is (515)725-4900. Information and forms are also available at www.iowafinanceauthority.gov.

[ARC 7703B, IAB 4/8/09, effective 5/13/09]

265—30.3(16) Eligibility for allocation.

30.3(1) In the case of a project involving a private business use (as defined in Section 141(b)(6) of the Internal Revenue Code), to be eligible for an allotment, the applicant must certify that the entity using the property either:

- a. Suffered a loss in a trade or business attributable to the disasters; or
- b. Is a person designated for purposes of Section 1400N(a) of the Internal Revenue Code by the governor as a person carrying on a trade or business replacing a trade or business with respect to which another person suffered such a loss.

30.3(2) In the case of a project relating to public utility property, to be eligible for an allotment, the applicant must certify that the project involves repair or reconstruction of public utility property damaged by the disasters.

30.3(3) For a project to be eligible for an allotment as a qualified mortgage issue, the applicant must certify that 95 percent or more of the net proceeds (as defined in Section 150(a)(3) of the Internal Revenue Code) of the issue are to be used to provide financing for mortgagors who suffered damages to their principal residences attributable to the disasters.

[ARC 7703B, IAB 4/8/09, effective 5/13/09]

265—30.4(16) Formula for allocation.

30.4(1) Pro rata allocation.

a. Through December 31, 2009, allotments shall be allocated by the governor's designee on a pro rata basis among projects located in Iowa counties affected by the disasters. Projects in each county so affected shall be eligible, collectively, to receive in the aggregate a pro rata percentage (based on the percentage of housing assistance received by each county from the Federal Emergency Management Agency), as set forth on Schedule A at the end of this chapter, of \$2 billion of allotments. During such

period, all remaining portions of the total aggregate face amount of MDA bonds permitted under the Act, beyond the \$2 billion referenced above, shall be available to all eligible projects, without regard to proration.

b. Following December 31, 2009, all remaining allotments shall be available to all eligible projects, without regard to proration.

30.4(2) Subject to subrule 30.4(1) above, allotments shall be allocated among eligible applications on the basis of the chronological order of receipt of applications. Chronological order of receipt shall be determined by the date, hour and minute indicated by the time stamp as affixed to the application at the offices of the governor's designee.

30.4(3) All applications that are received by the governor's designee on or prior to December 22, 2008, pursuant to the provisions of rule 265—30.5(16) shall be considered simultaneously received at the opening of business on December 22, 2008, and the same date, hour and minute shall be stamped on each application so received. If the total amount of allotments requested in all of the applications received for projects located in a particular county exceeds the total amount that may be allocated for such county, the applications will be considered for allocation in the order determined pursuant to the procedures set forth in subrule 30.4(4).

30.4(4) In order to determine the order of allocation of the allotments to two or more applications that are simultaneously received pursuant to subrule 30.4(3) and for which there is insufficient capacity to allocate to each the full allotment requested, each such application shall be assigned a preference number determined by a random drawing to be conducted at the Iowa finance authority offices within one week following the receipt of the applications. The authority shall notify the affected applicants in writing and shall post a notice at its offices of the time and place of the drawing not less than three days prior to the scheduled drawing. Any person desiring to attend and witness the drawing and assigning of preference numbers may do so. Each application shall be assigned an identification code that shall be written on the outside of the sealed envelope containing the application. The identification codes shall be written on strips of paper and placed in individual envelopes and sealed. The sealed envelopes containing identification codes shall be placed in a container, mixed, and drawn from the container at random by a member of the authority's staff. The application that corresponds to the identification code that is drawn first shall be placed first on the list of applicants to receive an allotment. The application that corresponds to the identification code that is selected second shall be placed second on the list, and so forth. Drawings shall continue until all applications are assigned a place on the list of applications received.

30.4(5) The governor's designee shall maintain a list of applications for MDA bonds. Any applications that are deemed to be simultaneously received shall be listed in the order of preferences established pursuant to subrule 30.4(4). Applications received after December 22, 2008, shall be added to the appropriate list depending upon the subject of the application in the chronological order received.
[ARC 7703B, IAB 4/8/09, effective 5/13/09]

265—30.5(16) Application for allocation.

30.5(1) An applicant must produce to the governor's designee an inducement resolution adopted by a governmental entity authorized to issue bonds.

30.5(2) An applicant or beneficiary, or the duly authorized agent of an applicant or beneficiary, must make an application by filing the form entitled "Application for Midwestern Disaster Area Bonds" available from the governor's designee for the allocation of an allotment.

30.5(3) Applications may be submitted to the Iowa finance authority offices at any time. All applications received on or prior to December 22, 2008, will be deemed received simultaneously as of the date, hour and minute of the opening of business of the Iowa finance authority on the first business day immediately following December 22, 2008.

[ARC 7703B, IAB 4/8/09, effective 5/13/09]

265—30.6(16) Certification of allocation. Upon receipt of a completed application, the governor's designee shall promptly certify to the applicant the amount of the allotment allocated to the project for which the application was submitted. The governor's designee shall continue to allocate allotments

for eligible projects until the allotments allocated equal the maximum aggregate face amount that may be designated as MDA bonds under the Act or until there are no more applications, whichever occurs first. If the remaining allotment capacity is not sufficient to fully fund an application which is next in order for allocation, the governor's designee shall notify the applicant of the amount that is available and the applicant shall have the option to take what is available within five calendar days of receiving notice of availability. If the applicant does not notify the governor's designee of its decision to take the available allocation within five calendar days of receiving notice of that option, an allotment shall be offered under the same conditions to the applicant whose application is next on the list. If the partial allocation is accepted, the applicant shall submit a new application for an additional allotment and that application will be added to the bottom of the list in the chronological order of its receipt. If the bonds are issued and delivered prior to the expiration date of the allocation, then the applicant or the applicant's attorney shall within ten days following the issuance and delivery of the bonds notify the governor's designee by filing the form captioned "Notice of Issuance and Delivery of Bonds."

[ARC 7703B, IAB 4/8/09, effective 5/13/09]

265—30.7(16) Expiration of allocations. An allocation of an allotment pursuant to this chapter shall remain valid for 150 days from the date of allocation. If the sale of bonds for which an allocation was made has not closed within such time, the allocation shall expire and the allotment shall revert to the governor's designee to be reallocated, if possible; provided, however, that if the 150th day following the date of allocation is a Saturday, Sunday, or any day on which the offices of the state banking institutions or savings and loan associations in the state are authorized or required to close, the expiration date shall be extended to the first day thereafter which is not a Saturday, Sunday or previously described day. All MDA bonds must be issued prior to January 1, 2013.

[ARC 7703B, IAB 4/8/09, effective 5/13/09]

265—30.8(16) Resubmission of expired allocations. If an allocation expires, the applicant may resubmit its application for the same project or purpose. However, the resubmitted application shall be treated as a new application, and preference, priority or prejudice shall not be given to the application or the applicant as a result of the prior application.

[ARC 7703B, IAB 4/8/09, effective 5/13/09]

265—30.9(16) Application and allocation fees. The Iowa finance authority may set and charge reasonable fees for providing administrative assistance with regard to the filing of applications and the allocation of the qualified MDA bond allotments in accordance with these rules.

[ARC 7703B, IAB 4/8/09, effective 5/13/09]

These rules are intended to implement Iowa Code section 16.5(1)"r;" the Heartland Disaster Tax Relief Act of 2008, and Executive Order Number 9.

SCHEDULE A

County	Percentage	Prorated Allocation by County	County	Percentage	Prorated Allocation by County
Adair	0.05%	\$1,074,026	Jackson	0.01%	\$184,501
Adams	0.23%	\$4,674,743	Jasper	0.23%	\$4,631,735
Allamakee	0.21%	\$4,156,780	Johnson	3.98%	\$79,590,776
Appanoose	0.04%	\$747,338	Jones	0.48%	\$9,527,158
Audubon	0.06%	\$1,133,213	Keokuk	0.07%	\$1,404,759
Benton	1.64%	\$32,740,358	Kossuth	0.15%	\$3,000,532
Black Hawk	9.70%	\$194,054,143	Lee	0.16%	\$3,257,562
Boone	0.54%	\$10,777,646	Linn	44.60%	\$892,040,740
Bremer	3.19%	\$63,744,156	Louisa	4.63%	\$92,624,989

Buchanan	0.46%	\$9,222,892	Lucas	0.04%	\$889,986
Butler	3.34%	\$66,760,309	Madison	0.26%	\$5,295,901
Cass	0.11%	\$2,114,597	Mahaska	0.43%	\$8,699,165
Cedar	0.96%	\$19,192,565	Marion	0.17%	\$3,386,283
Cerro Gordo	2.07%	\$41,305,912	Marshall	0.55%	\$10,943,327
Chickasaw	0.16%	\$3,282,728	Mills	0.22%	\$4,393,101
Clarke	0.10%	\$2,021,648	Mitchell	0.11%	\$2,124,981
Clayton	0.39%	\$7,857,848	Monona	0.01%	\$247,739
Clinton	0.06%	\$1,216,146	Monroe	0.03%	\$674,240
Crawford	0.20%	\$4,028,327	Montgomery	0.42%	\$8,327,805
Dallas	0.16%	\$3,218,488	Muscatine	2.75%	\$54,984,728
Davis	0.13%	\$2,513,664	Page	0.49%	\$9,836,391
Decatur	0.21%	\$4,254,072	Polk	3.85%	\$76,915,389
Delaware	0.34%	\$6,739,264	Pottawattamie	0.36%	\$7,280,971
Des Moines	0.74%	\$14,707,356	Poweshiek	0.02%	\$480,377
Dubuque	0.33%	\$6,680,045	Ringgold	0.12%	\$2,329,089
Fayette	0.21%	\$4,203,440	Scott	0.82%	\$16,453,959
Floyd	1.04%	\$20,891,361	Story	0.19%	\$3,708,021
Franklin	0.18%	\$3,695,485	Tama	0.51%	\$10,234,877
Fremont	0.16%	\$3,220,685	Union	0.66%	\$13,170,557
Greene	0.33%	\$6,594,291	Van Buren	0.10%	\$1,974,627
Grundy	0.06%	\$1,199,398	Wapello	1.67%	\$33,302,069
Guthrie	0.14%	\$2,799,423	Warren	0.50%	\$10,059,673
Hamilton	0.30%	\$5,949,382	Washington	0.07%	\$1,499,955
Hancock	0.72%	\$14,429,005	Webster	0.38%	\$7,698,165
Hardin	0.45%	\$8,906,363	Winnebago	0.02%	\$302,939
Harrison	0.05%	\$913,768	Winneshiek	0.81%	\$16,171,583
Henry	0.07%	\$1,442,759	Worth	0.25%	\$5,098,893
Howard	0.16%	\$3,228,067	Wright	0.31%	\$6,229,906
Humboldt	0.08%	\$1,535,763			
Iowa	0.19%	\$3,795,095	Totals:	100.00%	\$2,000,000,000

[Filed emergency 12/22/08—published 1/14/09, effective 12/22/08]

[Filed ARC 7703B (Notice ARC 7512B, IAB 1/14/09), IAB 4/8/09, effective 5/13/09]

CHAPTER 31
COUNCIL ON HOMELESSNESS

265—31.1(16) Organization.

31.1(1) Location. The main office of the council is located at 2015 Grand Avenue, Des Moines, Iowa 50312, the Iowa Finance Authority. Office hours for the council shall be 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Written requests may be submitted to the council at this address. Information about the council is available at this Web site address: <http://www.iowafinanceauthority.gov>. The council's telephone numbers are: (515)725-4900 (general); 1-800-432-7230 (toll-free); 1-800-618-4718 (TTY); and (515)725-4901 (facsimile).

31.1(2) Council members and staff. The powers of the council are vested in and exercised by 38 voting members appointed by the governor in accordance with Iowa Code section 16.100A. The 26 voting members selected from the general public shall each serve a two-year term. Terms shall be staggered so half of the voting members are appointed in one year and half are appointed in the year thereafter. Initially, the council shall, as soon as all members have been appointed, promptly elect a chairperson and a vice chairperson, both to a term not to exceed two years ending in May. The chairperson and vice chairperson shall not both be either general public members or agency director members. Thereafter, the chairperson and vice chairperson positions shall rotate between agency director members and general public members so that the chairperson and vice chairperson shall not both be either general public members or agency director members at the same time. Staff assistance and administrative support shall be provided by the Iowa finance authority as approved by the executive director.

31.1(3) Council action. A majority of the members of the council shall constitute a quorum. Any action taken by the council must be adopted by an affirmative vote of a majority of its membership.

31.1(4) Meetings. Regular meetings of the council shall be held on the third Friday of the following months: January, March, May, July, September, and November, unless another time of meeting is designated by the council. Meetings may also be held at the call of the chairperson or whenever a majority of the members so request. The council shall comply with the requirements of Iowa Code chapters 21 and 22. Interested parties are encouraged to attend and participate in council meetings where feasible.

31.1(5) Committees. The council shall form an executive committee consisting of the council's chairperson, vice chairperson, and seven members, one of whom shall be the immediate past chairperson if a current member of the council. The chairperson shall appoint the remaining members of the executive committee. The executive committee shall be responsible for reviewing and making recommendations for amendments or changes to the internal rules of procedure. The executive committee shall carry out the business of the council between regularly scheduled council meetings. A majority of the members of the executive committee shall constitute a quorum. Any action taken by the executive committee must be adopted by an affirmative vote of a majority of its members.

a. Nominating committee. The nominating committee shall initially consist of all 12 agency director members. Following the initial appointment of the general public members to the council, the council shall annually at its March meeting elect six members, three of whom shall be agency director members and three of whom shall be general public members. The chairperson of the council shall also be a voting member. The nominating committee shall nominate persons to the governor to fill the general public member positions when they become open. A majority of the members of the nominating committee shall constitute a quorum. Any action taken by the nominating committee must be adopted by an affirmative vote of a majority of its members.

b. Other committees. Other committees may be assembled by the executive committee to carry out various responsibilities of the council. A majority of the members of such a committee shall constitute a quorum. Any action taken by a committee must be adopted by an affirmative vote of a majority of its members.

c. Informal working groups. Informal working groups may be assembled from time to time by the chairperson for various tasks.

[ARC 7704B, IAB 4/8/09, effective 5/13/09]

265—31.2(16) Duties of the council. The duties of the council shall be to:

1. Develop a process for evaluating state policies, programs, statutes, and rules to determine whether any state policies, programs, statutes, or rules should be revised to help prevent and alleviate homelessness.
2. Evaluate whether state agency resources could be more efficiently coordinated with other state agencies to prevent and alleviate homelessness.
3. Work to develop a coordinated and seamless service delivery system to prevent and alleviate homelessness.
4. Use existing resources to identify and prioritize efforts to prevent persons from becoming homeless and to eliminate factors that keep people homeless.
5. Identify and use federal and other funding opportunities to address and reduce homelessness within the state.
6. Work to identify causes and effects of homelessness and increase awareness among policymakers and the general public.
7. Advise the governor's office, the Iowa finance authority, state agencies, and private organizations on strategies to prevent and eliminate homelessness.
8. Make annual recommendations to the governor regarding matters which impact homelessness on or before September 15.
9. Prepare and file with the governor and the general assembly on or before the first day of December in each odd-numbered year a report on homelessness in Iowa.
10. Assist in the completion of the state's continuum of care application to the U.S. Department of Housing and Urban Development.

[ARC 7704B, IAB 4/8/09, effective 5/13/09]

These rules are intended to implement Iowa Code sections 16.5(1) "r" and 16.100A.

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CHAPTER 3
IOWA POWER FUND BOARD AND
DUE DILIGENCE COMMITTEE

350—3.1(469) Location and administration.

3.1(1) The board and the committee are located within the office for administrative purposes.

3.1(2) The director shall budget moneys to pay the expenses of the board and the committee and shall provide office space, staff assistance, and necessary supplies to the board and the committee.

3.1(3) Requests for information about the board or committee may be made by contacting the office as provided in rule 350—2.3(469).

350—3.2(469) Organizational structure. The Iowa power fund legislation, Iowa Code Supplement section 469.6 and 469.7, establishes the board and the committee.

3.2(1) Iowa power fund board.

a. The board is comprised of 11 voting members and 7 nonvoting, ex officio members appointed as provided in Iowa Code Supplement section 469.6.

b. Of the voting members of the board, the chairperson of the utilities board, the secretary of agriculture, and the directors of the department of economic development and the department of natural resources may, by written statement to the board, designate a representative and an alternate to participate in board deliberations and vote.

c. A majority of the voting members of the board shall constitute a quorum.

d. A majority of the total voting membership of the board shall be necessary to act in any matter within the jurisdiction of the board.

e. Board members may participate in discussions and cast votes via telephone or the Iowa communications network (ICN) or other video-conferencing technology.

f. The board shall annually elect from the voting membership a chairperson and vice chairperson during the first meeting in May.

g. The members appointed by the governor are appointed for three-year staggered terms. There is no statutory limitation to the number of terms a voting member may serve.

h. The duties of the board are as listed in Iowa Code Supplement section 469.6(5).

i. The board receives recommendations from the committee regarding applications for proposed projects using moneys from the fund.

j. In performing its functions, the board may seek the expertise of other boards, committees, and agencies and other individuals and organizations as deemed appropriate by the board.

3.2(2) Due diligence committee.

a. The committee is comprised of seven members appointed as provided in Iowa Code Supplement section 469.7.

b. A majority of the members of the committee shall constitute a quorum. A quorum shall be necessary to act on any matter within the jurisdiction of the committee.

c. The director shall chair and facilitate the committee.

d. Committee members may participate in discussions and cast votes via telephone or the ICN or other video-conferencing technology.

e. The committee reviews applications that come before the board for financial assistance from moneys in the fund.

f. The committee, after a thorough review, shall determine whether a proposed project using moneys from the fund is practical, economically feasible, and furthers the goals of the fund set forth in Iowa Code Supplement section 469.9. The committee may recommend a proposal as written or on a conditional basis or may recommend that a proposal be rejected.

350—3.3(469) Board and committee procedures.

3.3(1) Meetings and agendas. Meetings of the board and committee are generally held monthly. By notice of the regularly published meeting agenda, the board and committee may hold regular or special meetings at locations within the state. Meeting agendas are available from the office.

3.3(2) Meeting procedures.

a. Any interested party may attend and observe board and committee meetings except for such portion as may be closed pursuant to Iowa Code section 21.5.

b. Observers may use cameras or recording devices during the course of a meeting so long as the use of such devices does not materially hinder the proceedings. The chairperson may order that the use of these devices be discontinued if they cause interference and may exclude any person who fails to comply with that order.

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

3.3(3) Board committees. The board chairperson may appoint or dissolve board committees as deemed necessary to accomplish the work of the board.

[ARC 7698B, IAB 4/8/09, effective 5/13/09]

350—3.4(469) Conflicts of interest.

3.4(1) Definition. A conflict of interest is defined as the member's having a significant employment relationship with an applicant, or being a member of the board of directors or stockholder of a corporate applicant, or having a financial relationship with an applicant, including but not limited to an investor, a contractor, a consultant, or a competitor, or an immediate family member of such a person. For purposes of this rule, "immediate family" means a member's spouse, children, grandchildren, and parents.

3.4(2) Procedures. As soon as a member of the board or committee becomes aware of a conflict of interest in a project for which applications are filed with the board or for which potential applications are discussed by the board or committee, the member shall follow these procedures:

a. If the conflict is known before a meeting, the member shall fully disclose the interest to the chairperson of the board in writing at least 24 hours before the meeting.

b. If the conflict is discovered during a meeting, the member shall orally inform the board, and the nature of the conflict shall be reported in writing to the chairperson of the board within 24 hours after the meeting.

c. The member who has the conflict shall not participate in discussion or vote on any issues concerned with the project.

These rules are intended to implement Iowa Code Supplement sections 469.1 to 469.10.

[Filed emergency 1/11/08 after Notice 11/21/07—published 1/30/08, effective 1/11/08]

[Filed ARC 7698B (Notice ARC 7573B, IAB 2/11/09), IAB 4/8/09, effective 5/13/09]

CHAPTER 4
IOWA POWER FUND FINANCIAL ASSISTANCE

350—4.1(469) Purpose. The purposes of the Iowa power fund include:

1. Increasing the research, development, production, and use of biofuels and other sources of renewable energy;
2. Improving energy efficiency;
3. Reducing greenhouse gas emissions; and
4. Furthering the research, development, commercialization and distribution of technologies and practices to sustain the environment and develop business in this state.

Each individual proposal awarded a grant or loan need not meet all of these purposes, but the grants and loans awarded by the board and taken as a whole shall be consistent with these purposes.

350—4.2(469) Iowa power fund. The fund includes appropriations made to the fund by the general assembly, other moneys available to or obtained or accepted from federal or private sources, interest earned, and repayments and recaptures of loans and grants.

350—4.3(469) Office and board authority. The fund is under the control of the office. The director shall coordinate the administration of the fund. The board shall approve, defer, or deny applications for financial assistance from moneys appropriated to the fund pursuant to Iowa Code Supplement section 469.9.

350—4.4(469) Allocation of power fund moneys.

4.4(1) Moneys available in the fund are to be used to provide financial assistance to entities conducting business, research, or programs in Iowa:

a. To accelerate research and development, knowledge transfer, and technology innovation, and improve the economic competitiveness of efforts furthering the goals of the fund stated in rule 350—4.1(469).

b. To increase the demand for and educate the public about technologies and approaches furthering the goals of the fund stated in rule 350—4.1(469).

4.4(2) Appropriations are subject to actual receipt of moneys by the fund.

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

4.4(4) Of the moneys appropriated to the office and deposited in the fund, \$2.5 million shall be allocated on an annual basis to the department of economic development for deposit into the workforce training and economic development funds of the community colleges. Of the funds so deposited into the workforce training and economic development funds of the community colleges, \$2.5 million shall be used each year in the development and expansion of energy industry areas and for the department's North American Industry Classification System for targeted industry areas. The department of economic development shall report annually to the board on use of these funds.

[ARC 7698B, IAB 4/8/09, effective 5/13/09]

350—4.5(469) Eligible applicants. Entities conducting, proposing, or partnering to conduct business, research, or programs in Iowa are eligible to apply to the office for financial assistance from the Iowa power fund. Proposals must demonstrate potential for significant impact in Iowa. A single entity or group of entities may submit an application for assistance from the fund.

350—4.6(469) Eligibility criteria for financial assistance.

4.6(1) General criteria. Applicants must include documentation relating to the actual or potential development of the following:

a. Utilization of crops and products grown or produced in this state that maximize the value of crops used as feedstock in biomanufacturing products and as coproducts.

b. Reduction of greenhouse gas emissions and carbon sequestration.

c. Commercialization of technology and product development for sale in the national and international market.

d. Alternative and renewable energy and increased energy efficiency.

e. Private or federal matching funds.

4.6(2) *Research criteria.* In addition to including documentation related to the general criteria in subrule 4.6(1), applicants seeking funding for research must include information related to the following:

a. The technical feasibility of the proposal.

b. The extent to which the proposed research builds on already existing research.

c. The extent to which the proposed research meets a market need and demonstrates viability for commercialization.

4.6(3) *Commercialization criteria.* In addition to including documentation related to the general criteria in subrule 4.6(1), applicants seeking funding for commercialization projects must include information related to the following:

a. The extent to which the technology has been proven.

b. The technology sought to be commercialized.

c. The current scale-up status of the project.

4.6(4) *Education criteria.* In addition to including documentation related to the general criteria in subrule 4.6(1), applicants seeking funding for educational projects must include information related to the following:

a. The target audience, including the estimated number of people targeted.

b. An estimate of the energy savings possible or fossil fuel reductions achievable if the target audience implements the methods presented.

4.6(5) *Undesignated projects criteria.* In addition to including documentation related to the general criteria in subrule 4.6(1), applicants seeking funding for undesignated projects must include information that explains how the project meets the statutory goals of the fund.

350—4.7(469) Forms of assistance.

4.7(1) *Types of assistance.* Financial assistance from the fund may consist of, but is not limited to, loans, forgivable loans, grants, investments, loan guarantees, and such other forms of assistance the board deems appropriate and consistent with the needs of a given project.

4.7(2) *Eligible uses of funds.* The eligible uses of the funds awarded by the board may be limited at the board's discretion. Generally, funds awarded by the board may not be used to fund the purchase of land or buildings, and no more than 10 percent of the funds awarded per application may be used for indirect costs.

350—4.8(469) Application process.

4.8(1) *Preapplication.* To apply for moneys from the fund, an applicant shall submit a preapplication to the office in a form provided by the office on behalf of the board. The preapplication serves as an executive summary of the applicant's proposal. The director and committee shall review preapplications and request full applications for those projects that appear to meet the eligibility criteria and statutory goals of the fund.

4.8(2) *Full application.* An applicant requested to submit a full application shall submit such application to the office in a form provided by the office on behalf of the board. The committee reviews the full applications and any technical, scientific or financial review completed and makes recommendations to the board. The board reviews the applications and makes the final decision. The board shall have final authority to approve, defer, or deny such applications. The board, committee, or office may request additional information at any time and proceed with consideration of the application when that information is received.

4.8(3) *Technical, scientific or financial review.* The board or committee may request an applicant to obtain a technical, scientific or financial review of a proposal which may wholly or partially be funded at the applicant's expense. The review may be obtained from a reviewer recommended by the board or committee or may be obtained from a reviewer selected by the applicant and approved in advance by

the board or committee. Only reviews from reviewers recommended by or approved by the board or committee will be accepted.

4.8(4) Agency review. The office may refer proposals to other state agencies for review as appropriate.

4.8(5) Ongoing acceptance of applications. Applications shall be accepted by the office on behalf of the board on an ongoing basis. Review times will vary due to the complexity and diversity of applications.

4.8(6) Forms and directions. Application forms and directions for completing the forms are available on line and from the office as provided in rule 360—2.3(469).

350—4.9(469) Confidentiality.

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

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

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

4.9(4) Criteria for determining confidential treatment. In determining whether to grant a request for confidential treatment of applicant information, the board must appropriately balance an applicant's need for confidentiality against the public's right to information about the board's activities. The board may consider the following:

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

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

4.9(6) Withdrawal of application. If the board denies an applicant's request for confidentiality, the applicant may withdraw an application and any supporting materials. The board shall not retain any copies of the application and supporting materials. Upon notice that an application has been withdrawn, the board shall not release a copy in response to a request for records pursuant to Iowa Code chapter 22. [ARC 7698B, IAB 4/8/09, effective 5/13/09]

350—4.10(469) Contents of full application. A full application to request assistance from the fund shall include, but not be limited to, the following:

1. Documentation that the applicant meets the eligibility criteria stated in rules 350—4.5(469) and 350—4.6(469).
2. A description that explains how the applicant's project will promote one or more of the goals of the fund as set forth in rule 350—4.1(469).
3. A description of the proposed project, including all sources and uses of funding, the amount and type of funding requested, and an identification of the community or location for the project.
4. Information regarding benefits to the state of Iowa from the proposed project in terms of the state's return on investment in the project. A recipient of power fund moneys shall provide to the board

on a periodic basis as determined by the board a report on the use and effectiveness of the moneys granted or loaned.

5. A business plan, schedule of work, or equivalent that describes the applicant's current operations and future plans.

6. If applicable, a description of the applicant's violations of law in the preceding five years including, but not limited to, worker safety statutes, rules, and regulations. The description must include violations of any federal or state environmental protection statute, regulation, or rule within the previous five years. If the violations seriously affected the public health or safety, or the environment, the applicant shall provide an explanation of any mitigating circumstances and corrective action taken to achieve compliance. If requested by the office, the applicant shall provide copies of materials documenting the type of violation, any fees or penalties assessed, court filings, final disposition of any findings, and other information that would assist the office, the committee, and the board in understanding the nature of the violation.

7. A certification by the applicant that the information provided in the application is true and accurate to the best of the applicant's knowledge.

8. A release of information to permit the office, the committee, the board, and their respective attorneys and agents to reasonably evaluate the application.

9. Financial information to the extent requested by the board, including, if applicable, information about the applicant's owners, investors, and business structure.

[ARC 7698B, IAB 4/8/09, effective 5/13/09]

350—4.11(469) Selection criteria. The board shall seek to maintain flexibility when making decisions to allocate moneys from the fund to specific proposals. In reviewing applications for financial assistance, the board and committee shall consider the extent to which the proposal is consistent with the energy independence plan as developed by the director in accordance with Iowa Code Supplement section 469.4, and consistent with the statutory purposes of the fund as described in rule 350—4.1(469). In addition, the board and committee shall consider the following:

4.11(1) Proposal categories.

a. The board may allocate moneys from the fund annually to projects in any or all of the following categories:

- (1) Commercialization.
- (2) Research.
- (3) Education.
- (4) Undesignated.

b. The allocation of moneys by the board to proposals in these categories is discretionary and depends on factors including, but not limited to, the quality and quantity of the applications submitted.

4.11(2) Financial assistance.

a. The board will consider whether the applicant has available financial resources in addition to the fund to support the proposal financially. In assessing available financial resources, the board may:

- (1) Consider both private and public funds as available financial resources.
- (2) Recognize the contribution of in-kind resources.
- (3) Require a match of available financial resources for commercialization proposals.
- (4) Give weight to available financial resources for research, education, or other undesignated proposals.

b. The significance of the availability of financial resources may be weighed by the board in its discretion when allocating moneys from the fund for specific proposals.

[ARC 7698B, IAB 4/8/09, effective 5/13/09]

350—4.12(469) Contract administration.

4.12(1) Notice of award. Applicants will be notified in writing of the board's decision, including any conditions and terms of approval.

4.12(2) Contract required. The board shall direct the office to prepare an agreement which includes, but is not limited to, a description of the project to be completed by the recipient; length of the project

period; conditions to disbursement as approved by the board; a requirement for a report, to be made to the board on a periodic basis determined by the board, on the use and effectiveness of financial assistance from the fund; and the reimbursement requirements of the recipient or other penalties imposed on the recipient in the event the recipient does not meet the commitments set forth in the contract, in the documentation provided to establish eligibility, or in other specific repayment provisions (“clawback” provisions) to be established on a project-by-project basis. Successful applicants shall execute an agreement within 120 days of the approval. Failure to do so may result in action by the board to revoke the award. The 120-day time limit may be extended by the board for good cause shown. No award is final until an agreement is signed by all parties.

4.12(3) *Contract amendments.* Any substantive change to a funded project will require a contract amendment approved by the office and, if required by subrule 4.12(4), approved by the committee or board. Substantive changes include, but are not limited to, contract time extensions, budget revisions, and significant alterations of existing activities or beneficiaries.

4.12(4) *Situations requiring committee approval.* The committee shall have the authority to act on behalf of the board and take final action on budget revision amendments that would not substantially change the terms or conditions of the award or contract; on the discontinuance or suspension of collection efforts; and on negotiated settlements for projects that do not meet contract requirements. The committee may decide to take final action or to refer the matter to the full board for action.

4.12(5) *Intellectual property.* The director shall promote statewide utilization of the results of research, development, and commercialization activities funded in whole or in part by the fund. The director is authorized to negotiate provisions with applicants that address issues relating to income generated from patents, trademarks, licenses, or royalties expected to be produced as a result of moneys proposed to be expended from the fund. The director may seek assistance from appropriate state agencies and may seek outside expertise. An applicant shall not be prevented from protecting any previously developed intellectual property.

[ARC 7698B, IAB 4/8/09, effective 5/13/09]

These rules are intended to implement Iowa Code Supplement sections 469.1 to 469.10.

[Filed emergency 1/11/08 after Notice 11/21/07—published 1/30/08, effective 1/11/08]

[Filed ARC 7698B (Notice ARC 7573B, IAB 2/11/09), IAB 4/8/09, effective 5/13/09]

CHAPTER 1
IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

[Prior to 9/9/87, Campaign Finance Disclosure[190] Ch 5]
[Prior to 3/30/94, Campaign Finance Disclosure Commission[121] Ch 5]
[Prior to 8/21/02, see 351—Ch 5]

351—1.1(68A,68B) General agency description.

1.1(1) *Board established.* The Iowa ethics and campaign disclosure board is established as an independent agency of the executive branch of state government with the authority, powers, and duties set out in Iowa Code chapters 68A and 68B and Iowa Code section 8.7. The board is a “regulatory agency” as defined in Iowa Code section 68B.2(23).

1.1(2) *Election of officers.* On an annual basis at the board’s first meeting after April 30, the members shall elect a chair and vice chair, and members may be reelected or elected to a different office.

1.1(3) *Board meetings.* Meetings of the board are held at the call of the chair or at the request of at least four members of the board. The chair sets the time, place, and date of the meetings except when a meeting is requested by at least four members of the board. Meetings shall be held in compliance with the open meeting requirements in Iowa Code chapter 21. Minutes of meetings are available for viewing via the board’s Web site at www.iowa.gov/ethics. A person who wishes to be placed on the board agenda shall file an oral or written request with the board’s executive director at least 48 hours prior to the meeting.

1.1(4) *Voting and procedure.* Four board members constitute a quorum for conducting the business of the board. An affirmative vote of four board members is required for a motion to pass. The meetings shall be generally conducted according to rules of parliamentary procedure.

This rule is intended to implement Iowa Code sections 68B.32 and 68B.32A.
[Editorial change: IAC Supplement 4/8/09]

351—1.2(68B) Requirements for requesting board advisory opinions.

1.2(1) *Who may request opinion.* Any person subject to the board’s jurisdiction may request a board advisory opinion, including a local official or local employee seeking an opinion on the application of the ethics laws in Iowa Code chapter 68B. A governmental entity not under the board’s jurisdiction may request a board advisory opinion on an issue subject to the board’s jurisdiction. A person requesting an opinion on the application of the ethics and lobbying laws in Iowa Code chapter 68B as applied to the legislative branch of state government shall be referred to the senate and house ethics committees. An authorized agent may seek an opinion on behalf of any person. The board will not issue an opinion to an unauthorized third party. The board may on its own motion issue opinions without receiving a formal request.

1.2(2) *Form of request.* The request for an opinion shall be in writing and shall describe the specific transaction, conduct, or activity that the requesting person plans to undertake or is presently undertaking. Requests shall be sent to the board as provided in subrule 1.3(1).

1.2(3) *Jurisdiction.* The board will issue opinions pertaining only to Iowa Code chapter 68A, Iowa Code chapter 68B, Iowa Code section 8.7, or rules adopted thereunder.

This rule is intended to implement Iowa Code section 68B.32A(12).
[Editorial change: IAC Supplement 4/8/09]

351—1.3(68B) Processing of advisory opinion requests; routine administrative advice.

1.3(1) Requests for board advisory opinions shall be sent to the Iowa Ethics and Campaign Disclosure Board, 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319.

1.3(2) After receiving a qualified opinion request, the board’s legal counsel shall prepare a draft opinion for board review. Upon an affirmative vote of at least four members, the board will issue a board advisory opinion. Advice contained in a board opinion, if followed, constitutes a defense to a subsequent complaint that is based on the same facts and circumstances.

1.3(3) A person who receives a board advisory opinion may, within 30 days after the issuance of the opinion, request modification or reconsideration of the opinion. A request for modification or

reconsideration shall be deemed denied unless the board acts upon the request within 60 days of receipt of the request.

1.3(4) Board advisory opinions are public records and shall be made available at the board office and via the board's Web site at www.iowa.gov/ethics.

1.3(5) Nothing in this rule precludes board staff from providing oral or written routine administrative advice when presented with oral or written inquiries from any person.

1.3(6) Nothing in this rule precludes a person who has received routine administrative advice from petitioning for a declaratory order. The board will refuse to issue a declaratory order to a person who has previously received a board opinion on the same question, unless the requester demonstrates a significant change in circumstances from those in the board opinion.

1.3(7) On an annual basis the board shall review the advisory opinions issued for that year and determine which opinions should be adopted into rule pursuant to the procedures in Iowa Code chapter 17A.

This rule is intended to implement Iowa Code section 68B.32A(12).
[Editorial change: IAC Supplement 4/8/09]

351—1.4(68B) Board code of ethics.

1.4(1) Making monetary and in-kind contributions to the committees of candidates for Iowa public office is prohibited. However, contributions to candidates for federal office are permitted since the board has no jurisdiction over federal candidates.

1.4(2) Serving as an officer or member of a candidate's committee of a candidate for Iowa public office is prohibited, whether the service is volunteer or paid.

1.4(3) Making monetary or in-kind contributions to a political committee (PAC) is prohibited. However, contributions to a state party or a county central committee are permitted.

1.4(4) Running for or holding elected public office is prohibited. Running for or serving as an officer or member of any committee defined under Iowa Code chapter 68A is prohibited.

1.4(5) Public personal endorsement of a candidate or publicly taking a position in support of or opposition to a ballot issue is prohibited. This subrule does not prohibit a member of the board or staff from making a public personal endorsement of a federal candidate or a federal ballot issue since the board has no jurisdiction over federal candidates or federal ballot issues. Members and staff of the board may attend and participate in a presidential caucus.

1.4(6) Serving as a delegate to a county or state political party convention is prohibited.

1.4(7) Except due to service on the board, members of the board shall not be public officials or public employees.

1.4(8) Except due to service on the board, members of the board shall not be registered lobbyists in the state of Iowa.

1.4(9) As the board is defined as a "regulatory agency" under Iowa Code section 68B.2(23), members and staff of the board shall comply with the requirements of Iowa Code section 68B.4 and rule 351—6.11(68B) prior to selling or leasing goods or services to individuals, associations, or corporations subject to the board's regulatory authority.

1.4(10) Members and staff of the board shall comply with all of the requirements in Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules adopted by the board.

1.4(11) The prohibitions in this rule shall not apply to the spouse or other family members of a board member or employee of the board. However, actions by a spouse or other family member may create a potential conflict of interest on the part of the board member or employee that may necessitate recusal from a matter pursuant to Iowa Code section 68B.2A.

This rule is intended to implement Iowa Code sections 68B.2A and 68B.32.
[Editorial change: IAC Supplement 4/8/09]

351—1.5(22,68B) Availability of reports and information—copies provided; prohibitions. Rescinded IAB 10/25/06, effective 11/29/06.

351—1.6(68B) Board code of ethics. Rescinded IAB 10/25/06, effective 11/29/06.

351—1.7(68B) Board sales of goods and services. Rescinded IAB 10/25/06, effective 11/29/06.

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[◇] Two or more ARCs

CHAPTER 2
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

[Prior to 3/30/94, Campaign Finance Disclosure Commission[121] Ch 10]

[Prior to 8/20/03, see 351—Ch 10]

351—2.1(22,68A,68B) Definitions. As used in this chapter:

“*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 may include information discovered as the result of an investigation until such time as the final action of the board is ordered. Confidential records also include matters in litigation by the board and information conveyed as a result of the attorney/client relationship. Confidential records also include records or information contained in records that the board 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, or other provision of law, but that may be disclosed upon order of a court, by the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“*Custodian*” means the executive director of the Iowa ethics and campaign disclosure board, who is the person lawfully delegated authority by the policy-setting board to act for the agency in implementing Iowa Code chapter 22.

“*Open record*” means a record other than a confidential record.

“*Personally identifiable information*” means information about or pertaining to an individual in a record that identifies the individual and that is contained in a record system.

“*Record*” means the whole or a part of a “public record” as defined in Iowa Code section 22.1 that is owned by or is in the physical possession of the board.

“*Record system*” means any group of records under the control of the board from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

351—2.2(22,68A,68B) Statement of policy. The purpose of this chapter is to facilitate broad public access to open records. It also seeks to facilitate sound board determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. The board is committed to the policies set forth in Iowa Code chapter 22, and board staff shall cooperate with members of the public in implementing the provisions of that chapter.

351—2.3(22,68A,68B) Requests for access to records.

2.3(1) Location of record. A request for access to a record shall be directed to the Iowa Ethics and Campaign Disclosure Board, 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. If the requested record is not on file in the board office, the custodian will arrange for it to be retrieved from state archives and made available in the board office.

2.3(2) Office hours. Records shall be made available from 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays. Records made available via the board’s Web site at www.iowa.gov/ethics are available at all hours and on all days.

2.3(3) Request for access. Requests for access to records may be made in writing, in person, or by telephone. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

2.3(4) Granting access to records. The custodian is authorized to grant or deny access to the record according to the provisions of Iowa Code chapter 22 and this chapter. The decision to grant or deny access may be delegated to one or more designated employees. Access to an open record shall be granted immediately upon request. If the size or nature of the request requires time for compliance, the board shall comply with the request as soon as possible. However, access to such a record may be delayed for

one of the purposes authorized by Iowa Code chapter 22. The board shall promptly inform the requester of the reason for the delay.

2.3(5) Security of record. No person shall, without permission, search or remove any record from board files. Examination and copying of records shall be done under the supervision of board staff. Records shall be protected from damage and disorganization.

2.3(6) Copying. A reasonable number of copies may be made in the board office unless printed copies are available. If copying equipment is not available in the office where a record is kept, the board shall permit its examination in that office and shall arrange to have copies promptly made elsewhere. Records made available on the board's Web site may be copied without restriction.

2.3(7) Fees.

a. Copying costs. Price schedules for regularly published records and for copies of records not regularly published shall be posted by the board. Copies may be made by or for members of the public at cost as determined and posted by the custodian of the record. The cost of postage and of other services provided in connection with the request may be charged as appropriate.

b. Search and supervisory fee. An hourly fee may be charged for actual board expenses in searching for, and supervising the examination and copying of, requested records. The fee shall be based upon the pay scale of the employee involved and other actual costs incurred. No fee shall be charged if the records are not made available for inspection, or if the time required does not exceed one-half hour in duration, or if the time required for the search was the result of a board error or a record-keeping problem. The board shall post the hourly fees to be charged in routine cases for search and supervision of records. The board shall give advance notice to the requester if it will be necessary to use an employee with a higher hourly wage in order to find or supervise the particular records in question, and shall indicate the amount of that higher hourly wage to the requester.

c. Advance deposits.

(1) The board may require a requester to make an advance deposit of the estimated fee.

(2) When a requester has previously failed to pay a fee charged under this subrule, the board may require advance payment of the full amount of any estimated fee before the board processes a new or pending request for access to records from that requester, as well as payment in full of the amount previously owed.

351—2.4(22,68A,68B) Procedures for access to confidential records. The following procedures for access to confidential records are in addition to those specified for all records in rule 351—2.3(22,68A,68B).

2.4(1) Proof of identity. A person requesting access to a confidential record shall be required to provide proof of identity.

2.4(2) Requests. A request to review a confidential record shall be in writing. A person requesting access to a confidential record may be required to sign a certified statement or affidavit enumerating the specific grounds justifying access to the confidential record and to provide any proof necessary to establish relevant facts. Such request may be referred to the full board for consideration.

2.4(3) Request denied. When the custodian of a confidential record or the board denies a request for access to a confidential record, in whole or in part, the requester shall be notified in writing. The denial shall be signed by the custodian of the confidential record and shall include:

a. The name and title or position of the person or persons responsible for the denial and a brief citation to the statute or other provision of law that prohibits disclosure of the record;

b. A brief citation to the statute vesting discretion in the custodian to deny disclosure of the record; and

c. A brief statement of the grounds for the denial to this requester.

351—2.5(22,68A,68B) Request for treatment of a record as a confidential record.

2.5(1) Who may file request. Any person who would be aggrieved or adversely affected by disclosure of all or a part of a record to members of the public may file a request, as provided in this rule, for its treatment as a confidential record. Failure of a person to request confidential record treatment for all

or part of a record, such as information obtained in the course of a board investigation or to achieve voluntary compliance with Iowa Code chapter 68A or 68B, does not preclude the board from treating it as a confidential record. The information may become a public record once the matter is resolved or dismissed.

2.5(2) *Form of request.* A request for the treatment of a record as a confidential record shall be in writing and shall be filed with the custodian of the record. The request shall include the specific grounds justifying confidential record treatment for all or part of the record; the specific provision of law that authorizes such confidential record treatment; and the name, address, and telephone number of the person authorized to respond to any board action concerning the request. A person filing such a request shall attach a copy of the record in question. The material to which the request applies shall be physically separated from any materials to which the request does not apply. The request shall be attached to the materials to which it applies. Each page of the material to which the request applies shall be clearly marked confidential. If the original record is being submitted to the board by the person requesting confidentiality at the same time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are a confidential record. A request for treatment of all or portions of a record as a confidential record for a limited time period shall also specify the precise period of time for which such confidential record treatment is requested.

2.5(3) *Failure to request confidentiality.* If a person who has submitted business information to the board does not request confidential record treatment for all or part of that information, the custodian of records containing that information may assume that the person who submitted the information has no objection to its disclosure.

2.5(4) *Time.* A board decision with respect to the disclosure of all or parts of a record may be made when a request for its treatment as a confidential record is filed or when the board receives a request for access to the record.

2.5(5) *Effect of granted request.* If a request for confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the board decision will be placed in the public file in lieu of the original record.

2.5(6) *Effect of denied request.* If a request for confidential record treatment is denied, the board shall advise the requester in writing on the grounds the request was denied and treat the record as a confidential record for 30 days to allow the person requesting such treatment for the record an opportunity to seek injunctive relief. However, if the board determines that a 30-day delay is not in the public interest and furnishes the requester with a written copy of that determination, including the appropriate grounds, the record will be treated as a confidential record for at least three working days unless prior release of the record is necessary to avoid imminent peril to the public health, safety, or welfare. The board may extend the period of confidential record treatment of such a record beyond 30 days only if a court directs the board to treat the record as a confidential record or to the extent permitted by Iowa Code chapter 22 or with the consent of the person requesting access.

[Editorial change: IAC Supplement 4/8/09]

351—2.6(22,68A,68B) Procedure by which a subject may have additions, dissents or objections entered into the record. Except as otherwise provided by law, the subject shall have the right to have a written statement of additions, dissents or objections entered into the record. However, any additions, dissents or objections entered into the record shall not be considered evidence in a contested case proceeding. The subject shall send the statement to the Executive Director, Iowa Ethics and Campaign Disclosure Board, 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. The statement shall be dated and signed by the subject and shall include the subject's current address and telephone number.

351—2.7(22,68A,68B) Consent to disclosure by the subject of a confidential record. The subject of a confidential record may consent to board disclosure to a third party of that portion of the record concerning the subject. The consent must be in writing and must identify the particular record that may be disclosed, the particular person or class of persons to whom the record may be disclosed, and, where

applicable, the time period during which the record may be disclosed. The subject and, where applicable, the person to whom the record is to be disclosed must provide proof of identity.

351—2.8(22,68A,68B) Notice to suppliers of information. When the board requests persons to supply information about themselves, the board shall notify those persons of the use that will be made of the information, which persons outside the board might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information. Notice may be given in this chapter, on the written form used to collect the information, in a separate fact sheet or letter, in brochures, in formal agreements or contracts, in handbooks or manuals, orally, or by other appropriate means.

351—2.9(22,68A,68B) Disclosure without the consent of the subject.

2.9(1) *Open record.* An open record is routinely disclosed without the consent of the subject.

2.9(2) *Partial open record.* If the board is prohibited from disclosing part of a document from inspection, that part will not be disclosed and the remainder will be made available for inspection.

2.9(3) *Disclosure of confidential record.* To the extent allowed by law, disclosure of a confidential record may occur without the consent of the subject. Following are instances when disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 351—2.10(22,68A,68B) or in the notice for a particular record system.

b. 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 the head of the government agency or instrumentality has submitted a written request to the board specifying the record desired and the law enforcement activity for which the record is sought.

c. To the legislative services agency.

d. In response to a court order or subpoena.

e. To a recipient who has provided the board 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.

f. 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.

g. Disclosures in the course of employee disciplinary proceedings.

351—2.10(22,68A,68B) Routine use.

2.10(1) *Defined.* “Routine use” means the disclosure of a record without the consent of the subject or subjects for a purpose that is compatible with the purpose for which the record was collected. “Routine use” includes disclosures required to be made by statute other than Iowa Code chapter 22.

2.10(2) *Examples of routine uses.* To the extent allowed by law, the following are considered routine uses of all board records:

a. Disclosure to officers, employees, and agents of the board 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 initiative of the custodian, 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. Transfers of information within the board, to other state and federal agencies, or to local units of government as appropriate to administer the program for which the information is collected.

d. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the board is operating a program lawfully.

e. Any disclosure specifically authorized by the statute under which the record was collected or maintained, including disclosure to the general public of information contained in reports required to be filed by Iowa Code chapter 68A or 68B.

f. The following records are routinely disseminated to members of the public:

- (1) Reports and statements filed by campaign committees as authorized by Iowa Code chapter 68A.
- (2) Reports and statements filed by executive branch lobbyists as authorized by Iowa Code chapter 68B.
- (3) Personal financial disclosure forms filed by designated persons in the executive branch as authorized by Iowa Code section 68B.35.

[Editorial change: IAC Supplement 4/8/09]

351—2.11(22,68A,68B) Consensual disclosure of confidential records.

2.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to board disclosure of confidential records as provided in rule 351—2.7(22,68A,68B).

2.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official that seeks the official's intervention on behalf of the subject in a matter that involves the board 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.

351—2.12(22,68A,68B) Release to subject.

2.12(1) *Filing of request.* The subject of a confidential record may file a written request to review a confidential record about that person as provided in rule 351—2.6(22,68A,68B). However, the board need not release the following records to the public:

a. The identity of a person providing information to the board need not be disclosed directly or indirectly to the subject 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 Iowa Code section 22.7(5).

d. As otherwise authorized by law.

2.12(2) *Multiple subjects.* When a record has multiple subjects with interest in the confidentiality of the record, the board may take reasonable steps to protect confidential information relating to more than one subject.

351—2.13(22,68A,68B) Availability of records.

2.13(1) *General.* Board records are open for public inspection and copying unless otherwise provided by rule or law.

2.13(2) *Confidential records.* The following records may be withheld from public inspection:

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

b. Tax records made available to the board under Iowa Code sections 422.72 and 422.20.

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

d. Agendas, minutes and tape recordings of closed meetings of a government body pursuant to Iowa Code subsection 21.5(4).

e. Records that constitute attorney work product, attorney-client communications, or that are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10, and 622.11. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, and the Code of Professional Responsibility.

f. Those portions of the board's staff manuals, instructions or other statements issued that set forth criteria or guidelines to be used by the board 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 board.

g. 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.”

h. Any other records made confidential by law.

2.13(3) Authority to release confidential records. The board may have discretion to disclose some confidential records that are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute that authorizes limited or discretionary disclosure as provided in rule 351—2.4(22,68A,68B). If the board initially determines that it will release such records, the board may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 2.4(3).

351—2.14(22,68A,68B) Personally identifiable information. This rule describes the nature and extent of personally identifiable information that is collected, maintained, and retrieved by the board by personal identifier in record systems as defined in rule 351—2.1(22,68A,68B). For each record system, this rule describes the legal authority for the collection of that information and the means of storage of 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 board are:

2.14(1) Personnel files. The board maintains files containing information about employees, families and dependents, and applicants for positions with the board. The files include payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).

2.14(2) Campaign finance organization statements. These records include the name and address of the campaign committee and the name and address of the committee officers. The name of the committee may contain a personal identifier. This information is collected pursuant to Iowa Code section 68A.201 or may be voluntarily submitted and is stored on paper and in an automated data processing system. The information stored in the data processing system does not match, collate or permit comparison with other data processing systems. The information contained in statements of organization is public information.
[Editorial change: IAC Supplement 4/8/09]

351—2.15(22,68A,68B) Other groups of records. This rule describes groups of records maintained by the board other than record systems as defined in rule 351—2.1(22,68A,68B). These records are routinely available to the public. However, the board’s files of these records may contain confidential information pursuant to rule 351—2.13(22,68A,68B). The records listed may contain information about individuals. Unless otherwise stated, the authority for the board to maintain the record is provided by Iowa Code chapters 22, 68A and 68B.

2.15(1) Rule making. Public documents generated during the promulgation of board rules, including notices and public comments, are available for public inspection. This information is collected pursuant to Iowa Code section 17A.4. This information is not stored in an automated data processing system.

2.15(2) Board records. Agendas, minutes, and materials presented to the ethics and campaign disclosure board are available from the custodian, except those records concerning closed sessions that are exempt from disclosure under Iowa Code section 21.5 or that are otherwise confidential by law. Board records may contain information about persons who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.

2.15(3) Publications. The board receives a number of books, periodicals, newsletters, and government documents. These materials would generally be open to the public but may be protected by copyright law. Most publications of general interest are available in the state library or law library. These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.

2.15(4) Office publications. The board publishes instructional manuals, forms, form letters, calendars, and brochures. These publications are routinely made available to the public. This information is not stored in an automated data processing system.

2.15(5) Administrative records. These records include documents concerning budget, property inventory, purchasing, yearly reports, office policies for employees, time sheets, office correspondence, and printing and supply requisitions. Some of this information is in the state of Iowa automated data processing system.

2.15(6) Decisions, orders, and opinions. All final decisions, orders, and opinions are available for public inspection in accordance with Iowa Code section 17A.3. These records may contain personally identifiable information regarding individuals who are the subjects or requesters of the order, decision, or opinion. This information is collected pursuant to Iowa Code chapters 17A and 68B. This information is not stored in an automated data processing system.

2.15(7) Policy manuals. The board employees' manual, containing the policies and procedures for programs administered by the board, is available from the custodian except as noted in rule 351—2.14(22,68A,68B).

2.15(8) Campaign finance disclosure reports. These records contain information about campaign committees that include itemization of the source of contributions, a list of expenditures, itemization of fundraising events, debts incurred, donors of goods or services, loan transactions, and details of contracts with consultants. These records may include an individual's name and address. These records are required by Iowa Code section 68A.402 and may be voluntarily submitted. These records are available by paper and are accessible via the board's Web site at www.iowa.gov/ethics.

2.15(9) Federal repository. The board serves as the Iowa repository for public viewing of a variety of disclosure reports required to be filed under the jurisdiction of the Federal Election Commission. These records are accessible via the board's Web site at www.iowa.gov/ethics through a computer modem connected with the Federal Election Commission's database. The computer records are for viewing, and reports may be printed. The terminal does not permit these records to be changed or deleted. Reports are accessed by the name of the reporting committee. Information in this database does not match, collate, or permit comparison with other data processing systems.

2.15(10) Executive branch lobbying reports. The board serves as the repository for public viewing of executive branch lobbyist registration statements, executive branch lobbying reports, and executive branch lobbyist client reports. These reports are available by paper and are also accessible via the board's Web site at www.iowa.gov/ethics. The information disclosed on these reports is required by Iowa Code sections 68B.36, 68B.37, and 68B.38. This information does not match, collate, or permit comparison with other data processing systems.

2.15(11) Personal financial disclosure. The board serves as the repository for the filing of personal financial disclosure forms (Form PFD) for designated positions in the executive branch. These reports are available by paper and are also accessible via the board's Web site at www.iowa.gov/ethics. The information disclosed on these forms is required by Iowa Code section 68B.35. This information does not match, collate, or permit comparison with other data processing systems.

[Editorial change: IAC Supplement 4/8/09]

351—2.16(22,68A,68B) Data processing systems. None of the data processing systems used by the board compare personally identifiable information in one record system with personally identifiable information in another record system.

351—2.17(22,68A,68B) Limitation of applicability. This chapter does not:

2.17(1) Require the board to index or retrieve records that contain information about a person by that person's name or other personal identifier.

2.17(2) Make available to the general public a record that would otherwise not be available to the general public under Iowa Code chapter 22.

2.17(3) Govern the maintenance or disclosure of, notification of or access to, a record in the possession of the board that is governed by the rules of another agency.

2.17(4) Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

2.17(5) Make available records compiled by the board 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 regulations of the board.

351—2.18(68B) Use of information prohibited. Pursuant to Iowa Code section 68B.32A(7), the information obtained from statements or reports filed with the board under Iowa Code chapter 68A, Iowa Code chapter 68B, Iowa Code section 8.7, or rules adopted by the board shall not be copied or otherwise used for any commercial purpose. For purposes of this rule, "commercial purpose" shall include solicitations by a business or charitable organization.

2.18(1) Exceptions. The following uses of information for solicitations are permissible:

a. Information used in newspapers, magazines, books, or other similar communications, so long as the principal purpose of such communications is for providing information to the public and not for other commercial purpose.

b. Soliciting political campaign contributions.

2.18(2) Sanctions. Any person violating this rule shall be subject to the board's disciplinary process set out in Iowa Code chapter 68B and the board's rules.

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These rules are intended to implement Iowa Code chapters 22, 68A and 68B.

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CHAPTER 5
USE OF PUBLIC RESOURCES FOR A POLITICAL PURPOSE

351—5.1(68A) Scope of chapter. Iowa Code section 68A.505 prohibits the expenditure of public moneys for political purposes, including expressly advocating the passage or defeat of a ballot issue. For the purposes of this chapter, the board will construe the phrase “expenditure of public moneys for political purposes” broadly to include the use of public resources generally. This chapter outlines the permissible and impermissible uses of public resources for a political purpose pursuant to Iowa Code section 68A.505 and board interpretations of the statute.

This rule is intended to implement Iowa Code section 68A.505.
[Editorial change: IAC Supplement 4/8/09]

351—5.2(68A) Applicability. This chapter applies to the use of resources that belong to the executive branch of state government, a county, city, public school, or other political subdivision by state and local campaigns in Iowa. This chapter does not apply to property belonging to the federal government or to the use of the executive branch of state government, a county, city, public school, or other political subdivision by a federal campaign.

This rule is intended to implement Iowa Code section 68A.505.
[Editorial change: IAC Supplement 4/8/09]

351—5.3(68A) Definitions. For purposes of this chapter, the following definitions apply:

“*Ballot issue*” means a question that has been approved to be placed before the voters or is otherwise required by law to be placed before the voters. “Ballot issue” does not include the nomination or election of a candidate.

“*Campaign*” means the organized effort to expressly advocate the nomination, election, or defeat of a candidate for state or local office in Iowa. “Campaign” also means the organized effort to expressly advocate the passage or defeat of a ballot issue.

“*Candidate*” means any individual who has taken affirmative action to seek nomination or election to a state or local office in Iowa.

“*Expressly advocate*” means “express advocacy” as defined in Iowa Code section 68A.102(14) and 351—subrule 4.53(1). “Express advocacy” includes a communication that uses any word, term, phrase, or symbol that exhorts an individual to vote for or against a clearly identified candidate or for the passage or defeat of a clearly identified ballot issue.

“*Political purpose*” means to expressly advocate the nomination, election, or defeat of a candidate or to expressly advocate the passage or defeat of a ballot issue.

“*Public resources*” means the moneys, time, property, facilities, equipment, and supplies of the executive branch of state government, a county, city, public school, or other political subdivision.

“*Public school*” includes a school designated as a “charter school.”

This rule is intended to implement Iowa Code sections 68A.102 and 68A.505.
[Editorial change: IAC Supplement 4/8/09]

351—5.4(68A) Use of public resources for a political purpose prohibited.

5.4(1) General prohibition. Unless one of the exceptions in rule 351—5.5(68A) applies, the public officials and public employees of the executive branch of state government, a county, city, public school, or other political subdivision shall not permit public resources to be used to expressly advocate the nomination, election, or defeat of a candidate or to expressly advocate the passage or defeat of a ballot issue.

5.4(2) Specific prohibitions. For purposes of clarifying the general prohibition on the use of public resources for a political purpose, the board has identified situations in which the use of public resources for a political purpose is prohibited unless one of the exceptions in rule 351—5.5(68A) applies. The following specific conduct or actions are deemed to be the prohibited use of public resources for a political purpose:

- a. Using public resources to solicit or accept campaign contributions.

b. Using public resources to solicit votes, engage in campaign work, or poll voters on their preferences for candidates or ballot issues. The prohibition on polling voters by using public resources does not apply to authorized research at a public university.

c. Using a publicly owned motor vehicle to transport political materials, placing campaign signs on a publicly owned motor vehicle, or traveling to campaign-related events in a publicly owned motor vehicle.

d. Using public resources to produce and distribute communications that expressly advocate for or against candidates or that expressly advocate for or against ballot issues.

e. Placing campaign materials on public property including the placement of campaign signs in the public right-of-way.

5.4(3) *Transportation maps.* As provided in Iowa department of transportation rule 761—28.3(307), Iowa transportation maps are not to be sold or used for purposes of personal or professional gain. The paper version of the map is not to be altered for distribution in any way, including adding a name or address, by candidates running for political office. This prohibition does not apply to pictures of the governor and lieutenant governor and a personal message which may appear on the map.

This rule is intended to implement Iowa Code section 68A.505.

[Editorial change: IAC Supplement 4/8/09]

351—5.5(68A) Exceptions from prohibition on use of public resources for a political purpose.

5.5(1) *Expressing opinion by resolution.* Iowa Code section 68A.505 permits the state or a governing body of a county, city, public school, or other political subdivision to express an opinion on a ballot issue through the passage of a resolution or proclamation. It is also permissible for a member of a governing body of the state, county, city, public school, or other political subdivision to express the member's opinion on a ballot issue at a public meeting of the governing body.

5.5(2) *Public forum.* Any public resource that is open to a member of the general public to use for other purposes may be used for political purposes, including the distribution of political materials on windshields of vehicles that are parked in public parking lots.

5.5(3) *Candidate debate.* The executive branch of state government, a county, city, public school, or other political subdivision may permit the holding of a candidate debate or forum and the accompanying distribution of campaign materials on governmental property so long as at least two candidates seeking the same office are invited to attend the debate or forum.

5.5(4) *Reimbursement to governmental body.* A person may reimburse a governmental body for the use of a public resource for a political purpose so long as it can be demonstrated to the board that the use of the resource was also for a public purpose or furthered a public interest. The reimbursement shall be for the actual costs of the public resource or be for the same amount charged to a person using the public resource for any other purpose.

5.5(5) *Communications that do not expressly advocate.* Public resources may be used to produce and distribute communications that do not expressly advocate for or against a candidate or that do not expressly advocate for or against a ballot issue.

5.5(6) *Use of job title.* As there is no expenditure of taxpayer funds, job titles may be used for political purposes.

5.5(7) *Residence.* It is not deemed a violation of Iowa Code section 68A.505 for a public official or public employee to use for political purposes the portion of public property that is designated as the personal residence of the public official or public employee.

5.5(8) *Clothing or paraphernalia.* While performing official duties, a public official or public employee may wear clothes or wear political paraphernalia that expressly advocate for or against candidates or that expressly advocate for or against ballot issues. However, the administrative head of a state agency or of a department of a political subdivision may enact an internal policy that would prohibit the wearing of campaign materials on the public property of that agency or subdivision.

This rule is intended to implement Iowa Code section 68A.505.

[Editorial change: IAC Supplement 4/8/09]

351—5.6(68B) Board advice. Public officials, public employees, or other persons interested in using public funds for a political purpose may first seek advice or guidance from the board concerning the legality of the action or conduct.

5.6(1) *Advisory opinion.* A board advisory opinion applies a statute or rule to a particular factual situation. The procedure for requesting a board opinion is set out in rules 351—1.2(68B) and 1.3(68B). As provided in Iowa Code section 68B.32A(12), a board opinion, if followed, constitutes a defense to a subsequent complaint concerning the same facts and circumstances.

5.6(2) *Declaratory order.* Persons may also seek board guidance concerning the application of a statute or rule to a specific factual situation through the petition for declaratory order procedure set out in 351—Chapter 12.

5.6(3) *Board review of a communication.* Any person interested in producing and distributing a communication using public resources may submit the communication prior to its distribution for a board determination of whether or not the communication contains express advocacy.

This rule is intended to implement Iowa Code section 68B.32A(12).

[Editorial change: IAC Supplement 4/8/09]

351—5.7(68B) Complaints. Any person may file a complaint or provide information to the board alleging a violation of Iowa Code section 68A.505 or the rules of this chapter by a public official or a public employee of the executive branch of state government or a political subdivision of state government. The procedure for filing a complaint or providing information to the board is set out in Iowa Code section 68B.32B and 351—Chapter 9.

This rule is intended to implement Iowa Code section 68B.32B.

[Editorial change: IAC Supplement 4/8/09]

351—5.8(68A) Holders of certain government positions prohibited from engaging in political activities. Several statutes outside of the board's jurisdiction prohibit the holders of certain government positions from being engaged in political activities. The board does not enforce these statutory prohibitions. However, to assist the regulated community and the public, the board will maintain on its Web site at <http://www.state.ia.us/ethics/index.htm> a list of positions whose holders are prohibited from engaging in political activities.

This rule is intended to implement Iowa Code section 68A.505.

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[Editorial change: IAC Supplement 4/8/09]

CHAPTER 6
EXECUTIVE BRANCH ETHICS

DIVISION I
GENERAL PROVISIONS

351—6.1(68B) Scope of chapter. Pursuant to Iowa Code section 68B.32(1), the Iowa ethics and campaign disclosure board is to set standards for, investigate complaints relating to, and monitor the ethics of officials, employees, and candidates for office in the executive branch of state government. Pursuant to Iowa Code section 68B.32A(13), the board is required to establish rules relating to ethical conduct for the executive branch of state government. This chapter sets the standards and establishes the rules for the ethical conduct of persons in the executive branch of state government.

This rule is intended to implement Iowa Code sections 68B.32(1) and 68B.32A(13).
[Editorial change: IAC Supplement 4/8/09]

351—6.2(68B) Definitions. For purposes of this chapter, the following definitions apply:

“*Agency of state government*” or “*state agency*” means any authority, board, bureau, commission, community college, department, division, office of a statewide elected official, or regents university.

“*Board*” means the Iowa ethics and campaign disclosure board.

“*Candidate for statewide office*” means a candidate for governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, secretary of agriculture, or attorney general.

“*Employee*” means an individual who is a paid employee of any agency of state government. “Employee” includes an individual employed in an interim or acting capacity. “Employee” does not include an official or an independent contractor.

“*Executive branch of state government*” means an agency of state government.

“*Official*” means a statewide elected official, an executive or administrative head or heads of a state agency, a deputy executive or administrative head or heads of a state agency, a member of a board or commission as defined under Iowa Code section 7E.4, or a head of a major subunit of a state agency whose position involves a substantial exercise of administrative discretion or the expenditure of public funds. “Official” includes an individual serving in an interim or acting capacity.

“*State duties*” means the official duties, responsibilities, or activities of an official or employee that are mandated by law, rule, or court order, or that otherwise lawfully aid an agency of state government in carrying out the statutory functions of the agency.

This rule is intended to implement Iowa Code section 68B.2.
[ARC 7649B, IAB 3/25/09, effective 4/29/09; Editorial change: IAC Supplement 4/8/09]

351—6.3(68B) Complaints or filing information alleging a violation.

6.3(1) *Who may file.* Any person may file a complaint or provide information to the board alleging a violation of Iowa Code chapter 68B or this chapter by officials, employees, and candidates for statewide office.

6.3(2) *Procedure.* The procedure for filing a complaint or providing information to the board alleging a violation of Iowa Code chapter 68B or this chapter is set out in Iowa Code section 68B.32B and 351—Chapter 9.

6.3(3) *Whistleblower protection.* A person who discharges or discriminates against an official or employee because the official or employee filed a complaint or provided information to the board shall be subject to the board’s complaint process if the official or employee filed the complaint or provided the information in good faith. If it is determined after a contested case proceeding that a person has impermissibly discharged or discriminated against an official or employee, the board may impose sanctions as set out in Iowa Code section 68B.32D.

For purposes of this subrule, “good faith” means that any statements or materials in a complaint or included as part of information provided to the board were made or provided with a reasonable belief that such statements or materials were true and accurate.

This rule is intended to implement Iowa Code sections 68B.32A(14) and 68B.32B.
[Editorial change: IAC Supplement 4/8/09]

351—6.4(68B) Board advice. Persons subject to the authority of the board under Iowa Code chapter 68B or this chapter may seek advice or guidance from the board concerning the legality of any action or conduct potentially affected by Iowa Code chapter 68B or this chapter.

6.4(1) Advisory opinion. A board advisory opinion applies a statute or rule under the board’s jurisdiction to a particular factual situation. The procedure for requesting a board opinion is set out in rules 351—1.2(68B) and 351—1.3(68B). Pursuant to Iowa Code section 68B.32A(12), a board opinion, if followed, constitutes a defense to a subsequent complaint or information provided to the board concerning the same facts and circumstances.

6.4(2) Declaratory order. Persons may also seek board guidance concerning the application of a statute or rule under the board’s jurisdiction to a specific factual situation through the petition for declaratory order procedure set out in 351—Chapter 12.

6.4(3) Routine administrative advice. A person may also receive oral or written routine administrative advice from board staff concerning the application of Iowa Code chapter 68B or this chapter. Routine administrative advice is not binding on the board, but may be offered as a defense to a subsequent complaint or information provided to the board concerning the same facts and circumstances.

This rule is intended to implement Iowa Code section 68B.32A(12).
[Editorial change: IAC Supplement 4/8/09]

DIVISION II
CONFLICT OF INTEREST AND MISUSE OF PROPERTY

351—6.5 to 6.7 Reserved.

351—6.8(68B) Misuse of public property. Iowa Code section 68B.32A(13) directs the board to establish rules relating to the misuse of public property by officials, employees, and candidates for statewide office.

6.8(1) Definition of public property. “Public property” means any real or personal property owned or controlled by the state of Iowa including but not limited to buildings, facilities, equipment, supplies, funds, records, files, and materials.

6.8(2) Prohibited uses. The following are deemed to be the misuse of public property by an official, employee, or candidate for statewide office:

a. Using public property to engage in an outside employment or activity that leads to an unacceptable conflict of interest as prohibited in Iowa Code section 68B.2A(1) “a.”

b. Using public property to knowingly and purposefully send, receive, or view obscene material. “Obscene material” means any material depicting or describing the genitals, sex acts, masturbation, excretory functions, or sadomasochistic abuse which the average person, taking the material as a whole and applying contemporary community standards with respect to what is suitable material, would find appeals to the prurient interest and is patently offensive; and the material, taken as a whole, lacks serious literary, scientific, political, or artistic value.

This paragraph shall not apply to obscene materials that are sent or received as part of a law enforcement investigation or are authorized by law to be sent or received.

c. Using public property for personal financial gain. This prohibition does not apply to the receipt of lawful compensation for the performance of official state duties.

d. Using public property for a personal benefit to the detriment of the state.

e. Removing public property from a state building or facility for personal use.

f. Using public property to engage in political activities as prohibited in 351—Chapter 5.

This rule is intended to implement Iowa Code section 68B.32A(13).

[Editorial change: IAC Supplement 4/8/09]

351—6.9(68B) Use of confidential information. No official or employee shall disclose or use confidential information, including the contents of a sealed bid acquired during the course of the official's or employee's state duties, for the personal gain or benefit of any person. This rule does not apply to the release of information that is mandated by law, rule, or court order.

This rule is intended to implement Iowa Code section 68B.32A(13).

[Editorial change: IAC Supplement 4/8/09]

DIVISION III
SALES OR LEASES OF GOODS OR SERVICES

351—6.10(68B) Prohibition on sales; when public bids required—disclosure of income. Pursuant to Iowa Code section 68B.3, an official or employee shall not sell, in any one occurrence, goods or services having a value in excess of \$2,000 to a state agency unless the sale is made pursuant to an award or contract let after public notice and competitive bidding. This prohibition includes sales to the state agency in which the official serves or is employed.

6.10(1) Exceptions. The prohibition in Iowa Code section 68B.3 and this rule shall not apply to any of the following:

a. Sales of goods or services done as part of the official's or employee's state duties.

b. The publication of resolutions, advertisements, or other legal propositions or notices in newspapers designated by law for the publication of such materials and for which publication rates are fixed by law.

c. Instruction at an accredited educational institution if the official or employee meets the minimum education and licensing requirements established for other instructors at the educational institution.

6.10(2) Sales to political subdivisions. An official who sells goods or services to a political subdivision of the state shall disclose on the official's Form PFD as provided in 351—Chapter 7 if income was received from the sale.

This rule is intended to implement Iowa Code section 68B.3.

[ARC 7650B, IAB 3/25/09, effective 4/29/09]

351—6.11(68B) Sales or leases by regulatory agency officials or employees. An official or employee of a regulatory agency shall not directly or indirectly sell or lease any goods or services to individuals, associations, or corporations subject to the regulatory authority of the official's or employee's agency except as provided by Iowa Code section 68B.4 and this rule. This prohibition does not apply to sales or leases that are part of the official's or employee's state duties.

6.11(1) Applicability. Pursuant to Iowa Code section 68B.4, the board shall adopt rules specifying the method by which an official or employee of a regulatory agency may obtain consent to sell or lease a good or service to an individual, association, or corporation subject to the regulatory authority of the official's or employee's agency. This rule sets out the method of obtaining consent by a regulatory agency official or employee.

6.11(2) Definitions. For purposes of this rule, the following definitions apply:

“Agency” means a regulatory agency.

“Employee” means an employee of an executive branch regulatory agency and does not include an independent contractor or an official.

“Official” means a statewide elected official of a regulatory agency, an executive or administrative head or heads of a regulatory agency, a deputy executive or administrative head or heads of a regulatory agency, a member of a board or commission as defined under Iowa Code section 7E.4, or a head of a major subunit of a regulatory agency whose position involves a substantial exercise of administrative discretion or the expenditure of public funds.

“*Regulatory agency*” means the department of agriculture and land stewardship, department of workforce development, department of commerce, Iowa department of public health, department of public safety, department of education, state board of regents, department of human services, department of revenue, department of inspections and appeals, department of administrative services, public employment relations board, state department of transportation, civil rights commission, department of public defense, Iowa ethics and campaign disclosure board, and department of natural resources.

6.11(3) Request for consent. An official’s or employee’s request for an agency’s consent to the sale or lease of goods or services shall comply with all of the following:

a. The request shall be in writing and shall be filed with the official’s or employee’s agency at least 20 calendar days in advance of the proposed sale or lease of any goods or services.

b. The request shall include all of the following:

(1) The name of the individual, association, or corporation to which the goods or services are to be sold or leased;

(2) The relationship of the individual, association, or corporation to the agency;

(3) A description of the goods or services;

(4) The date or dates that the goods or services will be delivered; and

(5) A statement by the official or employee explaining how the proposed sale or lease of the goods or services will not violate the provisions of Iowa Code section 68B.4 or create a conflict of interest under Iowa Code section 68B.2A.

6.11(4) Agency guidelines. Iowa Code section 68B.4 and the guidelines in this subrule shall be the sole legal authorities to be used by an agency in considering the granting of consent. In determining whether to grant consent, the agency shall take the following guidelines into consideration:

a. The official or employee seeking consent is not the person with the authority to determine whether consent should be granted.

b. The duties and functions performed by the official or employee seeking consent are not related to the regulatory authority of the agency over the individual, association, or corporation to which the goods or services will be sold or leased.

c. The selling or leasing of the goods or services does not affect the official’s or employee’s duties or functions at the agency.

d. The selling or leasing of the goods or services will not cause the official or employee to advocate on behalf of the individual, association, or corporation to the agency.

e. The selling or leasing of the goods or services does not cause the official or employee to sell or lease goods or services to the agency on behalf of the individual, association, or corporation.

f. The selling or leasing of the goods or services will not result in a conflict of interest as provided in Iowa Code section 68B.2A.

g. The request complies with the procedural requirements of subrule 6.11(3).

h. A regulatory agency may grant blanket consent for sales or leases to classes of individuals, associations, or persons when such blanket consent is consistent with subrule 6.11(4) and the granting of single consents is impractical or impossible to determine.

These guidelines shall be publicized and made known to all personnel throughout the agency.

6.11(5) Agency decision. The official’s or employee’s agency shall issue a written consent or denial within 14 calendar days following the date the request was filed. The deadline may be extended by agreement of both the official or employee and the agency. If the request is denied or granted conditionally, the agency shall state the reasons for the denial or conditional consent.

6.11(6) Appeal of denial. An official or employee who receives a denial or conditional consent may file a request with the board for a contested case proceeding pursuant to 351—Chapter 11 for a determination of whether the situation described in the request complies with the requirements of Iowa Code section 68B.2A, Iowa Code section 68B.4 and this rule. The final order of the board constitutes final agency action for purposes of seeking judicial review.

6.11(7) Copy of consent filed with board. Pursuant to Iowa Code section 68B.4, an agency granting consent shall file a copy of the consent with the board within 20 days of the granting of consent. The

board shall treat the consent as a public record. The failure to provide a copy of the consent may result in the imposition of board sanctions against the individual who granted the consent.

6.11(8) *Consent not a defense.* Consent granted by an agency under this rule shall not constitute a defense to a complaint alleging a violation of any law or rule. It is the responsibility of the official or employee to ensure compliance with all applicable laws and rules.

This rule is intended to implement Iowa Code section 68B.4.
[Editorial change: IAC Supplement 4/8/09]

351—6.12(68B) Sales or leases by members of the office of the governor. A permanent full-time member of the office of the governor shall not directly or indirectly sell or lease any goods or services to registered lobbyists before the general assembly or the executive branch or to individuals, associations, or corporations that employ persons who are registered lobbyists before the general assembly or the executive branch except as provided in Iowa Code section 68B.4B and this rule. This prohibition does not apply to sales or leases that are part of the member's state duties.

6.12(1) *Request for consent.* A request submitted by a member of the office of the governor for consent to sell or lease goods or services shall comply with all of the following:

a. The request shall be in writing and shall be filed at least 20 calendar days in advance of the proposed sale or lease of any goods or services with the person responsible for hiring or approving the hiring of the member.

b. The request shall include all of the following:

(1) The name of the lobbyist, individual, association, or corporation to which the goods or services are to be sold or leased;

(2) The relationship of the lobbyist, individual, association, or corporation to the office of the governor;

(3) A description of the goods or services;

(4) The date or dates that the goods or services will be delivered; and

(5) A statement by the member explaining how the proposed sale or lease of the goods or services will not violate the provisions of Iowa Code section 68B.4B or create a conflict of interest under Iowa Code section 68B.2A.

6.12(2) *Guidelines for granting consent.* In determining whether to grant consent, the person responsible for hiring or approving the hiring of the member shall take the following guidelines into consideration:

a. The duties and functions performed by the member are not related to the authority of the office of the governor over the lobbyist, individual, association, or corporation.

b. The selling or leasing of goods or services by the member to the lobbyist, individual, association, or corporation does not affect the member's duties or functions at the office of the governor.

c. The selling or leasing of any goods or services by the member to a lobbyist, individual, association, or corporation does not include lobbying the office of the governor.

d. The selling or leasing of any goods or services by the member does not cause the member to sell or lease goods or services to the office of the governor on behalf of the lobbyist, individual, association, or corporation.

e. The selling or leasing of the goods or services will not result in a conflict of interest as provided in Iowa Code section 68B.2A.

f. The request complies with the procedural requirements of subrule 6.12(1).

g. A blanket consent may be granted for sales or leases to classes of lobbyists, individuals, associations, or corporations when such blanket consent is consistent with subrule 6.12(2) and the granting of single consents is impractical or impossible to determine.

These guidelines shall be publicized and made known to members of the office of the governor.

6.12(3) *Decision.* The person responsible for hiring or approving the hiring of the member shall issue a written consent or denial within 14 calendar days following the date the request was filed. The deadline may be extended by agreement of both the member and the person. If the request is denied, the person shall state the reasons for the denial.

6.12(4) *Appeal of denial.* A member who receives a denial may file a request with the board for a contested case proceeding pursuant to 351—Chapter 11 for a determination of whether the situation described in the request complies with the requirements of Iowa Code section 68B.2A, Iowa Code section 68B.4B and this rule. The final order of the board constitutes final agency action for purposes of seeking judicial review.

6.12(5) *Copy of consent filed with board.* Pursuant to Iowa Code section 68B.4B, a copy of the consent granted to a member shall be filed with the board within 20 days of the granting of consent. The board shall treat the consent as a public record. The failure to provide a copy of the consent may result in the imposition of board sanctions against the person who granted the consent.

6.12(6) *Consent not a defense.* Consent granted under this rule shall not constitute a defense to a complaint alleging a violation of any law or rule. It is the responsibility of the member of the office of the governor to ensure compliance with all applicable laws and rules.

This rule is intended to implement Iowa Code section 68B.4B.

[Editorial change: IAC Supplement 4/8/09]

DIVISION IV
EMPLOYMENT RESTRICTIONS

351—6.13 Reserved.

351—6.14(68B) *Engaging in services against the interest of the state prohibited.* Except for a member of a board or commission, no official or employee shall receive compensation in any form, or enter into any type of agreement to receive compensation in any form, to appear on behalf of any person or otherwise render services against the interest of the state except as set out in Iowa Code section 68B.6 and this rule. This prohibition relates to any case, proceeding, application, or other matter before any federal court, federal bureau, federal agency, federal commission, federal department, any agency of state government, or any court of the state of Iowa.

6.14(1) *Definitions.* For purposes of this rule, the following definitions apply:

“*Board*” means a policy-making body that has the power to hear contested cases or a policy-making body that has powers for both rule making and hearing contested cases.

“*Commission*” means a policy-making body that has rule-making powers.

6.14(2) *Member of board or commission.* No member of a board or commission shall receive compensation in any form, or enter into any type of agreement to receive compensation in any form, to appear on behalf of any person or otherwise render services against the interest of the state in relation to any case, proceeding, application, or other matter before the subunit of a state agency in which the member serves or is employed, or with which the member has substantial and regular contact as part of the member’s state duties.

6.14(3) *Exception for attorney general and public defender.* As provided in 2004 Iowa Acts, Senate File 2179, sections 1 and 2, officials and employees carrying out the official duties of the office of the attorney general or the office of the state public defender are not subject to the provisions of Iowa Code section 68B.6 or this rule.

This rule is intended to implement Iowa Code section 68B.6.

[Editorial change: IAC Supplement 4/8/09]

351—6.15 Reserved.

DIVISION V
GIFTS AND OFFERS

351—6.16 to 6.18 Reserved.

351—6.19(68B) *Prohibition on receipt of an honorarium.* Pursuant to Iowa Code section 68B.23, an official or employee shall not accept an honorarium from a restricted donor.

6.19(1) *Definitions.* For purposes of this rule, the following definitions apply:

“*Honorarium*” means a payment of compensation or the giving of anything of value to an official or employee in relation to a speaking engagement.

“*Restricted donor*” means a person as defined in Iowa Code section 68B.2(24).

6.19(2) Exceptions. An official or employee may receive and accept an honorarium provided that the honorarium consists of:

a. Payment of actual expenses for registration, food, beverages, travel, or lodging paid in return for participation on a panel or for a speaking engagement at a meeting. The expenses shall relate directly to the day or days on which the official or employee has participation or speaking responsibilities.

b. Receipt of a nonmonetary item or a series of nonmonetary items that the official or employee donates within 30 days of receipt to any of the following:

(1) A public body;

(2) A bona fide educational or charitable organization; or

(3) The department of administrative services. Items donated to the department of administrative services shall be disposed of by assignment to state agencies for official use or by public sale.

c. Payment to an official or employee for services rendered as part of a bona fide private business, trade, or profession in which the official or employee is engaged so long as both of the following conditions are met:

(1) The payment is commensurate with the actual services rendered; and

(2) The payment is being made due to a special expertise or other qualification the recipient possesses separate from the recipient’s status as a public official or public employee.

6.19(3) Solicitation prohibited. An official or employee shall not solicit, demand, or otherwise request an honorarium from a restricted donor.

This rule is intended to implement Iowa Code sections 68B.23 and 68B.32A(13).

[Editorial change: IAC Supplement 4/8/09]

351—6.20(68B) Loans from executive branch lobbyists prohibited. Pursuant to Iowa Code section 68B.24, officials, employees, and candidates for statewide office shall not directly or indirectly seek or accept a loan from a person who is an executive branch lobbyist.

6.20(1) Definitions. For purposes of this rule, the following definitions apply:

“*Executive branch lobbyist*” means an individual who is registered as a lobbyist with the board or is an “executive branch lobbyist” as defined in rule 351—8.2(68B).

“*Loan*” means a sum of money upon agreement, express or implied, to be repaid with or without interest.

6.20(2) Offer of loan prohibited. An executive branch lobbyist shall not directly or indirectly offer or make a loan to an official, an employee, or a candidate for statewide office as prohibited in Iowa Code section 68B.24(2) and rule 351—8.16(68B).

6.20(3) Exceptions. The prohibitions in Iowa Code section 68B.24 and this rule do not apply to a loan made in either of the following circumstances:

a. A loan made in the ordinary course of business. For purposes of Iowa Code section 68B.24 and this rule, “ordinary course of business” means the loan is made by a person regularly engaged in a business that makes loans to members of the public, and the finance charges and other terms of the loan are the same as or substantially similar to the finance charges and loan terms that are available to members of the public.

b. A loan made to the campaign committee of a candidate for statewide office that is subject to the campaign laws in Iowa Code chapter 68A.

This rule is intended to implement Iowa Code sections 68B.24 and 68B.32A(13).

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[◊] Two or more ARCs

CHAPTER 7
PERSONAL FINANCIAL DISCLOSURE
[Prior to 7/9/03, see 351—Ch 11]

351—7.1(68B) Filing requirements and procedures.

7.1(1) *Time of filing.* All persons who are required to file a personal financial disclosure statement (Form PFD) with the board pursuant to Iowa Code section 68B.35(2) shall file the statements with the board on or before April 30 of each year following a year during which the person holds a designated position, without regard to the length of time the position was occupied by the person. A person who held a designated position who leaves that position or state employment shall have a continuing obligation to file the statement for any year or portion of a year in which the position was held prior to termination.

7.1(2) *Place of filing.* Form PFD shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. The form may also be filed by fax at (515)281-4073 or electronically using the board's Web site at www.iowa.gov/ethics.

7.1(3) *Persons holding more than one designated position.* A person who is required to file a personal financial disclosure statement for more than one position shall be required to file only one statement for the reporting year. A member of the general assembly who files a form with the secretary of the senate or the chief clerk of the house shall not be required to file the form with the board for any designated position held in the executive branch.

7.1(4) *Physical receipt.* The board must physically receive a filed Form PFD on or before April 30 of each year. If mailed, the form must bear a United States Postal Service postmark dated on or before April 30. Faxed or electronically filed forms must be submitted on or before 11:59 p.m. on the required due date. If the due date falls on a weekend or holiday, the filing deadline shall be extended to the first working day following the deadline.

7.1(5) *Period covered.* Information shall be filed on Form PFD as designated by the board and shall cover the calendar year immediately preceding the year due. However, a statement filed by a person who has left a designated position during the course of a year need only contain information covering the portion of that year that has elapsed prior to the person's leaving the position.

7.1(6) *Public record.* Rescinded IAB 9/15/04, effective 10/20/04.

This rule is intended to implement Iowa Code sections 68B.32A(5), 68B.35 and 68B.35A.
[Editorial change: IAC Supplement 4/8/09]

351—7.2(68B) Information disclosed on form.

7.2(1) *Definitions.* For the purpose of completing Form PFD, "income sources" includes those sources which are held jointly with one or more persons and which in total generate more than \$1000 of income. "Jointly" means that the ownership of the income source is undivided among the owners and that all owners have one and the same interest in an undivided possession, each with full rights of use and enjoyment of the total income. Sources of income that are co-owned but with ownership interests that are legally divisible, without full rights of use or enjoyment of the total income, need not be reported unless the person's portion of the income from that source exceeds \$1000.

7.2(2) *Spousal income.* For purposes of completing Form PFD, income earned solely by the spouse of a person subject to reporting is not income to that person and need not be reported as an income source.

This rule is intended to implement Iowa Code section 68B.35.

351—7.3(68B) Procedure for determining persons required to file with the board—distribution of forms.

7.3(1) *Persons required by statute.* In order to determine which persons in the executive branch are required by Iowa Code section 68B.35(2) to file Form PFD, the board shall contact each agency on an annual basis and provide notification of the statutory requirement. This notification shall include the name and position title of each person in the agency who filed Form PFD the previous year. Each agency, in consultation with the board, shall then determine which persons are required to file Form PFD for the next filing period and shall provide the board with the appropriate names and position titles. The board shall have the final authority to determine whether a position requires that a Form PFD be filed.

7.3(2) Boards, commissions, or authorities not named in statute. Pursuant to Iowa Code section 68B.35(2) “e,” on an annual basis the board shall conduct a review to determine if a member of any other board, commission, or authority not specifically named in Iowa Code section 68B.35(2) “e” should file Form PFD. If the board determines that Form PFD should be filed, the board shall by rule require a Form PFD to be filed.

7.3(3) Statewide candidates. A person who is a candidate for statewide office shall file Form PFD with the board no later than 30 days after the date on which a person is required to file nomination papers for state office under Iowa Code section 43.11. Once nomination papers or an affidavit of candidacy is filed, the board shall notify the person of the requirement to file Form PFD. The notification shall be sent by first-class mail and shall include a blank form or information on how to obtain a blank form for filing.

7.3(4) Statewide candidates in a special election. Pursuant to Iowa Code section 68B.35(5) a person who is a candidate for statewide office in a special election shall file Form PFD with the board within seven days after the certification of the candidate’s name as the nominee under Iowa Code section 43.88.

7.3(5) Distribution of forms. The board shall provide each agency with blank forms for distribution to the designated persons and shall make blank forms available via the board’s Web site at www.iowa.gov/ethics. The board shall provide each agency with the link on the board’s Web site where forms may be filed electronically. The board shall also make blank forms available via the board’s Web site.

This rule is intended to implement Iowa Code sections 68B.32A(5) and 68B.35.
[Editorial change: IAC Supplement 4/8/09]

351—7.4(68B) Delinquent forms. Rescinded IAB 9/15/04, effective 10/20/04.

351—7.5(68B) Penalties.

7.5(1) Penalties for late personal financial disclosure statements. An individual holding a designated position in the executive branch who fails to timely file Form PFD shall be subject to an automatic civil penalty according to the following schedule:

Days Delinquent	Penalty Amount
1 to 14	\$25
15 to 30	\$50
31 and over	\$100

7.5(2) Additional penalty. If an individual holding a designated position in the executive branch fails to file a personal financial disclosure statement within 45 days of the required filing date, a contested case proceeding may be held to determine whether or not a violation has occurred. If after a contested case proceeding it is determined that a violation occurred, the board may impose any of the actions under Iowa Code section 68B.32D. Any action imposed under Iowa Code section 68B.32D would be in addition to an automatically assessed penalty in subrule 7.5(1).

7.5(3) Failure to file true statement. It shall be considered a violation of Iowa Code section 68B.35 for an individual holding a designated position in the executive branch to file a disclosure statement containing false or fraudulent information. Complaints concerning the filing of a false or fraudulent disclosure statement shall be handled by the procedures in Iowa Code section 68B.32B. If it is determined after a contested case proceeding that a false or fraudulent disclosure statement was filed, the board may impose any of the actions under Iowa Code section 68B.32D.

This rule is intended to implement Iowa Code sections 68B.32A(9) and 68B.35.
[Editorial change: IAC Supplement 4/8/09]

351—7.6(68B) Requests for waiver of penalties. If an individual holding a designated position in the executive branch believes that mitigating circumstances prevented the timely filing of Form PFD, the individual may make a written request to the board for waiver of the penalty. The request for waiver must be received by the board within 30 days of notification to the individual of the civil penalty assessment. Waivers may be granted only under exceptional or very unusual circumstances. The board will review

the request and issue a waiver or denial of the request. If a waiver is granted, the board will determine how much of the penalty may be waived based on the circumstances.

This rule is intended to implement Iowa Code section 68B.32A(9).

[Editorial change: IAC Supplement 4/8/09]

351—7.7(68B) Contested case challenge.

7.7(1) Request. If the individual accepts administrative resolution concerning a late-filed Form PFD through the payment of the assessed penalty, the matter shall be closed. If the individual chooses to contest the board's decision to deny the request or grant a partial waiver of an assessed penalty, the individual shall make a written request for a contested case proceeding within 30 days of being notified of the board's decision.

7.7(2) Procedure. Upon timely receipt of a request for a contested case proceeding, the board shall provide for the issuance of a statement of charges and notice of hearing. The contested case shall be conducted in accordance with the provisions of 351—Chapter 11. The burden shall be on the board's legal counsel to prove that a violation occurred.

7.7(3) Failure to request proceeding. The failure to request a contested case proceeding to contest the board's decision on a waiver request is a failure to exhaust administrative remedies for purposes of seeking judicial review in accordance with Iowa Code chapter 17A.

This rule is intended to implement Iowa Code sections 68B.32A(9) and 68B.33.

[Editorial change: IAC Supplement 4/8/09]

351—7.8(68B) Payment of penalty. The remittance shall be made payable to the "State of Iowa General Fund" and forwarded to Iowa Ethics and Campaign Disclosure Board, 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. The remittance shall be deposited in the general fund of the state of Iowa.

This rule is intended to implement Iowa Code section 68B.32A(9).

[Editorial change: IAC Supplement 4/8/09]

351—7.9(68B) Retention and availability of filed forms.

7.9(1) Public record. Forms filed with the board are a public record and shall be available for inspection and copying.

7.9(2) Internet access. Pursuant to Iowa Code section 68B.35A, the board shall record a filed Form PFD on the board's Web site at www.iowa.gov/ethics. Filed forms shall be accessible via the board's Web site for a period of at least five years from the reporting due date.

This rule is intended to implement Iowa Code sections 68B.35 and 68B.35A.

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[◇] Two or more ARCs

CHAPTER 8
EXECUTIVE BRANCH LOBBYING

[Prior to 11/26/03, see 351—Ch 13]

351—8.1(68B) Executive branch lobbying defined. “Executive branch lobbying” means acting directly to encourage the passage, defeat, approval, veto, or modification of legislation, a rule, or an executive order by a state agency or any statewide elected official. For purposes of this chapter, “state agency” does not include the legislative branch of state government.

This rule is intended to implement Iowa Code section 68B.2(13).

351—8.2(68B) Executive branch lobbyist defined. “Executive branch lobbyist” means an individual who by acting directly does at least one of the following:

1. Receives compensation for engaging in executive branch lobbying.
2. Is a designated representative of an organization that has as one of its purposes engaging in executive branch lobbying.
3. Represents the position of a federal, state, or local agency in which the person serves or is employed as the representative designated to engage in executive branch lobbying.
4. Makes expenditures of more than \$1,000 in a calendar year to communicate in person for the purpose of engaging in executive branch lobbying.

This rule is intended to implement Iowa Code section 68B.2(13).

351—8.3(68B) Individuals not considered executive branch lobbyists. The following individuals are not considered to be executive branch lobbyists:

1. Officials and employees of a political party that is organized in the state of Iowa and that meets the requirements of Iowa Code section 43.2, when the officials and employees represent the political party in an official capacity.
2. Representatives of the news media only when engaged in the reporting and dissemination of news and editorials.
3. All federal, state, and local elected officials, while performing the duties and responsibilities of office.
4. Individuals whose activities are limited to appearances to give testimony or provide information or assistance at public hearings of state agencies or who are giving testimony or providing information or assistance at the request of public officials or employees.
5. Members of the staff of the United States Congress or the Iowa general assembly.
6. Agency officials and employees while they are engaged in activities within the agency in which they serve or are employed or with another agency within which an official’s or employee’s agency is involved in a collaborative project.
7. An individual who is a member, director, trustee, officer, or committee member of a business, trade, labor, farm, professional, religious, education, or charitable association, foundation, or organization and who is not paid compensation or is not specifically designated as an executive branch lobbyist.
8. Individuals whose activities are limited to submitting data, views, or arguments in writing, or requesting an opportunity to make an oral presentation under Iowa Code section 17A.4(1).
9. Individuals whose activities are limited to monitoring or following the progress of legislation, a rule, or an executive order, but who do not engage in executive branch lobbying.
10. Individuals who represent a client in responding to a request for proposal or otherwise receiving a contract or grant from a state agency.
11. Individuals who represent a client involved in a legal dispute with the state, including a contested case proceeding.
12. Individuals advocating for or against the appointment of a particular individual to a board or commission of the state.

Individuals who are uncertain as to whether or not they are considered executive branch lobbyists should contact the board for guidance prior to engaging in any executive branch lobbying.

This rule is intended to implement Iowa Code section 68B.2(13).

351—8.4(68B) Executive branch lobbyist client defined. “Executive branch lobbyist client” means a private person or a federal, state, or local governmental entity that pays compensation to or designates an individual to be a lobbyist before the executive branch.

This rule is intended to implement Iowa Code section 68B.2(6).

351—8.5(68B) Lobbyist compensation defined; contingency fee lobbying prohibited.

8.5(1) Lobbyist compensation defined. “Lobbyist compensation” means any money, thing of value, or financial benefit conferred in return for engaging in executive branch lobbying.

8.5(2) Contingency fee lobbying prohibited. No person shall offer, nor shall any person accept, compensation contingent upon the outcome of executive branch lobbying services rendered or to be rendered. Complaints or information alleging a violation of this subrule shall be filed with the board and governed by Iowa Code sections 68B.32B through 68B.32D.

This rule is intended to implement Iowa Code section 68B.2(7).

351—8.6(68B) Executive branch lobbying expenditures. This rule is intended to aid executive branch lobbyists in reporting expenditures as required by Iowa Code section 68B.37 that are made by lobbyists for executive branch lobbying purposes. The provisions of this rule are intended to serve as a general guideline to obtain uniform reporting.

8.6(1) Expenditures defined. The following are defined as executive branch lobbying expenditures:

a. Direct communication expenses such as telephone calls, letters, faxes, printing, and postage for purposes of engaging in executive branch lobbying.

b. Other tangible costs directly associated with engaging in executive branch lobbying as defined in rule 351—8.1(68B).

8.6(2) Lobbyist client expenses. For purposes of this rule, any of the expenses set out in subrule 8.6(1) incurred by a lobbyist’s client shall apply to the lobbyist and shall be a reportable expense by the lobbyist. However, an expenditure made by any organization for publishing a newsletter or other informational release for its members is not a reportable expenditure.

This rule is intended to implement Iowa Code section 68B.37.

351—8.7(68B) Lobbyist registration required.

8.7(1) Time of filing. Any individual engaging in executive branch lobbying activity shall register by filing an executive branch lobbyist registration statement with the board on or before the day the lobbying activity begins. Registration expires upon the commencement of a new calendar year. Persons wishing to register for a new calendar year may do so on or after December 1 of the previous year.

8.7(2) Place of filing. Executive branch lobbyist registration statements shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. Registration statements may also be filed by fax at (515)281-3701 or electronically through the board’s Web site at www.iowa.gov/ethics.

8.7(3) Information required. The following information shall be disclosed on the executive branch lobbyist registration statement:

a. The lobbyist’s name and business address. The lobbyist’s residential address and E-mail address are optional. The lobbyist shall indicate whether mail should be sent to the lobbyist’s office or residence.

b. A general description of the issues or interests that the lobbyist might follow and a list of agencies or offices that may be lobbied.

c. Whether or not the lobbyist is a governmental official representing the official position of the lobbyist’s department, agency, or governmental entity.

d. Each of the lobbyist’s clients, including the name and address of the client, a contact person and job title, and the contact person’s telephone number. An E-mail address is optional.

e. The lobbyist's signature and date of filing. Registration statements filed electronically through the board's Web site are deemed signed and dated when filed.

8.7(4) *Government employee authorization letter.* As required by Iowa Code section 68B.36(5), all federal, state, and local officials or employees representing the official positions of their departments, commissions, boards, or agencies shall submit with their registration statements letters of authorization from their department or agency heads. Federal, state, and local officials who wish to lobby in opposition to the official position of their departments, commissions, boards, or agencies shall disclose this fact on their lobbyist registration statements.

8.7(5) *Amendment to registration.* Any change or addition to the information in an executive branch lobbyist's registration statement shall be filed with the board within ten days after the change or addition is made known to the lobbyist. The lobbyist may file changes or additions by submitting an amended registration statement or by letter. If the lobbyist submits the changes or additions by letter, the letter shall contain sufficient information to notify the public and the board of the change or addition.

8.7(6) *Cancellation.* If a lobbyist's service on behalf of a client is concluded prior to the end of the calendar year, the lobbyist or client may cancel the registration and terminate the reporting requirements of Iowa Code section 68B.37 and rule 351—8.8(68B) so long as compliance with subrule 8.8(4) is achieved. Cancellation may be completed by the filing of an executive branch lobbyist termination statement or by letter.

8.7(7) *Failure to timely file registration.* An individual who fails to file an executive branch lobbyist registration statement before engaging in executive branch lobbying is in violation of Iowa Code section 68B.36 and is subject to the possible imposition of board sanctions.

This rule is intended to implement Iowa Code section 68B.36.

351—8.8(68B) Executive branch periodic lobbyist reports.

8.8(1) Every executive branch lobbyist, unless an exemption is granted pursuant to subrule 8.8(5), shall file periodic reports disclosing all of the following:

- a. The lobbyist's name and address.
- b. The reporting period covered by the filed report, including disclosing whether the report is an original or amended report.
- c. The lobbyist's clients.
- d. The recipient and amount of campaign contributions made by the lobbyist to candidates for state office. Campaign contributions shall not be made to state officers during the time period described in Iowa Code section 68A.504 and rule 351—8.15(68A).
- e. Expenditures made by the lobbyist for executive branch lobbying purposes.
- f. The lobbyist's signature and the date filed. Reports filed electronically through the board's Web site are deemed signed and dated when filed.

8.8(2) *Place of filing.* Executive branch periodic lobbyist reports shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. Reports may also be filed by fax at (515)281-3701 or electronically through the board's Web site at www.iowa.gov/ethics.

8.8(3) *Time of filing.* An executive branch periodic lobbyist report shall be filed on or before April 30, July 31, October 31, and January 31, for the preceding calendar quarter or parts thereof during which the lobbyist was engaged in executive branch lobbying. The report must be physically received by the board on or before the report due date. If mailed, the report must bear a United States Postal Service postmark dated on or before the report due date. Faxed or electronically filed reports must be submitted on or before 11:59 p.m. on the due date. If the report due date falls on a weekend or holiday, the due date shall be extended to the next business day.

8.8(4) *Cancellation.* If the lobbyist cancels registration on behalf of a client under rule 351—8.7(68B), the lobbyist shall file a final executive branch periodic lobbyist report on the next required due date or within 15 days of the cancellation, whichever is earlier. As required by Iowa Code section 68B.37(3), the final report shall include cumulative year-to-date information.

8.8(5) *Exemption.* As provided in Iowa Code section 68B.37(3), if the lobbyist is designated to represent an organization other than a governmental entity and is not paid compensation or does not

expend more than \$1,000 to lobby, the lobbyist may file an Application for Lobbyist Quarterly Reporting Exemption form and one Executive Branch Periodic Lobbyist Report disclosing anticipated expenditures for the year in lieu of filing the quarterly reports. The exemption form and cumulative report shall be filed at the same time the lobbyist registration statement is filed.

8.8(6) *Attorney-client privilege not applicable.* Attorneys who engage in executive branch lobbying shall comply with the requirements of Iowa Code section 68B.37 and shall not avoid public disclosure of executive branch lobbying expenditures by asserting attorney-client privilege.

This rule is intended to implement Iowa Code section 68B.37.

[Editorial change: IAC Supplement 4/8/09]

351—8.9(68B) Executive branch lobbyist client reporting.

8.9(1) Every executive branch lobbyist client shall file reports that contain the following information:

- a. The name and address of the client, including a contact person.
- b. The name of the client's lobbyists.
- c. The amount of all salaries, fees, retainers, and reimbursements paid or anticipated to be paid by the client to each lobbyist for engaging in executive branch lobbying activities for the period commencing on July 1 of the previous year through June 30 of the current year. A report shall be filed even if the client did not pay any compensation to the client's lobbyist. If no compensation was paid, the client shall disclose on the report \$0.00 as compensation paid. In the case of a salaried position when executive branch lobbying is part of the individual's duties, the reportable salary shall be based on a pro-rata basis of time spent engaging in executive branch lobbying.

d. The signature of the client's contact person and the date signed. Lobbyist client reports filed electronically through the board's Web site are deemed signed and dated when filed.

8.9(2) Place of filing. Executive branch lobbyist client reports shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. Reports may also be filed by fax at (515)281-3701 or electronically through the board's Web site at www.iowa.gov/ethics.

8.9(3) Time of filing. An executive branch lobbyist client report shall be filed on or before July 31. The report must be physically received by the board on or before the report due date. If mailed, the report must bear a United States Postal Service postmark dated on or before the report due date. Faxed or electronically filed reports must be submitted on or before 11:59 p.m. on the due date. If the report due date falls on a weekend or holiday, the due date shall be extended to the next business day.

This rule is intended to implement Iowa Code section 68B.38.

[Editorial change: IAC Supplement 4/8/09]

351—8.10(68B) Reception reporting form. Rescinded IAB 12/21/05, effective 1/25/06.

351—8.11(68B) Penalties for delinquent reports.

8.11(1) *Late lobbyist report.* An executive branch lobbyist who fails to timely file an executive branch periodic lobbyist report shall be subject to an automatic civil penalty according to the following schedule:

Days Delinquent	1st Delinquency	2nd Delinquency	Subsequent Delinquencies
1 to 14	\$25	\$50	\$100
15 to 30	\$50	\$100	\$200
31 and over	\$100	\$200	\$400

For purposes of this subrule, second and subsequent delinquencies apply to a report that covers any quarter of the year for which the lobbyist is registered to lobby the executive branch.

8.11(2) *Late client report.* An executive branch lobbyist client who fails to file an executive branch lobbyist client report on or before the required due date shall be subject to an automatic civil penalty according to the following schedule:

Days Delinquent	Amount
1 to 14	\$25
15 to 30	\$50
31 and over	\$100

8.11(3) Additional penalty. If an executive branch lobbyist or an executive branch lobbyist client fails to file a required report within 45 days of the report due date, or fails to file a complete report, a contested case proceeding may be held to determine whether a violation has occurred. If, after a contested case proceeding, it is determined that a violation occurred, the board may impose any of the actions under Iowa Code section 68B.32D. Any action so imposed would be in addition to the automatically assessed penalty in this rule.

This rule is intended to implement Iowa Code sections 68B.32A(5) and 68B.32A(9).

[Editorial change: IAC Supplement 4/8/09]

351—8.12(68B) Request for waiver of penalty. An executive branch lobbyist or an executive branch lobbyist client that believes there are mitigating circumstances that prevented the timely filing of a report may make a written request to the board for waiver of the penalty. The board must receive the request for waiver within 30 days of the lobbyist's or lobbyist client's being notified of the civil penalty assessment. Waivers will be granted only for exceptional or very unusual circumstances.

The board will review the request and issue a waiver or denial of the request. If a waiver is granted, the board will determine how much of the penalty is waived based on the circumstances. If a denial or partial waiver is issued, the person shall promptly pay the assessed penalty or request a contested case proceeding pursuant to rule 351—8.13(68B) to appeal the board's decision.

This rule is intended to implement Iowa Code sections 68B.32A(5) and 68B.32A(9).

[Editorial change: IAC Supplement 4/8/09]

351—8.13(68B) Contested case proceeding.

8.13(1) Request. If an executive branch lobbyist or an executive branch lobbyist client accepts administrative resolution of a matter through the payment of an assessed civil penalty, the matter shall be closed. If the person chooses to contest the board's decision to deny a request or grant a partial waiver of an assessed civil penalty, the person shall make a written request for a contested case proceeding within 30 days of being notified of the board's decision.

8.13(2) Procedure. Upon timely receipt of a request for a contested case proceeding, the board shall provide for the issuance of a statement of charges and notice of hearing. The hearing shall be conducted in accordance with the provisions of Iowa Code section 68B.32C and the board's rules. The burden shall be on the board's legal counsel to prove that a violation occurred.

8.13(3) Failure to request a contested case proceeding. The failure to request a contested case proceeding to appeal the board's decision on a waiver request is the failure to exhaust administrative remedies for purposes of seeking judicial review in accordance with Iowa Code chapter 17A and Iowa Code section 68B.33.

This rule is intended to implement Iowa Code sections 68B.32A(5), 68B.32A(9), and 68B.33.

[Editorial change: IAC Supplement 4/8/09]

351—8.14(68B) Payment of penalty. An assessed civil penalty shall be paid by check or money order and shall be made payable to the State of Iowa General Fund and forwarded to: Iowa Ethics and Campaign Disclosure Board, 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. The payment shall be deposited in the general fund of the state of Iowa.

This rule is intended to implement Iowa Code sections 68B.32A(5) and 68B.32A(9).

[Editorial change: IAC Supplement 4/8/09]

351—8.15(68A) Campaign contributions by lobbyists during the regular legislative session prohibited. Pursuant to Iowa Code section 68A.504, individuals who are registered in Iowa as either executive branch or legislative branch lobbyists are prohibited from contributing to, acting as an agent

or intermediary for contributions to, or arranging for the making of monetary or in-kind contributions to the campaign of an elected state official, member of the general assembly, or candidate for state office on any day during the regular legislative session. This prohibition includes a contribution that is mailed during the legislative session but received by the candidate after the legislative session has adjourned.

8.15(1) *Application to governor.* The prohibition on contributions to the governor or a gubernatorial candidate during session extends for an additional 30 days following the adjournment of a regular legislative session allowed for the signing of bills.

8.15(2) *Exceptions.* The prohibition on contributions during the regular legislative session does not apply to any of the following:

a. Contributions to an elected state official, member of the general assembly, or other state official who has taken affirmative action to seek nomination or election to a federal elective office so long as the lobbyist's contribution is placed into the candidate's federal account.

b. Contributions to a candidate for state office who filed nomination papers for a special election called or held during the regular legislative session if the candidate receives the contribution at any time during the period commencing on the date on which at least two candidates have been nominated for the office and ending on the date on which the election is held. However, elected state officials are prohibited from soliciting lobbyists for contributions to another candidate for state office when a special election is held during the regular legislative session.

c. Contributions made during a special legislative session. In the case of the governor and a gubernatorial candidate, this exception also includes the 30 days following a special legislative session unless that time period falls within 30 days of adjournment of the regular legislative session.

d. Contributions from a lobbyist's personal funds that a lobbyist makes to the lobbyist's own campaign for public office.

8.15(3) *Complaints.* Complaints or information provided to the board alleging a violation of Iowa Code section 68A.504 involving either executive branch lobbyists or legislative branch lobbyists shall be filed with the board and governed by the procedures in Iowa Code sections 68B.32B through 68B.32D.

8.15(4) *Date of session.* For purposes of Iowa Code section 68A.504 and this rule, a legislative session commences at 12 a.m. of the first day of the legislative session through 11:59:59 p.m. of the day that the legislative session adjourns sine die.

This rule is intended to implement Iowa Code section 68A.504.
[ARC 7651B, IAB 3/25/09, effective 4/29/09; Editorial change: IAC Supplement 4/8/09]

351—8.16(68B) Lobbyists prohibited from making loans. Pursuant to Iowa Code section 68B.24, an executive branch official, executive branch employee, or a candidate for statewide office shall not directly or indirectly seek or accept a loan from a person who is an executive branch lobbyist.

8.16(1) *Offer of loan prohibited.* An executive branch lobbyist shall not directly or indirectly offer or make a loan to an executive branch official, executive branch employee, or a candidate for statewide office.

8.16(2) *Exception.* The prohibitions in Iowa Code section 68B.24 do not apply to loans made in the ordinary course of business. "Ordinary course of business" means the loan is made by a person who is regularly engaged in a business that makes loans to members of the general public, and the finance charges and other terms of the loan are the same or substantially similar to the finance charges and loan terms that are available to members of the general public.

8.16(3) *Complaints.* Complaints or information provided to the board alleging a violation of Iowa Code section 68B.24 by an executive branch official, executive branch employee, candidate for statewide office, or an executive branch lobbyist shall be filed with the board and governed by the procedures in Iowa Code sections 68B.32B through 68B.32D.

This rule is intended to implement Iowa Code section 68B.24.

351—8.17(68B) Ban on certain lobbying activities by government personnel. Executive branch officials and executive branch employees are prohibited by Iowa Code section 68B.5A from engaging in certain types of lobbying activities during the time in which these officials and employees serve or

are employed by the state. In addition, Iowa Code section 68B.5A prohibits executive branch officials and executive branch employees from accepting, under certain situations, employment as lobbyists within two years of leaving state government.

8.17(1) A person who serves as a statewide elected official, the executive or administrative head of an agency, or the deputy executive or administrative head of an agency shall not act as a lobbyist during the time in which the person serves or is employed by the state unless the person is designated to represent the official position of the person's agency. A person subject to this prohibition may not accept employment as a lobbyist for two years after leaving state government.

8.17(2) The head of a major subunit of a department or independent state agency or a full-time employee of an office of a statewide elected official shall not act as a lobbyist during the time in which the person is employed by the state before the agency that the person is employed by or before state agencies, officials, or employees with whom the person has substantial or regular contact as part of the person's duties, unless the person is designated to represent the official position of the person's agency. A person subject to this prohibition may not accept employment as a lobbyist for two years after leaving state government if the employment involves lobbying before the agency that the person was employed by or before state agencies, officials, or employees with whom the person had substantial and regular contact as part of the person's former duties.

8.17(3) A state employee who is not included in subrule 8.17(1) or 8.17(2) shall not act as a lobbyist in relation to any particular case, proceeding, or application with respect to which the person is directly concerned and personally participates as part of the person's employment, unless the person is designated to represent the official position of the person's agency. Persons subject to this prohibition may not accept employment as a lobbyist for two years after leaving state government if the employment involves lobbying in relation to any particular case, proceeding, or application with respect to which the person was directly concerned and personally participated as part of the person's employment.

8.17(4) Exception. As provided in Iowa Code section 68B.5A(7), the prohibition on accepting employment as a lobbyist does not apply to a person who, within two years of leaving state service or employment, is elected to, appointed to, or employed by another office of the state, an office of a political subdivision of the state, or the federal government and represents the position of the new office or employment.

8.17(5) Complaints. Complaints or information provided to the board alleging a violation of Iowa Code section 68B.5A by an executive branch official or an executive branch employee shall be filed with the board and governed by the procedures in Iowa Code sections 68B.32B through 68B.32D.

This rule is intended to implement Iowa Code section 68B.5A.

351—8.18(68B) False communications prohibited.

8.18(1) *False material fact.* An executive branch lobbyist shall not intentionally deceive or attempt to deceive any executive branch official or any executive branch employee in regard to a material fact pertinent to an administrative rule, legislation, or an executive order.

8.18(2) *False communication.* An executive branch lobbyist shall not cause a communication to be sent to an executive branch official or an executive branch employee in the name of either of the following:

- a. A fictitious person; or
- b. A real person except with the consent of that person.

8.18(3) *Complaints.* Complaints or information provided to the board alleging a violation of this rule by an executive branch lobbyist shall be filed with the board and governed by the procedures in Iowa Code sections 68B.32B through 68B.32D.

This rule is intended to implement Iowa Code section 68B.32A(13).

[Editorial change: IAC Supplement 4/8/09]

351—8.19(68B) Advisory opinions. Any person under the board's jurisdiction that is affected by Iowa Code chapter 68B or 351—Chapter 8 may seek an advisory opinion from the board pursuant to rules 351—1.2(68B) and 1.3(68B). The purpose of a board opinion is to apply a statute or rule to a

particular factual situation. Advice contained in a board opinion, if followed, constitutes a defense to a subsequently filed complaint.

This rule is intended to implement Iowa Code section 68B.32A(12).

[Editorial change: IAC Supplement 4/8/09]

351—8.20(68) Retention and availability of filed forms.

8.20(1) *Public record.* All forms filed under this chapter are public records and shall be available in the board office for inspection and copying. A filed form shall be retained by the board for a period of at least five years from the date the form was filed.

8.20(2) *Internet access.* Forms filed under this chapter shall be accessible for viewing via the board's Web site at www.iowa.gov/ethics as follows:

a. A list of registered executive branch lobbyists and executive branch lobbyist clients for the current calendar year and the two previous calendar years.

b. An executive branch periodic lobbyist report for a period of at least three years from the report due date.

c. An executive branch lobbyist client report for a period of at least three years from the report due date.

d. A reception reporting form for a period of at least three years from the date the form was filed.

This rule is intended to implement Iowa Code section 68B.32A(5).

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[Editorial change: IAC Supplement 4/8/09]

[◇] Two or more ARCs

CHAPTER 9
COMPLAINT, INVESTIGATION, AND RESOLUTION PROCEDURES

[Prior to 9/9/87, Campaign Finance Disclosure[190] Ch 1]
[Prior to 3/30/94, Campaign Finance Disclosure Commission[121] Ch 1]
[Prior to 8/21/02, see 351—Ch 1]
[Prior to 9/17/03, see 351—Ch 5]

351—9.1(68B) Complaints.

9.1(1) *Form.* A complaint shall be on forms provided by the board and shall be certified under penalty of perjury. The complaint shall contain all information required by Iowa Code section 68B.32B(1).

9.1(2) *Board acceptance.* A complaint shall not be deemed accepted by the board until completion of the legal review required by Iowa Code section 68B.32B(4). If the board's legal counsel opines that the complaint contains a legally sufficient allegation, the complaint is deemed accepted. If the board's legal counsel opines that the complaint does not contain a legally sufficient allegation and the board, upon review, makes a determination that the complaint does contain a legally sufficient allegation, the complaint is then deemed accepted. If both the board's legal counsel and the board opine that the complaint does not contain a legally sufficient allegation, the complaint shall be dismissed.

9.1(3) *Notice.* Notice to the subject of a complaint is made only when a complaint is accepted, subject to the conditions of Iowa Code section 68B.32B(3). A complaint is a public record, subject to the conditions of Iowa Code section 68B.32B(11).

9.1(4) *Board review.* The board's review of a formal complaint for legal sufficiency is not a contested case proceeding and shall be made solely on the facts alleged in the complaint.

9.1(5) *Information provided to board.* The board may, on its own motion and without the filing of a complaint, initiate investigations into matters that the board believes may be subject to the board's jurisdiction. As provided in Iowa Code section 68B.32B(7), persons may provide information to the board for possible board-initiated investigation instead of filing a complaint.

351—9.2(68B) Investigations—board action.

9.2(1) *Referral to staff.* Upon a determination that a complaint contains a legally sufficient allegation, the board shall refer the complaint to staff for investigation.

9.2(2) *Board-initiated investigation.* On its own motion the board may refer to staff for investigation matters that the board believes may be subject to the board's jurisdiction, including matters brought to the board's attention by members of the public.

9.2(3) *Subpoenas.* Investigations may include the issuance and enforcement of investigative subpoenas requiring the production of books, papers, records, and other real evidence, as well as requiring the attendance and testimony of witnesses.

9.2(4) *Completion.* Upon completion of an investigation, staff shall make a report to the board and may provide a recommendation for board action.

9.2(5) *Board action.* Upon receipt and review of the staff investigative report and any recommendations, the board may:

- a. Redirect the matter for further investigation;
- b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c. Dismiss the matter without a determination regarding probable cause as an exercise of administrative discretion;
- d. Make a determination that probable cause exists to believe a violation has occurred and direct administrative resolution of the matter as provided in subrule 9.4(2); or
- e. Make a determination that probable cause exists to believe a violation has occurred and direct the issuance of a statement of charges to initiate a contested case proceeding.

351—9.3(68B) Grounds for disciplinary action. The board may impose discipline against a person subject to the board's jurisdiction who commits a violation of Iowa Code chapter 68A, Iowa Code chapter 68B, Iowa Code section 8.7, or rules adopted by the board.

This rule is intended to implement Iowa Code section 68B.32A(9).
[Editorial change: IAC Supplement 4/8/09]

351—9.4(68B) Disciplinary remedies; administrative resolution of enforcement matters.

9.4(1) Action after hearing. If it is determined after a contested case proceeding that a violation of statute or rule under the board's jurisdiction has occurred, the board may impose any of the actions set out in Iowa Code section 68B.32D.

9.4(2) Administrative resolution. Violations may be handled by administrative resolution rather than through the full investigative and contested case proceeding process. The board may order administrative resolution by directing that the person take specified remedial action. The board may also order administrative resolution by issuing a letter of reprimand.

9.4(3) Response to administrative resolution. A person subject to board discipline may accept administrative resolution, but is not required to do so. If the person accepts the administrative resolution by complying with the directed remedial action or accepting a letter of reprimand, the matter shall be closed. If the person wishes to appeal the administrative resolution, the person shall make a written request for a contested case proceeding and shall submit the request within 30 days of the date of the correspondence informing the person of the board's decision.

9.4(4) Statement of charges. The board shall issue a statement of charges upon timely receipt of a request for a contested case proceeding to appeal the administrative resolution. The contested case shall be conducted in accordance with the provisions in 351—Chapter 11. The board's legal counsel shall have the burden of proving the violation. Failure to challenge the administrative resolution through a request for a contested case proceeding is a failure to exhaust administrative remedies for purposes of seeking judicial review.

9.4(5) Automatic civil penalties. The board may administratively resolve late-filed reports by the assessment of automatic civil penalties, subject to the civil penalty waiver process, as set out by board rule. The board may retain two dollars of any civil penalty that is ultimately not waived by the board or by a court of law as return receipts covering incidental costs such as printing and postage. The remainder of the civil penalty shall be deposited in the state general fund.

9.4(6) Admonishment. The board may admonish any person who it believes has committed a minor violation to exercise care. An admonishment is not discipline and is not subject to a contested case proceeding appeal.

351—9.5(68B) Settlements. Settlements may be negotiated during an investigation or after the commencement of a contested case proceeding. Negotiations shall be conducted between the board's legal counsel and any person subject to the investigation or contested case proceeding. A settlement shall be in writing and is subject to approval of a majority of the board. If the board declines to approve a proposed settlement, the settlement shall be of no force or effect.

351—9.6(68B) Whistle-blower protection. A person who discharges or discriminates against an employee because the employee filed a complaint, provided information to the board for a possible board-initiated investigation, or provided information during the course of a board investigation shall be subject to the board's complaint process if the employee filed the complaint or provided the information in good faith. If it is determined after a contested case proceeding that a person has impermissibly discharged or discriminated against an employee, the board may impose sanctions as set out in Iowa Code section 68B.32D.

For purposes of this rule, "good faith" means that any statements or materials in a complaint, in information provided to the board for a possible board-initiated investigation, or provided in information

during the course of a board investigation were made or provided with a reasonable belief that such statements or materials were true and accurate.

This rule is intended to implement Iowa Code sections 68B.32A(14) and 68B.32B.
[Editorial change: IAC Supplement 4/8/09]

These rules are intended to implement Iowa Code section 68B.32B.

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CHAPTER 92
IOWACARE

PREAMBLE

This chapter defines and structures the IowaCare program administered by the department pursuant to Iowa Code Supplement chapter 249J. It is the department's intent that all state expenditures under the IowaCare program shall qualify for federal financial participation under Title XIX of the Social Security Act (Medical Assistance or Medicaid), as allowed by waivers of Title XIX requirements granted by the Secretary of the U.S. Department of Health and Human Services pursuant to Section 1115 of the Social Security Act (42 U.S.C. §1315). Therefore, this chapter shall remain in effect only as long as such waivers are effective. Further, this chapter shall be construed to comply with the requirements of Title XIX or with the terms of any applicable waiver of Title XIX requirements. To the extent that these rules may be found to be inconsistent with any applicable requirement of Title XIX or the terms of any applicable waiver, the requirements of Title XIX or the terms of the waiver shall prevail.

441—92.1(249A,249J) Definitions.

"Applicant" means an individual who applies for medical assistance under the IowaCare program described in this chapter.

"Clean claim" means a claim that can be adjudicated in the Medicaid claims payment system to result in either a paid or denied status.

"Department" means the Iowa department of human services.

"Dependent child" means the child or stepchild of an applicant or member who is living in the applicant's or member's home and is under the age of 18 or is 18 years of age and will graduate from high school or an equivalent level of vocational or technical school or training leading to a certificate or diploma before reaching the age of 19. Correspondence school is not an allowable program of study. "Dependent child" shall also include a child attending college or a school of higher learning beyond high school if the parents will claim the child as a dependent on their state or federal income tax return.

"Enrollment period" means the entire period that a member receives IowaCare without a break, which may include multiple certification periods.

"Federal poverty level" means the poverty income guidelines revised annually and published in the Federal Register by the U.S. Department of Health and Human Services.

"Group health insurance" means any plan of or contributed by an employer (including a self-insured plan) to provide health care (directly or otherwise) to the employer's employees, former employees, or the families of the employees or former employees.

"Initial application" means the first application for IowaCare or an application that is filed after a break in assistance of one month or more.

"IowaCare" means the medical assistance program explained in this chapter.

"Medical expansion services" means the services described in Iowa Code Supplement section 249J.6.

"Member" means an individual who is receiving assistance under the IowaCare program described in this chapter.

"Newborn" means an infant born to a woman as defined in paragraph 92.2(1) "b."

441—92.2(249A,249J) Eligibility. IowaCare eligibility shall be determined according to the requirements of rules 441—75.2(249A) to 441—75.4(249A), 441—75.7(249A), 441—75.10(249A), and 441—75.12(249A) and the provisions of this rule.

92.2(1) Persons covered. Medical assistance under IowaCare shall be available to the following people as provided in this chapter:

a. Persons 19 through 64 years of age who:

(1) Are not eligible for medical assistance under 441—subrules 75.1(1) through 75.1(40) or 75.1(42), including persons unable to meet spenddown under 441—subrule 75.1(35); and

(2) Have countable income at or below 200 percent of the federal poverty level.

b. Pregnant women whose:

- (1) Gross countable income is below 300 percent of the federal poverty level; and
- (2) Allowable medical expenses reduce their countable income to 200 percent of the federal poverty level or below.

c. Newborn children born to women defined in paragraph “*b.*”

92.2(2) Citizenship. To be eligible for IowaCare benefits, a person must meet the requirements in 441—paragraph 75.11(2)“*a.*” A person who claims a qualified alien status shall provide documentation of this status.

92.2(3) Other disqualification. A person who has been disqualified from Medicaid for reasons other than excess income, excess resources, or lack of categorical eligibility is not eligible for IowaCare benefits.

92.2(4) Group health insurance. A person who has access to group health insurance is not eligible for IowaCare. An applicant or member shall not be considered to have access to group health insurance if any of the following conditions exist:

a. The applicant or member is not enrolled in the available group health plan and states that:

- (1) The coverage is unaffordable; or
- (2) Exclusions for preexisting conditions apply; or
- (3) The needed services are not services covered by the plan.

b. The applicant or member is enrolled in a group health plan but states that:

- (1) Exclusions for preexisting conditions apply; or
- (2) The needed services are not covered by the plan; or
- (3) The limits of benefits under the plan have been reached; or
- (4) The plan includes only catastrophic health care coverage.

92.2(5) Payment of assessed premiums. As a condition of eligibility for IowaCare, an applicant or member must pay premiums in accordance with 441—92.7(249A,249J). Premiums incurred and unpaid from a previous certification period must be paid in full before an applicant can establish new eligibility under this chapter.

92.2(6) Availability of funds. Eligibility for IowaCare shall not be approved when the department has determined that there are insufficient funds available to pay for additional enrollment, in accordance with 441—92.14(249A,249J).

441—92.3(249A,249J) Application. Medicaid application policies in 441—76.1(249A) and 441—76.8(249A) apply to IowaCare except as follows:

92.3(1) An application for IowaCare may also be submitted on Comm. 239, IowaCare Application, or Form 470-4364, IowaCare Renewal Application. An applicant who submits an application on another form allowed under 441—76.1(249A) shall also sign Form 470-4194, IowaCare Premium Agreement.

92.3(2) A new application is required for each 12-month certification period.

441—92.4(249A,249J) Application processing. Department staff shall process IowaCare applications. The department shall base eligibility decisions primarily on information declared by the applicant. A face-to-face interview is not required.

92.4(1) Verification. Applicants seeking eligibility under 92.2(1)“*b.*” shall provide verification of medical expenses as required under 92.5(5)“*b.*” IowaCare applicants shall not be required to provide verification of income, household members, disability, social security number, age, HAWK-I premium, group health insurance, or pregnancy, unless the verification is specifically requested in writing.

a. The department shall notify the person in writing of any further verification requested. The person shall have five working days to supply the requested information. The local office may extend the deadline for a reasonable period when the person is making every effort but is unable to secure the required information or verification from a third party.

b. Failure of the person to supply requested information or refusal by the person to authorize the department to secure the information from other sources shall serve as a basis for denial of an application or cancellation of IowaCare benefits.

92.4(2) Screening for full Medicaid. The department shall screen each application for eligibility under coverage groups listed in 441—75.1(249A). If the applicant is eligible under another coverage group, the IowaCare application shall be considered an application for that coverage group.

92.4(3) Time limit for decision. The department shall make a determination of approval or denial as soon as possible, but no later than three working days after the filing date of the application, unless:

- a. One or more conditions listed in 441—subrule 76.3(1), 76.3(3), 76.3(4), or 76.3(6) exist; or
- b. The application is being processed for Medicaid eligibility under a coverage group listed in 441—75.1(249A).

441—92.5(249A,249J) Determining income eligibility. The department shall determine the income of an applicant's household as of the date of decision. To be eligible, the household's income minus allowable deductions shall not exceed 200 percent of the federal poverty level for the household size.

92.5(1) Household size. The household size shall include the applicant and the applicant's dependent or unborn children and spouse living in the same home, except when a dependent child or spouse has elected to receive supplemental security income under Title XVI of the Social Security Act. A person who is absent from the home shall not be included in the household size, unless the absence is temporary.

a. An applicant's spouse shall not be considered absent from the home when:

(1) The spouse's absence is due solely to a pattern of employment, including active duty in the uniformed services of the United States.

(2) The spouse is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday.

b. The conditions described in 441—paragraph 75.53(4) "b" shall be applied to determine whether a person's absence is temporary.

92.5(2) Self-declaration of income. Applicants shall self-declare the household's future unearned and earned income based on their best estimate.

a. Applicants who receive income on a regular basis shall declare their household's monthly income as described at 92.5(3) and 92.5(4).

b. Applicants who are self-employed, receive their income on an irregular basis, or are not currently employed shall declare their household's anticipated yearly income as described in 92.5(3) and 92.5(4).

92.5(3) Earned income. All earned income as defined in this subrule that is received by a person included in the household size shall be counted except for the earnings of a child who is a full-time student as defined in 441—subparagraphs 75.54(1) "b"(1), (2), and (3). Earned income shall include income in the form of a salary, wages, tips, or profit from self-employment.

a. For income from salary, wages, or tips, earned income shall mean the total gross amount of income irrespective of the expenses of employment.

b. For self-employment income, earned income shall mean the net profit from self-employment, defined as gross income less the costs of producing the income.

c. Gross income from providing child care in the applicant's or member's own home shall include the total payments received for the service and any payment received due to the Child Nutrition Amendments of 1978 for the cost of providing meals to children.

(1) In determining the net profit counted as earned income from providing child care services in the applicant's or member's own home, 40 percent of the total gross income received shall be deducted to cover the costs of producing the income, unless the applicant or member requests to have actual expenses in excess of the 40 percent considered.

(2) When the applicant or member verifies expenses in excess of 40 percent of the total gross income received, the net profit counted as earned income shall be determined in the same manner as specified at paragraph 92.5(3) "b."

92.5(4) Unearned income. Unearned income of all household members shall be counted unless exempted as income by:

a. 441—subrule 75.57(6), paragraph “b,” “c,” “d,” “e,” “f,” “g,” “h,” “i,” “j,” “k,” “l,” “m,” “p,” “q,” “r,” “t,” “u,” “v,” “w,” “x,” “y,” “z,” or “aa”; or

b. 441—subrule 75.57(7), paragraph “a,” “b,” “c,” “d,” “e,” “f,” “g,” “h,” “i,” “j,” “k,” “l,” “m,” or “q.”

92.5(5) Deductions. The department shall determine a household’s countable income by deducting the following from the household’s self-declared income:

a. Twenty percent of the household’s self-declared earned income.

b. For women applying under 92.2(1) “b,” medical expenses incurred for a person included in the household size that are unpaid and not subject to payment by a third party. Verification of the unpaid expenses must be provided in order to receive the deduction. The medical expenses that can be deducted are:

- (1) Health insurance premiums, deductibles, or coinsurance charges; and
- (2) Medical and dental expenses.

92.5(6) Disregard of changes. A person found to be income-eligible upon application or recertification of eligibility shall remain income-eligible for 12 months regardless of any change in income or household size.

92.5(7) Unearned nonrecurring lump-sum income. All unearned nonrecurring lump-sum income shall be disregarded.

92.5(8) Earned lump-sum income. Anticipated earned lump-sum income shall be prorated over the period for which the income is received.

441—92.6(249A,249J) Effective date. The department shall issue Form 470-4164, IowaCare Medical Card, to persons enrolled in the IowaCare program.

92.6(1) Certification period. IowaCare eligibility shall be effective on the first day of the month of application or the first day of the month all eligibility requirements are met, whichever is later. The certification period shall continue for 12 consecutive months or, for women and newborns eligible under 92.2(1) “b” or “c,” until 60 days after the birth of the child.

92.6(2) Retroactive eligibility. IowaCare benefits shall also be available for the month preceding the month in which the application is filed if during that preceding month:

a. The applicant received Medicaid expansion services from a provider within the Medicaid expansion network; and

b. The applicant would have been eligible for IowaCare if application had been made.

92.6(3) Care provided before eligibility. No payment shall be made for medical care received before the effective date of eligibility.

441—92.7(249A,249J) Financial participation. In addition to the copayments required by 441—subrule 79.1(13), IowaCare members, with the exception of newborns eligible pursuant to 92.2(1) “c,” shall be assessed a sliding-scale monthly premium. No premium shall be assessed at the time of initial application for months of eligibility before and including the month of decision, including the retroactive month. A member shall be responsible for paying the premium for the first month after the month of decision and for the following three months, regardless of continued enrollment during the four-month period or during previous months, and for each month of continued enrollment after the required four months. If there is a break in enrollment of one month or more, a new four-month period of mandatory premiums shall be assessed, beginning with the month following the month of decision.

92.7(1) Premium amount. The monthly premium amount shall be established for a 12-month period beginning with the first month of eligibility, based on projected monthly income for the 12-month period.

a. The monthly premium amount is based on the household’s countable monthly income as a percentage of the federal poverty level for a household of that size. Effective April 1, 2009, premium amounts based on this percentage are as follows:

When the household's income is at or below: Each member's premium amount is:

100% of federal poverty level	\$ 0
110% of federal poverty level	\$45
120% of federal poverty level	\$49
130% of federal poverty level	\$54
140% of federal poverty level	\$58
150% of federal poverty level	\$63
160% of federal poverty level	\$67
170% of federal poverty level	\$72
180% of federal poverty level	\$76
190% of federal poverty level	\$81
200% of federal poverty level	\$85

b. The listed premium amount is calculated based on the lowest income level in each 10 percent increment for a one-person household. Households with income at or below 100 percent of the poverty level are not subject to a premium. Premiums for households with income over 100 percent of the poverty level are 5 percent of the applicable income level. The department will update these amounts annually on April 1 using the latest federal poverty level guidelines.

c. The cost of premiums paid for HAWK-I shall be deducted from the premium assessed according to this subrule.

d. The monthly premium established for a 12-month certification period shall not be increased due to an increase in income or a change in household size.

e. The premium may be reduced prospectively during the 12-month certification period if the member declares a reduction in projected average monthly income or an increase in household size or is granted a hardship exemption.

92.7(2) Billing and payment. Form 470-4165, IowaCare Billing Statement, shall be used for billing and collection.

a. Method of payment. Members shall submit premium payments to the following address: Iowa Medicaid Enterprise, IowaCare Premiums, P.O. Box 10391, Des Moines, Iowa 50306-9013.

b. Due date. When the department notifies the member of the amount of the premiums, the member shall pay any premiums due as follows:

(1) The premium for each month is due the last calendar day of the month the premium is to cover. EXCEPTION: The premiums for the months covered in the initial billing are due the last calendar day of the following month.

(2) If the last calendar day falls on a weekend or a state or federal holiday, payment is due the first working day following the holiday or weekend.

c. Application of payment. The department shall apply premium payments received to the oldest unpaid month forward. When premiums for all months have been paid, the department shall hold any excess and apply it to any months for which eligibility is subsequently established.

92.7(3) Hardship exemption. A member who submits a written statement indicating that payment of the monthly premium will be a financial hardship shall be exempted from premium payment for that month, except as provided in paragraph "c." If the statement is not postmarked by the premium due date, the member shall be obligated to pay the premium.

a. A partial payment submitted with a written statement indicating that full payment of the monthly premium will be a financial hardship that is postmarked or received on or before the end of the month for which the premium is due shall be considered a request for a hardship exemption. The exemption shall be granted for the balance owed for that month.

b. If the postmark is illegible, the date that the hardship declaration is initially received by the department or the department's designee shall be considered the date of the request.

c. A member shall not be exempted from premium payment for a month in which the member misrepresented the household's circumstances.

92.7(4) Failure to pay premium. If the member fails to pay the assessed premium or to declare a hardship by the date the premium is due, the department shall cancel IowaCare benefits effective the last day of the next calendar month. A member whose IowaCare benefits are canceled due to nonpayment of premiums must reapply to establish IowaCare eligibility.

92.7(5) Refund of premium. When a member's IowaCare coverage is canceled due to a circumstance listed in paragraph "a," premiums paid for any period after the cancellation date shall be refunded.

a. The premium obligation is reduced to zero when a member's IowaCare coverage is canceled because the member:

- (1) Is determined eligible for medical assistance under 441—subrules 75.1(1) through 75.1(40);
- (2) Has access to group health insurance coverage as defined in subrule 92.2(4);
- (3) Reaches age 65;
- (4) Dies; or
- (5) No longer meets program requirements after the four mandatory premium months.

b. The amount of the refund shall be offset by any outstanding premiums owed.

c. Any excess premium received for an individual not receiving IowaCare benefits shall be refunded after two calendar months unless an application or reapplication is pending or upon the individual's request.

d. Any excess premium received for an IowaCare member shall be refunded after two calendar months of a zero premium or upon the member's request.

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441—92.8(249A,249J) Benefits. Under IowaCare, payment will be made only for services and providers as specified in this rule. No payment will be made for any service provided elsewhere or by another provider.

92.8(1) Provider network. Except as provided in subrules 92.8(3) through 92.8(5), IowaCare members shall have medical assistance only for services provided to the member by:

- a. The University of Iowa Hospitals and Clinics; or
- b. Broadlawns Medical Center in Des Moines; or
- c. A state mental health institute, exclusive of the units providing substance abuse treatment, services to gero-psychiatric patients, or treatment for sexually violent predators; or
- d. Any physician, advanced registered nurse practitioner, or physician assistant who is part of a medical institution listed in this subrule. Physician assistants are able to render covered services as auxiliary personnel pursuant to 441—subrule 78.1(13).

92.8(2) Covered services. Services shall be limited to the services covered by the Iowa Medicaid program pursuant to 441—Chapter 78, 441—79.9(249A), and 441—Chapter 85, Division I. All conditions of service provision shall apply in the same manner as under the regular Iowa Medicaid program and pursuant to 441—Chapter 78, 441—79.3(249A), 441—79.5(249A), 441—79.6(249A), 441—79.8(249A) through 441—79.14(249A), and applicable provider manuals. These conditions include, but are not limited to, prior authorization requirements and exclusions for cosmetic procedures or those otherwise determined not to be required to meet the medical need of the patient.

92.8(3) Obstetric and newborn coverage. IowaCare members who qualify under 92.2(1) "b" or "c" are also eligible for the services specified in paragraph "a" or "b" from the providers specified in paragraph "c" or "d."

a. Covered services for pregnant women shall be limited to:

(1) Inpatient hospital services when the diagnosis-related group (DRG) submitted for payment is between 370 and 384 and the primary or secondary diagnosis code is V22 through V24.9.

(2) Obstetrical services provided in an outpatient hospital setting when the primary or secondary diagnosis code is V22 through V24.9.

(3) Services from another provider participating in Medicaid if the claim form reflects that the primary or secondary diagnosis code is V22 through V24.9.

b. Newborns will be eligible while hospitalized and for a period not to exceed 60 days from the date of birth.

(1) Inpatient hospital services shall be payable when the diagnosis-related group (DRG) submitted for payment is between 385 and 391.7.

(2) Services provided by a health care provider other than a hospital shall be covered as provided in subrule 92.8(2).

c. For persons who reside in Cedar, Clinton, Iowa, Johnson, Keokuk, Louisa, Muscatine, Scott, or Washington County, the services listed in this subrule are covered only when provided by the University of Iowa Hospitals and Clinics.

d. Persons who do not live in Cedar, Clinton, Iowa, Johnson, Keokuk, Louisa, Muscatine, Scott, or Washington County may obtain the services listed in this subrule from any provider that participates in Iowa Medicaid.

92.8(4) Routine preventive medical examinations. A routine preventive medical examination is one that is performed without relationship to treatment or diagnosis for a specific illness, symptom, complaint, or injury.

a. IowaCare members who qualify under paragraph 92.2(1)“*b*” or “*c*” are eligible to receive routine preventive medical examinations from:

(1) Any provider specified under subrule 92.8(1), or

(2) Any physician, advanced registered nurse practitioner, or physician assistant who participates in Iowa Medicaid, including but not limited to providers available through a free clinic, a rural health clinic, or a federally qualified health center. Physician assistants are able to render covered services as auxiliary personnel pursuant to 441—subrule 78.1(13).

b. A provider that bills IowaCare for a routine preventive medical examination shall use diagnosis code V70 and evaluation and management CPT code 99202, 99203, 99204, 99212, 99213, or 99214, as appropriate to the level of service provided. Basic laboratory work may also be billed in association with the medical examination, as appropriate and necessary.

92.8(5) Drugs for smoking cessation. IowaCare members may obtain outpatient prescription drugs for smoking cessation that are related to another appropriately billed IowaCare service from any pharmacy participating in the Iowa Medicaid program.

441—92.9(249A,249J) Claims. Claims for Medicaid expansion services provided to IowaCare members shall be submitted to the Iowa Medicaid Enterprise, P.O. Box 150001, Des Moines, Iowa 50315, as required by 441—Chapter 80. To facilitate tracking of expenditures, clean claims for IowaCare services shall be submitted to the Iowa Medicaid enterprise within 20 days from ending date of service.

441—92.10(249A,249J) Reporting changes.

92.10(1) Reporting requirements. A member shall report any of the following changes no later than ten calendar days after the change takes place:

a. The member enters a nonmedical institution, including but not limited to a penal institution.

b. The member abandons Iowa residency.

c. The member obtains other health insurance coverage.

92.10(2) Untimely report. When a change is not timely reported, any incorrect program expenditures shall be subject to recovery in accordance with 441—92.13(249A,249J).

92.10(3) Effective date of change. After assistance has been approved, changes reported during the month that affect the member’s eligibility or premium amount shall be effective the first day of the next calendar month unless:

a. Timely notice of adverse action is required as specified in 441—subrule 7.7(1); or

b. The certification has expired.

441—92.11(249A,249J) Reapplication. A new application is required when a member’s 12-month certification period has expired or a member is seeking to regain eligibility after cancellation.

92.11(1) *Reapplication at least three days before end of certification period.* When a member submits an application before the last three working days of the member's current certification period, the department shall approve or deny the application by the last working day of the current certification period unless a condition described at 92.4(3) "a" or "b" applies.

92.11(2) *Reapplication within three days of end of certification period or later.* When a member submits an application during the last three working days of the member's current certification period or after the certification period ends, the department shall approve or deny the application as described at 92.4(3).

441—92.12(249A,249J) Terminating eligibility. IowaCare eligibility shall end when any of the following occur:

1. The certification period ends.
2. The member begins receiving medical assistance in a coverage group under 441—subrules 75.1(1) through 75.1(40).
3. The member does not pay premiums as required by 441—92.7(249A,249J).
4. The member no longer meets the nonfinancial eligibility requirements under 441—92.2(249A,249J).
5. The member is found to have been ineligible at the time the eligibility determination was made due to member misrepresentation or member or agency error.
6. The member dies.

441—92.13(249A,249J) Recovery. The department shall recover from a member all Medicaid funds incorrectly expended on behalf of the member in accordance with 441—76.12(249A).

92.13(1) The department shall recover Medicaid funds expended on behalf of a member from the member's estate in accordance with 441—76.12(249A).

92.13(2) Any funds recovered from third parties, including Medicare, by a provider other than a state mental health institute shall be submitted to the Iowa Medicaid enterprise, and an adjustment shall be made to a previously submitted claim.

441—92.14(249A,249J) Discontinuance of the program. IowaCare is operated statewide and is funded on a fiscal-year basis (from July through June). When funds are expected to be expended before the end of the fiscal year, enrollment of new members into the program will be discontinued or limited to a reduced scope of services until funding is received for the next fiscal year.

92.14(1) *Suspension of enrollment.* To ensure equitable treatment, applications shall be approved on a first-come, first-served basis and enrollment will be suspended when the likely costs of caring for those already enrolled will exhaust the available funding during the year. "First-come, first-served" status is determined by the date the application is approved for eligibility and entered into the computer system.

92.14(2) *Enrollment for limited services.* Eligibility or payment for services received cannot be approved beyond the amount of funds available. Because funds are limited, applications may be approved for a reduced scope of services.

441—92.15(249A,249J) Right to appeal. Decisions and actions by the department regarding eligibility or services provided under this chapter may be appealed pursuant to 441—Chapter 7. However, households will not be entitled to an appeal hearing if the sole basis for denying or limiting services is due to discontinuance or limitation of the program pursuant to 441—92.14(249A,249J).

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NATURAL RESOURCES DEPARTMENT[561]

Created by 1986 Iowa Acts, chapter 1245, section 1802

Rules of divisions under this Department "umbrella" include Energy and Geological Resources[565], Environmental Protection Commission[567], Natural Resource Commission[571], and Preserves, State Advisory Board[575]

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CHAPTER 8
CONTRACTS FOR PUBLIC IMPROVEMENTS AND PROFESSIONAL SERVICES

561—8.1(17A,455B,456A,461A,473) Contract policy.

8.1(1) All public improvements and professional services contracts with the department shall be awarded on a competitive basis to the maximum practical extent. All contracts shall be in written form and receive approval of the director and the appropriate commission where required by statute or rule of department.

8.1(2) Exceptions for compliance with federal rules and guidelines. Whenever adherence to these contracting procedures would result in the loss of federal aid for any public improvement project or professional services project, the applicable rules or guidelines shall be followed to the extent necessary to qualify for the federal funds.

561—8.2(17A,26,455B,456A,461A,473) Contracts for public improvements.

8.2(1) Definition. As used in these rules, “public improvement” means public improvement as defined by Iowa Code section 26.2. Iowa Code section 73.3, relating to reciprocal resident bidder preference, shall apply to department contracts for public improvements.

8.2(2) Invitation for bids. When the total cost of a public improvement project exceeds the sum of \$100,000 as estimated by the department, the department shall utilize the competitive bid process identified in Iowa Code chapter 26.

8.2(3) Solicitation of quotations. If the estimated total cost of a public improvement is \$100,000 or less, the department must utilize the competitive quotation process identified by Iowa Code section 26.14, as may be amended, unless otherwise provided by this rule. The department must utilize this competitive quotation process for public improvement contracts below the amount designated by Iowa Code section 26.14(2). The department may opt to use the competitive bid process referenced in subrule 8.2(2) instead of the competitive quotation process.

8.2(4) Exceptions to the requirement for bids or quotations. The director may authorize the negotiation of a contract for a public improvement project without first soliciting quotations or advertising for bids only as the law allows.

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561—8.3(17A,455B,456A,461A,473) Contracts for professional services.

8.3(1) Professional services defined. The term “professional services” shall include planning, design, architectural, engineering, landscape architecture, land surveying, land appraising, consulting, legal and management review services.

8.3(2) Notification of professional firms or individuals. The department shall keep a record of professional firms and individuals desirous of providing services and shall encourage from time to time the submission of letters detailing a firm’s or individual’s capabilities.

If a contract is estimated to cost more than \$25,000, firms or individuals shall be invited to notify the department of their interest in and capabilities for providing the service. Such firms or individuals shall be informed by an advertisement in at least one newspaper of statewide circulation, one newspaper published in the county seat of the county in which the work is to be done, and such other means as may be appropriate. Where work is to be done under the contract in more than three counties, the requirement of publication in the county seat shall not be required so long as other means of notice to bidders is given, as in trade journals or other such means. At least one of said advertisements shall be not less than 15 days prior to the date set by the department for the preliminary review of said documents. Based upon this information, the department may select a group of at least five firms or individuals, unless fewer than that number have indicated interest, who shall be invited to submit proposals for the performance of the desired service.

In explaining their capabilities, firms or individuals are encouraged to provide information relative to the number, qualifications, and experience of their professional and technical staff; their performance

records for timeliness, quality, and project management; their geographical location; and any specialized expertise which may be appropriate.

8.3(3) Selection of firm or individual.

a. For any contract for professional services estimated to cost less than \$5,000, the department may select a firm or individual and negotiate a professional services contract. The bureau chief or division administrator shall prepare a memorandum for the project file stating the reasons why that particular firm or individual was selected. However, quotations may be solicited if it is in the best interest of the state.

b. For contracts estimated to cost from \$5,000 to \$25,000 at least three firms or individuals who appear to be qualified shall be invited to submit proposals for the performance of the desired service unless fewer than that number have indicated the availability, capability or willingness to perform the desired service.

c. When a project requiring professional services is divided into several phases, the selection of a professional firm or individual for the first project phase may be accomplished in the manner prescribed for the cost estimate relating to the entire project. The contract cost for subsequent phases may be established by negotiation.

The proposals shall also contain an hourly estimate of professional services. These fees and associated costs shall be submitted as directed by the department.

d. Upon the acceptance of a proposal by the director and the appropriate commission, if required by statute, the total estimated cost shall become the maximum contract cost which shall not be increased, except to the extent that a contract amendment increases the objectives and scope of services or projects that are unrelated but identical in nature. The proposals submitted for those contracts over \$10,000 shall be reviewed, and members of the firms or individuals may be interviewed by a department selection committee established by the director. At least one-third of the selection committee shall be composed of individuals not responsible for the contract administration. This committee shall evaluate each proposal relative to the following criteria:

(1) Sufficiency of professional and technical staff to meet the project schedule and work requirements.

(2) Performance records for timeliness, quality and project management.

(3) Geographical location.

(4) Specialized expertise.

(5) Proposed method of accomplishing the desired service.

(6) Total estimated cost.

(7) Total estimated life cycle costs, if appropriate.

After evaluating the proposals, the committee shall submit a written recommendation to the director.

e. The director may authorize the negotiation of a contract without solicitation of quotations or advertising for proposals if the service is to be provided by another governmental entity or educational institution or nonprofit corporation, or if the service is of a specialized nature where only one firm or individual can reasonably provide the service, or where delay for solicitation of quotations or advertising for proposals might reasonably be expected to result in serious loss or injury to the state.

561—8.4(17A,455B,456A,461A,473) Approval and award of contracts.

8.4(1) Contract approval. All contracts for professional services in excess of \$25,000 shall be approved by the director and the appropriate commission if required by statute. All contracts for public improvements in excess of \$50,000 shall be approved by the director and the appropriate commission. Professional services contracts for amounts of \$25,000 or less shall be approved by the director and the appropriate commission only if required by statute or rule of the commission.

8.4(2) Contract award. The contract shall be awarded to the firm or individual whose bid or proposal is believed to be the most advantageous to the state. Bids or proposals may be rejected if they do not appear to be reasonable or if there is reason to believe that the firm or individual is not sufficiently qualified to accomplish the desired work or service.

8.4(3) Change orders and extra work orders. All change orders and extra work orders shall be approved by the director before the work or service is performed, except in emergency situations, or

where such approval would result in unreasonable delay. In addition, any order or accumulation of orders which increases the amount of the original contract by more than \$25,000 or 10 percent of the original contract, whichever is greater, shall also be approved by the appropriate commission, if required by statute.

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561—8.5(17A,456A,461A) Contract for sale of timber.

8.5(1) Invitation for bids. When the total cost of a public sale of timber exceeds the sum of \$5,000 as estimated by the state forests and management bureau of the forests and forestry division, the department shall advertise for sealed bids by publishing a notice in at least one newspaper of statewide circulation, one newspaper published in the county seat of the county in which the timber is situated and such other means as may be appropriate in sufficient time to enable prospective bidders to prepare and submit bids, provided that one of said notices shall be not less than 15 days prior to the date set for receiving bids. The notice to bidders (invitation for bids) shall conform as nearly as possible to the provisions of 8.2(3).

8.5(2) Failure to receive a bid or quotation. In the event that no sealed bids or quotations are received, the state forests and management bureau of the forests and forestry division may negotiate a contract with a qualified timber buyer.

8.5(3) Exceptions to the requirement for bids or quotations. The director may authorize the negotiation of a contract for a timber sale project without first soliciting quotations or advertising for bids under the following circumstances:

- a. If the contemplated timber sale is an addition to an existing timber sale.
- b. If no bidders are available.

8.5(4) Bonds. All timber buyers and timber sales agreements must comply in all respects with Iowa Code section 456A.36. For purposes of bond requirements, a timber buyer is the logger who cuts down the tree or who deals with the owner of the tree and is required to have a bond. If the timber buyer exhibits a copy of a contract for lumber sale with a sawmill or other third party who is bonded and responsible for payment to the timber owner, the bonding requirements for the timber buyer are satisfied.

561—8.6(455B) Emergency response. The emergency response officials of the department shall have the authority under the director's supervision to contract with firms and individuals without advertising for bids or solicitation of quotations to clean up hazardous conditions, toxic or polluting substances on public or private property in situations where time is insufficient to allow for advertising for bids or solicitation of quotations in order to prevent further injury to the environment.

561—8.7(573) Interest on retained funds.

8.7(1) Scope. This rule implements Iowa Code subsection 573.12(3) regarding payment to a contractor of interest earned on retained funds. This rule does not address payment of interest under Iowa Code section 573.14.

8.7(2) General requirements.

a. Interest shall be paid pursuant to Iowa Code section 573.12 only on state contracts awarded on or after June 19, 1991.

b. Interest shall be paid on retained funds of a contract only if the accrued interest on those funds is at least \$25. This dollar threshold reflects the cost to the department of processing an interest payment on retained funds in contracts for the construction of public improvements.

c. Interest shall not be paid on retained funds of a contract declared in default.

8.7(3) Procedures.

a. Interest shall begin to accrue on retained funds on the date the first progress payment is issued. An interest rate shall be established on this date in accordance with Iowa Code section 12C.6. This interest rate shall apply for the duration of the contract.

b. In general, interest shall continue to accrue on retained funds until the date final payment is approved by the chief engineer. Final payment is payment of retained funds less assessed liquidated damages, if applicable.

c. Notwithstanding paragraph “*b*,” interest shall cease to accrue on retained funds:

(1) Upon the expiration of 60 days following field acceptance of a project if the contractor has failed to submit to the department the documentation necessary for final payment, as specified in the contract provision.

(2) Upon the court obtaining jurisdiction of the retained funds pursuant to Iowa Code section 573.16. Retained funds turned over to the court will include the interest accrued on those funds to the date the action was filed, if the interest has not been paid to the contractor.

These rules are intended to implement Iowa Code sections 455A.4 and 573.12(3).

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ENVIRONMENTAL PROTECTION COMMISSION[567]

Former Water, Air and Waste Management[900], renamed by 1986 Iowa Acts, chapter 1245, Environmental Protection Commission under the “umbrella” of the Department of Natural Resources.

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567—35.1(455B) Purpose. The purpose of this program is to provide financial assistance to eligible applicants for the purpose of reducing air pollution emissions.

[ARC 7679B, IAB 4/8/09, effective 5/13/09]

567—35.2(455B) Definitions. For the purposes of this chapter, the following definitions shall apply:

“*Applicant*” means any unit of state or local government, public or private group, business or individual.

“*Cost share*” means the applicant’s share of proposed eligible project costs.

“*Department*” means the Iowa department of natural resources.

“*Eligible costs*” means costs directly related to the eligible project and for which financial assistance moneys may be used.

“*Eligible project*” means any project which, when implemented, will reduce air emissions.

“*Financial assistance*” means monetary assistance awarded under these rules to an applicant in the form of a grant or loan.

“*Grant*” means an award of assistance with the expectation that, with the fulfillment of the conditions of the award, repayment of funds is not required.

“*Loan*” means an award of financial assistance with the requirement that the award be repaid, including interest as identified in the written agreement between the department and the recipient. A “deferred loan” is one for which repayment of principal or interest, or both, is not required for a specified period of time. A “forgivable loan” is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions.

“*Recipient*” means any applicant selected to receive financial assistance under these rules.

[ARC 7679B, IAB 4/8/09, effective 5/13/09]

567—35.3(455B) Role of the department of natural resources. The department is responsible for the administration of the program and for disbursement of funds to eligible projects receiving financial assistance under these rules.

[ARC 7679B, IAB 4/8/09, effective 5/13/09]

567—35.4(455B) Eligible projects. The department may provide financial assistance to applicants for projects that are consistent with the purpose of this program.

[ARC 7679B, IAB 4/8/09, effective 5/13/09]

567—35.5(455B) Forms. Applicants shall submit proposed eligible projects on application forms provided by the department. The applications are considered public records.

[ARC 7679B, IAB 4/8/09, effective 5/13/09]

567—35.6(455B) Project selection. The director has sole discretion to determine which eligible projects will receive an award of moneys under this program. Emphasis in selecting eligible projects will be placed on the amount of air pollution emissions reductions anticipated, cost-effectiveness, and the proposed location of the eligible project. Proposed eligible projects must be in compliance with all applicable state and federal statutes and rules. The director shall evaluate the proposals, and applicants will be awarded financial assistance based on selection criteria contained in the applicable application guidelines available from the department.

[ARC 7679B, IAB 4/8/09, effective 5/13/09]

567—35.7(455B) Funding sources. The department will use the funds designated by the legislature and other sources to achieve the purpose outlined in these rules.

[ARC 7679B, IAB 4/8/09, effective 5/13/09]

567—35.8(455B) Type of financial assistance. Financial assistance awarded under this program may be in the form of a loan, forgivable loan, deferred loan, grant, or a combination thereof. The type of

financial assistance offered to an applicant is dependent upon the amount of program funds awarded to each selected eligible project. The department reserves the right to offer any combination of financial assistance types to any selected eligible project.

[ARC 7679B, IAB 4/8/09, effective 5/13/09]

567—35.9(455B) Term of loans. The term of loans executed under these rules shall be determined on a case-by-case basis and shall be based on the specific costs financed, as well as the terms of other financing provided for the eligible project. The written agreement between the department and the recipient will establish other conditions or terms needed to manage or implement the eligible project.

[ARC 7679B, IAB 4/8/09, effective 5/13/09]

567—35.10(455B) Reduced award. The department reserves the right to offer financial assistance in an amount less than the amount requested by the applicant. In the event that financial assistance offered is less than the amount requested by an applicant, the applicant may be asked to document the impact of the reduced award on the proposed eligible project. Reduced awards shall be offered when the department has determined that:

1. Program resources are insufficient to provide the level of financial assistance requested to all applicants to which the department intends to offer financial assistance.

2. The applicant could implement the eligible project at a reduced level of financial assistance and achieve the eligible project objectives and purpose of this program.

[ARC 7679B, IAB 4/8/09, effective 5/13/09]

567—35.11(455B) Fund disbursement limitations. No funds shall be disbursed until the department has:

1. Determined the total estimated cost of the eligible project;

2. Determined that financing for the cost-share amount, if applicable, is ensured by the recipient;

3. Received confirmation that all required permits or permit amendments have been obtained by the recipient;

4. Received commitments from the recipient to implement the eligible project; and

5. Executed a written agreement with the recipient.

[ARC 7679B, IAB 4/8/09, effective 5/13/09]

567—35.12(455B) Applicant cost share. If requested by the department, an applicant for financial assistance shall agree to provide a cost share of funds committed to the eligible project. Financial assistance moneys received by the applicant under these rules are ineligible to be utilized for any portion of the required applicant cost share. Applicant cost share shall be in accordance with the schedule outlined in the applicable application guidelines available from the department.

[ARC 7679B, IAB 4/8/09, effective 5/13/09]

567—35.13(455B) Eligible costs. Applicants may request financial assistance in the implementation and operation of an eligible project which includes, but is not limited to, funds for the purpose of:

1. Purchase and installation of air pollution reduction equipment;

2. Replacement or modification of air pollution control equipment, or process and equipment, including labor for installation;

3. Development, printing and distribution of educational materials;

4. Planning and implementation of educational forums including, but not limited to, workshops;

5. Expenses directly related to implementation and operation of the eligible project; and

6. Research, laboratory analysis costs, engineering, or consulting fees.

[ARC 7679B, IAB 4/8/09, effective 5/13/09]

567—35.14(455B) Ineligible costs. Financial assistance shall not be provided or used for costs including, but not limited to, the following:

1. Taxes;

2. Vehicle registration;

3. Legal costs;
4. Contingency funds;
5. Proposal preparation;
6. Contractual project administration;
7. Land acquisition;
8. Office furniture, office computers, fax machines and other office furnishings and equipment;
9. Costs for which payment has been or will be received under another federal, state or private financial assistance program; and
10. Costs incurred before a written agreement between the applicant and the department has been executed. Ineligible costs shall be determined with applicable publications from the federal office of management and budget.

[ARC 7679B, IAB 4/8/09, effective 5/13/09]

567—35.15(455B) Written agreement. Each recipient shall enter into a contract with the department for the purposes of implementing the eligible project for which financial assistance has been awarded. The contract shall be signed by an authorized representative of the department and the authorized officer of the recipient. In cases in which the department has awarded other than a grant or forgivable loan, the recipient will be required to make regularly scheduled installment payments to retire the loan and any interest assigned to the loan as identified in the executed contract. The recipient will be required to submit periodic progress reports as identified in the executed contract. Progress reports are considered part of the public record. The department may terminate any contract and seek the return of any funds released under the contract for failure by the recipient to perform under the terms and conditions of the contract. Amendments to contracts may be adopted by mutual written consent by the department and the selected applicant.

[ARC 7679B, IAB 4/8/09, effective 5/13/09]

567—35.16(455B) Financial assistance denial. An applicant may be denied financial assistance for any of the following reasons:

1. Funds are insufficient to award financial assistance to all qualified applicants;
2. The applicant does not meet eligibility requirements pursuant to provisions of these rules;
3. The applicant does not provide sufficient information requested on forms provided by the department pursuant to these rules;
4. The applicant has previously received a loan under these rules and is determined by the department to be delinquent in repaying the loan;
5. The eligible project goals or scope is not consistent with these rules; or
6. The director concludes the denial is appropriate.

[ARC 7679B, IAB 4/8/09, effective 5/13/09]

These rules are intended to implement Iowa Code section 455B.103(5).

[Filed Without Notice ARC 7679B, IAB 4/8/09, effective 5/13/09]

TITLE III
WITHDRAWAL DIVERSION, STORAGE AND USE OF WATER
DIVISION A
WATER WELL CONSTRUCTION: GENERAL STANDARDS AND REGISTRATION OF CONTRACTORS

CHAPTERS 36 and 37
Reserved

DIVISION C
WITHDRAWAL, DIVERSION AND STORAGE
OF WATER: WATER RIGHTS ALLOCATION

CHAPTER 50

SCOPE OF DIVISION—DEFINITIONS—FORMS—RULES OF PRACTICE

[Prior to 12/3/86, Water, Air and Waste Management[900]]

567—50.1(455B) Scope of division. The department has jurisdiction over the surface and groundwater of the state to establish and administer a comprehensive program to ensure that the water resources of the state be put to beneficial use to the fullest extent possible, that the waste or unreasonable use, or unreasonable methods of use of water be prevented, and that the conservation and protection of water resources be required with the view to their reasonable and beneficial use in the interest of the people.

Any person who proposes to pump or divert by gravity more than 25,000 gallons of water during a period of 24 hours or less from any source of groundwater or surface water, including streams bordering the state, impound surface water, divert surface runoff into a well, sinkhole or excavation or inject water or any material into a well has a duty to review the thresholds in Chapter 51 and contact the department to resolve any doubt concerning whether a permit is required.

Chapter 51 explains when approval is required for withdrawal, diversion or storage of water. Chapter 52 explains criteria for permitting withdrawal, diversion or storage of water. Chapter 53 sets forth the procedure for designating certain ground and surface water sources as protected sources and explains special criteria and conditions which may be applicable to those sources. Chapter 54 describes procedures and criteria for determining compensation to owners of nonregulated wells for well interference caused by permitted uses.

567—50.2(455B) Definitions. Definitions used in this division of these rules are listed in alphabetical order as follows:

“Adequate groundwater supply” means an aquifer which is capable of providing enough water to satisfy the demands which have been placed on it.

“Administrative resolution” means the settlement of well interference conflicts by the department according to established rules.

“Agricultural drainage well” means a vertical opening to an aquifer or permeable substratum which is constructed by any means including but not limited to drilling, driving, digging, boring, using an auger, jetting, washing, or coring, and which is capable of intercepting or receiving surface or subsurface drainage water from land directly or by a drainage system.

“Agricultural drainage well area” means an area of land where surface or subsurface water drains into an agricultural drainage well directly or through a drainage system connecting to the agricultural drainage well.

“Apparent well interference” means well interference in a nonregulated well resulting from a permitted use is likely but has not been verified.

“Aquifer” means a water-bearing geologic formation capable of yielding a usable quantity of water to a well or spring.

“Bulletin No. 23” means Technical Bulletin No. 23 entitled “Guidelines for Well Interference Compensation,” March 1986.

“Certified well contractor” means a well contractor who has successfully passed an examination prescribed by the department to determine the applicant’s qualifications to perform well drilling or pump services or both pursuant to 567—Chapter 82.

“Community public water supply” means a system for the provision to the public of piped water for domestic use which has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

“Compensation” means payment to the owner of a nonregulated well for damages caused by a lowered water level in the well due to withdrawal of water for a permitted use.

“Complainant” means the owner of a nonregulated well who is suspected of being or has been shown to be adversely affected by well interference.

“*Complaint*” means the formal allegation against a permitted water user who is suspected of causing well interference.

“*Conflict*” means a dispute between a nonregulated well owner and a permitted water user regarding the liability of the permitted user for well interference damages to the nonregulated well.

“*Consumptive use*” means any use of water which involves substantial evaporation, transpiration, incorporation of water into a product or removal of water from a source without return thereto. Consumptive uses include, but are not limited to, irrigation, evaporative cooling, and flooding of wildlife areas by withdrawals or diversions from watercourses or aquifers.

“*Controlled aquifer test*” means a test, as approved by the department, for pumping from a well at a controlled rate for a specified duration while water levels are accurately measured at given frequencies in the pumping well and other nearby wells which use the same aquifer.

“*Designated agricultural drainage well area*” means an agricultural drainage well area in which there is located an anaerobic lagoon or earthen manure storage structure which requires a construction permit under 567—Chapter 65.

“*Domestic use*” means a use of water for human consumption and sanitation and public safety (fire protection).

“*Drainage system*” means tile lines, laterals, surface inlets, or other improvements which are constructed to facilitate the drainage of land.

“*Earthen storage structure*” means an earthen cavity, either covered or uncovered, including but not limited to an anaerobic lagoon or earthen manure storage basin which is used to store manure, sewage, wastewater, industrial waste, or other waste as regulated by the department of natural resources, if stored in a liquid or semiliquid state.

“*General crop*” means hay, corn, soybeans, oats, grain sorghum or wheat.

“*Industrial use*” means a use of water by manufacturing, processing, commercial, and other industrial facilities incidental to providing a product or a service; excluding domestic use, irrigation use, livestock use, nonindustrial power generation use, and recreational and aesthetic use. Examples include but are not limited to manufacturing, food processing, industrial cooling, excavation and processing of rock and gravel products, commercial laundries, cooling of perishables and electrical power generation other than for public consumption.

“*Informal negotiations*” means discussion between a complainant and permittee or applicant regarding settlement of a well interference conflict.

“*Informal settlement*” means a resolution of a well interference conflict by informal negotiations between a complainant and permittee or applicant without formal action by the department.

“*Irrigation use*” means a use of water which is artificially applied to land to aid the growing of general crops and specialty crops.

“*Livestock use*” means a use of water in the production of animals such as for drinking, sanitation and cooling.

“*Nonregulated well*” means a well used to supply water for a nonregulated use (a use of water less than 25,000 gallons per day which is not required to have a water use permit).

“*Permanent storage*” means the volume of water expressed in acre-feet which is stored upstream from a dam or in an impoundment up to the level of the principal outlet works of the structure.

“*Permitted use*” means a use of water in excess of 25,000 gallons per day which requires a water use permit pursuant to these rules and 567—Chapters 51 and 52 and Iowa Code chapter 455B, division III, part 4.

“*Pesticide*” means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating directly or indirectly any insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living persons, which the secretary of agriculture shall declare to be a pest; and (2) any substance intended for use as a plant growth regulator, defoliant, or desiccant.

“*Power generation use*” means a use of water incidental to the generation of electric power for distribution and sale to the public including process water (e.g., boiler makeup) and water for cooling purposes.

“*Protected flow*” means the “*established average minimum flow*” defined in Iowa Code section 455B.261.

“*Protected source*” means a surface water or groundwater source recognized by rule as needing special protection in order to ensure its long-term availability, in terms of either quality or quantity, or both, to preserve the public health and welfare.

“*Recreational and aesthetic use*” means a use of water which can be curtailed and is not essential for the preservation of life, the general welfare, or the state’s economic base. Examples include but are not limited to flooding of wildlife areas; filling of pools and fountains; nonessential cooling; car washing; street cleaning; washing of other exterior surfaces such as windows and walls; amusement park-type water rides; turf watering such as lawns, golf courses, and athletic fields; and watering of landscape plantings.

“*Seven-day, 1-in-10 year low flow (7Q10)*” means the minimum average flow expected to occur during a period of seven consecutive days which has an average recurrence interval of once in ten years. The 7Q10 may be calculated for specific seasonal periods of less than one year when appropriate.

“*Specialty crop*” means all other crops not listed as a general crop, including but not limited to melons, sod farm or seed corn.

“*Stream*” means a “*watercourse*” other than a lake as defined in Iowa Code section 455B.261.

“*Stream bordering the state*” means those reaches of the Missouri, Mississippi, Des Moines, and Big Sioux rivers that serve as a state boundary.

“*Sufficient water supply*” means a nonregulated well which is capable of providing enough water for the nonregulated use.

“*Surface water*” means water occurring on the surface of the ground.

“*Surface water intake*” means an artificial opening to a drain tile which drains into an agricultural drainage well, if the artificial opening allows surface water to enter the drain tile without filtration through the soil profile.

“*Suspect permittee*” means a party possessing a water use permit when the permitted use is suspected of causing well interference in a nonregulated well.

“*Test pumping*” means a controlled aquifer test for verification of well interference using the existing wells and pumping systems of the complainant and suspect permittee.

“*Verified well interference*” means well interference which has been proven by test pumping or with other substantial evidence to have caused or will cause a nonregulated well to be unable to maintain a sufficient water supply.

“*Well interference*” means the lowering of water level in a well caused by the withdrawal of water at another location (usually a nearby well).

567—50.3(17A,455B) Forms for withdrawal, diversion or storage of water.

50.3(1) Application forms. The following application forms are currently in use:

Form 16: Application for a New Water Use Permit or to Modify an Existing Water Use Permit. 542-3106.

Form 18: Application for Permit to Store Water for Beneficial Use. 542-3109.

Form 20: Registration of Minor Nonrecurring Use of Water. 542-3112.

Form 542-1470: Water Supply Section Water Use Permit Renewal.

Form 542-1539: Application for Use of an Agricultural Drainage Well.

50.3(2) Supplementary information forms. The following forms are used to obtain additional information to supplement various types of applications:

Form 21: Survey of Land Owners and Occupants. 542-3113.

Form 22: Well Inventory Form. 542-3114.

Form 122: Water Well Inspection Report.

50.3(3) Reporting form. The following form is for reporting permitted activities:

Form 23: Report of Water Use by all Regulated Users. 542-3115.

567—50.4(17A,455B) How to request a permit.**50.4(1) Application form.**

a. *Application for approval of a new withdrawal, diversion or storage of water unrelated to the use of an agricultural drainage well.* For withdrawals, diversions, or storage of water unrelated to the use of an agricultural drainage well, a request for a new permit as distinguished from modification or renewal of an existing permit shall be made on Form 16 (542-3106). An application form must be submitted by or on behalf of the owner, lessee, easement holder or option holder of the area where the water is to be withdrawn, diverted or stored, and used. An application must be accompanied by a map portraying the points of withdrawal or diversion and storage, and the land on which water is to be used oriented as to section, township, and range. One application normally will be adequate for all uses on contiguous tracts of land. Tracts of land involved in the same operation separated only by roads or railroads will be deemed contiguous tracts.

b. *Application for diversion of water related to the use of an agricultural drainage well.* An application for the diversion of water and any other materials to an aquifer related to the use of an agricultural drainage well shall be made on a form obtained from the department and be submitted by or on behalf of such owners, lessees, easement holders, or option holders of all lands within the agricultural drainage well area. If the agricultural drainage well is part of a legally organized drainage district, the drainage district shall be a joint applicant. Applications for permits for diversions related to the use of an agricultural drainage well that existed prior to February 18, 1998, shall be made by July 1, 1999, with the exception of agricultural drainage wells that must be closed to comply with the provisions of 1997 Iowa Acts, Senate File 473. An application will not have to be filed for wells in a designated agricultural drainage well area which must be closed by December 31, 1999. In addition, the department may grant up to a six-month delay in the application date for owners of agricultural drainage wells where it can be shown there is a reasonable expectation that the agricultural drainage well will be voluntarily closed by December 31, 1999.

c. *Application for modification or renewal of a permit.* A request for renewal of a permit should be submitted on Form 542-1470. A request to modify an existing permit shall be made on Form 16 (542-3106) and must include an explanation of the necessity for the modification.

d. *Where to submit application.* Rescinded IAB 6/7/06, effective 7/12/06.

50.4(2) Fees.

a. *Application fee.* An application to the department for a new permit, modification of an existing permit, or registration of a minor nonrecurring use of water must be accompanied with the fee listed in the table below. These fees are nonrefundable and are not transferable. For any single application, if more than one fee in the table below applies, only the higher fee is required. The fees become effective on July 1, 2009.

Application Description	Form	Fees, in dollars
(1) To apply for a new permit to withdraw or divert water	16 (542-3106)	\$350
(2) To renew an existing permit	542-1470	\$0
(3) To modify an existing permit to either add a new source or increase the amount or rate of water withdrawn or diverted from a source or sources	16 (542-3106)	\$350
(4) To modify the conditions of an existing permit which are not described in Item 3 of this table (see above)	16 (542-3106)	\$0
(5) To apply for an aquifer storage and recovery permit or a protected source designation	N/A	\$700
(6) To apply for a permit to store water	18 (542-3109)	\$75
(7) To register a minor nonrecurring use of water	20 (542-3112)	\$75

b. *Annual permit fee.* In addition to the application fee, there is an annual permit fee for a water use permit or an aquifer storage and recovery permit. The annual fee shall be based on the number of active permits. Each permit holder shall pay the same annual fee. The fee will not be prorated and is nonrefundable. The annual permit fee is due December 1 of each year, beginning with December 1,

2009. The department will provide an annual fee notice to each permittee at least 60 days prior to the fee due date. An additional fee of \$100 will be imposed if the fee is not received by December 1. Failure to remit the fee by January 1 may result in the cancellation of the permit.

(1) There is no annual fee for a water storage permit (see (6) of table, paragraph 50.4(2) “a”) or for a minor nonrecurring water use registration (see (7) of table, paragraph 50.4(2) “a”).

(2) The annual fee shall be based on the costs for administering the water use permitting program for the previous calendar year and on the budget for the next fiscal year. The department will review the annual permit fee each year and adjust the fee as necessary to cover all reasonable costs required to develop and administer the water use permitting program. Permit holders that have paid an application fee after December 1, but prior to November 30, will not be required to pay an annual fee until December 1 of the following year. If an applicant remits an annual fee for the 12-month period beginning December 1 and then later submits an application fee for a permit modification, the applicant will be refunded the lesser of the fees. The department shall request commission approval of the amount of the annual fee no later than September 30 of each year.

50.4(3) Supporting information required for complete application. An application shall not be considered complete until the fee specified in this rule and all supporting information requested under 50.6(17A,455B) have been submitted by the applicant or agents of the applicant.
[ARC 7694B, IAB 4/8/09, effective 5/13/09]

567—50.5(455B) Initial screening of applications.

50.5(1) General procedure. Each application upon receipt shall be promptly evaluated by the department to determine whether adequate information is available to review the project. The department shall then advise the applicant of additional information required to review the project.

50.5(2) Application to withdraw groundwater. Evaluation of the potential effects of a proposed withdrawal of groundwater requires review of available hydrogeological information. The department may require additional supporting hydrogeological information, which the applicant is responsible for providing.

567—50.6(17A,455B) Supporting information. Applicants shall submit supporting information which is reasonably required to assist the department in conducting the investigation of an application required by Iowa Code sections 455B.264 and 455B.281 and in determining whether granting of a permit would be consistent with the policies and principles of beneficial use set forth in Iowa Code section 455B.262. Certain supporting information requirements are described in this rule. This description is intended to identify frequently required information. The department may require additional information relative to the permit application.

50.6(1) Application for permit to withdraw groundwater.

a. Identification of source and effects of pumping. An applicant shall be required to submit information needed by the department to identify the aquifer(s) from which withdrawals of water are proposed, predict the effects of pumping with a reasonable degree of confidence, and determine any permit conditions for well interference pursuant to 567—Chapter 54. At many locations the only reliable methods to determine the availability of a water source of adequate quantity and quality and to predict the effects of pumping require test drilling, yield test pumping, and a controlled aquifer test with measurements in one or more observation wells conducted with prior approval in a manner that is acceptable to the department. The applicant shall be required to perform each of these exploratory operations to the extent necessary for the department to obtain information from which to determine whether a permit should be granted and to identify conditions which should be imposed in any permit granted. The following requirements apply to exploratory drilling and test pumping.

(1) Test drilling. In cases where test drilling is needed for geological information relevant to the application, the applicant is responsible for employing a driller who will collect, bag and properly label cutting samples at each five-foot interval and at each apparent change in geological formation from a test hole or production well hole at least the approximate depth of the proposed production well. The cutting samples must be saved for collection by the department in sample bags provided by the department’s

Iowa geological survey (IGS). The samples shall be accompanied by a driller's log showing the location and total depth of the hole and a description of the materials encountered at successive intervals.

(2) Yield testing. An applicant shall be required to construct a well and test pump it for yield to the extent necessary to determine whether water is available at the applicant's proposed rate of withdrawal from the proposed source. A written registration from the department is required before any yield test in which more than 25,000 gallons will be withdrawn in a period of 24 hours or less (see 567—subrule 51.6(5)).

(3) Controlled aquifer test with supervision. An applicant shall be required to conduct a controlled aquifer test with supervision by a certified well contractor, licensed professional engineer or other designee of the department as a condition of obtaining a water permit if the department finds an aquifer test necessary to determine the effects which the proposed withdrawal has on other water uses. The applicant may be required to construct, develop, and maintain adequate observation wells for use in an aquifer test and for subsequent water level measurements or water quality monitoring. An applicant shall be responsible for obtaining a registration for an aquifer test as provided in 567—subrule 51.6(5).

b. Cooperation in obtaining information about surrounding wells. An applicant who requests a permit authorizing withdrawals of groundwater from a well or reservoir may be required to assist the department in conducting an inventory of nearby wells within a designated radius of the proposed site. The need for an inventory and the appropriate radius will be determined after considering the known characteristics of the aquifer which the applicant proposes as a source of water and the rate and amount of the proposed withdrawals. The department shall provide a map specifying the area within which an inventory is proposed and forms specifying the information to be gathered in the inventory. The department shall also provide to the applicant a description of regulated uses within the inventory area. The applicant shall make a good faith effort to assist the department in obtaining available information from public records to identify landowners and occupants and from drilling contractors or pump installers identified by a landowner or occupant responding to the inventory.

50.6(2) *Application for an irrigation permit.* An applicant who proposes to irrigate crops on land which includes soils more erodible than Capability Subclass IIe as defined by the U.S.D.A. Natural Resources Conservation Service (NRCS), or slopes greater than 6 percent where a modern NRCS Soil Survey is not available, shall submit a soil conservation plan prepared with the assistance of the NRCS for the land in which crop irrigation is proposed. The plan shall be accompanied by the applicant's written explanation of how operation of the proposed irrigation system will be compatible with the conservation plan.

50.6(3) *Application for permit to dewater a rock quarry.* Iowa Code section 455B.268 and 567—Chapter 51 require that a permit be obtained before diverting water or material from the surface directly into any underground watercourse or basin. When the department investigates an application for a permit to pump water for dewatering of a quarry excavated in carbonate rock, the department shall consider the potential for pollution of an underground watercourse or basin from drainage of surface water into the quarry. If available information, including topographic and subsurface geological information, supports a finding that drainage of surface water into the quarry would constitute a violation of the permit requirement in Iowa Code section 455B.268 and might cause pollution of an underground watercourse or basin if not controlled, then the department shall require that the applicant either request a permit to authorize a drainage of surface water into the quarry, or construct and maintain a means of controlling surface water which would otherwise drain into the quarry. Examples of suitable methods of controlling surface drainage are low berms or artificial drainage ways constructed as needed to reduce runoff of surface water from adjacent land into the quarry.

50.6(4) *Application for permit to divert water into an aquifer not related to the use of an agricultural drainage well.* An applicant for a permit to divert water or any other material from the surface into an aquifer not related to the use of an agricultural drainage well shall submit information showing that the requested diversion will not alter the quality of the aquifer.

50.6(5) *Application for uses that were nonregulated prior to July 1, 1985.* Rescinded IAB 6/7/06, effective 7/12/06.

50.6(6) *Applications for a permit to withdraw water from a protected water source.* An applicant for a permit to withdraw water from a protected water source designated in rule 567—53.7(455B) may be required to provide specific information to support the application as required by rule 567—53.5(455B) or rule 567—53.7(455B).

50.6(7) *Application for permit to divert water into an aquifer related to the use of an agricultural drainage well.* An applicant for a permit to divert water or any other material into an aquifer by means of an agricultural drainage well shall submit the following information. The locations of the features as listed below shall be shown on a map drawn to scale submitted with the application.

a. Location of the agricultural drainage well to at least the nearest quarter-quarter section, township and range.

b. Diameter and depth of the agricultural drainage well, if known.

c. Description and ownership of the lands which are drained by the agricultural drainage well and the associated drainage system.

d. Location of tiles which drain to the agricultural drainage well, if known, and the location of any existing surface water intakes.

e. The location and description of any earthen storage structures, confinement feeding operations, or open feedlots within the agricultural drainage well area.

f. Information regarding any known connections between the agricultural drainage well or its drainage system and wastewater disposal or storage systems such as septic tanks and the location of such connections.

g. The nature and extent of any agreements between the well owner and adjacent landowners who have lands which are drained by the agricultural drainage well and associated tile drainage system.

h. Any available information regarding the economic and physical feasibility of closing the agricultural drainage well.

567—50.7(17A,455B) Review of complete applications.

50.7(1) *Order of processing.* In general, complete applications including all requested supporting information shall be reviewed in the order that complete information is received. However, when there are a large number of pending applications, which precludes the department from promptly processing all applications, the department may expedite review of a particular application out of order if the completed application and supporting documents were submitted at the earliest practicable time and any of the following conditions exist:

a. Relatively little staff review time (generally less than four hours) is required and delay will cause the applicant hardship;

b. The applicant can demonstrate that a delay in the permit will result in a substantial cost increase of a large project;

c. Prompt review of the permit would result in earlier completion of a project that conveys a significant public benefit;

d. The need for a permit is the result of an unforeseen emergency or catastrophic event; or

e. A permit is needed to complete a project that will abate or prevent an imminent threat to the public health and welfare.

50.7(2) *Summary report of application review.* Before an initial decision is issued on an application, personnel assigned to review an application shall prepare a summary report which shall state whether the withdrawal, diversion, or use of water as described in the complete application conforms to relevant criteria. The report shall identify the information used to determine the potential for a proposed use of water to adversely affect other water users. For an application to withdraw groundwater, the report shall describe the effects on water levels anticipated to occur from the proposed use; indicate if verified well interference has been found; and provide options for resolving any verified well interference in accordance with 567—Chapter 54.

50.7(3) *Public notice of recommendation to issue permit.*

a. *New permits and modifications of permits.*

(1) Applicable to all except community public water supplies. Before issuance of a permit to withdraw, divert or inject water, the department shall publish notice of recommendation to grant a permit. The notice shall summarize the application and the recommendations in the summary report. The notice shall allow 20 days to request a copy of the summary report and submit comments on the report. The department may extend the comment period upon request for good cause. The notice shall be published in a newspaper circulated in the locality of the proposed water source. The notice shall be sent to any person who has requested a copy of the notice concerning the particular water use under consideration.

(2) Applicable only to community public water supplies. Prior to the issuance of a permit to withdraw, divert or inject water to a community public water supply, the department shall publish a notice of recommendation to grant a permit. The notice shall allow 20 days to request a copy of the summary report and submit comments on the report. The department may extend the comment period upon request for good cause. The notice shall include a brief summary of the proposed permit and shall be published in a newspaper of general circulation within the county of the proposed water source as provided in Iowa Code section 618.3. If the newspaper of general circulation is not the newspaper of the nearest locality to the proposed water source that publishes a newspaper, the notice shall also be published in the newspaper of the nearest locality to the proposed water source that publishes a newspaper, and the department may charge the applicant for the expenses associated with publishing the notice in the second newspaper. The notice shall be sent to any person who has requested a copy of the notice concerning the particular water use under consideration.

b. Permit renewals. The notice provisions of paragraph “a” of this subrule shall apply to requests for permit renewals except that the department need not publish notice of recommendation to grant a renewal permit which does not involve modification of permit conditions.

50.7(4) *Notice to the applicant that proposed withdrawal, diversion or use of water does not conform to criteria.* If the application review discloses that the proposed withdrawal, diversion or use of water violates one or more criteria and the application should therefore be disapproved, or approved only subject to special conditions to which the applicant has not agreed, the department shall notify the applicant and, when practical, suggest appropriate project modifications. The department shall offer the applicant an opportunity to submit comments before an initial decision is made.

50.7(5) *Applications for uses that were nonregulated prior to July 1, 1985.* Rescinded IAB 6/7/06, effective 7/12/06.

567—50.8(17A,455B) Initial decision by the department.

50.8(1) *Form of decision.* The initial decision on an application shall be a permit or disapproval issued by the department. Each permit shall include appropriate standard and special conditions consistent with Iowa Code sections 455B.261 to 455B.274 and 455B.281 and 567—Chapters 52 to 54. The decision may incorporate by reference and attachment the summary report described in 50.7(2). Each decision shall include the following:

a. Determinations as to whether the project satisfies all relevant criteria not addressed in an attached summary report.

b. An explanation of the purpose for imposing each special condition.

c. Explanation of consideration given to all comments submitted pursuant to 50.7(3) and 50.7(4) unless the comments are adequately addressed in the attached summary report.

50.8(2) *Notice of initial decision.* Copies of the initial decision shall be mailed to the applicant, any person who commented pursuant to 50.7(3), and any other person who has requested a copy of the decision. The decision shall be accompanied by a certification of the date of mailing. An initial decision becomes the final decision of the department unless a timely notice of appeal is filed in accordance with 50.9(17A,455B). The final decision may be filed with the appropriate county recorder to give constructive notice to future landowners of any conditions or requirements imposed by the final decision.

567—50.9(17A,455B) Appeal of initial decision. Any person aggrieved by an initial decision issued under 50.8(17A,455B) may file a notice of appeal with the director. The notice of appeal must be filed within 30 days following the certified date of mailing of the decision unless the appellant shows good

cause for failure to receive actual notice and file within the allowed time. The form of the notice of appeal and appeal procedures are governed by 567—Chapter 7. The department shall mail a copy of the notice of appeal to each person who commented on the application. If the appeal is from denial of a permit and a notice of recommendation to grant a permit was not published, the department shall publish the notice of commencement of a contested case and provide an opportunity for interested people to seek intervention in the contested case.

These rules are intended to implement Iowa Code sections 17A.3, 455B.105, 455B.171, 455B.262, 455B.264 to 455B.274, 455B.278, and 455B.281 and chapter 460.

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¹ At its meeting held 2/9/98, the Administrative Rules Review Committee delayed 50.2, eight definitions, 50.3(1), 50.4, 50.6(4), 50.6(7), 50.7(2), 50.7(4) and 50.8(2) until adjournment of the 1998 Session of the General Assembly.

CHAPTER 55
AQUIFER STORAGE AND RECOVERY:
CRITERIA AND CONDITIONS FOR AUTHORIZING STORAGE,
RECOVERY, AND USE OF WATER

567—55.1(455B) Statutory authority. The authority for the department of natural resources to permit persons to inject, store, and recover treated water for potable use is given by Iowa Code sections 455B.261, 455B.265 and 455B.269. This permit requirement applies to any aquifer storage and recovery (ASR) system, including projects involving border streams. The person or water system seeking an aquifer storage and recovery permit must review the criteria for ASR permits and contact the department if a permit is required.

567—55.2 Reserved.

567—55.3(455B) Purpose. The aquifer storage and recovery rules are intended to describe aquifer storage and recovery, including defining the affected area within the aquifer, creating a permit program with technical criteria for evaluating ASR projects, and incorporating technical additions for the practice of treated water recovery. Legal rights and obligations affecting ASR permit holders are defined.

567—55.4(455B) Definitions. The following definitions shall apply to this chapter:

“Aquifer storage and recovery (ASR)” means the injection and storage of treated water in an aquifer through a permitted well during times when treated water is available and withdrawal of the treated water from the same aquifer through the same well during times when treated water is needed.

“Contiguous” means directly adjacent or touching along all or part of one side of a legally defined piece of property. Tracts of land involved in the same water supply and separated only by separators such as roads, railroads, or bike trails are deemed contiguous tracts.

“Displacement zone” means the three-dimensional area of dispersion into which treated water is injected for storage, subject to later recovery.

“Drawdown” means the decrease in water level at a pumping well due to the action of the pump.

“Limited registration” means a one-year written authorization for a nonrecurring use of water for the purpose of forecasting and testing the ASR well system, to include cyclic test pumping as necessary.

“Mechanical integrity” means any structural or material defect in the ASR well or well casing or appurtenances which will prevent or materially impair the injection or pumping of water (to and from) within an aquifer or contribute to aquifer contamination or impairment.

“Permit” means a written authorization issued to a permittee by the department for the storage of treated water in an existing aquifer or the subsequent withdrawal of treated water from an existing aquifer. The permit specifies the quantity, duration, location, and instantaneous rate of this storage or withdrawal.

“Permittee” means a water supply system which obtains a permit from the department authorizing the injection of and possession by storage of treated water in an aquifer, withdrawal of this water at a later date, and the actual beneficial use of the water.

“Receiving aquifer” means the aquifer into which treated water is injected under terms of an ASR permit.

“Recovered water” means water which is recovered from storage within the displacement zone under terms of an ASR permit.

“Stored water” means injected treated potable water which is stored in a receiving aquifer within the displacement zone under terms of an ASR permit.

“Treated water” for the purposes of this chapter means water which has been physically, chemically, or biologically treated to meet national primary and secondary drinking water standards and is fit for human consumption as defined in 567—Chapters 40 to 43, Iowa Administrative Code.

“Zone of influence” means a circular area surrounding a pumping water well where the water table has been measurably lowered due to the action of the pump.

567—55.5(455B) Application processing.**55.5(1) Application.**

a. Initial application for approval of an aquifer storage and recovery (ASR) project. A permit shall be required for the storage of all treated water in an aquifer for later recovery for potable uses. New permit applications (a request for a new permit, as distinguished from modification or renewal of an existing permit) shall be made on a form obtained from the department. An application form must be submitted by or on behalf of the water supply system owner, lessee, easement holder, or option holder of the area where the water is to be stored and recovered from an aquifer. An application must be accompanied by a map portraying:

- (1) The points of injection and withdrawal,
- (2) The immediate vicinity (topography) of the receiving aquifer,
- (3) Any production, test or other observation wells within the aquifer, and
- (4) The area of water storage.

The application must also include a description of the land where wells are located and water will be injected, withdrawn and used, oriented as to quarter section, section, township, and range. One application will be adequate for all uses on contiguous tracts of land. A water supply construction permit issued pursuant to 567—Chapter 43 will also be required for all injection/recovery wells.

b. Limited registration. The department's response to an initial application will be to issue a limited registration to initiate an ASR pretesting program pursuant to paragraph 55.6(1) "a"; only after approval of and completion of an ASR pretesting program with appropriate public notification pursuant to subrule 55.5(3) and proper evaluation of the test results will the department issue an ASR permit.

c. A request for modification or renewal of a permit shall be made in a similar manner. This application does not need to reiterate map and location information as previously submitted to the department (unless the information has changed). The limited registration requirement for aquifer pretesting does not apply to modified or renewed ASR permit requests (unless required by the department).

55.5(2) Application fee. Rescinded IAB 4/8/09, effective 5/13/09.

55.5(3) Published notice—applicant limited registration. The department will issue a limited registration allowing the applicant to conduct test pumping of an ASR site pursuant to paragraph 55.6(1) "a." The applicant shall first publish notice of intent to test the injection and water pumpage/recovery equipment prior to receiving the limited registration. Publication shall be in a form and manner acceptable to the department, in the newspaper of largest circulation in the county where the ASR project is located, and proof of publication shall be submitted to the department. The department will then issue the limited registration, and the applicant shall notify contiguous landowners by U.S. mail of the receipt of the limited registration and the intent to test an ASR site.

55.5(4) Published notice—departmental intent to issue a final ASR permit. Before issuance of a final ASR permit, the department shall publish notice of proposed decision to issue an ASR permit or deny the ASR application. Publication shall be in the newspaper of largest circulation in the county where the ASR project is located. This publication shall summarize the department's findings on whether the application conforms to relevant criteria as outlined in subrule 55.6(1). An engineering or hydrogeological summary report prepared by department staff may be attached to the published summary of findings. Copies of the proposed decision shall be mailed to the applicant, any person who commented, and any other person who requests a copy of the decision. The decision shall be accompanied by a certification of the date of mailing. A proposed decision becomes the final decision of the department unless a timely notice of appeal is filed in accordance with 55.5(6).

55.5(5) Form of department decision. The decision on an application shall be a permit or denial letter issued by the department. Each permit shall include appropriate standard and special conditions consistent with Iowa Code sections 455B.261 to 455B.274 and 455B.281 and 567—Chapters 52 to 55. The decision may incorporate by reference and attachment the summary report described in 55.5(4). Each decision shall include the following:

a. Determinations as to whether the project satisfies all relevant criteria not addressed in an attached summary report.

- b. An explanation of the purpose for imposing each special condition.
- c. An explanation of consideration given to all comments submitted pursuant to 55.5(3) and 55.5(4) unless the comments are adequately addressed in the attached summary report.

55.5(6) Appeal of department decision. Any person aggrieved by an initial ASR permit decision may appeal the action. The person must submit a request for appeal in writing to the director within 30 days of the date of issuance of the final decision made by the department. A decision by the director on an appeal may be further appealed to the environmental protection commission (EPC). The form of appeal and appeal procedures are governed by 567—Chapter 7. The department shall mail a copy of the notice of appeal to each person who commented on the application.

55.5(7) ASR permit public hearing. Reserved.
[ARC 7694B, IAB 4/8/09, effective 5/13/09]

567—55.6(455B) Aquifer storage and recovery technical evaluation criteria.

55.6(1) Requirements. Injections into aquifers for the purpose of treated water storage and subsequent withdrawals from the receiving aquifers intended for potable uses shall be subject to the following requirements:

a. *Aquifer pretesting.* Procurement of a limited registration for aquifer pretesting as outlined in subrule 55.5(1). The limited registration shall be for the period of one year and may be renewed for two additional one-year periods, for a total cumulative registration time not to exceed three years at the discretion of the department should the project require more than one year to be completed. The limited registration shall allow initial aquifer testing for determining the feasibility of aquifer storage and recovery, including placement of pumping and storage/extraction equipment. The testing approach shall be designed to provide information as needed to evaluate the ultimate capacity anticipated for the ASR project and provide assurance that the ASR site shall not restrict other uses of the aquifer. The testing program shall include injection rates and schedules, water storage volumes, recovery rates and schedule, and a final testing report.

b. *Engineering report.* An engineering evaluation of the technical feasibility of the proposed water injection and the probable percentage of recovery of treated water when pumped for recovery shall be submitted to the department. The engineering report shall include preliminary information from conceptual evaluations and aquifer pretesting such as:

- (1) Injection rates and schedules,
- (2) Water storage volumes,
- (3) The length of time the injected water will be stored,
- (4) The projected recovery rate,
- (5) Water quality data necessary to demonstrate the percentage of recovered water and that the water meets national drinking water standards,
- (6) Water level monitoring data including the location of observation wells, if any,
- (7) A plan detailing what to do with the recovered water if the intended use is not possible, and
- (8) A final testing protocol.

If the report can demonstrate by field test results or by a conceptual or mathematical hydrogeologic modeling that the injection, storage, and subsequent recovery will not adversely affect nearby users, the ASR project may be permitted after review by the department. A displacement zone containing the stored volume of water will not be allowed if it adversely affects another user's zone of influence. If the department finds through hydrogeologic modeling or during pretesting that the proposed displacement zone may impact the zone of influence of another user's existing well, additional testing will be required. The department may require the applicant to construct observation wells between the ASR site and nearby wells and may designate project-specific monitoring and reporting requirements at the observation wells.

c. *Hydrogeologic evaluation.* Hydrogeologic investigation of the site to evaluate potential quantitative and qualitative impacts to the aquifer, including changes to localized aquifer geochemistry, shall be part of the engineering report. Preliminary hydrogeologic information shall include:

- (1) The local geology,
- (2) A hydrogeologic flow model of the areal flow patterns,

- (3) A description of the aquifer targeted for storage,
- (4) Estimated flow direction and rate of movement,
- (5) Both permitted and private wells within the area affected by ASR wells, including best estimates of respective zones of influence,
- (6) Basis for estimating the displacement zone,
- (7) Anticipated changes to the receiving aquifer geochemistry due to the proposed ASR testing and use, and
- (8) Potable water quantity recovery estimates.

d. Protection of nearby existing water uses. The aquifer storage and recovery permit applicant shall demonstrate that the ASR site shall not restrict other uses of the aquifer by nearby water use permittees. An ASR applicant shall conduct and submit an inventory of nearby wells. The department, after considering the rate and amount of the ASR injections and withdrawals and the characteristics of the aquifer, will determine the extent of the inventory and the appropriate radius from the proposed ASR site. The department shall provide a map specifying the area in which the inventory is needed and forms specifying information to be gathered. The ASR permit applicant shall make a good-faith effort in obtaining available information from public records to identify nearby landowners and occupants and from drilling contractors identified by a landowner or occupant who responds to the inventory. The ASR applicant shall immediately notify the department of all objections raised by nearby landowners or other on-site problems such as the structural integrity of the injection equipment. Well interference conflicts arising from the proposed ASR site/project shall be resolved as outlined in 567—Chapter 54 or as otherwise specified by the department. Water recovery from an ASR site will not be permitted to any user other than the ASR permittee.

e. MCL exceedance limitation. No permit shall allow injected water to contain contaminants in excess of the maximum contaminant levels (MCLs) established by the department in 567—Chapters 40 to 43. Chemicals associated with disinfection of the water may be injected into the aquifer up to the standards established under 567—Chapters 40 to 43 or as otherwise specified by the department.

f. Reporting and record keeping. The permittee shall maintain a monthly record of injection and recovery, including the total number of hours of injection and recovery and the total metered quantity injected and recovered. The records must be submitted to the department annually. Project records including water quality testing records must be kept by the applicant for a period of five years. Water quality monitoring shall be at the frequency required by 567—Chapters 40 to 43 and as identified in the water system's public water supply operation permit. The applicant shall keep project records for a period of three years after termination of an ASR project and closure of the recovery wells.

g. Follow-up analysis by permittee. Reserved.

h. Vacating a permit for failure to construct and nonuse. The department may vacate the permit if the applicant fails to construct injection and water pumpage/recovery and ancillary equipment within three years of issuance of the permit (or subsequent permit modifications or renewals). The permit may also be vacated if the applicant does not use the storage system within three years of acquisition of the permit. A site abandonment plan including the physical removal of injection and water recovery equipment and the abandonment of all injection/recovery and observation wells pursuant to 567—Chapter 39 will be required of the applicant if the permit is vacated. A permittee whose permit is vacated may request a formal review of the action. The permittee must submit a request for review in writing to the director within 30 days of the date of notification of the final decision made by the department. A decision by the director in a formal review case may be further appealed to the environmental protection commission (EPC).

i. Mechanical integrity. Other conditions that are necessary to ensure adequate protection of water supplies may be imposed for mechanical integrity checks of the injection and treated water recovery well.

j. Revocation. The department may revoke or modify a permit to prevent or mitigate injury to other water users or otherwise protect aquifer water quality. The department may, based upon valid scientific data, further restrict certain chemicals in the injection source water if the department finds the constituents will interfere with or pose a threat to the maintenance of the water resources of the state for present or future beneficial uses.

k. Nonpotable uses. Reserved.

55.6(2) *Duration of permit, conditions of permit, and applicant property rights.* Permits for aquifer storage and recovery shall be issued for 20 years.

a. Conditions of permit. The permit will specify the maximum allowable injection rate at each well, the maximum allowable annual quantitative storage volume, and the maximum allowable instantaneous water withdrawal rate at each well.

b. Property of permittee. The department shall not authorize withdrawals of treated water from an aquifer storage and recovery site by anyone other than the permittee during the period of the permit and each subsequent renewal permit. Treated water injected into a receiving aquifer (and thereby comprising the “displacement zone”) as part of an ASR permit is the property of the permittee. Treated water which is recovered from storage within a displacement zone under terms of a permit shall be referred to as “recovered water” and shall be the property of the permittee. If a permit is revoked or otherwise surrendered, the ownership of the injected water within the aquifer (the water considered as “property”) reverts to the state of Iowa.

c. Restrictions on other wells within displacement zone. Existing wells within the displacement zone shall be plugged pursuant to 567—Chapter 39. No new private water wells, injection/withdrawal wells, observation wells, or public water supply wells shall be permitted by any governmental entity within the ASR displacement zone while the ASR permit is in effect. An ASR permit shall be filed with the appropriate county recorder to give constructive notice to present and future landowners of all conditions or requirements imposed by the final decision on an ASR application, including the well prohibition condition.

These rules are intended to implement Iowa Code sections 455B.261, 455B.265 and 455B.269.

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NATURAL RESOURCE COMMISSION[571]

[Prior to 12/31/86, see Conservation Commission [290], renamed Natural Resource Commission[571]
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571—8.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 8, Iowa Administrative Code, as amended through March 20, 2009.

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TITLE VI
PARKS AND RECREATION AREAS
CHAPTER 61
STATE PARKS AND RECREATION AREAS
[Prior to 12/31/86, Conservation Commission[290] Ch 45]

571—61.1(461A) Applicability. This chapter is applicable to all state-owned parks and recreation areas managed by the department of natural resources and by political subdivisions unless otherwise noted.

571—61.2(461A) Definitions.

“Bank” or *“shoreline”* means the zone of contact of a body of water with the land and an area within 25 feet of the water’s edge.

“Basic unit” or *“basic camping unit”* means the portable shelter used by one to six persons.

“Beach” is as defined in rule 571—64.1(461A).

“Beach house open shelter” means a building located on the beach which is open on two or more sides and which may or may not have a fireplace.

“Cabin” means a small, one-story dwelling of simple construction which is available for rental on a daily or weekly basis.

“Call center” means a phone center where operators process all telephone reservations, reservation changes and reservation cancellations for camping and rental facilities.

“Camping” means the erecting of a tent or shelter of natural or synthetic material or placing a sleeping bag or other bedding material on the ground or parking a motor vehicle, motor home, or trailer for the apparent purpose of overnight occupancy.

“Centralized reservation system” means a system that processes reservations using more than one method to accept reservations. Each method simultaneously communicates to a centralized database at a reservation contractor location to ensure that no campsite or rental facility is booked more than once.

“Chaperoned, organized youth group” means a group of persons 17 years of age and under, which is sponsored by and accompanied by adult representatives of a formal organization including, but not limited to, the Boy Scouts of America or Girl Scouts of America, a church, or Young Men’s or Young Women’s Christian Association. “Chaperoned, organized youth group” does not include families of members of a formal organization.

“Fishing” means taking or attempting to take fish by utilizing hook, line and bait as defined in Iowa Code section 481A.72, or use of permitted devices for taking rough fish as determined by Iowa Code sections 461A.42 and 481A.76.

“Free climbing” means climbing with the use of hands and feet only and without the use of ropes, pins and other devices normally associated with rappelling and rock climbing.

“Group camp” means those camping areas at Dolliver Memorial State Park, Springbrook State Park and Lake Keomah State Park where organized groups (i.e., family groups or youth groups) may camp. Dining hall facilities are available.

“Immediate family” means parents, dependent children and grandparents.

“Lodge” means a day-use building which is enclosed on all four sides and may have kitchen facilities such as a stove or refrigerator and which is available for rent on a daily basis. “Lodge” does not include buildings that are open on two or more sides and that contain fireplaces only.

“Modern area” means a camping area which has showers and flush toilets.

“Nonmodern area” means a camping area in which no showers are provided and which contains only pit-type latrines or flush-type toilets. Potable water may or may not be available to campers.

“Open shelter” means a building which is open on two or more sides and which may or may not include a fireplace.

“Open shelter with kitchenette” means a building which is open on two or more sides and contains a lockable, enclosed kitchen area.

“Organized youth group campsite” means a designated camping area within or next to the main campground where chaperoned, organized youth groups may camp.

“Persons with disabilities parking permit” means an identification device bearing the international symbol of accessibility that is issued by the Iowa department of transportation or similar devices that are issued by other states. The device can be a hanging device or on a motor vehicle as a plate or sticker as provided in Iowa Code section 321L.2 or 321L.9.

“Person with physical disability” means an individual, commonly termed a paraplegic or quadriplegic, with paralysis or a physical condition of the lower half of the body with the involvement of both legs, usually due to disease or injury to the spinal cord; a person who is a single or double amputee of the legs; or a person with any other physical affliction which makes it impossible to ambulate successfully in park or recreation area natural surroundings without the use of a wheeled conveyance.

“Possession” means exercising dominion or control with or without ownership over property.

“Prohibited activity” means any activity other than fishing as defined in this chapter including, but not limited to, picnicking and camping.

“Property” means personal property such as goods, money, or domestic animals.

“Recreation areas” means the following areas that have been designated by action of the natural resource commission:

<u>Area</u>	<u>County</u>
Badger Creek Recreation Area	Madison
Brushy Creek Recreation Area	Webster
Claire Wilson Park	Dickinson
Emerson Bay and Lighthouse	Dickinson
Fairport Recreation Area	Muscatine
Lower Gar Access	Dickinson
Marble Beach	Dickinson
Mines of Spain Recreation Area	Dubuque
Pioneer Recreation Area	Mitchell
Pleasant Creek Recreation Area	Linn
Templar Park	Dickinson
Volga River Recreation Area	Fayette
Wilson Island Recreation Area	Pottawattamie

These areas are managed for multiple uses, including public hunting, and are governed by rules established in this chapter as well as in 571—Chapters 52 and 105.

“Refuse” means trash, garbage, rubbish, waste papers, bottles or cans, debris, litter, oil, solvents, liquid or solid waste or other discarded material.

“Rental facilities” means those facilities that may be rented on a daily or nightly basis and includes open shelters, open shelters with kitchenettes, beach house open shelters, lodges, cabins, yurts and group camps.

“Reservation transaction fees” means fees as given in this chapter to process a reservation, change a reservation or cancel a reservation.

“Reservation window” means a rolling period of time in which a person may reserve a campsite or rental facility.

“Scuba diving” means swimming with the aid of self-contained underwater breathing apparatus.

“Special event” means any planned event for which attendance is solicited through advertising, invitation, or other solicitation and that may interfere with the general public’s normal use of a state park or recreation area and its facilities.

“State park” means the following areas managed by the state and designated by action of the natural resource commission:

<u>Area</u>	<u>County</u>
A. A. Call	Kossuth
Backbone	Delaware
Banner Lakes at Summerset	Warren
Beed's Lake	Franklin
Bellevue	Jackson
Big Creek	Polk
Black Hawk	Sac
Cedar Rock	Buchanan
Clear Lake	Cerro Gordo
Dolliver Memorial	Webster
Elinor Bedell	Dickinson
Elk Rock	Marion
Fort Atkinson	Winneshiek
Fort Defiance	Emmet
Geode	Henry and Des Moines
George Wyth	Black Hawk
Green Valley	Union
Gull Point	Dickinson
Honey Creek	Appanoose
Lacey-Keosauqua	Van Buren
Lake Ahquabi	Warren
Lake Anita	Cass
Lake Darling	Washington
Lake Keomah	Mahaska
Lake Macbride	Johnson
Lake Manawa	Pottawattamie
Lake of Three Fires	Taylor
Lake Wapello	Davis
Ledges	Boone
Lewis and Clark	Monona
Maquoketa Caves	Jackson
McIntosh Woods	Cerro Gordo
Mini-Wakan	Dickinson
Nine Eagles	Decatur
Okamanpedan	Emmet
Palisades-Kepler	Linn
Pikes Peak	Clayton
Pikes Point	Dickinson
Pilot Knob	Winnebago
Pine Lake	Hardin
Prairie Rose	Shelby
Preparation Canyon	Monona
Red Haw	Lucas
Rice Lake	Winnebago

<u>Area</u>	<u>County</u>
Rock Creek	Jasper
Shimek Forest Campground	Lee
Springbrook	Guthrie
Stephens Forest Campground	Lucas
Stone	Plymouth and Woodbury
Trapper's Bay	Dickinson
Twin Lakes	Calhoun
Union Grove	Tama
Viking Lake	Montgomery
Walnut Woods	Polk
Wanata	Clay
Wapsipinicon	Jones
Waubonsie	Fremont
Wildcat Den	Muscatine
Yellow River Forest Campground	Allamakee

Use and management of these areas are governed by Iowa Code chapter 461A and by other restrictions prescribed on area signs pursuant to Iowa Code section 461A.44.

"State park managed by a management company" means the following area established by Iowa Code chapter 463C:

<u>Area</u>	<u>County</u>
Honey Creek Resort State Park	Appanoose

Use and management of this area are governed by rules established in this chapter, as well as by the indenture of trust entered into by and among the department, the treasurer of state, the Honey Creek Premiere Destination Park bond authority as established by Iowa Code chapter 463C, and Banker's Trust Corporation, dated October 1, 2006.

"State park managed by another governmental entity" means the following areas designated by action of the natural resource commission:

<u>Area</u>	<u>County</u>
Bobwhite	Wayne
Browns Lake-Bigelow Park	Woodbury
Cold Springs	Cass
Crystal Lake	Hancock
Eagle Lake	Hancock
Echo Valley	Fayette
Frank A. Gotch	Humboldt
Galland School	Lee
Heery Woods	Butler
Kearny	Palo Alto
Lake Cornelia	Wright
Lake Odessa Campground	Louisa
Margo Frankel Woods	Polk
Mill Creek	O'Brien
Oak Grove	Sioux

<u>Area</u>	<u>County</u>
Oakland Mills	Henry
Pammel	Madison
Pioneer	Mitchell
Sharon Bluffs	Appanoose
Silver Lake	Delaware
Spring Lake	Greene
Swan Lake	Carroll

Use and management of these areas are governed by Iowa Code chapter 461A, by this chapter, and by rules adopted by the managing entity.

“*State preserve*” means the following areas or portion of the areas dedicated by actions pursuant to Iowa Code section 465C.10:

<u>Area</u>	<u>County</u>
A. F. Miller	Bremer
Ames High Prairie	Story
Anderson Prairie	Emmet
Behrens Ponds and Woodland	Linn
Berry Woods	Warren
Bird Hill	Cerro Gordo
Bixby	Clayton
Bluffton Fir Stand	Winneshiek
Brush Creek Canyon	Fayette
Brushy Creek	Webster
Cameron Woods	Scott
Casey’s Paha	Tama
Catfish Creek	Dubuque
Cayler Prairie	Dickinson
Cedar Bluffs Natural Area	Mahaska
Cedar Hills Sand Prairie	Black Hawk
Cheever Lake	Emmet
Clay Prairie	Butler
Claybanks Forest	Cerro Gordo
Coldwater Cave	Winneshiek
Crossman Prairie	Howard
Decorah Ice Cave	Winneshiek
Derald Dinesen Prairie	Shelby
Doolittle Prairie	Story
Eureka Woods	Greene
Fallen Rock	Hardin
Fish Farm Mounds	Allamakee
Five Ridge Prairie	Plymouth
Fleming Woods	Poweshiek
Fort Atkinson	Winneshiek
Fossil and Prairie Park	Floyd

<u>Area</u>	<u>County</u>
Freda Haffner Kettlehole	Dickinson
Gitchie Manitou	Lyon
Hanging Bog	Linn
Hardin City Woodland	Hardin
Hartley Fort	Allamakee
Hartman Bluff	Black Hawk
Hayden Prairie	Howard
Hoffman Prairie	Cerro Gordo
Indian Bluffs Primitive Area	Jones
Indian Fish Trap	Iowa
Kalsow Prairie	Pocahontas
Kish-Ke-Kosh Prairie	Jasper
Lamson Woods	Jefferson
Liska-Stanek Prairie	Webster
Little Maquoketa River Mounds	Dubuque
Malanaphy Springs	Winneshiek
Malchow Mounds	Des Moines
Manikowski Prairie	Clinton
Mann Wilderness Area	Hardin
Marietta Sand Prairie	Marshall
Mericle Woods	Tama
Merrill A. Stainbrook	Johnson
Merritt Forest	Clayton
Montauk	Fayette
Mossy Glen	Clayton
Mount Pisgah Cemetery	Union
Mount Talbot	Woodbury and Plymouth
Nestor Stiles Prairie	Cherokee
Ocheyedan Mound	Osceola
Old State Quarry	Johnson
Palisades-Dows	Linn
Pecan Grove	Muscatine
Pellett Memorial Woods	Cass
Pilot Grove	Iowa
Pilot Knob	Hancock
Retz Memorial Woods	Clayton
Roberts Creek	Clayton
Rock Creek Island	Cedar
Rock Island Botanical	Linn
Roggman Boreal Slopes	Clayton
Rolling Thunder Prairie	Warren

<u>Area</u>	<u>County</u>
Savage Woods	Henry
Searryl's Cave	Jones
Sheeder Prairie	Guthrie
Silver Lake Fen	Dickinson
Silvers-Smith Woods	Dallas
Slinde Mounds	Allamakee
St. James Lutheran Church	Winneshiek
Starr's Cave	Des Moines
Steele Prairie	Cherokee
Stinson Prairie	Kossuth
Strasser Woods	Polk
Sylvan Runkel	Monona
Toolesboro Mounds	Louisa
Turin Loess Hills	Monona
Turkey River Mounds	Clayton
White Pine Hollow	Dubuque
Williams Prairie	Johnson
Wittrock Indian Village	O'Brien
Woodland Mounds	Warren
Woodman Hollow	Webster
Woodthrush Woods	Jefferson

Use and management of these areas are governed by rules established in this chapter as well as by management plans adopted by the preserves advisory board.

“Swim” or “swimming” means to propel oneself in water by natural means, such as movement of limbs, and includes but is not limited to wading and the use of inner tubes or beach toy-type swimming aids.

“Walk-in camper” means a person arriving at a campground without a reservation and wishing to occupy a first-come, first-served campsite or unrented, reservable campsite.

“Yurt” means a one-room circular fabric structure built on a platform which is available for rental on a daily or weekly basis.

571—61.3(461A) Establishment of centralized reservation system operating procedures and policies. The department shall establish a centralized reservation system to accept and process reservations for camping and rental facilities in state parks, recreation areas and state forest campgrounds.

61.3(1) *Centralized reservation system business rules manual.* The department shall adopt by reference the manual titled “Centralized Reservation System Business Rules for Iowa State Parks, Recreation Areas and State Forests,” dated January 1, 2006, which sets procedures and policies for the administration of reservations of campsites and rental facilities through the centralized reservation system.

61.3(2) *Recreation facilities available on centralized reservation system.*

a. Rental facilities. All rental facilities will be available on the centralized reservation system with the exception of the group camp at Springbrook State Park.

b. Campgrounds.

(1) All campgrounds will be available on the centralized reservation system except for the campgrounds at A. A. Call State Park, Fort Defiance State Park and Preparation Canyon State Park and the backpack campsites located in state forests.

(2) Fifty percent of the total number of campsites in each individual campground shall be designated as reservable sites on the reservation system. The determination of which campsites shall be included in the 50 percent reservable designation shall be the responsibility of the park staff in each park. Park staff shall include a combination of electric, nonelectric and sewer/water sites while taking into consideration campsite characteristics such as location, shade and size. The department shall review the percentage of reservable sites and usage on a biennial basis and determine whether the percentage of reservable campsites should be changed. A reservable campsite shall be identified with a reservable site marker on the campsite post.

(3) All designated organized youth group campsites and campsites marked with the international symbol of accessibility shall be included in the reservation system.

61.3(3) Methods available to make reservations. Persons may make reservations by telephone through the call center or through the Internet using the reservation system Web site.

61.3(4) Reservation transaction fees.

a. Reservation fee. A nonrefundable reservation fee shall be charged for each reservation made per campsite or rental facility regardless of the length of stay. The one-time fee is per reservation and is not charged per day or night. This fee is in addition to the camping fees or rental fees established in subrules 61.4(1) and 61.5(1). The reservation fee varies depending upon the method used when the reservation is made.

(1) Internet reservation — \$4 + 3 percent credit card processing fee (if applicable).

(2) Telephone reservation — \$6 + 3 percent credit card processing fee (if applicable).

b. Change fee. A fee of \$5 + 3 percent credit card processing fee (if applicable) shall be charged to change an existing reservation.

c. Cancellation fee. A fee of \$5 shall be charged to cancel a reservation.

61.3(5) Reservation window.

a. Camping. The reservation window for campsite reservations is 3 months to 2 days prior to the arrival date.

b. Rental facilities.

(1) Rentals for May 1 to September 30. The reservation window for rental facilities is 12 months to 4 days prior to the arrival date.

(2) Rentals for October 1 to April 30. The reservation window for rental facilities is 12 months to 14 days prior to the arrival date.

571—61.4(461A) Camping.

61.4(1) Fees. The following are maximum per-night fees for camping in state parks and recreation areas. The fees may be reduced or waived by the director for special events or special promotional efforts sponsored by the department of natural resources. Special events or promotional efforts shall be conducted so as to give all park facility users equal opportunity to take advantage of reduced or waived fees. Reductions or waivers shall be on a statewide basis covering like facilities. In the case of promotional events, prizes shall be awarded by random drawing of registrations made available to all park visitors during the event. In areas subject to a local option sales tax, the camping fee shall be administratively adjusted so that persons camping in those areas will pay the same total cost applicable in other areas.

	Fee	Sales Tax	Total Per Night
<i>a. The following fees shall be in effect from May 1 to September 30 each year.</i>			
Nonmodern	\$ 8.49	.51	\$ 9.00
Modern	10.38	.62	11.00
<i>b. The following fees shall be in effect from October 1 to April 30 each year.</i>			
Nonmodern	5.66	.34	6.00
Modern	7.55	.45	8.00

	<u>Fee</u>	<u>Sales Tax</u>	<u>Total Per Night</u>
c. Electricity	4.72	.28	5.00
This fee will be charged in addition to the camping fee on sites where electricity is available (whether it is used or not).			
d. Organized youth group campsite, per group	14.15	.85	15.00
e. Cable television hookup	1.89	.11	2.00
f. Sewer and water hookup	2.83	.17	3.00
g. Additional fee for campgrounds designated for equestrian use	2.83	.17	3.00
This fee is in addition to applicable fees listed above.			
h. Camping tickets (per book of seven)	85.85	5.15	91.00

Camping tickets shall be valid for one year from the month of purchase. Persons using valid camping tickets purchased prior to any fee increase will not be required to pay the difference due to that fee increase.

61.4(2) *Varying fees.* Fees charged for like services in state-owned areas under management by political subdivisions may vary from those established by this chapter.

61.4(3) *Procedures for camping registration.*

a. Registration.

(1) Registration of walk-in campers occupying nonreservable campsites or unrented, reservable campsites will be on a first-come, first-served basis and will be handled by a self-registration process. Registration forms will be provided by the department of natural resources. Campers shall, within one-half hour of arrival at the campground, complete the registration form, place the appropriate fee or number of camping tickets in the envelope and place the envelope in the depository provided by the department of natural resources. One copy must then be placed in the campsite holder provided at the campsite.

(2) Park staff shall complete the registration of campers with reservations and place the registration in the campsite holder no later than one hour prior to check-in time on the day of the camper's arrival.

b. Campsites are considered occupied and registration for a campsite shall be considered complete when the requirements of 61.4(3) "a" have been met.

c. Campsite registration must be in the name of a person 18 years of age or older who will occupy the camping unit on that site for the full term of the registration.

d. Each camping ticket shall cover the cost of one night of camping in a modern area on a site where electricity is furnished. In addition to using the camping ticket, persons camping on equestrian sites or on sites which also have sewer and water hookups or cable television hookups available must pay the additional charges for these services. Use of a camping ticket in an area or on a site which would require a lesser fee than an electrical site in a modern area will not entitle the user to a refund or credit of any kind.

61.4(4) *Organized youth group campsite registration.*

a. Registration procedures for organized youth group campsites shall be governed by paragraphs "a," "b" and "c" of 61.4(3).

b. Chaperoned, organized youth groups may choose to occupy campsites not designated as organized youth group campsites. However, the group is subject to all fees and rules in 61.4(1), 61.4(3) and 61.4(5) pertaining to the campsite the group wishes to occupy.

61.4(5) *Restrictions on campsite/campground use.* This subrule sets forth conditions of public use which apply to all state parks and recreation areas. Specific areas as listed in 61.4(6), 61.7(461A) and 61.10(461A) are subject to additional restrictions or exceptions. The conditions in this subrule are in addition to specific conditions and restrictions set forth in Iowa Code chapter 461A.

a. Camping is restricted to designated camping areas within state parks and recreation areas and state forest campgrounds.

b. Camping is restricted to one basic unit per site except that a small tent may be placed on a site with the basic unit so long as the persons occupying the tent are under 18 years of age and are dependent members of the immediate family occupying the basic unit. The area occupied by the small tent shall be no more than 8 feet by 10 feet and the tent shall hold no more than four people.

Families that exceed six persons may be allowed on one campsite if all members are immediate family and cannot logically be split to occupy two campsites. One basic unit will be allowed on the site except that a small tent may be placed on a site with the basic unit so long as the persons occupying the tent are under 18 years of age and are dependent members of the immediate family occupying the basic unit. The area occupied by the small tent shall be no more than 8 feet by 10 feet and the tent shall hold no more than four people.

c. Each camping group shall utilize only the electrical outlet fixture designated for its particular campsite. No extension cords or other means of hookup shall be used to furnish electricity from one designated campsite to another.

d. Each camping group will be permitted to park one motor vehicle not being used for camping purposes at the campsite. Unless otherwise posted, one additional vehicle may be parked at the campsite.

e. All motor vehicles, excluding motorcycles, not covered by the provision in 61.4(5) "d" shall be parked in designated extra-vehicle parking areas.

f. Walk-in campers occupying nonreservable campsites or unrented, reservable campsites shall register as provided in subrule 61.4(3) within one-half hour of entering the campground.

g. Campers occupying nonreservable campsites shall vacate the campground or register for the night prior to 4 p.m. daily. Registration can be for more than 1 night at a time but not for more than 14 consecutive nights for nonreservable campsites. All members of the camping party must vacate the state park or recreation area campground after the fourteenth night and may not return to the state park or recreation area until a minimum of 3 nights has passed. All equipment must be removed from the site at the end of each stay. The 14-night limitation shall not apply to volunteers working under a department of natural resources program.

h. Walk-in campers shall not occupy unrented, reservable campsites until 10 a.m. on the first camping day of their stay. Campers shall vacate the campground by 3 p.m. of the last day of their stay. Initial registration shall not exceed two nights. Campers may continue to register after the first two nights on a night-to-night basis up to a maximum of 14 consecutive nights, subject to campsite availability. All members of the camping party must vacate the state park or recreation area campground after the fourteenth night and may not return to the state park or recreation area until a minimum of 3 nights has passed. All equipment must be removed from the site at the end of each stay. The 14-night limitation shall not apply to volunteers working under a department of natural resources program.

i. Campers with reservations shall not occupy a campsite before 4 p.m. of the first day of their stay. Campers shall vacate the site by 3 p.m. of the last day of their stay. Campers may register for more than 1 night at a time but not for more than 14 consecutive nights. All members of the camping party must vacate the state park or recreation area campground after the fourteenth night and may not return to the state park or recreation area until a minimum of 3 nights has passed. All equipment must be removed from the site at the end of each stay. The 14-night limitation shall not apply to volunteers working under a department of natural resources program.

j. Campsites marked with the international symbol of accessibility shall be used only by vehicles displaying a persons with disabilities parking permit. The vehicle must be in use by a person with a disability, either as an operator or a passenger.

k. In designated campgrounds, equine animals and llamas must be stabled at a hitching rail, individual stall or corral if provided. Equine animals and llamas may be hitched to trailers for short periods of time to allow for grooming and saddling. These animals may be stabled inside trailers where no hitching facilities are provided. Portable stalls/pens and electric fences are not permitted.

61.4(6) Area-specific restrictions on campground use. In addition to the general conditions of public use set forth in this chapter, special conditions shall apply to specific areas listed as follows:

a. Brushy Creek Recreation Area, Webster County.

(1) In the designated equestrian campgrounds, the maximum number of equine animals to be tied to the hitching rails is six. Persons with a number of equine animals in excess of the number permitted on the hitching rail at their campsite shall be allowed to stable their additional animals in a trailer or register and pay for an additional campsite if available.

(2) In the designated equestrian campgrounds, equine animals may be tied to trailers for short periods of time to allow grooming or saddling; however, the tying of equine animals to the exterior of trailers for extended periods of time or for stabling is not permitted.

b. Recreation area campgrounds. Access into and out of designated campgrounds shall be permitted from 4 a.m. to 10:30 p.m. From 10:30 p.m. to 4 a.m., only registered campers are permitted in and out of the campgrounds.

c. Lake Manawa State Park, Pottawattamie County. Except for the following limitations on campground length of stay, campsite use restrictions as stated in 61.4(5) shall apply to Lake Manawa. Campers may register for more than 1 night at a time but not for more than 14 consecutive nights. No person may camp at the Lake Manawa campground for more than 14 nights in any 30-day period.

d. Walnut Woods State Park, Polk County. Except for the following limitations on campground length of stay, campsite use restrictions as stated in 61.4(5) shall apply to Walnut Woods. Campers may register for more than 1 night at a time but not for more than 14 consecutive nights. No person may camp at the Walnut Woods campground for more than 14 nights in any 30-day period.

61.4(7) Campground fishing. Rule 61.11(461A) is not intended to prohibit fishing by registered campers who fish from the shoreline within the camping area.

[ARC 7684B, IAB 4/8/09, effective 5/13/09]

571—61.5(461A) Rental facilities. The following are maximum fees for facility use in state parks and recreation areas. The fees may be reduced or waived by the director for special events or special promotional efforts sponsored by the department of natural resources. Special events or promotional efforts shall be conducted so as to give all park facility users equal opportunity to take advantage of reduced or waived fees. Reductions or waivers shall be on a statewide basis covering like facilities. In the case of promotional events, prizes shall be awarded by random drawing of registrations made available to all park visitors during the event.

61.5(1) Fees.

a. Cabin rental. This fee does not include tax. Tax will be calculated at time of final payment.

	<u>Per Night*</u>	<u>Per Week</u>
Backbone State Park, Delaware County		
Renovated modern cabins	\$ 50	\$300
Two-bedroom modern cabins	85	510
Deluxe cabins	100	600
Black Hawk State Park, Sac County	100	600
Dolliver Memorial State Park, Webster County	35	210
Green Valley State Park, Union County	35	210
Honey Creek State Park, Appanoose County	35	210
Lacey-Keosauqua State Park, Van Buren County	50	300
Lake Darling State Park, Washington County	35	210
Lake of Three Fires State Park, Taylor County	50	300
Lake Wapello State Park, Davis County (Cabin Nos. 1-12)	60	360
Lake Wapello State Park, Davis County (Cabin No. 13)	85	510
Lake Wapello State Park, Davis County (Cabin No. 14)	75	450
Nine Eagles State Park, Decatur County	75	450
Palisades-Kepler State Park, Linn County	50	300

	<u>Per Night*</u>	<u>Per Week</u>
Pine Lake State Park, Hardin County		
Multifamily cabin	200	1200
Studio cabins (four-person occupancy limit)	65	390
One-bedroom cabins	75	450
Pleasant Creek State Recreation Area, Linn County	35	210
Prairie Rose State Park, Shelby County	35	210
Springbrook State Park, Guthrie County	200	1200
Stone State Park, Woodbury County	35	210
Waubonsie State Park, Fremont County		
Two-bedroom modern cabins	85	510
One-bedroom modern cabins	60	360
Two-bedroom camping cabins	50	300
One-bedroom camping cabins	35	210
Camping cabin	25	150
Wilson Island State Recreation Area, Pottawattamie County	25	150
Extra cots, where available	1	
*Minimum two nights		

b. Yurt rental. This fee does not include tax. Tax will be calculated at time of payment.

	<u>Per Night*</u>	<u>Per Week</u>
McIntosh Woods State Park, Cerro Gordo County	\$ 35	\$210
*Minimum two nights		

c. Lodge rental per reservation. This fee does not include tax. Tax will be calculated at time of payment.

	<u>Per Weekday</u>	<u>Per Weekend Day</u>
	<u>M-Th***</u>	<u>Fr-Su</u>
A. A. Call State Park, Kossuth County	\$ 40	\$ 80
Backbone State Park Auditorium, Delaware County**	25	50
Backbone State Park, Delaware County	62.50	125
Beed's Lake State Park, Franklin County	40	80
Bellevue State Park-Nelson Unit, Jackson County	50	100
Clear Lake State Park, Cerro Gordo County	50	100
Dolliver Memorial State Park-Central Lodge, Webster County**	30	60
Dolliver Memorial State Park-South Lodge, Webster County	37.50	75
Ft. Defiance State Park, Emmet County	35	70
George Wyth State Park, Black Hawk County**	35	70
Gull Point State Park, Dickinson County	100	200
Lacey-Keosauqua State Park, Van Buren County	35	70
Lake Ahquabi State Park, Warren County	45	90
Lake Darling State Park, Washington County	100	200
Lake Keomah State Park, Mahaska County	45	90
Lake Macbride State Park, Johnson County		
Beach Lodge	35	70
Lodge	35	70

	<u>Per Weekday</u>	<u>Per Weekend Day</u>
	<u>M-Th***</u>	<u>Fr-Su</u>
Lake of Three Fires State Park, Taylor County	35	70
Lake Wapello State Park, Davis County	30	60
Lewis and Clark State Park, Monona County	35	70
Palisades-Kepler State Park, Linn County	87.50	175
Pine Lake State Park, Hardin County	40	80
Pleasant Creek Recreation Area, Linn County**	37.50	75
Stone State Park, Woodbury/Plymouth Counties	62.50	125
Viking Lake State Park, Montgomery County	30	60
Walnut Woods State Park, Polk County	100	200
Wapsipinicon State Park, Jones County		
Heated year-round lodge	35	70
Unheated seasonal lodge	20	40

**Does not contain kitchen facilities

***The weekend day fee applies to New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, and Christmas, even though the holiday may fall on a weekday.

- d.* Open shelter reservation, \$25 plus applicable tax.
- e.* Reservation for open shelter with kitchen, \$75 plus applicable tax.
- f.* Beach house open shelter reservation, \$40 plus applicable tax:
 Lake Ahquabi State Park, Warren County
 Lake Wapello State Park, Davis County
 Pine Lake State Park, Hardin County
 Springbrook State Park, Guthrie County
- g.* Group camp rental. This fee does not include tax. Tax will be calculated at time of payment.
- (1) Dolliver Memorial State Park, Webster County. Rental includes use of restroom/shower facility at Dolliver Memorial State Park.
1. Chaperoned, organized youth groups—\$2 per day per person with a minimum charge per day of \$60.
 2. Other groups—\$15 per day per cabin plus \$30 per day for the kitchen and dining facility.
- (2) Lake Keomah State Park, Mahaska County. All groups—\$40 per day for the dining/restroom facility plus the applicable camping fee. Lake Keomah dining/restroom facility day use only rental \$90.
- h.* Springbrook State Park conservation education center rental. The conservation education center may be rented as a group camp facility or as an educational group facility. All rentals shall be handled through staff at the education center.
- (1) Linen service. Linen service includes bedding, pillows, towels and washcloths. The linen service fee stated below shall be charged. School groups are required to use the linen service. All other groups may elect to use the linen service.
 - (2) Concessionaire. All groups that utilize the classroom building and use education center staff for programs must use the concessionaire for all meals. All other groups may elect to use the kitchenette at the fee stated below or use the concessionaire or a combination of both.
 - (3) Classroom. All day use groups not utilizing the entire conservation education center facilities must pay the appropriate classroom or library fee. Overnight groups wishing to use the classroom facility for non-conservation education activities (such as quilters' meetings or family reunions) must pay the appropriate classroom fee.
 - (4) Reservations. School groups and DNR camps may reserve the center three years in advance. All other groups may reserve the center a year in advance on a first-come, first-served basis. There is no reservation fee. Fees shall be paid upon arrival at the center.
 - (5) Damage deposit. The damage deposit shall be paid on a separate instrument from the rental fee. School groups shall be exempt from this requirement.

(6) Day use attendance fee. A fee of \$5 per person per day plus applicable tax shall be charged to all day use groups and all persons associated with overnight groups attending day functions only when they utilize the entire conservation education center facilities and staff services.

(7) Overnight rental fees. These fees do not include tax. Tax will be calculated at time of payment.

1. Kindergarten through grade 12—\$5 per person per night.
2. Adults—\$15 per person per night.
3. Families—\$160 per dorm per night.

(8) Other services. These fees do not include tax. Tax will be calculated at time of payment.

1. Linen service—\$5 per person per night.
2. Family linen service—\$160 per dorm per night.
3. Kitchenette rental—\$30 per day or night.
4. Classroom rental—\$100 per day or night.
5. Library rental—\$50 per day or night.
6. Dining hall rental, day use only—\$100 per day.
7. Dining hall with kitchenette rental, day use only—\$130 per day.

(9) Damage deposit—\$50 per visit.

(10) Check-out times for dorms.

1. Monday-Saturday, 8 a.m.
2. Sunday, 9 a.m.

61.5(2) *Varying fees.* Fees charged for like services in state-owned areas under management by political subdivisions may vary from those established by this chapter.

61.5(3) *Procedures for rental facility registration and rentals.*

a. Registrations for all rental facilities must be in the name of a person 18 years of age or older who will be present at the facility for the full term of the reservation.

b. Rental stay requirements for cabins and yurts.

(1) Except as provided in subparagraphs 61.5(3) “b”(2) and 61.5(3) “b”(3), cabin reservations must be for a minimum of one week (Friday p.m. to Friday a.m.) beginning the Friday of the national Memorial Day holiday weekend through Thursday after the national Labor Day holiday. From the Friday after the national Labor Day holiday through the Thursday before the national Memorial Day holiday weekend, cabins may be reserved for a minimum of two nights.

(2) The cabins at Dolliver Memorial State Park; the camping cabins at Pleasant Creek and Wilson Island State Recreation Areas and Green Valley, Honey Creek, Lake Darling and Stone State Parks; the yurts at McIntosh Woods State Park; and the group camps at Dolliver Memorial and Lake Keomah State Parks may be reserved for a minimum of two nights throughout the entire rental season.

(3) The multifamily cabins at Pine Lake and Springbrook State Parks may be reserved for a minimum of two nights throughout the entire rental season with the following exceptions:

1. From the Friday of the national Memorial Day holiday weekend through the Thursday after the national Labor Day holiday, a Friday and Saturday night stay is required for weekends.

2. A Friday, Saturday, and Sunday night stay is required for the national Memorial Day holiday and national Labor Day holiday weekends.

3. A Thursday, Friday, and Saturday night stay is required for the Fourth of July holiday if the Fourth of July occurs on a Thursday, Friday or Saturday.

4. A Friday, Saturday, and Sunday night stay is required for the Fourth of July holiday if the Fourth of July occurs on a Monday.

(4) All unreserved cabins, yurts and group camps may be rented for a minimum of two nights on a walk-in, first-come, first-served basis. No walk-in rentals will be permitted after 6 p.m.

(5) Reservations or walk-in rentals for more than a two-week stay will not be accepted for any facility.

c. Persons renting cabins, yurts or group camp facilities must check in at or after 4 p.m. on Saturday. Check-out time is 11 a.m. or earlier on Saturday.

d. Persons renting facilities listed in subparagraph 61.5(3)“*b*”(2) must check in at or after 4 p.m. on the first day of the two-night rental period. Check-out time is 11 a.m. or earlier on the last day of the two-night rental period.

e. Except by arrangement for late arrival with the park staff, no cabin, yurt or group camp reservation will be held past 6 p.m. on the first night of the reservation period if the person reserving the facility does not arrive. When arrangements for late arrival have been made, the person must appear prior to the park’s closing time established by Iowa Code section 461A.46 or access will not be permitted to the facility until 8 a.m. the following day. Arrangements must be made with the park staff if next-day arrival is to be later than 9 a.m.

f. The number of persons occupying rental cabins is limited to six in cabins which contain one bedroom or less and eight in cabins with two bedrooms. Occupancy of the studio cabins at Pine Lake and all camping cabins is limited to four persons. Occupancy of the yurts is limited to four persons.

g. Except at parks or recreation areas with camping cabins or yurts, no tents or other camping units are permitted for overnight occupancy in the designated cabin area. One small tent shall be allowed at each cabin or yurt in the designated areas and is subject to the occupancy requirements of 61.4(5)“*b.*”

h. Open shelters and beach house open shelters which are not reserved are available on a first-come, first-served basis. If the open shelters with kitchenettes are not reserved, the open shelter portions of these facilities are available on a first-come, first-served basis.

i. Except by arrangement with the park staff in charge of the area, persons renting lodge, shelter, and beach house open shelter facilities and all guests shall vacate the facility by 10 p.m.

61.5(4) Damage deposits for all rental facilities.

a. Upon arrival for the rental facility period, renters shall pay in full a damage deposit in the amount of \$50.

b. Damage deposits will be refunded only after authorized personnel inspect the rental facility to ensure that the facility and furnishings are in satisfactory condition.

c. If it is necessary for department personnel to clean up the facility or repair any damage beyond ordinary wear and tear, a log of the time spent in such cleanup or repair shall be kept. The damage deposit refund shall be reduced by an amount equivalent to the applicable hourly wage of the employees for the time necessary to clean the area or repair the damage and by the cost of any repairs of furnishings.

d. The deposit is not to be construed as a limit of liability for damage to state property. The department may take legal action necessary to recover additional damages.

[ARC 7684B, IAB 4/8/09, effective 5/13/09]

571—61.6(461A) Vessel storage fees. These fees do not include tax.

<u>Vessel Storage Space (wet or dry)</u>	<u>Maximum Fee</u>
Pontoon boats—eight months or less	\$150
Eight months or less (new docks)	200
Year-round	200
Year-round (new docks)	250
Other boats—eight months or less	125
Eight months or less (new docks)	150
Year-round	150
Year-round (new docks)	200

571—61.7(461A) Restrictions—area and use. This rule sets forth conditions of public use which apply to all state parks and recreation areas. Specific areas as listed in 61.4(6), 61.8(461A) and 61.11(461A) are subject to additional restrictions or exceptions. The conditions in this rule are in addition to specific conditions and restrictions set forth in Iowa Code chapter 461A.

61.7(1) Animals.

a. The use of equine animals and llamas is limited to roadways or to trails designated for such use.

- b.* Animals are prohibited within designated beach areas.
- c.* Livestock are not permitted to graze or roam within state parks and recreation areas. The owner of the livestock shall remove the livestock immediately upon notification by the department of natural resources personnel in charge of the area.
- d.* Except for dogs being used in designated hunting or in dog training areas, pets such as dogs or cats shall not be allowed to run at large within state parks, recreation areas, or preserves. Such animals shall be on a leash or chain not to exceed six feet in length and shall be either led by or carried by the owner, attached to an anchor/tie-out or vehicle, or confined in a vehicle.

61.7(2) Beach use/swimming.

a. Except as provided in paragraphs “*b*” and “*c*” of this subrule, all swimming and scuba diving shall take place in the beach area within the boundaries marked by ropes, buoys, or signs within state parks and recreation areas. Inner tubes, air mattresses and other beach-type items shall be used only in designated beach areas.

b. Persons may scuba dive in areas other than the designated beach area provided they display the diver’s flag as specified in rule 571—41.10(462A).

c. Swimming outside beach area.

(1) Persons may swim outside the beach area under the following conditions:

1. Swimming must take place between sunrise and sunset;
2. The swimmer must be accompanied by a person operating a vessel and must stay within 20 feet of the vessel at all times during the swim;
3. The vessel accompanying the swimmer must display a flag, which is at least 12-inches square, is bright orange, and is visible all around the horizon; and
4. The person swimming pursuant to this subparagraph must register with the park staff in charge of the area and sign a registration immediately prior to the swim.

(2) Unless swimming is otherwise posted as prohibited or limited to the designated beach area, a person may also swim outside the beach area provided that the person swims within ten feet of a vessel which is anchored not less than 100 yards from the shoreline or the marked boundary of a designated beach. Any vessel, except one being uprighted, must be attended at all times by at least one person remaining on board.

(3) A passenger on a sailboat or other vessel may enter the water to upright or repair the vessel and must remain within ten feet of that vessel.

d. The provisions of paragraph “*a*” of this subrule shall not be construed as prohibiting wading in areas other than the beach by persons actively engaged in shoreline fishing.

61.7(3) Bottles. Possession or use of breakable containers, the fragmented parts of which can injure a person, is prohibited in beach areas of state parks and recreation areas.

61.7(4) Chainsaws. Except by written permission of the director of the department of natural resources, chainsaw use is prohibited in state parks and recreation areas. This provision is not applicable to employees of the department of natural resources in the performance of their official duties.

61.7(5) Firearms. The use of firearms in state parks and recreation areas, as defined in 61.2(461A), is limited to the following:

a. Lawful hunting as traditionally allowed at Badger Creek Recreation Area, Brushy Creek Recreation Area, Pleasant Creek Recreation Area, Mines of Spain Recreation Area (pursuant to 61.9(461A)), Volga River Recreation Area and Wilson Island Recreation Area.

b. Target and practice shooting in areas designated by DNR.

c. Special events, festivals, and education programs sponsored or permitted by DNR.

d. Special hunts authorized by the natural resource commission to control deer populations.

61.7(6) Fishing off boat docks within state areas. Persons may fish off all state-owned docks within state parks and recreation areas. Persons fishing off these docks must yield to boats and not interfere with boaters.

61.7(7) Garbage. Using government refuse receptacles for dumping household, commercial, or industrial refuse brought as such from private property is prohibited.

61.7(8) Motor vehicle restrictions.

a. Except as provided in these rules, motor vehicles are prohibited on state parks, recreation areas and preserves except on constructed and designated roads, parking lots and campgrounds.

b. Use of motorized vehicles by persons with physical disabilities. Persons with physical disabilities may use certain motorized vehicles to access specific areas in state parks, recreation areas and preserves, according to restrictions set out in this paragraph, in order to enjoy the same recreational opportunities available to others. Allowable vehicles include any self-propelled electric or gas vehicle which has at least three wheels, but no more than six wheels, and is limited in engine displacement to less than 800 cubic centimeters and in total dry weight to less than 1,450 pounds.

(1) Permits.

1. Each person with a physical disability must have a permit issued by the director in order to use a motorized vehicle in specific areas within state parks, recreation areas, and preserves. Such permits will be issued without charge. An applicant must submit a certificate from a doctor stating that the applicant meets the criteria describing a person with a physical disability. One nonhandicapped companion may accompany the permit holder on the same vehicle if that vehicle is designed for more than one rider; otherwise the companion must walk.

2. Existing permits. Those persons possessing a valid permit for use of a motorized vehicle on game management areas as provided in 571—51.7(461A) may use a motorized vehicle to gain access to specific areas for recreational opportunities and facilities within state parks, recreation areas and preserves.

(2) Approved areas. On each visit, the permit holder must contact the park staff in charge of the specific area in which the permit holder wishes to use a motorized vehicle. The park staff must designate on a park map the area(s) where the permit holder will be allowed to use a motorized vehicle. This restriction is intended to protect the permit holder from hazards or to protect certain natural resources of the area. The map is to be signed and dated on each visit by the park staff in charge of the area. Approval for use of a motorized vehicle on state preserves also requires consultation with a member of the preserves staff in Des Moines.

(3) Exclusive use. The issuance of a permit does not imply that the permittee has exclusive or indiscriminate use of an area. Permittees shall take reasonable care not to unduly interfere with the use of the area by others.

(4) Prohibited acts and restrictions.

1. Except as provided in 61.7(8) “b,” the use of a motorized vehicle on any park, recreation area or preserve by a person without a valid permit or at any site not approved on a signed map is prohibited. Permits and maps shall be carried by the permittee at any time the permittee is using a motorized vehicle in a park, recreation area or preserve and shall be exhibited to any department employee or law enforcement official upon request.

2. The speed limit for an approved motor vehicle off-road will be no more than 5 mph. The permit of a person who is found exceeding the speed limit will be revoked.

3. The permit of any person who is found causing damage to cultural and natural features or abusing the privilege of riding off-road within the park will be revoked.

(5) Employees exempt. Restrictions in subrule 61.7(8) shall not apply to department personnel, law enforcement officials, or other authorized persons engaged in research, management or enforcement when in performance of their duties.

61.7(9) Noise. Creating or sustaining any unreasonable noise in any portion of all state parks and recreation areas is prohibited at all times. The nature and purpose of a person’s conduct, the impact on other area users, the time of day, location, and other factors which would govern the conduct of a reasonable, prudent person under the circumstances shall be used to determine whether the noise is unreasonable. Unreasonable noise shall include the operation or utilization of motorized equipment or machinery such as an electric generator, motor vehicle, or motorized toy; or audio device such as a radio, television set, tape deck, public address system, or musical instrument; or other device. Between the hours of 10:30 p.m. and 6 a.m., noise which can be heard at a distance of 120 feet or three campsites shall be considered unreasonable.

61.7(10) *Opening and closing times.* Except by arrangement or permission granted by the director or the director's authorized representative or as otherwise stated in this chapter, the following restrictions shall apply: All persons shall vacate all state parks and preserves before 10:30 p.m. each day, except authorized campers in accordance with Iowa Code section 461A.46, and no person or persons shall enter into such parks and preserves until 4 a.m. the following day.

61.7(11) *Paintball guns.* The use of any item generally referred to as a paintball gun is prohibited in state parks, recreation areas and preserves.

61.7(12) *Restrictions on picnic site use.*

a. Open picnic sites marked with the international symbol of accessibility shall be used only by a person or group with a person qualifying for and displaying a persons with disabilities parking permit on the person's vehicle.

b. Paragraph 61.7(12)"*a*" does not apply to picnic shelters marked with the international accessibility symbol. The use of the symbol on shelters shall serve only as an indication that the shelter is wheelchair accessible.

61.7(13) *Rock climbing or rappelling.* The rock climbing practice known as free climbing and climbing or rappelling activities which utilize bolts, pitons, or similar permanent anchoring equipment or ropes, harnesses, or slings are prohibited in state parks and recreation areas, except by persons or groups registered with the park staff in charge of the area. Individual members of a group must each sign a registration. Climbing or rappelling will not be permitted at Elk Rock State Park, Marion County; Ledges State Park, Boone County; Dolliver Memorial State Park, Webster County; Stone State Park, Woodbury and Plymouth Counties; Maquoketa Caves State Park, Jackson County; Wildcat Den State Park, Muscatine County; or Mines of Spain Recreation Area, Dubuque County. Other sites may be closed to climbing or rappelling if environmental damage or safety problems occur or if an endangered or threatened species is present.

61.7(14) *Speech or conduct interfering with lawful use of an area by others.*

a. Speech commonly perceived as offensive or abusive is prohibited when such speech interferes with lawful use and enjoyment of the area by another member of the public.

b. Quarreling or fighting is prohibited when it interferes with the lawful use and enjoyment of the area by another member of the public.

61.7(15) *Deer population control hunts.* Deer hunting as allowed under Iowa Code section 461A.42 "*c*" is permitted only during special hunts in the following state parks as provided under 571—Chapter 105 and as approved by the natural resource commission. During the dates of deer hunting, only persons engaged in deer hunting shall use the area or portions thereof as designated by DNR and signed as such.

Backbone State Park	Delaware County
Elk Rock State Park	Marion County
George Wyth State Park	Black Hawk County
Lake Darling State Park	Washington County
Lake Manawa State Park	Pottawattamie County
Lake of Three Fires State Park	Taylor County
Springbrook State Park	Guthrie County
Viking Lake State Park	Montgomery County

61.7(16) *Special event permits.* Any person or group wishing to conduct a special event in any state park or recreation area shall notify the department of natural resources manager in charge of the area in advance and comply with the following procedures.

a. At least 30 days prior to the scheduled event, the sponsor shall submit an application to the park staff of the area where the proposed event is to take place. Application forms shall be furnished by DNR. Submission of an application does not guarantee issuance of a permit by DNR.

b. Applicants for special events shall provide proof of liability insurance naming the applicant and DNR as additional insured.

c. If the area has a concessionaire on site, sales of food and other items shall be governed pursuant to 571—Chapter 14. If a concessionaire chooses not to provide these services during the event, the event sponsor may then bring in other concession operations as approved by DNR.

d. Exclusive use. Issuance of a special event permit does not imply that the permittee has exclusive use of an area unless a facility has been reserved pursuant to 61.3(461A) and 61.6(461A).
[ARC 7683B, IAB 4/8/09, effective 5/13/09]

571—61.8(461A) Certain conditions of public use applicable to specific parks and recreation areas. In addition to the general conditions of public use set forth in this chapter, special conditions shall apply to the specific areas listed as follows:

61.8(1) *Brushy Creek State Recreation Area, Webster County.* Swimming is limited by the provisions of 61.7(2); also, swimming is prohibited at the beach from 10:30 p.m. to 6 a.m. daily.

61.8(2) *Hattie Elston Access and Claire Wilson Park, Dickinson County.*

a. Parking of vehicles overnight on these areas is prohibited unless the vehicle operator and occupants are actively involved in boating or are fishing as allowed under 61.11(461A).

b. Overnight camping is prohibited.

61.8(3) *Mines of Spain Recreation Area, Dubuque County.* All persons shall vacate all portions of the Mines of Spain Recreation Area prior to 10:30 p.m. each day, and no person or persons shall enter into the area until 4 a.m. the following day.

61.8(4) *Pleasant Creek Recreation Area, Linn County.* Swimming is limited by the provisions of 61.7(2); also, swimming is prohibited at the beach from 10:30 p.m. to 6 a.m. daily. Access into and out of the north portion of the area between the east end of the dam to the campground shall be closed from 10:30 p.m. to 4 a.m., except that walk-in overnight fishing will be allowed along the dam. The areas known as the dog trial area and the equestrian area shall be closed from 10:30 p.m. to 4 a.m., except for equestrian camping and for those persons participating in a DNR-authorized field trial. From 10:30 p.m. to 4 a.m., only registered campers are permitted in the campground.

61.8(5) *Wapsipinicon State Park, Jones County.* The land adjacent to the park on the southeast corner and generally referred to as the “Ohler property” is closed to the public from 10:30 p.m. to 4 a.m.

571—61.9(461A) Mines of Spain hunting, trapping and firearms use.

61.9(1) The following described portions of the Mines of Spain Recreation Area are established and will be posted as wildlife refuges:

a. That portion within the city limits of the city of Dubuque located west of U.S. Highway 61 and north of Mar Jo Hills Road.

b. The tract leased by the department of natural resources from the city of Dubuque upon which the E. B. Lyons Interpretive Center is located.

c. That portion located south of the north line of Section 8, Township 88 North, Range 3 East of the 5th P.M. between the west property boundary and the east line of said Section 8.

d. That portion located north of Catfish Creek, east of the Mines of Spain Road and south of the railroad tracks. This portion contains the Julien Dubuque Monument.

61.9(2) Trapping and archery hunting for all legal species are permitted in compliance with all open-season, license and possession limits on the Mines of Spain Recreation Area except in those areas designated as refuges by 61.9(1).

61.9(3) Firearms use is prohibited in the following described areas:

a. The areas described in 61.9(1).

b. The area north and west of Catfish Creek and west of Granger Creek.

61.9(4) Deer hunting and hunting for all other species are permitted using shotguns only and are permitted only during the regular gun season as established by 571—Chapter 106. Areas not described in 61.9(3) are open for hunting. Hunting shall be in compliance with all other regulations.

61.9(5) Turkey hunting with shotguns is allowed only in compliance with the following regulations:

a. Only during the first shotgun hunting season established in 571—Chapter 98, which is typically four days in mid-April.

b. Only in that area of the Mines of Spain Recreation Area located east of the established roadway and south of the Horseshoe Bluff Quarry.

61.9(6) The use or possession of a handgun or any type of rifle is prohibited on the entire Mines of Spain Recreation Area except as provided in 61.9(4). Target and practice shooting with any type of firearm is prohibited.

61.9(7) All forms of hunting, trapping and firearms use not specifically permitted by 61.9(461A) are prohibited in the Mines of Spain Recreation Area.

571—61.10(461A) After-hours fishing—exception to closing time. Persons shall be allowed access to the areas designated in 61.11(461A) between the hours of 10:30 p.m. and 4 a.m. under the following conditions:

1. The person shall be actively engaged in fishing.
2. The person shall behave in a quiet, courteous manner so as not to disturb other users of the park such as campers.
3. Access to the fishing site from the parking area shall be by the shortest and most direct trail or access facility.
4. Vehicle parking shall be in the lots designated by signs posted in the area.
5. Activities other than fishing are allowed with permission of the director or an employee designated by the director.

571—61.11(461A) Designated areas for after-hours fishing. These areas are open from 10:30 p.m. to 4 a.m. for fishing only. The areas are described as follows:

61.11(1) *Black Hawk Lake, Sac County.* The area of the state park between the road and the lake running from the marina at Drillings Point on the northeast end of the lake approximately three-fourths of a mile in a southwesterly direction to a point where the park boundary decreases to include only the roadway.

61.11(2) *Claire Wilson Park, Dickinson County.* The entire area including the parking lot, shoreline and fishing trestle facility.

61.11(3) *Clear Lake State Park, Ritz Unit, Cerro Gordo County.* The boat ramp, courtesy dock, fishing dock and parking lots.

61.11(4) *Elinor Bedell State Park, Dickinson County.* The entire length of the shoreline within state park boundaries.

61.11(5) *Elk Rock State Park, Marion County.* The Teeter Creek boat ramp area just east of State Highway 14, access to which is the first road to the left after the entrance to the park.

61.11(6) *Green Valley Lake, Union County.*

a. The embankment of the road from the small parking lot east of the park ranger's residence, east to the "T" intersection and south to the westerly end of a point of land jutting into the lake directly south of the parking lot mentioned above.

b. From the east side of the spillway easterly across the dam to the west edge of the parking lot.

61.11(7) *Hattie Elston Access, Dickinson County.* The entire area including the parking lot shoreline and boat ramp facilities.

61.11(8) *Honey Creek State Park, Appanoose County.* The boat ramp area located north of the park office, access to which is the first road to the left after the entrance to the park.

61.11(9) *Geode State Park, Des Moines County portion.* The area of the dam embankment that is parallel to County Road J20 and lies between the two parking lots located on each end of the embankment.

61.11(10) *Lake Keomah State Park, Mahaska County.*

a. The embankment of the dam between the crest of the dam and the lake.

b. The shoreline between the road and the lake from the south boat launch area west and north to the junction with the road leading to the group camp shelter.

61.11(11) *Lake Macbride State Park, Johnson County.* The shoreline of the south arm of the lake adjacent to the county road commencing at the “T” intersection of the roads at the north end of the north-south causeway proceeding across the causeway thence southeasterly along a foot trail to the east-west causeway, across the causeway to the parking area on the east end of that causeway.

61.11(12) *Lake Manawa State Park, Pottawattamie County.* The west shoreline including both sides of the main park road, commencing at the north park entrance and continuing south 1.5 miles to the parking lot immediately north of the picnic area located on the west side of the southwest arm of the lake.

61.11(13) *Lower Pine Lake, Hardin County.* West shoreline along Hardin County Road S56 from the beach southerly to the boat ramp access.

61.11(14) *Mini-Wakan State Park, Dickinson County.* The entire area.

61.11(15) *North Twin Lake State Park, Calhoun County.* The shoreline of the large day-use area containing the swimming beach on the east shore of the lake.

61.11(16) *Pikes Point State Park, Dickinson County.* The shoreline areas of Pikes Point State Park on the east side of West Okoboji Lake.

61.11(17) *Prairie Rose State Park, Shelby County.* The west side of the embankment of the causeway across the southeast arm of the lake including the shoreline west of the parking area located off County Road M47 and just north of the entrance leading to the park office.

61.11(18) *Rock Creek Lake, Jasper County.* Both sides of the County Road F27 causeway across the main north portion of the lake.

61.11(19) *Union Grove State Park, Tama County.*

a. The dam embankment from the spillway to the west end of the parking lot adjacent to the dam.

b. The area of state park that parallels BB Avenue, from the causeway on the north end of the lake southerly to a point approximately one-tenth of a mile southwest of the boat ramp.

61.11(20) *Upper Pine Lake, Hardin County.* Southwest shoreline extending from the boat launch ramp to the dam.

61.11(21) *Viking Lake State Park, Montgomery County.* The embankment of the dam from the parking area located southeast of the dam area northwesterly across the dam structure to its intersection with the natural shoreline of the lake.

571—61.12(461A) Vessels prohibited. Rule 61.11(461A) does not permit the use of vessels on the artificial lakes within state parks after the 10:30 p.m. park closing time. All fishing is to be done from the bank or shoreline of the permitted area.

571—61.13(461A) Severability. Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

571—61.14(461A) Restore the outdoors program. Funding provided through the appropriation set forth in Iowa Code section 461A.3A, and subsequent Acts, shall be used to renovate, replace or construct new vertical infrastructure and associated appurtenances in state parks and other public facilities managed by the department of natural resources.

The intended projects will be included in the department’s annual five-year capital plan in priority order by year and approved by the natural resource commission for inclusion in its capital budget request.

The funds appropriated by Iowa Code section 461A.3A, and subsequent Acts, will be used to renovate, replace or construct new vertical infrastructure through construction contracts, agreements with local government entities responsible for managing state parks and other public facilities, and agreements with the department of corrections to use offender labor where possible. Funds shall also be used to support site survey, design and construction contract management through consulting engineering and architectural firms and for direct survey, design and construction management costs incurred by department engineering and architectural staff for restore the outdoors projects. Funds

shall not be used to support general department oversight of the restore the outdoors program, such as accounting, general administration or long-range planning.

571—61.15(461A,463C) Honey Creek Resort State Park. This chapter shall not apply to Honey Creek Resort State Park, with the exception that subrules 61.7(1) through 61.7(9) and 61.7(11) through 61.7(16) and rule 61.12(461A) shall apply to the operation and management of Honey Creek Resort State Park. Where permission is required to be obtained from the department, an authorized representative of the department's management company may provide such permission in accordance with policies established by the department.

These rules are intended to implement Iowa Code sections 422.43, 455A.4, 461A.3, 461A.3A, 461A.35, 461A.38, 461A.39, 461A.42, 461A.43, 461A.45 to 461A.51, 461A.57, and 723.4 and Iowa Code chapters 463C and 724.

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◇ Two or more ARCs

¹ Effective date of subrule 61.6(2) and rule 61.7(7/31/91) delayed 70 days by the Administrative Rules Review Committee at its meeting held 7/12/91.

² Amendments to 61.4(2) “*f*” and 61.3(5) “*a*” effective January 1, 1993.

³ Amendments to 61.4(2) “*a*” to “*d*” effective October 31, 1993.

CHAPTER 78
GINSENG HARVESTING AND SALE

571—78.1(456A) Purpose. The purposes of these rules are to establish a program for the harvesting and sale of American Ginseng subject to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); to provide for the time and conditions for harvesting the plant; and to provide requirements for the registration of growers, dealers and exporters and the records kept by dealers and exporters. The goal of the department's program is to ensure that American Ginseng (*Panax quinquefolius*), a slow-growing plant with increased demand due to its medicinal and commercial value, remains a sustainable resource in the state of Iowa.

[ARC 7680B, IAB 4/8/09, effective 4/1/09]

571—78.2(456A) Scope. These rules shall apply to all persons harvesting, cultivating and dealing in American Ginseng (*Panax quinquefolius*) in Iowa. However, these rules are not intended to apply to the trade or trafficking of lawfully obtained American Ginseng that has been processed, prepared, packaged and labeled in a manner intended for its final consumptive use.

[ARC 7680B, IAB 4/8/09, effective 4/1/09]

571—78.3(456A) Definitions. All words and phrases used in these rules shall have their ordinary and customary meaning, except that the following words and phrases shall be defined as follows:

"Controlled conditions" means a nonnatural environment that is intensively manipulated by human intervention for the purpose of plant production. General characteristics of controlled conditions may include, but are not limited to, tillage, fertilization, weed and pest control, irrigation, or nursery operations, such as potting, bedding, or protection from weather and artificial or natural shade or light.

"Cultivated ginseng" means ginseng that is nurtured, artificially propagated or maintained under controlled conditions from a seed, cutting, division, callus tissue, root, rhizome, other plant tissue, spore, or other propagule that has been derived from cultivated parental stock.

"Cultivated parental stock" means the ensemble of plants grown under controlled conditions that are used for reproduction and must be maintained in sufficient quantities for propagation.

"Cutting" or *"division"* means a plant grown from the root, rhizome, stem, or leaf of another plant and is considered to be artificially propagated only if the traded specimen does not contain any material collected from the wild.

"Dealer" means any person who deals in ginseng, which includes without limitation buying, selling, purchasing, holding, brokering, billing for, bartering, trading or otherwise receiving payment for wild or cultivated ginseng in Iowa, for the purpose of selling or otherwise transacting wild or cultivated ginseng. The term "dealer" includes any person, including without limitation a harvester, who sells ginseng to any person other than a dealer licensed pursuant to these rules or lawfully licensed in another state.

"Dealer's permit" means a permit issued to a dealer by the department under these rules.

"Department" means the Iowa department of natural resources.

"Director" means the director of the Iowa department of natural resources or a designee.

"Ginseng" means all parts of the American Ginseng (*Panax quinquefolius*) plant, including without limitation roots, rhizomes, leaves and seeds, which may be cultivated or wild. "Ginseng," however, for purposes of these rules, does not mean those parts of the American Ginseng plant that have been processed.

"Green ginseng" means a root of ginseng from which the moisture has not been removed by drying. For the purposes of these rules, the amount of dried ginseng rhizome which can be derived from green ginseng rhizome shall be calculated using a ratio of three and three-tenths to one (3.3:1) by weight.

"Grower" means a person who grows cultivated ginseng for the purpose of selling the ginseng.

"Grower's permit" means a permit issued under these rules to a grower.

"Harvester" means any person who harvests, possesses, transports, cuts, gathers, destroys, digs or uproots wild ginseng for the purpose of selling the ginseng or for personal use.

"Harvester's permit" means a permit issued under these rules to a harvester.

"Nonresident" means a person other than a resident as defined by Iowa Code section 483A.1A.

“*Permits*” means dealer’s permits, grower’s permits and harvester’s permits issued under these rules.

“*Resident*” means a resident as defined by Iowa Code section 483A.1A.

“*Root*” means the ginseng rhizome and its roots.

“*True leaves*” or “*prongs*” means compound leaves that include five leaflets consisting of three large leaflets and two small leaflets.

“*Wild ginseng*” means an unprocessed plant, dry or live green root, rhizome, seed or other part of ginseng, which is growing in or has been collected from its native habitat, including ginseng plants which have arisen from a seed that is planted in the wild, or which have been transplanted into native habitat. “Wild ginseng” is ginseng that has not been grown or nurtured by a person beyond planting of seeds or plants.

[ARC 7680B, IAB 4/8/09, effective 4/1/09]

571—78.4(456A) Season for legal harvest. The season for legally harvesting ginseng is September 1 to October 31.

[ARC 7680B, IAB 4/8/09, effective 4/1/09]

571—78.5(456A) General prohibitions.

78.5(1) Harvest. From November 1 through the following August 31, no person shall harvest, dig, cut, uproot, gather, intentionally disturb, or destroy ginseng, whether the ginseng is wild or cultivated ginseng. This prohibition shall not apply to the transplantation or intentional disturbance of cultivated ginseng when such activities are incidental to the cultivation and growing of cultivated ginseng in a nursery business.

78.5(2) Sale. A person, other than a dealer licensed pursuant to these rules, shall not sell ginseng from March 16 through August 31.

78.5(3) Sale and possession of green ginseng. A person shall not possess or transact business in green ginseng from November 21 through August 31, unless otherwise provided for by these rules.

78.5(4) State-owned and state-managed lands. In an effort to conserve and protect native stands of wild ginseng, the introduction of nonnative ginseng stock on state-owned or state-managed lands under the jurisdiction of the commission is prohibited, except in narrow circumstances as described in these rules. As such, a person shall not, at any time, possess, harvest, dig, cut, uproot, gather, plant, propagate, intentionally disturb or destroy ginseng or ginseng seed on state-owned or state-managed lands under the jurisdiction of the commission. Nothing in this chapter shall prohibit the department from taking measures on state-owned or state-managed lands under the jurisdiction of the commission to conserve and protect native wild ginseng, which may include without limitation planting and possessing seeds.

78.5(5) Out-of-state ginseng. No ginseng dug, harvested or purchased outside the borders of Iowa which is not accompanied by a valid certificate of origin pursuant to rule 571—78.9(456A) shall be transported into or be in the state of Iowa lawfully.

[ARC 7680B, IAB 4/8/09, effective 4/1/09]

571—78.6(456A) Ginseng permits. The department shall issue a grower’s permit or dealer’s permit upon receipt of a signed and complete application. An application shall be submitted on the form provided by the department, and payment of the appropriate fee, if applicable, shall be included with the application. Harvester’s permits are available for sale through the department’s electronic licensing system for Iowa (ELSI), which may be accessed through license agents throughout the state or on the department’s Web site. The department shall not issue a permit if the department determines that the permit will be detrimental to the survival of ginseng or will otherwise be in contravention of the laws of this state or applicable federal laws. A person shall not carry, possess or use any other person’s permit issued pursuant to these rules, except as specifically provided by these rules.

78.6(1) Grower’s permits.

a. A person must obtain a permit from the department to legally grow cultivated ginseng. There is no fee for the permit, except for the charge associated with ELSI.

b. In order to be considered, an application for a grower's permit shall be made on the form provided by the department, shall be complete, and shall be executed by the person seeking the grower's permit.

c. A grower's permit shall be valid for five years from the date of issuance.

d. An application for permit renewal must be filed with the department within 60 days of expiration of the existing permit.

78.6(2) Dealer's permits.

a. A dealer in Iowa must have a valid dealer's permit issued by the department. A dealer's paid employees and family members who work at a dealer's primary place of business as identified on the dealer's permit may operate legally under the dealer's permit. For purposes of this subrule, family members include a dealer's spouse, domestic partner, parents, siblings, and children.

b. In order to be considered, an application for a dealer's permit shall be made on the form provided by the department, shall be complete, and shall be executed by the person seeking the dealer's permit.

c. Dealer's permits shall be issued as either Class A or Class B. A Class A dealer's permit authorizes a person to deal in any amount of ginseng in a license year. The permit application shall be accompanied by a \$250 permit fee for Iowa residents and a \$500 permit fee for nonresidents. A Class B dealer's permit authorizes an Iowa resident to deal in not more than five pounds dry weight of wild ginseng in a license year. The permit application shall be accompanied by a \$50 permit fee. There shall be an additional charge associated with ELSI. The department's issuance of the permit may take in excess of 60 days to complete.

d. A dealer's permit shall be valid for a license year, from April 1 until March 31 of the following year.

e. A dealer's permit must be shown to the department when the department is certifying ginseng and must be shown to harvesters or other dealers when the dealer is buying ginseng.

78.6(3) Harvester's permits.

a. Any person who harvests wild ginseng must have a valid harvester's permit issued by the department and shall produce such permit upon the request of the department while the person is engaged in harvesting activities, including the person's moving to or from the harvest site, transporting ginseng and the selling of the harvested ginseng.

b. An application for a harvester's permit shall be made on the form provided by the department, unless the harvester's permit is purchased through ELSI, and shall be accompanied by a fee of \$35 for residents and \$65 for nonresidents. There shall be an additional charge associated with ELSI. The application and subsequent harvester's permit shall be signed by the applicant.

c. A harvester's permit shall be valid from September 1 through March 15 of the following year.

d. A harvester who has a valid harvester's permit may sell wild ginseng from September 1 through March 15 of the following year.

e. A harvester with a valid harvester's permit may retain no more than four ounces of dry wild ginseng for personal consumption for one year beyond the expiration date of the permit. All wild ginseng possessed pursuant to this paragraph shall be for the harvester's personal use only and may not be lawfully sold.

f. No person may sell, barter or otherwise offer for sale any ginseng that has been unlawfully collected, obtained or possessed in violation of this chapter, the Code of Iowa, or the Code of Federal Regulations.

78.6(4) Duplicate permits. A duplicate grower's permit, harvester's permit or dealer's permit may be issued upon application to the department and the payment of a \$5 fee, plus any charges assessed to use ELSI to issue the duplicate permit.

[ARC 7680B, IAB 4/8/09, effective 4/1/09]

571—78.7(456A) Dealers—record keeping.

78.7(1) Contents of records. Each permitted ginseng dealer shall keep individual, accurate, legible and complete records of each ginseng transaction. The records shall be on forms prescribed by the

department, which shall provide a reasonable number of these forms at no cost to the dealer. The dealer's record of each ginseng transaction shall include:

- a. The date of transaction; and
- b. The name and address of the buyer or seller, whichever is applicable for the transaction; and
- c. The harvester's permit number or dealer's permit number, if a dealer is buying ginseng in the transaction; and
- d. A description of the ginseng transacted, including the actual weight of the ginseng transacted and whether the ginseng is dried or green. If the ginseng is green ginseng, the weight shall also be converted to the dried weight of ginseng according to the ratio in rule 571—78.3(456A); and
- e. The name of the county or counties where the ginseng was harvested if the ginseng is purchased from a harvester; and
- f. A copy of the ginseng's certificate of origin, signed by the seller, if applicable; and
- g. The year of harvest for the ginseng bought or sold; and
- h. Any additional information as requested by the department and included on the department's form.

78.7(2) Monthly reporting. Each dealer shall submit to the department copies of all records required by subrule 78.7(1) on a monthly basis, no later than the fifteenth day of each month.

78.7(3) Annual reporting. Each dealer shall file an annual report with the department, which shall be delivered or postmarked by April 15. The annual report shall be filed on forms provided by the department and shall include the following information:

- a. A summary of all the dealer's transactions during the preceding license year, from April 1 through March 31, including sales to out-of-state persons; and
- b. An inventory of any roots remaining in the dealer's possession in Iowa as of April 1, including the roots' certified weight and designation as either wild ginseng or cultivated ginseng, or a statement that the dealer has no roots remaining in the dealer's possession in Iowa as of that date. Any certification regarding a root's weight as required by this subrule shall be completed through the department or its agents at locations designated by the department, upon appointment.
- c. Any roots carried over from one license year to the next shall be documented on the following license year's reports.

78.7(4) Records retention. All records required by this rule shall be kept by the dealer for a period of three years after the expiration of the dealer's permit.

[ARC 7680B, IAB 4/8/09, effective 4/1/09]

571—78.8(456A) Dealer locations.

78.8(1) Generally. Ginseng dealers shall transact business only at the location specified on the dealer's permit or at the place of business specified on the permit of any other dealer who holds a dealer's permit in Iowa and is involved in the transaction.

78.8(2) Location permits. A dealer who wishes to transact business at a location other than the locations provided for in subrule 78.8(1) may obtain a location permit from the department. Each location permit shall be valid only for the location specified on the location permit and shall entitle the dealer to operate at that location in addition to the location specified on the corresponding dealer's permit.

The department shall, upon application and payment of the applicable location permit fee, furnish a location permit to the dealer. The location permit fee shall be \$5 for residents and \$50 for nonresidents, plus any charge assessed for use of ELSI to issue the permit.

78.8(3) Duplicate location permits. A duplicate location permit may be issued upon application to the department and the payment of a \$5 fee, plus any charge assessed for use of ELSI to issue the duplicate permit.

[ARC 7680B, IAB 4/8/09, effective 4/1/09]

571—78.9(456A) Certificates of origin.

78.9(1) Shipments. Every shipment of ginseng to a location outside the state of Iowa by a grower, harvester or dealer shall be accompanied by a certificate of origin, or shipping certificate, which certifies that the ginseng was lawfully harvested.

a. The department will issue a certificate of origin for cultivated ginseng to a grower or dealer upon application by the permit holder and based upon the completeness of the permit holder's application, which shall be on a form provided by the department, and the permit holder's compliance with the requirements of this chapter.

b. The department will issue a certificate of origin for wild ginseng to a harvester upon application by the permit holder and based upon the completeness of the permit holder's application, which shall be on a form provided by the department, and the permit holder's compliance with the requirements of this chapter.

c. The certificate of origin for wild ginseng will be issued by the department and its agents after the roots have been weighed and certified by the department or its agents at one of the locations designated by the department, upon appointment.

d. A grower, harvester, or dealer seeking a certificate of origin must have a valid grower's permit, harvester's permit, or dealer's permit, respectively, and must present the permit to receive a certificate of origin.

78.9(2) Fees. The department shall issue a certificate of origin free to any grower or dealer who lawfully possesses a valid grower's permit or dealer's permit, respectively, and for a fee of \$5 for each certificate to any harvester who lawfully possesses a valid harvester's permit.

78.9(3) Compliance. Certificates of origin shall be issued only to permit holders who have complied with the requirements of this chapter, including without limitation requirements regarding plant size for wild ginseng.

78.9(4) Wild ginseng originating in another state.

a. No person may ship out of this state to a foreign country wild ginseng that originates in another state or foreign country unless the wild ginseng is accompanied by a valid certificate of origin issued by that other state or foreign country. No person may ship out of this state wild ginseng that originates in another state under a certificate of origin issued pursuant to this chapter.

b. No resident may import for purposes of dealing wild ginseng that originates in another state unless the wild ginseng is accompanied by a valid certificate of origin from the other state. Original certificates of origin shall remain with the wild ginseng at all times.

c. If a resident dealer receives wild ginseng that originated in another state and if a certificate of origin issued by that state does not accompany the wild ginseng, the dealer shall return the wild ginseng to the sender within 30 days after its receipt.

d. A dealer shall maintain a copy of the certificate of origin with the record of transaction.

e. It shall be lawful for any person to have in possession any wild ginseng lawfully harvested or purchased outside Iowa and lawfully brought into the state so long as the person possesses a valid certificate of origin for the wild ginseng.

[ARC 7680B, IAB 4/8/09, effective 4/1/09]

571—78.10(456A) Inspection.

78.10(1) At any time upon request, any permit issued under this chapter shall be made available to the department, director, officer appointed by the department, peace officer, or, in the case of a harvesting permit, the owner or person in lawful control of the land upon which the permittee may be harvesting wild ginseng. Failure of a person to carry or refusal to show or exhibit a valid permit while engaged in or presumed to be engaged in the harvesting, growing or dealing of ginseng in Iowa shall be a violation of this chapter. However, a person charged with violating these rules shall not be convicted if the person produces to the department or to a court officer, within a reasonable time, a permit issued to that person and valid when the person was charged with a violation of these rules. Failure to make such permit available is a violation of these rules.

78.10(2) Any records required by this chapter to be maintained or submitted shall be produced for inspection upon request of the department, director, officer appointed by the department, or peace officer. Failure to maintain records or to submit reports as required by these rules is a violation of these rules.

78.10(3) Any person or dealer who has in possession any ginseng or part thereof shall upon request of the department, director, any officer appointed by the department, or peace officer show the ginseng to the department, director or officer; a refusal to do so is a violation of this chapter.

[ARC 7680B, IAB 4/8/09, effective 4/1/09]

571—78.11(456A) Restrictions and prohibitions for harvesting wild ginseng.

78.11(1) Every person shall have in possession a valid, department-issued permit to harvest wild ginseng for the current harvest season when harvesting, cutting, uprooting, gathering, destroying, possessing or transporting wild ginseng.

78.11(2) No person shall harvest a plant unless the plant possesses three or more true leaves or prongs and a flowering or fruiting stalk with red berries. If, after a person removes a plant from the soil with the requisite leaves or prongs, it is determined the root has less than five stem scars, the person shall return the plant to the soil at the same location and make best efforts to return the plant and the surrounding area to their condition prior to harvest of the plant. In no event shall a person harvest or possess a wild ginseng root unless the root has at least five stem scars.

78.11(3) When a person harvests wild ginseng, the entire plant, except the fruit and seeds, shall be retained with the plant until the plant is taken to the harvester's residence or place of business, as identified in the harvester's permit.

[ARC 7680B, IAB 4/8/09, effective 4/1/09]

571—78.12(456A) Additional restrictions and prohibitions for wild ginseng.

78.12(1) Seeds.

a. All persons harvesting wild ginseng shall plant all seeds collected from such plants within 100 feet of the parent plant. Seeds collected for planting pursuant to this subrule should be collected from the fruit by gently pressing the fruit of the ginseng.

b. A person shall use no tool other than the person's finger to plant seeds from wild ginseng and shall push each seed to a depth of no more than one inch into the soil.

c. A person shall not possess or transport seeds of wild ginseng more than 100 feet from the site of the parent plant.

78.12(2) Dealing.

a. A person shall not purchase or sell wild ginseng if the person knows or should have known that the ginseng was harvested illegally.

b. A dealer shall not purchase wild ginseng without inspecting the permit of the harvester or dealer. A dealer shall not purchase wild ginseng if the dealer knows or should have known that the harvester or dealer has violated this chapter.

c. A person shall not buy, deal, purchase or otherwise transact business involving seeds from wild ginseng.

[ARC 7680B, IAB 4/8/09, effective 4/1/09]

571—78.13(456A) Compliance with laws. A person shall not violate any state, federal or local laws in harvesting, dealing or shipping ginseng.

[ARC 7680B, IAB 4/8/09, effective 4/1/09]

571—78.14(456A) Violations of this chapter.

78.14(1) A person violating this chapter shall be subject to a schedule fine pursuant to Iowa Code section 805.8B, subsection 4, and permit suspension, modification and revocation pursuant to 571—78.17(456A).

78.14(2) Separate offense. Each ginseng plant or part thereof, including wild ginseng, unlawfully harvested, dealt, or shipped shall be a separate offense. More than one person per plant may be guilty of violating this chapter.

78.14(3) Materials determined by the department's law enforcement personnel to be contraband or to have been taken in violation of this chapter may be seized and disposed of in conformance with Iowa Code chapter 809.

[ARC 7680B, IAB 4/8/09, effective 4/1/09]

571—78.15(456A) Possession. When a person is in possession of wild ginseng, including the shipping or transporting of wild ginseng, and a container includes one or more parts of wild ginseng that are unlawful, the entire contents of the container shall be deemed unlawful.

[ARC 7680B, IAB 4/8/09, effective 4/1/09]

571—78.16(456A) Valuation. The value of seized ginseng that was harvested in violation of these rules shall be based on the current market value, as determined by the department.

[ARC 7680B, IAB 4/8/09, effective 4/1/09]

571—78.17(456A) Revocation of permits. Any permit issued pursuant to this chapter may be revoked, in whole or in part, by written notice, if the director determines that the permit holder has violated any provision of this chapter and determines that continuation of the permit is not in the public interest. Such revocation shall become effective upon a date specified in the notice. The notice shall state the extent of the revocation and the reasons for the action. Within 30 days following receipt of the notice of a revocation, the permit holder may file a notice of appeal, requesting a contested case pursuant to 561—Chapter 7. The notice of appeal shall specify the basis for requesting that the permit be reinstated.

[ARC 7680B, IAB 4/8/09, effective 4/1/09]

571—78.18(456A) Reciprocity. Nonresident harvesters, growers and dealers from states that regulate American Ginseng by allowing the harvesting, cultivating and dealing in American Ginseng but that prohibit Iowa harvesters, growers and dealers to lawfully operate in those states are not eligible for permits issued by the department.

[ARC 7680B, IAB 4/8/09, effective 4/1/09]

These rules are intended to implement Iowa Code section 456A.24(11).

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CHAPTER 94
NONRESIDENT DEER HUNTING

571—94.1(483A) Licenses. Every hunter must have in possession a valid nonresident deer license, a valid nonresident hunting license, and proof that the hunter has paid the current year's wildlife habitat fee when hunting, possessing, or transporting deer. No person, while hunting deer, shall carry or have in possession any license or transportation tag issued to another person. No one who is issued a deer hunting license and transportation tag shall allow another person to use or possess that license or transportation tag while deer hunting or tagging a deer.

94.1(1) Types of licenses.

a. Any-deer licenses. Any-deer licenses shall be valid for taking deer of either sex in the zone and season designated by the hunter when the application is submitted as described in rule 94.8(483A).

b. Mandatory antlerless-only licenses. Each hunter who is successful in drawing an any-deer license must also purchase an antlerless-only license for the same zone and season as the any-deer license. If the hunter is unsuccessful in drawing an any-deer license, neither the any-deer nor antlerless-only license will be issued.

c. Optional antlerless-only licenses. A hunter who is not successful in drawing an any-deer license may purchase an antlerless-only license as described in rule 571—94.8(483A).

d. Antlerless deer defined. Antlerless-only licenses shall be valid for taking deer that have no forked antler.

94.1(2) Bow season license. Bow and arrow deer licenses shall be valid for deer of either sex or antlerless deer during the bow season and in the zone designated by the hunter at the time the application is submitted.

94.1(3) Regular gun season license. Regular gun season licenses will be issued for deer of either sex or antlerless deer. Regular gun season licenses will be issued by zone and season and will be valid in the zone and season designated by the hunter when the application is submitted.

94.1(4) Muzzleloader season license. Muzzleloader season licenses will be issued for deer of either sex or antlerless deer and shall be valid only during the muzzleloader season and in the zone designated by the hunter when the application is submitted.

571—94.2(483A) Season dates. Deer may be taken only during the following periods.

94.2(1) Bow season. Deer may be taken by bow and arrow only in accordance with the type and zone of license issued from October 1 through the Friday before the first Saturday in December, and from the Monday following the third Saturday in December through January 10 of the following year.

94.2(2) Regular gun seasons. Deer may be taken with gun only in accordance with the type, season, and zone of license issued, from the first Saturday in December and continuing for five consecutive days or from the second Saturday in December and continuing for nine consecutive days.

94.2(3) Muzzleloader season. Deer may be taken by muzzleloader only in accordance with the type and zone of license issued from the Monday following the third Saturday in December through January 10 of the following year.

571—94.3(483A) Shooting hours. Legal shooting hours shall be from one-half hour before sunrise to one-half hour after sunset in all seasons.

571—94.4(481A) Limits.

94.4(1) Bow season. The daily bag limit is one deer per license. The possession limit is one deer per license. A person may shoot and tag a deer only by utilizing the license and tag issued in the person's name.

94.4(2) Muzzleloader season. The daily bag limit is one deer per license. The possession limit is one deer per license. A person may shoot and tag a deer only by utilizing the license and tag issued in the person's name.

94.4(3) Regular gun seasons. The bag limit is one deer for each hunter in the party who has a valid deer transportation tag. The possession limit is one deer per license. "Possession" shall mean that the deer is in the possession of the person whose license number matches the number of the transportation tag on the carcass of the deer.

94.4(4) Maximum annual possession limit. The maximum annual possession limit for a nonresident deer hunter is one deer for each legal license and transportation tag obtained.

571—94.5(483A) Zones open to hunting. Licenses will be valid only in designated areas as follows:

94.5(1) Zone descriptions. The zones are described as areas bounded as follows:

a. Zone 1. Beginning at a point where U.S. Highway 169 crosses the Minnesota-Iowa state line; thence along U.S. Highway 169 to state Highway 3; thence along state Highway 3 to U.S. Highway 71; thence along U.S. Highway 71 to U.S. Highway 20; thence along U.S. Highway 20 to the Nebraska-Iowa state line; thence along the Nebraska-Iowa, South Dakota-Iowa and Minnesota-Iowa state lines to the point of beginning.

b. Zone 2. Beginning at the point where state Highway 3 and Interstate Highway 35 intersect; thence along Interstate Highway 35 to its eastern junction with Interstate Highways 80 and 235; thence along Interstate Highway 235 to its western junction with Interstate Highways 80 and 35; thence along Interstate Highway 80 to U.S. Highway 59; thence along U.S. Highway 59 to U.S. Highway 20; thence along U.S. Highway 20 to U.S. Highway 71; thence along U.S. Highway 71 to state Highway 3; thence along state Highway 3 to the point of beginning.

c. Zone 3. Beginning at the point where U.S. Highway 20 crosses the Nebraska-Iowa state line; thence along U.S. Highway 20 to U.S. Highway 59; thence along U.S. Highway 59 to the Missouri-Iowa state line; thence along the Missouri-Iowa and Nebraska-Iowa state lines to the point of beginning.

d. Zone 4. Beginning at the western junction of Interstate Highway 235 with Interstate Highways 80 and 35; thence along Interstate Highway 35 to the Missouri-Iowa state line; thence along the Missouri-Iowa state line to U.S. Highway 59; thence along U.S. Highway 59 to Interstate Highway 80; thence along Interstate Highway 80 to the point of beginning.

e. Zone 5. Beginning at the point where Interstate Highway 235 and state Highway 163 intersect; thence along state Highway 163 to state Highway 92; thence along state Highway 92 to U.S. Highway 218; thence along U.S. Highway 218 to U.S. Highway 34; thence along U.S. Highway 34 to U.S. Highway 63; thence along U.S. Highway 63 to the Missouri-Iowa state line; thence along the Missouri-Iowa state line to Interstate Highway 35; thence along Interstate Highway 35 to its western junction with Interstate Highways 80 and 235; thence along Interstate Highway 235 to the point of beginning.

f. Zone 6. Beginning at the point where U.S. Highway 63 crosses the Missouri-Iowa state line; thence along U.S. Highway 63 to U.S. Highway 34; thence along U.S. Highway 34 to U.S. Highway 218; thence along U.S. Highway 218 to state Highway 92; thence along state Highway 92 to the Illinois-Iowa state line; thence along the Illinois-Iowa and Missouri-Iowa state lines to the point of beginning.

g. Zone 7. Beginning at the point where U.S. Highway 61 intersects with state Highway 92 at its northern junction; thence along state Highway 92 to state Highway 163; thence along state Highway 163 to Interstate Highway 235; thence along Interstate Highway 235 to its eastern junction with Interstate Highways 80 and 35; thence along Interstate Highway 35 to state Highway 3; thence along state Highway 3 to state Highway 38; thence along state Highway 38 to U.S. Highway 61; thence along U.S. Highway 61 to the point of beginning.

h. Zone 8. Beginning at the point where state Highway 92 intersects with the Illinois-Iowa state line; thence along state Highway 92 to U.S. Highway 61; thence along U.S. Highway 61 to state Highway 38; thence along state Highway 38 to state Highway 3; thence along state Highway 3 to the Illinois-Iowa state line; thence along the Illinois-Iowa state line to the point of beginning.

i. Zone 9. Beginning at the point where state Highway 3 intersects with the Illinois-Iowa state line; thence along state Highway 3 to U.S. Highway 63; thence along U.S. Highway 63 to the Minnesota-Iowa state line; thence along the Minnesota-Iowa, Wisconsin-Iowa, and Illinois-Iowa state lines to the point of beginning.

j. Zone 10. Beginning at the point where U.S. Highway 63 crosses the Minnesota-Iowa state line; thence along U.S. Highway 63 to state Highway 3; thence along state Highway 3 to U.S. Highway 169; thence along U.S. Highway 169 to the Minnesota-Iowa state line; thence along the Minnesota-Iowa state line to the point of beginning.

94.5(2) Closed areas. There shall be no open season for hunting deer on the county roads immediately adjacent to or through Union Slough National Wildlife Refuge, Kossuth County, where posted accordingly.

571—94.6(483A) License quotas. A limited number of nonresident deer licenses will be issued in zones as follows:

94.6(1) Zone license quotas. Nonresident license quotas are as follows:

	Any-deer licenses		Mandatory Antlerless-only	Optional Antlerless-only
	All Methods	Bow		
Zone 1.	180	63	180	
Zone 2.	180	63	180	
Zone 3.	560	196	560	
Zone 4.	1280	448	1280	
Zone 5.	1600	560	1600	
Zone 6.	800	280	800	
Zone 7.	360	126	360	
Zone 8.	240	84	240	
Zone 9.	600	210	600	
Zone 10.	200	70	200	
Total	6000	2100	6000	3500

94.6(2) Quota applicability. The license quota issued for each zone will be the quota for all bow, regular gun and muzzleloader season licenses combined. No more than 6,000 any-deer licenses and 6,000 mandatory antlerless-only licenses will be issued for all methods of take combined, for the entire state. Of the 6,000 any-deer and 6,000 mandatory antlerless-only licenses, no more than 35 percent in any zone can be bow licenses. A maximum of 4,500 optional antlerless-only licenses will be issued on a county-by-county basis. The licenses will be divided between the counties in the same proportion as resident antlerless-only licenses. Hunters must designate a zone or county and season when purchasing the license and hunt only in that zone or county and season.

94.6(3) Antlerless defined. Rescinded IAB 3/1/06, effective 4/5/06.
[ARC 7687B, IAB 4/8/09, effective 5/13/09]

571—94.7(483A) Method of take. Permitted weapons and devices vary according to the type of season.

94.7(1) Bow season. Except for crossbows for persons with certain afflictions of the upper body, as provided in 571—15.5(481A), only longbow, compound or recurve bows shooting broadhead arrows are permitted. Arrows must be at least 18 inches long. No explosive or chemical devices may be attached to the arrow or broadhead.

94.7(2) Regular gun season. Only 10-, 12-, 16-, or 20-gauge shotguns, shooting single slugs only, and flintlock or percussion cap lock muzzleloaded rifles or muskets of not less than .44 nor larger than .775 caliber, shooting single projectiles only, and handguns as described in 571—subrule 106.7(3), will be permitted in taking deer during the regular gun season.

94.7(3) Muzzleloader and holiday seasons. During the muzzleloader and holiday seasons, deer may be taken with a muzzleloader, handgun, or bow as described in 94.7(1). Muzzleloading rifles are defined as flintlock or percussion cap lock muzzleloaded rifles and muskets of not less than .44 and not larger than .775 caliber, shooting single projectiles only. Centerfire handguns must be .357 caliber or larger shooting straight-walled cartridges propelling an expanding-type bullet (no full-metal jacket) and complying with

all other requirements provided in Iowa Code section 481A.48. Legal handgun calibers are listed on the department of natural resources list of “Acceptable Handgun Calibers for Hunting Deer in Iowa.” Revolvers, pistols and black powder handguns must have a 4-inch minimum barrel length. There can be no shoulder stock or long-barrel modifications to handguns. Muzzleloading handguns must be .44 caliber or larger, shooting single projectiles only.

94.7(4) *Prohibited weapons and devices.* The use of dogs, domestic animals, salt or bait, rifles other than muzzleloaded, handguns except as provided in 94.7(3), crossbows except as provided in 571—15.5(481A), automobiles, aircraft, or any mechanical conveyances or device including electronic calls is prohibited except that paraplegics and single or double amputees of the legs may hunt from any stationary motor-driven land conveyance. “Bait” means grain, fruit, vegetables, nuts, hay, salt or mineral blocks or any other natural food materials, or by-products of such materials transported to or placed in an area for the intent of attracting wildlife. Bait does not include food placed during normal agricultural activities. “Paraplegic” means an individual with paralysis of the lower half of the body with involvement of both legs, usually due to disease of or injury to the spinal cord.

It shall be unlawful for a person, while hunting deer, to have on their person a rifle other than a muzzleloading rifle that meets the requirements of 571—subrule 106.7(3).

94.7(5) *Discharge of firearms from highway.* No person shall discharge a shotgun shooting slugs or muzzleloader from a highway during the regular gun seasons in all counties and parts of counties north of Highway 30 and west of Highway 63. A “highway” means the way between property lines open to the public for vehicle traffic as defined in Iowa Code section 321.1(78).

94.7(6) *Hunting from blinds.* No person shall use a blind for hunting deer during the regular gun deer seasons as defined in 94.2(2), unless such blind exhibits a solid blaze orange marking visible in all directions with a minimum height of 12 inches and a minimum width of 12 inches. Such blaze orange shall be affixed directly on or directly on top of the blind. For the purposes of this subrule, the term “blind” is defined as a place of concealment constructed, either wholly or partially from man-made materials, and used by a person who is hunting for the purpose of hiding from sight. A blind is not a naturally occurring landscape feature or an arrangement of natural or agricultural plant material that a hunter uses for concealment. In addition to the requirements in this subrule, hunters using blinds must also satisfy the requirements of wearing blaze orange as prescribed in Iowa Code section 481A.122.

[ARC 7687B, IAB 4/8/09, effective 5/13/09]

571—94.8(483A) Application procedure. Applications for nonresident deer hunting licenses must be made through the electronic licensing system for Iowa (ELSI) telephone order system or the ELSI Internet license sales Web site.

94.8(1) *Any-deer licenses.* Applications for any-deer and mandatory antlerless-only licenses will be accepted from the first Saturday in May through the first Sunday in June. No one may submit more than one application during the application period. Hunters may apply as individuals or as a group of up to 15 applicants. All members of a group will be accepted or rejected together in the drawing. If applications have been sold in excess of the license quota for any zone or season, a drawing will be held to determine which applicants receive licenses. Licenses or refunds of license fees will be mailed to applicants after the drawing is completed. License agent writing fees, department administrative fees and telephone order charges will not be refunded. If any zone’s license quota for any-deer and mandatory antlerless-only licenses has not been filled, the excess any-deer and mandatory antlerless-only licenses will be sold on a first-come, first-served basis through the telephone ordering system or the Internet license sales Web site. Excess any-deer and mandatory antlerless-only licenses will be sold beginning the last Saturday in July until the quota has been filled or the last day of the hunting period for which the license is valid, whichever occurs first. Members of a group that is rejected may purchase licenses individually if excess any-deer and mandatory antlerless-only licenses or optional antlerless-only licenses are available.

94.8(2) *Optional antlerless-only licenses.* Optional antlerless-only licenses must be purchased through the ELSI telephone ordering system or the ELSI Internet license sales Web site. Licenses for taking only antlerless deer will be available on the same date as excess any-deer licenses are sold as explained in 94.8(1). Optional antlerless-only licenses will only be issued for one of the two regular

gun seasons and for qualified disabled hunters (571—94.10(481A)). They will be sold first-come, first-served until the county quota is filled, or until the last day of the season for which a license is valid. If optional antlerless-only licenses are still available on December 15, they may be purchased by nonresidents to hunt during the period from December 24 through January 2. These licenses will be available to nonresidents who have not purchased a nonresident deer license during one of the current deer seasons. The hunter must have in possession a valid nonresident small game hunting license and proof of having paid the current year's wildlife habitat fee. Optional antlerless-only licenses will be valid only in the season and county designated by the hunter at the time the license is purchased.

a. Nonresident landowners. Nonresidents who own land in Iowa will have preference in obtaining optional antlerless-only licenses. Nonresidents must qualify as landowners following the criteria stated in 571—subrule 106.12(1) and 571—subrules 106.12(3) through 106.12(6), except that nonresident tenants and family members of nonresident landowners and tenants do not qualify and nonresident optional antlerless-only licenses will not be free of charge. If a farm unit is owned jointly by more than one nonresident, only one owner may claim landowner preference in the same year. Nonresidents who own land jointly with a resident do not qualify for preference. Nonresidents who have provided proof to the department that they own land in Iowa and meet the qualifying criteria may purchase an optional antlerless-only license for one of the two regular gun seasons when excess any-deer licenses go on sale or for the holiday season beginning December 15. Such proof must be provided before an optional antlerless-only license can be purchased and must be resubmitted each year in which an optional antlerless-only license is purchased. These licenses do not count against the county quota.

b. Nonresident proof of land ownership. Nonresidents who request preference for optional antlerless-only licenses will be required to submit a copy of their state of Iowa property tax statement for the current year or sign an affidavit that lists the legal description of their land, date purchased, and book and page number, or instrument number, where the deed is recorded.

94.8(3) Preference points. Each individual applicant who is unsuccessful in the drawing for an any-deer license will be assigned one preference point for each year that the individual is unsuccessful. Preference points will not accrue in a year in which an applicant fails to apply, but the applicant will retain any preference points previously earned. Preference points will apply only to obtaining any-deer licenses. Once an applicant receives an any-deer nonresident deer hunting license, all preference points will be removed until the applicant is again unsuccessful in a drawing or purchases a preference point as described in subrule 94.8(4). Preference points will apply to any zone or season for which a hunter applies. The first drawing for any-deer licenses each year will be made from the pool of applicants with the most preference points. If licenses are still available after the first drawing, subsequent drawings will be made from pools of applicants with successively fewer preference points and continue until the any-deer license quota is reached or all applicants have received licenses. Applicants who apply as a group will be included in a pool of applicants with the same number of preference points as that of the member of the group with the fewest preference points assigned.

94.8(4) Purchasing preference points. A nonresident who does not want to hunt in the current year may purchase one preference point per calendar year. The preference point will apply to the next year's drawing for any-deer licenses. The preference point will be treated in the same manner as preference points obtained by hunters who are unsuccessful in the any-deer license drawing. A nonresident may not purchase a preference point and apply for an any-deer license in the same calendar year. Preference points may be purchased only during the application period for any-deer licenses. Preference points will cost \$10 to offset administrative costs in addition to the usual writing fee, convenience fee and other fees charged by the ELSI system.

571—94.9(483A) Transportation tag. A transportation tag bearing the license number of the licensee, year of issuance, and date of kill properly shown shall be visibly attached to the carcass of each deer, in such a manner that the tag cannot be removed without mutilating or destroying the tag, within 15 minutes of the time the deer is killed or before the carcass of the deer is moved in any manner, whichever first occurs. This tag shall be proof of possession and shall remain affixed to the carcass until such time as the animal is processed for consumption. The head, and antlers if any, shall remain attached to all deer while

being transported by any means whatsoever from the place where taken to the processor or commercial preservation facility, or until the deer has been processed for consumption.

571—94.10(481A) Deer hunting season for severely disabled persons.

94.10(1) Licenses. A nonresident meeting the requirements of Iowa Code section 321L.1(8) may apply for or purchase a nonresident deer hunting license to participate in a special deer hunting season for severely disabled persons. Nonresidents applying for this license must have on file with the department of natural resources either a copy of a disabilities parking permit issued by a state department of transportation or an Iowa DNR form signed by a physician that verifies their disability.

94.10(2) Season dates. Any deer or antlerless deer may be taken in the hunting zone indicated on the deer license during 16 consecutive days beginning the third Saturday in September.

94.10(3) Shooting hours. Legal shooting hours will be from one-half hour before sunrise until one-half hour after sunset each day regardless of the type of weapon used.

94.10(4) Limits. Daily bag and possession limit is one deer. A person may shoot and tag only one deer by utilizing the license and tag issued in the person's name.

94.10(5) License quotas. Licenses for the special hunting season for severely disabled persons shall be issued from the quotas established in 571—94.6(483A). A special quota will not be set aside for severely disabled persons.

94.10(6) Method of take and other regulations. Deer may be taken with shotgun, bow, muzzleloading rifle or pistol as defined in 571—94.7(483A). All participants must meet the hunters' orange apparel requirement in Iowa Code section 481A.122. All other regulations for taking deer with a gun or bow shall apply.

94.10(7) Application procedures. Persons meeting the requirements for this season must apply following the procedures described in 571—94.8(483A). A person who does not have a form on file to verify a disability will not be entered into the drawing or be allowed to purchase a license and will have the license fee refunded, less a \$10 administrative fee to cover the cost of handling the application as provided in 571—subrule 15.11(1). License agent writing fees, department administrative fees, Internet sales charges and telephone order charges will not be refunded.

571—94.11(481A) Harvest reporting. Each hunter who bags a deer must report that kill according to procedures described in 571—95.1(481A).

571—94.12(481A) January antlerless season. Beginning on January 11, nonresident hunters may obtain antlerless-only licenses for the January antlerless season specified in 571—subrule 106.2(5). Licenses will be available only in those counties specified in 571—subrule 106.6(4) until the quota provided in 571—subrule 106.6(6) is filled. All regulations specified in 571—Chapter 106 for the January antlerless season for resident hunters including limits, shooting hours, method of take, tagging and reporting requirements will also apply to nonresident hunters during this season.

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These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1 and 483A.8.

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CHAPTER 10
ENHANCED 911 TELEPHONE SYSTEMS

[Prior to 4/18/90, see Public Defense[601]Ch 10]

[Prior to 5/12/93, Disaster Services Division[607]Ch 10]

605—10.1(34A) Program description. The purpose of this program is to provide for the orderly development, installation, and operation of enhanced 911 emergency telephone systems and to provide a mechanism for the funding of these systems, either in whole or in part. These systems shall be operated under governmental management and control for the public benefit. These rules shall apply to each joint E911 service board or alternative 28E entity as provided in Iowa Code chapter 34A and to each provider of enhanced 911 service.

605—10.2(34A) Definitions. As used in this chapter, unless context otherwise requires:

“*Access line*” means an exchange access line that has the ability to access dial tone and reach a public safety answering point.

“*Administrator*,” unless otherwise noted, means the administrator of the homeland security and emergency management division of the department of public defense.

“*Automatic location identification (ALI)*” means a system capability that enables an automatic display of information defining a geographical location of the telephone used to place the 911 call.

“*Automatic number identification (ANI)*” means a capability that enables the automatic display of the number of the telephone used to place the 911 call.

“*Call attendant*” means the person who initially answers a 911 call.

“*Call detail recording*” means a means of establishing chronological and operational accountability for each 911 call processed, consisting minimally of the caller’s telephone number, the date and time the 911 telephone equipment established initial connection (trunk seizure), the time the call was answered, the time the call was transferred (if applicable), the time the call was disconnected, the trunk line used, and the identity of the call attendant’s position, also known as an ANI printout.

“*Call relay method*” means the 911 call is answered at the PSAP, where the pertinent information is gathered, and the call attendant relays the caller’s information to the appropriate public or private safety agency for further action.

“*Call transfer method*” means the call attendant determines the appropriate responding agency and transfers the 911 caller to that agency.

“*Central office (CO)*” means a telephone company facility that houses the switching and trunking equipment serving telephones in a defined area.

“*Coin-free access (CFA)*” means coin-free dialing or no-coin dial tone which enables a caller to dial 911 or “0” for operator without depositing money or incurring a charge.

“*Competitive local exchange service provider*” means the same as defined in Iowa Code section 476.96.

“*Conference transfer*” means the capability of transferring a 911 call to the action agency and allowing the call attendant to monitor or participate in the call after it has been transferred to the action agency.

“*Direct dispatch method*” means 911 call answering and radio-dispatching functions, for a particular agency, are both performed at the PSAP.

“*E911 communications council*” means the council as established under the provisions of Iowa Code section 34A.15.

“*E911 program manager*” means that person appointed by the administrator of the homeland security and emergency management division, and working with the E911 communications council, to perform the duties specifically set forth in Iowa Code chapter 34A and this chapter.

“*Emergency call*” means a telephone request for service which requires immediate action to prevent loss of life, reduce bodily injury, prevent or reduce loss of property and respond to other emergency situations determined by local policy.

“*Emergency 911 notification device*” means a product capable of accessing a public safety answering point through the E911 system.

“Enhanced 911 (E911)” means the general term referring to emergency telephone systems with specific electronically controlled features, such as ALI, ANI, and selective routing.

“Enhanced 911 (E911) operating authority” means the public entity, which operates an E911 telephone system for the public benefit, within a defined enhanced 911 service area.

“Enhanced 911 (E911) service area” means the geographic area to be served, or currently served under an enhanced 911 service plan, provided that any enhanced 911 service area shall at a minimum encompass one entire county. The enhanced 911 service area may encompass more than one county and need not be restricted to county boundaries. This definition applies only to wire-line enhanced 911 service.

“Enhanced 911 (E911) service plan (wire-line)” means a plan, produced by a joint E911 service board, which includes the information required by Iowa Code subsection 34A.2(7).

“Enhanced 911 service surcharge” means a charge set by the joint E911 service board, approved by local referendum, and assessed on each access line which physically terminates within the E911 service area.

“Enhanced wireless 911 service area” means the geographic area to be served, or currently served, by a PSAP under an enhanced wireless 911 service plan.

“Enhanced wireless 911 service, phase I” means an emergency wireless telephone system with specific electronically controlled features such as ANI, specific indication of wireless communications tower site location, selective routing by geographic location of the tower site.

“Enhanced wireless 911 service, phase II” means an emergency wireless telephone system with specific electronically controlled features such as ANI and ALI and selective routing by geographic location of the 911 caller.

“Exchange” means a defined geographic area served by one or more central offices in which the telephone company furnishes services.

“Implementation” means the activity between formal approval of an E911 service plan and a given system design, and commencement of operations.

“Joint E911 service board” means those entities created under the provisions of Iowa Code section 34A.3, which include the legal entities created pursuant to Iowa Code chapter 28E referenced in Iowa Code subsection 34A.3(3).

“Local exchange carrier” means the same as defined in Iowa Code section 476.96.

“Local exchange service provider” means a vendor engaged in providing telecommunications service between points within an exchange and includes, but is not limited to, a competitive local exchange service provider and a local exchange carrier.

“911 call” means any telephone call that is made by dialing the digits 911.

“911 system” means a telephone system that automatically connects a caller, dialing the digits 911, to a PSAP.

“Nonrecurring costs” means one-time charges incurred by a joint E911 service board or operating authority including, but not limited to, expenditures for E911 service plan preparation, surcharge referendum, capital outlay, installation, and initial license to use subscriber names, addresses and telephone information.

“One-button transfer” means another term for a (fixed) transfer which allows the call attendant to transfer an incoming call by pressing a single button. For example, one button would transfer voice and data to a fire agency, and another button would be used for police, also known as “selective transfer.”

“Political subdivision” means a geographic or territorial division of the state that would have the following characteristics: defined geographic area, responsibilities for certain functions of local government, public elections and public officers, and taxing power. Excluded from this definition are departments and divisions of state government and agencies of the federal government.

“Provider” means a person, company or other business that provides, or offers to provide, 911 equipment, installation, maintenance, or access services.

“Public or private safety agency” means a unit of state or local government, a special purpose district, or a private firm, which provides or has the authority to provide firefighting, police, ambulance, emergency medical services or hazardous materials response.

“*Public safety answering point (PSAP)*” means a 24-hour, state, local, or contracted communications facility, which has been designated by the local service board to receive 911 service calls and dispatch emergency response services in accordance with the E911 service plan.

“*Public switched telephone network*” means a complex of diversified channels and equipment that automatically routes communications between the calling person and called person or data equipment.

“*Recurring costs*” means repetitive charges incurred by a joint E911 service board or operating authority including, but not limited to, database management, lease of access lines, lease of equipment, network access fees, and applicable maintenance costs.

“*Selective routing (SR)*” means an enhanced 911 system feature that enables all 911 calls originating from within a defined geographical region to be answered at a predesignated PSAP.

“*Subscriber*” means any person, firm, association, corporation, agencies of federal, state and local government, or other legal entity responsible by law for payment for communication service from the telephone utility.

“*Tariff*” means a document filed by a telephone company with the state telephone utility regulatory commission which lists the communication services offered by the company and gives a schedule for rates and charges.

“*Telecommunications device for the deaf (TDD)*” means any type of instrument, such as a typewriter keyboard connected to the caller’s telephone and involving special equipment at the PSAP which allows an emergency call to be made without speaking, also known as a TTY.

“*Trunk*” means a circuit used for connecting a subscriber to the public switched telephone network.

“*Wireless communications service*” means cellular, broadband PCS, and SMR which provide real-time two-way interconnected voice service, the networks of which utilize intelligent switching capability and offer seamless handoff to customers. This definition includes facilities-based service providers and non-facilities-based resellers. For purposes of wireless 911 surcharge, wireless communications service does not include services whose customers do not have access to 911, or a 911-like service, a communications channel utilized only for data transmission, or a private telecommunications system.

“*Wireless communications surcharge*” means a surcharge of up to 65 cents imposed on each wireless communications service number provided in this state and collected as part of a wireless communications service provider’s monthly billing to a subscriber.

“*Wireless E911 phase 1*” means a 911 call made from a wireless device in which the wireless service provider delivers the call-back number and the address of the tower that received the call to the appropriate public safety answering point.

“*Wireless E911 phase 2*” means a 911 call made from a wireless device in which the wireless service provider delivers the call-back number and the latitude and longitude coordinates of the wireless device to the appropriate public safety answering point.

605—10.3(34A) Joint E911 service boards. Each county board of supervisors shall establish a joint E911 service board.

10.3(1) Membership.

a. Each political subdivision of the state, having a public safety agency serving territory within the E911 service area, is entitled to voting membership. For the purposes of this paragraph, a township that operates a volunteer fire department providing fire protection services to the township, or a city that provides fire protection services through the operation of a volunteer fire department not financed through the operation of city government, shall be considered a political subdivision of the state having a public safety agency serving territory within the county.

b. Each private safety agency, such as privately owned ambulance services, airport security agencies, and private fire companies, serving territory within the E911 service area, is entitled to a nonvoting membership on the board.

c. Public and private safety agencies headquartered outside but operating within an E911 service area are entitled to membership according to their status as a public or private safety agency.

d. A political subdivision that does not operate its own public safety agency but contracts for the provision of public safety services is not entitled to membership on the joint E911 service board. However, its contractor is entitled to membership according to the contractor's status as a public or private safety agency.

e. The joint E911 service board elects a chairperson and cochairperson.

10.3(2) *Alternate 28E entity.* The joint E911 service board may organize as an Iowa Code chapter 28E agency as authorized in Iowa Code subsection 34A.3(3), provided that the 28E entity meets the voting and membership requirements of Iowa Code subsection 34A.3(1).

10.3(3) *Joint E911 service board bylaws.* Each joint E911 service board shall develop bylaws to specify, at a minimum, the following information:

- a.* The name of the joint E911 service board.
- b.* A list of voting and nonvoting members.
- c.* The date for the commencement of operations.
- d.* The mission.
- e.* The powers and duties.
- f.* The manner for financing activities and maintaining a budget.
- g.* The manner for acquiring, holding and disposing of property.
- h.* The manner for electing or appointing officers and terms of office.
- i.* The manner by which members may vote to include, if applicable, the manner by which votes may be weighted.
- j.* The manner for appointing, hiring, disciplining, and terminating employees.
- k.* The rules for conducting meetings.
- l.* The permissible method or methods to be employed in accomplishing the partial or complete termination of the board and the disposing of property upon such complete or partial termination.
- m.* Any other necessary and proper rules or procedures.

Each member shall sign the adopted bylaws.

The joint E911 service board shall record the signed bylaws with the county recorder and shall forward a copy of the signed bylaws to the E911 program administrator at the state homeland security and emergency management division.

10.3(4) *Executive board.* The joint E911 service board may, through its bylaws, establish an executive board to conduct the business of the joint E911 service board. The executive board will have such other duties and responsibilities as assigned by the joint E911 service board.

10.3(5) *Meetings.*

a. The provisions of Iowa Code chapter 21, "Official Meetings Open to the Public," are applicable to joint E911 service boards.

b. Joint E911 service boards shall conduct meetings in accordance with their established bylaws and applicable state law.

[ARC 7695B, IAB 4/8/09, effective 5/13/09]

605—10.4(34A) Enhanced 911 service plan (wire-line).

10.4(1) The joint E911 service board shall be responsible for developing an E911 service plan as required by Iowa Code section 34A.3 and as set forth in these rules. The plan will remain the property of the joint E911 service board. Each joint E911 service board shall coordinate planning with each contiguous joint E911 service board. A copy of the plan and any modifications and addenda shall be submitted to:

- a.* The state emergency management division.
- b.* All public and private safety agencies serving the E911 service area.
- c.* All providers affected by the E911 service plan.

10.4(2) The E911 service plan shall, at a minimum, encompass the entire county, unless a waiver is granted by the administrator. Each plan shall include:

- a.* The mailing address of the joint E911 service board.
- b.* A list of voting members on the joint E911 service board.

- c.* A list of nonvoting members on the joint E911 service board.
- d.* The name of the chairperson and cochairperson of the joint E911 service board.
- e.* A geographical description of the enhanced 911 service area.
- f.* A list of all public and private safety agencies within the E911 service area.
- g.* The number of public safety answering points within the E911 service area.
- h.* Identification of the agency responsible for management and supervision of the E911 emergency telephone communication system.
- i.* A statement of estimated charges to be incurred by the joint E911 service board, including separate estimates of recurring and nonrecurring charges. These charges shall be limited to charges directly attributable to the provision of E911 service. The charges shall include the following:
 - (1) Item(s) or unit(s) of measurement, or both, and the associated tariff prices applicable in the development of the charges.
 - (2) Where tariff prices are not available, work papers showing the development of the charges by item(s)/unit(s) shall be included.
 - (3) Charges shall be justified as being attributable to the provision of E911 telephone communication service.
- j.* Information from telephone service providers detailing the current equipment operated by the provider to provide telephone service and additional central office equipment or technology upgrades, or both, necessary to implement E911 service.
- k.* The total number of telephone access lines by telephone company or companies having points of presence within the E911 service area and the number of this total that is exempt from surcharge collection as provided in rule 10.9(34A) and Iowa Code subsection 34A.7(3).
- l.* The estimated number of pay telephones within the E911 service area.
- m.* If applicable, a schedule for implementation of the plan throughout the E911 service area. A joint E911 service board may decide not to implement E911 service.
- n.* The total property valuation in the E911 service area.
- o.* Maps of the E911 service area showing:
 - (1) The jurisdictional boundaries of all law enforcement agencies serving the area.
 - (2) The jurisdictional boundaries of all firefighting districts and companies serving the area.
 - (3) The jurisdictional boundaries of all ambulance and emergency medical service providers operating in the area.
 - (4) Telephone exchange boundaries and the location of telephone company central offices, including those located outside but serving the service area.
 - (5) The location of PSAP(s) within the service area.
- p.* A block drawing for each telephone central office within the service area showing the method by which the 911 call will be delivered to the PSAP(s).

10.4(3) All plan modifications and addenda shall be filed with, reviewed, and approved by the E911 program manager.

10.4(4) The E911 program manager shall base acceptance of the plan upon compliance with the provisions of Iowa Code chapter 34A and the rules herein.

10.4(5) The E911 program manager will notify in writing, within 20 days of review, the chairperson of the joint E911 service board of the approval or disapproval of the plan.

a. If the plan is disapproved, the joint E911 service board will have 90 days from receipt of notice to submit revisions/addenda.

b. Notice for disapproved plans will contain the reasons for disapproval.

c. The E911 program manager will notify the chairperson, in writing within 20 days of review, of the approval or disapproval of the revisions.

605—10.5(34A) Referendum and surcharge (wire-line).

10.5(1) The surcharge referendum may be initiated only by the joint E911 service board and shall be conducted in accordance with the provisions of Iowa Code sections 34A.6 and 34A.6A and Iowa

Administrative Code rule 721—21.810(34A). The surcharge is not a local option tax that can be presented to the voters under Iowa Code chapter 422B.

10.5(2) The following information shall be filed with the E911 program manager before the surcharge may be imposed.

a. A copy of the “Abstract of Election” (Form 156-K) from each commissioner of elections, in each county or partial county included within the E911 service area, showing passage of the referendum allowing for the imposition of a surcharge for E911 service.

b. An E911 service plan for the proposed E911 service area approved by the joint E911 service board.

c. A letter signed by the chairperson of the joint E911 service board requesting that the surcharge be imposed within the E911 service area.

10.5(3) The E911 program manager shall notify a local exchange service provider scheduled to provide exchange access E911 service within an E911 service area that implementation of an E911 service plan has been approved by the joint E911 service board, E911 program manager, and by the service area referendum, and that collection of the surcharge is to begin within 100 days. The E911 program manager shall also provide notice to all affected public safety answering points.

10.5(4) The local exchange service provider shall collect the surcharge as a part of its monthly billing to its subscribers. The surcharge shall appear as a single line item on a subscriber’s monthly billing entitled “E911 emergency telephone service surcharge.”

10.5(5) The local exchange service provider may retain 1 percent of the surcharge collected as compensation for the billing and collection of the surcharge. If the compensation is insufficient to fully recover a provider’s costs for the billing and collection of the surcharge, the deficiency shall be included in the provider’s costs for rate-making purposes to the extent it is reasonable and just under Iowa Code section 476.6.

10.5(6) The local exchange service provider shall remit collected surcharge to the joint E911 service board on a calendar-quarter basis within 20 days of the end of the quarter.

10.5(7) The joint E911 service board may request, not more than once each quarter, the following information from the local exchange service provider:

a. The identity of the exchange from which the surcharge is collected.

b. The number of lines to which the surcharge was applied for the quarter.

c. The number of refusals to pay per exchange, if applicable.

d. The number of write-offs per exchange, if applicable.

e. The number of lines exempt per exchange.

f. The amount retained by the local exchange service provider from the 1 percent administrative fee.

Access line counts and surcharge remittances are confidential public records as provided in Iowa Code section 34A.8.

10.5(8) Collection for a surcharge shall terminate if E911 service ceases to operate within the respective E911 service area. The E911 program manager for good cause may grant an extension.

a. The administrator shall provide 100 days’ prior written notice to the joint E911 service board or the operating authority and to the local exchange service provider(s) collecting the fee of the termination of surcharge collection.

b. Individual subscribers within the E911 service area may petition the joint E911 service board or the operating authority for a refund. Petitions shall be filed within one year of termination. Refunds may be prorated and shall be based on funds available and subscriber access lines billed.

c. At the end of one year from the date of termination, any funds not refunded and remaining in the E911 service fund and all interest accumulated shall be retained by the joint E911 service board. However, if the joint E911 service board ceases to operate any E911 service, the balance in the E911 service fund shall be payable to the state homeland security and emergency management division. Moneys received by the division shall be used only to offset the costs for the administration of the E911 program.

605—10.6(34A) Waivers, variance request, and right to appeal.

10.6(1) All requests for variances or waivers shall be submitted to the E911 program manager in writing and shall contain the following information:

- a. A description of the variance(s) or waiver(s) being requested.
- b. Supporting information setting forth the reasons the variance or waiver is necessary.
- c. A copy of the resolution or minutes of the joint E911 service board meeting which authorizes the application for a variance or waiver.
- d. The signature of the chairperson of the joint E911 service board.

10.6(2) The E911 program manager may grant a variance or waiver based upon the provisions of Iowa Code chapter 34A or other applicable state law.

10.6(3) Upon receipt of a request for a variance or waiver, the E911 program manager shall evaluate the request and schedule a review within 20 working days of receipt of the request. Review shall be informal and the petitioner may present materials, documents and testimony in support of the petitioner's request. The E911 program manager shall determine if the request meets the criteria established and shall issue a decision within 20 working days. The E911 program manager shall notify the petitioner, in writing, of the acceptance or rejection of the petition. If the petition is rejected, such notice shall include the reasons for denial.

605—10.7(34A) Enhanced wireless 911 service plan. Each joint E911 service board, the department of public safety, the E911 communications council, and wireless service providers shall cooperate with the E911 program manager in preparing an enhanced wireless 911 service plan for statewide implementation of enhanced wireless 911 phase I and phase II implementation.

10.7(1) *Plan specifications.* The enhanced wireless 911 service plan shall include, at a minimum, the following information:

1. Maps showing geographic area to be served by each PSAP receiving enhanced wireless 911 telephone calls.
2. A list of all public and private safety agencies within the enhanced wireless 911 service area.
3. The geographic location of each PSAP receiving enhanced wireless 911 calls and the name of the person responsible for the management of the PSAP.
4. A set of guidelines for determining eligible cost for wireless service providers, wire-line service providers, and public safety answering points.
5. A statement of estimated charges for the implementation and operation of enhanced wireless 911 phase I and phase II service, detailing the equipment operated or needed to operate enhanced wireless 911 service, including any technology upgrades necessary to provide service. Charges must be directly attributable to the implementation and operation of enhanced wireless 911 service. Charges shall be detailed showing item(s) or unit(s) of cost, or both, and include estimated charges from:
 - Wireless service providers.
 - Wire-line service providers for implementation and operation of enhanced wireless 911 service.
 - Public safety answering points.
6. A schedule for the implementation of enhanced wireless 911 phase I and phase II service.

10.7(2) *Adoption by reference.* The "Wireless Enhanced 911 Implementation and Operation Plan," effective February 1, 2000, and available from the Homeland Security and Emergency Management Division, Hoover State Office Building, Des Moines, Iowa, or at the Law Library in the Capitol Building, Des Moines, Iowa, is hereby adopted by reference with the following changes effective May 8, 2002: Section F, provide further clarification of eligible costs for public safety answering points and the Iowa department of public safety; Section G, provide further specification on the surplus payment process for local E911 service boards and the Iowa department of public safety; Attachment A, ensure that the application for surplus payments contains the language contained in Section G. Additional changes effective August 16, 2004: Sections A, D, E, I, J, K, and service area maps, update to reflect changes in the Code of Iowa and to represent the actual 911 operating conditions with the state; Sections F and G, provide further clarification of eligible costs and the payment of those costs.

605—10.8(34A) E911 surcharge (wireless).

10.8(1) The E911 program manager shall adopt a monthly surcharge of up to 65 cents to be imposed on each wireless communications service number provided in this state. The amount of wireless surcharge to be collected may be adjusted once yearly, but in no case shall the surcharge exceed 65 cents per month, per customer service number.

10.8(2) The amount of wireless surcharge to be collected during a fiscal year shall be determined by the administrator's best estimation of enhanced wireless 911 costs for the ensuing fiscal year. The E911 program manager shall base the estimated cost on information provided by the E911 communications council, wireless service providers, vendors, public safety agencies, joint E911 service boards and any other appropriate parties or agencies involved in the provision or operation of enhanced wireless 911 service. The E911 communications council shall also provide a recommended monthly wireless surcharge for the ensuing fiscal year.

10.8(3) The E911 program manager shall order the imposition of surcharge uniformly on a statewide basis and simultaneously on all wireless communications service numbers by giving at least 100 days' prior notice to wireless carriers to impose a monthly surcharge as part of their periodic billings. The 100-day notice to wireless carriers shall also apply when making an adjustment in the wireless surcharge rate.

10.8(4) The wireless surcharge shall be 65 cents per month, per customer service number until changed by rule.

10.8(5) The wireless service provider shall list the surcharge as a separate line item on the customer's billing indicating that the surcharge is for E911 emergency telephone service. In the case of prepaid wireless service, this surcharge shall be collected under one of two methods:

- a.* The wireless service provider shall collect, on a monthly basis, the surcharge from each active prepaid customer whose account balance is equal to or greater than the surcharge; or
- b.* The wireless service provider shall divide the total earned prepaid wireless telephone revenue received by the wireless service provider within the calendar month and divide by 50 dollars, and multiply the quotient by the surcharge.

The surcharge shall be remitted based upon the address associated with the point of purchase, the customer billing address, or the location associated with the mobile telephone number for each active prepaid wireless telephone that has a sufficient positive balance as of the last days of the information, if that information is available. If the wireless service provider receives a partial payment of a monthly bill, the payment shall first be applied to the amount owed the wireless carrier with the remainder being applied to the surcharge. The wireless carrier shall bill and collect for a full month's surcharge in cases of a partial month's service. The wireless carrier is entitled to retain 1 percent of any wireless surcharge collected as a fee for collecting the surcharge as part of the subscriber's periodic billing. The wireless E911 surcharge is not subject to sales or use tax.

10.8(6) Remaining surcharge funds shall be remitted on a calendar-quarter basis within 20 days following the end of the quarter with a remittance form as prescribed by the E911 program manager. Providers shall issue their checks or warrants to the Treasurer, State of Iowa, and remit to the E911 Program Manager, Homeland Security and Emergency Management Division, Hoover State Office Building, Des Moines, Iowa 50319.

605—10.9(34A) Wireless E911 emergency communications fund.

10.9(1) Wireless E911 surcharge money, collected and remitted by wireless service providers, shall be placed in a fund within the state treasury under the control of the administrator.

10.9(2) Iowa Code section 8.33 shall not apply to moneys in the fund. Moneys earned as income, including as interest, from the fund shall remain in the fund until expended as provided in this subrule. However, moneys in the fund may be combined with other moneys in the state treasury for purposes of investment.

10.9(3) Moneys in the fund shall be expended and distributed in the order and manner as follows:

- a.* An amount as appropriated by the general assembly to the homeland security and emergency management division for implementation, support, and maintenance of the functions of the E911

program and to employ the auditor of the state to perform an annual audit of the wireless E911 emergency communications fund.

b. The program manager shall allocate 21 percent of the total amount of surcharge generated per calendar quarter to wireless carriers to recover their costs to deliver wireless E911 phase 1 services as defined in the Federal Communications Commission docket 94-102 and further defined in their letter to King County, Washington, dated May 7, 2001. If this allocation is insufficient to reimburse all wireless carriers for the wireless service provider's eligible expenses, the program manager shall allocate a prorated amount to each wireless carrier equal to the percentage of the provider's eligible expenses as compared to the total of all eligible expenses for all wireless carriers for the calendar quarter during which expenses were submitted. When prorated expenses are paid, the remaining unpaid expenses shall no longer be eligible for payment under this paragraph.

c. The program manager shall reimburse local exchange service providers on a calendar quarter basis for their expenses for transport costs between the wireless E911 selective router and the public safety answering points related to the delivery of wireless E911 service.

d. The program manager shall reimburse local exchange service providers and third-party E911 automatic location information (ALI) database providers on a calendar quarter basis for the costs of maintaining and upgrading the E911 components and functionalities between the input and output points of the wireless E911 selective router. This includes the wireless E911 selective router and the automatic location information (ALI) database.

e. The program manager shall apply an amount up to \$500,000 per calendar quarter to any outstanding wireless E911 phase 1 obligations incurred pursuant to this chapter prior to July 1, 2004.

f. The program manager shall allocate an amount up to \$159,000 per calendar quarter equally to the joint E911 service boards and the department of public safety that have submitted a written request to the program manager. The written request shall be made with the "Request for Wireless E911 Funds" form contained in the "State of Iowa Wireless E911 Implementation and Operation Plan." The request is due to the program manager on May 15, or the next business day, of each year. A minimum of \$1,000 per calendar quarter shall be allocated for each public safety answering point with the E911 service area of the department of public safety or joint E911 service board.

Upon retirement of the outstanding obligations referred to in 10.9(3) "e," the amount allocated under 10.9(3) "f" shall be 25 percent of the total amount of surcharge generated per calendar quarter. The minimum amount allocated to the department of public safety and the joint E911 service boards shall be \$1,000 per PSAP operated by the respective authority. Additional funds shall be allocated as follows:

(1) Sixty-five percent of the total dollars available for allocation shall be allocated in proportion to the square miles of the E911 service area to the total square miles in the state.

(2) Thirty-five percent of the total dollars available for allocation shall be allocated in proportion to the wireless E911 calls answered at the public safety answering point in the E911 service area to the total of wireless E911 calls originating in the state.

g. If moneys remain after all obligations under subrule 10.9(3), paragraphs "a" to "f," as listed above, have been fully paid, the remainder may be accumulated as a carryover operating surplus. These moneys shall be used to fund future wireless phase 2 network improvements and public safety answering point improvements. These moneys may also be used for wireless service provider's transport costs related to wireless E911 phase 2 services, if those costs are not otherwise recovered by the wireless service provider's customer billing or other sources and are approved by the program manager. Any moneys remaining in the fund at the end of each fiscal year shall not revert to the general fund of the state but shall remain available for the purposes of the fund.

10.9(4) Payments to wireless service providers and local exchange service providers shall be made quarterly, based on original, itemized claims or invoices presented within 20 days of the end of the calendar quarter. Payments to wireless service providers shall be made in accordance with these rules and the State of Iowa Accounting Policies and Procedures.

10.9(5) Wireless service providers and local exchange service providers shall be reimbursed for only those items and services that are defined as eligible in the enhanced wireless 911 service plan and when initiation of service has been ordered and authorized by the E911 program manager.

10.9(6) If it is found that an overpayment has been made to an entity, the E911 program manager shall attempt recovery of the debt from the entity by certified letter. Due diligence shall be documented and retained at the state homeland security and emergency management division. If resolution of the debt does not occur and the debt is at least \$50, the state homeland security and emergency management division will then utilize the income offset program through the department of revenue. Until resolution of the debt has occurred, the state homeland security and emergency management division may withhold future payments to the entity.

605—10.10(34A) E911 surcharge exemptions. The following agencies, individuals, and organizations are exempt from imposition of the E911 surcharge:

1. Federal agencies and tax-exempt instrumentalities of the federal government.
2. Indian tribes for access lines on the tribe's reservation upon filing a statement with the joint E911 service board, signed by appropriate authority, requesting surcharge exemption.
3. An enrolled member of an Indian tribe for access lines on the reservation, who does not receive E911 service, and who annually files a signed statement with the joint E911 service board that the person is an enrolled member of an Indian tribe living on a reservation and does not receive E911 service. However, once E911 service is provided, the member is no longer exempt.
4. Official station testing lines owned by the provider.
5. Individual wire-line subscribers to the extent that they shall not be required to pay on a single periodic billing the surcharge on more than 100 access lines, or their equivalent, in an E911 service area.

All other subscribers not listed above, that have or will have the ability to access 911, are required to pay the surcharge, if imposed by the official order of the E911 program manager.

605—10.11(34A) E911 service fund.

10.11(1) The department of public safety and each joint E911 service board have the responsibility for the E911 service fund.

a. An E911 service fund shall be established in the office of the county treasurer for each joint E911 service board and with the state treasurer for the department of public safety.

b. Collected surcharge moneys and any interest thereon, as authorized in Iowa Code chapter 34A, shall be deposited into the E911 service fund. E911 surcharge moneys must be kept separate from all other sources of revenue utilized for E911 systems.

c. For joint E911 service boards, withdrawal of moneys from the E911 service fund shall be made on warrants drawn by the county auditor, per Iowa Code section 331.506, supported by claims and vouchers approved by the chairperson or cochairperson of the joint E911 service board or the appropriate operating authority so designated in writing.

d. For the department of public safety, withdrawal of moneys from the E911 service fund shall be made in accordance with state laws and administrative rules.

10.11(2) The E911 service funds shall be subject to examination by the division at any time during usual business hours. E911 service funds are subject to the audit provisions of Iowa Code chapter 11. A copy of all audits of the E911 service fund shall be furnished to the division within 30 days of receipt. If through the audit or monitoring process the division determines that a joint E911 service board or the department of public safety is not adhering to an approved plan or is not using funds in the manner prescribed in these rules or Iowa Code chapter 34A, the administrator may, after notice and hearing, suspend surcharge imposition and order termination of expenditures from the E911 service fund. The joint E911 service board or department of public safety is not eligible to receive or expend surcharge moneys until such time as the E911 program manager determines that the board or department is in compliance with the approved plan and fund usage limitations.

605—10.12(34A) Operating budgets.

10.12(1) Each joint E911 service board and the department of public safety shall provide a copy, to the E911 program manager, within 30 days of adoption, of the operating budget for the ensuing fiscal year for the fund as established under subrule 10.11(1).

10.12(2) The E911 program manager shall, upon review of the operating budget, make necessary adjustments to the surcharge as provided in Iowa Code chapter 34A.

605—10.13(34A) Limitations on use of funds. Surcharge moneys in the E911 service fund may be used to pay recurring and nonrecurring costs including, but not limited to, network equipment, software, database, addressing, initial training, and other start-up, capital, and ongoing expenditures. E911 surcharge moneys shall be used only to pay costs directly attributable to the provision of E911 telephone systems and services and may include costs for portable and vehicle radios, communication towers and associated equipment, and other radios and equipment permanently located inside the public safety answering point. Funds allocated under paragraph 10.9(3) “f” shall be used for communication equipment located inside the public safety answering point for the implementation and maintenance of wireless E911 phase 2 service.

605—10.14(34A) Minimum operational and technical standards.

10.14(1) Each E911 system, supplemented with E911 surcharge moneys, shall, at a minimum, employ the following features:

- a. ALI (automatic location identification).
- b. ANI (automatic number identification).
- c. Ability to selectively route.
- d. Each PSAP shall provide two emergency seven-digit numbers arranged in rollover configuration for use by telephone company operators for transferring a calling party to the PSAP.
- e. ANI and ALI information shall be maintained and updated in such a manner as to allow for 95 percent or greater degree of accuracy.

10.14(2) E911 public safety answering points shall adhere to the following minimum standards:

- a. The PSAP shall operate 7 days per week, 24 hours per day, with operators on duty at all times.
- b. The primary published emergency number in the E911 service area shall be 911.
- c. All PSAPs will maintain interagency communications capabilities for emergency coordination purposes, to include radio as well as land line direct or dial line.
- d. Each PSAP shall develop and maintain a PSAP standard operating procedure for receiving and dispatching emergency calls.
- e. The date and time of each 911 emergency call shall be documented using an automated call detail recording device or other communications center log. Such logs shall be maintained for a period of not less than one year.
- f. If a call transfer method of handling 911 calls is employed, a 99 percent degree of reliability of transferred calls from a PSAP to responding agencies shall be maintained. All transferred calls shall employ, to the closest extent possible, conference transfer capabilities which provide that the call be announced and monitored by the PSAP operator to ensure that the call has been properly transferred.
- g. PSAPs not employing the transfer method of handling 911 emergency calls shall use the call relay method. Information shall be exchanged between the PSAP receiving the call and an appropriate emergency response agency or dispatch center having jurisdiction in the area of the emergency. In no case during an emergency 911 call shall the caller be referred to another telephone number and required to hang up and redial. The call relay method shall also prevail in circumstances where emergency calls enter the 911 system (whether by design or by happenstance) from outside the E911 service area.
- h. Access control and security of PSAPs and associated dispatch centers shall be designed to prevent disruption of operations and provide a safe and secure environment of communication operations.
- i. PSAP supervision shall ensure that all telephone company employees, whose normal activities may involve contact with facilities associated with the 911 service, are familiar with safeguarding of facilities' procedures.
- j. Emergency electrical power shall be provided for the PSAP environment that will ensure continuous operations and communications during a power outage. Such power should start

automatically in the event of power failure and shall have the ability to be sustained for a minimum of 48 hours.

k. The PSAP shall make every attempt to disallow the intrusion by automatic dialers, alarm systems, or automatic dialing and announcing devices on a 911 trunk. If intrusion by one of these devices should occur, those responsible for PSAP operations shall make every attempt to contact the responsible party to ensure there is no such further occurrence by notifying the party that knowing and intentional interference with emergency telephone calls constitutes a crime under Iowa Code section 727.5. Those responsible for PSAP operations shall report persons who repeatedly use automatic dialers, alarm systems, or automatic announcing devices on 911 trunk lines to the county attorney for investigation of possible violations of section 727.5.

l. Each PSAP shall be equipped with an appropriate telecommunications device for the deaf (TDD) in accordance with 28 CFR Part 35.162, July 26, 1991.

10.14(3) Service providers shall adhere to the following minimum requirements:

a. The PSAP shall be notified of service interruptions in accordance with the provisions of Iowa Administrative Code 199—paragraph 22.6(3)“c.”

b. All service providers shall submit separate itemized bills to the E911 program manager, the department of public safety, a joint E911 service board or PSAP operating authority, as appropriate.

c. The service provider shall respond, within a reasonable length of time, to all appropriate requests for information from the administrator, the department of public safety, a joint E911 service board or operating authority and shall expressly comply with the provisions of Iowa Code section 34A.8.

10.14(4) Voluntary standards. Current technical and operational standards applying to E911 systems and services can be found in the “American Society for Testing and Materials Standard Guide for Planning and Developing 911 Enhanced Telephone Systems” and in publications issued by the National Emergency Number Association. Master street address guides are encouraged to be developed and maintained by using National Emergency Number Association technical standards 02-010 and 02-011. Standards contained in these documents shall be considered as guidance, and adherence thereto shall be voluntary. Notwithstanding the minimum standards published in these rules, it is intended that E911 telephone service providers and joint E911 service boards and operating authorities employ the best and most affordable technologies and methods available in providing E911 services to the public.

605—10.15(34A) Administrative hearings and appeals.

10.15(1) E911 program manager decisions regarding the acceptance or refusal of an E911 service plan, in whole or in part, the implementation of E911 and the imposition of the E911 surcharge within a specific E911 service area may be contested by an affected party.

10.15(2) Request for a hearing shall be made in writing to the state homeland security and emergency management division chief of staff within 30 days of the E911 program manager’s mailing or serving a decision and shall state the reason(s) for the request and shall be signed by the appropriate authority.

10.15(3) The chief of staff shall schedule a hearing within 10 working days of receipt of the request for hearing. The chief of staff shall preside over the hearing, at which time the appellant may present any evidence, documentation, or other information regarding the matter in dispute.

10.15(4) The chief of staff shall issue a ruling regarding the matter within 20 working days of the hearing.

10.15(5) Any party adversely affected by the chief of staff’s ruling may file a written request for a rehearing within 20 days of issuance of the ruling. A rehearing will be conducted only when additional evidence is available, the evidence is material to the case, and good cause existed for the failure to present the evidence at the initial hearing. The chief of staff will schedule a hearing within 20 days after the receipt of the written request. The chief of staff shall issue a ruling regarding the matter within 20 working days of the hearing.

10.15(6) Any party adversely affected by the chief of staff’s ruling may file a written appeal to the administrator of the homeland security and emergency management division. The appeal request shall contain information identifying the appealing party, the ruling being appealed, specific findings or

conclusions to which exception is taken, the relief sought, and the grounds for relief. The administrator shall issue a ruling regarding the matter within 90 days of the hearing. The administrator's ruling constitutes final agency action for purposes of judicial review.

[ARC 7695B, IAB 4/8/09, effective 5/13/09]

605—10.16(34A) Confidentiality. All financial or operations information provided by a wireless service provider to the E911 program manager shall be identified by the provider as confidential trade secrets under Iowa Code section 22.7(3) and shall be kept confidential as provided under Iowa Code section 22.7(3) and Iowa Administrative Code 605—Chapter 5. Such information shall include numbers of accounts, numbers of customers, revenues, expenses, and the amounts collected from said wireless service provider for deposit in the fund. Notwithstanding such requirements, aggregate amounts and information may be included in reports issued by the administrator if the aggregated information does not reveal any information attributable to an individual wireless service provider.

These rules are intended to implement Iowa Code chapter 34A.

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641—37.1(135) Definitions. For purposes of this chapter, the following definitions apply:

“Abnormal screen” means a suspicion of breast or cervical cancer.

1. A suspicion of breast cancer includes clinical breast exam findings of: palpable breast mass, breast dimpling, nipple retraction, bloody nipple discharge, palpable lymph nodes around clavicle or axilla, nipple erythema and scaliness, a mammography result of breast imaging reporting and data systems (BI-RADS) category 4 (suspicious abnormality suggesting need for biopsy) or category 5 (highly suggestive of malignancy) (ICD-9 793.8), breast biopsy result of ductal cancer in situ, lobular cancer in situ (ICD-9 233.0), or breast or lymph node (or other) biopsy result of breast cancer.

2. Suspicion of cervical cancer is a Pap test result of atypical squamous cells cannot exclude high-grade squamous intraepithelial lesions (ASC-H) (ICD-9 795.02), atypical glandular cells (AGC) (ICD-9 795.00), low-grade squamous intraepithelial lesions (LSIL) (ICD-9 622.11 or 795.03), or high-grade squamous intraepithelial lesions (HSIL) (ICD-9 622.12 or 795.04), leukoplakia of the cervix (ICD-9 622.2), or cervical biopsy result of cervical intraepithelial neoplasia II or III (ICD-9 622.10, 622.11, 622.12, 795.03, or 795.04), or cancer in situ (ICD-9 233.1).

“Advanced registered nurse practitioner” means an individual licensed to practice under 655 Iowa Administrative Code Chapter 7.

“American College of Radiology” or *“ACR”* means one of the Food and Drug Administration-recognized accreditation bodies for minimum quality standards for personnel, equipment, and record keeping in facilities that provide mammography.

“Benign” means a noncancerous condition that does not spread to other parts of the body.

“Bethesda system” or *“TBS”* means a system that was developed to provide uniform diagnostic terminology for reporting cervical or vaginal cytologic findings to facilitate communication between the laboratory and the clinician.

“Biopsy” means the removal of a sample or an entire abnormality for microscopic examination to diagnose a problem. Examples of a sampling would be a core biopsy or incisional biopsy; an example of entire removal would be an excisional biopsy.

“Breast image reporting and data systems” or *“BI-RADS”* means a standardized reporting system for mammography reports.

“Breast ultrasound” means the use of high-energy sound waves that are bounced off internal tissues and make echoes to produce a pictorial representation of the internal structure of the breast.

“Cancer” means a malignant tumor of potentially unlimited growth of new cells that expand locally by invasion and systemically by metastasis.

“Carcinoma in situ” means cell changes in which malignant cells are localized and may press against adjoining tissue but have not penetrated or spread beyond their site of origin.

“Case management” means the IA BCCEDP component that involves establishing, brokering, and sustaining a system of available clinical and essential support services for all women enrolled in the program.

“Clinical breast examination” or *“CBE”* means complete examination of a woman’s breast and axilla with palpation, including examination of the breast in both the upright and supine positions by a health care provider.

“Clinical Laboratory Improvement Act of 1988” or *“CLIA”* means the law which established minimum quality standards for personnel and quality assurance methods that monitor patient test management and assess quality control, proficiency testing, and personnel handling of laboratory and pathology specimens.

“Colposcopy” means a procedure that allows close examination of the surface of the cervix with a high-powered microscope.

“*Cooperative agreement*” means a signed contract between the department and another party, for example, a health care provider. This contract allows the department to pay the health care provider for providing services to IA BCCEDP participants.

“*Creditable coverage*” means any insurance that pays for medical bills incurred for the screening, diagnosis, or treatment of breast and cervical cancer. Creditable coverage as described by the Health Insurance Portability and Accountability Act of 1996 includes, but is not limited to, group health plans or health insurance coverage consisting of medical care under any hospital or medical service policy, health maintenance organization, Medicare Part A or B, Medicaid, armed forces insurance, or state health risk pool. A woman who has creditable coverage shall not be eligible for the Medicaid coverage option of breast and cervical cancer treatment.

“*Creditable coverage circumstances*” means those instances in which a woman has creditable coverage but is not actually covered for treatment of breast or cervical cancer.

1. When there is a preexisting-condition exclusion or when the annual or lifetime limit on benefits has been exhausted, a woman is not considered to have creditable coverage for this treatment.

2. If the woman has limited coverage, such as a high deductible, limited drug coverage, or limits on the number of outpatient visits, the woman is still considered to have creditable coverage and is not eligible for coverage under the breast and cervical cancer treatment (BCCT) option of Medicaid.

3. If the woman has a policy with a limited scope of coverage, such as only dental, vision, or long-term care, or has a policy that covers only a specific disease or illness, she is not considered to have creditable coverage, unless the policy provides coverage for breast and cervical cancer treatment.

4. For the purposes of this program, eligibility for Indian Health Services or tribal health care is not considered creditable coverage (according to United States Senate File 1741 – Native American Breast and Cervical Cancer Treatment Technical Amendment Act of 2001).

“*Cytology*” means the scientific study of cells.

“*Cytopathology*” means the scientific study of cells in disease.

“*Cytotechnologist*” means a medical technician trained in the identification of cells and cellular abnormalities.

“*Department*” means the Iowa department of public health.

“*Diagnostic mammography*” means a radiological examination performed for appropriate clinical indications such as breast mass(es), other breast signs or symptoms (spontaneous nipple discharge, skin changes), or special cases, such as a history of breast cancer with breast conservation or augmented breasts.

“*Follow-up*” means the IA BCCEDP component that involves a system for seeking information about or reviewing an abnormal condition, rescreening, or recall for annual visits.

“*Food and Drug Administration*” or “*FDA*” means the federal governmental body which certifies that a mammography facility meets minimum quality standards for personnel, equipment, and record keeping.

“*Gynecologist*” means a physician who specializes in diseases of the reproductive organs in women.

“*Health care provider*” means any physician, advanced registered nurse practitioner, or physician assistant who is licensed by the state of Iowa and provides care to IA BCCEDP-enrolled women.

“*Infrastructure*” means the basic framework of sufficient staff and adequate support systems to plan, implement, and evaluate the components of the IA BCCEDP.

“*In need of treatment*” means that a medical or surgical intervention is required because of an abnormal finding of breast or cervical cancer or precancer that was determined as a result of a screening or diagnostic procedure for breast or cervical cancer/precancer under the NBCCEDP.

“*International Classification of Disease, 9th edition*” or “*ICD-9*” means a standardized classification of diseases, injuries, and reasons of death, by cause and anatomic localization and systematically put into a number of up to six digits, which allows clinicians, statisticians, politicians, health planners and others to speak a common language, both in the United States and internationally.

“*Iowa breast and cervical cancer early detection program*” or “*IA BCCEDP*” means a comprehensive breast and cervical cancer screening program established and funded under Title XV of the federal Public Health Service Act and administered by the Iowa department of public health, with

the delegated responsibility of implementation and evaluation from the Centers for Disease Control and Prevention, Division of Cancer Prevention and Control.

“Medicaid” means the program of medical aid designed for those unable to afford regular medical service, financed by federal and state payment sources, and authorized by Title XIX of the Social Security Act.

“Medical advisory task force” or *“MATF”* means an advisory board utilized by the IA BCCEDP to offer knowledge and experience as related to the fields of expertise of the members of the task force. Duties of the MATF may include, but are not limited to, the following:

1. Review and make recommendations for clinical service expansion.
2. Review of program-developed clinical protocols.
3. Provision of recommendations related to other clinical and client-related issues.
4. Input related to quality assurance issues.
5. Review of program screening and diagnostic data.

“Medicare” means the program of federal payment source for health benefits, especially for the aged, that is authorized by Title XVIII of the Social Security Act.

“Minimum data elements” or *“MDEs”* means a set of standardized data elements used to collect demographic and clinical information on women whose screening or diagnosis was paid for with NBCCEDP funds. MDEs were developed by the Centers for Disease Control and Prevention, Division of Cancer Prevention and Control, to ensure that consistent and complete information is collected on women whose screening or diagnosis was paid for with NBCCEDP funding.

“National breast and cervical cancer early detection program” or *“NBCCEDP”* means a program established with the passage of the Breast and Cervical Cancer Mortality Prevention Act of 1990 (Public Law 101-354). The law authorizes the Centers for Disease Control and Prevention to establish a program of grants to states, tribes, and territories for the purpose of increasing the early detection of breast and cervical cancer, particularly among low-income, uninsured, and underserved women.

“Oncologist” means a physician who is a specialist who treats or studies the physical, chemical, and biologic properties and features of neoplasms, including causation, pathogenesis, and treatment.

“Outreach” means the IA BCCEDP component that involves recruiting targeted populations or persons who never or rarely utilize preventive health services.

“Pap test” means a screening test that collects cells from the cervix for examination under a microscope. The Pap test can detect abnormal cells or precancerous cells before cancer develops.

“Pathologist” means a physician who is a specialist in identifying diseases by studying cells and tissues under a microscope.

“Physician” means an individual licensed to practice under Iowa Code chapter 148.

“Physician assistant” means an individual licensed to practice under Iowa Code chapter 148C.

“Precancerous” means a condition that may become or is likely to become cancer.

“Program and fiscal management” means the IA BCCEDP component that conducts planning, organizing, directing, coordinating, managing, budgeting, and evaluating program activities.

“Radiologist” means a physician who specializes in creating and interpreting pictures of areas inside the body. The pictures are produced with X-rays, sound waves, or other types of energy.

“Rarely been screened” means, as defined for the NBCCEDP, that a woman has not had cervical cancer screening within the last five years.

“Recruitment” means the IA BCCEDP component that involves enrolling targeted populations or persons who never or rarely utilize preventive health services.

“Referral” means the IA BCCEDP component that involves directing women with abnormal screening results to appropriate resources for follow-up action.

“Screening mammography” means the use of X-ray of the breasts of asymptomatic women in an attempt to detect abnormal lesions of the breast when they are small, nonpalpable, and confined to the breast.

“Service delivery” means providing, either directly or through contractual arrangements, comprehensive breast and cervical cancer screening, diagnosis, and treatment services through tracking of screening intervals, timeliness of diagnosis, and timeliness of treatment of clients.

“*Surgeon*” means a physician who treats disease, injury, or deformity by physical operation or manipulation.

“*Surveillance*” means the IA BCCEDP component that involves the systematic collection, analysis, and interpretation of health data.

“*Susan G. Komen for the Cure*” means an international organization with a network of volunteers working through local affiliates and Komen Race for the Cure® events to eradicate breast cancer as a life-threatening disease by advancing research, education, screening, and treatment.

[ARC 7670B, IAB 4/8/09, effective 5/13/09]

641—37.2(135) Components of the IA BCCEDP. The IA BCCEDP shall include the following key components:

37.2(1) Program and fiscal management shall be conducted by ensuring strategic planning, implementation, coordination, integration, and evaluation of all programmatic activities and administrative systems, as well as the development of key communication channels and oversight mechanisms to aid in these processes. Program management shall ensure that infrastructure adequately supports service delivery.

37.2(2) Service delivery of specific and appropriate clinical procedures to detect breast and cervical abnormalities for women enrolled in the IA BCCEDP shall be directly provided or provided through contractual arrangements.

a. IA BCCEDP shall cover services including, but not limited to, the following when those services are provided by a participating health care provider who has a signed cooperative agreement with IA BCCEDP. Payment shall be based on Medicare Part B rates (Title XIX).

(1) Physical examinations, which must include one or more of the following screening services: CBE, pelvic exam, or Pap test;

(2) Mammography (screening and diagnostic);

(3) Breast ultrasound, when used as an adjunct to mammography;

(4) Fine-needle aspiration of breast cysts;

(5) Breast biopsies, excisional and nonexcisional (physician charges only; hospital charges are not covered);

(6) Colposcopy of the cervix, with or without biopsy;

(7) Surgical consultations for diagnosis of breast and cervical cancer;

(8) Pathology charges for breast and cervical biopsies;

(9) Anesthesia for breast biopsies (health care provider charges only; hospital charges and supplies are not covered).

b. Services not covered by IA BCCEDP include, but are not limited to, the following:

(1) Services not related to breast or cervical cancer screening or diagnosis;

(2) Treatment procedures and services;

(3) Services provided by nonparticipating providers;

(4) Hospital charges for breast biopsies and anesthesia;

(5) Inpatient services.

c. A health care provider who has a signed cooperative agreement with the IA BCCEDP shall be subject to the following:

(1) The health care provider agrees that reimbursement of procedures and services provided shall not exceed the amount that would be paid under Medicare Part B rates of Title XVIII of the Social Security Act;

(2) A mammography health care provider shall ensure that the provider’s facility has current FDA certification and ACR or state of Iowa accreditation and is a Medicare and Medicaid-approved facility utilizing BI-RADS and following ACR guidelines for mammography report content;

(3) A board-certified radiologist must be immediately available to determine selection of views and readings when a diagnostic mammogram is performed;

(4) The health care provider shall submit cytology and pathology specimens obtained to a CLIA-certified laboratory for processing. The laboratory shall provide cytological reading and analysis

of cervical and vaginal Pap tests by certified/registered cytotechnologists. Cytology (Pap) tests shall be reported using current TBS. The laboratory shall provide board-certified pathologists or experienced certified cytotechnologists to rescreen all analyses and readings of cervical and breast biopsies;

(5) The health care provider shall practice according to the current standards of medical care for breast and cervical cancer early detection, diagnosis, and treatment;

(6) Service delivery may be provided in a variety of settings. Service delivery must, however, include:

1. Providing screening services for specific geographic areas;
2. Providing a point of contact for scheduling appointments;
3. Providing age and income eligibility screening;
4. Providing comprehensive breast and cervical cancer screening to eligible women;
5. Providing referral and follow-up for women with abnormal screening results;
6. Providing the required reporting system for screening and follow-up activities;
7. Providing population-based education, outreach, and recruitment activities;

(7) The health care provider shall ensure compliance with this chapter and other terms and conditions included in the signed cooperative agreement.

37.2(3) Referral, tracking, and follow-up utilizing a data system to monitor each enrolled woman's receipt of screening/rescreening, diagnostic, and treatment procedures shall be conducted by IA BCCEDP and contracted county board of health designated agency staff.

a. The enrolled woman shall be notified by contracted county board of health designated agency staff of the results of the service, whether the results are normal, benign, or abnormal.

b. The data system shall provide tracking of appropriate and timely clinical services following an abnormal test result or diagnosis of cancer.

c. If the enrolled woman has an abnormal Pap test or breast screening, the health care provider shall provide to the woman a comprehensive referral directing her to appropriate additional diagnostic or treatment services.

d. The comprehensive referral shall be written. Follow-up shall be conducted to determine whether services were timely, completed, or met.

37.2(4) IA BCCEDP and contracted county board of health designated agency staff shall provide case management and assist clients diagnosed with cancer through the program to obtain needed treatment services.

37.2(5) IA BCCEDP staff shall use quality assurance and improvement techniques including use of established standards, systems, policies and procedures to monitor, assess and identify practical methods for improvement of the program and its components.

a. Quality assurance tools shall include utilizing FDA and ACR minimum standards for mammography facilities and CLIA minimum standards for cytopathology and pathology laboratories.

b. Quality assurance measures shall contribute to the identification of corrective actions to be taken to remedy problems found as a result of investigating quality of care.

37.2(6) Professional development shall be provided by IA BCCEDP and contracted county board of health designated agency staff through a variety of channels and activities that enable professionals to perform their jobs competently, identify needs and resources, and contribute to ensuring that health care delivery systems provide positive clinical outcomes.

37.2(7) IA BCCEDP and contracted county board of health designated agency staff shall provide population-based education and recruitment that involve the systematic design and delivery of clear and consistent messages about breast and cervical cancer and the benefits of early detection, using a variety of methods and strategies to reach priority populations. Outreach activities should focus on women who have never or rarely been screened and should work toward the removal of barriers to care (i.e., the need for child care, respite care, interpreter services and transportation) through collaborative activities with other community organizations.

37.2(8) IA BCCEDP may develop coalitions and partnerships to bring together groups and individuals that establish a reciprocal agreement for sharing resources and responsibilities to achieve the common goal of reducing breast and cervical cancer mortality.

37.2(9) IA BCCEDP shall conduct surveillance utilizing continuous, proactive, timely and systematic collection, analysis, interpretation and dissemination of breast and cervical cancer screening behaviors and incidence, prevalence, survival, and mortality rates. Epidemiological studies shall be conducted utilizing minimum data elements and other data sources to establish trends of disease, diagnosis, treatment, and research needs. Program planning, implementation, and evaluation shall be based on the epidemiological evidence.

37.2(10) Evaluation of the program shall be conducted through systematic documentation of the operations and outcomes of the program, compared to a set of explicit or implicit standards or objectives.

a. MATF shall review the service delivery contractual agreements as to their outcomes.

b. MATF shall make recommendations based on the evaluation in its annual report.

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641—37.3(135) Client eligibility criteria. An applicant for IA BCCEDP must satisfy the criteria outlined in this rule. If a woman does not meet these criteria, she shall be provided information by contracted county board of health designated agency staff regarding IowaCare, free care, or sliding-fee clinics available in the area in which she lives.

37.3(1) Age. An applicant for IA BCCEDP must satisfy only one of these criteria.

a. Women 50 through 64 years of age shall be the priority population to receive annual breast and cervical (if appropriate) cancer screening.

b. Women 40 through 49 years of age shall receive annual breast and cervical (if appropriate) cancer screening.

c. If symptomatic for breast cancer, women under 40 years of age shall receive services.

d. Women 65 years of age and older shall be eligible to receive annual breast and cervical (if appropriate) cancer screening if they do not have Medicare Part B coverage.

37.3(2) Income.

a. IA BCCEDP income guidelines are based upon 250 percent of the federal poverty level, which is set annually by the Centers for Medicare and Medicaid Services (CMS). New IA BCCEDP income guidelines will be adjusted following any change in CMS guidelines.

b. Self-declaration of income may be accepted.

c. Eligibility shall be based on net income for the household.

d. Assets shall not affect income status and shall not be counted when eligibility under the IA BCCEDP is determined.

37.3(3) Insurance.

a. IA BCCEDP shall determine a woman to be uninsured if the woman does not have health insurance coverage.

b. IA BCCEDP shall determine a woman to be underinsured if the woman has health insurance with unreasonably high copayments, deductibles, or coinsurance or the insurance does not cover IA BCCEDP-covered services.

c. Women who have Medicaid or Medicare Part B are not eligible. EXCEPTIONS: IowaCare, Medicaid with spenddown, Iowa family planning network.

37.3(4) Residency.

a. A woman must be a resident of Iowa or of a state that shall enroll a woman in the BCCT option of Medicaid if screened or diagnosed by the IA BCCEDP.

b. A woman who is a resident of a state that does not accept women into the BCCT option of Medicaid and who chooses to continue to receive services in the IA BCCEDP must be informed that she may not be able to have her treatment paid for by the BCCT option of Medicaid if she does not receive services in her state of residence.

c. Proof and length of residency in Iowa are not required.

37.3(5) Ineligible. IA BCCEDP does not provide coverage for:

a. Men.

b. Women with Medicare Part B coverage.

c. Women 39 years of age and younger unless they have symptoms of breast cancer.
[ARC 7670B, IAB 4/8/09, effective 5/13/09]

641—37.4(135) Client application procedures for IA BCCEDP services.

37.4(1) Enrollment. After a woman is determined eligible for services:

a. The woman must complete, sign, and return a consent and release form to IA BCCEDP. The date on the signed form shall be the client's enrollment date.

b. Upon enrollment, the client must select an IA BCCEDP health care provider and is eligible for services for 12 months from the enrollment date, subject to restrictions in program coverage as provided in rule 641—37.5(135).

c. If a client is unable to access a particular health care provider due to unavailability of appointments or if a client requests to change to another health care provider, designated agency staff shall assist the client in choosing another IA BCCEDP health care provider who is available in the client's area.

37.4(2) Reenrollment.

a. A client's continued eligibility for program coverage shall be determined annually.

b. No more than 45 days prior to the end of the 12-month coverage period, IA BCCEDP shall contact the client to see if she wishes to reenroll in the program.

c. If a client wishes to reenroll, she must complete, sign and return a consent and release form before receiving any further services.

37.4(3) Termination of enrollment. IA BCCEDP shall terminate a client's enrollment if the client:

a. Requests termination from the program;

b. No longer meets the criteria set forth in rule 641—37.3(135);

c. Does not return a signed IA BCCEDP consent and release form; or

d. Refuses to receive screening and diagnostic services through an IA BCCEDP health care provider.

[ARC 7670B, IAB 4/8/09, effective 5/13/09]

641—37.5(135) Priority for program expenditures.

37.5(1) In the event the IA BCCEDP program director certifies that there are inadequate funds to meet clients' needs, either attributable to a reduction in federal funding from the CDC or to a projected enrollment of women in excess of anticipated enrollment, the program director may restrict new applicants' participation in IA BCCEDP as follows:

a. First priority shall be given to women 50 through 64 years of age.

b. Second priority shall be given to women 40 through 49 years of age who are symptomatic.

c. Third priority shall be given to women 40 through 49 years of age who are asymptomatic.

d. Fourth priority shall be given to women 65 years of age and older if they do not have Medicare Part B coverage.

37.5(2) In the event that the financial demand abates, the program director shall withdraw the financial shortfall certification, at which time women shall be eligible for program services in accordance with rule 641—37.3(135).

[ARC 7670B, IAB 4/8/09, effective 5/13/09]

641—37.6(135) Right to appeal. If an individual disagrees with or is dissatisfied with program eligibility, the covered-service determination, or the decision of the program, the individual has the right to appeal the decision or action.

37.6(1) The appeal shall be in writing and shall be submitted to the designated agency personnel with whom the individual has been working, within ten working days of the decision or action.

37.6(2) The designated agency staff shall contact a state IA BCCEDP staff person with the information regarding the appeal.

37.6(3) State IA BCCEDP staff shall confer with the bureau chief of the department and provide a decision to the designated agency staff within five business days. A decision made by state IA BCCEDP staff shall be delivered by telephone, if possible, to the individual making the appeal and shall be followed

by a written notification of the decision. The decision of state IA BCCEDP staff shall be considered a final agency decision in accordance with Iowa Code chapter 17A.

[ARC 7670B, IAB 4/8/09, effective 5/13/09]

641—37.7(135) Verification for breast or cervical cancer treatment (BCCT) option of Medicaid. The Iowa department of public health and the department of human services have coordinated to develop procedures for women to access Medicaid coverage for treatment of breast or cervical cancer.

37.7(1) Before referring a woman to her county of residence's local office of the department of human services, a contracted county board of health designated agency staff member shall document the following regarding the woman:

a. The woman is currently enrolled in the IA BCCEDP. To be considered enrolled in the program, the woman must meet program age guidelines, have at least one of the basic screening services (Pap test, screening mammogram, or CBE) or diagnostic procedures paid by the IA BCCEDP or with Susan G. Komen for the Cure funds, and be in need of treatment for breast or cervical cancer or precancerous conditions; or

b. The woman was enrolled in NBCCEDP and has moved to Iowa. To be considered enrolled in NBCCEDP, the woman must meet the Iowa program age guidelines, have at least one of the basic screening services (Pap test, screening mammogram, or CBE) or a diagnostic procedure paid by the NBCCEDP or with Susan G. Komen for the Cure funds, and be in need of treatment for breast or cervical cancer or precancerous conditions; and

c. The woman has creditable coverage circumstances or has no creditable health insurance for breast or cervical cancer treatment.

37.7(2) The BCCT option of Medicaid is administered by the Iowa department of human services under 441 Iowa Administrative Code Chapter 75, "Conditions of Eligibility."

These rules are intended to implement Iowa Code chapter 135.

[ARC 7670B, IAB 4/8/09, effective 5/13/09]

[Filed ARC 7670B (Notice ARC 7538B, IAB 1/28/09), IAB 4/8/09, effective 5/13/09]

CHAPTER 50
ORAL HEALTH

641—50.1(135) Purpose. The purpose of establishing the state public health dental director position and the oral health bureau within the Iowa department of public health is to create a strong oral health unit with sufficient leadership and capacity to determine priorities, develop plans, make funding decisions, and establish policies that improve the oral health of all Iowans. These rules will enhance the efficiency of state government, strengthen relationships with federal and local authorities, and improve interrelationships between the public and private sectors.

641—50.2(135) Definitions. For purposes of this chapter, the following definitions apply:

“Core public health functions” means the functions of health assessment, policy development, and assurance.

1. Assessment: regular collection, analysis, interpretation, and communication of information about health conditions, risks, and assets.

2. Policy development: development, implementation, and evaluation of plans and policies, for public health in general and priority health needs in particular, in a manner that incorporates scientific information and community values and is in accordance with state public health policy.

3. Assurance: ensuring, by encouragement, regulation, or direct action, that programs and interventions which maintain and improve health are carried out.

“Dental care for persons with disabilities program” means the department program to provide dental services to low-income children and young adults with special health care needs.

“Dental home” means a network of individualized care based on risk assessment, which includes oral health education, dental screenings, preventive services, diagnostic services, treatment services, and emergency services.

“Dental sealant program” means the department program implemented through public or private nonprofit agencies to provide dental examinations or screenings and dental sealants to children in a school-based setting.

“Department” means the Iowa department of public health.

“Direct dental services” means those services generally delivered one-on-one between a health professional and a client.

“Enabling services” means services that allow or provide for access to and the derivation of benefits from the array of basic health care services and includes activities such as outreach, case management, health education, transportation, translation, home visits, support services, and other services.

“EPSDT” means the Early and Periodic Screening, Diagnosis, and Treatment program which provides for regular preventive health care services for children aged 0 to 21 as authorized by Title XIX of the Social Security Act.

“Fluoride mouth rinse program” means the department program implemented through elementary schools and middle schools, which includes oral health education and weekly rinsing with fluoride. The program targets schools with children at high risk for tooth decay.

“Gap filling” means direct health services supported by public health staff or resources that are needed but are not otherwise accessible in the community.

“Infrastructure building” means activities directed at improving and maintaining the health status of all clients by providing support for the development and maintenance of comprehensive health service systems, including development and maintenance of health service standards or guidelines, training, data, and planning systems.

“I-Smile program” means the department program implemented through public and private nonprofit agencies and private health care providers to increase access to dental care for children and to ensure a dental home.

“Medicaid” means the Medicaid program authorized by Title XIX of the Social Security Act and funded through the Iowa department of human services from the United States Department of Health and Human Services.

“*Oral health education*” means information provided by a health professional about dental disease, prevention, and anticipatory guidance, including oral habits, oral development, fluoride exposure, and dietary counseling.

“*Population-based services*” means preventive interventions and personal health services developed for and available to populations of the state rather than for individuals in a one-on-one situation. Disease prevention, health promotion, and statewide outreach are major components.

“*Senior smiles program*” means the department program implemented through public and nonprofit private agencies to provide oral screenings and interventions for older Iowans.

“*Title V*” means Title V of the Social Security Act and the federal requirements contained in the Omnibus Reconciliation Act of 1989 (Public Law 101-239) which address the Maternal and Child Health and Children with Special Health Care Needs programs.

“*Title V maternal and child health program*” means the department program implemented through local public or private nonprofit agencies for the assurance of access to preventive and primary child and maternal health services and services to children with special health care needs in accordance with 641—Chapter 76, Maternal and Child Health Program. Through this program, agencies are responsible for ensuring access to dental services, with an emphasis on early intervention and preventive oral health care beginning at or near the age of 12 months and continuing into adulthood.

“*Title XIX*” means the Medicaid program authorized by Title XIX of the Social Security Act and funded through the Iowa department of human services from the United States Department of Health and Human Services.

“*Vulnerable populations*” means individuals and groups whose needs are not addressed by traditional dental service providers and health care systems.

[ARC 7672B, IAB 4/8/09, effective 4/15/09]

641—50.3(135) Dental director responsibilities. The state public health dental director shall provide overall leadership of the state oral health program and shall be responsible for the following duties:

1. Plan and direct all work activities of the statewide public health dental program.
2. Develop comprehensive initiatives for oral health prevention and improved access to dental care.
3. Evaluate the effectiveness of the statewide public health dental program and of program personnel.
4. Manage the oral health bureau, including direction, supervision, and fiscal management of bureau staff.
5. Represent the department to external stakeholders, including public and private organizations, providers, and the general public.
6. Other related work as required.

641—50.4(135) Oral health bureau functions. The bureau shall be responsible for the core public health functions of assessment, policy development, and assurance of oral health services in Iowa.

50.4(1) Assessment. The bureau shall develop and implement an ongoing oral health surveillance system to evaluate and monitor the oral health status of children and other vulnerable population groups in Iowa. Assessment activities may include the following:

- a. Assess oral health status and needs so that problems can be identified and addressed.
- b. Assess determinants of identified oral health needs, including resources.
- c. Assess the fluoridation status of water systems and other sources of fluoride.
- d. Identify, investigate, and monitor oral health problems and health hazards.

50.4(2) Policy development. The bureau shall facilitate ongoing strategic planning and application of evidence-based research in oral health policy development to improve access to care and the overall oral health of all Iowans. Policy development activities may include the following:

- a. Develop plans and policies through a collaborative process that supports individual and community oral health efforts to address oral health needs.

b. Provide leadership to address oral health problems by maintaining a strong oral health unit within the department.

c. Mobilize partnerships with policymakers, professionals, organizations, groups, the public and others to identify and implement solutions to oral health problems.

50.4(3) Assurance. The bureau shall assist Iowans in maintaining optimal oral health throughout all stages of life by providing or ensuring infrastructure-building, population-based, and enabling services at the state and local level. Infrastructure-building and enabling services shall target the improvement of access to dental care and prevention. Population-based services shall include public health training and technical assistance, educational activities that increase oral health awareness, and activities that improve dental support systems for families.

The bureau shall leverage federal, state, and local resources to administer grant programs which include Title V maternal and child health, including the Medicaid and EPSDT programs; I-Smile program; dental sealant program; fluoride mouth rinse program; dental care for persons with disabilities program; senior smiles program; and other new and existing programs. Assurance activities may include the following:

a. Provide assistance and resources to local public health programs for community capacity-building efforts to identify vulnerable populations and to develop innovative approaches that link people to needed oral health services, including gap-filling direct dental services.

b. Inform, educate, and empower the public regarding oral health problems and solutions.

c. Promote and enforce laws and regulations that protect and improve oral health, ensure safety, and assure public accountability for the public's well-being.

d. Assure that the public health and personal health workforce has the capacity and expertise to effectively address oral health needs.

e. Evaluate the effectiveness, accessibility, and quality of population-based and personal oral health services.

f. Conduct research and support projects to gain new insights and promote innovative solutions to oral health problems.

641—50.5(135) Funding. The oral health bureau and the state public health dental director shall be funded through federal Title V funds and state matching funds, state general funds, department of human services funding, and other funds as available.

These rules are intended to implement Iowa Code Supplement sections 135.14 and 135.15.

[Filed 7/10/08, Notice 5/21/08—published 7/30/08, effective 9/3/08*]

[Editorial change: IAC Supplement 8/27/08]

[Editorial change: IAC Supplement 11/5/08]

[Filed Emergency ARC 7672B, IAB 4/8/09, effective 4/15/09]

*September 3, 2008, effective date of ARC 7023B [Ch 50] delayed 70 days by the Administrative Rules Review Committee at its meeting held August 12, 2008. At its meeting held October 14, 2008, the Committee delayed the effective date of 641—50.2(135), definition of “Dental home,” until adjournment of the 2009 Session of the General Assembly.

CHAPTER 194
NONPAYMENT OF STATE DEBT

641—194.1(272D) Definitions. For the purpose of this chapter, the following definitions shall apply.

“*Applicant*” means an individual who is seeking the issuance of a license.

“*Centralized collection unit*” means the centralized collection unit of the Iowa department of revenue.

“*Certificate of noncompliance*” means a document provided by the centralized collection unit of the department of revenue certifying that the named applicant or licensee has an outstanding liability placed with the unit and has not entered into an approved payment plan to pay the liability.

“*Denial notice*” means a licensing authority notification denying an application for the issuance or renewal of a license as required by Iowa Code chapter 272D.

“*Department*” means the department of public health.

“*License*” means a license, certification, registration, permit, approval, renewal, or other similar authorization issued to a person by a licensing authority which evidences the granting of authority to engage in a profession, occupation, or business.

“*Licensing authority*” means a board, commission, or any other entity of the department which has authority within this state to suspend or revoke a license or deny the renewal or issuance of a license authorizing a person to engage in a business, occupation, or profession.

“*Revocation or suspension notice*” means a licensing authority notification suspending a license for an indefinite or specified period of time or a notification revoking a license as required by Iowa Code chapter 272D.

“*Withdrawal certificate*” means a document provided by the centralized collection unit certifying that the certificate of noncompliance is withdrawn and that the licensing authority may proceed with issuance, reinstatement, or renewal of a license.

[ARC 7671B, IAB 4/8/09, effective 5/13/09]

641—194.2(272D) Issuance or renewal of a license—denial. The licensing authority shall deny the issuance or renewal of a license upon the receipt of a certificate of noncompliance from the centralized collection unit. This rule shall apply in addition to the procedures set forth in Iowa Code chapter 272D.

194.2(1) Service of denial notice. Notice shall be served upon the applicant or licensee by certified mail, return receipt requested; by personal service; or through authorized counsel.

194.2(2) Effective date of denial. The effective date of the denial of the issuance or renewal of a license, as specified in the denial notice, shall be 60 days following service of the denial notice upon the applicant or licensee.

194.2(3) Preparation and service of denial notice. The licensing authority is authorized to prepare and serve the denial notice upon the applicant or licensee.

194.2(4) Licensees and applicants responsible to inform licensing authority. Licensees and applicants shall keep the licensing authority informed of all court actions and all centralized collection unit actions taken under or in connection with Iowa Code chapter 272D. Licensees and applicants shall also provide the licensing authority copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code chapter 272D, all court orders entered in such actions, and any withdrawals of certificates issued by the centralized collection unit.

194.2(5) Reinstatement following license denial. All licensing authority fees required for application, license renewal, or license reinstatement must be paid by applicants or licensees before a license will be issued, renewed, or reinstated after the licensing authority has denied the issuance or renewal of a license pursuant to Iowa Code chapter 272D.

194.2(6) Effect of filing in district court. In the event an applicant or a licensee files a timely district court action following service of a denial notice by a licensing authority, the licensing authority shall continue with the intended action described in the denial notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the licensing authority to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the licensing authority

shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

194.2(7) Final notification. The licensing authority shall notify the applicant or licensee in writing through regular first-class mail, or by such other means as the licensing authority determines appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license, and shall similarly notify the applicant or licensee if the license is issued or renewed following the licensing authority's receipt of a withdrawal certificate.

[ARC 7671B, IAB 4/8/09, effective 5/13/09]

641—194.3(272D) Suspension or revocation of a license. The licensing authority shall suspend or revoke a license upon the receipt of a certificate of noncompliance from the centralized collection unit in accordance with the procedures set forth in Iowa Code chapter 272D. This rule shall apply in addition to the procedures set forth in Iowa Code chapter 272D.

194.3(1) Service of revocation or suspension notice. A revocation or suspension notice shall be served upon the licensee by certified mail, return receipt requested; by personal service; or through authorized counsel.

194.3(2) Effective date of revocation or suspension. The effective date of the suspension or revocation of a license, as specified in the revocation or suspension notice, shall be 60 days following service of the notice upon the licensee.

194.3(3) Preparation and service of revocation or suspension notice. The licensing authority is authorized to prepare and serve the revocation or suspension notice upon the licensee and is directed to notify the licensee that the license will be suspended, unless the license is already suspended on other grounds. In the event that the license is on suspension, the licensing authority shall notify the licensee of the licensing authority's intention to revoke the license.

194.3(4) Licensee responsible to inform licensing authority. The licensee shall keep the licensing authority informed of all court actions and all centralized collection unit actions taken under or in connection with Iowa Code chapter 272D. Licensees shall also provide the licensing authority copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code chapter 272D, all court orders entered in such actions, and any withdrawal certificates issued by the centralized collection unit.

194.3(5) Reinstatement following license suspension or revocation. A licensee shall pay all licensing authority fees required for license renewal or license reinstatement before a license will be reinstated after the licensing authority has suspended or revoked a license pursuant to Iowa Code chapter 272D.

194.3(6) Effect of filing in district court. In the event a licensee files a timely district court action pursuant to Iowa Code chapter 272D, and following service of a revocation or suspension notice, the licensing authority shall continue with the intended action described in the revocation or suspension notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the licensing authority to proceed. For purposes of determining the effective date of the license suspension or revocation, the licensing authority shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

194.3(7) Final notification. The licensing authority shall notify the licensee in writing through regular first-class mail, or by such other means as the licensing authority determines appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of a license, and shall similarly notify the licensee if the license is reinstated following the licensing authority's receipt of a withdrawal certificate.

[ARC 7671B, IAB 4/8/09, effective 5/13/09]

641—194.4(272D) Sharing of information. Notwithstanding any statutory confidentiality provision, the department or licensing authority may share information with the centralized collection unit of the department of revenue through automated means for the sole purpose of identifying applicants or licensees subject to enforcement pursuant to Iowa Code chapter 272D.

[ARC 7671B, IAB 4/8/09, effective 5/13/09]

These rules are intended to implement Iowa Code chapter 272D.

[Filed ARC 7671B (Notice ARC 7540B, IAB 1/28/09), IAB 4/8/09, effective 5/13/09]

BEHAVIORAL SCIENTISTS

CHAPTER 31	LICENSURE OF MARITAL AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS
CHAPTER 32	CONTINUING EDUCATION FOR MARITAL AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS
CHAPTER 33	DISCIPLINE FOR MARITAL AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS

CHAPTER 31
LICENSURE OF MARITAL AND FAMILY THERAPISTS
AND MENTAL HEALTH COUNSELORS

[Prior to 1/30/02, see 645—Chapter 30]

645—31.1(154D) Definitions. For purposes of these rules, the following definitions shall apply:

“*ACA*” means the American Counseling Association.

“*Active license*” means a license that is current and has not expired.

“*AMFTRB*” means the Association of Marital and Family Therapy Regulatory Boards.

“*Board*” means the board of behavioral science.

“*CCE*” means the Center for Credentialing and Education, Inc.

“*Course*” means three graduate semester credit hours.

“*CRCC*” means the Commission on Rehabilitation Counselor Certification.

“*Department*” means the department of public health.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Licensee*” means any person licensed to practice as a marital and family therapist or mental health counselor in the state of Iowa.

“*License expiration date*” means September 30 of even-numbered years.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice mental health counseling or marital and family therapy to an applicant who is or has been licensed in another state.

“*Mandatory training*” means training on identifying and reporting child abuse or dependent adult abuse required of marital and family therapists and mental health counselors who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“*NBCC*” means the National Board for Certified Counselors.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 31.16(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice mental health counseling or marital and family therapy to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of behavioral science to license persons who have the same or similar qualifications to those required in Iowa.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“*Temporary license*” means a license to practice marital and family therapy or mental health counseling under direct supervision of a qualified supervisor as determined by the board by rule to fulfill the postgraduate supervised clinical experience requirement in accordance with this chapter.

645—31.2(154D) Requirements for licensure. The following criteria shall apply to licensure:

31.2(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to the Board of Behavioral Science, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

31.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

31.2(3) Each application shall be accompanied by the appropriate fees payable to the Board of Behavioral Science. The fees are nonrefundable.

31.2(4) No application will be considered by the board until official copies of academic transcripts sent directly from the school to the board of behavioral science have been received by the board.

31.2(5) The candidate shall have the examination score sent directly from the testing service to the board.

31.2(6) The completed application form shall be filed with the board of behavioral science with all required supervision forms and fees at least 90 days before the date of the examination.

31.2(7) A licensee who was issued an initial license within six months prior to the renewal shall not be required to renew the license until the renewal date two years later.

31.2(8) Incomplete applications that have been on file in the board office for more than two years shall be:

- a. Considered invalid and shall be destroyed; or
- b. Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

31.2(9) Notification of eligibility for examination shall be sent to the licensee by the board.

645—31.3(154D) Examination requirements. The following criteria shall apply to the written examination(s):

31.3(1) In order to qualify for licensing, the applicant:

a. For a marital and family therapist license shall take and pass the Association of Marital and Family Therapy Regulatory Board (AMFTRB) Examination in Marital and Family Therapy.

b. For a mental health counselor license shall take and pass the National Counselor Examination of the NBCC, or the National Clinical Mental Health Counselor Examination of the NBCC, or the Certified Rehabilitation Counselor Examination of the CRCC.

31.3(2) Examination information will be provided when the applicant has been approved to take the examination.

31.3(3) The board will notify the applicant in writing of examination results.

31.3(4) Persons determined by the board not to have performed satisfactorily may apply for reexamination.

31.3(5) The passing score on the written examination shall be the passing point criterion established by the appropriate national testing authority at the time the test was administered.

645—31.4(154D) Educational qualifications for marital and family therapists. The applicant must present proof of meeting the following educational requirements for licensure as a marital and family therapist:

31.4(1) Accredited program. Applicants must present with the application an official transcript verifying completion of a master's degree of 60 semester hours (or 80 quarter hours or equivalent) or a doctoral degree in marital and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) from a college or university accredited by an agency recognized by the United States Department of Education. Applicants who entered a program of study prior to July 1, 2010, must present with the application an official transcript verifying completion of a master's degree of 45 semester hours or the equivalent; or

31.4(2) Content-equivalent program. Applicants must present an official transcript verifying completion of a master's degree of 60 semester hours (or 80 quarter hours or equivalent) or a doctoral degree in a mental health, behavioral science, or a counseling-related field from a college or university accredited by an agency recognized by the United States Department of Education, which is content-equivalent to a graduate degree in marital and family therapy. Applicants who entered a program of study prior to July 1, 2010, must present with the application an official transcript verifying completion of a master's degree of 45 semester hours or the equivalent. After March 31, 2009, graduates from non-COAMFTE-accredited marital and family therapy programs shall provide an equivalency evaluation of their educational credentials by the Center for Credentialing and Education, Inc. (CCE), Web site <http://cce-global.org>. The professional curriculum must be equivalent to that stated in these rules. Applicants shall bear the expense of the curriculum evaluation. In order to qualify as a "content-equivalent" degree, a graduate transcript must document:

a. At least 9 semester hours or the equivalent in each of the three areas listed below:

(1) Theoretical foundations of marital and family therapy systems. Any course which deals primarily in areas such as family life cycle; theories of family development; marriage or the family; sociology of the family; families under stress; the contemporary family; family in a social context; the cross-cultural family; youth/adult/aging and the family; family subsystems; individual, interpersonal relationships (marital, parental, sibling).

(2) Assessment and treatment in family and marital therapy. Any course which deals primarily in areas such as family therapy methodology; family assessment; treatment and intervention methods; overview of major clinical theories of marital and family therapy, such as communications, contextual, experiential, object relations, strategic, structural, systemic, transgenerational.

(3) Human development. Any course which deals primarily in areas such as human development; personality theory; human sexuality. One course must be psychopathology.

b. At least 3 semester hours or the equivalent in each of the two areas listed below:

(1) Ethics and professional studies. Any course which deals primarily in areas such as professional socialization and the role of the professional organization; legal responsibilities and liabilities; independent practice and interprofessional cooperation; ethical issues in marital and family counseling; and family law.

(2) Research. Any course which deals primarily in areas such as research design, methods, statistics; research in marital and family studies and therapy.

If the applicant has taught a graduate-level course as outlined above at a college or university accredited by an agency recognized by the United States Department of Education or the Council on Professional Accreditation, that course will be credited toward the course requirements.

c. A graduate-level clinical practicum in marital and family therapy of at least 300 clock hours is required for all applicants.

[ARC 7673B, IAB 4/8/09, effective 4/30/09]

645—31.5(154D) Clinical experience requirements for marital and family therapists.

31.5(1) The supervised clinical experience shall:

a. Be a minimum of two years or the equivalent of full-time supervised clinical work experience in marital and family therapy;

b. Be completed following the practicum and all graduate coursework, with the exception of the thesis;

c. Include successful completion of 3,000 hours of marital and family therapy that shall include at least 1,500 hours of direct client contact and 200 hours of clinical supervision. Applicants who entered a program of study prior to July 1, 2010, shall include successful completion of 200 hours of clinical supervision concurrent with 1,000 hours of marital and family therapy conducted in person with couples, families and individuals;

d. Include at least 100 of the 200 hours of clinical supervision as individual supervision;

e. Have 50 percent (100 hours) of the clinical supervision conducted in person; and

f. Have only supervised clinical contact credited for this requirement.

31.5(2) To meet the requirements of the supervised clinical experience:

a. The supervisee must:

- (1) Meet with the supervisor for a minimum of four hours per month;
- (2) Offer documentation of supervised hours signed by the supervisor;
- (3) Compute part-time employment on a prorated basis for the supervised professional experience;
- (4) Have the background, training, and experience that is appropriate to the functions performed;
- (5) Have supervision that is clearly distinguishable from personal psychotherapy and is contracted in order to serve professional/vocational goals;
- (6) Have individual supervision that shall be in person with no more than one supervisor to two supervisees;
- (7) Have group supervision that may be completed with up to ten supervisees and a supervisor; and
- (8) Not participate in the following activities which are deemed unacceptable for clinical supervision:

1. Peer supervision, i.e., supervision by a person of equivalent, but not superior, qualifications, status, and experience.

2. Supervision, by current or former family members, or any other person, in which the nature of the personal relationship prevents, or makes difficult, the establishment of a professional relationship.

3. Administrative supervision, e.g., clinical practice performed under administrative rather than clinical supervision of an institutional director or executive.

4. A primarily didactic process wherein techniques or procedures are taught in a group setting, classroom, workshop, or seminar.

5. Consultation, staff development, or orientation to a field or program, or role-playing of family interrelationships as a substitute for current clinical practice in an appropriate clinical situation.

b. The supervisor shall:

- (1) Be an Iowa-licensed marital and family therapist with a minimum of three years of clinical experience following licensure; or

- (2) Be a supervisor or supervisor candidate approved by the American Association for Marriage and Family Therapy Commission on Supervision; or

- (3) Be licensed under Iowa Code chapter 147 and have a minimum of three years of full-time professional work experience, including experience in marital and family therapy, as approved by the board; and

- (4) Meet a minimum of four hours per month with the supervisee; and

- (5) Provide training that is appropriate to the functions to be performed; and

- (6) Ensure that therapeutic work is completed under the professional supervision of a supervisor; and

- (7) Not supervise any marital and family therapy or permit the supervisee to engage in any therapy which the supervisor cannot perform competently.

31.5(3) An applicant who has obtained American Association for Marriage and Family Therapy clinical membership and has provided a transcript sent directly from the school to the board is considered to have met the educational and clinical experience requirements of rules 31.4(154D) and 31.5(154D).

[ARC 7673B, IAB 4/8/09, effective 4/30/09]

645—31.6(154D) Educational qualifications for mental health counselors. The applicant must present proof of meeting the following educational requirements for a mental health counselor:

31.6(1) Accredited program. Applicants must present with the application an official transcript verifying completion of a master's degree of 60 semester hours (or equivalent quarter hours) or a doctoral degree in counseling with emphasis in mental health counseling from a mental health counseling program accredited by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) from a college or university accredited by an agency recognized by the United States Department of Education. Applicants who entered a program of study prior to July 1, 2010, must present with the application an official transcript verifying completion of a master's degree of 45 semester hours or the equivalent; or

31.6(2) Content-equivalent program. Applicants must present an official transcript verifying completion of a master's degree or a doctoral degree from a college or university accredited by an agency recognized by the United States Department of Education which is content-equivalent to a master's degree in counseling with emphasis in mental health counseling. Applicants who entered a program of study prior to July 1, 2010, must present with the application an official transcript verifying completion of a master's degree of 45 semester hours or the equivalent. After March 31, 2009, graduates from non-CACREP-accredited mental health counseling programs shall provide an equivalency evaluation of their educational credentials by the Center for Credentialing and Education, Inc. (CCE), Web site <http://cce-global.org>. The professional curriculum must be equivalent to that stated in these rules. Applicants shall bear the expense of the curriculum evaluation. The degree will be considered as "content-equivalent" if it includes 60 semester hours (or equivalent quarter hours) and successful completion of graduate-level coursework in each of the following areas:

a. Professional identity. Studies that provide an understanding of all of the following aspects of professional functioning:

- (1) History and philosophy of the counseling profession, including significant factors and events;
- (2) Professional roles, functions, and relationships with other providers of human services;
- (3) Technological competence and computer literacy;
- (4) Professional organizations, primarily ACA, its divisions, branches, and affiliates, including membership benefits, activities, services to members, and current emphases;
- (5) Professional credentialing, including certification, licensure, and accreditation practices and standards, and the effects of public policy on these issues;
- (6) Public and private policy processes, including the role of the professional counselor in advocating on behalf of the profession;
- (7) Advocacy processes needed to address institutional and social barriers that impede access, equity, and success for clients; and
- (8) Ethical standards of ACA and related entities, and applications of ethical and legal considerations in professional counseling.

b. Social and cultural diversity. Studies that provide an understanding of the cultural context of relationships, issues, and trends in a multicultural and diverse society related to such factors as culture, ethnicity, nationality, age, gender, sexual orientation, mental and physical characteristics, education, family values, religious and spiritual values, socioeconomic status and unique characteristics of individuals, couples, families, ethnic groups, and communities including all of the following:

- (1) Multicultural and pluralistic trends, including characteristics and concerns between and within diverse groups nationally and internationally;
- (2) Attitudes, beliefs, understandings, and acculturative experiences, including specific experiential learning activities;
- (3) Individual, couple, family, group, and community strategies for working with diverse populations and ethnic groups;
- (4) Counselors' roles in social justice, advocacy and conflict resolution, cultural self-awareness, the nature of biases, prejudices, processes of intentional and unintentional oppression and discrimination, and other culturally supported behaviors that are detrimental to the growth of the human spirit, mind or body;
- (5) Theories of multicultural counseling, theories of identity development, and multicultural competencies; and
- (6) Ethical and legal considerations.

c. Human growth and development. Studies that provide an understanding of the nature and needs of individuals at all developmental levels, including all of the following:

- (1) Theories of individual and family development and transitions across the life span;
- (2) Theories of learning and personality development;
- (3) Human behavior including an understanding of developmental crises, disability, exceptional behavior, addictive behavior, psychopathology, and situational and environmental factors that affect both normal and abnormal behavior;

- (4) Strategies for facilitating optimum development over the life span; and
- (5) Ethical and legal considerations.

d. Career development. Studies that provide an understanding of career development and related life factors, including all of the following:

- (1) Career development theories and decision-making models;
- (2) Career, avocational, educational, occupational and labor market information resources, visual and print media, computer-based career information systems, and other electronic career information systems;
- (3) Career development program planning, organization, implementation, administration, and evaluation;
- (4) Interrelationships among and between work, family, and other life roles and factors including the role of diversity and gender in career development;
- (5) Career and educational planning, placement, follow-up, and evaluation;
- (6) Assessment instruments and techniques that are relevant to career planning and decision making;
- (7) Technology-based career development applications and strategies, including computer-assisted career guidance and information systems and appropriate worldwide Web sites;
- (8) Career counseling processes, techniques, and resources, including those applicable to specific populations; and
- (9) Ethical and legal considerations.

e. Helping relationships. Studies that provide an understanding of counseling and consultation processes, including all of the following:

- (1) Counselor and consultant characteristics and behaviors that influence helping processes including age, gender, and ethnic differences, verbal and nonverbal behaviors and personal characteristics, orientations, and skills;
- (2) An understanding of essential interviewing and counseling skills so that the student is able to develop a therapeutic relationship, establish appropriate counseling goals, design intervention strategies, evaluate client outcome, and successfully terminate the counselor-client relationship. Studies will also facilitate student self-awareness so that the counselor-client relationship is therapeutic and the counselor maintains appropriate professional boundaries;
- (3) Counseling theories that provide the student with a consistent model(s) to conceptualize client presentation and select appropriate counseling interventions. Student experiences should include an examination of the historical development of counseling theories, an exploration of affective, behavioral, and cognitive theories, and an opportunity to apply the theoretical material to case studies. Students will also be exposed to models of counseling that are consistent with current professional research and practice in the field so that they can begin to develop a personal model of counseling;
- (4) A systems perspective that provides an understanding of family and other systems theories and major models of family and related interventions. Students will be exposed to a rationale for selecting family and other systems theories as appropriate modalities for family assessment and counseling;
- (5) A general framework for understanding and practicing. Student experiences should include an examination of the historical development of consultation, an exploration of the stages of consultation and the major models of consultation, and an opportunity to apply the theoretical material to case presentations. Students will begin to develop a personal model of consultation;
- (6) Integration of technological strategies and applications within counseling and consultation processes; and
- (7) Ethical and legal considerations.

f. Group work. Studies that provide both theoretical and experiential understanding of group purpose, development, dynamics, counseling theories, group counseling methods and skills, and other group approaches, including all of the following:

- (1) Principles of group dynamics, including group process components, developmental stage theories, group members' roles and behaviors, and therapeutic factors of group work;

(2) Group leadership styles and approaches, including characteristics of various types of group leaders and leadership styles;

(3) Theories of group counseling, including commonalities, distinguishing characteristics, and pertinent research and literature;

(4) Group counseling methods, including group counselor orientations and behaviors, appropriate selection criteria and methods, and methods of evaluation of effectiveness;

(5) Approaches used for other types of group work, including task groups, psychoeducational groups, and therapy groups;

(6) Professional preparation standards for group leaders; and

(7) Ethical and legal considerations.

g. *Assessment.* Studies that provide an understanding of individual and group approaches to assessment and evaluation, including the following:

(1) Historical perspectives concerning the nature and meaning of assessment;

(2) Basic concepts of standardized and nonstandardized testing and other assessment techniques including norm-referenced and criterion-referenced assessment, environmental assessment, performance assessment, individual and group test and inventory methods, behavioral observations, and computer-managed and computer-assisted methods;

(3) Statistical concepts, including scales of measurement, measures of central tendency, indices of variability, shapes and types of distributions, and correlations;

(4) Reliability (i.e., theory of measurement error, models of reliability, and the use of reliability information);

(5) Validity (i.e., evidence of validity, types of validity, and the relationship between reliability and validity);

(6) Age, gender, sexual orientation, ethnicity, language, disability, culture, spirituality, and other factors related to the assessment and evaluation of individuals, groups, and specific populations;

(7) Strategies for selecting, administering, and interpreting assessment and evaluation instruments and techniques in counseling;

(8) An understanding of general principles and methods of case conceptualization, assessment, or diagnoses of mental and emotional status; and

(9) Ethical and legal considerations.

h. *Research and program evaluation.* Studies that provide an understanding of research methods, statistical analysis, needs assessment, and program evaluation, including all of the following:

(1) The importance of research and opportunities and difficulties in conducting research in the counseling profession;

(2) Research methods such as qualitative, quantitative, single-case designs, action research, and outcome-based research;

(3) Use of technology and statistical methods in conducting research and program evaluation, assuming basic computer literacy;

(4) Principles, models, and applications of needs assessment, program evaluation, and use of findings to effect program modifications;

(5) Use of research to improve counseling effectiveness; and

(6) Ethical and legal considerations.

i. *Diagnosis and treatment planning.* Studies that provide an understanding of individual and group approaches to assessment and evaluation. Studies in this area include, but are not limited to, the following:

(1) The principles of the diagnostic process, including differential diagnosis, and the use of current diagnostic tools, such as the current edition of the Diagnostic and Statistical Manual;

(2) The established diagnostic criteria for mental or emotional disorders that describe treatment modalities and placement criteria within the continuum of care;

(3) The impact of co-occurring substance use disorders on medical and psychological disorders;

(4) The relevance and potential biases of commonly used diagnostic tools as related to multicultural populations;

(5) The appropriate use of diagnostic tools, including the current edition of the Diagnostic and Statistical Manual, to describe the symptoms and clinical presentation of clients with mental or emotional impairments; and

(6) The ability to conceptualize accurate multi-axial diagnoses of disorders presented by clients and how to communicate the differential diagnosis to clients' managed care and insurance companies or other third-party payers.

j. Psychopathology. Studies that provide an understanding of emotional and mental disorders experienced by persons of all ages, characteristics of disorders, and common nosologies of emotional and mental disorders utilized within the U.S. health care system for diagnosis and treatment planning. Studies in this area include, but are not limited to, the following:

(1) Study of cognitive, behavioral, physiological and interpersonal mechanisms for adapting to change and to stressors;

(2) Role of genetic, physiological, cognitive, environmental and interpersonal factors, and their interactions, on development of the form, severity, course and persistence of the various types of disorders and dysfunction;

(3) Research methods and findings pertinent to the description, classification, diagnosis, origin, and course of disorders and dysfunction;

(4) Theoretical perspectives relevant to the origin, development, and course and outcome for the forms of behavior disorders and dysfunction; and

(5) Methods of intervention or prevention used to minimize and modify maladaptive behaviors, disruptive and distressful cognition, or compromised interpersonal functioning associated with various forms of maladaptation.

k. Practicum. A graduate-level clinical supervised counseling practicum in which students must complete supervised practicum experiences that total a minimum of 100 clock hours prior to receiving the master's degree. The practicum provides for the development of counseling skills under supervision. The student's practicum includes all of the following:

(1) Forty hours of direct service with clients, including experience in individual counseling and group work;

(2) Weekly interaction with an average of one hour per week of individual and triadic supervision which occurs regularly over a minimum of one academic term by a program faculty member or a supervisor working under the supervision of a program faculty member;

(3) An average of one and one-half hours per week of group supervision that is provided on a regular schedule over the course of the student's practicum by a program faculty member or a supervisor under the supervision of a program faculty member; and

(4) Evaluation of the student's performance throughout the practicum including a formal evaluation after the student completes the practicum.

l. Internship. A graduate-level clinical supervised counseling internship that requires students to complete a supervised internship of 600 clock hours that is begun after successful completion of the student's practicum and prior to receiving the master's degree. The internship provides an opportunity for the student to perform, under supervision, a variety of counseling activities that a professional counselor is expected to perform. The student's internship includes all of the following:

(1) A minimum of 240 hours of direct service with clientele appropriate to the program of study;

(2) A minimum of one hour per week of individual supervision and triadic supervision, throughout the internship, usually performed by the on-site supervisor;

(3) A minimum of one and one-half hours per week of group supervision, throughout the internship, usually performed by a program faculty member supervisor;

(4) The opportunity for the student to become familiar with a variety of professional activities in addition to direct service (e.g., record keeping, supervision, information and referral, in-service and staff meetings);

(5) The opportunity for the student to develop program-appropriate audiotapes or videotapes, or a combination of both, of the student's interactions with clients for use in supervision;

(6) The opportunity for the student to gain supervised experience in the use of a variety of professional resources such as assessment instruments, technologies, print and nonprint media, professional literature, and research; and

(7) A formal evaluation of the student's performance during the internship by a program faculty member in consultation with the site supervisor.

If the applicant has taught a graduate-level course as outlined above at a college or university accredited by an agency recognized by the United States Department of Education or the Council on Professional Accreditation, that course may be credited toward the course requirement.

31.6(3) *Foreign-trained marital and family therapists or mental health counselors.* Foreign-trained marital and family therapists or mental health counselors shall:

a. Provide an equivalency evaluation of their educational credentials by the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665; telephone (310)258-9451; Web site www.ierf.org or E-mail at info@ierf.org. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a mental health counselor program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

[ARC 7673B, IAB 4/8/09, effective 4/30/09]

645—31.7(154D) Clinical experience requirements for mental health counselors.

31.7(1) The supervised clinical experience shall:

a. Be a minimum of two years or the equivalent of full-time supervised professional work experience in mental health counseling;

b. Be completed following completion of the practicum and all graduate coursework, with exception of the thesis;

c. Include successful completion of at least 3,000 hours of mental health counseling that shall include at least 1,500 hours of direct client contact and 200 hours of clinical supervision. Applicants who entered a program of study prior to July 1, 2010, shall include successful completion of 200 hours of clinical supervision concurrent with 1,000 hours of mental health counseling conducted in person with couples, families and individuals;

d. Include at least 100 of the 200 hours of supervision as individual supervision;

e. Include 50 percent (100 hours) of all clinical supervision in person; and

f. Have only supervised clinical contact credited for this requirement.

31.7(2) To meet the requirements of the supervised clinical experience:

a. The supervisee must:

(1) Meet with the supervisor a minimum of four hours per month;

(2) Offer documentation of supervised hours signed by the supervisor;

(3) Compute part-time employment on a prorated basis for the supervised professional experience;

(4) Have the background, training, and experience that are appropriate to the functions performed;

(5) Have supervision that is clearly distinguishable from personal counseling and is contracted in order to serve professional/vocational goals;

(6) Have individual supervision that shall be in person with no more than one supervisor to two supervisees;

(7) Have group supervision that may be completed with up to ten supervisees and a supervisor; and

(8) Not participate in the following activities which are deemed unacceptable for clinical supervision:

1. Peer supervision, i.e., supervision by a person of equivalent, but not superior, qualifications, status, and experience.

2. Supervision, by current or former family members, or any other person, in which the nature of the personal relationship prevents, or makes difficult, the establishment of a professional relationship.

3. Administrative supervision, e.g., clinical practice performed under administrative rather than clinical supervision of an institutional director or executive.

4. A primarily didactic process wherein techniques or procedures are taught in a group setting, classroom, workshop, or seminar.

5. Consultation, staff development, or orientation to a field or program, or role-playing of family interrelationships as a substitute for current clinical practice in an appropriate clinical situation.

b. The supervisor:

(1) May be a licensed mental health counselor in Iowa with at least three years of postlicensure clinical experience; or

(2) Shall be approved by the National Board for Certified Counselors (NBCC) as a supervisor; or

(3) May be an alternate supervisor who possesses qualifications equivalent to a licensed mental health counselor with at least three years of postlicensure clinical experience, including mental health professionals licensed pursuant to Iowa Code chapter 147; and

(4) Shall meet a minimum of four hours per month with the supervisee; and

(5) Shall provide training that is appropriate to the functions to be performed; and

(6) Shall ensure that therapeutic work is done under the professional supervision of a supervisor; and

(7) Shall not supervise any mental health counselor or permit the supervisee to engage in any therapy which the supervisor cannot perform competently.

31.7(3) Rescinded IAB 7/6/05, effective 8/10/05.

31.7(4) An applicant who has obtained Certified Clinical Mental Health Counselor status with the National Board for Certified Counselors (NBCC) and submits a transcript sent directly from the school to the board is considered to have met the educational and clinical experience requirements of rules 31.6(154D) and 31.7(154D).

[ARC 7673B, IAB 4/8/09, effective 4/30/09]

645—31.8(154D) Licensure by endorsement. An applicant who has been a licensed marriage and family therapist or mental health counselor under the laws of another jurisdiction may file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;

2. Pays the licensure fee;

3. Shows evidence of licensure requirements that are similar to those required in Iowa;

4. Provides official transcripts sent directly from the school to the board verifying completion of a master's degree of 45 hours or equivalent if the applicant entered a program of study prior to July 1, 2010, or verifying completion of a master's degree of 60 hours or equivalent if the applicant entered a program of study on or after July 1, 2010, or the appropriate doctoral degree. After March 31, 2009, graduates from a non-CACREP-accredited mental health counselor program or a non-COAMFTE-accredited marital and family therapy program shall provide an equivalency evaluation of their educational credentials by the Center for Credentialing and Education, Inc. (CCE), Web site <http://cce-global.org>. The professional curriculum must be equivalent to that stated in these rules. Applicants shall bear the expense of the curriculum evaluation;

5. Supplies satisfactory evidence of the candidate's qualifications in writing on the prescribed forms by the candidate's supervisors. If verification of clinical experience is not available, the board may consider submission of documentation from the state in which the applicant is currently licensed or equivalent documentation of supervision; and

6. Provides verification(s) of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- Licensee's name;
- Date of initial licensure;
- Current licensure status; and

- Any disciplinary action taken against the license.

7. In lieu of the requirements listed in paragraphs “3” through “5” of this rule, a mental health counselor applicant may provide to the board evidence that the applicant has demonstrated appropriate qualifications at either tier 1 or tier 2 of the National Credentials Registry of the American Association of State Counseling Boards. The mental health counselor applicant shall have the National Credentials Registry of the American Association of State Counseling Boards send directly to the board official verification that the applicant has met the qualifications.

[ARC 7673B, IAB 4/8/09, effective 4/30/09]

645—31.9(147) Licensure by reciprocal agreement. Rescinded IAB 1/14/09, effective 2/18/09.

645—31.10(147) License renewal.

31.10(1) The biennial license renewal period for a license to practice marital and family therapy or mental health counseling shall begin on October 1 of an even-numbered year and end on September 30 of the next even-numbered year. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

31.10(2) An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

31.10(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—32.2(272C) and the mandatory reporting requirements of subrule 31.10(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

c. An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

31.10(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee’s employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

Training may be completed through separate courses as identified in paragraphs “a” and “b” or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs “a” to “c,” including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

- (1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 4.

f. The board may select licensees for audit of compliance with the requirements in paragraphs “a” to “e.”

31.10(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

31.10(6) A person licensed to practice as a marital and family therapist or mental health counselor shall keep the person’s license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

31.10(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 5.3(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

31.10(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice mental health counseling or marital and family therapy in Iowa until the license is reactivated. A licensee who practices mental health counseling or marital and family therapy in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—31.11(272C) Exemptions for inactive practitioners. Rescinded IAB 7/6/05, effective 8/10/05.

645—31.12(147) Licensee record keeping.

31.12(1) A licensee shall maintain sufficient, timely, and accurate documentation in client records.

31.12(2) For purposes of this rule, “client” means the individual, couple, family, or group to whom a licensee provides direct clinical services.

31.12(3) A licensee’s records shall reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

31.12(4) Clinical services. A licensee who provides clinical services in any employment setting, including private practice, shall:

a. Store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the licensee’s employer or agency, if applicable. If no other legal provisions govern record retention, a licensee shall store all client records for a minimum of seven years after the date of the client’s discharge or death, or, in the case of a minor, for three years after the client reaches the age of majority under state law or seven years after the date of the client’s discharge or death, whichever is longer.

b. Maintain timely records that include subjective and objective data, an assessment, a treatment plan, and any revisions to the assessment or plan made during the course of treatment.

c. Provide the client with reasonable access to records concerning the client. A licensee who is concerned that a client’s access to the client’s records could cause serious misunderstanding or harm to the client shall provide assistance in interpreting the records and consultation with the client regarding the records. A licensee may limit a client’s access to the client’s records, or portions of the records, only in exceptional circumstances when there is compelling evidence that such access would cause serious harm to the client. Both the client’s request for access and the licensee’s rationale for withholding some or all of a record shall be documented in the client’s records.

d. Take steps to protect the confidentiality of other individuals identified or discussed in any records to which a client is provided access.

31.12(5) Electronic record keeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the licensee shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

31.12(6) Correction of records.

a. Hard-copy records. Original notations shall be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the original record, it must be crossed out with a single, nondeleting line and be initialed and dated by the licensee.

b. Electronic records. If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

31.12(7) Confidentiality and transfer of records. Marital and family therapists or mental health counselors shall preserve the confidentiality of client records in accordance with their respective rules of conduct and with federal and state law. Upon receipt of a written release or authorization signed by the client, the licensee shall furnish such therapy records, or copies of the records, as will be beneficial for the future treatment of that client. A fee may be charged for duplication of records, but a licensee may not refuse to transfer records for nonpayment of any fees. A written request may be required before transferring the record(s).

31.12(8) Retirement, death or discontinuance of practice.

a. If a licensee is retiring or discontinuing practice and is the owner of a practice, the licensee shall notify in writing all active clients and, upon knowledge and agreement of the clients, shall make reasonable arrangements with those clients to transfer client records, or copies of those records, to the succeeding licensee.

b. Upon a licensee's death:

(1) The licensee's employer or representative must ensure that all client records are transferred to another licensee or entity that is held to the same standards of confidentiality and agrees to act as custodian of the records.

(2) The licensee's employer or representative shall notify each active client that the client's records will be transferred to another licensee or entity that will retain custody of the records and that, at the client's written request, the records will be sent to the licensee or entity of the client's choice.

31.12(9) Nothing stated in this rule shall prohibit a licensee from conveying or transferring the licensee's client records to another licensed individual who is assuming a practice, provided that written notice is furnished to all clients.

645—31.13(147) Duplicate certificate or wallet card. Rescinded IAB 1/14/09, effective 2/18/09.

645—31.14(147) Reissued certificate or wallet card. Rescinded IAB 1/14/09, effective 2/18/09.

645—31.15(17A,147,272C) License denial. Rescinded IAB 1/14/09, effective 2/18/09.

645—31.16(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

31.16(1) Submit a reactivation application on a form provided by the board.

31.16(2) Pay the reactivation fee that is due as specified in 645—Chapter 5.

31.16(3) Provide verification of current competence to practice mental health counseling or marital and family therapy by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;

3. Current licensure status; and
4. Any disciplinary action taken against the license; and
- (2) Verification of completion of 40 hours of continuing education within two years of the application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation.

645—31.17(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 31.16(17A,147,272C) prior to practicing mental health counseling or marital and family therapy in this state.

645—31.18(154D) Marital and family therapy and mental health counselor services subject to regulation. Marital and family therapy and mental health counselor services provided to an individual in this state through telephonic, electronic or other means, regardless of the location of the marital and family therapy and mental health counselor, shall constitute the practice of marital and family therapy and mental health counseling and shall be subject to regulation in Iowa.

These rules are intended to implement Iowa Code chapters 17A, 147, 154D and 272C.

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[Filed Emergency ARC 7673B, IAB 4/8/09, effective 4/30/09]

[◇] Two or more ARCs

¹ February 18, 2009, effective date of amendments to 645—31.4(154D) to 645—31.8(154D), **ARC 7476B**, Items 5 to 9, delayed 70 days by the Administrative Rules Review Committee at its meeting held February 6, 2009.

NURSING BOARD[655]

[Prior to 8/26/87, see Nursing, Board of[590], renamed Nursing Board[655]
under the "umbrella" of Public Health Department by 1986 Iowa Acts, ch 1245]

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CHAPTER 17
NONPAYMENT OF CHILD SUPPORT, STUDENT LOAN, OR STATE DEBT

DIVISION I
NONPAYMENT OF CHILD SUPPORT

655—17.1(252J) Definitions. The following definitions shall apply to rules 17.2(252J) and 17.3(252J) of this chapter.

“*Certificate*” means a document known as a certificate of noncompliance which is provided by the child support unit certifying that the named licensee is not in compliance with a support order or with a written agreement for payment of support entered into by the child support unit and the licensee.

“*Child support unit*” means the child support recovery unit of the Iowa department of human services.

“*Denial notice*” means a board notification denying an application for the issuance or renewal of a license as required by Iowa Code chapter 252J.

“*Revocation or suspension notice*” means a board notification suspending a license for an indefinite or specified period of time or a notification revoking a license as required by Iowa Code chapter 252J.

“*Withdrawal certificate*” means a document known as a withdrawal of a certificate of noncompliance provided by the child support unit certifying that the certificate is withdrawn and that the board may proceed with the issuance, reinstatement, or renewal of a license.

[ARC 7668B, IAB 4/8/09, effective 5/13/09]

655—17.2(252J) Denial of issuance or renewal of a license—nonpayment of child support. The board shall deny the issuance or renewal of a license upon the receipt of a certificate of noncompliance from the child support recovery unit of the department of human services according to the procedures set forth in Iowa Code chapter 252J. In addition to the procedures set forth in chapter 252J, this rule shall apply.

17.2(1) The notice required by Iowa Code section 252J.8 shall be served upon the licensee or applicant by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee or applicant may accept service personally or through authorized counsel.

17.2(2) The effective date of the denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the licensee or applicant.

17.2(3) The board’s executive director is authorized to prepare and serve the notice required by Iowa Code section 252J.8.

17.2(4) Licensees and applicants shall keep the board informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

17.2(5) All board fees for applications, license renewal, or license reinstatement must be paid by licensees or applicants, and all continuing education requirements must be met before a license will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license pursuant to Iowa Code chapter 252J.

17.2(6) In the event a licensee or applicant files a timely district court action following service of a board notice pursuant to Iowa Code sections 252J.8 and 252J.9, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

17.2(7) The board shall notify the licensee or applicant in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective

date of the denial of the issuance or renewal of a license, and shall similarly notify the licensee or applicant when the license is issued or renewed following the board's receipt of a withdrawal certificate. [ARC 7668B, IAB 4/8/09, effective 5/13/09]

655—17.3(252J) Suspension or revocation of a license—nonpayment of child support. The board shall suspend or revoke a license upon the receipt of a certificate of noncompliance from the child support recovery unit of the department of human services according to the procedures set forth in Iowa Code chapter 252J. In addition to the procedures set forth in chapter 252J, this rule shall apply.

17.3(1) The notice required by Iowa Code section 252J.8 shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel.

17.3(2) The effective date of revocation or suspension of a license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the licensee.

17.3(3) The board's executive officer is authorized to prepare and serve the notice required by Iowa Code section 252J.8 and is directed to notify the licensee that the license will be suspended unless the license is already suspended on other grounds. In the event the license is on suspension, the executive officer shall notify the licensee of the board's intent to revoke the license.

17.3(4) Licensees shall keep the board informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

17.3(5) All board fees for license renewal or reinstatement must be paid by licensees, and all continuing education requirements must be satisfied before a license will be renewed or reinstated after the board has suspended or revoked a license pursuant to Iowa Code chapter 252J.

17.3(6) In the event a licensee files a timely district court action following service of a board notice pursuant to Iowa Code sections 252J.8 and 252J.9, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of revocation or suspension of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

17.3(7) The board shall notify the licensee in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of the license, and shall similarly notify the licensee or applicant when the license is issued or renewed following the board's receipt of a withdrawal certificate. [ARC 7668B, IAB 4/8/09, effective 5/13/09]

DIVISION II
NONPAYMENT OF STUDENT LOAN

655—17.4(261) Definitions. The following definitions shall apply to rules 17.5(261) and 17.6(261) of this chapter.

“Certificate” means a document known as a certificate of noncompliance which is provided by the college student aid commission certifying that the named licensee is not in compliance with the terms of an agreement for payment of a student loan obligation.

“Commission” means the college student aid commission.

“Denial notice” means a board notification denying an application for the issuance or renewal of a license as required by Iowa Code chapter 261.

“Revocation or suspension notice” means a board notification suspending a license for an indefinite or specified period of time or a notification revoking a license as required by Iowa Code chapter 261.

“Withdrawal certificate” means a document known as a withdrawal of a certificate of noncompliance provided by the commission certifying that the certificate is withdrawn and that the board may proceed with the issuance, reinstatement, or renewal of a license.

[ARC 7668B, IAB 4/8/09, effective 5/13/09]

655—17.5(261) Denial of issuance or renewal of a license—nonpayment of student loan. The board shall deny the issuance or renewal of a license upon the receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code chapter 261. In addition to the procedures set forth in chapter 261, this rule shall apply.

17.5(1) The notice required by Iowa Code section 261.126 shall be served upon the licensee or applicant by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee or applicant may accept service personally or through authorized counsel.

17.5(2) The effective date of the denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the licensee or applicant.

17.5(3) The board’s executive director is authorized to prepare and serve the notice required by Iowa Code section 261.126.

17.5(4) Licensees and applicants shall keep the board informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 261.127, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

17.5(5) All board fees for applications, license renewal, or license reinstatement must be paid by licensees or applicants, and all continuing education requirements must be met before a license will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license pursuant to Iowa Code chapter 261.

17.5(6) In the event a licensee or applicant files a timely district court action following service of a board notice pursuant to Iowa Code sections 261.126 and 261.127, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

17.5(7) The board shall notify the licensee or applicant in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license, and shall similarly notify the licensee or applicant when the license is issued or renewed following the board’s receipt of a withdrawal certificate.

[ARC 7668B, IAB 4/8/09, effective 5/13/09]

655—17.6(261) Suspension or revocation of a license—nonpayment of student loan. The board shall suspend or revoke a license upon the receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code chapter 261. In addition to the procedures set forth in chapter 261, this rule shall apply.

17.6(1) The notice required by Iowa Code section 261.126 shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel.

17.6(2) The effective date of revocation or suspension of a license, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the licensee.

17.6(3) The board’s executive officer is authorized to prepare and serve the notice required by Iowa Code section 261.126 and is directed to notify the licensee that the license will be suspended unless the license is already suspended on other grounds. In the event the license is on suspension, the executive officer shall notify the licensee of the board’s intent to revoke the license.

17.6(4) Licensees shall keep the board informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 261.127, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

17.6(5) All board fees for license renewal or reinstatement must be paid by licensees, and all continuing education requirements must be satisfied before a license will be renewed or reinstated after the board has suspended or revoked a license pursuant to Iowa Code chapter 261.

17.6(6) In the event a licensee files a timely district court action following service of a board notice pursuant to Iowa Code sections 261.126 and 261.127, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of revocation or suspension of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

17.6(7) The board shall notify the licensee in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of the license, and shall similarly notify the licensee or applicant when the license is issued or renewed following the board's receipt of a withdrawal certificate.

[ARC 7668B, IAB 4/8/09, effective 5/13/09]

DIVISION III
NONPAYMENT OF STATE DEBT

655—17.7(272D) Definitions. The following definitions shall apply to rules 17.8(272D) and 17.9(272D) of this chapter.

“Centralized collection unit” means the centralized collection unit of the department of revenue.

“Certificate” means a document known as a certificate of noncompliance which is provided by the centralized collection unit of the department of revenue certifying that the named licensee has an outstanding liability placed with the unit and has not entered into an approved payment plan to pay the liability.

“Denial notice” means a board notification denying an application for the issuance or renewal of a license as required by Iowa Code chapter 272D.

“Revocation or suspension notice” means a board notification suspending a license for an indefinite or specified period of time or a notification revoking a license as required by Iowa Code chapter 272D.

“Withdrawal certificate” means a document known as a withdrawal of a certificate of noncompliance provided by the centralized collection unit certifying that the certificate is withdrawn and that the board may proceed with the issuance, reinstatement, or renewal of a license.

[ARC 7668B, IAB 4/8/09, effective 5/13/09]

655—17.8(272D) Denial of issuance or renewal of a license—nonpayment of state debt. The board shall deny the issuance or renewal of a license upon the receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue according to the procedures set forth in Iowa Code chapter 272D. In addition to the procedures set forth in chapter 272D, this rule shall apply.

17.8(1) The notice required by Iowa Code section 272D.8 shall be served upon the licensee or applicant by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee or applicant may accept service personally or through authorized counsel.

17.8(2) The effective date of the denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 272D.8, shall be 60 days following service of the notice upon the licensee or applicant.

17.8(3) The board's executive director is authorized to prepare and serve the notice required by Iowa Code section 272D.8.

17.8(4) Licensees and applicants shall keep the board informed of all court actions and all centralized collection unit actions taken under or in connection with Iowa Code chapter 272D and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

17.8(5) All board fees for applications, license renewal, or license reinstatement must be paid by licensees or applicants, and all continuing education requirements must be met before a license will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license pursuant to Iowa Code chapter 272D.

17.8(6) In the event a licensee or applicant files a timely district court action following service of a board notice pursuant to Iowa Code sections 272D.8 and 272D.9, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

17.8(7) The board shall notify the licensee or applicant in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license, and shall similarly notify the licensee or applicant when the license is issued or renewed following the board's receipt of a withdrawal certificate. [ARC 7668B, IAB 4/8/09, effective 5/13/09]

655—17.9(272D) Suspension or revocation of a license—nonpayment of state debt. The board shall suspend or revoke a license upon the receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue according to the procedures set forth in Iowa Code chapter 272D. In addition to the procedures set forth in chapter 272D, this rule shall apply.

17.9(1) The notice required by Iowa Code section 272D.8 shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel.

17.9(2) The effective date of revocation or suspension of a license, as specified in the notice required by Iowa Code section 272D.8, shall be 60 days following service of the notice upon the licensee.

17.9(3) The board's executive officer is authorized to prepare and serve the notice required by Iowa Code section 272D.8 and is directed to notify the licensee that the license will be suspended unless the license is already suspended on other grounds. In the event the license is on suspension, the executive officer shall notify the licensee of the board's intent to revoke the license.

17.9(4) Licensees shall keep the board informed of all court actions and all centralized collection unit actions taken under or in connection with Iowa Code chapter 272D and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

17.9(5) All board fees for license renewal or reinstatement must be paid by licensees, and all continuing education requirements must be satisfied before a license will be renewed or reinstated after the board has suspended or revoked a license pursuant to Iowa Code chapter 272D.

17.9(6) In the event a licensee files a timely district court action following service of a board notice pursuant to Iowa Code sections 272D.8 and 272D.9, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of revocation or suspension of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

17.9(7) The board shall notify the licensee in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the

suspension or revocation of the license, and shall similarly notify the licensee or applicant when the license is issued or renewed following the board's receipt of a withdrawal certificate.

[ARC 7668B, IAB 4/8/09, effective 5/13/09]

These rules are intended to implement Iowa Code chapters 252J, 261, and 272D.

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CHAPTER 18
STUDENT LOAN DEFAULT OR NONCOMPLIANCE
Rescinded IAB 4/8/09, effective 5/13/09

REVENUE DEPARTMENT[701]

Created by 1986 Iowa Acts, Chapter 1245.

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701—239.1(423B) Urban renewal project. An eligible city may by ordinance of the city council provide for the use of a designated amount of the increased local sales and services tax revenues collected under this chapter which are attributable to retail establishments in an urban renewal area to fund urban renewal projects located in the urban renewal area. The designated amount may be all or a portion of such increased revenues.

[ARC 7666B, IAB 4/8/09, effective 5/13/09]

701—239.2(423B) Definitions. For purposes of this chapter, unless the context otherwise requires, the following definitions shall apply:

“*Base year*” means the fiscal year during which the ordinance is adopted that provides for funding of an urban renewal project by a designated amount of the increased sales and services tax revenues, as referenced in 239.1(423B).

“*Eligible city*” means:

1. A city in which a local sales and services tax imposed by the county applies; or
2. A city whose corporate boundaries include areas of two counties that may impose by ordinance of their city councils a local sales and services tax if all of the following apply:

- At least 85 percent of the residents of the city live in one county.
- The county in which at least 85 percent of the city residents reside has held an election on the question of the imposition of a local sales and services tax and a majority of those voting on the question in the city favored its imposition.

- The city has entered into an agreement on the distribution of the sales and services tax revenues collected from the area where the city tax is imposed with the county where such area is located, and in which an urban renewal area has been designated.

“*Local sales and services tax*” means the local tax imposed by a jurisdiction pursuant to an election authorized by Iowa Code section 423B.1.

“*Retail establishment*” means a business required to obtain a sales tax permit as required by Iowa Code section 423.36.

“*Retail properties*” means an area of property in which more than one retail establishment is located.

“*Urban renewal area*” means a slum area, blighted area, economic development area, or a combination of such areas, which the local governing body designates as appropriate for an urban renewal project as allowed under Iowa Code chapter 403.

“*Urban renewal project*” may include undertakings and activities of a municipality in an urban renewal area for the elimination and for the prevention of the development or spread of slums and blight, may include the designation and development of an economic development area in an urban renewal area, and may involve slum clearance and redevelopment in an urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal program as allowed under Iowa Code chapter 403.

[ARC 7666B, IAB 4/8/09, effective 5/13/09]

701—239.3(423B) Establishing sales and revenue growth. For purposes of establishing the sales amount in the base year and the revenue growth in subsequent fiscal years, the department will calculate sales made by retail establishments located within the urban renewal area.

[ARC 7666B, IAB 4/8/09, effective 5/13/09]

701—239.4(423B) Requirements for cities adopting an ordinance.

239.4(1) At least 90 days following the adoption of an ordinance, an eligible city must notify the director of the department of revenue of its intent to pursue funding for an urban renewal project based upon the increase in local sales and services tax revenue. The notification must include the following information:

a. A copy of the urban renewal plan and the resolution adopting the city’s urban renewal plan;

- b.* A copy of the adopted ordinance, including:
 - (1) The current and original, if applicable, purpose or purposes for which the local option sales and services tax was enacted; and
 - (2) The amount and proportion of revenue that will be redistributed from each current revenue purpose to fund urban renewal within the urban renewal area;
- c.* The legal description of the urban renewal area covered by the ordinance;
- d.* A map showing the geographic boundaries of the urban renewal area; and
- e.* A geographic information system boundary file, if available, showing the geographic boundaries of the urban renewal area.

239.4(2) Each urban renewal area must have its own separate ordinance, and the department shall be notified separately for each urban renewal area.

239.4(3) Notification shall be mailed or otherwise submitted to: Director, Iowa Department of Revenue, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319.
[ARC 7666B, IAB 4/8/09, effective 5/13/09]

701—239.5(423B) Identification of retail establishments. The eligible city shall assist the department of revenue in identifying retail establishments in the urban renewal area that are collecting the local sales and services tax. The department of revenue will identify sales tax permit holders within the urban renewal area using the geographic information system boundary file, if available, provided to the department. If no boundary file is provided, the department will rely upon the map submitted by the eligible city. If any of the urban renewal area boundaries submitted are street centerlines, the information provided to the department shall indicate whether only retail establishments within the bounded area should be considered part of the urban renewal area, or if in addition to the retail establishments within the bounded area, retail establishments immediately adjacent to the bounded area should also be included.
[ARC 7666B, IAB 4/8/09, effective 5/13/09]

701—239.6(423B) Calculation of base year taxable sales amount. The base year taxable sales and services amount will be the total taxable sales and services subject to the local sales and services tax that are made by retail establishments within the urban renewal area during the base year.
[ARC 7666B, IAB 4/8/09, effective 5/13/09]

701—239.7(423B) Determination of tax growth increment amount. The local sales and services tax growth increment amount for the urban renewal area will be computed for each fiscal year following the base year. The annual local option sales and services tax growth increment amount is equal to the current year taxable sales and services subject to the local sales and services tax that are made by retail establishments located in the urban renewal area minus the corresponding base year taxable sales and services amount for the urban renewal area multiplied by the current local sales and services tax rate applicable to the jurisdiction.
[ARC 7666B, IAB 4/8/09, effective 5/13/09]

701—239.8(423B) Distribution of tax base and growth increment amounts. The revenues from the local sales and services tax growth amount for urban renewal areas in jurisdictions that have enacted ordinances pursuant to Iowa Code section 423B.10 shall be determined annually and shall be distributed to the city within 120 days following the end of the fiscal year in which they are collected.
[ARC 7666B, IAB 4/8/09, effective 5/13/09]

701—239.9(423B) Example. City A has an urban renewal area that covers a large portion of its downtown. City A also has in place a 1 percent local sales and services tax. On October 30, 2008, City A's City Council enacts an ordinance that establishes the urban renewal area as a local sales and services tax increment district. The ordinance also designates 100 percent of the tax growth increment amount to the special city account.

The base year taxable sales amount for the urban renewal area will equal the amount of taxable sales made by retail establishments in the urban renewal area for the fiscal year in which the ordinance was

adopted. Assume City A's urban renewal area has \$10,050,000 in taxable sales during the 2008-2009 fiscal year.

At the end of the fiscal year following the fiscal year in which the ordinance was adopted (June 30, 2010, in this example), City A's urban renewal area has taxable sales of \$25,000,000. To determine the tax growth increment amount, the department subtracts the base year taxable sales amount from fiscal year two's taxable sales amount then multiplies the remainder by the local sales and services tax rate of 1 percent as follows:

$$\$25,000,000 - \$10,050,000 = \$14,950,000$$

$$\$14,950,000 \times .01 = \$149,500$$

The result is a tax growth increment amount of \$149,500. The department of revenue will deposit \$149,500 into the city's special account no later than November 10 following the end of the fiscal year.
[ARC 7666B, IAB 4/8/09, effective 5/13/09]

701—239.10(423B) Ordinance term. An ordinance under this chapter is repealed when the plan for the urban renewal area expires or terminates or 20 years after adoption of the ordinance, whichever is the earlier.

[ARC 7666B, IAB 4/8/09, effective 5/13/09]

These rules are intended to implement Iowa Code chapter 423B sections 1, 7 and 10.

[Filed ARC 7666B (Notice ARC 7531B, IAB 1/28/09), IAB 4/8/09, effective 5/13/09]

CHAPTER 10
GENERAL INDUSTRY SAFETY AND HEALTH RULES

[Prior to 9/24/86, Labor, Bureau of [530]]

[Prior to 10/7/98, see 347—Ch 10]

875—10.1(88) Definitions. As used in these rules, unless the context clearly requires otherwise:

“*Part*” means 875—Chapter 10, Iowa Administrative Code.

“*Standard*” means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

875—10.2(88) Applicability of standards.

10.2(1) None of the standards in this chapter shall apply to working conditions of employees with respect to which federal agencies other than the United States Department of Labor, exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

10.2(2) If a particular standard is specifically applicable to a condition, practice, means, method, operation, or process, it shall prevail over any different general standard which might otherwise be applicable to the same condition, practice, means, method, operation, or process.

10.2(3) However, any standard shall apply according to its terms to any employment and place of employment in any industry, even though particular standards are also prescribed for the industry, as in 1910.12, 1910.261, 1910.262, 1910.263, 1910.264, 1910.265, 1910.266, 1910.267, and 1910.268 of 29 CFR 1910, to the extent that none of such particular standards applies.

10.2(4) In the event a standard protects on its face a class of persons larger than employees, the standard shall be applicable under this part only to employees and their employment and places of employment.

10.2(5) An employer who is in compliance with any standard in this part shall be deemed to be in compliance with the requirement of Iowa Code section 88.4, but only to the extent of the condition, practice, means, method, operation or process covered by the standard.

875—10.3(88) Incorporation by reference. The standards of agencies of the U.S. Government, and organizations which are not agencies of the U.S. Government which are incorporated by reference in this chapter have the same force and effect as other standards in this chapter. Only mandatory provisions (i.e., provisions containing the word “shall” or other mandatory language) of standards incorporated by reference are adopted under the Act.

875—10.4(88) Exception for hexavalent chromium exposure in metal and surface finishing job shops. Prior to December 31, 2008, for employers that comply with the requirements of this rule, the labor commissioner shall enforce respiratory protection provisions only with respect to employees who fall into one of the six categories outlined in Paragraph 4, Appendix A, 29 CFR 1910.1026, except that the phrase “Exhibit B to this Agreement” shall refer to Exhibit B, Appendix A, 29 CFR 1910.1026. This exception is limited to the narrow circumstances outlined below and shall expire on May 31, 2010.

10.4(1) Eligibility. An employer’s facility is eligible for this exception if the employer is a member of the Surface Finishing Industry Council or the facility is a surface-finishing or metal-finishing job shop that sells plating or anodizing services to other companies.

10.4(2) Participation. To be covered by this exception, eligible employers must complete and submit a Declaration of Participation via mail to the Labor Commissioner, 1000 East Grand Avenue, Des Moines, Iowa 50319, or via facsimile to (515)281-7995. Declarations of Participation must be postmarked or received on or before April 7, 2007. Each declaration shall apply only to one facility. Declaration of Participation forms are available at <http://www.iowaworkforce.org/labor/iosh/index.html> or by calling (515)242-5870.

10.4(3) Applicability. This exception applies only to surface- and metal-finishing operations within covered facilities.

10.4(4) Feasible engineering controls. Participating employers must implement feasible engineering controls necessary to reduce hexavalent chromium levels at their facilities to or below five micrograms per cubic meter of air calculated as an eight-hour, time-weighted average by December 31, 2008. In fulfilling this obligation, participating employers may select from the engineering and work practice controls listed in Exhibit A, Appendix A, 29 CFR 1910.1026, or may adopt other controls.

10.4(5) Employee training. Participating employers shall train their employees in accordance with the provisions of 29 CFR 1910.1026(l)(2). Using language the employees can understand, participating employers will also train their employees on the provisions of this exception no later than June 7, 2007.

10.4(6) Compliance and monitoring. Participating employers shall comply with the requirements set forth in Paragraphs 3 and 4, Appendix A, 29 CFR 1910.1026, except that as used in Appendix A:

- a. The acronym “OSHA” shall refer to the labor commissioner;
- b. The word “Company” shall refer to employers participating in this exception;
- c. The word “Agreement” shall refer to this rule; and
- d. The phrase “Exhibit B to this Agreement” shall refer to Exhibit B, Appendix A, 29 CFR 1910.1026.

875—10.5 and 10.6 Reserved.

875—10.7(88) Definitions and requirements for a nationally recognized testing laboratory. The federal regulations adopted at 29 CFR, Chapter XVII, Part 1910, regulation 1910.7 and Appendix A, as published at 53 Fed. Reg. 12120 (April 12, 1988) and amended at 53 Fed. Reg. 16838 (May 11, 1988), 54 Fed. Reg. 24333 (June 7, 1989) and 65 Fed. Reg. 46818 (July 31, 2000) are adopted by reference.

875—10.8 to 10.11 Reserved.

875—10.12(88) Construction work.

10.12(1) Standards. The standards prescribed in 875—Chapter 26 are adopted as occupational safety and health standards and shall apply, according to the provisions thereof, to every employment and place of employment of every employee engaged in construction work. Each employer shall protect the employment and places of employment of each employee engaged in construction work by complying with the provisions of 875—Chapter 26.

10.12(2) Definition. For the purpose of this rule, “*construction work*” means work for construction, alteration, or repair including painting and redecorating, and where applicable, the erection of new electrical transmission and distribution lines and equipment, and the alteration, conversion, and improvement of the existing transmission and distribution lines and equipment. This incorporation by reference of 875—Chapter 26 (Part 1926) is not intended to include references to interpretative rules having relevance to the application of the construction safety Act, but having no relevance to the application of Iowa Code chapter 88.

875—10.13 to 10.18 Reserved.

875—10.19(88) Special provisions for air contaminants.

10.19(1) Asbestos, tremolite, anthophyllite, and actinolite dust. Reserved.

10.19(2) Vinyl chloride. Rule 1910.1017 of the federal rules as adopted by reference in 875—10.20(88) shall apply to the exposure of every employee to vinyl chloride in every employment and place of employment covered by 875—10.12(88), in lieu of any different standard on exposure to vinyl chloride which would otherwise be applicable by virtue of any rule adopted in 875—Chapter 26.

10.19(3) Acrylonitrile. Rule 1910.1045 of the federal rules as adopted by reference in 875—10.20(88) shall apply to the exposure of every employee to acrylonitrile in every employment and place of employment covered by 875—10.12(88), in lieu of any different standard on exposure to acrylonitrile which would otherwise be applicable by virtue of any rule adopted in 875—Chapter 26.

10.19(4) Inorganic arsenic. Rule 1910.1018 of the federal rules as adopted by reference in 875—10.20(88) shall apply to the exposure of every employee to inorganic arsenic in every employment

and place of employment covered by 875—10.12(88), in lieu of any different standard on exposure to inorganic arsenic which would otherwise be applicable by virtue of any rule adopted in 875—Chapter 26.

10.19(5) Rescinded, effective 6/10/87.

10.19(6) *Lead*. Rescinded IAB 8/5/92, effective 8/5/92.

10.19(7) *Ethylene oxide*. Rule 1910.1047 of the federal rules as adopted by reference in 875—10.20(88) shall apply to the exposure of every employee to ethylene oxide in every employment and place of employment covered by 875—10.12(88), in lieu of any different standard on exposure to ethylene oxide which would otherwise be applicable by virtue of any rule adopted in 875—Chapter 26.

10.19(8) *Benzene*. Rule 1910.1028 of the federal rules as adopted by reference in 875—10.20(88) shall apply to the exposure of every employee to benzene in every place of employment covered by 875—10.12(88), in lieu of any different standard on exposure to benzene which would otherwise be applicable by virtue of any rule adopted in 875—Chapter 26.

10.19(9) *Formaldehyde*. Rule 1910.1048 of the federal rules as adopted by reference in 875—10.20(88) shall apply to the exposure of every employee to formaldehyde in every place of employment covered by 875—10.12(88), in lieu of any different standard on exposure to formaldehyde which would otherwise be applicable by virtue of any rule adopted in 875—Chapter 26.

10.19(10) *Methylene chloride*. Rule 1910.1052 of the federal rules as adopted by reference in 875—10.20(88) shall apply to the exposure of every employee to methylene chloride in every employment and place of employment covered by 875—10.12(88) in lieu of any different standard on exposure to methylene chloride which would otherwise be applicable by virtue of any rule adopted in 875—Chapter 26.

875—10.20(88) Adoption by reference. The rules beginning at 1910.20 and continuing through 1910, as adopted by the United States Secretary of Labor shall be the rules for implementing Iowa Code chapter 88. This rule adopts the Federal Occupational Safety and Health Standards of 29 CFR, Chapter XVII, Part 1910 as published at 37 Fed. Reg. 22102 to 22324 (October 18, 1972) and as amended at:

37 Fed. Reg. 23719 (November 8, 1972)
37 Fed. Reg. 24749 (November 21, 1972)
38 Fed. Reg. 3599 (February 8, 1973)
38 Fed. Reg. 9079 (April 10, 1973)
38 Fed. Reg. 10932 (May 3, 1973)
38 Fed. Reg. 14373 (June 1, 1973)
38 Fed. Reg. 16223 (June 21, 1973)
38 Fed. Reg. 19030 (July 17, 1973)
38 Fed. Reg. 27048 (September 28, 1973)
38 Fed. Reg. 28035 (October 11, 1973)
38 Fed. Reg. 33397 (December 4, 1973)
39 Fed. Reg. 1437 (January 9, 1974)
39 Fed. Reg. 3760 (January 29, 1974)
39 Fed. Reg. 6110 (February 19, 1974)
39 Fed. Reg. 9958 (March 15, 1974)
39 Fed. Reg. 19468 (June 3, 1974)
39 Fed. Reg. 35896 (October 4, 1974)
39 Fed. Reg. 41846 (December 3, 1974)
39 Fed. Reg. 41848 (December 3, 1974)
40 Fed. Reg. 3982 (January 27, 1975)
40 Fed. Reg. 13439 (March 26, 1975)
40 Fed. Reg. 18446 (April 28, 1975)
40 Fed. Reg. 23072 (May 28, 1975)
40 Fed. Reg. 23743 (June 2, 1975)
40 Fed. Reg. 24522 (June 9, 1975)

40 Fed. Reg. 27369 (June 27, 1975)
40 Fed. Reg. 31598 (July 28, 1975)
41 Fed. Reg. 11504 (March 19, 1976)
41 Fed. Reg. 13352 (March 30, 1976)
41 Fed. Reg. 35184 (August 20, 1976)
41 Fed. Reg. 46784 (October 22, 1976)
41 Fed. Reg. 55703 (December 21, 1976)
42 Fed. Reg. 2956 (January 14, 1977)
42 Fed. Reg. 3304 (January 18, 1977)
42 Fed. Reg. 45544 (September 9, 1977)
42 Fed. Reg. 46540 (September 16, 1977)
42 Fed. Reg. 37668 (July 22, 1977)
43 Fed. Reg. 11527 (March 17, 1978)
43 Fed. Reg. 19624 (May 5, 1978)
43 Fed. Reg. 27394 (June 23, 1978)
43 Fed. Reg. 27434 (June 23, 1978)
43 Fed. Reg. 28472 (June 30, 1978)
43 Fed. Reg. 28473 (June 30, 1978)
43 Fed. Reg. 31330 (July 21, 1978)
43 Fed. Reg. 35032 (August 8, 1978)
43 Fed. Reg. 45809 (October 3, 1978)
43 Fed. Reg. 49744 (October 24, 1978)
43 Fed. Reg. 51759 (November 7, 1978)
43 Fed. Reg. 53007 (November 14, 1978)
43 Fed. Reg. 56893 (December 5, 1978)
43 Fed. Reg. 57602 (December 8, 1978)
44 Fed. Reg. 5447 (January 26, 1979)
44 Fed. Reg. 50338 (August 28, 1979)
44 Fed. Reg. 60981 (October 23, 1979)
44 Fed. Reg. 68827 (November 30, 1979)
45 Fed. Reg. 6713 (January 29, 1980)
45 Fed. Reg. 8594 (February 8, 1980)
45 Fed. Reg. 12417 (February 26, 1980)
45 Fed. Reg. 35277 (May 23, 1980)
45 Fed. Reg. 41634 (June 20, 1980)
45 Fed. Reg. 54333 (August 15, 1980)
45 Fed. Reg. 60703 (September 12, 1980)
46 Fed. Reg. 4056 (January 16, 1981)
46 Fed. Reg. 6288 (January 21, 1981)
46 Fed. Reg. 24557 (May 1, 1981)
46 Fed. Reg. 32022 (June 19, 1981)
46 Fed. Reg. 40185 (August 7, 1981)
46 Fed. Reg. 2632 (August 21, 1981)
46 Fed. Reg. 42632 (August 21, 1981)
46 Fed. Reg. 45333 (September 11, 1981)
46 Fed. Reg. 60775 (December 11, 1981)
47 Fed. Reg. 39161 (September 7, 1982)
47 Fed. Reg. 51117 (November 12, 1982)
47 Fed. Reg. 53365 (November 26, 1982)
48 Fed. Reg. 2768 (January 21, 1983)
48 Fed. Reg. 9641 (March 8, 1983)
48 Fed. Reg. 9776 (March 8, 1983)

48 Fed. Reg. 29687 (June 28, 1983)
49 Fed. Reg. 881 (January 6, 1984)
49 Fed. Reg. 4350 (February 3, 1984)
49 Fed. Reg. 5321 (February 10, 1984)
49 Fed. Reg. 25796 (June 22, 1984)
50 Fed. Reg. 1050 (January 9, 1985)
50 Fed. Reg. 4648 (February 1, 1985)
50 Fed. Reg. 9800 (March 12, 1985)
50 Fed. Reg. 36992 (September 11, 1985)
50 Fed. Reg. 37353 (September 13, 1985)
50 Fed. Reg. 41494 (October 11, 1985)
50 Fed. Reg. 51173 (December 13, 1985)
51 Fed. Reg. 22733 (June 20, 1986)
51 Fed. Reg. 24325 (July 3, 1986)
51 Fed. Reg. 25053 (July 10, 1986)
51 Fed. Reg. 33033 (September 18, 1986)
51 Fed. Reg. 33260 (September 19, 1986)
51 Fed. Reg. 34560 (September 29, 1986)
51 Fed. Reg. 45663 (December 19, 1986)
52 Fed. Reg. 16241 (May 4, 1987)
52 Fed. Reg. 17753 (May 12, 1987)
52 Fed. Reg. 34562 (September 11, 1987)
52 Fed. Reg. 36026 (September 25, 1987)
52 Fed. Reg. 36387 (September 28, 1987)
52 Fed. Reg. 46291 (December 4, 1987)
52 Fed. Reg. 49624 (December 31, 1987)
53 Fed. Reg. 6629 (March 2, 1988)
53 Fed. Reg. 8352 (March 14, 1988)
53 Fed. Reg. 11436 (April 6, 1988)
53 Fed. Reg. 12120 (April 12, 1988)
53 Fed. Reg. 16838 (May 11, 1988)
53 Fed. Reg. 17695 (May 18, 1988)
53 Fed. Reg. 27346 (July 20, 1988)
53 Fed. Reg. 27960 (July 26, 1988)
53 Fed. Reg. 34736 (September 8, 1988)
53 Fed. Reg. 35625 (September 14, 1988)
53 Fed. Reg. 37080 (September 23, 1988)
53 Fed. Reg. 38162 (September 29, 1988)
53 Fed. Reg. 39581 (October 7, 1988)
53 Fed. Reg. 45080 (November 8, 1988)
53 Fed. Reg. 47188 (November 22, 1988)
53 Fed. Reg. 49981 (December 13, 1988)
54 Fed. Reg. 2920 (January 19, 1989)
54 Fed. Reg. 6888 (February 15, 1989)
54 Fed. Reg. 9317 (March 6, 1989)
54 Fed. Reg. 12792 (March 28, 1989)
54 Fed. Reg. 28054 (July 5, 1989)
54 Fed. Reg. 29274 (July 11, 1989)
54 Fed. Reg. 29545 (July 13, 1989)
54 Fed. Reg. 30704 (July 21, 1989)
54 Fed. Reg. 31456 (July 28, 1989)
54 Fed. Reg. 31765 (August 1, 1989)

54 Fed. Reg. 36687 (September 1, 1989)
54 Fed. Reg. 36767 (September 5, 1989)
54 Fed. Reg. 37531 (September 11, 1989)
54 Fed. Reg. 41364 (October 6, 1989)
54 Fed. Reg. 46610 (November 6, 1989)
54 Fed. Reg. 47513 (November 15, 1989)
54 Fed. Reg. 49971 (December 4, 1989)
54 Fed. Reg. 50372 (December 6, 1989)
54 Fed. Reg. 52024 (December 20, 1989)
55 Fed. Reg. 3146 (January 30, 1990)
55 Fed. Reg. 3300 (January 31, 1990)
55 Fed. Reg. 3723 (February 5, 1990)
55 Fed. Reg. 4998 (February 13, 1990)
55 Fed. Reg. 7967 (March 6, 1990)
55 Fed. Reg. 12110 (March 30, 1990)
55 Fed. Reg. 12819 (April 6, 1990)
55 Fed. Reg. 13696 (April 11, 1990)
55 Fed. Reg. 14073 (April 13, 1990)
55 Fed. Reg. 19259 (May 9, 1990)
55 Fed. Reg. 25094 (June 10, 1990)
55 Fed. Reg. 26431 (June 28, 1990)
55 Fed. Reg. 32014 (August 6, 1990)
55 Fed. Reg. 38677 (September 20, 1990)
55 Fed. Reg. 46053 (November 1, 1990)
55 Fed. Reg. 46949 (November 8, 1990)
55 Fed. Reg. 50686 (December 10, 1990)
56 Fed. Reg. 15832 (April 18, 1991)
56 Fed. Reg. 24686 (May 31, 1991)
56 Fed. Reg. 43700 (September 4, 1991)
56 Fed. Reg. 64175 (December 6, 1991)
57 Fed. Reg. 6403 (February 24, 1992)
57 Fed. Reg. 7847 (March 4, 1992)
57 Fed. Reg. 7878 (March 5, 1992)
57 Fed. Reg. 22307 (May 27, 1992)
57 Fed. Reg. 24330 (June 8, 1992)
57 Fed. Reg. 24701 (June 10, 1992)
57 Fed. Reg. 27160 (June 18, 1992)
57 Fed. Reg. 29204 (July 1, 1992)
57 Fed. Reg. 29206 (July 1, 1992)
57 Fed. Reg. 35666 (August 10, 1992)
57 Fed. Reg. 42388 (September 14, 1992)
58 Fed. Reg. 4549 (January 14, 1993)
58 Fed. Reg. 15089 (March 19, 1993)
58 Fed. Reg. 16496 (March 29, 1993)
58 Fed. Reg. 21778 (April 23, 1993)
58 Fed. Reg. 34845 (June 29, 1993)
58 Fed. Reg. 35308 (June 30, 1993)
58 Fed. Reg. 35340 (June 30, 1993)
58 Fed. Reg. 40191 (July 27, 1993)
59 Fed. Reg. 4435 (January 31, 1994)
59 Fed. Reg. 6169 (February 9, 1994)
59 Fed. Reg. 16360 (April 6, 1994)

59 Fed. Reg. 26115 (May 19, 1994)
59 Fed. Reg. 33661 (June 30, 1994)
59 Fed. Reg. 33910 (July 1, 1994)
59 Fed. Reg. 36699 (July 19, 1994)
59 Fed. Reg. 40729 (August 9, 1994)
59 Fed. Reg. 41057 (August 10, 1994)
59 Fed. Reg. 43270 (August 22, 1994)
59 Fed. Reg. 51741 (October 12, 1994)
59 Fed. Reg. 65948 (December 22, 1994)
60 Fed. Reg. 9624 (February 21, 1995)
60 Fed. Reg. 11194 (March 1, 1995)
60 Fed. Reg. 33344 (June 28, 1995)
60 Fed. Reg. 33984 (June 29, 1995)
60 Fed. Reg. 47035 (September 8, 1995)
60 Fed. Reg. 52859 (October 11, 1995)
61 Fed. Reg. 5508 (February 13, 1996)
61 Fed. Reg. 9230 (March 7, 1996)
61 Fed. Reg. 9583 (March 8, 1996)
61 Fed. Reg. 19548 (May 2, 1996)
61 Fed. Reg. 21228 (May 9, 1996)
61 Fed. Reg. 31430 (June 20, 1996)
61 Fed. Reg. 43456 (August 23, 1996)
61 Fed. Reg. 56831 (November 4, 1996)
62 Fed. Reg. 1600 (January 10, 1997)
62 Fed. Reg. 29668 (June 2, 1997)
62 Fed. Reg. 40195 (July 25, 1997)
62 Fed. Reg. 42018 (August 4, 1997)
62 Fed. Reg. 42666 (August 8, 1997)
62 Fed. Reg. 43581 (August 14, 1997)
62 Fed. Reg. 48175 (September 15, 1997)
62 Fed. Reg. 54383 (October 20, 1997)
62 Fed. Reg. 65203 (December 11, 1997)
62 Fed. Reg. 66276 (December 18, 1997)
63 Fed. Reg. 1269 (January 8, 1998)
63 Fed. Reg. 13339 (March 19, 1998)
63 Fed. Reg. 17093 (April 8, 1998)
63 Fed. Reg. 20098 (April 23, 1998)
63 Fed. Reg. 33467 (June 18, 1998)
63 Fed. Reg. 50729 (September 22, 1998)
63 Fed. Reg. 66038 (December 1, 1998)
63 Fed. Reg. 66270 (December 1, 1998)
64 Fed. Reg. 13700 (March 22, 1999)
64 Fed. Reg. 13908 (March 23, 1999)
64 Fed. Reg. 22552 (April 27, 1999)
65 Fed. Reg. 76567 (December 7, 2000)
66 Fed. Reg. 5324 (January 18, 2001)
66 Fed. Reg. 18191 (April 6, 2001)
67 Fed. Reg. 67961 (November 7, 2002)
68 Fed. Reg. 75780 (December 31, 2003)
69 Fed. Reg. 7363 (February 17, 2004)
69 Fed. Reg. 31881 (June 8, 2004)
69 Fed. Reg. 46993 (August 4, 2004)

70 Fed. Reg. 53929 (September 13, 2005)
 70 Fed. Reg. 1140 (January 5, 2005)
 71 Fed. Reg. 10373 (February 28, 2006)
 71 Fed. Reg. 36008 (June 23, 2006)
 71 Fed. Reg. 63242 (October 30, 2006)
 72 Fed. Reg. 7190 (February 14, 2007)
 72 Fed. Reg. 64428 (November 15, 2007)
 72 Fed. Reg. 71068 (December 14, 2007)
 73 Fed. Reg. 75583 (December 12, 2008)
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CHAPTER 26
CONSTRUCTION SAFETY AND HEALTH RULES

[Prior to 9/24/86, Labor, Bureau of [530]]

[Prior to 10/7/98, see 347—Ch 26]

875—26.1(88) Adoption by reference. Federal Safety and Health Regulations for Construction beginning at 29 CFR 1926.16 and continuing through 29 CFR, Chapter XVII, Part 1926, are hereby adopted by reference for implementation of Iowa Code chapter 88. These federal rules shall apply and be interpreted to apply to the Iowa Occupational Safety and Health Act, Iowa Code chapter 88, not the Contract Work Hours and Safety Standards Act, and shall apply and be interpreted to apply to enforcement by the Iowa commissioner of labor, not the United States Secretary of Labor or the Federal Occupational Safety and Health Administration. The amendments to 29 CFR 1926 are adopted as published at:

38 Fed. Reg. 16856 (June 27, 1973)
38 Fed. Reg. 27594 (October 5, 1973)
38 Fed. Reg. 33397 (December 4, 1973)
39 Fed. Reg. 19470 (June 3, 1974)
39 Fed. Reg. 24361 (July 2, 1974)
40 Fed. Reg. 23072 (May 28, 1975)
41 Fed. Reg. 55703 (December 21, 1976)
42 Fed. Reg. 2956 (January 14, 1977)
42 Fed. Reg. 37668 (July 22, 1977)
43 Fed. Reg. 56894 (December 5, 1978)
45 Fed. Reg. 75626 (November 14, 1980)
51 Fed. Reg. 22733 (June 20, 1986)
51 Fed. Reg. 25318 (July 11, 1986)
52 Fed. Reg. 17753 (May 12, 1987)
52 Fed. Reg. 36381 (September 28, 1987)
52 Fed. Reg. 46291 (December 4, 1987)
53 Fed. Reg. 22643 (June 16, 1988)
53 Fed. Reg. 27346 (July 20, 1988)
53 Fed. Reg. 29139 (August 2, 1988)
53 Fed. Reg. 35627 (September 14, 1988)
53 Fed. Reg. 35953 (September 15, 1988)
53 Fed. Reg. 36009 (September 16, 1988)
53 Fed. Reg. 37080 (September 23, 1988)
54 Fed. Reg. 15405 (April 18, 1989)
54 Fed. Reg. 23850 (June 2, 1989)
54 Fed. Reg. 30705 (July 21, 1989)
54 Fed. Reg. 41088 (October 5, 1989)
54 Fed. Reg. 45894 (October 31, 1989)
54 Fed. Reg. 49279 (November 30, 1989)
54 Fed. Reg. 52024 (December 20, 1989)
54 Fed. Reg. 53055 (December 27, 1989)
55 Fed. Reg. 3732 (February 5, 1990)
55 Fed. Reg. 42328 (October 18, 1990)
55 Fed. Reg. 47687 (November 14, 1990)
55 Fed. Reg. 50687 (December 10, 1990)
56 Fed. Reg. 2585 (January 23, 1991)
56 Fed. Reg. 5061 (February 7, 1991)
56 Fed. Reg. 41794 (August 23, 1991)
56 Fed. Reg. 43700 (September 4, 1991)

57 Fed. Reg. 7878 (March 5, 1992)
57 Fed. Reg. 24330 (June 8, 1992)
57 Fed. Reg. 29119 (June 30, 1992)
57 Fed. Reg. 35681 (August 10, 1992)
57 Fed. Reg. 42452 (September 14, 1992)
58 Fed. Reg. 21778 (April 23, 1993)
58 Fed. Reg. 26627 (May 4, 1993)
58 Fed. Reg. 35077 (June 30, 1993)
58 Fed. Reg. 35310 (June 30, 1993)
58 Fed. Reg. 40468 (July 28, 1993)
59 Fed. Reg. 215 (January 3, 1994)
59 Fed. Reg. 6170 (February 9, 1994)
59 Fed. Reg. 36699 (July 19, 1994)
59 Fed. Reg. 40729 (August 9, 1994)
59 Fed. Reg. 41131 (August 10, 1994)
59 Fed. Reg. 43275 (August 22, 1994)
59 Fed. Reg. 65948 (December 22, 1994)
60 Fed. Reg. 9625 (February 21, 1995)
60 Fed. Reg. 11194 (March 1, 1995)
60 Fed. Reg. 33345 (June 28, 1995)
60 Fed. Reg. 34001 (June 29, 1995)
60 Fed. Reg. 36044 (July 13, 1995)
60 Fed. Reg. 39255 (August 2, 1995)
60 Fed. Reg. 50412 (September 29, 1995)
61 Fed. Reg. 5509 (February 13, 1996)
61 Fed. Reg. 9248 (March 7, 1996)
61 Fed. Reg. 31431 (June 20, 1996)
61 Fed. Reg. 41738 (August 12, 1996)
61 Fed. Reg. 43458 (August 23, 1996)
61 Fed. Reg. 46104 (August 30, 1996)
61 Fed. Reg. 56856 (November 4, 1996)
61 Fed. Reg. 59831 (November 25, 1996)
62 Fed. Reg. 1619 (January 10, 1997)
63 Fed. Reg. 1295 (January 8, 1998)
63 Fed. Reg. 1919 (January 13, 1998)
63 Fed. Reg. 3814 (January 27, 1998)
63 Fed. Reg. 13340 (March 19, 1998)
63 Fed. Reg. 17094 (April 8, 1998)
63 Fed. Reg. 20099 (April 23, 1998)
63 Fed. Reg. 33468 (June 18, 1998)
63 Fed. Reg. 35138 (June 29, 1998)
63 Fed. Reg. 66274 (December 1, 1998)
64 Fed. Reg. 22552 (April 27, 1999)
66 Fed. Reg. 5265 (January 18, 2001)
66 Fed. Reg. 37137 (July 17, 2001)
67 Fed. Reg. 57736 (September 12, 2002)
69 Fed. Reg. 31881 (June 8, 2004)
70 Fed. Reg. 1143 (January 5, 2005)
71 Fed. Reg. 2885 (January 18, 2006)
70 Fed. Reg. 76985 (December 29, 2005)
71 Fed. Reg. 10381 (February 28, 2006)
71 Fed. Reg. 36008 (June 23, 2006)

71 Fed. Reg. 76985 (August 24, 2006)

72 Fed. Reg. 64428 (November 15, 2007)

73 Fed. Reg. 75583 (December 12, 2008)

This rule is intended to implement Iowa Code sections 84A.1, 84A.2, 88.2 and 88.5.
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BUTTER

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