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

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

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

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

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

Editor's telephone (515) 281-3355 or (515) 281-8157

Administrative Services Department[11]

Replace Chapter 60

Soil Conservation Division[27]

Replace Analysis

Replace Chapter 10

Replace Chapter 12

Natural Resources Department[561]

Replace Chapter 12

Public Safety Department[661]

Replace Chapter 301

Labor Services Division[875]

Replace Chapters 72 and 73

Index

Replace "W"

CHAPTER 60
SEPARATIONS, DISCIPLINARY ACTIONS AND REDUCTION IN FORCE

[Prior to 11/5/86, Merit Employment Department[570]]

[Prior to 1986, see Executive Council[420] Ch 10]

[Prior to 1/21/04, see 581—Ch 11]

11—60.1(8A) Separations.

60.1(1) *Resignation, retirement, phased retirement, early retirement, or early termination.*

a. To resign or retire in good standing an employee must give the appointing authority at least 14 calendar days' prior notice unless the appointing authority agrees to a shorter period. A written notice of resignation or retirement shall be given by the employee to the appointing authority, with a copy forwarded to the director by the appointing authority at the same time. An employee who fails to give this prior notice may, at the request of the appointing authority, be barred from certification or appointment to that agency for a period of up to two years. Resignation or retirement shall not be subject to appeal under 11—Chapter 61 unless it is alleged that it was submitted under duress.

Employees who are absent from duty for three consecutive workdays without proper authorization from the appointing authority may be considered to have voluntarily terminated employment. The appointing authority shall notify the employee by registered letter (return receipt requested) that they must return to work within two workdays following receipt of the notification or be removed from the payroll. If the appointing authority receives notice from the U.S. post office that the letter was undeliverable, the employee may be removed from the payroll five days following receipt of that notice. The appointing authority shall consider requests to review circumstances.

b. A full-time employee who is at least 60 years of age and who has completed at least 20 years as a full-time employee may, with approval of the appointing authority, participate in the phased retirement program. The request for participation shall specify the number of hours per week the employee intends to work for each year of the program.

Participants shall be in pay status a maximum of 32 hours per week and a minimum of 20 hours per week during the first four years in the program. After the completion of four years in the program, participants shall be in pay status a maximum of 20 hours per week for the fifth year in the program. An employee may not increase the number of hours in pay status once participation in the program has begun. An employee may participate for a maximum of five years in the program. At the conclusion of the agreed upon period of participation in the program, the employee shall retire from state employment.

An employee participating in the phased retirement program shall receive holiday pay and accrue vacation and sick leave on a pro rata basis in accordance with the number of hours in pay status in the pay period. During the period of participation in the program, all other benefits shall be commensurate with full-time employment.

Participation in the phased retirement program shall serve as a written notice of intent to retire on the date specified in the agreement unless the employee retires, resigns, is discharged, or receives long-term disability prior to that date. Participants are eligible to elect early retirement or early termination incentives in lieu of completing the phased retirement agreement.

An employee who participates in the phased retirement program shall not be eligible to return to permanent employment for hours in excess of those worked at the time of retirement.

c. Employees who received early retirement or early termination incentives provided by 1986 Iowa Acts, Senate File 2242, shall not be eligible for further state employment.

d. Separation from employment for purposes of induction into military service shall be in accordance with 11—subrules 63.6(2) and 63.9(2).

e. A person who has served as a commissioner or board member of a regulatory agency shall not be eligible for employment with that agency until two years after termination of the appointment.

60.1(2) *Expiration of appointment.* When an employee is separated upon the expiration of an appointment of limited duration, the appointing authority shall immediately report the separation to the department on forms prescribed by the director.

60.1(3) *Early retirement incentive program—1992.*

a. This early retirement incentive program is provided for in 1992 Iowa Acts, House File 2454. To be eligible to participate in this program an employee must be at least 59 years of age at the time of termination, have a total of at least 20 years of continuous or noncontinuous membership service, including buy-back or buy-in service, in the Iowa Public Employees' Retirement System (IPERS) or the Public Safety Peace Officers' Retirement, Accident, and Disability System (POR), and be participating in one of the state's group health or dental insurance plans at the time of termination. Employees on the payroll who meet these criteria and who are receiving workers' compensation are also eligible to participate.

b. To be a program participant, employees must complete an early retirement incentive program application form and send it to IPERS or POR prior to November 15, 1992, and must terminate employment no sooner than May 15, 1992, and prior to January 15, 1993. The IPERS address is P.O. Box 9117, Des Moines, Iowa 50306. The POR address is Wallace State Office Building, Des Moines, Iowa 50319.

c. For participating employees, the state's share of the health insurance premium, or the state's share of the dental insurance premium, or both, will continue to be paid by the state. The amount of the state's share will be capped at the amount that was being paid upon termination. The balance of any premium amounts is to be paid by the participating employee. Prior to or after termination, participants may choose to move to a health insurance plan that has a less costly state's share. If the participant moves to a plan with a less costly state's share, the amount paid by the state will be capped at the state's share for the less costly plan. Thereafter, under no circumstances will a previously reduced or capped state's share rate be increased for any participant. The state's share will then continue at that capped rate through the last day of the month prior to the month in which the participating employee reaches age 65.

d. If a program participant dies before reaching age 65, the state's share of health insurance premium, or the state's share of the dental insurance premium, or both, will continue for the dependents who are listed on the employee's health insurance care contract, dental insurance care contract, or both, through the last day of the month prior to the month in which the program participant would have reached age 65. Dependents may then purchase a conversion policy. Contract status changes, i.e., family to single, may occur for the surviving spouse, if applicable.

e. If a program participant or the spouse of a program participant has an event that would change the contract status from family to single, this change will be allowed. In that case, the state's share of the premium will be reduced to and capped at the single plan rate at the time of the contract change. If a program participant has an event that would change the contract status from single to family, this change will be allowed. However, the state's share of the premium will continue at the capped single plan rate. Under no circumstances will a previously reduced or capped state's share rate be increased for any participant.

f. If a program participant has a double-spouse contribution contract at the time of termination, the double-spouse contribution will continue until the earlier of: the death of either spouse, the dissolution or legal separation of these spouses, the last day of the month prior to the month in which the program participant reaches age 65, or the date the remaining working spouse terminates employment.

g. Under no circumstances will a previously reduced or capped state's share rate ever be increased for any participant for any reason.

h. Employees who participate in this program are not eligible to accept any further employment with the state of Iowa. This prohibition does not apply to a program participant who is later elected to public office.

i. Any employee who participates in this early retirement program and who is later approved for state group disability benefits is exempt from further participation in this program. In addition, the state's share of insurance premiums already paid, from the time of termination until long-term disability payments begin, may be recouped by the state and returned to the department of management for repayment to the originating fund. However, any program participant's payment toward health insurance premiums during that period will be applied toward the employee's cost of the coverage.

60.1(4) Sick leave and vacation incentive program—2002.

a. This termination incentive program is provided for in 2001 Iowa Acts, Senate File 551. To be eligible to participate in this program an employee's length of credited service and the employee's age as of December 31, 2002, but for participation in this program, must equal or exceed 75 years, including buy-back or buy-in service in the Iowa public employees' retirement system (IPERS) or in the public safety peace officers' retirement, accident, and disability system (POR). Employees on the payroll who meet these criteria and who are receiving workers' compensation on and after November 20, 2001, are also eligible to participate.

(1) Age shall be determined in years and quarters of a year.

1. The birth year is subtracted from 2002 to obtain the total years.

2. To calculate quarters:

- If the birth month is January, February, or March, one year shall be added to the total years calculated in 60.1(4) "a"(1) "1";

- If the birth month is April, May, or June, .75 of a year shall be added to the total years calculated in 60.1(4) "a"(1) "1";

- If the birth month is July, August, or September, .50 of a year shall be added to the total years calculated in 60.1(4) "a"(1) "1";

- If the birth month is October, November, or December, .25 of a year shall be added to the total years calculated in 60.1(4) "a"(1) "1."

(2) Length of credited service shall be calculated by IPERS or POR service credit, pursuant to each system's respective rules and regulations.

b. To become a program participant, an employee must complete and file a program application form on or before January 31, 2002, and must terminate employment on or before February 1, 2002.

c. For purposes of this program, the following definitions shall apply:

"Employee" means an employee of the executive branch of the state who is not covered by a collective bargaining agreement, including an employee of a judicial district of the department of correctional services if the district elects to participate in the program, an employee of the state board of regents if the board elects to participate in the program, and an employee of the department of justice. However, "employee" does not mean an elected official.

"Participating employee" means an eligible employee who, on or before January 31, 2002, submits an election to participate in the sick leave and vacation incentive program and terminates state employment on or before February 1, 2002. For the purposes of this program, a person remains a participating employee after payments made hereunder cease.

"Regular annual salary" means the employee's regular biweekly salary on the date of termination multiplied by 26.

d. A participating employee will receive the cash value of the employee's accumulated sick leave, not to exceed 100 percent of the employee's regular annual salary, and annual leave accrued balances. The state shall pay to the participating employee a portion of the combined dollar value of the accrued sick leave and annual leave balances each fiscal year, for a period of five years on the following schedule:

(1) Upon termination, in the first fiscal year of the program, the employee shall receive 10 percent of the total cash value of the aforementioned calculation for sick leave and annual leave.

(2) In August of the second through the fourth fiscal years of the program, the employee shall receive 20 percent of the total cash value of the aforementioned calculation for sick leave and annual leave.

(3) In August of the fifth fiscal year of the program, the employee shall receive the remaining 30 percent of the total cash value of the aforementioned calculation for sick leave and annual leave.

e. A participating employee, as a condition of participation in this program, shall waive any and all rights to receive payment of a sick leave balance pursuant to Iowa Code section 70A.23 and payment for accrued vacation pursuant to Iowa Code section 91A.4 and shall waive all rights to file suit against the state of Iowa, including all of its departments, agencies, and other subdivisions, based on state or federal claims arising out of the employment relationship.

f. The administrative head, manager, supervisor, or any employee of a department, agency, board, or commission of the state of Iowa shall not coerce or otherwise influence any state employee to participate or not participate in this program.

g. In the event a program participant dies prior to receiving the total cash value of the incentive addressed in paragraph 60.1(4)“*d*,” the participant’s designated beneficiary or beneficiaries shall receive the remaining payments on the schedule developed for such payments.

h. An employee who elects participation in this program, from the date of termination from employment, is not eligible to accept any further permanent employment with the state of Iowa. This prohibition does not apply to a program participant who is later elected to public office.

60.1(5) Sick leave and vacation incentive program—Fiscal Year 2003.

a. This termination incentive program is provided for in 2002 Iowa Acts, House File 2625. To be eligible to participate in this program an employee’s length of credited service and the employee’s age as of December 31, 2003, but for participation in this program, must equal or exceed 75 years, including buy-back or buy-in service in the Iowa public employees’ retirement system (IPERS) or in the public safety peace officers’ retirement, accident, and disability system (POR). Employees on the payroll who meet these criteria and who are receiving workers’ compensation on and after July 8, 2002, are also eligible to participate.

(1) Age shall be determined in years and quarters of a year.

1. The birth year is subtracted from 2003 to obtain the total years.

2. To calculate quarters:

- If the birth month is January, February, or March, one year shall be added to the total years calculated in 60.1(5)“*a*”(1)“1”;

- If the birth month is April, May, or June, .75 of a year shall be added to the total years calculated in 60.1(5)“*a*”(1)“1”;

- If the birth month is July, August, or September, .50 of a year shall be added to the total years calculated in 60.1(5)“*a*”(1)“1”;

- If the birth month is October, November, or December, .25 of a year shall be added to the total years calculated in 60.1(5)“*a*”(1)“1.”

(2) Length of credited service shall be calculated by IPERS or POR service credit, pursuant to each system’s respective rules and regulations.

b. To become a program participant, an employee must complete and file a program application form on or before August 14, 2002, and must terminate employment no earlier than July 8, 2002, but no later than August 15, 2002.

c. For purposes of this program, the following definitions shall apply:

“*Employee*” means an employee of the executive branch of the state who is not covered by a collective bargaining agreement, including an employee of a judicial district department of correctional services if the district elects to participate in the program, an employee of the state board of regents if the board elects to participate in the program, and an employee of the department of justice, as well as employees eligible to accrue vacation and sick leave within the judicial branch of the state if the judicial branch elects to participate in the program. However, “employee” does not mean an elected official.

“*Participating employee*” means an eligible employee who, on or before August 14, 2002, submits an election to participate in the sick leave and vacation incentive program and terminates state employment no earlier than July 8, 2002, but no later than August 15, 2002. For the purposes of this program, a person remains a participating employee after payments made hereunder cease.

“*Regular annual salary*” means (1) for full-time employees, an employee’s regular biweekly salary on the date of termination, multiplied by 26; or (2) for part-time employees, the cumulative salary received by the employee during the 26 pay periods immediately prior to termination.

d. A participating employee will receive the cash value of the employee’s accumulated sick leave, not to exceed 100 percent of the employee’s regular annual salary, and vacation accrued balances. The state shall pay to the participating employee a portion of the combined dollar value of the accrued sick leave and vacation balances each fiscal year, for a period of five years on the following schedule:

(1) Upon termination, in the first fiscal year of the program, the employee shall receive 30 percent of the total cash value of the aforementioned calculation for sick leave and vacation.

(2) In August of fiscal years 2004, 2005 and 2006, the employee shall receive 20 percent of the total cash value of the aforementioned calculation for sick leave and vacation.

(3) In August of fiscal year 2007, the employee shall receive the remaining 10 percent of the total cash value of the aforementioned calculation for sick leave and vacation.

e. A participating employee, as a condition of participation in this program, shall waive any and all rights to receive payment of a sick leave balance pursuant to Iowa Code section 70A.23 and payment for accrued vacation pursuant to Iowa Code section 91A.4 and shall waive all rights to file suit against the state of Iowa, including all of its departments, agencies, and other subdivisions, based on state or federal claims arising out of the employment relationship.

f. The administrative head, manager, supervisor, or any employee of a department, agency, board, or commission of the state of Iowa shall not coerce or otherwise influence any state employee to participate or not participate in this program.

g. In the event a program participant dies prior to receiving the total cash value of the incentive addressed in paragraph 60.1(5)“*d*,” the participant’s designated beneficiary or beneficiaries shall receive the remaining payments on the schedule developed for such payments.

h. An employee who elects participation in this program, from the date of termination from employment, is not eligible to accept any further permanent part-time or full-time employment with the state of Iowa. This prohibition does not apply to a program participant who is later elected to public office.

60.1(6) Sick leave and vacation incentive program—Fiscal Year 2005.

a. This termination incentive program is provided for in 2004 Iowa Acts, House File 2497. To be eligible to participate in this program, an employee’s length of credited service and the employee’s age as of December 31, 2004, but for participation in this program, must equal or exceed 75 years, including buy-back or buy-in service in the Iowa public employees’ retirement system (IPERS) or in the public safety peace officers’ retirement, accident, and disability system (POR). Employees on the payroll who meet these criteria and who are receiving workers’ compensation on and after May 21, 2004, are also eligible to participate.

(1) Age shall be determined in years and quarters of a year.

1. The birth year is subtracted from 2004 to obtain the total years.

2. To calculate quarters:

- If the birth month is January, February, or March, one year shall be added to the total years calculated in 60.1(6)“*a*”(1)“1”;

- If the birth month is April, May, or June, .75 of a year shall be added to the total years calculated in 60.1(6)“*a*”(1)“1”;

- If the birth month is July, August, or September, .50 of a year shall be added to the total years calculated in 60.1(6)“*a*”(1)“1”;

- If the birth month is October, November, or December, .25 of a year shall be added to the total years calculated in 60.1(6)“*a*”(1)“1.”

(2) Length of credited service shall be calculated by IPERS or POR service credit, pursuant to each system’s respective rules and regulations.

b. To become a program participant, an employee must complete and file a program application form on or before May 21, 2004, and must terminate employment no earlier than July 2, 2004, but no later than August 12, 2004.

c. For purposes of this program, the following definitions shall apply:

“*Employee*” means an employee of the executive branch of this state, including an employee of a judicial district of the department of correctional services if the district elects to participate in the program, an employee of the state board of regents if the board elects to participate in the program, and an employee of the department of justice. However, “employee” does not mean an elected official.

“*Participating employee*” means an eligible employee who, on or before May 21, 2004, submits an election to participate, and does participate, in the sick leave and vacation incentive program established

by 2004 Iowa Acts, House File 2497. For the purposes of this program, a person remains a participating employee after payments made hereunder cease.

“Regular annual salary” means the employee’s regular biweekly salary on the date of termination multiplied by 26.

d. A participating employee will receive an amount equal to the entire value of the employee’s accumulated but unused vacation plus the lesser of 75 percent of the value of the employee’s accumulated and unused sick leave or 75 percent of the employee’s annual salary. The state shall pay to the participating employee a portion of the combined dollar value of the accrued sick leave and annual leave balances each fiscal year, for a period of five years on the following schedule:

(1) Upon termination, in the first fiscal year of the program, the employee shall receive 30 percent of the total cash value of the aforementioned calculation for sick leave and annual leave.

(2) In August of the second through the fourth fiscal years of the program, the employee shall receive 20 percent of the total cash value of the aforementioned calculation for sick leave and annual leave.

(3) In August of the fifth and final fiscal year of the program, the employee shall receive 10 percent of the total cash value of the aforementioned calculation for sick leave and annual leave.

e. A participating employee, as a condition of participation in this program, shall waive any and all rights to receive payment of a sick leave balance pursuant to Iowa Code section 70A.23 and payment for accrued vacation pursuant to Iowa Code section 91A.4 and shall waive all rights to file suit against the state of Iowa, including all of its departments, agencies, and other subdivisions, based on state or federal claims arising out of the employment relationship.

f. The administrative head, manager, supervisor, or any employee of a department, agency, board, or commission of the state of Iowa shall not coerce or otherwise influence any state employee to participate or not participate in this program.

g. In the event a program participant dies prior to receiving the total cash value of the incentive addressed in paragraph 60.1(6) *“d,”* the participant’s designated beneficiary or beneficiaries shall receive the remaining payments on the schedule developed for such payments.

h. An employee who elects participation in this program is not eligible to accept any further permanent part-time or full-time employment with the state of Iowa from the date of termination from employment. This prohibition does not apply to a program participant who is later elected to public office.

60.1(7) State employee retirement incentive program—Fiscal Year 2010.

a. This state employee retirement incentive program is provided for in 2010 Iowa Acts, Senate File 2062.

b. To become a program participant, an employee must complete and file a program application form on or before April 15, 2010, and must terminate employment no later than June 24, 2010.

c. For purposes of this program, the following definitions shall apply:

“Employee” means an employee of the executive branch of this state, including an employee of a judicial district of the department of correctional services, an employee of the fair board, an employee of the state board of regents if the board elects to participate in the program, and an employee of the department of justice. However, *“employee”* does not mean an elected official.

“Eligible employee” means an employee who is employed on February 10, 2010, who is 55 years of age or older on July 31, 2010, and who has submitted an application by the employee’s last day of employment to the Iowa public employees’ retirement system to begin monthly retirement benefits by July 2010. *“Eligible employee”* shall include an employee who began receiving IPERS monthly benefits prior to February 2010 if the employee is employed on February 10, 2010, and terminates employment on or before June 24, 2010. *“Eligible employee”* shall not include an employee who is eligible for the sick leave conversion program as described in Iowa Code section 70A.23, subsection 4, or a former employee who withdraws the application for monthly retirement benefits from the Iowa public employees’ retirement system before receiving the first month of benefits.

“Participant” means an eligible employee who, on or before April 15, 2010, submits an application to participate and does participate in the state employee retirement incentive program established by this

subrule. For the purposes of this program, a person remains a participant after all benefits under this program have been made.

“*Program*” means the state employee retirement incentive program established in 2010 Iowa Acts, Senate File 2062.

“*State*” means the state of Iowa and all of its branches, departments, agencies, boards, or commissions, including a judicial district department of correctional services and the state board of regents.

d. A participant who elects to remain in the state’s retiree health insurance group plan may receive a health insurance contribution benefit. The health insurance contribution benefit consists of up to 5 years of contributions toward retiree health insurance. The contributions shall be used to pay the employer’s portion of the health insurance premiums. The department shall determine the contribution rate based on the employer’s contribution to an existing state plan.

A participant shall begin receiving the health insurance contribution benefit once payments, if any, under Iowa Code section 70A.23 cease, and shall continue to receive such benefits for 5 years after termination of employment. If a participant is not eligible for payments under Iowa Code section 70A.23, the participant will begin receiving health insurance contribution benefits the month following termination of employment and shall continue to receive such benefits for 5 years after termination of employment.

e. All existing rules and policies regarding continuation of health insurance and changing health insurance plans shall apply to participants and surviving spouses covered by the program.

f. A participant will receive a years of service incentive payment for 5 years after termination of employment. The payments shall include the entire value of the participant’s accrued but unused vacation leave and, for participants with at least 10 years of state employment, \$1000 for each year of state employment, up to 25 years of employment. State employment shall include all past and present employment with the state, regardless of whether the employee took a refund of the contributions made to IPERS for a prior period of service, if the employee provides adequate documentation of prior periods of employment. The payment shall be paid in five equal installments beginning in September 2010 and ending in 2014.

g. If a participant dies within 5 years of termination of employment, the participant’s beneficiary will receive any remaining years of service incentive benefits. If the participant’s surviving spouse is covered on the participant’s state retiree health insurance plan, the surviving spouse may elect to continue health insurance coverage and will receive any remaining health insurance contribution benefits under this program. If the surviving spouse was not covered by the participant’s health insurance plan, or if there is no surviving spouse, any remaining health insurance contribution benefits are forfeited.

h. A participating employee, as a condition of participation in this program, shall waive any and all rights to receive payment for accrued vacation pursuant to Iowa Code section 91A.4 and shall waive all rights to file suit against the state of Iowa, including all of its departments, agencies, and other subdivisions, based on state or federal claims arising out of the employment relationship.

i. The administrative head, manager, supervisor, or any employee of a department, agency, board, or commission of the state of Iowa shall not coerce or otherwise influence any state employee to participate or not participate in this program.

j. A participant is not eligible to accept any further employment with the state, other than as an elected official or a member of a board or commission, from the date of termination from employment. A participant may not enter into a contract to provide services to the state as an independent contractor or a consultant.

k. The state’s obligations and duties under Iowa Code chapter 669 are not altered or diminished by a participant’s signing of the program application and release form. Participants may pursue any remedy allowed in Iowa Code chapter 669 without regard to program eligibility.

[ARC 8692B, IAB 4/21/10, effective 3/29/10; ARC 8727B, IAB 5/5/10, effective 4/16/10]

11—60.2(8A) Disciplinary actions. Except as otherwise provided, in addition to less severe progressive discipline measures, any employee is subject to any of the following disciplinary actions when based on a

standard of just cause: suspension, reduction of pay within the same pay grade, disciplinary demotion, or discharge. Disciplinary action involving employees covered by collective bargaining agreements shall be in accordance with the provisions of the agreement. Disciplinary action shall be based on any of the following reasons: inefficiency, insubordination, less than competent job performance, failure to perform assigned duties, inadequacy in the performance of assigned duties, dishonesty, improper use of leave, unrehabilitated substance abuse, negligence, conduct which adversely affects the employee's job performance or the agency of employment, conviction of a crime involving moral turpitude, conduct unbecoming a public employee, misconduct, or any other just cause.

60.2(1) Suspension.

a. Suspension pending investigation. An appointing authority may suspend an employee for up to 21 calendar days with pay pending an investigation. If, upon investigation, it is determined that a suspension without pay was warranted as provided in 60.2(1) "b"(1) below for an employee covered by the premium overtime provisions of the Fair Labor Standards Act, the appointing authority shall recover the pay received by the employee for the imposed period of suspension without pay.

b. Disciplinary suspension. An appointing authority may suspend an employee for a length of time considered appropriate not to exceed 30 calendar days as provided in either subparagraph (1) or (2) below. A written statement of the reasons for the suspension and its duration shall be sent to the employee within 24 hours after the effective date of the action.

(1) Employees who are covered by the premium overtime provisions of the federal Fair Labor Standards Act may be suspended without pay.

(2) Employees who are exempt from the premium overtime provisions of the federal Fair Labor Standards Act will not be subject to suspension without pay except for infractions of safety rules of major significance, and then only after the appointing authority receives prior approval from the director. Otherwise, when a suspension is imposed on such an employee, it shall be with pay and shall carry the same weight as a suspension without pay for purposes of progressive discipline. The employee will perform work during a period of suspension with pay unless the appointing authority determines that safety, morale, or other considerations warrant that the employee not report to work.

60.2(2) Reduction of pay within the same pay grade. An appointing authority may reduce the pay of an employee who is covered by the overtime provisions of the federal Fair Labor Standards Act to a lower step or rate of pay within the same pay grade assigned to the employee's class for any number of pay periods considered appropriate. A written statement of the reasons for the reduction and its duration shall be sent to the employee within 24 hours after the effective date of the action, and a copy shall be sent to the director by the appointing authority at the same time.

Employees who are exempt from the overtime provisions of the federal Fair Labor Standards Act will not be subject to reductions of pay within the same pay grade except for infractions of safety rules of major significance, and then only after the appointing authority receives prior approval from the director.

60.2(3) Disciplinary demotion. A disciplinary demotion may be used to permanently move an employee to a lower job classification. A temporary disciplinary demotion shall not be used as a substitute for a suspension without pay or reduction in pay within the same pay grade. An employee receiving a disciplinary demotion shall only perform the duties and responsibilities consistent with the class to which demoted. An appointing authority may disciplinary demote an employee to a vacant position. In the absence of a vacant position, the appointing authority may effect the same disciplinary result by removing duties and responsibilities from the employee's position sufficient to cause it to be reclassified to a lower class. A written statement of the reasons for the disciplinary demotion shall be sent to the employee within 24 hours after the effective date of the action, and a copy shall be sent to the director by the appointing authority at the same time.

No disciplinary demotion shall be made from one position covered by merit system provisions to another, or from a position not covered by merit system provisions to one that is, until the employee is approved by the director as being eligible for appointment. Disciplinary demotion of an employee with probationary status to a position covered by merit system provisions shall be in accordance with rule 11—58.2(8A).

An agency may not disciplinarily demote an employee from a position covered by merit system provisions to a position not covered by merit system provisions without the affected employee's written consent regarding the change in coverage. A copy of the consent letter shall be forwarded by the appointing authority to the director. If the employee does not consent to the change in coverage, a reduction in force may be initiated in accordance with these rules or the applicable collective bargaining agreement provisions.

60.2(4) Discharge. An appointing authority may discharge an employee. Prior to the employee's being discharged, the appointing authority shall inform the employee during a face-to-face meeting of the impending discharge and the reasons for the discharge, and at that time the employee shall have the opportunity to respond. A written statement of the reasons for the discharge shall be sent to the employee within 24 hours after the effective date of the discharge, and a copy shall be sent to the director by the appointing authority at the same time.

60.2(5) Termination for failure to meet job requirements. When an employee occupies a position where a current qualification for appointment is based upon the required possession of a temporary work permit or on the basis of possession of a license or certificate, and that document expires, is revoked or is otherwise determined to be invalid, the employee shall either be removed from the payroll for failure to meet or maintain license or certificate requirements, or otherwise appointed to another position in accordance with these rules. This action shall be effective no later than the pay period following the failure to obtain, revocation of, or expiration of the permit, license, or certificate.

When an employee occupies a position where a current qualification for appointment is based upon the requirement of an approved background or records investigation and that approval is later withdrawn or unobtainable, the employee shall be immediately removed from the payroll for failure to maintain those background or records requirements or may be appointed to another position in accordance with these rules.

60.2(6) Appeal of a suspension, reduction of pay within the same pay grade, disciplinary demotion or discharge shall be in accordance with 11—Chapter 61. The written statement to the employee of the reasons for the discipline shall include the verbatim content of 11—subrule 61.2(6).

11—60.3(8A) Reduction in force. A reduction in force (layoff) may be proposed by an appointing authority whenever there is a lack of funds, a lack of work or a reorganization. A reduction in force shall be required whenever the appointing authority reduces the number of permanent merit system covered employees in a class or the number of hours worked, as determined by the "full-time equivalent" funding attributed to the position, by a permanent merit system covered employee in a class, except as provided in subrule 60.3(1).

60.3(1) The following agency actions shall not constitute a reduction in force nor require the application of these reduction in force rules:

a. An interruption of employment for no more than 20 consecutive calendar days, with the prior approval of the director.

b. Interruptions in the employment of school term employees during breaks in the academic year, during the summer, or during other seasonal interruptions that are a condition of employment, with the prior approval of the director.

c. The promotion or reclassification of an employee to a class in the same or a higher pay grade.

d. The reclassification of an employee's position to a class in a lower pay grade that results from the correction of a classification error, the implementation of a class or series revision, changes in the duties of the position, or a reorganization that does not result in fewer total positions in the unit that is reorganized.

e. A change in the classification of an employee's position or the appointment of an employee to a vacant position in a class in a lower pay grade resulting from a disciplinary or voluntary demotion.

f. The transfer or reassignment of an employee to another position in the same class or to a class in the same pay grade.

g. A reduction in the number of, or hours worked by, permanent employees not covered by merit system provisions.

60.3(2) The agency's reduction in force shall conform to the following provisions:

- a. Reduction in force shall be by class.
- b. The reduction in force unit may be by agency organizational unit or agencywide. If the agency organizational unit is smaller than a bureau, it must first be reviewed by the director.
- c. An agency shall not implement a reduction in force until it has first terminated all temporary employees in the same class in the reduction in force unit, as well as those who have probationary status in the same class.
- d. The appointing authority shall develop a plan for the reduction in force and shall submit that plan to the director for approval in advance of the effective date. The plan must be approved by the director before it can become effective. The plan shall include the reason(s) for and the effective date of the reduction in force, the reduction in force unit(s), the reason(s) for choosing the unit(s) if smaller than a bureau, the number of permanent merit system covered employees by class to be eliminated or reduced in hours, the cutoff date for length of service and performance credits to be utilized in determining retention points, and any other information requested by the director. The appointing authority shall post each approved reduction in force plan for 60 calendar days in conspicuous places throughout the reduction in force unit. The posting shall include the names of all permanent merit system covered employees for each affected job class in the reduction in force unit by retention point order.
- e. The appointing authority shall notify each affected employee in writing of the reduction in force, the reason(s) for it, and the employee's rights under these rules. A copy of the employee's retention points computation worksheet shall be furnished to the employee. The official notifications to affected employees shall be made at least 20 workdays prior to the effective date of the reduction in force unless budgetary limitations require a lesser period of time. These official notifications shall occur only after the agency's reduction in force plan has been approved by the director, unless otherwise authorized by the director.
- f. The appointing authority shall notify the affected employee(s), in writing, of any options or assignment changes during the various steps in the reduction in force process. In each instance the employee shall have five calendar days following the date of receipt of the notification in which to respond in writing to the appointing authority in order to exercise the rights provided for in this rule that are associated with the reduction in force.

60.3(3) Retention points. The reduction in force shall be in accordance with total retention points made up of a combination of points for length of service and points for performance record. A cutoff date shall be set by the appointing authority beyond which no points shall be credited. Length of service and performance credits shall be calculated as follows:

a. Credit for length of service shall be given at the rate of one point for each month of employment, including employment credited to the employee during a probationary period. Any period of 15 calendar days of service in a month will be considered a full month. In computing length of service credit, the appointing authority shall include all continuous merit system covered nontemporary service in the executive branch. If a merit system covered nontemporary employee's employment is interrupted due to (1) a reduction in force, (2) qualification for long-term disability, or (3) a work-related injury, and the employee is subsequently reinstated to the same class in a different layoff unit or to a different class than that held at the time of separation in accordance with rule 11—57.5(8A), and the reinstatement occurs within two years of the interruption of employment, prior service credit shall be restored. Such credit will be subject to a reduction for the period of separation from state service.

Length of service credit shall not include the following periods:

- (1) Any period of temporary or seasonal employment, if not credited toward the probationary period.
- (2) Any period of suspension without pay of 15 days or more.
- (3) Approved leaves of absence without pay in excess of 15 days.
- (4) Any period of layoff of 15 days or more.
- (5) Any period of long-term disability of 15 days or more.
- (6) Any period of unpaid absence that was not subsequently used to establish or adjust the employee's date of hire.

b. Credit for the performance record shall be calculated using the results of documented performance evaluations completed in accordance with 11—subrule 62.2(2) as follows:

(1) A performance evaluation period rated overall as “less than competent” or “does not meet expectations” or for which the “overall sum of ratings” is less than 3.00 shall receive no credit.

(2) A performance evaluation period rated overall as “competent” or better, or “meets or exceeds expectations” or for which the “overall sum of ratings” is 3.00 or greater shall receive one retention point for each month of such rated service.

All employees shall be evaluated for performance in accordance with 11—subrule 62.2(2). If the period covered on the evaluation exceeds 12 months, the rating shall apply only to the most recent 12 months of the period. If the period covered by the evaluation exceeds 12 months and the employee’s overall rating mandates the receipt of no credit pursuant to 60.3(3) “*b*”(1), then that overall rating shall apply only to the first 12 months of the period and the remaining months shall be rated as competent. Time spent on approved military leave, workers’ compensation leave, or educational leave with or without pay that is required by the appointing authority shall be counted as competent performance.

c. The total retention points shall be the sum that results from adding together the total of the length of service points and the total of the performance record points.

60.3(4) Order of reduction in force. Permanent merit system covered employees in the approved reduction in force unit shall be placed on a list in descending order by class beginning with the employee having the highest total retention points in the class in the layoff unit. Reduction in force selections shall be made from the list in inverse order regardless of full-time or part-time status. If two or more employees have the same combined total retention points, the order of reduction shall be determined by giving preference in the following sequence:

a. The employee with the highest total performance record points; and then, if still tied,

b. The employee with the lower last four digits of the social security number.

60.3(5) Bumping (class change in lieu of layoff). Employees who are affected by a reduction in force may, in lieu of layoff, elect to exercise bumping rights.

a. Supervisory employees, with the exception of supervisory employees of the department of public safety, may not bump or replace junior employees who are not being laid off. For purposes of this subrule, “junior” employee means an employee with less seniority or fewer retention points than a supervisory employee.

b. Employees who choose to exercise bumping rights must do so to a position in the applicable reduction in force unit. Bumping may be to a lower class in the same series or to a lower formerly held class (or its equivalent if the class has been retitled) in which the employee had nontemporary status while continuously employed in the state service. Bumping shall not be permitted to classes from which employees were voluntarily or disciplinarily demoted. Bumping by nonsupervisory employees shall be limited to positions in nonsupervisory classes. Bumping to classes that have been designated as collective bargaining exempt shall be limited to persons who occupy classes with that designation at the time of the reduction in force. Bumping shall be limited to positions covered by merit system provisions and positions covered by a collective bargaining agreement. The director may, at the request of the appointing authority, approve specific exemptions from the effects of bumping where special skills or abilities are required and have been previously documented in the records of the department of administrative services as essential for performance of the assigned job functions.

c. When bumping as set forth in paragraph “*b*” of this subrule, the employee shall indicate the class, but the appointing authority shall designate the specific position assignment within the reduction in force unit. The appointing authority may designate a vacant position if the department of management certifies that funds are available and after all applicable contract transfer and recall provisions have been exhausted. The appointing authority shall notify the employee in writing of the exact location of the position to which the employee will be assigned. After receipt of the notification, the employee shall have five calendar days in which to notify the appointing authority in writing of the acceptance of the position or be laid off.

Bumping to another noncontract class in lieu of layoff shall be based on retention points regardless of full-time or part-time status and shall not occur if the result would be to cause the removal or reduction

of an employee with more total retention points. If bumping occurs, the employee with the fewest total retention points in the class shall then be subject to reduction in force.

Pay upon bumping shall be in accordance with 11—subrule 53.6(11).

60.3(6) Recall. Eligibility for recall shall be for one year following the date of the reduction in force.

a. The following employees or former employees are eligible to be recalled:

- (1) Former employees who have been laid off.
- (2) Employees who have bumped in lieu of layoff.
- (3) Employees whose hours have been reduced, constituting a reduction in force.

b. Current employees who exercised bumping rights in accordance with subrule 60.3(5) and former employees terminated due to layoff in accordance with subrule 60.3(6) shall only be on the recall list for the class and layoff unit occupied at the time of the reduction in force.

c. The following provisions shall apply to the issuance and use of recall lists:

(1) Recall lists shall be issued for merit system covered positions and contract-covered positions only.

(2) When one or more names are on the recall list for a class in which a vacancy exists, the agency must fill that vacancy with a former employee from that list. If no one from a recall list is selected, the agency shall justify that decision to the director before the position may be filled by other methods.

(3) The recall alternatives in (2) above must be exhausted before other eligible lists may be used to fill vacancies.

d. Recall shall be by class without regard to an employee's status at the time of layoff (full-time or part-time).

An employee may remain on the recall list for the same status as that held at the time of layoff after having declined recall to a position with a different status. However, the employee will be removed for the status declined.

e. One failure to accept appointment to a nontemporary position with the same status as that held prior to the reduction in force shall negate all further recall rights.

f. An appointing authority may refuse to recall employees who do not possess the documented special skills or abilities required for a position, with the prior approval of the director.

g. Notice of recall shall be sent by certified mail, restricted delivery. Employees must respond to an offer of recall within five calendar days following the date the notice was received. A notice that is undeliverable to the most recent address of record will be considered a declination of recall. The declination of a recall offer shall be documented in writing by the appointing authority, with a copy to the director.

h. Vacation accrual and accrued sick leave of recalled employees shall be in accordance with 11—subrule 63.2(2), paragraph “l,” and 11—subrule 63.3(10), respectively.

i. An employee who bumps in lieu of layoff or has a work hours reduction, and subsequently leaves employment for any reason, shall be removed from the recall list.

j. Employees who are recalled shall be removed from the recall list unless otherwise provided for in these rules.

k. Pay upon recall shall be in accordance with rule 11—53.6(8A).

60.3(7) Reduction in force shall not be used to avoid or circumvent the provisions or intent of 2003 Iowa Code Supplement section 8A.413, or these rules governing reclassification, disciplinary demotion, or discharge. Actions alleged to be in noncompliance with this rule may be appealed in accordance with 11—Chapter 61.

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¹ Effective date of amendment to 11.1(1) delayed 70 days by Administrative Rules Review Committee. Delay lifted by Committee on 2/8/83. See details following chapter analysis.

² IAB Personnel Department

³ Effective date of amendments to 7.3(1), 7.12(19A), 11.3(1)“a,” 11.3(2)“d” and “e,” 11.3(4), 11.3(5), 11.3(6)“c” and 11.3(6)“l” delayed 70 days by the Administrative Rules Review Committee at its meeting held May 13, 1992; delay lifted by the Committee at its meeting held June 10, 1992. See emergency adopted amendment to 11.3(6)“c” and “d,” 5/27/92 Iowa Administrative Bulletin, pages 2203 and 2204.

SOIL CONSERVATION DIVISION[27]

[Renamed Soil Conservation Division[27] under the Agriculture and Land Stewardship Department[21] “umbrella”]

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[Prior to 12/28/88, see Soil Conservation Department, 780—Ch 5]

27—10.1 to 10.9 Reserved.

PART 1

27—10.10(161A) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation, Iowa department of agriculture and land stewardship in accordance with the policies of the state soil conservation committee in implementing the state's financial incentive program for soil erosion control. It also establishes standards and guidelines to which the soil conservation districts shall conform in fulfilling their responsibilities under this program.

27—10.11(161A) Rules or subrules are severable. If any provision of a rule or subrule or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule or subrule which can be given effect without invalid provision or application, and to this end the provisions of these rules or subrules are severable.

27—10.12 to 10.19 Reserved.

PART 2

27—10.20(161A) Definitions.

“Administrative order” means a written notice from the commissioners to the landowner or landowners of record and to the occupants of land informing them they are violating the district's soil loss limit regulations or maintenance agreement and advising them of action required to conform to the regulations.

“Allocation” means those funds that are identified as a district's share of the state's appropriated funds that have been distributed to a particular program.

“Applicant” means a person or persons requesting assistance for implementing soil and water conservation practices.

“Appropriations” means those funds appropriated from the general fund of the state and provided the division of soil conservation for funding the various incentive programs for soil erosion control.

“Case file” means a record that is assembled and maintained for each application approved for state cost sharing.

“Certification of practice form” means a signature page used to attest that a practice was installed, performed or maintained in accordance with applicable standards.

“Certifying technician” means the district conservationist of the Natural Resources Conservation Service (NRCS) or the district forester of the department of natural resources.

“Commissioner” means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of Iowa Code chapter 161A.

“Committee” or *“state soil conservation committee”* means the committee established by Iowa Code section 161A.4, as the policymaking body of the division of soil conservation.

“Complaint” means a written and signed document received by the commissioners from a landowner or occupant of land stating that said property in the district is being damaged by sediment resulting from soil erosion on the property of another named landowner.

“Conservation cover” means that if a tract of agricultural land has not been plowed or used for growing row crops at any time within 15 years prior to January 1, 1981, it shall be classified as agricultural land under conservation cover.

“Department” means the department of agriculture and land stewardship as established in Iowa Code chapter 159.

“*District*” or “*soil and water conservation district(s)*” means a governmental subdivision of this state organized for the purposes, with the powers, and subject to the restrictions set forth in Iowa Code chapter 161A.

“*District cooperator*” means an individual or business that has entered into a cooperator’s agreement with a district for the purpose of planning, applying, and maintaining the necessary soil and water conservation practices on land under control of the individual or business.

“*Division*” means the division of soil conservation as established and maintained by the department pursuant to Iowa Code section 159.5(15) and administered pursuant to chapter 161A.

“*Excessive erosion*” means soil erosion that is occurring at a rate exceeding the established soil loss limit.

“*Fiscal year*” means the state fiscal year for which program funds were appropriated.

“*Landowner*” includes any person, firm or corporation, partnerships, estates, trusts, or any federal agency, this state or any of its political subdivisions, who shall hold title to or have legal control over land lying within a district.

“*Maintenance/performance agreement*” means an agreement between the recipient, the landowner, and the district. The recipient and landowner agree to maintain the soil conservation practices for which financial incentives from the division through the district have been received. The agreement states that the recipient and landowner will maintain, repair, or reconstruct the practices if they are not maintained according to the terms specified in the agreement. The terms of the agreement shall be specified by the division.

“*Obligated funds*” means those moneys that are set aside out of the district’s allocation or by the division for payment to a landowner after the commissioners have approved an application for financial incentives.

“*Power of attorney*” means a legal document that grants a person the right to act on behalf of the landowner.

“*Recipient*” means a landowner or district cooperator who has qualified for and received financial incentive payments for implementing soil and water conservation practices.

“*Road*” means the entire width between property lines of the publicly owned right-of-way.

“*Row cropped lands*” means land that is in an established rotation sequence that includes row crops and the sequence is actively being followed or is in consecutive row crop sequence.

“*Soil conservation practices*” means any of the practices which serve to reduce erosion of soil by wind and water on land used for agricultural or horticultural purposes and approved by the state soil conservation committee.

“*Soil loss limit*” means the maximum amount of soil loss due to erosion by water or wind, expressed in terms of tons per acre per year, which the commissioners of the respective soil and water conservation districts have established by rule as acceptable.

“*State soil survey data base for Iowa*” means a listing of the soil map units for each county and the properties and interpretation for each of the map units.

“*Supplemental allocation*” means additional funds provided beyond the original allocation.

“*Supplementary administrative order*” means a written notice sent to those receiving an administrative order for violation of the district’s soil loss limit regulations advising that cost-share funds are being committed to the landowner or landowners and establishing time limits for correcting the soil erosion problems.

“*Technician*” means a person qualified to design, lay out and inspect construction of soil conservation practices, and who is assigned to or employed by a soil and water conservation district.

“*Unobligated funds*” means those cost-share moneys the districts have been allocated and those the division administers that have not been obligated.

[ARC 8766B, IAB 5/19/10, effective 7/1/10]

PART 3

27—10.30(161A) Compliance, refunds, reviews and appeals. This division establishes rules for determining landowner or farm operator compliance with performance or maintenance agreements that have been entered into as a result of receiving financial incentive payments for implementing soil conservation practices. This division also defines the responsibilities of the districts and the division for obtaining refunds from landowners or farm operators, and procedures to be followed, when it is found that temporary practices are not being performed in accordance with funding agreements.

This division also defines the responsibilities of the districts and the division for requiring maintenance, repair or reconstruction of permanent soil and water conservation practices when it is found that permanent practices are not being maintained in accordance with funding agreements.

27—10.31(161A) Compliance with maintenance/performance agreements.

10.31(1) Performance agreement. Rescinded IAB 7/18/07, effective 6/27/07.

10.31(2) Maintenance/performance agreement. As a condition for receipt of any financial incentives funds for implementing soil and water conservation practices, the owner of the land on which the practices have been installed shall agree to maintain those practices for the term specified in the maintenance/performance agreement. Specific conditions of the agreement are detailed on the form.

a. Determination of practice implementation and continued compliance with maintenance/performance agreements.

(1) The certifying technician or the technician of the district will determine if the completed practice is in compliance with applicable standards and specifications in Part 8 of these rules. The certifying technician shall attest to completion and compliance with the standards by completing and signing a certification of practice form. The completed certification will be retained in the district case file for the appropriate landowner.

(2) The certifying technician or district technician shall inspect the practice at any time the district commissioners have reason to believe it is not being satisfactorily maintained. The division will evaluate the situation to determine that proper procedures were followed. "Satisfactorily maintained" means being maintained in such a state of repair so that the practice is successfully performing the function for which it was originally installed. Following the inspection, the certifying technician shall complete a certification of practice form. The completed certification shall be filed in the district's case file for the landowner.

(3) The district shall inspect a practice whenever requested to do so by the landowner. The person requesting the inspection shall be provided a copy of the completed certification of practice form, used to document the results of this inspection.

b. Determination of noncompliance with maintenance/performance agreement. If the certifying technician determines that the practice is not being satisfactorily maintained, it shall be so noted on the certification of practice form. The district shall notify the division in writing of the noncompliance finding. The notification to the division shall contain a complete explanation of why the practice is considered not to be in compliance with the maintenance/performance agreement. The division will evaluate the situation to determine that proper procedures were followed. "Satisfactorily maintained" means the practice has been maintained in such a state of repair that it is successfully performing the function for which it was originally installed.

c. In the event that properly maintained practices that were installed with the assistance of Iowa financial incentive program funds are damaged due to natural disasters, completing the maintenance/performance agreement shall not constitute an action or intent on the part of the division to prevent the owner of the land on which the practices were installed from receiving federal emergency conservation program assistance to repair or replace the practices.

27—10.32(161A) Noncompliance.

10.32(1) Noncompliance with performance agreements. Rescinded IAB 7/18/07, effective 6/27/07.

10.32(2) Refunds for noncompliance with maintenance agreements to cost-share agreements entered prior to July 1, 1981. Rescinded IAB 7/18/07, effective 6/27/07.

10.32(3) *Refunds for noncompliance with maintenance agreements entered between January 1, 1981, and July 1, 1982.* Rescinded IAB 7/18/07, effective 6/27/07.

10.32(4) *Noncompliance with maintenance/performance agreements.* Upon determination by the district and the division that a landowner is not in compliance with a maintenance/performance agreement, the division shall assist the district in the issuance of an administrative order to the landowner requiring appropriate maintenance, repair or reconstruction of the practice, provided voluntary means have been exhausted. The district, in its sole discretion, may allow the landowner or the landowner's successors to refund to the division the entire amount of the financial incentive payment received by the landowner in lieu of maintaining, repairing or reconstructing a practice.

a. Within 60 days from the date of issue of the administrative order, the landowner shall submit to the district a written and signed statement of intent to maintain, repair or reconstruct the practice.

b. The maintenance, repair or reconstruction work shall be initiated within 180 days from the date of issue of the administrative order and shall be satisfactorily completed within one year of the date of issue of the administrative order.

10.32(5) *Agricultural land converted to nonagricultural land.* If land subject to a maintenance/performance agreement is converted to a nonagricultural use that does not require a permanent soil and water conservation practice which has been established with financial incentives, the practice shall not be removed until the owner refunds the appropriate amount of the payment received.

a. Amount of refund. The amount of refund will be the amount of the financial incentive payment received less 5 percent for each year the practice was in place.

b. Districts will notify the division when such refunds are collected.

c. Refunds will be made to the division. The division will deposit refunds to the appropriate district account. Use of the refunds will be limited to providing financial incentives under this chapter.

27—10.33(161A) Appeals and reviews. A landowner or farm operator who has been ordered to maintain, repair or reconstruct a temporary or permanent practice subject to a maintenance/performance agreement may, as appropriate, review the order with the district commissioners or the division of soil conservation. Appeals to the state soil conservation committee may be made by the district, a landowner or a farm operator following a review by the division director or the director's designee.

10.33(1) Review with soil and water conservation district commissioners. When a landowner or farm operator wishes to appeal an order to maintain, repair or reconstruct a temporary or permanent practice subject to a maintenance/performance agreement, the landowner or farm operator may request a review of the order with the district commissioners. The commissioners shall schedule a meeting to review the issue with the landowner or farm operator. This proceeding shall be informal. A landowner or farm operator shall request a review with the district commissioners in writing and within 30 days following receipt of their order.

10.33(2) Review with the division of soil conservation. After having unsuccessfully met with the district commissioners, a landowner or farm operator who has been ordered to maintain, repair or reconstruct a temporary or permanent practice subject to a maintenance/performance agreement may file a written request for review with the division. The division review shall be conducted by the division director or the director's designee. This proceeding shall be informal. A landowner or farm operator shall request the review with the division in writing within 30 days following the review with the district.

10.33(3) Appeal to the state soil conservation committee. In those cases where the district, landowner, or farm operator is not satisfied with the decision rendered as a conclusion of a division review concerning an order to maintain, repair or reconstruct a temporary or permanent practice covered by a maintenance/performance agreement, the district, landowner, or farm operator may appeal the division's decision to the state soil conservation committee. This proceeding shall be a formal, contested case hearing. The district, landowner, or farm operator shall make the appeal to the state committee in writing within 30 days following completion of the division's review.

10.33(4) The committee will either affirm, modify, or vacate the administrative order following the completion of the contested case hearing.

27—10.34 to 10.39 Reserved.

PART 4

27—10.40 Reserved.

27—10.41(161A) Appropriations. The department of agriculture and land stewardship, division of soil conservation, has received appropriations for conservation cost sharing since 1973 and appropriations to fund certain incentive programs for soil erosion control since 1979. Funds are appropriated each year by the general assembly.

The division has four years to encumber or obligate these funds before they revert to the state's general fund. This rule addresses the distribution of these appropriations among the incentive programs for soil erosion control established by the division in accordance with the authorities extended in Iowa Code chapter 161A. The rule is also consistent with the restrictions imposed by language of the appropriations bills.

10.41(1) Voluntary program. Ninety percent of the appropriation is to be used for cost sharing to provide state funding of not more than 50 percent of the approved cost of permanent soil and water conservation practices or for incentive payments to encourage management practices to control soil erosion on land that is now row-cropped.

Up to 30 percent of a district's original and supplemental allocation may be used for the establishment of practices listed in subrules 10.82(1) and 10.82(2).

The commissioners of a district may allocate voluntary program funds for the restoration of permanent soil and water conservation practices which are damaged or destroyed because of a disaster emergency. Funds may be used for construction, reconstruction, installation, or repair of projects. The commissioners must determine that funds are necessary to restore permanent practices to prevent erosion in excess of applicable soil loss limits caused by the disaster emergency. Funds cannot be used unless a state of disaster emergency pursuant to a proclamation as provided in Iowa Code section 29C.6 has been declared. Funds can be used only if federal or state disaster emergency funds are not adequate. Funds do not have to be allocated on a cost-share basis. Districts are required to report to the division regarding restoration projects and funds allocated for projects.

10.41(2) Publicly owned lakes. For the approved cost of permanent soil conservation practices on watersheds above publicly owned lakes, 5 percent of the amount appropriated is to be set aside for cost sharing at a rate not to exceed 75 percent.

10.41(3) Mandatory program. Five percent of the appropriation shall be set aside for cost sharing with landowners or farm operators who are required to install soil erosion control practices as a result of an administrative order from the district to abate complaints filed under Iowa Code section 161A.47.

10.41(4) Special watershed projects. Iowa Code section 161A.7 permits cost sharing up to 60 percent of the cost of a project including five or more contiguous farm units which have at least 500 or more acres of farmland and which constitute at least 75 percent of the agricultural land lying within a watershed or subwatershed, where the owners jointly agree to a watershed conservation plan in conjunction with their respective farm unit soil conservation plan.

10.41(5) Summer construction incentives. Funds are available for the planting of a conservation cover crop in place of cropland during the growing season to extend the construction season for the purpose of the installation of conservation practices. This practice shall be applied using the conservation crop rotation standard. Summer construction incentives are only available in conjunction with state-funded conservation practices.

10.41(6) and 10.41(7) Reserved.

10.41(8) Funds distributed to annual programs and provided to districts may be used in combination with department of natural resources funds in accordance with the following:

a. Proposals to allow an overall cost-share rate of greater than 50 percent to the district cooperator must be submitted by districts and approved on a project-by-project basis by the state soil conservation committee.

b. The maximum cost-share rate realized by the district cooperator shall not exceed 75 percent when state cost-share funds appropriated to the division and districts are utilized in combination with such department of natural resources funds.

c. Funds utilized by districts in conjunction with such special projects shall come from the district's regular allocation.

d. Only those permanent practices listed in subrule 10.82(3) shall be eligible for financial incentive payments.

(1) Any practices to be installed on public land must meet the requirements of subrule 10.73(3) and be installed and paid for by the adjoining private landowner.

(2) Subrule 10.81(6) on upland treatment shall also apply.

e. In accordance with subrule 10.73(4), paragraph "a," no cost-sharing with other government agencies is allowed.

10.41(9) Funds distributed to annual programs and provided to districts may be used in combination with other public funds on permanent practices, in accordance with the following:

a. The maximum cost-share rate realized by the district cooperator shall not exceed 75 percent of the total eligible costs when state cost-share funds appropriated to the division and districts are utilized in combination with other public funds.

b. Funds utilized by districts in conjunction with such projects shall come from the district's regular allocation.

c. The recipient will be required to sign a maintenance agreement as stated in subrule 10.74(5).

This rule is intended to implement Iowa Code chapter 161A; 1994 Iowa Acts, chapter 1198, section 1, subsection 4, paragraphs "b," "c," and "d"; 1995 Iowa Acts, chapter 216, section 1, subsection 4, paragraphs "b," "c," and "d"; 1996 Iowa Acts, chapter 1214, section 1, subsection 4, paragraphs "b," "c," and "d"; and 1997 Iowa Acts, House File 708, section 1, subsection 4, paragraphs "b," "c," and "d."

[ARC 7722B, IAB 4/22/09, effective 4/1/09; ARC 8766B, IAB 5/19/10, effective 7/1/10]

27—10.42 to 10.49 Reserved.

PART 5

27—10.50(161A) Allocations to soil and water conservation districts. This division identifies those program funds that are allocated to the districts and explains how the allocations are made.

27—10.51(161A) Voluntary program. The division will allocate program funds to the districts in steps identified as original allocations and supplemental allocations.

10.51(1) Original allocation. Sixty percent of the fiscal year funds distributed to this program will be allocated to the districts at the beginning of the fiscal year in accordance with a formula based on the state soil survey database for Iowa. The formula is $A = wzf$, where:

a. A = allocation to the district.

b. w = the percentage factor for the district, determined by $(x/y) (100)$, where:

(1) x = district acres, determined by totaling the district's land capability class acres from the state soil survey database for Iowa using the formula: $(\frac{1}{4})2e + 3e + 4e$.

(2) y = state acres, determined by totaling the state's land capability class acres from the state soil survey database for Iowa using the formula: $(\frac{1}{4})2E + 3E + 4E$.

c. z = sixty percent of fiscal year funds distributed to the voluntary program.

d. f = an adjustment factor of 0.980 applied to each district's allocation to adjust the original allocation to compensate for establishing a minimum of four-tenths of 1 percent of "z" to ensure that each district has a workable program.

e. The following table provides the value of "w" for each district:

Individual Soil and Water Conservation District

Percentage Allocation Factors

<u>W(%) District</u>	<u>W(%) District</u>	<u>W(%) District</u>	<u>W(%) District</u>
1.8 Adair	1.2 Davis	1.0 Jefferson	0.2 Pocahontas*
1.2 Adams	1.3 Decatur	1.1 Johnson	0.7 Polk
1.5 Allamakee	0.8 Delaware	1.2 Jones	1.4 E. Pottawattamie
1.1 Appanoose	0.6 Des Moines	1.4 Keokuk	1.2 W. Pottawattamie
1.4 Audubon	0.4 Dickinson	0.6 Kossuth	1.5 Poweshiek
1.4 Benton	1.9 Dubuque	1.0 Lee	1.6 Ringgold
0.5 Black Hawk	0.3 Emmet*	1.1 Linn	0.7 Sac
0.5 Boone	1.1 Fayette	0.5 Louisa	0.9 Scott
0.3 Bremer*	0.3 Floyd*	1.1 Lucas	1.7 Shelby
0.4 Buchanan	0.6 Franklin	0.8 Lyon	1.0 Sioux
0.4 Buena Vista	1.0 Fremont	1.2 Madison	0.6 Story
0.6 Butler	0.4 Greene	1.2 Mahaska	1.5 Tama
0.3 Calhoun*	0.5 Grundy	1.3 Marion	1.7 Taylor
1.2 Carroll	1.5 Guthrie	1.4 Marshall	1.1 Union
1.5 Cass	0.4 Hamilton	1.0 Mills	1.2 Van Buren
1.2 Cedar	0.3 Hancock*	0.3 Mitchell*	1.0 Wapello
0.5 Cerro Gordo	0.7 Hardin	1.2 Monona	1.1 Warren
1.0 Cherokee	1.6 Harrison	1.0 Monroe	1.1 Washington
0.4 Chickasaw	0.9 Henry	1.2 Montgomery	1.4 Wayne
1.2 Clarke	0.4 Howard	0.6 Muscatine	0.3 Webster*
0.3 Clay*	0.2 Humboldt*	0.4 O'Brien	0.5 Winnebago
2.0 Clayton	1.3 Ida	0.3 Osceola*	1.8 Winneshiek
1.2 Clinton	1.4 Iowa	1.5 Page	2.3 Woodbury
2.4 Crawford	1.6 Jackson	0.4 Palo Alto	0.3 Worth*
0.8 Dallas	1.7 Jasper	2.4 Plymouth	0.4 Wright

*The minimum value to be used in determining original allocations to districts shall be 0.4.

10.51(2) Supplemental allocation. The remaining balance of the fiscal year funds plus recalled funds from the mandatory program as distributed in subrule 10.41(3), and from the public lakes fund as distributed in subrule 10.41(2) that were not obligated, from the reserve fund established in subrule 10.57(1), and from districts as specified in subrule 10.51(3) will be provided to the districts in a supplemental allocation. The districts shall identify valid applications and cost estimates, if any, for supplemental allocations to the division by September 1. The allocation to any district will be the lesser amount of:

a. The sum of cost estimates (for pending applications) in each district, divided by the total cost estimates (for pending applications) for all 100 districts, multiplied by the remaining available program funds; or

b. Three times the original allocation to the district.

10.51(3) Recall of funds. Any funds allocated in the current fiscal year that the districts have not spent or obligated by June 30 may be recalled by the division.

10.51(4) Reallocation of recalled funds. Rescinded IAB 7/18/07, effective 6/27/07.

10.51(5) Eligibility for supplemental allocations. A district must have obligated 75 percent of current fiscal year funds to qualify for a supplemental allocation.

10.51(6) Recall and reallocation of funds by division director. When the unspent balance of funds allocated to a district exceeds that district's annual allocation by more than 150 percent for a period of 12 months or more, the division director may recall these unspent funds and reallocate them to a district or districts that can demonstrate a need.

[ARC 8766B, IAB 5/19/10, effective 7/1/10]

27—10.52(161A) Publicly owned lakes. The division of soil conservation maintains the funds that are distributed to the publicly owned lakes program. These funds may be used to provide cost sharing not to exceed 75 percent of the approved cost of permanent soil conservation practices on watersheds above publicly owned lakes and reservoirs. The division will allocate these program funds to eligible districts in steps identified as original allocation, recall of unobligated funds, and reallocation.

10.52(1) Original allocation. Funding needs will be identified and funds will be set aside for watershed projects which have cost-share funds in addition to state and district cooperator funds (e.g., federal, county, or other). The remaining funds will be allocated equally between the other watersheds identified on the publicly owned lakes priority list.

10.52(2) Recall of unobligated funds. Funds that are allocated to districts under this program and are not obligated within three months shall be recalled by the division and reallocated.

10.52(3) Recall of obligated, but unspent funds. Rescinded IAB 7/18/07, effective 6/27/07.

10.52(4) Reallocation of recalled funds. The reallocation of recalled funds will be based on need and demonstrated ability to use the funds. The districts shall submit their requests identifying valid applications and cost estimates, if any, to the division. The division shall allocate funds for these requests on a first-come, first-served basis to other eligible watersheds above publicly owned lakes.

10.52(5) Eligible watersheds. For a landowner to qualify for 75 percent cost sharing under this program, the watershed in which the land is located must be on a list of priority watersheds above publicly owned lakes or reservoirs that is established by the department of natural resources.

10.52(6) Applications and agreements. Applications and agreements for 75 percent cost sharing under this program will be handled by the districts as described in Part 7 of these rules except that the division will allocate funds to districts on an as-needed and first-come, first-served basis.

27—10.53 Reserved.

27—10.54(161A) Mandatory program. The division of soil conservation maintains the funds that are distributed to the mandatory cost-share program. These funds are used to provide cost sharing to landowners who are required to establish permanent soil and water conservation practices as the result of a district's administrative order or a court order.

10.54(1) Applications and agreements. Applications and maintenance/performance agreements for 50 percent cost sharing under this program will be handled by the districts as described in Part 7 of these rules except as follows:

a. When the district commissioners have decided that cost-share assistance is to be approved for a landowner, a copy of the application and a copy of the cost estimate proposed by the technician will be sent to the division with a request for funding obligation. The division will review the application, allocate funds for the specific application to the district and notify the district of the approval. If funds are not available, the division will not allocate funds to the specific application, but will write a letter of explanation to the district. The district will notify the landowner of the status by issuing a supplementary administrative order.

b. Prior approval of the amendment must be obtained from the division should the commissioners desire to amend the application to change the amount of work or the cost.

10.54(2) Redistribution of program funds. Any unobligated program funds remaining at the end of the fiscal year will be redistributed to the voluntary cost-share program. These funds may be included with the supplemental allocation to districts or may be disbursed with the original allocation.

27—10.55 Reserved.

27—10.56(161A) Special watershed projects. District commissioners will satisfy the following conditions with regard to special watershed projects:

10.56(1) Prior to approving a project application for 60 percent cost-share, the district must obtain a project number from the division.

10.56(2) All participating landowners in a particular project will be required to show progress towards completion during the first year of the project. Progress will be evaluated by the district. Failure of all participating landowners to show progress during the first year will result in loss of authorization of the project and 60 percent cost-share funding eligibility.

10.56(3) Authorization for each project shall not exceed five years.

27—10.57(161A) Reserve fund.

10.57(1) Purpose and use of the reserve fund. The reserve fund will be set aside and used only to meet contingencies that occur in the districts or within the division. The reserve fund shall not exceed \$150,000.

10.57(2) Replenishing the reserve fund. On June 30 of each year, the division may recall any unspent allocations and replenish the fund in accordance with subrule 10.57(1). If needed, the reserve fund may also be replenished at any time with recalled funds to return the balance to \$150,000.

27—10.58 and 10.59 Reserved.

PART 6

27—10.60(161A) Funding rates. The purpose of this division is to establish the funding rates at which the state will fund or share the cost for approved soil conservation practices under the various incentive programs. In all cases, except for the mandatory program, the state's share will be computed using the percentages specified below and the estimated cost, the amended estimated cost, or the actual cost of implementing the practice, whichever is less. Payments under the mandatory program will be based on actual costs.

10.60(1) Voluntary.

a. The state will cost-share 50 percent of the cost certified by the certifying technician as being reasonable, proper, and incurred by the applicant in voluntarily installing approved, permanent soil conservation practices, except for tree planting. Eligible costs include machine hire or use of the applicant's equipment, needed materials delivered to and used at the site, and labor required to install the practice.

b. For tree and shrub establishment, the following criteria shall apply:

(1) Fifty percent of the actual cost, not to exceed \$450 per acre, including the following:

1. Establishing ground cover;
2. Trees and tree planting operations;
3. Weed and pest control; and
4. Mowing, disking, and spraying.

(2) Fifty percent of actual cost, not to exceed \$150 per acre, for wood plant control.

(3) Actual cost, not to exceed the lesser of \$14 per rod or \$45 per acre protected, for permanent fences that protect planted acres from grazing, excluding boundary and road fencing.

c. For currently funded fiscal years, the division will make one-time payments of up to \$10 per acre for no-tillage, ridge-till and strip-till; \$6 per acre for contour farming; and 50 percent of the cost up to \$25 per acre for strip-cropping, field borders and filter strips. Not more than 30 percent of the district's original allocation and supplemental allocation may be used for the establishment of management practices to control soil erosion on land that is now row-cropped.

d. Funding for the restoration of permanent practices damaged or destroyed because of a disaster (see 10.41(1)) does not have to be allocated on a cost-share basis.

e. Where a livestock watering system is installed in a grade stabilization structure, cost share is limited to 50 percent of the estimated or eligible cost, whichever is less, not to exceed \$500 for the watering tank or holding facility, pipe and valves. Payment will be made only if the structure is fenced.

10.60(2) *Summer construction incentives.* In addition to cost share for the establishment of a permanent conservation practice, up to \$200 per acre is available to offset income lost from cropland acres taken out of production during the growing season. Payment will be made upon completion of the permanent conservation practice. To qualify:

a. The field being treated shall be in row cropland during the growing season in which the permanent conservation practice is being constructed.

b. The construction area shall be planted with a conservation cover for erosion control purposes on the construction site.

c. The construction of the permanent conservation practice shall take place between June 15 and October 15. Work must be started and completed between these dates and verified by the technician prior to payment of the incentive.

d. Only the land necessary for the construction is eligible for this incentive. The construction work area shall be determined by the technician.

e. The construction work area shall not be used to grow a row crop except for the required conservation cover crop.

10.60(3) *Special watershed projects.* Commissioners may enter into agreements providing for cost sharing up to 60 percent of the cost of a project that includes five or more contiguous farm units which collectively have at least 500 or more acres of farmland and which constitute at least 75 percent of the agricultural land lying within a watershed or a subwatershed. The owners must jointly agree to a watershed conservation plan in conjunction with their respective farm unit soil conservation plans.

10.60(4) *Mandatory.* The rate of cost share for permanent soil and water conservation practices required as a result of an administrative order shall be 50 percent of the total cost to the landowner of installing the approved practice. The cost must be certified by the technician as being reasonable, proper and incurred by the landowner. The rate of cost share for temporary soil and water conservation practices is set by the state soil conservation committee.

10.60(5) *Watersheds above publicly owned lakes.* The state will cost-share 75 percent of the approved cost of permanent soil and water conservation practices on watersheds above certain publicly owned lakes. Watersheds above publicly owned lakes that qualify for 75 percent cost sharing must be identified on a priority list established by the department of natural resources.

10.60(6) *Conservation cover.* Cost share for certain lands is restricted by Iowa Code chapter 161A. Each tract of agricultural land which has not been plowed or used for growing at any time within 15 years prior to January 1, 1981, shall be considered classified as agricultural land under conservation cover. "Agricultural land" has the meaning assigned that term by Iowa Code section 9H.1. If any tract of land so classified is thereafter plowed or used for growing row crops, the district commissioners shall not approve use of state cost-share funds for establishing permanent or temporary soil and water conservation practices on that tract of land in an amount greater than one-half the amount of cost-share funds which would be available for that land if it were not classified as agricultural land under conservation cover. This restriction shall apply even if an administrative order or court order has been issued requiring establishment of conservation practice.

[ARC 7722B, IAB 4/22/09, effective 4/1/09; ARC 8766B, IAB 5/19/10, effective 7/1/10]

27—10.61 to 10.69 Reserved.

PART 7

27—10.70(161A) Applications and agreements. The purpose of this part is to identify and define procedures to be followed in applying for and entering agreements for receiving financial incentives for implementing approved temporary or permanent soil and water conservation practices.

27—10.71(161A) Applications submitted to soil and water conservation district. District cooperators desiring to be considered for financial incentives for implementing soil and water conservation practices shall complete necessary applications as specified by the division. If an applicant's land is in more than one district, the respective district commissioners will review the application and agree to obligate all funds from one district or prorate the funding between districts.

27—10.72(161A) Application signup.

10.72(1) Signatures by landowner and applicant. All applications and agreements shall be signed by the landowner except as noted in subrule 10.72(3) below. For an applicant to qualify for payment, both landowner and applicant must sign the application.

10.72(2) Land being bought under contract. All applications and agreements concerning land being purchased under contract shall be signed by both the contract seller and the contract buyer. If the operator is applying, the contract buyer, the contract seller, and the operator must sign.

10.72(3) Power of attorney. Applications and agreements may be signed by any person designated to represent the landowner or applicant, provided the appropriate power of attorney has been filed with the district office. The power of attorney requirement can be met by submitting a notarized full power of attorney statement to the district office. In the case of estates and trusts, court documents designating the responsible person or administrator may be submitted to the district in lieu of the power of attorney.

27—10.73(161A) Eligibility for financial incentives.

10.73(1) District cooperator: Rescinded IAB 7/18/07, effective 6/27/07.

10.73(2) Administrative order: Rescinded IAB 7/18/07, effective 6/27/07.

10.73(3) Practices installed on adjoining public lands. Where soil and water conservation practices are installed on public lands, which benefit adjoining private lands, and costs of the installation are to be shared by the parties, state cost-share funds may be used to cost-share the landowner cost of the erosion control portion of the project.

10.73(4) Ineligible lands.

a. Iowa financial incentive funds shall not be used to reimburse other units of government for implementing soil and water conservation practices.

b. Privately owned land not used for agricultural production shall not qualify for financial incentives.

c. Tracts of land used for agricultural production which are less than ten acres in size and from which less than \$2500 of agricultural products are sold annually shall not qualify for financial incentives funds, unless approved by the commissioners as part of a group project or as a continuation of an adjacent system.

d. Tracts of land enrolled in the United States Department of Agriculture's Conservation Reserve Program (CRP) that have more than 90 days left on the contract.

10.73(5) Need for soil and water conservation practices.

a. Financial incentives shall be available only for those soil and water conservation practices determined to be needed by the district to reduce excessive erosion or sedimentation and included in the designated practices identified in Part 8 of these rules. Such determination of need shall be made by a qualified technician.

b. At the discretion of the SWCD commissioners, practice construction may be allowed during the last 90 days of the CRP contract.

10.73(6) District priorities. Each application for financial incentives shall be evaluated under the priority system adopted by the district for disbursement of allocated funds. The district priority system shall give consideration to family-operated farms and public benefit derived. The priority system adopted by the district shall be made available for review at the district office. In establishing its priorities for funds made available beginning July 1, 1983, the district shall also give consideration to the district cooperator's effort to implement Iowa Soil 2000 program requirements.

[ARC 8766B, IAB 5/19/10, effective 7/1/10]

27—10.74(161A) Financial incentive application and processing procedures.**10.74(1) Application for financial incentives.**

a. Application submitted by landowner and applicant. Applicants for financial incentives for soil and water conservation practices shall complete and submit a request for assistance to the district office where the practice will be implemented.

b. Denial of application by district. Applications which are denied by the district shall be retained in the district until the end of the fiscal year. Application denial as used in this part refers to those applications which cannot be approved for reasons other than lack of available financial incentive funds.

c. Obligation of funds. Following approval of an application, the district may obligate funds for the project or, as appropriate, secure obligation of funds from the division for the amount of the project cost estimate identified on the application. In those cases where funds are not available, the application will be held by the district until funding becomes available or until the end of the fiscal year. Upon obligation of funds, the district shall notify the applicant. The district will maintain a record of funds obligated for approved applications.

d. Application withdrawn by applicant. An application may be withdrawn by the applicant at any time prior to receipt of payment by notifying the district in writing that withdrawal is desired. Applications withdrawn by the applicant shall be retained in the records of the district until the end of the fiscal year.

10.74(2) Project design by district.

a. District personnel responsible for design. The technician of the district shall design and lay out proposed soil and water conservation practices for which financial incentive funds have been obligated. The certifying technician of the district shall be responsible for determining compliance with applicable design standards and specifications.

b. Cost estimate adjustments.

(1) Application amendment. In the event that adjustment to the project cost estimate is necessitated by the final design, the applicant shall either agree to assume the additional cost or complete and submit an amendment request to the district for approval by the commissioners.

(2) Adjustment to obligated funds. The district may adjust the amount of incentive funds obligated for the project or may secure an adjusted obligation from the division for funds obligated by the division. In the event that additional funds are not available, the project may be redesigned, if possible, to a level commensurate with available funds, or the applicant can agree to assume full financial responsibility for the portion of the project cost in excess of the amount obligated.

10.74(3) Practice construction and certification.

a. Construction contracts. The landowner and applicant shall be responsible for securing any contractors needed and for all contractual or other agreements necessary to construct or perform the approved practices.

b. Certification of practice. The certifying technician or the technician of the district will determine that the completed practice is in compliance with applicable standards and specifications and that costs incurred are reasonable and proper. The certifying technician shall make such determination by completing and signing the certification of practice form. A copy of the certification will be retained in the district's case file.

10.74(4) Payment of financial incentives.

a. Submittal of bills and claim or certification of practice form to district. The applicant shall submit to the district a signed claim or certification of practice form and all bills relative to the project. Any materials and labor provided by the applicant must be itemized, and the itemization of any materials and labor provided by the applicant shall accompany the claim.

b. Approval for payment. The commissioners shall verify the technician's certification prior to approving the certification of practice form for submittal to the division for payment.

c. Claim submitted to the division by district. The signed claim or certification of practice form shall be submitted to the division. All original signed documents including itemized bills, claim agreements, maintenance/performance agreements and amendments shall be retained at the district office in the cooperator's case file.

d. Payment. Payment for the reimbursable cost of the project will be returned by the division to the district or directly to the landowner or applicant.

10.74(5) Maintenance/performance agreements.

a. Maintenance/performance agreement required. As a condition for receipt of any financial incentive funds for permanent soil and water conservation practices, the owner of the land on which the practices have been installed shall agree to maintain those practices for a minimum term as required by the division.

b. Maintenance/performance agreement form. An agreement to maintain practices for which financial incentives are being paid shall be made by completing and signing a maintenance/performance agreement form. Specific conditions of the maintenance/performance agreement are detailed on the form. Completion of the form and signature of the landowner are required prior to transfer of the incentive payment from the district to the recipient(s).

c. Filing of agreements.

(1) Establishment of a file for maintenance/performance agreements. The district shall establish and maintain a separate permanent file containing any documentation related to the maintenance/performance agreement form. The maintenance/performance agreements file shall be accessible for review by the public.

(2) Statement of compliance or noncompliance. A seller of agricultural land with respect to which a maintenance/performance agreement is in effect may request the district to inspect the practices. If the practices have not been removed, altered, or modified, the district shall issue a written statement that the seller has satisfactorily maintained the permanent practice as of the date of the statement.

The buyer of lands covered by a maintenance/performance agreement, where buyer means someone who has completed a contract for sale or deed, may also request that the district inspect the lands to determine whether any practice has been removed, altered, or modified as of the date of the inspection. If a practice has been removed, altered, or modified, the district will provide the buyer with a statement specifying the extent of noncompliance as of the date of the statement.

The seller and the buyer, if known, shall be given notice of the time of inspection so that they may be present during the inspection to express their views as to compliance.

10.74(6) Case files. A case file shall be assembled and maintained for each application approved. The file will contain all documents and correspondence that require signatures from either the district, district cooperator or technician. The case file shall also include all bills and invoices related to an approved application.

[ARC 8766B, IAB 5/19/10, effective 7/1/10]

27—10.75 to 10.79 Reserved.

PART 8

27—10.80(161A) General conditions, eligible practices and specifications. The purpose of this part is to establish the general conditions and limitations concerning practice implementation, the state-approved soil and water conservation practices eligible for state financial incentives and the specifications for which funded practices must conform.

27—10.81(161A) General conditions. The following general conditions shall be met, where applicable, in addition to the specifications in rule 27—10.84(161A). To the extent of any inconsistency between the general conditions and the specifications, the general conditions shall control.

10.81(1) Practice need. The designated soil and water conservation practices shall not be funded unless the technician has inspected the site and has determined that such practice(s) is needed to reduce excessive erosion or sedimentation.

10.81(2) Eligible practices must control erosion and sediment. Only those soil and water conservation practices applied to agricultural crop and pasture land whose primary function is to control soil erosion and prevent sediment damage will be eligible for incentive program funds.

10.81(3) *Limitation of reimbursable costs of practices.* Overbuilding or other practice modifications which exceed the minimum requirements of the specification shall be permitted, if approved by the technician. Any additional costs resulting from such overbuilding or exceeding of the minimum specifications shall not be cost shared by the state. Examples of overbuilding or exceeding specifications include but are not limited to the following:

- a. Where a district cooperator desires that water be stored for purposes other than grade stabilization to control erosion,
- b. Where additional top width is added to an earthen fill to provide a field crossing or road,
- c. Where additional flow capacity for lowland drainage laterals is added to an underground outlet constructed as a component of a terrace system, and

10.81(4) *Materials.* Projects funded with Iowa financial incentive funds will utilize only new materials or used materials that meet or exceed design standards and have a life expectancy of 20 years.

10.81(5) *Existing practices.*

a. *Repair and maintenance.* Repair and maintenance of existing practices are not eligible for funding.

b. *Addition of underground outlets.* The addition of underground outlets to existing waterways and terraces is not eligible for funding.

10.81(6) *Upland treatment.* Seventy-five percent of the upland area shall be adequately treated for erosion control before waterways or grade stabilization structures will be funded.

10.81(7) *Seeding.*

a. *Seeding required.* Following practice construction, seeding shall be performed as appropriate in accordance with seeding specifications referenced in rule 10.84(161A), except as waived below.

b. *Seeding after specified seeding dates.* When the construction of a practice is completed after the seeding date contained in the specifications, seeding may be delayed until the following year. If delayed, the applicant shall be responsible for protecting the practice with temporary vegetative cover or other means until the seeding can be completed. For seeding delayed until the next year, the district may approve payment for the completed practice but such payment shall exclude the seeding cost. The remaining payment for seeding may be made available the following year.

10.81(8) *Diversions.* Rescinded IAB 5/19/10, effective 7/1/10.

10.81(9) *Converting land to permanent vegetative cover.* Rescinded IAB 5/19/10, effective 7/1/10.

10.81(10) *Underground outlet.* Rescinded IAB 5/19/10, effective 7/1/10.
[ARC 8766B, IAB 5/19/10, effective 7/1/10]

27—10.82(161A) State designation of eligible practices. Only those soil and water conservation practices listed in this rule are eligible for the Iowa financial incentives program funds.

10.82(1) *Residue and management practices.* The division will make one-time payments for residue and tillage management practices.

- a. No-till planting.
- b. Ridge-till planting.
- c. Strip-till planting.

10.82(2) *Temporary practices.* The division will make one-time payments for temporary practices.

- a. Critical area planting.
- b. Contour farming.
- c. Strip-cropping.
- d. Field border.
- e. Filter strips.
- f. Pasture and hay planting. Pasture and hay planting will be eligible for funding only when land that has been planted to row crop for three out of the last five years is being converted to permanent vegetative cover.

10.82(3) *Permanent practices.*

- a. Reserved.
- b. Diversion. Diversions are eligible for funding only when used to prevent downstream erosion.

- c. Windbreak and shelterbelt establishment. A strip or belt of trees or shrubs established within or adjacent to a field to reduce sediment damage and soil depletion caused by wind.
- d. Grade stabilization structure.
- e. Reserved.
- f. Grassed waterway.
- g. Reserved.
- h. Terrace.
- i. Underground outlet. Underground outlets are eligible for Iowa financial incentive funding only when used as a component of eligible permanent practices contained in subrule 10.82(3).
- j. Water and sediment control basin.
- k. Reserved.
- l. Conservation cover.
- m. Tree and shrub planting. The minimum eligible area is three acres.

[ARC 8766B, IAB 5/19/10, effective 7/1/10]

27—10.83(161A) Designation of eligible practices. District commissioners may designate which soil and water conservation practices will be eligible for Iowa financial incentive payments in their district. The selected practices must be from the state-approved practices contained in rule 27—10.82(161A).

[ARC 8766B, IAB 5/19/10, effective 7/1/10]

27—10.84(161A) Practice standards and specifications. Practices shall meet Natural Resources Conservation Service conservation standards and specifications. These standards may be accessed through the electronic field office technical guide at http://efotg.nrcs.usda.gov/efotg_locator.aspx?map=IA. The tree planting standard may be accessed through the department of natural resources' forestry technical guide found at <http://www.iowadnr.com/forestry/pdf/techguide.pdf>. Standards and specifications are available in hard copy in the district office where the practice will be implemented. These specifications and the general conditions, rule 27—10.81(161A), shall be met in all cases. To the extent of any inconsistency between the general conditions and the specifications, the general conditions shall control.

27—10.85 to 10.89 Reserved.

PART 9

27—10.90 Reserved.

27—10.91(161A) Annual report. The district will submit an annual report to the division. The report will reflect accomplishments for the fiscal year ending June 30. The report shall be submitted to the division on or before July 7 each year.

27—10.92(161A) Control of lands. Rescinded IAB 5/19/10, effective 7/1/10.

27—10.93 and 10.94 Reserved.

27—10.95(161A) Forms. Standard forms, applications, and agreements used by the applicant and recipient of financial incentives for soil erosion control as outlined in these rules are provided by the division. Copies of all forms, applications, and agreements are available from the soil conservation district office located in each county. Copies are also available from the division at the following address: Division of Soil Conservation, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319.

27—10.96 to 10.99 Reserved.

Rules in Chapter 10 are intended to implement Iowa Code chapter 161A; 1994 Iowa Acts, chapter 1198, section 1, subsection 4, paragraphs "b," "c," and "d"; 1995 Iowa Acts, chapter 216, section 1,

subsection 4, paragraphs “b,” “c,” and “d”; 1996 Iowa Acts, chapter 1214, section 1, subsection 4, paragraphs “b,” “c,” and “d”; and 1997 Iowa Acts, House File 708, section 1, subsection 4, paragraphs “b,” “c,” and “d.”

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CHAPTER 12
WATER PROTECTION PRACTICES—WATER PROTECTION FUND

27—12.1 to 12.9 Reserved.

PART 1

27—12.10(161C) Authority and scope. This chapter establishes procedures and standards to be followed by soil and water conservation districts and the division of soil conservation of the Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation committee in implementing water protection practices through the water protection fund created in Iowa Code section 161C.4, unnumbered paragraph 1, and subsection 2. This account shall be used to establish water protection practices with individual landowners including, but not limited to, woodland establishment and protection, establishment of native grasses and forbs, sinkhole management, agricultural drainage well management, streambank stabilization, grass waterway establishment, stream buffer strip establishment, and erosion control structure construction. Twenty-five percent of funds appropriated to the water protection practices account plus any additional appropriations for reforestation shall be used for woodland establishment and protection and establishment of native grasses and forbs.

27—12.11(161C) Rules are severable. If any provision of a rule or subrule or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule or subrule which can be given effect without invalid provision or application, and to this end the provisions of these rules or subrules are severable.

27—12.12 to 12.19 Reserved.

PART 2

27—12.20(161C) Definition of terms. In addition to the term defined herein, definitions in rule 27—10.20(161A) shall apply.

“*Agricultural production*” means the commercial production of food or fiber.

27—12.21 to 12.29 Reserved.

PART 3

27—12.30(161C) Compliance, refund, reviews and appeals. Rules 27—10.30(161A) through 27—10.33(161A) shall apply.

[ARC 8755B, IAB 5/19/10, effective 7/1/10]

27—12.31 to 12.39 Reserved.

PART 4

27—12.40(161C) Appropriations. Resource enhancement and protection program, soil and water enhancement account funds are allocated to the water protection fund. Each year’s allocation of water protection funds is divided equally between the water quality protection projects account and the water protection practices account.

[ARC 8755B, IAB 5/19/10, effective 7/1/10]

27—12.41 to 12.49 Reserved.

PART 5

27—12.50(161C) Water protection practices account. This part defines procedures for allocation, recall and reallocation of water protection practices funds to soil and water conservation districts and to the division's reserve fund. These funds shall not be used alone or in combination with other public funds to provide a financial incentive payment greater than 75 percent of the approved cost for practices listed in 12.84(161C), or 50 percent in 12.77(1), 12.77(2) and 12.77(3).

27—12.51(161C) Allocation to soil and water conservation districts.

12.51(1) Original allocation. July 1 of each year, funds appropriated to the water protection practices account will be allocated to districts. Seventy-three and one-half percent of the funds will be divided equally among 100 soil and water conservation districts. Twenty-five percent of the funds plus any additional appropriations for reforestation will be kept in a separate account for woodland establishment and protection, and establishment of native grasses and forbs. One and one-half percent will be held in a reserve fund.

12.51(2) Recall of funds. Any funds allocated in the current fiscal year that the districts have not spent or obligated by June 30 may be recalled by the division.

12.51(3) Supplemental allocations. The districts shall identify valid applications and cost estimates, if any, for supplemental allocations to the division by September 1. The allocation to any district will be the lesser amount of:

a. The sum of cost estimates (for pending applications) in each district, divided by the total cost estimates (for pending applications) for all 100 districts, multiplied by the remaining available program funds; or

b. Three times the original allocation to the district.

12.51(4) Reallocation of recalled funds. Rescinded IAB 7/18/07, effective 6/27/07.

12.51(5) Woodland, native grass and forbs fund. Twenty-five percent of the funds and any additional appropriations for reforestation will be allocated to districts.

a. Original allocation. Seventy-five percent of the funds distributed to this program will be allocated equally to districts at the beginning of each fiscal year.

b. Supplemental allocation. The districts shall identify valid applications and cost estimates, if any, for supplemental allocations to the division by September 1. The allocation to any district will be the lesser amount of:

(1) The sum of cost estimates (for pending applications) in each district, divided by the total cost estimates (for pending applications) for all 100 districts, multiplied by the remaining available program funds; or

(2) Three times the original allocation to the district.

c. Eligibility of soil and water conservation districts for supplemental allocation. For a district to qualify for a supplemental allocation, the district must meet the following requirement: ninety percent of the woodland, native grass and forbs funds shall be obligated to landowners.

12.51(6) Reserve funds. The division may administer a reserve fund for the program consisting of not more than 1.5 percent of each year's appropriated funds.

a. Purpose and use of the reserve fund. The reserve fund will be set aside and used only to fund contingencies that occur in the application of practices in the districts.

b. On June 30 each year the division will transfer the unspent reserve fund balance into the water protection practices account to be allocated to districts under subrule 12.51(1).

[ARC 8755B, IAB 5/19/10, effective 7/1/10]

27—12.52 to 12.59 Reserved.

PART 6

27—12.60(161C) Applications and agreements. The purpose of this part is to identify and define procedures to be followed in applying for and entering agreements for receiving water protection practices funds.

27—12.61(161C) Applications submitted to soil and water conservation district. Landowners or farm operators desiring to be considered for water protection practices funds shall complete necessary applications as specified by the district. All application forms and agreements for water protection practices funds are available from and shall be submitted to the district office located in the county where such practices are proposed. If an applicant's land is in more than one district, the respective district commissioners will review the application and agree to obligate all funds from one district or prorate the funding between districts.

27—12.62(161C) Application sign-up.

12.62(1) Signatures by landowner and qualified applicant. All applications and agreements shall be signed by the landowner and applicant. For an applicant to qualify for payment, both landowner and applicant must sign the application.

12.62(2) Land being bought under contract. All applications and agreements concerning land being purchased under contract shall be signed by both the contract seller and the contract buyer. If the operator is applying, the contract buyer, the contract seller, and the operator must sign.

12.62(3) Power of attorney. Applications and agreements may be signed by any person designated to represent the landowner or farm operator, provided the appropriate power of attorney has been filed with the district office. The power of attorney requirement can be met by submitting a notarized full power of attorney statement to the district office. In the case of estates and trusts, court documents designating the responsible person or administrator may be submitted to the district in lieu of the power of attorney.

27—12.63(161C) Eligibility for financial incentives.

12.63(1) District cooperator. Rescinded IAB 7/18/07, effective 6/27/07.

12.63(2) Practices installed on adjoining public lands. Where water protection practices which benefit adjoining private lands are installed on public lands and costs of the installation are to be shared by the parties, state water protection practices funds may be used to cost-share only the private landowner cost of the water protection practice.

12.63(3) Ineligible lands.

a. Water protection practices funds shall not be used to reimburse other units of government for implementing soil and water conservation practices.

b. Privately owned land not used for agricultural production shall not qualify for water protection practices funds. Windbreaks and stormwater quality best management practices established on privately owned land are eligible whether or not the land is in agricultural production.

12.63(4) District priorities. Each application for water protection practices shall be evaluated under the priority system adopted by the district for disbursement of allocated funds. Soil and water conservation district commissioners shall give priority to applications for practices that implement their soil and water resource conservation plan. The priority system adopted by the district shall be made available for review at the district office.

[ARC 8755B, IAB 5/19/10, effective 7/1/10]

27—12.64 to 12.69 Reserved.

PART 7

27—12.70(161C) Water protection practices. The purpose of this part is to establish the general conditions, eligible practices, specifications, and cost-share rates for the installation of water protection practices authorized in Iowa Code chapter 161C.

27—12.71(161C) General conditions. The following general conditions shall be met.

12.71(1) Technician certification. The designated water protection practices shall not be funded unless the technician has inspected the site and has determined that such practice(s) is needed to protect water quality.

12.71(2) Limitation of reimbursable cost of practices. Overbuilding or other practice modifications which exceed the minimum requirements of the specification shall be permitted, if approved by the technician. Any additional costs resulting from such overbuilding or exceeding of the minimum specifications shall not be cost shared by the state.

12.71(3) Materials. Projects funded with water protection funds will utilize only new materials or used materials that meet or exceed design standards and have a life expectancy of 20 years.

12.71(4) Repair or maintenance. Repair or maintenance of existing practices is not eligible for funding.

27—12.72(161C) Eligible practices. Practices listed in this rule are eligible for water protection practices fund reimbursement.

12.72(1) Critical area planting.

12.72(2) Contour buffer strips.

12.72(3) Field border.

12.72(4) Filter strips.

12.72(5) Pasture and hay planting.

12.72(6) Constructed wetlands. Land enrolled in the Conservation Reserve Program, or other similar programs, is eligible, if this practice is not an allowable practice under that program.

12.72(7) Wetland restoration. Land enrolled in the Conservation Reserve Program, or other similar programs, is eligible, if this practice is not an allowable practice under that program.

12.72(8) Streambank and shoreline protection. The practice must be bioengineered using combinations of stream-side plantings or trees, other vegetation, structural practices such as modification of slopes, and installation of reinforcing materials and in-stream structures. Land enrolled in the Conservation Reserve Program, or other similar programs, is eligible, if this practice is not an allowable practice under that program.

[ARC 8755B, IAB 5/19/10, effective 7/1/10]

27—12.73(161C) Eligible practices for priority water resource protection. Practices listed in this rule are eligible for water protection practice fund reimbursement only in those areas or instances approved in rule 27—12.75(161C).

12.73(1) Grassed waterway.

12.73(2) Grade stabilization structure.

12.73(3) Terrace.

12.73(4) Water and sediment control basin.

12.73(5) Diversion.

12.73(6) Waste storage facility. Cost-sharing under this practice is not authorized for:

a. Portable pumps and pumping equipment.

b. Waste disposal equipment.

c. Building, modification of a building, that portion of the animal waste structure that serves as part of the building, or its foundation.

d. That portion of the cost of animal waste control structures attributed to expansion of an animal waste management system.

12.73(7) Stormwater quality best management practices (BMPs). A technique, measure, or structural control that is used for a given set of conditions to manage the quantity and improve the quality of stormwater runoff in the most cost-effective manner. BMPs can be either:

a. Nonstructural BMPs, which include a range of pollution prevention, education, or institutional management and development practices designed to limit the conversion of rainfall to runoff and to prevent pollutants from entering runoff at the source of runoff generation; or

b. Structural BMPs, which are engineered and constructed systems that are used to treat the stormwater at either the point of generation or the point of discharge to either the storm sewer system or to receiving waters (e.g., detention ponds or constructed wetlands).
[ARC 8755B, IAB 5/19/10, effective 7/1/10]

27—12.74(161C) Agricultural drainage well closure. Practices listed in this rule are eligible for water protection practice fund reimbursement where installation of the practice is consistent with current drainage law of the state of Iowa. This practice is intended to assist in the voluntary closure of agricultural drainage wells registered with the department of natural resources prior to September 30, 1988. It is not intended to be a substitute for future agricultural drainage well assistance programs authorized in Iowa Code section 159.29 that will be developed in conjunction with the Iowa department of agriculture and land stewardship's agricultural drainage well research and demonstration project.

12.74(1) Eligible practices.

- a. Agricultural drainage well plugging and cistern removal.
- b. Tile outlet from plugged agricultural drainage well to a suitable, legal outlet.

12.74(2) Implementation of practice. This practice shall not be used to provide outlet(s) for previously undrained wetland(s) as defined and classified under state or federal law.

12.74(3) Outlets with excess capacity. Tile outlets which exceed the minimum capacity required to provide one-half inch drainage coefficient to the area originally served by the drainage well shall be permitted, if approved by the technician. Any additional cost resulting from providing such excess capacity shall not be cost-shared by the state.

27—12.75(161C) Priority watersheds and water quality problems. Practices listed in rule 27—12.73(161C) will be eligible for landowner reimbursement from water protection practices funds only for watersheds and water quality problems designated by soil and water conservation district commissioners and approved by the state soil conservation committee.

12.75(1) District designation. Districts shall submit to the division the description of high priority watershed(s) or water quality problems within their district to be designated as eligible for practices listed in rule 27—12.73(161C).

12.75(2) State soil conservation committee evaluation. The state soil conservation committee shall examine the district submission under 12.75(1) with respect to the following criteria.

- a. The public value and current use of the water resource to be protected.
- b. The nature, extent and severity of the water quality problem to be addressed.
- c. The degree to which the district designation focuses practice application in a manner that will achieve a water quality benefit from the funds available.

12.75(3) Review time limit. The state soil conservation committee shall approve or disapprove the district designation within 90 days of receipt by the division.

12.75(4) Disapproval of designation. In the event of disapproval of district designation, the state soil conservation committee shall inform the district of the reason for disapproval.

27—12.76(161C) Practice standards and specifications. In addition to specifications defined herein, rule 27—10.84(161A) specifications shall apply.

12.76(1) Agricultural drainage well closure. 567 IAC Chapter 39, Requirements for Properly Plugging Abandoned Wells.

12.76(2) Agricultural drainage well plugging and cistern removal. 567 IAC Chapter 39, Requirements for Properly Plugging Abandoned Wells.

12.76(3) Stormwater quality best management practices. Iowa Stormwater Management Manual, Chapter 2, Sections D-L.

27—12.77(161C) Cost-share rates. The following cost-share rates shall apply for eligible practices designated in rules 12.72(161C) to 12.74(161C).

12.77(1) Cost-share rates. Cost-share rates for practices designated in rule 27—12.72(161C) shall be 50 percent of the eligible or estimated cost of installation, whichever is less, except for contour buffer

strips and field borders. Cost-share rates for 12.72(2), contour buffer strips, and 12.72(3), field borders, shall be a one-time payment of 50 percent of the eligible or estimated cost of installation, whichever is less, up to \$25 per acre.

12.77(2) Cost-share rates for water protection practices. Cost-share rates for practices designated in rule 12.73(161C) shall be 50 percent of the eligible or estimated cost, whichever is less.

12.77(3) Cost-share rates for agricultural drainage well closure. Cost-share rates for practices designated in rule 12.74(161C) shall be the following:

a. 50 percent of the eligible or estimated cost, whichever is less, of agricultural drainage well plugging and cistern removal, not to exceed \$500.

b. 50 percent of the eligible or estimated cost, whichever is less, of establishing a tile outlet from the plugged agricultural drainage well to a suitable, legal outlet, not to exceed \$2000.

[ARC 8755B, IAB 5/19/10, effective 7/1/10]

27—12.78 and 12.79 Reserved.

PART 8

27—12.80(161C) Water protection practices—woodlands, native grasses and forbs. The purpose of this part is to establish the general conditions, eligible practices, specifications and cost-share rates for the installation of woodlands, native grasses and forbs as authorized in Iowa Code chapter 161C.

27—12.81(161C) General conditions. The following general conditions shall be met.

12.81(1) Practice need. The designated practices shall not be funded unless the certifying technician has inspected the site and has determined that such practice(s) is needed.

12.81(2) Forest management plan required. A forest management plan approved by the forestry bureau of the department of natural resources is required for the practices of forest stand improvement, tree planting, site preparation for natural regeneration, and rescue treatments.

12.81(3) Eligibility of practices. Planting or management of trees for nut orchards or Christmas tree production is only eligible as intermediate products in stands being established for other approved purposes. Planting or management of trees for ornamental purposes or fruit orchards is not eligible.

[ARC 8755B, IAB 5/19/10, effective 7/1/10]

27—12.82(161C) Eligible practices. Land enrolled in the Conservation Reserve Program is eligible for woodland establishment, management and protection practices and is also eligible for native grass and forb establishment. All practices listed in this part are available to all other eligible landowners within Iowa soil and water conservation districts. All practices listed below are permanent.

12.82(1) Windbreaks. A belt of trees or shrubs established or restored next to an occupied structure. A windbreak must meet either NRCS Standard 380-Windbreak/shelterbelt establishment or NRCS Standard 650-Windbreak/shelterbelt renovation.

12.82(2) Field windbreak. A belt of trees or shrubs established or restored, within or adjacent to a field. A windbreak must meet either NRCS Standard 380-Windbreak/shelterbelt establishment or NRCS Standard 650-Windbreak/shelterbelt renovation.

12.82(3) Forest stand improvement. Minimum eligible area is five acres.

12.82(4) Tree planting. Minimum eligible area is three acres.

12.82(5) Site preparation for natural regeneration. Minimum eligible area is three acres.

12.82(6) Riparian forest buffer.

12.82(7) Rescue treatments. Minimum eligible area is three acres.

12.82(8) Prescribed grazing. The practice must include a minimum of two paddocks of native species grasses.

12.82(9) Conservation cover.

[ARC 8755B, IAB 5/19/10, effective 7/1/10]

27—12.83(161C) Practice standards and specifications. Soil and water conservation practices shall meet Natural Resources Conservation Service conservation standards and specifications where

applicable. These standards may be accessed through the electronic field office technical guide at http://efotg.nrcs.usda.gov/efotg_locator.aspx?map=IA.

Tree planting, forest stand improvement, site preparation for natural regeneration and rescue treatment standards may be accessed through the department of natural resource's forestry technical guide found at <http://www.iowadnr.com/forestry/pdf/techguide.pdf>.

Standards and specifications are also available in hard copy in the district office where the practice will be implemented. These specifications and the general conditions, rule 27—10.81(161A), shall be met in all cases. To the extent of any inconsistency between the general conditions and the specifications, the general conditions shall control.

[ARC 8755B, IAB 5/19/10, effective 7/1/10]

27—12.84(161C) Cost-share rates. The following cost-share rates shall apply for eligible practices designated in rule 27—12.82(161C). The use of state cost-share funds alone or in combination with other public funds shall not exceed the limits established by these rules.

12.84(1) Windbreaks. 75 percent of the eligible or estimated cost, whichever is less, not to exceed \$1500 for the total cost of the establishment or restoration of the windbreak.

12.84(2) Field windbreaks. 75 percent of the eligible or estimated cost, whichever is less, not to exceed \$450 per acre.

12.84(3) Forest stand improvement. 75 percent of the eligible or estimated cost, whichever is less, not to exceed \$120 per acre for prescribed woodland burning, thinning, pruning crop trees, or releasing seedlings or young trees.

12.84(4) Tree planting.

a. 75 percent of the eligible or estimated cost, whichever is less, not to exceed \$450 per acre, for tree planting including the following:

- (1) Establishing ground cover,
- (2) Trees and tree-planting operations,
- (3) Weed and pest control,
- (4) Mowing, disking, and spraying.

b. 75 percent of the eligible or estimated cost, whichever is less, not to exceed \$150 per acre for woody plant competition control.

12.84(5) Site preparation for natural regeneration. 75 percent of the eligible or estimated cost, whichever is less, not to exceed \$120 per acre of site preparation.

12.84(6) Riparian forest buffer. 75 percent of the eligible or estimated cost, whichever is less.

12.84(7) Rescue treatment.

a. 75 percent of the eligible or estimated cost, whichever is less, not to exceed \$60 per acre to establish alternate cover for competition control.

b. A one-time payment of 75 percent of the eligible or estimated cost, whichever is less, not to exceed \$15 per acre to control damaging rodent populations.

c. 75 percent of the eligible or estimated cost, whichever is less, not to exceed \$450 per acre, for plantation replanting including the following:

- (1) Establishing ground cover,
- (2) Trees and tree planting,
- (3) Weed control.

12.84(8) Prescribed grazing. 75 percent of the eligible or estimated cost, whichever is less. Systems must include at least two paddocks of native species grasses. Development of a water source is not eligible. Boundary fences or road fences are not included.

12.84(9) Conservation cover. 75 percent of the eligible or estimated cost, whichever is less.

12.84(10) Fencing systems. Fencing systems used to implement or protect a conservation practice described in rule 27—12.82(161C) are eligible for the lesser of 75 percent of the eligible or estimated cost. The fencing costs cannot exceed \$14 per rod for permanent fencing or \$5 per rod for temporary electric fencing. Fences along roads or land boundaries are not eligible.

[ARC 8755B, IAB 5/19/10, effective 7/1/10]

27—12.85(161C) Special practice and cost-share procedures eligibility. Districts may submit requests to establish eligible practices, develop cost-share procedures, experiment with new conservation practices and explore new technologies with approval of the state soil conservation committee.

12.85(1) District designation. Districts shall submit to the SSCC the description of their intentions which could include:

- a. Type of practice.
- b. Cost-share rate.
- c. Resource to be protected.
- d. Estimated cost.
- e. Landowner interest.
- f. Technology to be addressed.

12.85(2) State soil conservation committee evaluation. The state soil conservation committee shall examine the district submission under 12.85(1) with respect to the following criteria.

- a. The public and current use of the resource to be protected.
- b. The nature, extent, and severity of the problem to be addressed.
- c. The degree to which the request focuses practice or technology application in a manner that will achieve a soil erosion or water quality benefit from the funds available.
- d. Whether a specification can be developed by NRCS or DNR for the new technology or practice.

12.85(3) Review time limit. The state soil conservation committee shall approve or disapprove the district designation within 90 days of receipt by the division.

12.85(4) Disapproval of designation. In the event of disapproval of district requests, the state soil conservation committee shall inform the district of the reason for disapproval.

This rule is intended to implement Iowa Code chapters 161A and 161C.

27—12.86 to 12.89 Reserved.

PART 9

27—12.90(161C,312) Reporting and accounting. Reports will be prepared in the same manner as provided in rule 27—10.91(161A).

These rules are intended to implement Iowa Code chapters 161A and 161C, Iowa Code section 99E.34 and 1989 Iowa Acts, chapter 236.

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CHAPTER 12
SPECIAL NONRESIDENT DEER AND TURKEY LICENSES

561—12.1(483A) Purpose. These rules establish the process by which the department will issue special nonresident deer and turkey licenses to individuals as part of statewide or local efforts to promote the state and its natural resources.

[ARC 7814B, IAB 6/3/09, effective 7/8/09]

561—12.2(483A) Definitions. When used in this chapter:

“Conservation organization” means an organization that is licensed and managed pursuant to Iowa Code chapter 504, the revised Iowa nonprofit corporation Act, and whose mission emphasizes natural resource conservation or supports science-based natural resource management. A local or state chapter or division of a national or international conservation organization shall qualify as a conservation organization. A person who purchases a deer license from a conservation organization under these rules is not subject to the restriction provided in 12.5(1)“b.”

“Coordinator” means the department staff person appointed by the director to administer the process for allocation of special nonresident deer and turkey licenses pursuant to this chapter.

“Department” means the department of natural resources.

“Director” means the director of the department of natural resources.

“Internal committee” means the committee that ranks certain requests for special licenses for consideration by the legislative committee and consists of the coordinator, the administrator of the conservation and recreation division, the chief of the wildlife bureau, and the chief of the law enforcement bureau.

“Legislative committee” means the committee that makes the final selection of recipients of special nonresident deer and turkey licenses and consists of the majority leader of the Iowa senate, the speaker of the Iowa house of representatives, and the director of the Iowa department of economic development, or their designees, as described in Iowa Code section 483A.24.

“Outdoor industry” means a commercial enterprise or venture that promotes or otherwise contributes to the use of natural resources. For purposes of illustration, an outdoor industry may include, but is not limited to, a television or radio show production; a video/DVD production; still and motion photography; an article in the popular print media, such as in a newspaper or periodical; a lecture presentation; the manufacture or acquisition of sporting equipment for resale; or a similar activity. A business that solely provides guide or outfitter services is not an outdoor industry.

“Program” means the review and selection process through which special nonresident deer and turkey licenses are allocated in accordance with Iowa Code section 483A.24 and these rules.

“Special licenses” means the special nonresident deer licenses and special nonresident turkey licenses issued pursuant to these rules.

“Special nonresident deer license” means a deer license issued pursuant to Iowa Code section 483A.24(3).

“Special nonresident turkey license” means a turkey license issued pursuant to Iowa Code section 483A.24(4).

“Sponsor” means an entity that applies on behalf of one or more hunters.

[ARC 7814B, IAB 6/3/09, effective 7/8/09; ARC 8753B, IAB 5/19/10, effective 6/23/10]

561—12.3(483A) Availability of special licenses. The program shall be available to provide no more than the number of special licenses allowed by Iowa Code section 483A.24 to nonresidents through requests submitted by individual hunters or through a sponsor. Sponsors may be located in the state of Iowa.

[ARC 7814B, IAB 6/3/09, effective 7/8/09; ARC 8753B, IAB 5/19/10, effective 6/23/10]

561—12.4(483A) Coordinator duties. The coordinator of the program shall:

12.4(1) Assist the internal and legislative committees in the evaluation and selection of hunters who may receive special licenses.

12.4(2) Develop templates for requests for special licenses and provide the templates to hunters and sponsors upon request.

12.4(3) Convene the internal committee to rank hunters according to the criteria in rule 561—12.7(483A).

12.4(4) Summarize each request received and distribute the summaries to the internal committee and legislative committee.

12.4(5) Provide additional information regarding requesters as needed to aid the legislative committee in the selection process.

12.4(6) Establish the dates on which the legislative committee will select the conservation organizations and hunters who will receive special licenses and inform the organizations and hunters of their selection.

[ARC 7814B, IAB 6/3/09, effective 7/8/09]

561—12.5(483A) Request, review and selection process.

12.5(1) *Submission of requests.*

a. Individual hunters or sponsors shall submit a request, or requests, to the coordinator.

(1) A request for a deer license must be on the form provided by the department and shall be submitted to the coordinator by August 15 prior to the season to be hunted.

(2) A request for a turkey license must be on the form provided by the department and shall be submitted to the coordinator at least 14 days prior to the season to be hunted.

b. Applicants will not qualify for a deer license under this rule if they were issued a deer license under this rule the previous year.

c. Hunters awarded a deer license under this rule may purchase preference points for the regular nonresident deer license and shall not lose those preference points when awarded a deer license under this rule.

12.5(2) *Review.* The internal committee shall review the summaries prepared by the coordinator, rank the hunters according to criteria in rule 561—12.7(483A), and forward the rankings to the legislative committee for consideration and final selection. The internal committee shall exercise its discretion and, in addition to the criteria in rule 561—12.7(483A), shall also consider the following:

a. Requests that demonstrate little or no promotion of the state of Iowa or its natural resources shall not be included in the rankings forwarded to or considered by the legislative committee.

b. Requests from a sponsor, a sponsor-related entity, or hunter that has been found guilty of a game violation in Iowa or elsewhere within the past five years or that, in the opinion of the internal committee, has exhibited poor hunting ethics or judgment shall not be considered for a special license.

c. Review of requests shall occur at least once annually but may occur more frequently as needed based upon the number of requests and the dates by which they are received.

12.5(3) *Selection and payment.* Upon notice of selection to receive a special license, the sponsor or hunter shall make payment in accordance with rule 561—12.12(483A) to the department through the coordinator. Payment must be made at least 30 days prior to the hunting season for which the license is valid.

[ARC 7814B, IAB 6/3/09, effective 7/8/09; ARC 8753B, IAB 5/19/10, effective 6/23/10]

561—12.6(483A) Consideration of requests. The internal committee will recommend to the legislative committee which conservation organizations are best qualified to promote the state and its natural resources. In making recommendations to the legislative committee, the internal committee will base its recommendations on the expected ability of hunters to promote the state and its natural resources and, if applicable, based on the degree of success special license holders have had in previous years or seasons in promoting the state and its natural resources. By way of illustration, the committee may consider requests from the following:

12.6(1) A hunter who has a direct beneficial impact on the state through an arm's-length business relationship with an Iowa-based outdoor industry.

12.6(2) A conservation organization that will use the special nonresident deer license as a fund-raiser for that organization. A conservation organization shall be limited to one special nonresident deer license

per year, whether the organization is a local or state chapter or division of a national or international conservation organization. The organization shall return to the department the greater amount of either one-half of the proceeds from its sale of the special nonresident deer license or the fee for a nonresident deer license as set forth in Iowa Code section 483A.1. The department's proceeds shall cover the cost of the special nonresident deer license. A license made available to a conservation organization in accordance with this subrule may be valid for up to two years after selection of the organization by the legislative committee. The sponsoring conservation organization shall notify the coordinator by July 1 or immediately following the sale of the special nonresident deer license of which year and for what season the special nonresident deer license will be used. The conservation organization shall specifically explain how and during what period the organization will market the special nonresident deer license for auction or some other legal fund-raiser.

12.6(3) A hunter nominated by the governor, a member of the Iowa legislature or a member of the legislative committee.

12.6(4) A hunter recommended by the department.

12.6(5) A hunter who is a well-known public figure nationally or regionally and who may provide a positive portrayal of the state and its natural resources.

[ARC 7814B, IAB 6/3/09, effective 7/8/09; ARC 8753B, IAB 5/19/10, effective 6/23/10]

561—12.7(483A) Ranking criteria.

12.7(1) The following criteria shall be used by the internal committee to rank individual hunters as identified in subrules 12.6(1), 12.6(4) and 12.6(5). The rankings shall be determined as the average of the following rating points and will be provided to the legislative committee as an aid in determining the selection of hunters.

a. Five points if the hunter is directly affiliated with an Iowa-based outdoor industry.

b. From 0 to 10 points for the following:

(1) The relative size of the hunter's potential audience.

(2) The hunter's proposal to promote the state and its natural resources.

(3) If the hunter has received a special license in the past, the value of the actual promotion of the state and its natural resources or special services provided as a result.

c. From 0 to 5 points if the hunter meets the description in subrule 12.6(5).

12.7(2) A conservation organization's request shall be forwarded to the legislative committee if the conservation organization meets the definition in rule 561—12.2(483A) and approval shall be based on evaluation of the organization's prior performance, if any, in selling the special nonresident deer license.

12.7(3) Hunters as identified in subrule 12.6(3) shall not be ranked by the internal committee, and their requests will be forwarded to the legislative committee for its determination.

[ARC 7814B, IAB 6/3/09, effective 7/8/09; ARC 8753B, IAB 5/19/10, effective 6/23/10]

561—12.8(483A) Services provided by recipients of special licenses. In addition to promoting the state and its natural resources, recipients of special licenses may improve the ranking they receive for future license requests by providing additional services as specified by the department. Services shall be limited to those that improve communications between the department and outdoor recreationalists and to assistance in marketing outdoor recreation and natural resource conservation.

[ARC 7814B, IAB 6/3/09, effective 7/8/09; ARC 8753B, IAB 5/19/10, effective 6/23/10]

561—12.9(483A) License term. With the exception of the term provided for in subrule 12.6(2), special licenses issued under these rules shall be valid for only the applicable deer or turkey season immediately following allocation of the license.

[ARC 7814B, IAB 6/3/09, effective 7/8/09]

561—12.10(483A) Reporting. Within eight months after a hunter's participation in a hunt with a license issued pursuant to this chapter, the sponsor or hunter shall provide to the coordinator information about the hunt to demonstrate how the hunt will provide or has provided promotion of the state and its natural resources. This information may be in the form of testimonials of the participants, a completed DVD

available for retail sale, a DVD copy of the actual television broadcast, an article in a periodical, or other verifiable means that demonstrate the promotional benefits. The legislative committee may consider compliance with this reporting requirement in evaluating future requests.

[ARC 7814B, IAB 6/3/09, effective 7/8/09]

561—12.11(483A) Prohibitions. Photographs, videotapes, or any other form of media resulting from the special licenses issued pursuant to this chapter shall not be used for political campaign purposes.

[ARC 7814B, IAB 6/3/09, effective 7/8/09]

561—12.12(483A) License costs. With the exception provided in subrule 12.6(2) for conservation organizations, a nonresident who obtains a special license issued pursuant to this chapter shall pay the applicable fee as follows:

12.12(1) For a special nonresident deer license, the fee described in Iowa Code section 483A.1 for a deer hunting license, antlered or any sex deer.

12.12(2) For a special nonresident turkey license, the fee described in Iowa Code section 483A.1 for a wild turkey hunting license.

[ARC 7814B, IAB 6/3/09, effective 7/8/09]

561—12.13(483A) Hunter safety requirements. As provided in Iowa Code sections 483A.24(3) and 483A.24(4), the hunter safety and ethics certificate requirement is waived for holders of special licenses issued pursuant to this chapter.

[ARC 7814B, IAB 6/3/09, effective 7/8/09]

These rules are intended to implement Iowa Code section 483A.24.

[Filed ARC 7814B (Notice ARC 7652B, IAB 3/25/09), IAB 6/3/09, effective 7/8/09]

[Filed ARC 8753B (Notice ARC 8595B, IAB 3/10/10), IAB 5/19/10, effective 6/23/10]

CHAPTER 301
STATE BUILDING CODE—GENERAL PROVISIONS
[Prior to 12/21/05, see rules 661—16.1(103A) to 661—16.500(103A)]

661—301.1(103A) Scope and applicability. The provisions of this chapter apply generally to:

1. Buildings and facilities owned by the state of Iowa;
2. The initial construction of any building or facility not wholly owned by the state of Iowa or any department or agency of the state of Iowa which is financed in whole or in part with funds appropriated by the state, if there is no local building code in effect in the jurisdiction in which the construction is located or if there is a local building code in effect in the jurisdiction, and the local building code is not enforced through a system of plan reviews and inspections;
3. Buildings and facilities subject to the state building code, pursuant to a provision of state or federal law other than Iowa Code chapter 103A; and
4. Buildings and facilities in local jurisdictions which have adopted the state building code by local ordinance in accordance with the provisions of Iowa Code section 103A.12.

661—301.2(103A) Definitions. The following definitions apply to 661—Chapters 300, 301, 302, and 303.

“Appropriated by the state of Iowa” means funds which are included in a bill enacted by the Iowa general assembly and signed by the governor or which are appropriated in a provision of the Iowa Code.

“Board of appeals” means the local board of appeals as created by local ordinance.

“Board of review” or *“board”* means the state building code board of review created by Iowa Code section 103A.15. The three members of the board of review are appointed by the building code commissioner from among the membership of the building code advisory council.

“Building” means a combination of materials, whether portable or fixed, to form a structure affording facilities or shelter for persons, animals or property. The word “building” includes any part of a building unless the context clearly requires a different meaning. This definition does not apply to 661—Chapter 302.

“Building code advisory council” or *“council”* means the seven-member council appointed by the governor, pursuant to Iowa Code section 103A.14, to advise and confer with the commissioner on matters relating to the state building code and to approve provisions of the state building code adopted by the commissioner.

“Building component” means any part, subsystem, subassembly, or other system designed for use in, or as a part of, a structure, including but not limited to: structural, electrical, mechanical, fire protection, or plumbing systems, and including such variations thereof as are specifically permitted by regulation, and which variations are submitted as part of the building system or amendment thereof.

“Building department” means an agency of any governmental subdivision charged with the administration, supervision, or enforcement of building regulations, prescribed or required by state or local building regulations.

“Building system” means plans, specifications and documentation for a system of manufactured factory-built structures or buildings or for a type or a system of building components, including but not limited to: structural, electrical, mechanical, fire protection, or plumbing systems, and including such variations thereof as are specifically permitted by regulation, and which variations are submitted as part of the building system or amendment thereof.

“Bureau” means the building code bureau of the fire marshal division of the department of public safety.

“Commissioner” means the state building code commissioner appointed by the commissioner of public safety pursuant to Iowa Code section 103A.4.

“Construction” means the construction, erection, reconstruction, alteration, conversion, repair, equipping of buildings, structures or facilities, and requirements or standards relating to or affecting materials used in connection therewith, including provisions for safety and sanitary conditions.

“*Construction cost*” means the total cost of the work to the owner of all elements of the project designed or specified by the design professional including the cost at current market rates of labor and materials furnished by the owner and equipment designed, specified or specifically provided by the design professional. Construction costs shall include the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for each construction manager’s or contractor’s overhead and profit.

“*Division*” means the fire marshal division of the department of public safety.

“*Enforcement authority*” means any state agency or political subdivision of the state that has the authority to enforce the state building code.

“*Equipment*” means plumbing, heating, electrical, ventilating, conditioning, refrigeration equipment, and other mechanical facilities or installations.

“*Governmental subdivision*” means any state, city, town, county or combination thereof.

“*Label*” means an approved device affixed to a factory- built structure or building, or building component, by an approved agency, evidencing code compliance.

“*Listing agency*” means an agency approved by the commissioner which is in the business of listing or labeling and which maintains a periodic inspection program on current production of listed models, and which makes available timely reports of such listing including specific information verifying that the product has been tested to approved standards and found acceptable for use in a specified manner.

“*Responsible design professional*” means a registered architect or licensed professional engineer who stamps and signs the documents submitted, pursuant to Iowa Code chapters 542B and 544A.

“*State fire code*” means administrative rules adopted by the state fire marshal, pursuant to Iowa Code section 100.1, subsection 5.

“*State plumbing code*” means the state plumbing code adopted by the state plumbing and mechanical systems board, pursuant to Iowa Code chapter 105.

NOTE: As of January 1, 2007, the state plumbing code is found in 641—Chapter 25.

“*Structure*” means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner except transmission and distribution equipment of public utilities. “Structure” includes any part of a structure unless the context clearly requires a different meaning.

[ARC 8305B, IAB 11/18/09, effective 1/1/10]

661—301.3(103A) General provisions. The provisions of the International Building Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted by reference as the general requirements for building construction, with the following amendments:

Delete section 101.1.

Delete section 101.2 and insert in lieu thereof the following new section:

101.2 Scope. The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Exception: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the International Residential Code, as amended by rule 661—301.8(103A).

Delete section 101.4 and sections therein.

Delete section 102.6 and insert in lieu thereof the following new section:

102.6 Existing Structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as specifically covered in this code or the state fire code, or as deemed necessary by the building code commissioner for the general safety and welfare of the occupants and the public.

Delete sections 103, 104, 105 and sections therein.

Delete section 106.2.

Delete section 107.1 and insert in lieu thereof the following new section:

107.1 General. Submittal documents consisting of construction documents, statement of special inspections, a geotechnical report and other data shall be submitted in one or more sets with each plan review application. The construction documents shall be prepared by a responsible design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the commissioner is authorized to require additional construction documents to be prepared by a responsible design professional.

Exception: The commissioner is authorized to waive the submission of construction documents and other data not required to be prepared by a responsible design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

Delete sections 107.3, 107.4, and 107.5 and sections therein.

Delete sections 109, 110, 111, 112, 113, 114, 115, and 116 and sections therein.

Delete section 906.1 and insert in lieu thereof the following new section:

906.1 Where required. Portable fire extinguishers shall be installed in the following locations:

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.
2. Within 30 feet (9144 mm) of commercial cooking equipment.
3. In areas where flammable or combustible liquids are stored, used or dispensed.
4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1 of the International Fire Code.
5. Where required by the sections indicated in Table 906.1.
6. Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms, where required by the fire code official.

Delete section 907.2.2 and insert in lieu thereof the following new section:

907.2.2 Group B. A manual fire alarm system shall be installed in Group B occupancies where one of the following conditions exists:

1. The combined Group B occupant load of all floors is 500 or more.
2. The Group B occupant load is more than 100 persons above or below the lowest level of exit discharge.
3. The Group B fire area contains a Group B ambulatory health care facility.
4. The Group B fire area contains an educational occupancy for students above the twelfth grade with an occupant load of 50 or more persons.

Exception: Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.

Delete section 907.2.3 and insert in lieu thereof the following new section:

907.2.3 Group E. In the absence of a complete automatic sprinkler system, a complete automatic detection system shall be installed throughout the entire Group E occupancy. A Group E occupancy with a complete automatic sprinkler system shall be provided with a fire alarm system with a minimum of corridor smoke detection, at a maximum spacing of 30 feet on center, and heat or smoke detection in any hazardous or nonoccupied areas. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

Exceptions:

1. Group E occupancies with an occupant load of less than 50.
2. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:
 - 2.1. Interior corridors are protected by smoke detectors with alarm verification.
 - 2.2. Auditoriums, cafeterias, gymnasiums and the like are protected by heat detectors or other approved detection devices.
 - 2.3. Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.
 - 2.4. Off-premises monitoring is provided.

2.5. The capability to activate the evacuation signal from a central point is provided.

2.6. In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and a constantly attended receiving station from which a general evacuation alarm can be sounded, except in locations specifically designated by the fire code official.

3. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system, the notification appliances will activate on sprinkler water flow and manual activation is provided from a normally occupied location.

Add the following new section 1003.8:

1003.8 Location of Preschool through Second Grade Students. In Group E occupancies, rooms normally occupied by preschool, kindergarten or first grade students shall not be located above or below the level of exit discharge. Rooms normally occupied by second grade students shall not be located more than one story above the level of exit discharge.

Add the following new section 1100:

1100. Any building or facility which is in compliance with the applicable requirements of 661—Chapter 302 shall be deemed to be in compliance with any applicable requirements contained in the International Building Code concerning accessibility for persons with disabilities.

Delete chapter 29.

Amend section 3001.2 by adding the following new unnumbered paragraph after the introductory paragraph:

Notwithstanding the references in Chapter 35 to editions of national standards adopted in this section, any editions of these standards adopted by the elevator safety board in 875—Chapter 72 are hereby adopted by reference. If a standard is adopted by reference in this section and there is no adoption by reference of the same standard in 875—Chapter 72, the adoption by reference in this section is of the edition identified in Chapter 35.

Amend section 3401.3 by deleting “International Private Sewage Disposal Code” and inserting in lieu thereof “567 Iowa Administrative Code Chapter 69.”

Delete appendices A through K.

Delete all references to the “International Plumbing Code” and insert in lieu thereof “state plumbing code.”

Delete all references to the “ICC Electrical Code” and insert in lieu thereof “National Electrical Code, 2008 edition as amended by rule 661—301.5(103A).”

Delete all references to the “International Fuel Gas Code” and insert in lieu thereof “rule 661—301.9(103A).”

301.3(1) Hospitals and health care facilities.

a. A hospital, as defined in rule 661—205.1(100), that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the hospital is in compliance with the provisions of rule 661—205.5(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the hospital shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

b. A nursing facility or hospice, as defined in rule 661—205.1(100), that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the nursing facility or hospice is in compliance with the provisions of rule 661—205.10(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the nursing facility or hospice shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

c. An intermediate care facility for the mentally retarded, as defined in rule 661—205.1(100), or intermediate care facility for persons with mental illness that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the intermediate care facility is in compliance with the provisions of rule 661—205.15(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent

with an applicable requirement of the state building code, the intermediate care facility shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

d. An ambulatory health care facility, as defined in rule 661—205.1(100), that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the ambulatory health care facility is in compliance with the provisions of rule 661—205.20(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the ambulatory health care facility shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

e. A religious nonmedical health care institution that is required to meet the provisions of the state building code shall be deemed to be in compliance with the provisions of the state building code if the institution is in compliance with the provisions of rule 661—205.25(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the religious nonmedical health care institution shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

301.3(2) Reserved.

[ARC 8305B, IAB 11/18/09, effective 1/1/10]

661—301.4(103A) Mechanical requirements. The provisions of the International Mechanical Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted by reference as the requirements for the design, installation, maintenance, alteration, and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings, with the following amendments:

Delete section 101.1.

Delete sections 103, 104, 105, 106, 107, 108, 109, and 110 and sections therein.

Delete section 403 and insert in lieu thereof the following new section:

SECTION 403

MECHANICAL VENTILATION

Mechanical ventilation systems shall be designed in accordance with the provisions of ASHRAE Standard 62.1-2007, "Ventilation for Acceptable Indoor Air Quality," published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, 1791 Tullie Circle, N.E., Atlanta, GA 30329.

Delete appendices A and B.

Delete all references to the "International Plumbing Code" and insert in lieu thereof "state plumbing code."

Delete all references to the "ICC Electrical Code" and insert in lieu thereof "National Electrical Code, 2008 edition, as amended by rule 661—301.5(103A)."

Delete all references to the "International Fuel Gas Code" and insert in lieu thereof "rule 661—301.9(103A)."

[ARC 8305B, IAB 11/18/09, effective 1/1/10]

661—301.5(103A) Electrical requirements. The provisions of the National Electrical Code, 2008 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471, are hereby adopted by reference as the requirements for electrical installations, with the following amendment:

Delete section 210.8, paragraph (A) and insert in lieu thereof the following new paragraph:

(A) Dwelling Units. All 125-volt, single-phase, 15- and 20-ampere receptacles installed in the locations specified in (1) through (8) shall have ground-fault circuit-interrupter protection for personnel.

(1) Bathrooms.

(2) Garages, and also accessory buildings that have a floor located at or below grade level not intended as habitable rooms and limited to storage areas, work areas, and areas of similar use.

Exception No. 1 to (2): Receptacles that are not readily accessible.

Exception No. 2 to (2): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).

Receptacles installed under the exceptions to 210.8(A)(2) shall not be considered as meeting the requirements of 210.52(G).

(3) Outdoors.

Exception to (3): Receptacles that are not readily accessible and are supplied by a dedicated branch circuit for electric snow-melting or deicing equipment shall be permitted to be installed in accordance with 426.28.

(4) Crawl spaces—at or below grade level.

(5) Unfinished basements—for purposes of this section, unfinished basements are defined as portions or areas of the basement not intended as habitable rooms and limited to storage areas, work areas, and the like.

Exception No. 1 to (5): Receptacles that are not readily accessible.

Exception No. 2 to (5): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).

Exception No. 3 to (5): A receptacle supplying only a permanently installed fire alarm or burglar alarm system shall not be required to have ground-fault circuit-interrupter protection.

Receptacles installed under the exceptions to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G).

(6) Kitchens—where the receptacles are installed to serve the countertop surfaces.

(7) Laundry, utility, and wet bar sinks—where the receptacles are installed within 1.8 m (6 ft) of the outside edge of the sink.

(8) Boathouses.

661—301.6(103A) Plumbing requirements. Provisions of the state plumbing code, 641—Chapter 25, adopted by the state plumbing and mechanical systems board pursuant to Iowa Code chapter 105, apply to plumbing installations in this state.

EXCEPTION: Factory-built structures, as referenced by Iowa Code section 103A.10(3), that contain plumbing installations are allowed to comply with either the state plumbing code or with International Plumbing Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041. The manufacturer's data plate must indicate which plumbing code was utilized for compliance with this rule, as required by 661—paragraph 16.610(15) "e."

Private sewage disposal systems shall comply with 567—Chapter 69.

301.6(1) Places of public assembly, restaurants, pubs and lounges constructed on or after January 1, 1991, shall provide at least the numbers of plumbing facilities required in the Uniform Plumbing Code, 2009 edition, Table 4-1, published by the International Association of Plumbing and Mechanical Officials, 5001 E. Philadelphia St., Ontario, CA 91761. Additions to, or adding seating capacity in, these types of occupancies shall require the installation of additional fixtures based upon the added number of occupants unless it can be shown that the existing facilities comply for the total number of occupants including the additional occupants.

All water closets installed pursuant to this subrule shall be water-efficient water closets complying with requirements of the U.S. Department of Energy.

This subrule is intended to implement Iowa Code section 104B.1.

301.6(2) Fuel gas piping shall comply with the requirements established in rule 661—301.9(103A). [ARC 8305B, IAB 11/18/09, effective 1/1/10]

661—301.7(103A) Existing buildings.

301.7(1) Definition. "Existing building" means a building erected prior to January 1, 2010.

301.7(2) Adoption. The provisions of the International Existing Building Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041,

are hereby adopted by reference as the requirements for repair, alteration, change of occupancy, addition, and relocation of existing buildings, with the following amendments:

Delete section 101.1.

Delete section 101.4.2 and insert in lieu thereof the following new section:

101.4.2 Buildings Previously Occupied. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as specifically covered in this code or the state fire code, or as deemed necessary by the building code commissioner for the general safety and welfare of the occupants and the public.

Delete section 101.5.4.

Delete section 101.5.4.1.

Delete section 101.5.4.2.

Delete section 101.7.

Delete sections 103, 104, and 105 and sections therein.

Delete sections 106.1, 106.3.1, 106.3.3, 106.5, and 106.6.

Delete sections 108, 109, 110, 112, 113, 114, 115, 116 and 117 and sections therein.

Delete section 605.

Delete section 706.

Delete section 806.

Delete section 912.8.

Delete chapters A1 through A5.

Delete appendix B and insert in lieu thereof the following new section:

Any building or facility subject to this rule shall comply with the provisions of 661—Chapter 302.

Delete resource A.

Delete all references to the “International Plumbing Code” and insert in lieu thereof “state plumbing code.”

Delete all references to the “ICC Electrical Code” and insert in lieu thereof “National Electrical Code, 2008 edition, as amended by rule 661—301.5(103A).”

Delete all references to the “International Fuel Gas Code” and insert in lieu thereof “rule 661—301.9(103A).”

[ARC 8305B, IAB 11/18/09, effective 1/1/10]

661—301.8(103A) Residential construction requirements. The provisions of the International Residential Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted by reference as the requirements for construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal, and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures, with the following amendments:

Delete section R101.1.

Delete sections R103 to R114 and sections therein.

NOTE: The values for table R301.2(1) shall be determined by the location of the project and referenced footnotes from table R301.2(1).

Delete chapter 11.

Delete all references to the “International Plumbing Code” and insert in lieu thereof “state plumbing code.”

Delete section R310.1 and insert in lieu thereof the following new section:

R310.1 Emergency escape and rescue required. Basements and every sleeping room shall have at least one operable emergency and rescue opening. Such opening shall open directly into a public street, public alley, yard or court. Where basements contain one or more sleeping rooms, emergency egress and rescue openings shall be required in each sleeping room, but shall not be required in adjoining areas of the basement. Where emergency escape and rescue openings are provided they shall have a sill height of not more than 44 inches (1118 mm) above an adjacent permanent interior standing surface. The adjacent

permanent interior standing surface shall be no less than 36 inches wide and 18 inches deep and no more than 24 inches high. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with section R310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside. Emergency escape and rescue openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with section R310.2. Emergency escape and rescue openings shall open directly into a public way, or to a yard or court that opens to a public way.

EXCEPTION: Basements used only to house mechanical equipment and not exceeding total floor area of 200 square feet (18.58 m²).

Delete section R313.1.

NOTE: Deletion of section R313.1, which would have required the installation of sprinklers in newly constructed townhouses, is consistent with 2010 Iowa Acts, Senate Joint Resolution 2009.

Delete section R313.2.

NOTE: Deletion of section R313.2, which would have required the installation of sprinklers in newly constructed one- and two-family residences, is consistent with 2010 Iowa Acts, Senate Joint Resolution 2009.

Amend section R322.1.7 by striking the words “Chapter 3 of the International Private Sewage Disposal Code” and inserting in lieu thereof “567 Iowa Administrative Code Chapter 69.”

Delete section R907.3 and insert in lieu thereof the following new section:

R907.3 Recovering versus replacement. New roof coverings shall not be installed without first removing all existing layers of roof coverings where any of the following conditions exist:

1. Where the existing roof or roof covering is water-soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing.
2. Where the existing roof covering is wood shake, slate, clay, cement or asbestos cement tile.
3. Where the existing roof has two or more applications of any type of roof covering.

Delete chapter 24 and sections therein and insert in lieu thereof the following new section:

All fuel gas piping installations shall comply with rule 661—301.9(103A).

Delete chapters 25 to 33 and sections therein, except for section P2904, and insert in lieu thereof the following new section:

All plumbing installations shall comply with the state plumbing code as adopted by the state plumbing and mechanical systems board pursuant to Iowa Code chapter 105.

EXCEPTION: Factory-built structures, as referenced by Iowa Code section 103A.10(3), that contain plumbing installations are allowed to comply with either the state plumbing code or with the International Plumbing Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041. The manufacturer’s data plate must indicate which plumbing code was utilized for compliance with this rule, as required by 661—paragraph 16.610(15) “e.”

Delete chapters 34 to 43 and sections therein and insert in lieu thereof the following new section:

All electrical installations shall comply with National Electrical Code, 2008 edition, as amended by rule 661—301.5(103A).

Delete appendices A through Q.

[ARC 8305B, IAB 11/18/09, effective 1/1/10 (See Delay note at end of chapter); ARC 8771B, IAB 5/19/10, effective 5/1/10]

661—301.9(103A) Fuel gas piping requirements. Fuel gas piping shall comply with the requirements of 661—Chapter 221. Liquefied petroleum gas facilities and appliances shall comply with rule 661—226.1(101).

[ARC 8305B, IAB 11/18/09, effective 1/1/10]

661—301.10(103A) Transition period. A construction project that is subject to the provisions of any rule in 661—Chapter 301 or 661—Chapter 303 which requires compliance with provisions of the 2009 edition of any code published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, may comply with the requirements established either in the edition of the code adopted herein or the requirements established in the edition of the same code previously in effect if the

project is commenced no later than March 31, 2010. “Commenced” shall mean that the submitter has obtained preliminary approval from the commissioner or a local building department pursuant to rule 661—300.6(103A) prior to April 1, 2010. If final approval for the project design has not been obtained prior to October 1, 2010, the project is subject to the provisions of 661—Chapters 301 and 303 in effect as of January 1, 2010.

[ARC 8305B, IAB 11/18/09, effective 1/1/10]

These rules are intended to implement Iowa Code chapter 103A.

[Filed 12/2/05, Notice 9/14/05—published 12/21/05, effective 4/1/06]

[Filed 11/2/06, Notice 9/27/06—published 11/22/06, effective 1/1/07]

[Filed 10/31/07, Notice 9/12/07—published 11/21/07, effective 1/1/08]

[Filed 10/29/08, Notice 9/24/08—published 11/19/08, effective 1/1/09]

[Filed ARC 8305B (Notice ARC 8179B, IAB 9/23/09), IAB 11/18/09, effective 1/1/10]¹

[Editorial change: IAC Supplement 12/30/09]

[Filed Emergency ARC 8771B, IAB 5/19/10, effective 5/1/10]

¹ January 1, 2010, effective date of the portions of 661—301.8(103A) pertaining to Sections R313.1 and R313.2 delayed until the adjournment of the 2010 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held December 8, 2009.

CHAPTER 72
CONVEYANCES INSTALLED ON OR AFTER JANUARY 1, 1975

[Prior to 9/24/86, Labor, Bureau of [530]]

[Prior to 10/21/98, see 347—Ch 72]

875—72.1(89A) Purpose and scope. This chapter contains safety standards covering the design, construction, installation, operation, inspection, testing, maintenance, alteration and repair of conveyances installed on or after January 1, 1975. The rules of this chapter also apply to previously dormant conveyances that are being reactivated, and to reinstalled or moved conveyances. As used in this rule, the word “installation” refers to the date on which a conveyance contractor enters into a contractual agreement pertaining to a conveyance.

72.1(1) For installations between January 1, 1975, and December 31, 1982, ANSI A17.1 shall mean ANSI A17.1 (1971).

72.1(2) For installations between January 1, 1983, and December 31, 1992:

a. ANSI A17.1 shall mean ANSI A17.1 (1981); and

b. ANSI A117.1 shall mean ANSI A117.1 (1980).

72.1(3) For installations between January 1, 1993, and December 31, 2000:

a. ASME A17.1 shall mean ASME A17.1 (1990) and in addition shall mean the following:

(1) ASME A17.1b (1992), Rule 110.11h, for electric elevators installed between July 1, 1993, and December 31, 2000, and

(2) ASME A17.1b (1992), Rule 110.11h that is referenced by Rule 300.11, for hydraulic elevators installed between July 1, 1993, and December 31, 2000.

b. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (1990); and

c. ANSI A117.1 shall mean ANSI A117.1 (1980).

72.1(4) For installations between January 1, 2001, and December 31, 2003:

a. ASME A17.1 shall mean ASME A17.1 (1996 through the 1999 addenda);

b. ASME A18.1 shall mean ASME A18.1 (1999), except Chapters 4, 5, 6, and 7;

c. ANSI A117.1 shall mean ANSI A117.1 (1998); and

d. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (1999).

72.1(5) For installations between January 1, 2004, and April 4, 2006:

a. ASME A17.1 shall mean ASME A17.1 (2000 through the 2003 addenda);

b. ASME A18.1 shall mean ASME A18.1 (1999 through the 2001 addenda), except Chapters 4, 5, 6, and 7;

c. ANSI A117.1 shall mean ANSI A117.1 (1998); and

d. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2002).

72.1(6) For installations between April 5, 2006, and July 22, 2008:

a. ASME A17.1 shall mean ASME A17.1-2004, A17.1a-2005 and A17.1S-2005;

b. ASME A18.1 shall mean ASME A18.1 (2003), except Chapters 4, 5, 6, and 7;

c. ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and

d. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2005).

72.1(7) For installations on or after July 23, 2008:

a. ASME A17.1 shall mean ASME A17.1-2007/CSA B44-07;

b. ASME A17.7 shall mean ASME A17.7-2007/CSA B44-07;

c. ASME A18.1 shall mean ASME A18.1 (2003), except Chapters 4, 5, 6, and 7;

d. ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and

e. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2005).

[ARC 7840B, IAB 6/17/09, effective 7/22/09; ARC 8759B, IAB 5/19/10, effective 6/23/10]

875—72.2(89A) Definitions. The definitions contained in ASME A17.1, ASME A18.1, ANSI A117.1, and any other standard adopted herein by reference shall be applicable as used in this chapter to the extent that the definitions do not conflict with the definitions contained in Iowa Code chapter 89A and these rules. However, the definition of “building code” in ASME A17.1 is modified to exclude the Building

Construction and Safety Code (NFPA 5000) and the National Building Code of Canada (NBCC) for any installation after March 1, 2008.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—72.3(89A) Accommodating the physically disabled. All passenger elevators installed between January 1, 1975, and December 31, 1982, which are available and intended for public use shall be usable by the physically disabled. All passenger elevators shall have control buttons with identifying features for the benefit of the blind and shall allow for wheelchair traffic. All passenger elevators and wheelchair lifts installed on or after January 1, 1983, which are accessible to the general public shall comply with Accessible and Usable Buildings and Facilities ANSI A117.1, sections 407 and 408.

875—72.4(89A) Electric elevators. The provisions contained in ASME A17.1, part 2, are adopted by reference.

875—72.5(89A) Hydraulic elevators. The provisions contained in ASME A17.1, part 3, are adopted by reference.

875—72.6(89A) Power sidewalk elevators. The provisions contained in ASME A17.1, section 5.5, are adopted by reference.

875—72.7(89A) Performance-based safety code. Conveyances may comply with ASME A17.7, in whole or in part, as an alternative to ASME A17.1.

875—72.8(89A) Hand and power dumbwaiters. The provisions contained in ASME A17.1, sections 7.1, 7.2, 7.3, and 7.8, are adopted by reference.

875—72.9(89A) Escalators and moving walks. The provisions contained in ASME A17.1, part 6, are adopted by reference.

875—72.10(89A) General requirements. The provisions contained in ASME A17.1, part 8, are adopted by reference unless specifically excluded herein.

875—72.11(89A) Acceptance and periodic tests and inspections of elevators, dumbwaiters, escalators and moving walks. Rescinded IAB 6/17/09, effective 7/22/09.

875—72.12(89A) Wind tower lifts. Wind tower lifts authorized by this rule shall not be installed in grain elevators, high-rise buildings, water towers, television towers or any facility other than a wind tower built for the production of electricity. This rule applies to all wind tower lifts, whether installed before or after May 28, 2008; however, this exception shall not apply to a wind tower lift if the contract for its installation is executed after an AECO is accredited.

72.12(1) Wind tower lifts that meet the requirements of subrules 72.12(2) through 72.12(10) are exempt from the requirements of ASME A17.1. This temporary exemption shall terminate for a wind tower lift upon the occurrence of at least one of the following events:

a. Three weeks have passed since the accreditation of at least one AECO, and the manufacturer of the wind tower lift has not filed with the labor commissioner an affidavit attesting that a request for Certificate of Conformance as described by ASME A17.7 (2007) was submitted to an AECO.

b. The AECO has reviewed a request pursuant to ASME A17.7 and refused to issue a Certificate of Conformance for the model or series of lifts.

c. The AECO has determined that modifications to the wind tower lift are necessary, and the modifications have not been made with reasonable diligence.

d. The AECO has determined that modifications to the wind tower lift are necessary, and the labor commissioner determines the wind tower lift is not safe to operate prior to completion of the modifications.

e. The AECO has reviewed an application pursuant to ASME A17.7 and issued a Certificate of Conformance for the model or series of lifts.

72.12(2) A wind tower lift placed in operation on or before May 28, 2008, shall be registered by the owner with the labor commissioner no later than July 1, 2008, and shall pass an installation inspection by inspectors employed by the labor commissioner according to the schedule set by the labor commissioner. The wind tower lift shall receive a periodic inspection by the labor commissioner's inspectors annually thereafter.

72.12(3) The owner of a wind tower lift installed after May 28, 2008, shall register the wind tower lift with the labor commissioner prior to its installation. A wind tower lift installed after May 28, 2008, shall pass an installation inspection by the labor commissioner's inspectors prior to its being placed into operation. The wind tower lift shall receive a periodic inspection by the labor commissioner's inspectors annually thereafter.

72.12(4) Registration pursuant to this rule requires submission of the following information to the labor commissioner:

- a.* The unique identifier of the wind tower.
- b.* The name of the wind tower owner and contact information for the owner's representative.
- c.* The name of the wind tower lift manufacturer and contact information for the manufacturer's representative.
- d.* The location of the wind farm.
- e.* Three copies of the prints and design documents that are certified by a professional engineer duly licensed in the state of Iowa and that bear the professional engineer's P.E. stamp for the lifts.
- f.* The manufacturer's complete test procedures, inspection checklists, operating manual, service manual, and related documents as determined necessary by the labor commissioner.

72.12(5) The owner shall notify the labor commissioner within 30 days of any change in the information provided pursuant to 72.12(4) "b" and "c."

72.12(6) This subrule establishes reporting requirements in addition to the requirements of rule 875—71.3(89A). The manufacturer of a lift must notify the labor commissioner in writing within one week if one of its wind tower lifts anywhere in the world is involved in a personal injury accident requiring the service of a physician, a personal injury accident causing disability exceeding one day or death, or an incident causing property damage exceeding \$2,000. The notification shall specifically identify the model number, serial number, and owner of the lift, and a description of the incident or accident. The labor commissioner shall determine and require necessary inspections, tests, changes or enhancements to prevent a similar incident or accident in this state.

72.12(7) Wind tower lifts must comply with 29 CFR 1910.

72.12(8) The manufacturer shall notify the labor commissioner within seven days of notification to the manufacturer that an AECO has:

- a.* Issued a Certificate of Conformance for the model or series of wind tower lifts,
- b.* Refused to issue a Certificate of Conformance for the model or series of wind tower lifts, or
- c.* Determined that modifications to the wind tower lifts are necessary.

72.12(9) Wind tower lifts shall pass an inspection covering the following criteria:

- a.* Ascending speed, descending speed, and emergency descending speed shall not exceed the manufacturer's recommendations.
- b.* Stop switch, interior lighting, cage entry door, door contact, operating controls and remote operating controls shall operate according to manufacturer's recommendations.
- c.* Interior floor and cage framework shall appear to be structurally sound.
- d.* Enclosure signage recommended by the manufacturer shall be in place.
- e.* Manufacturer's data plate shall be visible.
- f.* Hoisting mechanism shall appear to be structurally sound and intact from inside and outside the car.
- g.* Guide shoes shall appear to be structurally sound and undamaged.
- h.* Suspended power cords and strain relief devices shall reveal no visible damage.

- i.* Upper and lower normal and final limits shall operate according to the manufacturer's recommendations.
- j.* Overspeed device shall successfully pass a full-load test.
- k.* Overload device shall successfully pass an overload test according to the manufacturer's recommendations.
- l.* Wire rope, safety rope, and guide rope shall show no evidence of wear.
- m.* Guide rope attachments, suspension attachment beam, beam tower attachments, suspension rope attachment, suspension rope secondary attachment (if present), and guide wire rope attachments shall show no evidence of wear or fatigue.
- n.* The wind tower lift shall not drift when subjected to a static full load.
- o.* Maintenance logs, tags, and other necessary documentation shall be available in sufficient detail to establish that maintenance is occurring pursuant to the manufacturer's schedule.
- p.* Guide rope tension device, safety rope tension device, and suspension rope tension device shall pass a visual test for proper tension.
- q.* Power cord catch basket shall pass a visual inspection.
- r.* Safety set distance, overspeed trip speed, overload limit setting, and maximum overload allowed shall not exceed manufacturer's recommendations.
- s.* A communication device, if installed in the car, shall be operable.
- t.* Any other items on the manufacturer's recommended inspection checklist shall pass inspection.

72.12(10) The owner or owner's representative shall provide weights as needed to perform necessary tests during inspections.

875—72.13(89A) Alterations, repairs, replacements and maintenance.

72.13(1) General. All maintenance, repairs, replacements, and alterations shall comply with ASME A17.1-2007/CSA B44-07 or ASME A17.7-2007/CSA B44-07, as applicable, except as noted in 875—subrules 73.8(3) and 73.8(4). Rule 875—71.10(89A) describes alterations which require that the entire conveyance be brought into compliance with the most current codes.

72.13(2) Exemption for button renumbering. All maintenance, repairs and alterations to devices covered by ANSI A117.1 shall comply with ANSI A117.1 (2003), except for Rule 407.4.6.2.2.

72.13(3) Sump pump exemption. The provisions of ASME A17.1-2007/CSA B44-07 and ASME A17.1S-2005, Rule 2.2.2, that require a pit sump or drain shall not apply to an elevator alteration when all of the following criteria are met:

- a.* No other code or rule requires that the pit be excavated or lowered.
- b.* The alteration plans do not include the excavation or lowering of the pit floor for any other reason.
- c.* There is evidence that groundwater has not entered the pit previously.
- d.* The location and geology of the building indicate a likelihood that groundwater would enter the pit if the foundation or pit floor were breached to install the pit sump or drain.
- e.* A description of alternative means to maintain the pit in a dry condition is provided to the labor commissioner with the alteration permit application.
- f.* The labor commissioner approves the alternative means to maintain the pit in a dry condition.
- g.* The alternative means to maintain the pit in a dry condition are installed or implemented as described in the alteration permit application.

72.13(4) Pit excavation exemption. The full length of the platform guard set forth in ASME A17.1-2007/CSA B44-07 and ASME A17.1S-2005, Rule 2.15.9.2(a), shall not be required if all of the following criteria are met:

- a.* No other code or rule requires that the pit be excavated or lowered.
- b.* The alteration plans do not include the excavation or lowering of the pit floor for any other reason.
- c.* A full-length platform guard would strike the pit floor when the elevator is on its fully compressed buffer.

d. The clearance between the bottom of the platform guard and the pit floor is 2.5 centimeters (1 inch) when the elevator is on its fully compressed buffer.

72.13(5) Sprinkler retrofits and shunt trip breakers. When a sprinkler is added to a hoistway or machine room, the conveyance shall comply with the following:

a. The installation shall comply with the applicable version of ASME A17.1, Rule 2.8.3.3.

b. The elevator controls shall be arranged to comply with the phase I fire recall provisions of the applicable version of ASME A17.1, Rule 2.27.3.

c. The applicable version of ASME A17.1 shall be determined by reference to rule 875—72.1(89A). For purposes of rule 875—72.13(89A), the relevant subrule of 875—72.1(89A) shall apply based on the date the sprinkler is installed instead of the date the conveyance was installed.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—72.14(89A) Design data and formulas. Rescinded IAB 11/26/03, effective 1/1/04.

875—72.15(89A) Power-operated special purpose elevators. The provisions contained in ASME A17.1, section 5.7, are adopted by reference.

875—72.16(89A) Inclined and vertical wheelchair lifts. The provisions contained in ASME Safety Standard for Platform Lifts and Stairway Chairlifts A18.1, sections 1, 2, 3, 8, 9, and 10, are adopted by reference for all inclined and vertical wheelchair lifts.

875—72.17(89A) Hand-powered elevators. Hand-powered elevators shall not be installed after January 1, 1983.

875—72.18(89A) Accommodating the physically disabled. Renumbered as 875—72.3(89A), IAB 11/26/03, effective 1/1/04.

875—72.19(89A) Limited-use/limited-application elevators. The provisions contained in ASME A17.1, section 5.2, are adopted by reference.

875—72.20(89A) Rack and pinion, screw-column elevators. The provisions contained in ASME A17.1, sections 4.1 and 4.2, are adopted by reference.

875—72.21(89A) Inclined elevators. The provisions contained in ASME A17.1, section 5.1, are adopted by reference.

875—72.22(89A) Material lift elevators. Material lifts existing at a location prior to January 1, 1975, are not regulated or inspected by the labor commissioner.

875—72.23(89A) Elevators used for construction. The provisions contained in ASME A17.1, section 5.10, are adopted by reference only as they pertain to elevators utilizing permanent equipment in a permanent location.

875—72.24(89A) Construction personnel hoists. The provisions of American National Standards Institute (ANSI) A10.4-2007 are adopted by reference for construction personnel hoists as defined by ANSI A10.4-2007. Notwithstanding the ANSI definition, these conveyances may be used only temporarily during construction.

These rules are intended to implement Iowa Code chapter 89A.

[Filed emergency 12/15/75, Notice 10/6/75—published 12/29/75, effective 12/15/75]

[Filed 7/28/82, Notice 5/26/82—published 8/18/82, effective 9/30/82]

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CHAPTER 73
CONVEYANCES INSTALLED PRIOR TO JANUARY 1, 1975

[Prior to 9/24/86, Labor, Bureau of [530]]

[Prior to 10/21/98, see 347—Ch 73]

875—73.1(89A) Scope and definitions.

73.1(1) This chapter establishes minimum safety standards for all conveyances installed prior to January 1, 1975, except material lift elevators. Conveyances installed on or after January 1, 1975, shall conform with the requirements set forth in 875—Chapter 72. Material lift elevators installed prior to January 1, 1975, are not subject to regulation pursuant to Iowa Code section 89A.2.

73.1(2) The definitions contained in ASME (1971) shall be applicable as used in this chapter to the extent that they do not conflict with the definitions contained in Iowa Code chapter 89A or 875—Chapter 71.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.2(89A) Hoistways.

73.2(1) Each passenger elevator hoistway landing shall be protected with a door or gate. The door or gate shall be of solid construction and shall guard the entire entrance.

73.2(2) All automatic passenger elevators with power doors shall have nonvision panels on hoistway doors.

73.2(3) Each hoistway landing in any elevator hoistway shall be continuously provided with a properly working door or gate.

73.2(4) Where freight elevator hoistway doors or gates are of open or lattice construction, they shall be at least 6 feet high and shall come within 2 inches of the floor when closed. Gates shall be constructed to reject a ball 2 inches in diameter. Doors and gates must be able to withstand 250 pounds of pressure applied in the center of the door or gate without breaking or being forced out of their guides.

73.2(5) Manually operated biparting entrances of elevators which can be operated from the landings shall be provided with pull straps on the inside and outside of the upper panel where the lower edge of the upper panel is more than 6 feet 6 inches above the landing when the panel is in the fully opened position.

73.2(6) All freight elevators having wooden hoistway gates in an area where power loading equipment, such as fork trucks, electric mules, etc. are used shall have an acceptable means to restrain the power equipment from running through such wooden gates.

73.2(7) Each hoistway door or gate shall be provided with interlocks designed to prevent the car from moving unless the doors or gates are closed. Where doors or gates do not lock when closed they shall lock when the elevator is not more than 12 inches away from the floor. Passenger elevator hoistway doors shall be closed and locked before the car leaves the floor.

73.2(8) All hoistway-door interlocks shall function as part of a hoistway-unit system.

73.2(9) Automatic fire doors shall not lock any landing opening in the hoistway enclosure from the hoistway side nor lock any exit leading from any hoistway landing to the outside of the building.

73.2(10) Emergency keys for hoistway doors and service keys shall be kept readily accessible to authorized persons and elevator safety inspectors.

73.2(11) Access means shall be provided at one upper landing to permit access to the top of the car, and at the lowest landing if this landing is the normal point of access to the pit.

73.2(12) Each hoistway door or gate which is counterweighted shall have its weights enclosed in a box-type guide or run in metal guides. The bottom of the guides or boxes shall be so constructed as to retain the counterweight if the counterweight suspension means breaks.

73.2(13) Hoistways containing freight elevators shall be fully enclosed. Enclosures shall be unperforated to a height of 6 feet above each floor or landing and above the treads of adjacent stairways. Unperforated enclosures shall be so supported and braced as to deflect not over 1 inch when subjected to a force of 100 pounds applied horizontally to any point. Open work enclosure may be used above the 6-foot level and shall reject a ball 2 inches in diameter.

73.2(14) Hoistways containing passenger elevators shall be fully enclosed and the enclosure shall be of solid construction to its full height.

73.2(15) All elevators that have automatic leveling, inching or teasing devices and that are configured with landing sills that project into the hoistway shall be equipped with a bevel on the underside of the landing sill or the underside of projections found on the bottom section of vertically opening biparting doors. Bevels shall be constructed of smooth concrete or not less than 16-gauge metal securely fastened to the hoistway entrance. Bevels shall extend the full depth of the leveling zone plus 3 inches.

73.2(16) Every hoistway window opening seven stories or less on an outside wall above a thoroughfare and every such window three stories or less above a roof of the building or of an adjacent building shall be guarded to prevent entrance by fire or emergency rescue persons. Each such window shall be marked "hoistway" in a readily visible manner.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.3(89A) Car enclosure: Passenger.

73.3(1) Each passenger car shall be fully enclosed except on the sides used for entrance and exit. The enclosure shall be of solid construction. Grillwork at the top of the sides shall not be more than 8 inches high. If the car is provided with a solid door and there is no grillwork in the enclosure, adequate means of ventilation shall be provided.

73.3(2) Each passenger car enclosure shall have a top constructed of solid material. The top shall be capable of sustaining a load of 300 pounds on any area of 2 feet on a side and 100 pounds applied at any point. Simultaneous application of these loads is not required.

73.3(3) Passenger car enclosure tops shall have an emergency exit with cover. Opening size shall be as set forth in ANSI A17.1, 1971, Rule 204.1E. Hydraulic elevators provided with a manual lowering valve are not required to provide an emergency exit.

73.3(4) Each passenger car shall have a door or gate at each entrance. Doors or gates shall be of the horizontally sliding type. Doors shall be of solid construction. Gates shall be of the collapsible type. Gates and doors shall conform to ANSI A17.1, 1971, Rule 204.4.

73.3(5) Each passenger car door or gate shall have an electric contact to prevent the car from running with doors or gates open. EXCEPTIONS:

- a. By a car-leveling or truck-zoning device.
- b. By a combination hoistway access switch and operating device.
- c. When a hoistway access switch is operated.

73.3(6) All automatic passenger elevators with power doors shall have reopening devices on the doors, designed to reopen doors in the event the doors should become obstructed.

73.3(7) Car door or gate closing force.

a. Where a car door or gate of an automatic or continuous-pressure operation passenger elevator is closed by power, or is of the automatically released self-closing type, and faces a manually operated or self-closing hoistway door, the closing of the car door or gate shall not be initiated unless the hoistway door is in the closed position. The closing mechanism shall be so designed that the force necessary to prevent closing of a horizontally sliding car door or gate from rest shall be not more than 30 pounds.

b. Paragraph 73.3(7) "a" does not apply when both of the following conditions are met:

- (1) A car door or gate is closed by power through continuous pressure of a door-closing switch or the car operating device, and
- (2) The release of the closing switch or operating device will cause the car door or gate to stop or to stop and reopen.

73.3(8) Each passenger car shall have lighting inside the enclosure of not less than 5 foot-candles. Bulbs and tubes shall be guarded to prevent breakage.

73.3(9) Each passenger elevator shall have a capacity plate prominently displayed in its enclosure. The capacity plate shall list its capacity in pounds.

73.3(10) All passenger elevator car floors shall be maintained so that persons are not exposed to the hazards of tripping or falling.

73.3(11) All automatic passenger elevators shall be provided with an alarm bell capable of being activated from inside the car and audible outside the hoistway. If the elevator is not equipped with a bell,

a two-way conversation device to the elevator and a ready accessible point outside the hoistway may be acceptable.

73.3(12) All automatic passenger elevators shall have their door open zones adjusted so that the door shall not open unless the car has stopped within 6 inches of floor level.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.4(89A) Car enclosure: Freight.

73.4(1) Each freight elevator car shall have a solid enclosure at least 66 inches in height. The space between the solid section and the car top shall be enclosed with solid material, perforated material, or latticework. Where used, perforated material or latticework shall reject a ball 1½ inches in diameter. The portion of open-type enclosure which passes the counterweights shall be of solid construction the entire width of the counterweights plus 6 inches on either side. The enclosure top shall be provided with an emergency exit, except for hydraulic elevators with manual lowering valves.

73.4(2) Each freight car enclosure shall have doors or gates at each entrance and shall be not less than 6 feet high. Each door or gate shall be constructed in accordance with ANSI A17.1, 1971, Rule 204.4.

73.4(3) Each car door or gate on a freight elevator shall have electric contacts to prevent the car from running with doors or gates open. EXCEPTIONS:

- a. By a car-leveling or truck-zoning device.
- b. By a combination hoistway access switch and operating device.
- c. When a hoistway access switch is operated.

73.4(4) Each freight elevator car enclosure shall be provided with a top. The top may be of solid or open-work construction and shall be of metal. The openwork shall reject a ball 2 inches in diameter. Car tops shall be constructed to sustain a load of 200 pounds applied at any point on the car top. The top shall not have hinged or folding panels other than the emergency exit cover.

73.4(5) Each freight car enclosure shall have lighting not less than 2½ foot-candles. Bulbs or tubes shall be guarded to prevent breakage.

73.4(6) Each freight car enclosure shall have capacity plate, loading class plates, and a “No Passenger” sign conspicuously posted. Letters shall be not less than ½-inch high.

73.4(7) Freight elevators shall not be loaded to exceed the rated load as stated on their capacity plates.

73.4(8) Each freight elevator car floor shall be maintained so that personnel will not readily slip or trip. The floor shall be maintained so that it will hold its rated load without breaking through at any place in the car.

73.4(9) Freight elevators shall not be permitted to carry passengers other than the operator and persons to load and unload material.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.5(89A) Brakes.

73.5(1) Each electric elevator shall be provided with an electric brake.

73.5(2) Each brake shall be of the friction type applied by a spring or springs or gravity and released electrically. The brake shall be capable of holding the car at rest with its rated load.

875—73.6(89A) Machines.

73.6(1) Friction gearing or clutch mechanisms shall not be used for connecting the drum or sheaves to the main driving mechanism.

73.6(2) Set screw fastenings shall not be used on power elevators in lieu of keys or pins on connections subject to torque or tension.

73.6(3) Portable power-chain or cable hoist machines shall not be used to raise or lower an elevator car.

73.6(4) No belt or chain driven power machine shall be used for any elevator unless the machine is provided with a broken belt or broken chain safety switch of the electrical nonautomatic reset type. EXCEPTION: Hydraulic machines.

875—73.7(89A) Electrical protective devices.

73.7(1) All electric elevators shall have a labeled emergency stop switch. The switch shall be located on or adjacent to the operating panel.

73.7(2) All electric elevators shall have upper and lower final limit switches. Open-type switches shall not be accepted. Drum-type machines shall have final limit switches mounted on the machine and hoistway final limit switches.

73.7(3) All operating devices of car switch operations shall automatically return to the stop position and latch there when released.

73.7(4) Tiller-rope operations shall not be used unless all direction switches on controllers are mechanically operated. Contacts on direction switches shall be broken when the rope is at the centered position.

73.7(5) Except for firefighter service switches, leveling switches, and truck zone switches, no elevator shall be provided with a switch or device which makes more than one door or gate switch inoperative at any one time.

73.7(6) No person at any time shall make any required safety device or electrical protective device inoperative, except where necessary during tests, inspections or maintenance. Such devices shall be restored to their normal operating conditions as soon as all tests, inspections and maintenance have been completed. The conveyance shall not be left unattended while any of these devices are inoperative. To ensure that no jumpers are left behind, a counting system shall be utilized.

73.7(7) Each winding drum machine shall be provided with an electrical switch which shall disconnect power to the hoisting motor and brake when ropes are slackened.

73.7(8) No person shall enter an elevator pit for any reason without disconnecting power to the equipment using the pit stop switch, lockout, tagout procedures, or other appropriate means of de-energization in accordance with 875—Chapters 2 to 26.

73.7(9) Elevators having a polyphase AC power supply shall be provided with means to prevent the starting of the elevator drive motor or door motor if a reversal of phase rotation, or phase failure of the incoming polyphase AC power, will cause the elevator car or elevator door(s) to operate in the wrong direction.

73.7(10) All electrical equipment in the machine room shall be grounded and shall conform to ANSI C1-1975 (NFPA 70-1975).

73.7(11) All electrical wiring in the machine room and hoistway shall be enclosed in metal conduit, flexible conduit or metal raceways.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.8(89A) Maintenance, repairs and alterations.

73.8(1) General. All maintenance, repairs and alterations shall comply with ASME A17.1-2007/CSA B44-07 or ASME A17.7-2007/CSA B44-07, as applicable, except as noted in subrules 73.8(3) and 73.8(4). Rule 875—71.10(89A) describes alterations which require that the entire conveyance be brought into compliance with the most current code.

73.8(2) Exemption for button numbering. All maintenance, repairs and alterations to devices covered by ANSI A117.1 shall comply with ANSI A117.1 (2003), except for Rule 407.4.6.2.2.

73.8(3) Sump pump exemption. The provisions of ASME A17.1-2007/CSA B44-07 and ASME A17.1S-2005, Rule 2.2.2, that require a pit sump or drain shall not apply to an elevator alteration when all of the following criteria are met:

- a. No other code or rule requires that the pit be excavated or lowered.
- b. The alteration plans do not include the excavation or lowering of the pit floor for any other reason.
- c. There is evidence that groundwater has not entered the pit previously.
- d. The location and geology of the building indicate a likelihood that groundwater would enter the pit if the foundation or pit floor were breached to install the pit sump or drain.
- e. A description of alternative means to maintain the pit in a dry condition is provided to the labor commissioner with the alteration permit application.

- f. The labor commissioner approves the alternative means to maintain the pit in a dry condition.
- g. The alternative means to maintain the pit in a dry condition are installed or implemented as described in the alteration permit application.

73.8(4) Pit excavation exemption. The full length of the platform guard set forth in ASME A17.1-2007/CSA B44-07 and ASME A17.1S-2005, Rule 2.15.9.2(a), shall not be required if all of the following criteria are met:

- a. No other code or rule requires that the pit be excavated or lowered.
- b. The alteration plans do not include the excavation or lowering of the pit floor for any other reason.
- c. A full-length platform guard would strike the pit floor when the elevator is on its fully compressed buffer.
- d. The clearance between the bottom of the platform guard and the pit floor is 2.5 centimeters (1 inch) when the elevator is on its fully compressed buffer.

73.8(5) Sprinkler retrofits and shunt trip breakers. When a sprinkler is added to a hoistway or machine room, the conveyance shall comply with the following:

- a. The installation shall comply with the applicable version of ASME A17.1, Rule 2.8.3.3.
- b. The elevator controls shall be arranged to comply with the phase I fire recall provisions of the applicable version of ASME A17.1, Rule 2.27.3.
- c. The applicable version of ASME A17.1 shall be determined by reference to rule 875—72.1(89A). For purposes of rule 875—73.8(89A), the relevant subrule of 875—72.1(89A) shall apply based on the date the sprinkler is installed instead of the date the conveyance was installed.

73.8(6) Safety bulkheads.

- a. ASME A17.1-2007, Rule 8.6.5.8, requires either:
 - (1) A safety bulkhead conforming to ASME A17.1-2007, Rule 3.18.3.4;
 - (2) Car safeties conforming to ASME A17.1-2007, Rule 3.17.1, and guide rails, guide rail supports and fastenings conforming to ASME A17.1-2007, Rule 3.23.1; or
 - (3) A plunger gripper conforming to ASME A17.1-2007, Rule 3.17.3, and set to grip when the applicable maximum governor tripping speed in ASME A17.1-2007, Table 2.18.2.1, is achieved.
- b. The deadline for compliance with ASME A17.1-2007, Rule 8.6.5.8, is July 1, 2011.
- c. Documentation from the manufacturer establishing that a safety bulkhead was installed shall establish compliance with this rule.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.9(89A) Machine rooms.

73.9(1) All means of access to elevator machine rooms shall be of a permanent nature and shall be constructed and maintained in a clear and unobstructed manner.

73.9(2) The elevator machine and control equipment shall be located in a separate room or separated from other equipment by a substantial grill not less than 6 feet high. The grill shall be of a design that will reject a ball 2 inches in diameter. All rooms or enclosures shall have a self-closing and self-locking door.

73.9(3) All elevator machine rooms shall be provided with a floor. The floor shall cover the entire area of the machine room and hoistway.

73.9(4) Machine room floors shall be kept clean and free of grease and oil. Articles or materials not necessary for the maintenance or operation of the elevator shall not be stored therein. Storage of any equipment or materials in elevator machine rooms other than equipment directly related to elevator operation is prohibited.

73.9(5) Lighting in the machine room shall be not less than 10 foot-candles at floor level.

73.9(6) Where there is more than one machine in a room, each machine shall have a different number conspicuously marked on it. The controller, disconnecting means and relay panels for each machine shall be conspicuously numbered to correspond to the machine they control.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.10(89A) Pits.

73.10(1) All pits shall be kept clean and free of equipment or material not relating to the operation of the elevator. EXCEPTION: sump pumps.

73.10(2) Buffers under cars and counterweights shall be permanently fastened to the floor or their supporting beams.

73.10(3) All elevators shall have counterweight guards. Guards shall be of unperforated metal of at least the strength of or braced to the equivalent strength of number 14-gauge sheet steel. Guards shall extend from a point not more than 12 inches above the pit floor to a point not less than 7 feet above the pit floor. Where guards are not feasible, warning chains shall be installed on the bottom of the counterweights and shall extend no less than 5 feet below the counterweight. Chains shall be of a number 10 U.S. gauge wire or of equal size. EXCEPTION: When compensating chains or ropes are used, a counterweight guard is not required.

73.10(4) Buffers shall be installed where elevator pits are not provided with buffers and where the pit depth will permit. Buffers shall comply with ANSI A17.1, 1971, Section 201.

73.10(5) Where the depth of any pit is in excess of 4 feet it shall have a ladder permanently installed. The ladder shall extend not less than 30 inches above the sill of the access door, or hand grips shall be provided to the same height. Ladder shall be of noncombustible material.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.11(89A) Counterweights.

73.11(1) Broken or cracked sections of counterweights shall be replaced.

73.11(2) Counterweight hanger rods, tie rods or both shall firmly support and secure the counterweight sections in place.

73.11(3) Wire ropes extending through counterweights from one stack to another shall be guarded by metal sleeves attached to the wire ropes. Stacks shall not be spaced less than 8 inches apart.

875—73.12(89A) Car platforms and car slings.

73.12(1) All platforms shall be soundly constructed without cracks or breaks in stringers or frames. All floors shall be free of holes.

73.12(2) All car slings shall be soundly constructed and free of cracks or breaks.

73.12(3) Where cable sheaves are used on the crosshead, they shall be firmly attached and free of cracks or breaks.

73.12(4) All elevators shall have data plates attached to the crosshead.

73.12(5) All elevators with automatic leveling, inching or teasing devices shall have a platform guard or an apron. All other elevators shall have warning chains hung within 2 inches of the edge of the platform on the entrance sides. Chains shall be of number 10 U.S. gauge wire or of equal size. Chains shall extend not less than 5 feet below the platform and shall not be spaced more than 4 inches apart.

73.12(6) All car slings shall have guide shoes at the top and bottom of the sling. Shoes that are worn to a degree which affect the safe operation of the car shall be repaired or replaced.

875—73.13(89A) Means of suspension.

73.13(1) Suspension ropes on drum-type machines shall have not less than one turn of the rope on the drum when the car is resting on the fully compressed buffers.

73.13(2) Winding drum machines shall not be used unless they are provided with not less than two hoisting ropes. Each counterweight stack shall be provided with not less than two ropes.

73.13(3) Tiller cables on cable-operated elevators shall be kept free of breaks.

73.13(4) On tiller-cable operations, the cable shall pass through a guiding or stopping device mounted on the car. The cable shall be provided with adjustable stop balls and be provided with means to lock and hold the car at a floor. Stop balls at top and bottom shall be adjusted to automatically stop the car. The tiller cable shall be completely enclosed in the hoistway.

73.13(5) All hoisting or counterweight ropes located outside of the hoistway that are exposed shall be covered with a box-type guard. The guard shall be not less than 6 feet high from floor level.

73.13(6) Roller chains shall not be used as the suspension means for any conveyance except where specifically allowed by an applicable provision of ASME A17.1.

73.13(7) Hoisting ropes for power elevators shall not be less than 3/8 inch in diameter.

73.13(8) Hoisting rope fastening means shall be of the socket and babbiting type. Clamps shall not be used.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.14(89A) Car safeties and speed governors.

73.14(1) Each elevator suspended by ropes shall be provided with mechanically applied car safeties which shall be capable of stopping and sustaining its rated load.

73.14(2) Broken rope or slack rope safeties may be allowed if the car speed is not in excess of 50 FPM.

73.14(3) Elevators which are provided solely with broken rope or slack rope safeties shall not be used for passenger service. EXCEPTION: Handicapped restricted use elevators.

73.14(4) All safeties shall be adjusted so that clearances from the rail shall be in accordance with ANSI A17.1, 1971, Rule 1001.2.

73.14(5) All slack cable safeties shall be provided with an electrical switch which disconnects power to the elevator machine and brake when setting of the safeties occurs.

73.14(6) All safeties operated by a speed governor shall be provided with a speed switch operated by the governor when used with type B or C car safeties on elevators having a rated speed exceeding 150 FPM. A switch shall be provided on the speed governor when used with a counterweight safety for any car speed.

73.14(7) Speed governors shall have their means of speed adjustment sealed.

73.14(8) For hoistways not extending to the lowest floor and where space below the hoistway is used for a passageway or is occupied by persons, or if unoccupied but not secured against unauthorized access, the counterweights of the elevator shall be provided with safeties. Safeties shall be tripped by a speed governor if the car speed is in excess of 150 FPM. Speed governors shall be set to trip above the car governor tripping speed but not more than 10 percent greater.

73.14(9) Access to a governor that is located inside a hoistway shall be provided in accordance with ASME A17.1-2007, Rule 2.7.6.3.4.

[ARC 7840B, IAB 6/17/09, effective 7/22/09; ARC 8760B, IAB 5/19/10, effective 6/23/10]

875—73.15(89A) Guide rails.

73.15(1) All guide rails and brackets whether of wood or steel shall be firmly and securely anchored or bolted in place. Where T rail is used, all fish-plate bolts shall be tight. This shall comply with ANSI A17.1, 1981, Section 200.

73.15(2) Where guide rails which are worn to such a point that proper clearance of safety jaws cannot be maintained, the worn sections shall be replaced to achieve clearances as specified in ANSI A17.1, 1971, Rule 1001.2.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.16(89A) Existing hydraulic elevators.

73.16(1) Cylinders of hydraulic-elevator machines shall be provided with a means for releasing air or other gas.

73.16(2) Each pump or group of pumps shall be equipped with a relief valve conforming to the following requirements:

a. Type and location. The relief valve shall be located between the pump and the check valve and shall be of such a type and so installed in the bypass connection that the valve cannot be shut off from the hydraulic system.

b. Setting. The relief valve shall be preset to open at a pressure not greater than that necessary to maintain 125 percent of working pressure.

c. Size. The size of the relief valve and bypass shall be sufficient to pass the maximum rated capacity of the pump without raising the pressure more than 20 percent above that at which the valve opens. Two or more relief valves may be used to obtain the required capacity.

d. Sealing. Relief valves having exposed pressure adjustments, if used, shall have their means of adjustment sealed after being set to the correct pressure.

EXCEPTION: No relief valve is required for centrifugal pumps driven by induction motors, provided the shut-off, or maximum pressure which the pump can develop, is not greater than 135 percent of the working pressure at the pump.

73.16(3) Storage and discharge tanks shall be covered and suitably vented to the atmosphere.

73.16(4) Hydraulic elevators shall be governed by the rules contained in Chapter 73 that apply to electric elevators except the following rules which are exempt: 73.5, 73.6(3), 73.7(2), 73.7(4), 73.7(7), 73.9(9), 73.10(3), 73.11, 73.13, and 73.14.

73.16(5) Rescinded IAB 3/7/01, effective 4/11/01.

875—73.17(89A) Existing sidewalk elevators.

73.17(1) Hoistways shall be permanently enclosed. The enclosures shall conform to ANSI A17.1, 1971, Rule 401.1.

73.17(2) All interior landings shall have a door or gate which shall be provided with an interlock.

73.17(3) Doors opening in sidewalks or other areas exterior to the building shall be of the hinged type. Doors or covers shall be designed to hold a static load of 300 pounds per square foot. Doors shall always be closed unless elevator is at the landing.

73.17(4) Stops shall be provided to prevent the cover in the opening of the sidewalk from opening more than 90 degrees from its closed position.

73.17(5) Covers in sidewalk shall be designed to close when the car descends from the top landing.

73.17(6) Recesses or guides which will securely hold the cover in place on the car stanchions shall be provided on the underside of the cover.

73.17(7) All electrical wiring shall be enclosed in metal conduit, flexible conduit or metal raceways. If hoistway opens in the sidewalk, the wiring shall be weatherproof.

73.17(8) Operating devices and control equipment shall comply with ANSI A17.1, 1971, Rule 402.4.

73.17(9) All electric sidewalk elevators shall have upper and lower final limit switches. Open-type switches shall not be allowed.

73.17(10) Cars shall have enclosures which shall be not less than 6 feet in height provided the stanchions and bow iron are of sufficient height. The enclosure shall be provided with electric contacts to prevent the car from running with doors or gates open.

73.17(11) Cars shall have safeties. Where the speed of the elevator does not exceed 50 FPM, car safeties which operate as a result of breaking or slackening of the hoisting ropes may be used. Such safeties may be of the inertia type or approved type without governors. Governors shall not be required when car speed does not exceed 50 FPM.

73.17(12) Car enclosures and car gates shall not be required for hand-powered sidewalk elevators.

73.17(13) Rescinded IAB 3/7/01, effective 4/11/01.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.18(89A) Existing hand elevators.

73.18(1) Hand-powered elevators shall have hoistway doors. Doors shall be of the self-closing and self-locking type.

73.18(2) A sign reading “Danger—Elevator Hoistway—Keep Closed” shall be mounted on each hoistway door. The letters on the signs shall be legible, shall be at least 2 inches high, and shall contrast with the background color.

73.18(3) All hand-powered elevators shall be provided with safeties or slack cable devices. Safeties do not have to be operated by a speed governor unless the speed is in excess of 50 FPM.

73.18(4) Hand-powered elevators shall have a car enclosure which shall be constructed of metal or sound seasoned wood. The enclosure shall cover all sides which are not used for entrance or exit. The

enclosure shall be secured to the car platform or frame in such a manner that it cannot work loose or become displaced in ordinary service.

73.18(5) Each hand-powered elevator shall be provided with a brake which shall be capable of stopping and sustaining the car whether loaded or unloaded.

73.18(6) Hand-powered elevators shall not be converted or changed to electric powered unless the complete conveyance is brought into conformity with 875—Chapter 72.

73.18(7) Rescinded IAB 3/7/01, effective 4/11/01.
[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.19(89A) Power-operated special purpose elevators.

73.19(1) Elevators complying with the following requirements may be installed in any structure where the elevator is not accessible to the general public, is used exclusively for designated operating and maintenance employees only, and where transportation of one or two persons is required to attend machinery or equipment frequently.

73.19(2) The inside platform area of the car shall not exceed 9 square feet. The rated speed shall not exceed 100 FPM. The rated load shall not exceed 650 pounds.

73.19(3) Hoistways shall be enclosed to their full width, to a height of not less than 7 feet with solid or perforated noncombustible material braced to deflect not more than 1 inch when subjected to a force of 100 pounds applied horizontally at any point. Open work enclosures shall be at least number 13 steel wire gauge or expanded metal at least number 13 U.S. gauge and shall reject a ball 2 inches in diameter. Where counterweights pass, landing and stairway side shall be of solid construction.

73.19(4) Wiring shall comply with the requirements of the National Electrical Code, ANSI C1-1975 (NFPA 70-1975).

73.19(5) Counterweights shall comply with rule 875—73.11(89A).

73.19(6) Hoistway doors shall comply with subrules 73.2(1), 73.2(7) and 73.2(11).

73.19(7) Cars shall be solidly constructed in accordance with subrules 73.12(1) and 73.12(2).

73.19(8) Car enclosure.

a. Except at the entrance, the car shall be enclosed on all sides and the top. The enclosure at the sides shall be solid or openwork. All openwork shall reject a ball 1 inch in diameter. The enclosure shall be constructed of sufficient strength that it will not deflect more than 1 inch at any one point.

b. There shall be an electric light to illuminate the car or hoistway with the switch placed on or near the operating panel.

c. There shall be no glass used in the elevator car except for the car light.

73.19(9) A car door shall be provided at each car entrance. Door or gate shall guard the complete entrance. The door or gate shall be at least 7 feet high, of metal construction with solid or open construction to reject a ball 1 inch in diameter. A contact switch shall be provided to prevent the operation of the elevator with doors or gates open. The door or gate shall be provided with interlocks.

73.19(10) Guide rails shall comply with rule 875—73.15(89A).

73.19(11) The means and methods of suspension shall comply with subrules 73.13(1), 73.13(5), 73.13(6), 73.13(7), and 73.13(8).

73.19(12) Electrical switches shall comply with subrules 73.7(2) and 73.7(9).

73.19(13) Brakes shall comply with rule 875—73.5(89A).

73.19(14) Emergency signal or communication shall comply with subrule 73.3(11).
[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.20(89A) Inclined and vertical wheelchair lifts. All vertical and inclined wheelchair lifts shall conform to ANSI A17.1 (1981), part XX, sections 2000 and 2001.

875—73.21(89A) Handicapped restricted use elevators. All handicapped restricted use elevators must meet ANSI A17.1 (1981), Part V. Permits will be reissued only for locations where other elevators do not exist and where the absence of the elevator would deprive a known group of physically disabled individuals use of the building. Additionally, the elevators shall comply with the following limitations:

1. The elevator shall be used only by a maximum of one disabled person and one attendant at a time. Where a disabled individual cannot operate the elevator in a manner which will ensure access to all operating controls and safety features, an attendant shall accompany the disabled individual.

2. The elevator shall be key-operated and shall not be capable of being called by buttons or switches but may be called by a key operator.

3. Keys to operate the elevator shall be in the control of the disabled person, the attendant or persons in positions of responsibility at the location.

4. A list shall be maintained at the location indicating the persons holding keys for the operation of the elevator.

5. Each landing and the elevator car shall be posted to indicate that the elevator is only for the use of disabled persons.

6. The travel distance of the elevator shall not exceed 50 feet.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.22(89A) Escalators.

73.22(1) Each escalator shall be provided with an electrically released mechanically applied brake capable of stopping the up and down traveling escalator with any load up to and including the rated load. The brake shall be located either on the driving machine or on the main drive shaft.

73.22(2) Starting switches shall be of the key-operated type. Starting switches shall be located on or near the escalator.

73.22(3) Emergency stop buttons or other type manually operated switches having red buttons or handles shall be accessibly located at or near the bottom and top landings. The buttons or levers shall be protected to prevent accidental operation.

73.22(4) A broken step-chain device shall be provided on each escalator that will cause interruption of power to the driving machine if a step chain breaks or if excessive sag occurs in either step chain.

73.22(5) Each escalator shall have comb plates at top and bottom landings of the escalator. Comb-plate teeth shall be meshed with and set into slots in the tread surface of the steps so that the points of the teeth are always below the upper surface of the treads.

73.22(6) Each escalator balustrade or moulding on the balustrade shall have a smooth surface. Screwheads shall set flush with the surface or be of the oval head type without any burrs or rough places on their surface.

73.22(7) The clearance on either side of the steps between the step tread and the adjacent skirt panel shall be not more than 3/16 inch.

73.22(8) Step treads shall be illuminated throughout their run. The light intensity shall be not less than 2 foot-candles.

73.22(9) An enclosed fused disconnect switch or circuit breaker arranged to disconnect the power supply to the escalator shall be in each machine room or wherever the controller is located.

73.22(10) A stop switch shall be provided in each machinery space where means of access to the space is provided. The switch when opened shall cause electric power to be removed from the escalator driving-machine motor and brake. The switch shall be of the manually opened and closed type and shall be marked "STOP".

73.22(11) Hand or finger guards shall be provided at the point where the handrail enters the balustrade.

73.22(12) Where the clearance of the upper outside edge of the balustrade and a ceiling or scaffold is less than 12 inches or where the intersection of the outside balustrade and a ceiling or soffit is less than 24 inches from the centerline of the handrail, a solid guard shall be provided in the intersection of the angle of the outside balustrade and the ceiling or soffit. The vertical front edge of the guard shall project a minimum of 14 inches horizontally from the apex of the angle. The escalator side of the vertical face of the guard shall be flush with the face of the wellway. The exposed edge of the guard shall be rounded.

This rule is intended to implement Iowa Code chapter 89A.

875—73.23(89A) Moving walks. Rescinded IAB 6/17/09, effective 7/22/09.

875—73.24(89A) Dumbwaiters. All dumbwaiters whether electric or hand powered shall conform to ANSI A17.1, 1971, section 700. Exceptions: Required rules for hoistway construction as set forth in ANSI A17.1, 1971, shall not apply to existing installations.

875—73.25(89A) Sprinkler retrofits and shunt trip breakers. Rescinded IAB 6/17/09, effective 7/22/09.

875—73.26(89A) Safety bulkheads. Rescinded IAB 6/17/09, effective 7/22/09.

These rules are intended to implement Iowa Code chapter 89A.

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